Content

Title：	Regulations Governing Application of Investment Tax Credits to Private Institutions Participating in Transportation Infrastructure Projects Ch
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Content：

Article 1

These Regulations are prescribed pursuant to Paragraph 3, Article 29 of the Statute for Encouragement of Private Participation in Transportation Infrastructure Projects (hereinafter referred to as the "Statute").

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 authority, and credit against additional tax payable calculated by applying the statutory tax rate on the undistributed surplus earnings for the previous year as determined by the tax 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”:

(1) “Equipment for construction” shall mean the equipment specified for use in the construction of transportation infrastructure projects.

(2) “Equipment for operation” shall mean equipment, primary buildings, and essential civil engineering facilities of transportation 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:

(1) Patents or know-how required for equipment for construction or operation under the preceding subparagraph.

(2) 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 essential 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, and 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 (hereinafter referred to as “R&D”) and personnel training is made.

8.
“Purchase” shall mean where a private institution participating in a transportation infrastructure project acquires equipment or technology through purchasing from others, or by manufacturing or constructing such equipment or technology by itself or
others. Purchasing from others shall include purchases with payment by installments and financial leases. If there are two or more lessees of the financial lease, it shall be limited to cases where the portion of the price paid by each lessee is proportional
to the rights of usage or ownership acquired.

9.
“Cost of purchase”:

(1)
In the case of purchasing from others, the term shall mean the prices of equipment or technology, transportation fee and insurance fee, but excluding any other fee paid for acquisition of such equipment or technology.

(2)
In the case of self-manufacturing, the term shall mean the actual cost incurred in producing such equipment or technology.

(3)
In the case of manufacturing entrusted to others, the term shall mean the actual prices paid by the private institution for the production of the equipment or technology by others, transportation fee, insurance fee, and partial production cost born by
itself, but any other fee paid for acquisition of such equipment or technology is excluded.

(4)
In the case of self-built construction, the term shall mean the actual cost incurred in constructing the primary buildings and essential civil engineering facilities of the projects, including the cost of labor, materials, and the expenses incurred in designing, manufacture, and construction necessary to make such buildings fit for use in the operation of business.

(5) In the case of construction entrusted to others, the term shall mean the actual construction cost, including 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 transportation infrastructure project for self-use in the same taxable year reaches NT$600,000, 7% of the procurement cost for equipment and 5% of the procurement cost for technology may be credited against the profit-seeking enterprise income tax payable for the current year. If the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance may be credited against the profit-seeking enterprise income tax payable in the following four years.

Equipment for construction or operation eligible for tax benefits under the preceding paragraph shall be limited to brand-new equipment. The total purchase amount shall be calculated based on the amounts assessed by the tax authority, excluding the financial aid and investment from the government.

Equipment or technology for construction or operation eligible for tax benefits under Paragraph 1 shall be

purchased during the period starting from the date the construction or operation plan for a transportation infrastructure project is approved by the competent authority until the day before the operation date. However, the restrictions of aforementioned purchase period shall not apply if the transportation infrastructure investment contract stipulates that such equipment or technology shall be purchased after the actual operation date.

Article 4

If the total procurement cost of equipment or technology for pollution control purchased by a private institution participating in a transportation infrastructure project for self-use in the same taxable year reaches NT$600,000, 7% 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. If the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance may be credited against profit-seeking enterprise income tax payable in the following four years.

Equipment for pollution control eligible for tax benefits 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 authority, excluding the financial aid and investment from the government.

Equipment or technology for pollution control eligible for tax benefits under Paragraph 1 shall be purchased during the period starting from the date the construction or operation plan for a transportation infrastructure project is approved by the competent authority until the day before the operation date. However, the aforementioned purchase period restrictions shall not apply if the transportation infrastructure investment contract stipulates that such equipment or technology shall be purchased after the actual operation date.

Article 5

For private institutions eligible for the application of investment 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 transportation infrastructure project is approved by the competent authority. If, due to special circumstances, the delivery cannot be made within the specified period, the private institution may apply for an extension before the deadline to the competent authority, providing reasons for the delay. If the competent authority confirms the special circumstances, it may forward the application to the Ministry of Transportation and Communications for confirmation, and then submit it to the Ministry of Finance for project-specific approval of the extension.

2. The application for the issuance of a tax credit certificate shall be filed with the Ministry of Transportation and Communications within six months from the day after the delivery date. The scheduled installation completion or usage date of the equipment for construction, operation, and pollution control procured for self-use shall be indicated in the application letter.

