

The Definition of the Gross Income and Deductible Expenses

(Corporate Tax in Korea)

Sept 1, 2015

1. Tax Base for Corporate Tax

- (1) The corporate **TAX BASE** on the **INCOME** of a domestic corporation for each business year shall be calculated by deducting the following amounts and income in the following order, from income earned for each business year.
 - ① Losses incurred during each business year starting within ten years before the start date of the current business year (within five years when the losses incurred before Dec. 31, 2008) which were not thereafter deducted in the calculation of the tax base. In such cases, losses shall be limited to the amounts provided in Article 14 (2) of Corporate Tax which are included in the tax base reported under Article 60 or determined or corrected under Article 66 or reported for revision under Article 45 of the Framework Act on National Taxes.
 - ② Non-taxable income prescribed in the Corporate Tax Act and other Acts
 - ③ Income deductions prescribed in Corporate Tax Act and other Acts.
- (2) The **INCOME** of a domestic corporation for each business year shall be the amount calculated by deducting the total amount of **DEDUCTIBLE EXPENSES** incurred during the relevant business year from the total amount of **GROSS INCOME** accrued during the relevant business year.

2. Scope of GROSS INCOME

- (1) The gross income shall be the amount of earnings generated by transactions which increase the net assets of a corporation, except for capital input or financing and what is provided in the Corporate Tax Act.
- (2) The following amounts shall be deemed gross income:
 - ① Where securities are purchased from an individual who is a related party provided in Article 52 (1) of Corporate Tax Act at the prices lower than the market prices referred to in Article 52 (2) of Corporate Tax Act, the amount of the difference between such market prices and the relevant purchase prices.
 - ② An amount equivalent to the amount of foreign corporate tax referred to in Article 57 (4) of Corporate Tax Act (limited to any tax credit granted);
 - ③ The amount of income distributed under Article 100-18 (1) of the Restriction of Special Taxation Act.
- (3) Matters necessary for the scope and classification of gains under paragraph (1) and other matters shall be prescribed by Presidential Decree.

Any of the amounts provided in Article 16 of Corporate Tax shall be deemed the amount of profit dividends or surpluses distributed from a corporation.

The Non-Inclusion of Gross Income in the Corporate Tax Act includes,

- (1) Non-Inclusion of Proceeds from Capital Transactions in Gross Income (Article 17)
- (2) Non-Inclusion of Evaluation Marginal Profits, etc. in Gross Income (Article 18)
- (3) Non-Inclusion of Holding Company's Received Dividend Amount in Gross Income (Article 18-2)

- (4) Non-Inclusion of Received Dividend Amount in Gross Income (Article 18-3)
- (5) Non-Inclusion in Gross Income of Evaluation Marginal Profits of Inventory Assets of Domestic Corporation that Applies International Accounting Standards (Article 42-2)

3. Scope of DEDUCTIBLE EXPENSES

- (1) Deductible expenses shall be the amount of losses incurred by transactions which reduce the net assets of a corporation, excluding return of capital or financing, disposition of surplus funds, and what is provided in the Corporate Tax Act.
- (2) Deductible expenses referred to in paragraph (1) shall be losses or expenses incurred in connection with the business of a corporation which are generally accepted as ordinary or directly related to profits, except those otherwise expressly prescribed by the Corporate Tax Act and other Acts.
- (3) Losses distributed under Article 100-18 (1) of the Restriction of Special Taxation Act shall be deemed deductible expenses referred to in paragraph (1).
- (4) Matters necessary for the scope and types of deductible expenses referred to in paragraphs (1) through (3) and other matters shall be prescribed by Presidential Decree.

The Inclusion of Deductible Expenses in the Corporate Tax Act includes,

- (1) Inclusion of Reserve Funds for Proper Purpose Businesses in Deductible Expenses (Article 29)
- (2) Inclusion of Liability Reserve Funds, etc. in Deductible Expenses (Article 30))
- (3) Inclusion of Allowance for Severance and Retirement Benefits in Deductible Expenses (Article 33)
- (4) Inclusion of Bad Debt Allowance in Deductible Expenses (Article 34)
- (5) Inclusion of Allocation for Payment of Claims for Compensation in Deductible Expenses (Article 35)
- (6) Inclusion of Value of Assets for Business Acquired by National Treasury Subsidies, etc. in Deductible Expenses (Article 36)
- (7) Inclusion of Value of Fixed Assets Acquired by Construction Changes in Deductible Expenses (Article 37)
- (8) Inclusion of Value of Fixed Assets Acquired by Insurance Marginal Profits in Deductible Expenses (Article 38)
- (9) Inclusion of Reasonable Amount for Asset Transfer Marginal Profits due to Exchange in Calculation of Deductible Expenses (Article 50)

