Global Employment Solutions

Global InSight

25 September 2015

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Finland:
New legislation proposed related to voluntary disclosure

Overview

The Finnish government has initiated the implementation of new rules concerning a temporary amnesty relating to the voluntary disclosure of foreign investment income not previously reported in Finland. The draft bill is currently out for comments from interest groups. The new legislation is proposed to come into force for the period 1 January 2016 to 31 December 2016.

Current tax praxis

The tax praxis related to consequences of the voluntary disclosure of previously unreported foreign income is unclear. At present, the potential consequences vary from criminal prosecution to punitive tax increase and tax interest depending on the amount of unreported income. No clear income limit for criminal prosecution exists, but current tax praxis would suggest that the criminal prosecution may be possible if the total unpaid tax exceeds approximately EUR 15,000 20,000. In current tax praxis of voluntary disclosure of the smaller amounts of unreported income the consequence has been interest for late payment, with no tax penalties.

According to current tax legislation, an individual who is resident in Finland is responsible to report his/her worldwide income to the Finnish tax authorities for six (6) previous tax years. For example, if the individual files the appeal in 2015, income must be reported for 2009 2014 tax years.

Proposed legislation

The proposed legislation is expected to be as follows:

- The legislation would come into force by 1 January 2016 and expire on 31 December 2016.
- If the individual voluntarily reports his/her income to the Finnish tax authorities during this time, there will be no criminal prosecution.
- The funds declared under the new law would be subject to both interest for late payment and a tax increase (between 3-5% of unreported taxable income). In very minor cases the tax authorities could still choose not to apply the tax increase.
- The individual would need to report his/her foreign investment income for the years 2004-2015, an additional six (6) years of income compared to current legislation.
- It is not known whether the new legislation will be applied to all cases where previously unreported income is declared or whether the individual can choose whether to apply the old or the new provisions. The way the draft bill is currently written would indicate that it will be applied in all cases.

Deloitte's view

Although the proposed legislation is currently only in the preparatory stages, we anticipate that the legislation will come into force largely as described above.

Individuals with large amounts of previously unreported income would have the opportunity to report the income without the risk of criminal prosecution and without the risk of publicity. However, if the new provisions will be applied to all cases, the individuals with more minor unreported foreign investment income should consider whether for them it would be more beneficial to lodge their appeal before the proposed legislation will come into force: at present the individual needs to report only the income which he/she has received five years retrospectively. The new law would increase this to eleven (11) years, from 2004 to 2015. Therefore, it would be advisable to calculate which option would be most beneficial.

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Korea:
Temporary voluntary disclosure program announced by Korean tax authorities

Overview

The Ministry of Strategy and Finance and the Ministry of Justice announced on September 1, 2015, the temporary implementation of voluntary disclosure program for Korean tax residents and domestic corporations for previously undeclared foreign assets and income. The program will be made available for six months from Ocotober 1, 2015, through March 31, 2016, providing relief from various tax penalties and criminal punishment.

Background

Income and assets derived from sources outside of Korea are reportable and taxable in Korea, in accordance with various income tax laws. However, it is believed that several taxpayers who failed to report such income and assets initially, will continue to do so, in fear of being assessed with noncompliance penalties and potential criminal prosecution.

With the tax information exchange agreements, soon to come into effect, the National Tax Service will start to receive Korean-owned financial account information from the United States beginning in 2016 and from approximately 50 other nations, including United Kingdom, Virgin Islands, and the Cayman Islands, beginning in 2017.

Before the exchange of the above-mentioned financial account information, the Korean government has decided to give previously noncompliant taxpayers, with the exception of willful violators, the opportunity to come clean and avoid paying penalties and possibly being prosecuted.

Incentives to voluntary disclosure

- **Additional tax penalties waived:** Although the late payment interest charge (0.03% per day) will still be assessed, other additional tax penalties will be waived.
- **Penalties/fines waived:** Penalties and fines applicable according to the tax laws and Foreign Exchange Transactions Control Act will be waived.
- **Exemption from the violation being made public:** Taxpayers can be exempted from names being made public, according to the National Tax Basic Law.
- **Exemption from criminal prosecution:** Lenient treatment on tax evasion and other unlawful acts.

*However, if the violation relates to more serious criminal acts, such as embezzlement and malpractice, criminal prosecution shall be imposed.

How to report and pay the taxes

Taxpayers wanting to voluntarily disclose foreign sourced income and assets should submit the declaration form, along with relevant supporting documentation thereof, to the relevant National Tax Service Regional Office during the period between October 1, 2015, and March 31, 2016. At the time of submission, the tax due and the applicable late payment interest charge (0.03% per day) will need to be paid.

- Letter of Intent to Disclose: Taxpayers can submit a “letter of intent to disclose” by October 31, 2015, before officially disclosing the foreign income and assets.
- Prequalification Screening Request: Taxpayers wanting to find out program participation eligibility may request a prequalification examination by January 31, 2016 (the results will be made available within one month from the request date).
- If the tax payment due exceeds KRW 100 million, an installment payment option is available where up to 30% of the total tax due can be paid within three months after the end of March of 2016. In this case, at least 70% of taxes due will still need to be paid before the original due date of March 31, 2016.

Comparison between voluntary disclosure program participants and nonparticipants

	Taxpayers with undisclosed offshore Assets/Income	**Voluntary disclosure program participants**
Original tax due	Imposed	Imposed (paid at the time of report submission)
Late payment interest charge	Imposed	Imposed (paid at the time of report submission)
Nonreporting or under reporting of taxable income penalty	Imposed	Exempted
Fines in accordance with the tax laws and regulations for noncompliance	Imposed	Exempted
Fines in accordance with the Foreign Exchange Transactions Control Act for noncompliance	Imposed	Exempted
Tax evader list made public	Disclosed	Exempted
Foreign Financial Accounts Reporting Compliance Act violator list made public	Disclosed	Exempted
Criminal prosecution for tax evasion	Imposed	Exempted
Criminal prosecution for failure to comply with Foreign Exchange Transactions Control Act	Imposed	Treated with leniency
Criminal prosecution for illegal offshore harboring of undisclosed assets	Imposed	Treated with leniency
Criminal prosecution for embezzlement or malpractice	Imposed	Imposed

Deloitte's view

Due to the coming tax information sharing arrangements related to the US FATCA and the OECD Common Reporting Standard, Korean tax residents with undeclared foreign assets and income should consider voluntary disclosure to mitigate related penalties.

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Have a question?
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