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법무법인(유) 세종

Expansion of Korean-Source Other Income Rules for Transfers of Assets at Below-Market Value

(Article 93, Subparagraph 10(c) of the Corporate Tax Act)

Overview

Under the Corporate Income Tax Act, income arising from the receipt of assets located in Korea by way of gift is treated as Korean-source “other income” and may be subject to Korean taxation.

Legislative Change

The amended Corporate Income Tax Act expands the scope of taxable Korean-source other income to include certain transfers of Korean assets for significantly less than fair market value.

Under the new rules, if a foreign corporation acquires Korean-situs assets for consideration substantially below fair market value, the difference between the consideration paid and the fair market value will be treated as Korean-source other income if the discrepancy meets or exceeds the threshold specified in the Inheritance and Gift Tax Act.

Specifically, the rule applies when the difference between the purchase price and fair market value equals or exceeds 30% of the fair market value, which is the statutory benchmark currently used for deemed-gift taxation purposes.

The amendment applies to income received on or after January 1, 2026.

Practical Implications

The amendment is intended to address situations in which economic benefits are transferred indirectly through transactions structured as below-market sales rather than outright gifts.

Foreign corporations acquiring Korean assets from related parties or other counterparties should carefully review valuation methodologies and transaction pricing to ensure that the consideration reflects arm's-length market value. Transactions involving intellectual property, shares, real estate, or other valuable assets may be particularly vulnerable to challenge if substantial valuation discounts are applied.

The amendment further reflects a broader legislative trend toward aligning corporate income tax rules with Korea's gift-tax principles and expanding the Korean tax base through substance-based anti-avoidance measures.

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