The Non-Inclusion of Deductible Expenses in the Corporate Tax Act includes,

- (1) Non-Inclusion of Bad Debt Expense in Deductible Expenses (Article 19-2)
- (2) Non-Inclusion of Losses from Capital Transactions, etc. in Deductible Expenses (Article 20)
- (3) Non-Inclusion of Taxes and Public Changes in in Deductible Expenses (Article 21)
- (4) Non-Inclusion of Losses from Evaluation of Assets in Deductible Expenses (Article 20)
- (5) Non-Inclusion of Depreciation Costs in Deductible Expenses (Article 23)
- (6) Non-Inclusion of Donations in Deductible Expenses (Article 24)
- (7) Non-Inclusion of Entertainment Expenses in Deductible Expenses (Article 25)
- (8) Non-Inclusion of Excessive Expenses in Deductible Expenses (Article 26)
- (9) Non-Inclusion of Non-Business Expenses in Deductible Expenses (Article 27)
- (10) Non-Inclusion of Interest Paid in Deductible Expenses (Article 28)

DECREE OF THE CORPORATE TAX ACT

Article 11 (Scope of Earnings)

Earnings under Article 15 (1) of the Act shall be as prescribed in the following subparagraphs, except as otherwise prescribed in the Act and this Decree:

1. Revenue amounts [including contract amounts, sales amounts, and insurance premium amounts, and excluding sales overcharge amounts and sales discount amounts under corporate accounting standards (referring to the accounting standards falling under any subparagraph of Article 79; hereinafter the same shall apply); hereinafter the same shall apply] arising from each business under the Korean Standard Industrial Classification: Provided, That for estimations under the proviso to Article 66 (3) of the Act, it shall be the amount calculated by multiplying the interest rate as prescribed by Ordinance of the Ministry of Strategy and Finance in consideration of the fixed term deposit interest rate of financial companies, etc. (hereinafter referred to as "fixed term deposit interest rate") to the revenue amount from key money or deposit money in real estate rent;
2. Transfer amount of assets;
- 2-2. Transfer amount of treasury stocks (including cases where a merging corporation has come to acquire stocks of the merging corporation held by an extinguished corporation following merger);
3. Property rental fees;
4. Marginal profits from the evaluation of assets;
5. The value of assets received without compensation;
6. The reduced amount (including the amount in the proviso to Article 17 (1) 1 of the Act) of liabilities due to the exemption from or expiration of debts;
7. The returned amount included in the calculation of losses;
8. The reserve fund amount appropriated as losses and not treated under the disposition of profits;
9. Profits received by distribution based on capital transactions with a specially related person under any of the items of Article 88 (1) 8 and under subparagraph 8-2 of the same paragraph;
- 9-2. The provisional payment and the interest thereon under Article 28 (1) 4 (b) of the Act (hereinafter referred to as "provisional payment, etc." in this Article) which fall under any of the following items: Provided, That where any reasonable ground prescribed by Ordinance of the Ministry of Strategy and Finance exists, such as the case that collection is impossible due to litigation of claims or obligations:
 - (a) The provisional payment, etc. (excluding the interest included in the calculation of earnings under item (b)) not collected until the day when the special relationship referred to in Article 87 (1) is extinguished;
 - (b) The interest accrued where the special relationship under Article 87 (1) is not extinguished and where the interest on the provisional payment referred to in Article 28 (1) 4 (b) of the Act is not collected until the day when one year passes from the last day of the business year to which the day when the interest accrues belongs;
10. Other earnings which have accrued or will accrue to the corporation

Article 19 (Scope of Deductible Expense)

Deductible expenses under Article 19 (1) of the Act shall be the following, except those as prescribed in the Act and this Decree:

1. The purchase value (excluding the inflated purchase amount and the discounted purchase amount that are each specified in the corporate accounting standards) of raw materials of commodities or manufactured goods sold and incidental expenses;
- 1-2. Incidental expenses relating to sale, such as the storage, packing charge, freight, sales subsidy, sales allowance, etc. (including the cases of paying without prior arrangement in cases of a sales subsidy and sales allowance);
2. The book value of transferred assets as at the time of transfer;
3. Personnel/labor costs;
4. Repair expenses for fixed assets;
5. Depreciation costs of fixed assets;
- 5-2. Amount equivalent to the depreciation costs calculated by applying mutatis mutandis the provisions of Articles 24 through 34 to the following amounts if the value of fixed assets recorded in the books according to the corporate accounting standards is lower than the market price, while taking over the assets from the specially-related person:
 - (a) The difference between the market price and the amount recorded in the books, where the actual acquisition price is higher than the market price;
 - (b) The difference between the actual acquisition price and the amount recorded in the books, where the actual acquisition price is lower than the market price;

6. Property rental expenses;
7. Interest on borrowed money;
8. Irrecoverable amount receivable of output value-added tax (limited to the one which has not been subject to bad debts tax credits under Article 17-2 of the Value-Added Tax Act);
9. Marginal losses from evaluation of assets;
10. Taxes and public charges
11. Membership fees paid to corporations, or associations or societies registered with the competent administrative authority which are organizations made up of businessmen;
12. Prospecting expenses in the mining industry (including expenses for developing areas for prospecting);
13. The value of free medical examinations and treatment provided by free medical care vouchers or New Village medical care vouchers prescribed by the Minister for Health and Welfare;
- 13-2. The book value of surplus food donated without compensation by a domestic corporation that operates the manufacturing, wholesale, or retail business of food and beverage according to the Korean Standard Industrial Classification to a provider under Article 2 of the Food Donation Encouragement Act or to a person designated by such provider (in such cases, the amount shall not be included in the donations under subparagraph 1 of Article 35);
14. Expenses for business-related overseas inspections and training;
15. Any of the following operational expenses or allowances:
 - (a) Expenses incurred in operating special classes or middle and high schools attached to industrial enterprises, which are established pursuant to the Elementary and Secondary Education Act for working teenagers;
 - (b) Expenses incurred in operating vocational training courses, subjects, etc. on condition that graduates are hired according to agreements concluded between educational institutions and corporations pursuant to Article 8 of the Promotion of Industrial Education and Industrial-Academic Cooperation Act;
 - (c) Allowances paid to students participating in field training provided for in Article 7 of the Vocational Education and Training Promotion Act;
 - (d) Allowances paid to students participating in field training classes provided for in Article 22 of the Higher Education Act;
16. The book value of stocks of the company that contributes to an employee stock ownership association under the Framework Act on Labor Welfare (hereinafter referred to as "employee stock ownership association") or money and goods contributed to such association;
17. The acquisition value (limited to the one not worth more than five million won for each transaction) of artwork where the acquisition value of any artwork on permanent display in the space such as office and corridor for the purpose of ornamenting and environmentally beautifying such space visible to many people is counted as a loss of the business year that belongs to the date on which such artwork is acquired;
18. The purchase cost of Articles donated for advertisement and publicity (limited to an amount 30 thousand won or less a year in the case of an Article (excluding the Article that is less than 10,000 won per piece) donated to a specific person);
19. Where the executives and employees exercise the stock options or receive the bonus, paid with stocks or money equivalent to the value of the stocks, which is prescribed by Ordinance of the Ministry of Strategy and Finance (hereinafter referred as "share-based payment"), under any of the following items, the amount compensated as the exercise or payment expense to the relevant corporation that has offered stock options or paid the share-based payment (hereinafter referred as "stocks options, etc.")
 - (a) Stock options, etc. offered or received from a financial holding company under the Financial Holding Companies Act (in cases of stock option, limited to cases where the stock option is offered as prescribed in Article 542-3 of the Commercial Act);
 - (b) Stock options, etc. offered or received from the overseas parent corporation prescribed by Ordinance of the Ministry of Strategy and Finance, which are prescribed by Ordinance of the Ministry of Strategy and Finance;
20. Contribution amount made by small and medium enterprises under the Article 35-3 (1) of Special Act on support for Human Resources of Small and Medium Enterprises
21. The amount paid to the family of the deceased of the executives or employees (excluding the controlling stockholder as per the Article 43 (7)) as school subsidy temporarily
22. Other deductible expenses which revert or will revert to the corporation