

# Summary of Overseas Financial Account Reporting System

(Article 34-37 of Adjustment of International Taxes Act,  
Article 49~51 of Enforcement Decree of the Adjustment of International Taxes Act,  
84-2, 85-5 of Framework Act on National Taxes, Korea)

Aug. 12, 2016

## 1. Purpose of the System Introduction

- The Overseas Financial Account reporting system has been introduced in 2011, for the purpose of preventing the overseas tax evasion and enhancing the equity on taxation.
  - already been implemented in U.S., England and France, etc.
  - specific information on the objects & process for reporting is delegated to the enforcement ordinance

## 2. Contents of the Revised (reporting in 2016 on the holding accounts in 2015)

- **Residents who hold an overseas financial accounts exceeding amount of the standard level. Domestic corporations are required to report by June 30 next year (the first reporting in June 2011 on the holding accounts in 2011)**
  - No report (under report) amount exceeding KRW5.0 billion: an administrative fine of 20% (10% in 2014) to be imposed (Article 35 of Adjustment of International Taxes Act)
  - Imposing rate increase of fine for No report (under report): 10~20% (4~10% in 2014)
  - Insurance products with the nature of expense are excluded (extinctive insurance product accounts with net premium only for the risk which is of non-saving purpose)
  - Domestic corporation directly or indirectly owns 100% of the shares for foreign corporation, the overseas financial account under the name of the foreign corporation is required to be reported
  - The reporting is not required when the owner of the relevant overseas financial account is a trust business entity of money trusts, business star-up investment cooperative or Korea Venture Fund.
  - The requisition of exemption from the reporting obligation of Korean national residing abroad is strengthened (from the report in 2017 for the holding accounts in 2016)  
The total period of having a residence in the Republic of Korea from two years before the end of the relevant year subject to report is not more than one year→not more than 183 days.

## 3. Objects for Reporting - (Article 49 of Enforcement Decree of the Adjustment of International Taxes Act)

- **Reporting is required when the aggregate balance of overseas financial account exceeds KRW one billion for any last day of a month of the relevant year**
- Objects of the overseas financial institutions: financial institutions under the 「Act on Real Name Financial Transactions」.

- Objects of the overseas financial accounts: account opened in connection with banking service (cash account), account opened for transaction of securities under the 「Financial Investment Services and Capital Markets Act」
- When the nominal holder and actual owner of the overseas financial account are different, both of them has reporting obligation, and when it is of the joint checking account, each of respective person has reporting obligation. But the reporting obligation is exempted when a person related to overseas financial accounts (actual owner, each of respective persons under a joint name, etc.) provide the other person under a joint name with information on his/her overseas financial account, and the tax authorities could verify the holding status of the overseas financial account of a person accordingly.
- Reporting obligation for financial company under the Act on Real Name Financial Transactions is exempted as management and supervising on those is available separately.
- In case of a financial holding company, etc. which is not financial company under the Act on Real Name Financial Transactions, the exemption of reporting obligation is required

#### 4. Reporting related Rules - (Article 50 of Enforcement Decree of the Adjustment of International Taxes Act)

- Persons who has obligation to report the overseas financial account: Residents and Domestic Corporations as at the last day of the year.
- Methods for computing the balance of overseas financial account:
  - Sum the balance of the owned accounts converted into KRW as of the last day of each month (balance and foreign exchange rate as at the closing hour of the day)
  - Assets of the overseas financial accounts includes all accounts, i.e., accounts for banking services, accounts opened for transaction of securities, insurance products held throughout the relevant year.
- The reporting should be filed based on the balance which is of the highest value out of all balances as of the last day of each month of overseas financial accounts during the relevant year. The account with balance KRW 0 or under is not required to be reported. The financial liability balance is not required to be deducted.
- Persons who has obligation to report should submit the “Report of Foreign Bank and Financial Accounts” in June of the coming year.
  - The “Report of Foreign Bank and Financial Accounts” form is to be decided by the enforcement regulation
- The definition of concept for actual owner: person who actually manages the relevant account
  - excluding case where the investment made by Collective Investment Scheme
- The relevant parties (actual owner, each of respective persons under a joint name, etc.) are deemed to have the whole balance of the relevant accounts respectively (regardless of the share ratio).
- The relevant party has liability to provide overseas financial account information of the other party

