

Entertainment Expenses in Korea.

1. Overview.

The entertainment expenses can be defined as a company expenses which company will pay any kinds of considerations to promote the relationship with their business related customers. The entertainment expenses is clearly needed to make an proper business operation however it's possible to make worsen of company's financial structure or use the private purpose to company's directors. Therefore Korean Tax Authorities are strictly controlled to secure the transparency of proper expenses, required the legal evidence conditions and set the limitation of expenses.

2. The scope of Entertainment Expenses

According to the Corporate Income Tax ("CIT") Act Article 25 – (5), the "Entertainment expenses" means entertainment expenses and expenses of a similar nature spent by a corporation in connection with its business, regardless whether such expenses are called social expenses, honoraria, or other pretexts. Regardless of the account name in the financial statement, the criteria of entertainment expenses is judged by the nature and purpose of expenses

Comparison Table for Entertainment, Advertisement and Donation

Account	Scope of Expense	Counter-parties	Relationship
Entertainment	The expenses are spent to increase the relationship and get the favor from business transaction to the specific person	A specific person	Business relationship
Advertisement	The expenses are spent to stimulate the will to purchase and promote the sales to an unknown public people.	A public people	Business relationship
Donation	The property transfer to non-business related specific person	A specific person	Non-Business relationship

3. The limitation of entertainment expenses

- 1) The amount obtained by multiplying 12,000,000 won (18,000,000 won for small and medium enterprises as prescribed by Presidential Decree) by the number of months for the concerned business year, and then dividing it by 12; and
- 2) The amount obtained by multiplying the revenue amount for the concerned business year (limited to the revenue amount as prescribed by Presidential Decree) by the rates under the following table: Provided, That for revenue amounts generated by transactions with a person with a special relationship under the provisions of Article 52 (1), the appropriate amount shall be 20 percent of the amount obtained by multiplying the revenue amount by the rates provided for in the following table:

Revenue Amount	Rates
10 billion won or less	20/10,000
More than 10 billion won and up to 50 billion won	20 million won + (10/10,000 the excess of 10 billion won)
More than 50 billion won	60 million won + (3/10,000 the excess of 50 billion won)

4. The requirement for legal evidence documents.

The acceptable evidence for entertainment expenses of Corporate Income Tax Article 25 (Non-Inclusion of Entertainment Expenses in Deductible Expenses): If the entertainment expenses is in excess of 10,000 Korean Won for each payment, company have to use and keep the legal evidence documents as bellows;

- 1) Corporate Credit Card slip
- 2) Corporate Debit Card slip
- 3) Cash receipt slip
- 4) Tax Invoice and invoice
- 5) Withholding tax receipt.

The following evidences are no regarded as legal evidence documents;

- 1) Credit Card and debit card slip under the employee's name
- 2) Credit Card and debit card slip from the faked (disguised) franchise.

5. How to treat the entertainment expenses over the limitation under the CIT Act?

The entertainment expenses over the limitation under the CIT Act cannot include the deductible expenses in the tax reconciliation report at the year-end and therefore it'll increase the company's tax an cash burden.

Korean Corporate Income Tax Act

Article 25 (Non-Inclusion of Entertainment Expenses in Deductible Expenses)

- (1) Of the amount a domestic corporation spends as entertainment expenses (excluding the amounts falling under paragraph (2)) during each business year, the amount in excess of the sum of the amounts falling under each of the following subparagraphs shall not be included in deductible expenses in the calculation of the income amount for the concerned business year:
1. The amount obtained by multiplying 12,000,000 won (18,000,000 won for small and medium enterprises as prescribed by Presidential Decree) by the number of months for the concerned business year, and then dividing it by 12; and
 2. The amount obtained by multiplying the revenue amount for the concerned business year (limited to the revenue amount as prescribed by Presidential Decree) by the rates under the following table: Provided, That for revenue amounts generated by transactions with a person with a special relationship under the provisions of Article 52 (1), the appropriate amount shall be 20 percent of the amount obtained by multiplying the revenue amount by the rates provided for in the following table:

Revenue Amount	Rate
10,000,000,000 won or less	20/10,000
More than 10,000,000,000 won and up to 50,000,000,000 won	20,000,000 won + (10/10,000 of the amount in excess of 10,000,000,000 won)
More than 50,000,000,000 won	60,000,000 won + (3/10,000 of the amount in excess of 50,000,000,000 won)

- (2) Entertainment expenses that are paid by a domestic corporation in excess of the amount prescribed by Presidential Decree on one occasion and that do not fall under any of the following subparagraphs shall not be included in deductible expenses in the calculation of the income amount for each business year: Provided, That the same shall apply to cases where the entertainment expenses falling under any of the following subparagraphs are disbursed in the areas of foreign countries prescribed by Presidential Decree, which makes it difficult to verify their spending but the disbursement of such entertainment expenses is objectively unquestionable:
1. Entertainment expenses paid by using those which fall under any of the following items (hereinafter referred to as “credit cards, etc.”):
 - (a) Credit cards under the Specialized Credit Financial Business Act (including items similar to credit cards, as prescribed by Presidential Decree; hereafter the same shall apply in Article 117); and
 - (b) Cash receipts under the provisions of Article 126-3 (3) of the Special Tax Treatment Control Act (hereinafter referred to as “cash receipts”); and
 2. Expenses paid after receiving an invoice under Article 121 of this Act and Article 163 of the Income Tax Act or a tax invoice under the provisions of Article 16 of the Value-Added Tax Act or after issuing a purchaser-issued tax invoice under the provisions of Article 126-4 (1) of the Special Tax Treatment Control Act or a withholding receipt prescribed by Presidential Decree.
- (3) If sales slips, that are issued in the name of a member shop of credit cards, etc. other than the one that does actually supply the corresponding goods or services, are delivered, the corresponding payment amounts shall not be included in the entertainment expenses provided for in paragraph (2) 1 in applying the same subparagraph of the same paragraph.
- (4) Deleted.
- (5) “Entertainment expenses” in paragraphs (1) through (3) means entertainment expenses and expenses of a similar nature spent by a corporation in connection with its business, regardless whether such expenses are called social expenses, honoraria, or other pretexts.
- (6) Matters necessary for the scope of entertainment expenses, keeping of documents verifying disbursement, etc. shall be prescribed by Presidential Decree.

