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| Title : | Regulations Governing Application of Profit-seeking Enterprise Income Tax Exemption to Private Institutions Participating in Transportation and Communication Infrastructure Projects Ch |
| Date : | 2003.09.26 |
| Legislative : | 1.Promulgated per the Order of Tai-Tsai-Tze No. 00841 issued by the Executive Yuan on January 10, 1996. 2.The Annex of Article 3 was amended per the Order of Tai-Tsai-Tze No. 042483 issued by the Executive Yuan on August 1, 2001. 3.Article 5 was amended per the Order of Tai-Tsai-Shuei-Tze No. 0920455790 issued by the Ministry of Finance on September 26, 2003. |
| Content : | <p>Article 1</p> <p>These Regulations are enacted pursuant to Paragraph 3, Article 28 of the Act for Promotion of Private Participation in Transportation and Communication Infrastructure Projects (hereinafter referred to as the “Act”)</p> <p>Article 2</p> <p>The terms as used in these Regulations shall be defined as follows:</p> <ol style="list-style-type: none">1. “Taxable income” shall mean the amount of taxable income derived by subtracting the amount of income that is eligible for tax reduction or exemption from total annual income.2. “Exempt from business income tax” shall mean when calculating taxable income, business income derived from carrying out major public infrastructure projects shall be subtracted from the total annual income. <p>Article 3</p> <p>The profit-seeking enterprise income tax exemption to private institutions participating in transportation and communication infrastructure projects is applicable only to the following listed incomes (see attached detailed items) derived from operating transportation and communication infrastructure projects; it is not applicable to income derived from other subordinate business which is incidental to the operation of such projects:</p> <ol style="list-style-type: none">1. Railroad transport: ticket fare income for passenger transit and transportation charge income for cargoes.2. Road construction: toll income.3. Mass rapid transit system: ticket fare income for passenger transit.4. Airport: service income.5. Ports and their facilities: income from port affairs services and income from stevedoring and warehousing services.6. Parking lot: parking fee income. |

7. Major facilities for tourism and recreation: service income.

8. Bridge and tunnel: toll income.

Where purchase of machinery and equipment is required for the operation of the above-mentioned transportation and communication infrastructure projects, for the purpose of applying these Regulations, the machinery and equipment so purchased shall be brand new. However, the above restriction shall not apply, if due to practiced conditions, approval is given, on a case-by-case basis, by the competent authority after consulting with the Ministry of Finance, to import from abroad; or if in a case where the whole or one part of the infrastructure is transferred under the provisions of Paragraph 2, Article 6 of the Act after the construction is completed by the government.

Article 4

The number of exempt years for private institutions eligible for the application of this Act shall be limited as follows:

1. Railroad transport: 5 years.
2. Road construction: 5 years.
3. Mass rapid transit systems: 5 years.
4. Airports: 5 years.
5. Ports and their facilities: 5 years.
6. Parking lots: 4 years.
7. Major facilities for tourism and recreation: 4 years.
8. Bridges and tunnels: 5 years.

The above number of exempt years shall be applied in a continuous manner and shall not be interrupted in any way. During the period of exemption, the private institution shall still calculate and reserve for depreciation according to the service life of fixed assets prescribed by the Income Tax Act.

Article 5

Private institutions eligible for the application of these Regulations shall submit the following supporting documents to the Ministry of Finance to apply for profit-seeking enterprise income tax exemption within six months from the date of filing the income tax return if taxable income is reported, or within six months from the date of receiving income tax assessment if no taxable income is reported but taxable income is appraised and determined by the tax collection authority:

1. Photocopies of company registration documents.
2. Documents issued by the competent authority in charge for approval concerning participating in transportation and communication infrastructure projects.
3. Certificate of permission or license issued by the competent authority in charge of specific enterprises.

4. Certificate confirming the transportation and communication infrastructure project falls within the scope eligible for tax exemption as provided under Paragraph 1 Article 3 of these regulations.
5. A photocopy of profit-seeking enterprise income tax return filing receipt if taxable income is reported; a photocopy of notification of assessment for profit-seeking enterprise income tax if no taxable income is reported but taxable income is appraised and determined by the tax collection authority.
6. A list of machinery and equipment issued by the authority in charge of specific enterprises after adequate investigation. The list shall explicitly include names, functions, purposes, and manufacturer of machinery and equipment, as well as the times of release from factories, dates of purchase or import, volume, and prices.

Article 6

Private institutions selecting the deferment of commencement date of the tax exemption period according to Paragraph 2, Article 28 of the Act shall, within the time limit set by that Article, apply for approval by the Ministry of Finance in accordance with the following provisions. No application shall be admissible if submitted beyond the deadline. Once approval is granted, no change is permitted.

1. If the application is filed concurrently with the application for exemption of profit-seeking enterprise income tax, the selected commencement date of tax exemption period and the starting and ending dates of its fiscal year shall be specified on the same application form.
2. If the application is made after the approval of exemption of profit-seeking enterprise income tax, a separate application shall be submitted to state the selected commencement date of the exemption period and the starting and ending dates of its fiscal year.

Article 7

Private institutions eligible for the application of these Regulations failing to submit the complete documents within the deadline set forth in Article 5 of these Regulations but having proper reasons therefor may, before expiry of the deadline, apply for extension. However, the complete documents shall be submitted within ninety days from the day following the date of the expiry of the deadline.

If an institution fails to comply with the deadline set forth in Article 5 or the extended period to submit documents prescribed in the preceding Paragraph, as the case may be, the Ministry of Finance may still approve the exemption for the remainder of the exemption period prescribed in Article 4.

The remainder of the exemption period referred to in the preceding Paragraph shall be calculated from the submission date of the complete documents.

Article 8

Private institutions eligible for the application of these Regulations shall not be allowed to apply for exemption under these Regulations if one of the following conditions applies:

1. It fails to file the income tax return according to the Income Tax Act.
2. It has been imposed a penalty according to Article 110 of the Income Tax Act during the current year. However, this shall not apply to cases where the amount of tax evaded does not exceed NT\$100,000, or the percentage of the amount of income omitted to annual total income does not exceed 10%.

Article 9

These Regulations shall come into force from the date of promulgation.

Attachments : Annex.odt

Data Source : Ministry of Finance, R.O.C. Laws and Regulations Retrieving System