## 5. Standards for Imposition of Administrative Fines on Reporting Obligation unfulfillment - (Article 51 of Enforcement Decree of the Adjustment of International Taxes Act)

- The administrative fine is to be imposed based on the amount failed to submit within the limit described hereunder with consideration of the case of minor mistake, filing after the deadline or revised report filing
  - Amount unreported not exceeding KRW2 billion: 10%
  - Amount unreported exceeding 2 billion and not exceeding KRW5 billion: KRW0.2 billion + 15% of the amount exceeding KRW2 billion
  - Amount unreported exceeding KRW5 billion: KRW0.65 billion + 20% of the amount exceeding KRW5 billion
- In case where more accounts unreported found: administrative fines to be imposed on the basis of the total amount unreported with the administrative fines already imposed deducted.

## 6. FAQ

- Reporting obligation for overseas branch of domestic corporation
  - No obligation of reporting for overseas subsidiary as it is foreign corporation. But when the domestic corporation is the actual owner of the overseas subsidiary accounts, it has obligation to report.
- Reporting obligation for non-profit corporation, religious or civic organization
  - The non-profit corporations excluding the state or public institution are not exempted for the reporting. Those have obligation for reporting when the requirements are met.
- Reporting of the account opened after the reporting standard date.
  - No obligation for accounts opened after the reporting standard date (the date with highest value in aggregated amount of balance for holding accounts), if those are not holding accounts as the date of the reporting standard date.
- Calculation of standard amount for the imposition of administrative fines
  - The standard amount for administrative fines imposition is required to be calculated by each account for reporting
    - ex) Reporting amount: KRW1.1 billion (account A), re calculation as the account B is omitted  
account A: KRW0.8 billion, account B: KRW0.4 billion  
The amount of administrative fines is KRW0.4 billion when total is KRW1.2 billion.

## 7. Preparation of Reporting Documents (Files are enclosed separately)

- Documents for Reporting: Report of Foreign Bank and Financial Accounts, Statement of Foreign Bank and Financial Accounts, Specification of Overseas Financial Accounts example)

(Reference: 해외금융계좌신고제도요약 \ 외국인투자기업의업무사례 \ 신고&세무실무)

# 해외금융계좌 신고제도 요약

(국조법 제34조~제37조, 국조법 시행령 제49~제51조, 국기법 제84조의2, 제85조의5)

## 1. 도입취지

- 역외탈세 방지 및 과세형평성 제고를 위해 역외금융정보 수집방안의 일환으로 2011년 해외금융계좌 신고제도 도입
  - 미국, 영국, 프랑스 등 국가에서 이미 시행하고 있는 제도
  - 구체적인 신고대상, 신고방법 등은 시행령에 위임

## 2. 개정내용(2015년 보유 계좌 2016년 신고 시)

- 일정금액이상 해외금융계좌를 보유한 거주자. 단, 내국법인은 다음해 6월 30일까지 신고 ('10년도분부터 '11.6월 최초 신고)
  - 미(과소)신고 금액 50억 초과시: 20% ('14년 : 10%)이하 과태료(국조법 §35)
  - 미(과소)신고 금액 과태료 부과율 인상: 10~20% ('14년 4~10%)
  - 비용성격의 보험계좌는 신고대상에서 제외(저축성 보험이 아닌 소멸성 보험계좌)
  - 외국법인을 직접 또는 간접으로 100%지배하는 국내 모회사의 경우 그 외국법인의 명의로 보유하고 있는 해외금융계좌 신고 의무
  - 금전신탁업, 창업투자조합, 한국벤처투자조합 명의로 해외금융계좌보유시 신고대상에서 제외
  - 재외국민 신고의무 면제자 요건 강화(2016년 보유계좌 2017년 신고시)  
신고대상연도 종료일 2년 전부터 국내 거소를 둔 기간 1년이하→183일 이하