3. While filing the annual income tax return for the profit-seeking enterprise with the tax authority, a private institution shall provide the tax credit certificate mentioned in the preceding subparagraph, copies of the original vouchers evidencing the procurement cost incurred, and if there are primary buildings and essential civil engineering facilities of

the projects, the construction cost breakdowns, for the assessment of the investment credit against income tax.

The delivery date specified under Subparagraph 1 of the preceding paragraph shall be determined in accordance with the following provisions:

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

2.
For any purchase of domestic-made equipment, it shall be the date 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.
If the equipment is applied as a whole for the issuance of a recognition certificate from the competent authority, it shall be the delivery date of the last batch of equipment. The same applies to cases where the equipment is ordered as a single batch
under the same ordering certificate.

4.
For any purchase of domestic or foreign technology, it shall be the date of payment. In the case of installment payments, it shall be the date of the first payment. If the purchased technology is an inseparable part of a system as a whole, it may be
determined in accordance with the provisions of the preceding paragraph.

5.
Purchase of primary buildings and essential civil

engineering facilities of the projects:

(1)
For any purchase made through purchasing from others, it shall be the date of the registration of ownership. If registration is not required, it shall be the date of the acquisition by the private institution.

(2)
For any self-built construction, it shall be the date of the usage license issued by the competent authority of the construction. If no usage license is required, it shall be the completion date recorded in the construction documents issued by the competent authority.

(3)
For any construction entrusted to others, it shall be the date of the acquisition by the private institution when the construction is actually completed. If there is insufficient information regarding the above-mentioned date, it shall be the date of the issuance of the usage license by the competent authority of the construction. If no usage license is required, it shall be the completion date recorded in the construction documents issued by the competent authority.

The feature of "as a whole" under Subparagraph 3, and "the purchased technology is an inseparable part of a system as a whole" under Subparagraph 4 of the preceding paragraph, shall comply with the following rules. Additionally, the private institution applying for the issuance of an "whole set" certification document shall submit a project approval application to the competent authority within six months from the day after the delivery date of the first batch of equipment or technology, or within six months from the effective date of the amendment to these Regulations, which is April 10, 2019. Once the assessment is made, the private institution shall not apply to the competent authority for any alterations to the

assessment:

1.
For any item of equipment or technology, such item shall be interconnected and work together on the same transportation infrastructure to complete the provision of services.

2.
For any item of equipment or technology which has to operate in coordination with other items to function, and a single item cannot complete the original function on its own.

If it is necessary for a private institution to carry out the construction or operation of a transportation infrastructure project in phases, and the actual investment amount for each phase, excluding land, reaches NT$500,000,000, the competent authority may approve the phased construction or operation of the transportation infrastructure project. The authority will then determine the application of the investment tax credit provisions of these Regulations for each phase separately. In cases where the periods of different phases overlap, the determination will be based on the purpose of the equipment or technology purchased for construction or operation.

After the competent authority approves the construction or operation plan for transportation infrastructure projects, it shall notify the Ministry of Finance of the confirmed approval date. If the approval date changes, the same notification shall be made. When issuing the investment tax credit certificate under Subparagraph 2, Paragraph 1, or the "whole set" certification documents under Subparagraph 3 or 4 of Paragraph 2, a copy of the notification shall also be sent to the tax authority where the private institution is located.

Article 6
If the total R&D expenditures invested by a private

institution participating in a transportation infrastructure project in the same taxable year reach NT$3,000,000, or reach 2% of its net business revenue, 15% of the expenditure amount may be credited against its profit-seeking enterprise income tax payable for the current year. If the total R&D expenditure investments reach NT$3,000,000, and exceed 3% of its net business revenue, 20% of the expenditure amount exceeding that 3% may be credited against its profit-seeking enterprise income tax payable for the current year. If the amount of profit-seeking enterprise income tax payable for the current year is less than the creditable amount, the balance may be credited against the profit-seeking enterprise income tax payable in the following four years.

The term "R&D expenditure" as used in the preceding paragraph includes the following expenses incurred by private institutions participating in a transportation infrastructure project for the research or improvement of construction or operation technology:

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

2. Expenses for research or improvement of construction or operation technology incurred by construction or operation units.

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

4. Costs for procuring brand-new instruments and equipment exclusively for research purposes and provided to R&D units.

5.

Depreciation or rental costs of buildings used exclusively 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, excluding amounts paid based on a specific percentage of operation volume or paid in installments.

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

8.
Expenses for research entrusted to foreign universities, colleges, or research institutions, or for hiring full-time instructors at foreign universities or colleges, or researchers at foreign research institutions, as recognized by a project approved by the Ministry of Transportation and Communications and the Ministry of Finance.

9.
Other expenses recognized as R&D expenditures by projects approved by the Ministry of Transportation and Communications and the Ministry of Finance.

