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

◇ Q&A

※ Whether technology fee paid by a French company’s domestic branch to the company headquarters can be classified as domestic source income (April 25, 2018)

Q. The domestic branch of French company A has operated business by using the technology of the French headquarters in accordance with a license agreement on technology and knowhow. The domestic branch paid a certain percentage of its sales as technology fee and treated it as technology fee under overseas commission & service charge account and calculated it as deductible expense. In this case, does the technology fee that the domestic branch paid to the headquarters qualify as domestic source income of the French headquarters?

A. Where the domestic branch of a French company used the technology and knowhow owned by the French headquarters under a technology and knowhow license contract and paid a certain percentage of the domestic branch’s sales to the French headquarters as technology fee, the payment is considered domestic source royalty income under Article 12 of the Korea-France Tax Treaty and Article 93 Subparagraph 8 of the Corporate Tax Act, and is therefore subject to withholding tax.

※ Whether a fine paid for unlawful activity can be excluded from taxable income (Aug. 6, 2018)

Q. A domestic company was sentenced to pay a fine for unlawful sales activity in a court ruling on a criminal case and paid the fine. In this case, can the amount of fine paid be excluded from the domestic company’s income for the relevant business year?

A. Where the company received a final ruling on a criminal case and paid part of its sales reported as income for the relevant business year constituting illegal income as a fine, such fine is not deducted from the taxable income of the relevant taxable year in which the illegal income was generated and is also not included in deductible expense of the business year paid in accordance with Article 21 Subparagraph 5 of the Corporate Tax Act.
**Recent Tax Rulings**

※ Date of preparation of detailed statement of changes in stocks, etc.  
(Aug. 14, 2018)

○ Where a domestic company that operates a financial investment business resolves to reduce capital according to a special resolution of a general meeting of shareholders pursuant to Article 438 (1) of the Commercial Act and the procedure prescribed by Article 441 of the same Act was completed, even if the financial committee approves the capital decrease pursuant to Article 417 (1) 8 of the Financial Investment Services and Capital Markets Act, a detailed statement of changes in stocks, etc. should be prepared and submitted based on the business year in which the capital decrease became effective in accordance with the Commercial Act, pursuant to Article 119 (1) of the Corporate Tax Act and Article 161 (6) of the Enforcement Decree of the same Act.

※ Classification of a foreign company’s domestic source income  
(Oct. 8, 2018)

○ A domestic company purchased the stocks of an unlisted Danish company that does not have a business establishment in Korea. Also, an agreement was made to pay the seller of stocks conditional payment after the transfer of shareholder’s name in addition to the down payment. In this case, such conditional payment shall not be taxed in Korea in accordance with Article 13 of the Convention between the Republic of Korea and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation with Respect to Taxes on Income.

For more information, please contact the International Tax Resource Management Office of the National Tax Service (82-44-204-2873~75).