## 3. 신고 대상 - (국조법 시행령 제49조)

- 해외 보유계좌 전체 잔액 합계액이 매월 말일 중 어느 하루라도 10억원 초과 시 신고
- 신고대상이 되는 해외금융기관은 금융실명법 규정에 따른 금융기관
- 신고대상이 되는 해외금융계좌는 은행업무와 관련하여 개설한 계좌(현금계좌) 및 「자본시장과 금융투자업에 관한 법률」에 따른 증권 거래 계좌
- 계좌 명의자와 실질적 소유자가 다른 경우 둘 다 신고 의무, 공동명의계좌의 경우 공동명의자 각각 신고의무있음. 단, 해외금융계좌 관련자(실질적 소유자, 공동명의자 등) 중 상대 관련자가 본인의 정보를 제공함으로써 과세당국이 해외금융계좌 보유여부를 확인할 수 있는 경우 신고 의무 면제
- 금융실명법상 금융기관은 별도의 관리·감독이 가능하므로 신고의무 면제
- 단, 금융지주회사 등의 경우 금융실명법상 금융기관은 아니나 금융감독원의 감독을 받고 있으므로 신고의무 면제 필요

## 4. 신고관련 사항 - (국조법 시행령 제50조)

- 해외금융계좌 신고의무자 : 신고대상 연도 종료일 현재 거주자 및 내국법인에 한정
- 해외금융계좌 보유계좌잔액 산출방법 :
  - 각 계좌 별로 잔액을 일별 환율로 환산 후(당일 종료시각 현재 잔액 및 환율) 합산

- 합산하는 대상은 연도 전체 기간 중 보유 계좌의 예,적금, 증권, 보험상품 등 모든 자산
- 모든 해외금융계좌 매월 말일 잔액을 원화로 환산하여 합산하였을 때 그 합계액이 가장 큰 날을 기준일로 한다. 기준일 현재 보유계좌 잔액 0원 이하 계좌는 신고대상이x, 금융채무 잔액은 차감하지 않음.
- 신고의무자는 해외금융계좌신고서를 다음해 6월 중 제출
  - 해외금융계좌신고서는 시행규칙으로 정함
- 실질적 소유자 개념 정의 : 해당 계좌를 사실상 관리하는 자
  - 다만, 집합투자기구에 투자한 경우는 제외
- 해외금융계좌 관련자(실질적 소유자, 공동명의자 등)는 해당 계좌 잔액 전부를 각각 보유한 것으로 함(지분율에 관계x)
- 해외금융계좌 관련자는 상대 관련자 정보를 제공할 의무가 있음

## 5. 신고의무 위반 과태료 부과기준 - (국조법 시행령 제51조)

- 신고의무 위반 금액을 기준으로 단순착오·기한후 신고·수정신고 여부 등을 고려하여 다음에서 정한 금액 이내에서 과태료 부과
  - 미신고 금액 20억원 이하 : 10%
  - 미신고 금액 20억원 초과 50억원 이하 : 2억원 + 20억원 초과금액 x 15%
  - 미신고 금액 50억원 초과 : 6.5억원 + 50억원 초과금액 x 20%
- 미신고 계좌 추가 확인 시 : 전체 금액 기준 과태료에서 기부과 과태료를 차감한 금액

## 6. 자주 묻는 질문

- 내국법인의 해외지점 신고의무
  - 해외현지법인은 외국법인이므로 해외현지법인의 계좌는 신고x 단, 내국법인이 해외현지법인 계좌의 실질적 소유자인 경우에는 신고의무o
- 종교단체나 시민단체와 같은 비영리법인의 신고의무
  - 국가기관이나 공공기관을 제외한 비영리법인은 신고의무 면제자 해당x  
요건 충족 시 신고의무o
- 신고기준일이 지나서 개설한 계좌의 신고대상 여부
  - 신고기준일(보유계좌 매월 말일 잔액 합계가 최고가 되는 날)이 지나서 개설한 계좌는 기준일 현재 보유계좌가 아니므로 신고대상 계좌x
- 과태료 부과대상금액 산정 기준
  - 신고대상 계좌별로 신고의무 위반 금액을 산정함.
  - ex) 신고금액: 11억원(a계좌), b계좌누락으로 재계산 a계좌: 8억원 b계좌: 4억원  
총 12억원인 경우 과태료 부과대상금액은 4억원

## 7. 신고서 작성 (별도 파일 첨부)

- 제출서류: 해외금융계좌 신고서, 해외금융계좌 명세서, 해외금융계좌 관련자 명세서