

Insurance Tax Highlights – Asia Pacific

Establishment of insurance product sales subsidiaries by insurance companies in Korea

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Recently, several Korean insurance companies and Korean subsidiaries of global insurance groups have established an insurance product sales subsidiary. These subsidiaries provide insurance products and services of not only their own insurance groups but also other insurance groups. The trend of establishing insurance sales companies is mainly driven by the desire to enlarge sales channels and create management synergy. The new insurance sales company is expected to achieve cost savings and develop efficiency within the insurance group, e.g. by cross-sales between the life insurance company and the general insurance company in the group.

In this article, we provide a general overview of the tax considerations relevant to those global insurers who are interested in establishing and operating an insurance sales company (“Sales Co”) in Korea.

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1. Tax considerations of establishment of a Sales Co in Korea

1.1. Registration License Tax

Upon formation of a new company, capital registration tax will be imposed at a rate of 0.48% of the nominal amount of capital under Local Tax Act (“LTA”). In case where the new company is headquartered in the Seoul metropolitan area, the rate is tripled to 1.44%.

There is nevertheless no requirement regarding the minimum amount of nominal capital under the Commercial Code for incorporation of stock company (Chusik Hoesa) and under the Insurance Business Act for registration of an insurance product sales company.

1.2. Business Registration to Tax Office

A company should register its business registration to relevant tax office within 20 days from the commencement date of business under Corporate Income Tax (“CIT”) and Value Added Tax Act (“VATA”).

2. General overview of Korean tax during operation

2.1. Corporate Income Tax

Under CITA, Sales Co is subject to CIT on taxable income and should comply with the filing requirements of interim and annual corporate income tax returns.



CIT rates (including 10% local income tax) for the year after 2013 are as follows.

| Taxable income (KRW) | Tax rate |
|--|----------|
| Up to 200 million | 11% |
| More than 200 million up to 20 billion | 22% |
| More than 20 billion | 24.2% |

2.2 Thin Capitalization Rule

Under Korean thin-capitalization rules, financial institutions should maintain a 6 to 1 debt to equity ratio. If borrowings from the Overseas Controlling Shareholders (“OCS”) exceed 6 times the equity investment from such OCS, the portion of interest paid to the OCS with respect to the borrowing in excess of the above thin capitalization ratio will generally be non-deductible for CIT purpose and will be reclassified as dividend. For this purpose, OCS are defined as shareholders (direct or indirect) who own more than 50% of the shares in the company or any related party having, in substance, control over the company. Any third-party loans guaranteed by the OCS will also generally be considered as debts from the OCS.

2.3 Value Added Tax

• General

Under Article 26 (1) (11) of VATA and Article 40(1)(8) of Presidential Decrees of VATA, insurance product sales services provided by an insurance product sales service company registered pursuant to Insurance Law is a VAT exempt business. Accordingly, Sales Co would not be subject to VAT.

• Proxy VAT

A domestic recipient of services from overseas vendors is required to collect VAT on behalf of the overseas vendors upon payment and remit the tax to the local tax office within 25 days from the end of each quarter provided the following conditions are met:

- The services are rendered by a non-resident without a permanent establishment in Korea;
- The services are VAT taxable; and
- The services are used in a VAT exempt business of the domestic service recipient.

As Sales Co is VAT exempt, one should consider the application of Proxy VAT when making payments for inter-company charges such as management fee and/or other advisory service fees which are related to VAT taxable services.

2.4. Education Tax

Under Education Tax Act (“ETA”), a company engaging in banking or insurance business listed in the appendix of ETA is subject to education tax at a rate of 0.5% of its gross income. In accordance with Article 3 of ETA, however, an insurance product sales company should not be subject to education tax because the insurance product sales service company is not listed in the appendix of ETA, even though it falls within the category of banking or insurance business.

Therefore, Sales Co should not be subject to education tax.

2.5. Withholding Tax

When Sales Co makes certain payments (i.e. salary) to its employees, it is required to file a withholding tax return by the 10th day of the month following the month of payment and submit an annual payment record by 10th day of March of the following year Article 98(1) of the CITA.

3. Other considerations

Apart from the above general tax and compliance considerations, global insurers who are interested in establishing a Sales Co in Korea should also consider issues like holding structure, financing arrangement, transfer pricing, etc. with a view to operating the Sales Co in a tax efficient manner.

For more information, please contact the following territory tax partners:

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