ENFORCEMENT DECREE OF THE CORPORATE TAX ACT

Article 40 (Standard for Calculation of Revenue Amount of Entertainment Expenses)

- (1) The term “revenue amount prescribed by Presidential Decree” in Article 25 (1) 2 of the Act means the sales amount (hereafter in this Article referred to as “sales amount”) calculated according to the corporate accounting standards: Provided, That in case of corporations falling under each of the following subparagraphs, such sales amount shall be an amount calculated according to the following formula:
1. Securities company incorporated pursuant to the Securities and Exchange Act: The sales amount an amount + equivalent to 9 times the commission earned in connection with the business provided for in Article 2 (8) 2 through 7 of the Securities and Exchange Act and commission for the sales of beneficiary certificates under the Indirect Investment Asset Management Business Act;
 2. Asset management company incorporated pursuant to the Indirect Investment Asset Management Business Act: The sales amount + an amount equivalent to 9 times the commission earned in connection with the business of operating indirect investment assets under subparagraph 12 of Article 2 of the Indirect Investment Asset Management Business Act;
 3. Deleted;
 4. The Export-Import Bank of Korea established pursuant to the Export-Import Bank of Korea Act: The sales amount + an amount equivalent to 9 times guarantee fees; and
 5. Corporation provided for in each subparagraph of Article 63 (1): The sales amount + an amount equivalent to 6 times guarantee fees. (2) The provisions of the main sentence of Article 37 (1) shall apply mutatis mutandis to the calculation of the value of entertainment expenses.

Article 41 (Use of Credit Cards, etc. for Entertainment Expenses)

- (1) The term “amount prescribed by Presidential Decree” in the main sentence of Article 25 (2) of the Act means an amount determined according to the following division:
1. For the case of celebration or condolence amount: 100,000 won; and
 2. For other cases than that provided for in subparagraph 1: An amount determined according to the following division:
 - (a) Not later than December 31, 2007: 50,000 won;
 - (b) From January 1, 2008 to December 31, 2008: 30,000 won; and
 - (c) On and after January 1, 2009: 10,000 won.
- (2) The term “overseas area that is prescribed by Presidential Decree” in the proviso to Article 25 (2) of the Act means the relevant overseas area in case where it is difficult to secure the evidential document provided for in each subparagraph of Article 25 (2) of the Act on the grounds of the lack of disbursement means except cash in the place in which the entertainment expenses are disbursed (including any place similar to the place in the nearby area where the relevant place is located).
- (3) The term “similar things as prescribed by Presidential Decree” in Article 25 (2) 1 of the Act means debit cards issued under the Specialized Credit Financial Business Act and credit cards issued in foreign countries and prepaid cards and cash receipts pursuant to the provisions of Article 126-2 (1) of the Restriction of Special Taxation Act.
- (4) In applying the provisions of Article 25 (3) of the Act, the term “sales slips, etc. that are issued in the name of a member shop of credit cards, etc. other than the one that actually supplies goods or services” means those showing that the trade name and business location are different from the trade name and business location of the member shop of credit cards, etc. that has supplied goods or services.
- (5) through (7) Deleted.
- (8) In applying the provisions of paragraphs (1) through (4), the credit card, etc. under the provisions of Article 25 (2) 1 of the Act shall be the credit card, etc. issued in the name of the corresponding corporation.

Article 42 (Scope of Entertainment Expenses)

- (1) Entertainment expenses paid by a corporation that should have been borne by stockholders or investors (hereinafter “stockholders, etc.”) or executives or employees shall not be deemed as entertainment expenses.

- (2) Where a corporation pays the welfare facilities expenses of an association or organization made up of employees, and the relevant association or organization is a corporation, such expenses shall be deemed as entertainment expenses, and where the relevant association or organization is not a corporation, such expenses shall be deemed as part of the account of the corporation.
- (3) Deleted.
- (4) The subsidies for sales, sales allowances or discounts, etc. given to any persons other than persons with a special relationship pursuant to Article 52 of the Act, whose amounts are within the limits of normal transactions in the light of sound and socially-accepted idea and commercial practice shall not be deemed as entertainment expenses.
- (5) Expenses (including expenses disbursed for the purpose of contributing to specified persons, which do not exceed 30,000 won per year) paid by a corporation in order to give sample products, calendars, notebooks, fans, cups, and other similar products to many and unspecified persons for the purpose of advertising shall not be deemed as entertainment expenses.