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

Article 7
If the total personnel training expenditures invested by a private institution participating in a transportation infrastructure project in the same taxable year reach NT$600,000, 15% of the expenditure amount may be

credited against its profit-seeking enterprise income tax payable for the current year. If 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 the profit-seeking enterprise income tax payable in the following four years.

The term “personnel training expenditure” as used in the preceding paragraph includes the following expenses incurred by private institutions for training
their employees to undertake the participation in a transportation infrastructure project, or for conducting or assigning employees to participate in training programs related to the institution's business:

1.
Hourly fees and travel expenses for instructors.

2.
Travel expenses for trainees, and charges paid to the training units.

3.
Expenses for training materials, practice materials, stationery, medical care, insurance, training simulations, books/magazines, meals during the training period, training venues, and training equipment with a service life of less than two years.

4.
Expenses for participating in skill certification.

5.
Depreciation and rental costs of buildings affiliated with occupational training institutions approved by the Ministry of Labor, and salaries of personnel responsible for educational training.

6.
Other expenses recognized as personnel training expenditures by projects approved by the Ministry of Transportation and Communications and the Ministry of

Finance.

If an entity is commissioned to conduct training for another entity, the depreciation, rental costs, and salaries as referred to in Subparagraph 5 of the preceding paragraph shall be deducted in proportion to the number of trainees from the other entity and the number of days in the entire training period. The deducted amount shall not be eligible for application of tax credit. Such depreciation and rental costs shall be calculated based on the proportion of the area and number of days actually used for the training.

The term "conducting," as referred to in Paragraph 2, includes training conducted by the private institution itself, commissioning a third party to conduct the training, jointly conducting training with other institutions or related entities, and jointly assigning employees or members of the companies, the institutions, and/or the related entities to participate in such programs.

Article 8

A private institution desiring to apply Subparagraphs 8 and 9 of Paragraph 2 of Article 6, and Subparagraph 6 of Paragraph 2 of the preceding article to its expenditures shall submit a project recognition application to the Ministry of Transportation and Communications and the Ministry of Finance within the period starting three months before the beginning of the profit-seeking enterprise income tax filing period for the year in which the expenses are incurred, and ending by the deadline for filing the tax return. Alternatively, the application may be submitted within one month from the day following the effective date of the amendment to these Regulations on April 10, 2019. Upon approval by the authorities, the application shall be effective from the year the expenditures are incurred. If the application for approval is filed after the prescribed period, the application will be effective from the year of application, upon approval by the authorities.

Article 9

The expenditures invested by a private institution in R&D and personnel training, for which tax credits are applicable, shall be calculated based on the amounts assessed by the tax authority.

Article 10

A private institution that has invested in R&D or personnel training in accordance with these Regulations shall complete the required forms when filing its profit-seeking enterprise income tax return for the current year. These forms must be submitted along with the necessary supporting documents to the tax authority where the private institution is located for the assessment of the tax credit amount. When the tax authority assesses the tax credit, if there are doubts regarding the expenditures or related matters declared by the private institution, the tax authority may request assistance from the competent authority to determine the appropriate amounts:

1. For R&D expenses:

(1) The institution's organization chart and roster of R&D personnel.

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

(3) List of instruments/equipment purchased in the current year exclusively for R&D purposes.

(4) 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.

(5)

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

(6)
Research projects, records, or reports.

(7)
Other related certifying documentation.

2.
For personnel training expenses:

(1)
Personnel training plans.

(2)
Roster of trainees and training status.

(3)
Regulations governing employees' overseas study.

(4)
Other related certifying documentation.

The required forms mentioned in the preceding paragraph shall be regulated by the Ministry of Finance.

Article 11
If any equipment, technology, or instruments/equipment exclusively provided to R&D units for research purposes, for which a tax credit against profit-seeking enterprise income tax has been applied under these Regulations, falls under one of the following conditions, the institution concerned shall repay the credited profit-seeking enterprise income tax to the tax authority, along with interest calculated daily at the fixed interest rate for a one-year postal savings time deposit, from the day after the deadline for filing the tax return for the current year until the date of full payment of the tax. However, if the company conducts a merger, consolidation, division,

or acquisition in accordance with the regulations of the Business Mergers and Acquisitions Act and complies with the provisions of Article 42 of the same Act, the transfer of such equipment, technology, or instruments/equipment shall not be subject to this provision:

1. If any equipment or technology cannot be completely installed or used before the scheduled date, and if no application for an extension of the time limit, with a proper reason provided, is filed with the Ministry of Transportation and Communications and forwarded to the tax authority before the deadline.

