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Measures of Real Estate Taxation in the Classify Income

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현행 법률상 분류소득인 부동산양도소득세의 정책방안

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Abstract The purpose of this study tried theoretical review on the current Transfer Income Tax system, and review on current Korean Transfer Income Tax system, to derive the inherent problems in Korean Transfer Income Tax system. This study presents the improving measures thereto.The transfer income earned by any individual person is taxed as the Transfer Income Tax pursuant to the Income Tax Act, and the transfer income earned by any legal person is taxed as the transfer income on transfer gain on land etc, pursuant to the Corporate Tax Act. In case of the Transfer Income Taxes earned by individual persons, land and buildings comprise most of the taxable items of the Transfer Income Tax. This study limits the scope of study to the Transfer Income Tax on land and building as the major taxable item, rather than all the Transfer Income Tax taxed to individual taxpayers. The outcomes of this are expected to rationly improvement the real estate taxation in accordance with the principle of tax law.

Key Words : Real Estate, Tax Policy, Real Estate Taxation, Classify Income

요 약 본 연구의 목적은 현행 양도소득세제에 대한 이론적 고찰과 현행 양도소득세 제도에 대한 검토를 통하여 우리나라 양도소득세제에 내재하는 문제점을 도출하고 이에 대한 개선방향을 제시하였다. 개인에 대한 양도소득은 소득세법상의 양도소득세로, 법인에 대한 양도소득은 법인세법상의 토지 등 양도소득에 대한 법인세로 과세하고 있으며, 개인 양도소득세는 토지와 건물이 양도소득세 징수세목의 대부분을 차지하고 있다. 본 연구에서는 현행 양도소득세제에 개선방향을 제시하였는데, 첫째로 선진국처럼 세부담의 형평성 측면에서 접근할 필요가 있으며, 둘째로 부동산투기억제 대책을 조세정책만 가지고 접근할 것이 아니라 금융정책과 주택정책 위주로 접근해야 실효를 거둘 수 있을 것이며, 셋째로 비과세의 조건을 주택거주기간 5년~10년이상으로 세법을 개정하여야 한다고 제안하고 있다. 본 연구의 범위와 연구방법으로는 개인에 부과되는 양도소득세 중에서도 주된 과세대상인 토지와 건물에 대한 양도소득세제로 연구범위를 한정해 다루고 있으며, 연구방법은 법률의 공정성과 객관성을 위해 주로 현행 세법을 분석하고 파악하여 향후 세법개정에 제안하는데 비중을 두었다. 본 연구결과를 통하여 향후 양도소득세제가 조세의 세법원칙에 맞춰 개정이 이루어 질 수 있기를 기대한다.

키워드 : 부동산, 조세정책, 부동산양도소득세, 분류소득

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1. Introduction

The purpose of this study is to review Korean Transfer Income Tax system and analyze the problems inherent, and to present improving measures.

The transfer income earned by any individual person is taxed as the Transfer Income Tax pursuant to the Income Tax Act, and the transfer income earned by any legal person is taxed as the transfer income on transfer gain on land etc, pursuant to the Corporate Tax Act.

In case of the Transfer Income Taxes earned by individual persons, land and buildings comprise most of the taxable items of the Transfer Income Tax[1,2].

This study limits the scope of study to the Transfer Income Tax on land and building as the major taxable item, rather than all the Transfer Income Tax taxed to individual taxpayers.

2. Related Studies

2.1 Computation Structure of Capital Gain Tax

For computation of capital gain tax, transfer gain is computed by deducting required expenses (acquisition price, capital expenditure, transfer price) from the total income amount earned from transfer of relevant asset (transfer price)[3,4].

From this transfer gain, special deduction for long term holding is deducted to compute capital gain amount.

Then capital gain tax is computed by multiplying tax rate to the tax base after basic deduction of capital gain.

The computation process of capital gain tax can be summarized as shown at Figure 1.

