The following tax information is translated from Korean for foreign-invested companies, and is not legally binding.

◊ **Recent tax rulings**

※ Whether the royalty and payment for personal services paid to a French company without any domestic business establishment in Korea are taxed in Korea (Jun. 29, 2018)

○ A Korean company signed a contract with a French company without a business establishment in Korea to pay the French company the fee for use of copyright and royalty from ticket sales, etc. Such royalty, etc. fall under royalty income as prescribed by Article 12 of the Korea-France Tax Convention and Article 93 of the Corporate Tax Act, and tax should be withheld when payment is made in accordance with Article 98 of the same Act.

To have the restrictive tax rate of 10 percent (including local income tax) applied as prescribed by Article 98 of the same Act, the foreign company to which the royalty income actually belongs should submit an application form for restrictive tax rate application to the withholding agent before the income is paid, in accordance with Article 98-6 of the Corporate Tax Act.

○ If a French company without a business establishment in Korea provides a domestic company with personal service such as consulting or technology and operation education that is unrelated to information or know-how on industrial, commercial, scientific knowledge or experience, and if such service was provided for less than 183 days during the relevant fiscal year, payment for such service is not taxed in Korea pursuant to Article 14 of the Korea-France Tax Convention.

※ Whether a sum table of tax invoices on place of purchase submitted by a foreign company can replace a payment statement (Feb. 2, 2017)

○ Based on the import declaration issued during the import and customs clearance of a movie film from a foreign company, an import tax invoice was prepared and submitted in the form of a sum table of tax invoices on place of purchase when filing value added tax. However, if such import tax invoice does not confirm the person who the income is attributable to, the attributable year and the payment amount, it cannot be deemed submission of payment statement as prescribed by Article 120-2 of the Corporate Tax Act and Article 164 (6) of the Income Tax Act.
Classification of interest income where convertible bonds were repaid early to a U.S. company and interest from the repayment date to the expiration date was additionally paid to the company (Dec. 1, 2017)

○ A domestic company issued convertible bonds instead of receiving an investment due to a liquidity crisis. After the liquidity crisis was resolved, the company repaid convertible bonds early to defend its management rights and paid interest from the repayment date to the expiration date without an advance agreement. In this case, the amount of interest paid is classified as ‘other income’ as prescribed by Article 93 Subparagraph 10 of the Corporate Tax Act instead of ‘interest income’ as prescribed by Article 93 Subparagraph 1 of the same Act.

○ If a French company without a business establishment in Korea provides a domestic company with personal service such as consulting or technology and operation education that is unrelated to information or know-how on industrial, commercial, scientific knowledge or experience, and if such service was provided for less than 183 days during the relevant fiscal year, payment for such service is not taxed in Korea pursuant to Article 14 of the Korea-France Tax Convention.

Whether notice of transferred income that arrived past the due date is considered legally effective (Dec. 18, 2017)

○ A domestic company’s tax base and tax amount was corrected based on the arm’s length price as prescribed by Article 4 of the Adjustment of International Taxation Act. In this process, the return of the amount to be included in gains as prescribed by Article 15-2 of the Enforcement Decree of the same Act was not verified and therefore the amount was disposed of as dividend paid to an overseas special related party. In this case, even if a notice of transferred income as prescribed by Article 16 (2) of the Enforcement Decree of the same Act was served in over 15 days, the domestic company should submit a statement of payment pursuant to Article 120-2 of the Corporate Tax Act.

For more information, please contact the International Tax Resource Management Office of the National Tax Service (82-44-204-2873~74).