

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

◇ Recent tax rulings

※ **Whether VAT is imposed when trademark right registered to a foreign government body, etc. is transferred to a domestic business operator (Jul. 16, 2018)**

○The transfer of rights that are acquired directly from overseas, registered to a foreign organization and used or consumed overseas constitute overseas transaction.

-Even if the cause for accrual of rights occurred in Korea, if a trademark right was simply registered to an overseas organization to have its rights protected overseas, and the overseas registered rights cannot be recognized as one that can be registered or used in Korea or used or consumed in Korea, the transfer of such rights constitute overseas transaction.

-Even if a right is accrued or acquired from overseas and registered to a foreign government organization, etc., the right is subject to VAT imposition if it is sold to a domestic company and the company uses or consumes such right in Korea.

-In this regard, trademark right that is registered to an overseas organization and only used or consumed overseas, and provided along with an overseas business division is regarded goods delivered from overseas and therefore VAT is not imposed.

※ **Whether corporate tax reduction or exemption applies for relocation of the headquarters to a local area if a business is added after the relocation (Jul. 24, 2018)**

○A company that was headquartered in an overconcentration control zone in the Seoul metropolitan area and operated a manufacturing business for three years or longer moved its headquarters to a local area and began to additionally operate a retail and wholesale business.

-In this case, the income from the retail and wholesale business is subject to corporate tax reduction or exemption as prescribed by Article 63-2 of the Restriction of Special Taxation Act (partially amended as law no. 6762 on Dec. 11, 2002).

※ Source: Ministry of Strategy and Finance (Jul. 23, 2018)

**※ Whether special membership fee is considered deductible expense
(Jun. 28, 2018)**

○ With the amendment of the law on Feb. 13, 2018, membership fees which are collected for the purpose of ‘appropriation of ordinary expense, etc.’ in accordance with normal membership fee collection methods were included in deductible expense. The pre-announcement of legislation at the time of the amendment says that the amendment is to “clarify that membership fees which are collected on a regular or non-regular basis for the purpose of appropriation of ordinary expense, etc. are considered deductible expense”.

○ In other words, the amended regulation does not classify membership fees into general membership fees and special membership fees, and the purpose of legislation of the amended regulation is to clarify that special membership fees collected on a non-regular basis, in addition to regular membership fees collected on a regular basis, are considered deductible expense. The amended regulation also defines membership fees collected for the purpose of ‘appropriation of ordinary expenses, etc.’ as deductible expense, and therefore membership expenses collected for a purpose other than the appropriation of membership fees should be considered deductible expense as well.

- In this regard, even if special membership fees are collected for a purpose other than the appropriation of deductible expenses, they should be considered deductible expense if they are collected through normal membership fee collection methods.

※ Whether securities transaction tax is imposed and how the tax base is calculated where the stocks of a non-listed domestic company owned by a foreign company is paid as dividend in kind

○ If a foreign company without a business establishment in Korea that owns 100 percent of the stocks of a domestic non-listed company established under the Mutual Savings Bank Act (company A) pays the stocks of company A to another specially related foreign company without any business establishment in Korea as dividend in kind, the transfer of stocks, etc. is taxable under the Securities Transaction Tax Act and the tax base for securities transaction tax shall be the transfer price (dividend price) of the stocks concerned under Article 7 (1) 2 (a) 2 of the same Act. However, if the transfer price is less than the arm’s length price as prescribed by Article 92 of the Corporate Tax Act and Article 4 of the Adjustment of International Taxation Act, the arm’s length price shall be the tax base for securities transaction tax.

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