Content

Title：	Regulations Governing Application of Investment Tax Credit to Private Institutions Participating in Public Infrastructure Projects Ch
Date：	2010.07.12
Legislative：	1.Promulgated per the Order of Tai-Tsai-Shuei-Tze No. 0900453795 issued by the Ministry of Finance on June 28, 2001. 2.Article 3, Article 4, Article 5, Article 6, Article 13, and Article 16 were amended and promulgated; and Article 7 was deleted per the Order of Tai-Tsai-Shuei-Tze No.09300629790 issued by the Ministry of Finance on December 24, 2004. 3.Full text of 17 articles amended and promulgated per the Order of Tai-Tsai-Shuei-Tze No. 09900253670 issued by the Ministry of Finance on July 12, 2010.
Content：	**Article 1** These Regulations are enacted pursuant to Paragraph 3, Article 37 of the Act for Promotion of Private Participation in Infrastructure Projects (hereinafter referred to as the "Act"). **Article 2** The terms as used in these Regulations shall be defined as follows: 1. "Credit against profit-seeking enterprise income tax payable for the current year" shall mean credit against tax payable calculated by multiplying the applicable tax rate by profit-seeking enterprise taxable income for the current year as determined by the tax collection authority, and credit against additional tax payable calculated by applying 10% on the undistributed earnings for the previous year as determined by the tax collection authority. 2. "Equipment or technology" shall mean equipment or technology for construction or operation, and equipment or technology for pollution control. 3. "Equipment for construction or operation": i. "Equipment for construction" shall mean the equipment specified for use in the construction of major infrastructure projects.

ii. “Equipment for operation” shall mean equipment and primary buildings of major infrastructure projects required for rendering services provided by the projects.

4. “Technology for construction or operation” shall mean that which satisfies one of the following requirements:

i. Patents or know-how used for equipment for construction or operation under the preceding subparagraph.

ii. Know-how or package software required for computer-aided design or management.

5. “Equipment for pollution control” shall mean equipment required to process, detect or monitor pollution sources or waste discharged or recycled in the course of sorting, distributing,
or operating process to comply with acts or regulations governing environmental protection, including equipment or civil engineering facilities used for air pollution control, noise and vibration control, water pollution control, soil and ground water pollution
control, waste disposal or recycling, environmental detection or monitoring.

6. “Technology for pollution control” shall mean patents or know-how exclusively used for the equipment under the preceding subparagraph.

7. “The current year” shall mean the year in which equipment or technology is delivered, or the year in which the payment for research and development and personnel training is made.

8. “Purchase” shall mean where a private institution participating in a major infrastructure project acquires equipment or technology through buying from others, or by manufacturing
or constructing such equipment or technology itself or others.

9. “Cost of purchase”:

i. In the case of buying from others, the term shall mean the prices of equipment or technology, inclusive of transportation fee and insurance fee, but excluding any other fee paid for acquisition of such equipment or technology.

ii. In the case of manufacturing by itself, the term shall mean the actual cost incurred in producing such equipment or technology.

iii. In the case of manufacturing by others, the term shall mean the actual prices paid by the private institution for the production of the equipment or technology by others, inclusive of transportation fee and insurance fee; manufacturer who bears partial production cost by himself is also included, but excluding any other fee paid for acquisition of such equipment or technology.

iv. In the case of constructing by itself, the term shall mean the actual cost incurred in constructing the primary buildings of the projects, inclusive of the cost of labor or materials and the expenses incurred in designing, manufacture, construction, and installation necessary to make such buildings fit for use in the operation of business.

v. In the case of constructing by others, the term shall mean the actual construction cost, inclusive of the prices of the construction and the amount of the capitalized interests for the projects of consignors.

Article 3

If the total procurement cost of equipment or technology for construction or operation purchased by a private institution participating in a major infrastructure project for self-use in the same taxable year exceeds NT$600,000, 8% of the procurement cost for equipment and 5% of the procurement cost for technology may be credited against its profit-seeking enterprise income tax payable for the current year. Where the

amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance of such creditable amount may be credited against profit-seeking enterprise income tax payable in the following four years.

Equipment for construction or operation eligible for tax benefit under the preceding paragraph shall be limited to brand-new equipment, the total amount of purchase shall be calculated based on the amounts assessed by the tax collection authority, not including the financial aid and investment from the government.

