

Bonus and severance benefit for executives

Unlike employees, compensation for executives is strictly controlled by the relevant tax laws and regulations.

1. Definition of executives

Regardless of his/her job title, if he/she performs the executive's role, they are deemed as executives. Meanwhile, if they are registered as directors in the commercial registry at court, they are executives.

2. Bonus for executives

- Where a corporation pays bonuses to its executives in excess of the amount to be paid under the salary payment standards determined by the articles of incorporation or by resolution at the general meeting of stockholders, or the board of directors, such excess shall not be tax deductible.
- Where a corporation pays remuneration to an executive who is a controlling stockholder including any related party in excess of the amount paid to executive in the same position without any justifiable grounds, such excess shall not be tax deductible.

3. Severance benefits for executives

- (1) Retirement benefits (referring to benefits defined in subparagraph 5 of Article 2 of the Guarantee of Workers' Retirement Benefits Act; hereinafter the same shall apply) paid by a corporation to its executive shall be included in deductible expenses within the extent of the amount actually paid when an executive actually retires.
- (2) Actual retirement includes any of the following cases, in which a corporation actually pays retirement benefits:
 - Where an employee of a corporation becomes an executive of the corporation;
 - Where an executive of a corporation retires due to the reorganization, merger, division, or transfer of the business of the corporation;
 - Where retirement benefits are paid upon making interim settlement as prescribed in Article 8 (2) of the Act on the Guarantee of Workers' Retirement Benefits (limited to where retirement benefits are newly calculated by counting the years of service from the time of interim settlement);
 - Where retirement benefits are paid upon making interim settlement to executive for reasons prescribed by Ordinance of the Ministry of Economy and Finance, such as long-term medical care longer than three months, acquisition of house if he/she does not have a house and natural disaster as prescribed in the articles of incorporation or the regulations on payment of retirement benefits delegated by the articles of incorporation benefits (limited to where retirement benefits are newly calculated by counting the years of service from the time of interim settlement).
- (3) Where a corporation pays retirement benefits to an executive (excluding the controlling stockholder, etc., and persons related to the controlling stockholder, etc), which is calculated by adding the period during which the executive worked for the corporation and the period worked for an affiliate, an amount equivalent to the relevant retirement benefits shall be deductible expenses divided in proportion to the corporations.

- (4) The amount of retirement benefits paid to an executive of a corporation in excess of any of the following amounts shall not be tax deductible:
- Where the amount to be paid as retirement benefits (including retirement bonuses, etc.) is prescribed by the articles of incorporation, the amount prescribed by the articles of incorporation;
 - In cases, other than the above, the amount computed by multiplying the amount equivalent to 10/100 of the total amount of salaries paid to the relevant executive for one year retroactively from the date of retirement by the number of years of continuous service as calculated by the method prescribed by Ordinance of the Ministry of Strategy and Finance. In such cases, where no retirement benefits have been paid when the relevant executive became an executive from an employee, the period in which he/she has worked as an employee may be added to the number of years of continuous service.