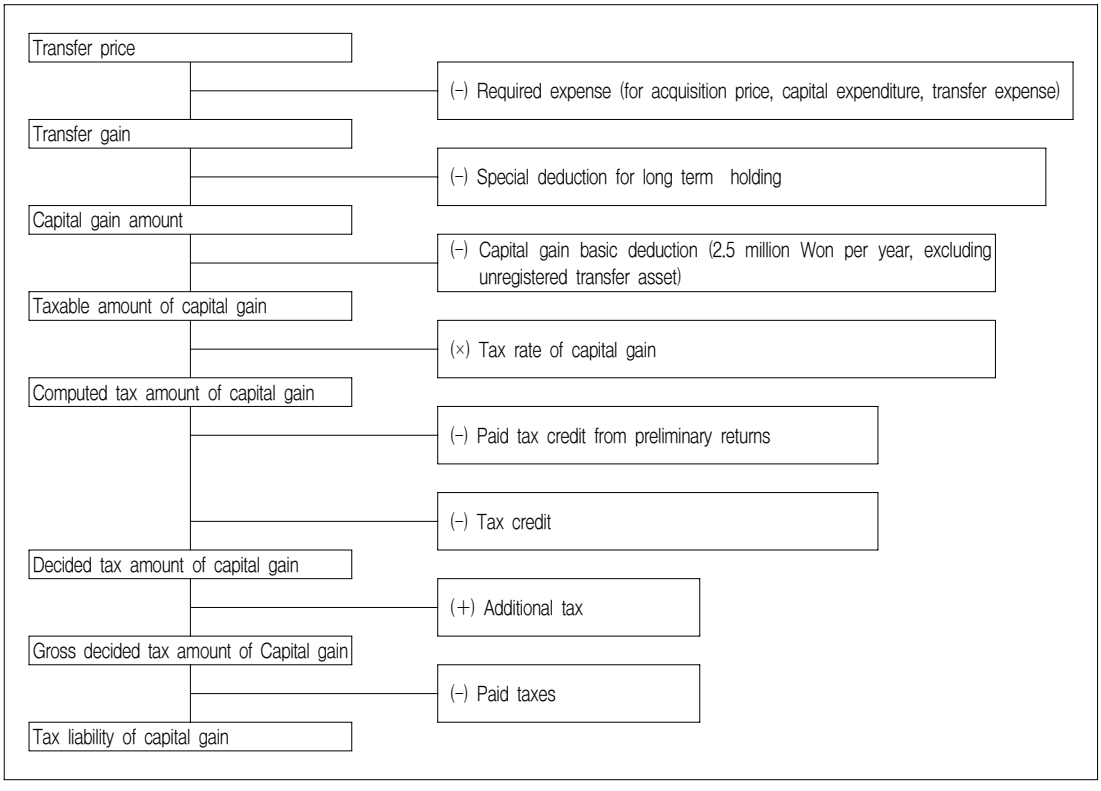

Fig. 1. Computation Structure of Capital Gain Tax[1,2].

Table 1. Summary of Taxation Type at Each Country.

Section / Type	Country	Contents	Equality in tax burden	Prevention function of speculation
Global taxation type	U.S.A., France, Phillipines, Swiss, India, Pakistan, Italia, Sweden	Separate taxation in special cases such as long term capital gain etc.	Strong	Normal
Separate taxation type	Korea, Japan	Taxation in comparison with global income tax rate in case of Japan (short term capital gain of natural person)	Weak	Korea: Strong Japan: Normal
Independent taxation type	U.K., Taiwan, Malaysia	-	Normal (U.K.: Weak)	Normal (Taiwan: Strong)
Non taxation type	Germany, Canada, Australia	Taxed only in special cae such as speculative income etc.	Weak	Somewhat weak

2.2 Taxation Type of Capital Gain Tax by Each Country

Most countries consider it necessary to tax the realized capital gain pursuant to the theory of net asset increase based on comprehensive income concept. U.S.A. income tax system taxes capital gain according to the theory of net asset increase.

U.K established the principle of non taxation of capital gain from the theory of income source, but taxed short term capital gain on speculation in 1962. After 1965, U.K taxed capital gain tax across the board. Even though there are countries that are not generally taxing capital gain like Belgium, Germany and Austria, but taxing capital gain is the normal trend from the aspect of equal burden of taxation, as such burden intensifies due to expanded national finance in most countries[5-9].

Such types of taxation at each country are summarized as shown at Table 1[10-14].

3. Characteristic

This study limits the scope of study to the Transfer Income Tax on land and building as the major taxable item, rather than all the Transfer Income Tax taxed to individual taxpayers[1].

(1) Korean Transfer Income Tax system now needs the approach from the angle of equity in taxation like the system in advanced countries, rather than tax policy purposes.

(2) Current crimping measures on real estate speculation shall be approached mainly from financial policy and housing policy rather than tax policy only, so as to be substantially effective.

(3) Hence the tax law shall be revised to adopt long term residence requirement for tax exemption (5-10 years or longer), like those in other advanced countries.

4. Probems and Improvements

4.1 Improvement by tax policy

4.1.1 Probems

Currently speculative phenomenon in real estate is prevalent due to the effect of low interest rate.

The Transfer Income Tax policy in Korea is not successful. According to the result of precedent studies on real estate taxation policy, real estate policies other than the public concept of land ownership policy appeared as not effective in price stabilization policy.

4.1.2 Improvement

Government's taxation policy may require amendment of tax laws to reduce the weight of transaction tax but raising possession tax.

From the viewpoint of tax policy effect of the Transfer Income Tax, Korean Transfer Income Tax system now needs approach from the purpose of equity

in tax burden as is the case in advanced countries, rather than taxation policy purposes.