Equipment or technology for construction or operation eligible for tax benefit under Paragraph 1 shall be purchased during the period of time starting from the date the construction or operation plan for a major infrastructure project is approved by the authority in charge till the day before the operation date; or, the restrictions of the periods of purchase above-mentioned shall not be applicable, if the concession agreement stipulated that such equipment or technology shall be purchased after the date of actual operation.

Article 4

If the total procurement cost of equipment or technology for pollution control purchased by a private institution participating in a major infrastructure project for self-use in the same taxable year exceeds NT$600,000, 13% of the procurement cost for equipment and 5% of the procurement cost for technology may be credited against its profit-seeking enterprise income tax payable for the current year. Where the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance of such creditable amount may be credited against profit-seeking enterprise income tax payable in the following four years.

Equipment for pollution control eligible for tax benefit under the preceding paragraph shall be limited to brand-new equipment, the total amount of purchase shall be calculated based on the amounts assessed by the

tax collection authority, not including the financial aid and investment from the government.

Equipment or technology for pollution control eligible for tax benefit under Paragraph 1 shall be purchased during the period of time starting from the date the construction or operation plan for a major infrastructure project is approved by the authority in charge till the day before the operation date; or, the restrictions of the periods of purchase above-mentioned shall not be applicable, if the concession agreement stipulated that such equipment or technology shall be purchased after the date of actual operation.

Article 5

For any private institutions eligible for the application of tax credit under these Regulations, the procurement of equipment and technology for self-use shall be pursuant to the following deadlines and procedures:

1. The procured equipment or technology shall be delivered within five years starting from the date the construction or operation plan for a major infrastructure project is approved by the authority in charge. In the event that delivery cannot be made within the time limit due to special circumstances, an application for extension of the time limit, within the time limit with reasons clearly indicated, may be filed with the authority in charge of the major infrastructure project for forwarding to the central competent authority in charge for confirmation and proceeding to the Ministry of Finance in due process for approval.

2. An application for issuance of a tax credit certificate shall be filed with the authority in charge of the major infrastructure project within six months from the day after the delivery date. The scheduled date of installation or date of use of the equipment for construction or operation, or pollution control procured for self-use shall be indicated in the letter of application.

3. While filing income tax return of the profit-seeking enterprise with the tax collection authority, a private institution shall provide the tax credit certificate under the preceding
subparagraph, copies of the original voucher evidencing the procurement cost incurred, and if there are the primary buildings of the projects, the construction cost breakdowns, for the assessment of the investment credit against income tax.

The date of delivery under Subparagraph 1 of the preceding paragraph shall be decided as follows:

1. For any purchase of foreign-made equipment, it shall be the date of the arrival of the shipment at the port of entry to the Republic of China; or, if such foreign-made equipment
is procured by an agent, distributor, trader or leasing company on behalf of the purchaser, the date that the shipment arrives at the business place of the private institution.

2. For any purchase of domestic-made equipment, it shall be the date that the shipment arrives at the business place of the private institution. However, in the case of equipment
for pollution control that requires civil engineering, electrical engineering or pipe work, the date of completion of such work.

3. Purchase of primary buildings of the projects:

i. For any purchase through buying from others, it shall be the date of the registration of ownership; or, if there is no need for such purchase to be registered, the date of the
acquisition by the private institution.

ii. For any purchase through construction by itself, it shall be the date of the usage license issued by the competent authority of the construction; or, if it is

not required to
issue the usage license, the day of the completion date recorded on the documents of the construction issued by the authority in charge.

iii. For any purchase through construction by others, it shall be the date of the acquisition by the private institution when the construction is actually completed; or, if there
is no sufficient information as to knowledge of the date above-mentioned, the date of the issuance of the usage license by the competent authority of the construction; or, if it is not required to issue the usage license, the completion date recorded on the
documents of the construction issued by the authority in charge.

4. In the case where an application for issuance of a "whole set" certificate is filed with the authority in charge in which different delivery dates of equipment are united as one
set, the delivery date of the "whole set" shall be determined as the delivery date of the last batch of equipment. Such date shall also apply to the case of different orders listed on an ordering certificate as a single batch.