2. If any equipment or technology is sublet, leased, resold, returned, auctioned, reported as unserviceable, stolen, recalled by others in accordance with the law, or its original purpose is changed within three years from the day after the delivery date.

3. If any instrument or equipment exclusively provided to R&D units for research purposes is sublet, leased, resold, returned, auctioned, reported as unserviceable, stolen, recalled by others in accordance with the law, or not exclusively used by R&D units within three years from the day after the purchase date.

If the instrument or equipment, referred to in Subparagraphs 2 and 3 of the preceding paragraph, is declared unserviceable due to force majeure events such as earthquakes, storms, floods, droughts, pest infestations, fires, and wars, etc., it shall not be subject to the restrictions specified in the preceding paragraph.

In relation to the equipment, technology, or instruments mentioned in Subparagraphs 2 and 3 of Paragraph 1 that are declared unserviceable due to force majeure events, a checklist of the losses, along with supporting documents, must be submitted to the tax authority within 30

days of the occurrence of such events. The tax authority shall then dispatch its staff to conduct an investigation. If the private institution
 fails to report to the tax authority within the prescribed period and requests an investigation, but is able to provide sufficient documentation to prove that the losses incurred in the disaster are legitimate, the tax authority shall verify the losses based
 on the provided documents.

Article 12
A private institution that falls under the circumstances specified in Article 43 of the Statute and whose construction or operating permit has been revoked
 by the competent authority shall proceed in accordance with the following provisions:

1.
If the reason for the revocation of the construction or operation permit is not attributable to the private institution, the investment tax credits under these Regulations that have not yet been applied shall not continue to be applicable.

2.
If the reason for the revocation of the construction or operation permit is attributable to the private institution, the institution shall repay the credited profit-seeking enterprise income tax to the tax authority, along with interest calculated daily
 at the fixed interest rate for a one-year postal savings time deposit, from the day after the deadline for filing the tax return for the current year until the date of full payment of the tax.

If the competent authority revokes the construction and operation permit as mentioned in the preceding paragraph, it shall immediately notify the tax authority
 where the private institution is located, providing the relevant facts and evidence criteria, along with a copy of the approved investment tax credit document issued by the Ministry of Transportation and Communications, which was

issued starting from the date
the contract was signed with the private institution.

Article 13
If the tax authority finds false evidence regarding the purchase of equipment or technology, or R&D and personnel training expenditures, for which credits
against profit-seeking enterprise income tax have been applied under these Regulations, the case shall be subject to the provisions for tax evasion or omission as provided in the Income Tax Act and the Tax Collection Act.

Article 14
If the equipment or technology purchased for construction, operation, or pollution control, or R&D and personnel training expenditures, for which investment
tax credits have been applied under the provisions of other laws, the same expenditures shall not be applied again under these Regulations.

Article 15
If a private institution applies for a profit-seeking enterprise income tax credit in accordance with the provisions of Article 29 of the Statute, the tax
credit rates shall be based on the provisions in effect at the time of delivery. Prior to the amendment of these Regulations on December 23, 2006, for plans that completed the construction and/or operation contract signing procedures in accordance with Article
38 of the Statute or were self-planned transportation infrastructure projects under Subparagraph 3 of Article 6 of the Statute, and were approved by the competent authority, the tax credit rates shall be based on the provisions in effect at the time of the
contract signing or approval. However, for phased construction or operation plans approved after July 14, 2010, the tax credit rates shall be based on the provisions in effect at the time of approval for each phase.

Article 16
For phased construction or operation plans approved by the competent authority between July 14, 2010, and the effective

date of the amendment to these Regulations on April 10, 2019, if the private institution has applied to the competent authority but the investment tax credit certificate has not yet been issued, the amended provisions of Paragraph 4 of Article 5 shall apply.

A private institution participating in transportation construction and purchasing equipment or technology, when applying for a credit against profit-seeking enterprise income tax, shall follow the provisions of the preceding paragraph for the tax credit rates and comply with the following provisions for the remaining requirements:

1. The provisions in effect at the time of application shall apply if the applicant applies for a "whole set" certificate.

2. For phased construction or operation in accordance with Paragraph 4 of Article 5, the provisions in effect at the time of approval for each phase shall apply. However, in the case described in the preceding paragraph, the applicant may apply for an extension of the delivery time, the issuance of the investment tax credit certificate, or the correction of the investment tax credit declaration in accordance with each subparagraph of Paragraph 1 of Article 5 within six months from the day following the effective date of the amendment to these Regulations on April 10, 2019.

3. The provisions in effect at the time of delivery shall apply if the event is not covered by the preceding two subparagraphs.

Article 17

These Regulations shall enter into force on the date of promulgation.