4.2 Methods and Improvement by Real Estate Policy

4.2.1 Probems

Korean Transfer Income Tax system lacked consistency in policy as introduction and integration of tax items, enforcement and relation such as taxation and tax rate adjustment etc were repeated responding to the volatility in real estate market environment.

And as the contents of the Transfer Income Tax system was far from perfect, the effect was also unsatisfactory.

4.2.2 Improvement

For the real estate policy to become effective, an approach from financial policy and housing policy is required, deserting excessively dependent on tax oriented policy.

It is imperative to adopt effective financial policy, such as proper interest rate maintained, and development of financial product including REITs that could disperse the excessive hot monies concentrated in real estate due to low interest rate.

Also housing policies shall be enforced properly, such as good quality supply to the areas demanded by end users, and restriction on resale of the right to purchase apartment from reconstruction projects[15-16].

4.3 Methods and Improvement by amendment of tax law (tax rate, deduction system)

4.3.1 Probems

Current Korean Transfer Income Tax system suffered numerous revisions and has complicated tax law stricture, as part of the policy purpose of controlling real estate cycle and speculation. And considerable side effects have been caused thereby.

The Transfer Income Tax system contains numerous problems even though numerous revisions have been made in the computation method of transfer gain, tax exemption system for single house for one family, tax rate and various deduction system so far.

This is because the revisions in the Transfer Income Tax were temporary and politically for the purpose of crimping speculation rather than long term income redistribution purpose[17-19].

4.3.2 Improvement

Therefore, Korea shall change the tax rate structure into 2 stages or simpler structure, like those in other advanced countries, and various deduction system shall be abolished decisively.

4.4 Methods and Improvement by amendment of tax law (Tax exemption system)

4.4.1 Probems

Current Korean system on Transfer Income Tax exemption for single house for one family is characteristic of not requiring residence in the house, just grants exemption if ownership requirement of two years longer is met as at the time of the transfer.

The problems and improving measures on this system can be summarized as follows;

4.4.2 Improvement

(1) Tax law shall be revised to require residence rather than ownership period as the condition for tax exemption.

According to Korean system, Transfer Income Tax is exempted if ownership requirement of two years' longer is satisfied even without any period of residence, tax exemption for single house for one family is granted, overheating speculation on real estate.

Therefore, Transfer Income Tax exemption shall be abolished for single house for one family without satisfying the residence requirement for a certain period in relevant house, even if ownership requirement of two years' longer is satisfied.

(2) Tax law shall be revised to substantialize the residence period.

Regarding the period for residence requirement, tax law shall be revised to substantialize long term residence period. By reducing Transfer Income Tax only in case of house transfer after at least 5 to 10 years' residence, the Korean citizen would obtain the perception that house shall not be owned for speculation but for residence purpose.

As the Korean national income was low in the past, Korea also extended the Transfer Income Tax exemption under the purpose of economic vitalization.

However now the national income has improved. Hence it is desirable to reduce tax exemption benefit in consideration of equity in taxation rather than economic stimulus aspect[15-16].

5. Results and Discussion

This study tried theoretical review on the current Transfer Income Tax system, and review on current Korean Transfer Income Tax system, to derive the inherent problems in Korean Transfer Income Tax system. This study presents the improving measures thereto, as follows;

Firstly, current it is a reality that Transfer Income Tax policy of the government takes relaxation stance for economic stimulus when the real estate market cycle is sluggish, and also takes strengthening taxation stance for crimping speculation when real estate cycle is activated and real estate speculation is prevalent. Due to inconsistent policy therefrom, the citizen would have distrust against the government's policy even further, and this would exert tremendous effect to national policy establishment as well. Therefore, the government shall draw the policy in macro, long term perspectives.

Korean Transfer Income Tax system now needs the approach from the angle of equity in taxation like the system in advanced countries, rather than tax policy purposes.

Secondly, government's responding measures to real estate speculation in relation to Transfer Income Tax system mainly comprise designation of areas with high increase in real estate price as the speculative area, applying high Transfer Income Tax rate in speculative transactions, and enforcing strengthened real estate possession tax. However, despite of these anti-speculation measures, real estate price hike may continue even after designation of speculative area, speculation may be infected to other areas, and various side effects and the problem in equity would occur from tax rate hike and enforcement of higher possession tax.

Therefore, current crimping measures on real estate speculation shall be approached mainly from financial policy and housing policy rather than tax policy only, so as to be substantially effective[5.12.15]

Thirdly, the most problematic in current Transfer Income Tax system, is the tax exemption system on single house for one family if owned for two year in all areas excluding some particular areas.

As tax exemption is granted to owners without actual residence, this system may trigger real estate speculation. Hence the tax law shall be revised to adopt long term residence requirement for tax exemption (5-10 years or longer), like those in other advanced countries.

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