5. For any purchase of technologies from domestic or foreign sources, it shall be the date of payment of the purchase price; or, if the payment is made in installments, the date
of payment of the first installment; or, if it is an inseparable part of the system, the date shall be determined according to the preceding subparagraph.

The feature of "whole set" and "technology which is an inseparable part of the system" under Subparagraphs 4 and 5 of the preceding paragraph shall correspond
with the following rules:

1 For any item of equipment or technology, such item shall be used for the same public infrastructure and correlative

to the function necessary to achieve the completion of the provision
of services.

2. For any item of any equipment or technology which has to operate in co-ordination with other items in order to function. Any single item cannot complete the original function by itself.

In the case where an application for the issuance of a "whole set" certificate is required, the private institution shall file with the authority in charge within six months from the day after the delivery date of the first batch of equipment or technology or the date of promulgation of these Regulations for assessment; when the assessment is made, the private institution shall not apply to the authority in charge
for alteration of the assessment.

A private institution participating in a major infrastructure project may divide the construction or operation into different phases by approval of the authority in charge at the time when the actual investments of the private institution at all phases reach a half of the terms of the scope of the major infrastructure projects of the Act, and be allowed to be eligible for tax benefit of the Regulations in every phase,
respectively.

Equipment or technology shall be attributed to the phases of construction or operation by the purposes of purchase when different phases under the preceding
paragraph are overlapping.

The authority in charge shall notify the Taxation Agency of the Ministry of Finance of the date of the approval of the construction or operation plan for
major infrastructure projects, and also any revision to such date when tax credit certificates or "whole set" certificates under Subparagraph 2 of the Paragraph 1, and/or Subparagraphs 4 and 5 of Paragraph 2 are issued. A copy of the aforementioned notification

shall also be sent to the tax collection authority.

Article 6

The term “purchase” as used in these Regulations shall include purchases with payment by installments and financial leases.

If there are more than two lessees of the financial lease under the preceding paragraph, the portion of the payment of each lessee shall be equal to the rights of usage or ownership acquired.

Article 7

If the total R&D expenditure invested by a private institution participating in a major infrastructure project in the same taxable year exceeds NT$1,500,000, or exceeds 2% of its net business revenue, 20% thereof may be credited against its profit-seeking enterprise income tax payable for the current year. Where the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance of such creditable amount may be credited against profit-seeking enterprise income tax payable in the ensuing four years.

The term “R&D expenditure” as used in the preceding paragraph includes the following expenses for research or improvement of construction or operation techniques:

1. Salary for full-time personnel of R&D units specializing in R&D tasks.

2. Expenses on research or improvement of construction or operation techniques spent by construction or operation units.

3. Expenses on consumable items, raw materials and samples used by R&D units for which complete purchase and requisition records are maintained and which can be cross-checked with research projects, records, or reports.

4. Cost for procurement of new instruments and equipment for research purposes exclusively provided to R&D units.

5. Depreciation or rents of buildings exclusively used by R&D units.

6. Amounts amortized or paid in the current year for patents, know-how, and copyrights purchased or used exclusively for R&D purposes.

7. Expenses on research entrusted to local universities, colleges or research institutions, or hiring full-time specialists at local universities or colleges or researchers at local research institutions.

8. Expenses on research entrusted to foreign universities, colleges or research institutions, or appointment of full-time instructors from foreign universities or colleges or researchers from foreign research institutions approved by the central competent authority in charge of specific enterprises and the Ministry of Finance.

9. Other expenditures approved, on a case by case basis, for R&D purposes by the central competent authority in charge of specific enterprises and the Ministry of Finance.

The research institutions as referred to in Subparagraph 7 of the preceding paragraph shall include research institutions of the government, teaching hospitals or foundations and associations specializing in research as approved by and registered with the government, and research institutions under such foundations and associations.

Article 8

If the total personnel training expenditure invested by a private institution participating in a major infrastructure project in the same taxable year exceeds NT$300,000, 20% thereof may be credited against its profit-seeking enterprise income tax payable for the current year. Where the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance of such creditable amount may be credited against profit-

seeking enterprise income tax payable in the ensuing four years.

The term “personnel training expenditure” as used in the preceding paragraph shall mean the following expenses paid by a private institution for training
to enable its employees to undertake the participation in a major infrastructure project, or for conducting training programs related to its business, or assigning its employees to participate in such programs:

1. Instructors’
fees and travel expenses;

2. Trainees’ travel expenses, and charges paid to
training units;

3. Expenses for training materials, materials for
practice, stationery, medical care, insurance, training
emulation, books/magazines, board during training periods, training sites
and training equipment with a service life of less than
two years;

4. Technique evaluation charges;

5. Depreciation and rents of buildings at which
occupational training institutions registered with and
recognized by the Council of Labor Affairs of the
Executive Yuan are situated,
and salaries of personnel in charge of educational
training; and

6. Other expenditures for personnel training approved by
the central competent authority in charge of specific
enterprises and the Ministry of Finance.

If an entity is commissioned to conduct training for another entity, the depreciation, rents and salaries as referred to in Subparagraph 5 of the preceding
paragraph shall be deducted in a proportion to the number of trainees from such other entity and number of days of the

entire training period, and the deducted amount shall not be eligible for application of tax credit. Such depreciation and rents shall be
calculated according to the proportion of the area actually used for such training.

The term “conducting” as referred to in Paragraph 2 includes training conducted by a company itself, commissioning of a third party to do so, and jointly conducting training with other institutions or related entities, in the meantime, jointly assigning employees or members of the companies, the institutions and/or the related entities to join such programs.

Article 9

A private institution desirous of applying for the application of Subparagraphs 8 and 9, Paragraph 2 of Article 7, and Subparagraph 6, Paragraph 2 of the
preceding article to its expenditures, shall apply to the central competent authority in charge of specific enterprises and the Ministry of Finance for an approval of such application in the year in which such expenditures are incurred. Upon the authority’s
approval, such application shall start from the year of incurring such expenditures. If such application for approval is filed after the incurring year of expenditures, the requested application shall start from the year of application, upon the approval of
the authority.

Article 10

The expenditures invested by a private institution in R&D and personnel training, with regard to which tax credit is applicable, shall be calculated based
on the amounts assessed by the tax collection authority.

Article 11

A private institution that has invested in R&D or personnel training pursuant to these Regulations shall fill in the stipulated forms at the time of filing
profit-seeking enterprise income tax return of the current year, and submit these forms together with the following certifying documents to the tax collection authority where the company is located for the assessment of the amount of tax credit. If the tax

collection authority finds any doubtful content or related matter in the expenditures declared by the company when assessing the amount of tax credit requested by the company, the authority may request the central competent authority in charge of specific
enterprises or the authority in charge of the major infrastructure project to assist in deciding the amounts.

1. For R&D
expenses:

i. The
institution’s organization chart and roster of R&D personnel;

ii. Complete records of purchases and requisitions of consumable equipment and materials, raw materials and samples used by R&D units for research purposes;

iii. List of instruments/equipment purchased in the current year solely for R&D purposes;

iv. Layout plans of R&D units and written explanation of the ratio of the area occupied by them to the total area of the buildings;

v. Contracts or certifying documentation regarding purchase or use of patents, know-how or copyrights and calculation statements of amortization or payments;

vi. Research projects, records or reports; and

vii. Other related certifying documentation.

2. For
personnel training expenses:

i. Personnel training plans;

ii. Roster of trainees and training status;

iii. Regulations governing employees’ overseas study; and

iv. Other related certifying documentation.

The stipulated forms under the preceding paragraph shall be regulated by the Ministry of Finance.

Article 12

If any equipment or technology, or instruments/equipment for research purposes exclusively provided to R&D units, with respect to which credit against profit-seeking enterprise income tax has been applied under these Regulations, fall under one of the following conditions, the institution concerned shall pay to the tax collection authority the credited profit-seeking enterprise income tax, plus interest to be calculated on a daily basis at the fixed interest rate of postal savings for a one-year time deposit from the date after the deadline for filing the tax return for the current year to the date of supplemental payment of such tax:

1. If the equipment or technologies cannot be completely installed or used before the scheduled date, and no application for extension of time limit, with proper reason indicated, is filed with the authority in charge of the major infrastructure projects and forwarded in due process to the tax collection authority before the deadline.

2. If any equipment or technology is sublet, leased, resold, returned, auctioned, stolen, reported unserviceable, recalled by others according to Regulations, or its original purposes changed within three years from the date after the delivery date.

3. If any instrument or equipment for research purposes exclusively provided to R&D units is sublet, leased, resold, returned, auctioned, stolen, reported unserviceable, recalled by others according to Regulations, or not exclusively used by R&D units within three years from the date after the delivery date.

If the instrument or equipment is declared unserviceable as

referred to in Subparagraphs 2 and 3 of the preceding paragraph due to force majeure such as earthquakes, storms, floods, droughts, plagues of insects, fires, wars, etc., the institution concerned shall pay to the tax collection authority the credited profit-seeking enterprise income tax, plus interest in the above-mentioned paragraph shall not apply.

With regard to equipment, technology, or instruments mentioned in Subparagraphs 2 and 3 of Paragraph 1 declared to be unserviceable due to force majeure events, a checklist of losses with supporting documents shall be submitted within 30 days after such occurrences to the tax collection authority which may then send its staff to conduct investigation. Where the private institution fails to report to the tax collection authority within the period prescribed to request that the aforesaid office conduct an investigation but is able to prove that its losses sustained in the disaster are true by providing sufficient documents, the tax collection authority shall verify the losses by checking such documents.

A company where by assignment or merger/consolidation as provided in Articles 10 and 15 of the Statute for Upgrading Industries, or by merger/consolidation, division or acquisition as provided in Article 37 of the Business Mergers and Acquisitions Act, applies for transferring the profit-seeking enterprise income tax credit for equipment and technology to the assignee company, the surviving company or the newly incorporated company after the merger/consolidation, the existing company or the newly incorporated company after the division or the company of acquisition, such transferring of equipment or technology is excluded from the application of Paragraph 1 for the first-mentioned company to pay additional profit-seeking enterprise income tax plus interest.

Article 13

The following rules shall apply to a private institution whose investment concession agreement was terminated by the authority in charge due to the stipulation

of Articles 52 or 53 of the Act:

1. If the private institution is not responsible for the termination of the concession agreement, the profit-seeking enterprise income tax credits under these Regulations not yet credited shall be inapplicable.

2. If the private institution is responsible for the termination of the concession agreement, not only shall the profit-seeking enterprise income tax credits under these Regulations not yet credited become inapplicable, but also, with respect to such credit against profit-seeking enterprise income tax as may have already been credited under these Regulations, the institution concerned shall pay to the tax collection authority the credited profit-seeking enterprise income tax, plus interest to be calculated on a daily basis at the fixed interest rate of postal savings for a one-year time deposit from the date after the deadline for filing the tax return for the current year to the date of supplemental payment of such tax.

After completing the total investments of a major infrastructure project, a private institution which was recognized by the authority in charge as not complying with the terms of the scope of the major infrastructure projects specified in Paragraph 2 of Article 3 of the Act, shall pay to the tax collection authority the full amount of the credited profit-seeking enterprise income tax, plus interest to be calculated on a daily basis at the fixed interest rate of postal savings for a one-year time deposit from the date after the deadline for filing the tax return for the current year to the date of supplemental payment of such tax.

If the authority in charge of the major infrastructure projects terminates the concession agreement under Paragraph 1, or recognize the total investment of the major infrastructure project as not complying with the terms of the scope of the major infrastructure projects

under Paragraph 2 of Article 3 of the Act, it shall notify immediately the tax collection authority where the private institution is located,
stating the fact and criteria of evidence together with the copy of approved investment tax credit document copy.

Article 14

If a false evidence is found by the tax collection authority that the purchase of equipment or technology, or R&D and personnel training expenditure, with
respect to which credit against profit-seeking enterprise income tax has being applied under these Regulations, the case shall be subject to the provisions for tax evasion or omission provided in the Income Tax Act and Tax Collection Act.

Article 15

If the equipment or technology purchased, or R&D and personnel training expenditure, with respect to which credit against profit-seeking enterprise income
tax has being applied, according to provisions of other Acts, these Regulations shall not apply again to the same.

Article 16

The following rules shall apply to the private institutions participating in major infrastructure projects and applying for income tax credit for purchasing
equipment and technology:

1. Paragraph 4 of Article 5 shall apply if an applicant applies for “whole set” certificate.

2. The Regulations at the time of the approval for each phase project shall apply if a private institution engages in separate phase project for construction or operation as provided
in Paragraph 5 of Article 5.

3. The Regulations at the time of delivery shall apply if the event is excluded from the preceding two subparagraphs.

Article 17

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