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Title：	Regulations Governing Application of Tax Credit to Profit-seeking Enterprise Shareholders of Private Institutions with Respect to Investments Made in Major Infrastructure Projects Ch
Date：	2017.04.05
Legislative：	History In case of any discrepancy between the English version and the Chinese text of this Act, the Chinese text shall govern. Promulgated on October 9, 2001 by the Ministry of Finance. Amended on April 5, 2017 by the Ministry of Finance.
Content：	Article 1 These Regulations are enacted pursuant to Paragraph 3, Article 40 of the Act for Promotion of Private Participation in Infrastructure Projects (hereinafter referred to as the “Act”). Top↑ 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 applicable tax rate for business income in the current year as appraised and 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 appraised and determined by the tax collection authority. 2. “Share certificates subscribed on their initial issue” shall mean share certificates subscribed in cash by promoters at the time of incorporation, or additional shares subscribed in cash by shareholders upon expansion through capital increase. 3. “Share certificates underwritten” shall mean shares underwritten at the time of public offering for incorporation or expansion and share certificates purchased during the underwriting period. In the case of a capital increase made after a capital reduction, unless the capital reduction is intended entirely to make up for losses, the amount of capital increase shall be higher than the amount of capital deduction other than making up for the losses. 4. “Incorporation” shall mean the registration of a company has been duly completed after the commencement date of enforcement of the Act. 5. “Expansion” shall mean alternation registration for capital increase has been duly completed after the commencement date of enforcement of the Act. 6. “Share certificates subscribed or underwritten which have been held for a period over four years” shall refer to cases where a profit-seeking enterprise shareholder has been in possession of such registered share

certificates for a period of over four consecutive years from the date of payment of the share price.
7. “The current year” shall mean the fifth year in which the registered share certificates subscribed or underwritten have been in the continuous possession of the shareholder.

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Article 3

Private institutions eligible for the application of a letter approving the investment plan for incorporation or expansion concerning the participation in a major infrastructure project under these Regulations shall submit the following documents to the authority in charge within six months from the day following the date of issuance of its registration form for incorporation in the event of a newly incorporated; the date of issuance of its change registration form in the event of capital increase for expansion:
1.Company registration form for incorporation or amendment.
2.The roster of shareholders of a newly incorporated company or one with a capital increase for expansion.
3.The investment plan of incorporation or expansion, including the purposes of the plan, the amount of incorporation or capital increase, the items and amount of the investment within and outside the scope of major infrastructure projects, as well as total and accumulated investment amount within the scope of major infrastructure projects.

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Article 4

Where a profit-seeking enterprise subscribes or underwrites for registered shares issued by a private institution participating in a major infrastructure project upon its incorporation or expansion, and has held such registered shares for a period of four years or more, such profit-seeking enterprise may credit up to twenty percent of the subscription price against the profit-seeking enterprise income tax payable for the current year according to Paragraph 1, Article 40 of the Act. Where the amount of profit-seeking enterprise income tax payable is less than the amount creditable, the balance thereof may be credited against the profit-seeking enterprise income tax payable in the four (4) ensuing years.
The total amount of investment credit against the payable profit-seeking enterprise income tax in each year as referred to in the preceding Paragraph shall not exceed fifty percent (50%) of the profit-seeking enterprise income tax payable by the profit-seeking enterprise concerned for the current year, provided, however, that this restriction shall not apply to the amount creditable in the last year of such a four-year period.

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Article 5

Private institutions eligible for the application of these Regulations shall, after four years have passed from the day when the share price was actually paid by the profit-seeking enterprise shareholders, submit the following documents to the local tax collection authority to apply for approval to issue the "Certificate of Investment Tax Credit for Profit-seeking Enterprise Shareholders":

1. A photocopy of each of the company registration certificates valid prior to and subsequent to the incorporation or capital increase for expansion, and a detailed list of capital formation from the beginning of investment plan to when the capital increase is made in case of multiple capital increases.
2. The document of certificate issued by the authority in charge concerning participating in the major infrastructure project. The certificate shall explicitly include the name, business identification number and address of the private institution, the total amount of investment, the category of the major infrastructure project, the way under which the private institution is participating in the major infrastructure project, the terms of the projects falling within the stipulations of the scope of major infrastructure projects, and the investment amount within the scope of major infrastructure projects.
3. The letter approving an incorporation or expansion plan of a private institution participating in a major infrastructure project prescribed by Article 3 unless the date of issuance of the registration form for incorporation or the change registration form for capital increase was before April 5, 2017, the date of the amendment and implementation of these Regulations.
4. A photocopy of minutes of shareholders' meeting or the board of directors' meeting approving, by resolution, the capital increase; or a photocopy of the minutes of the promoters in the case of a newly incorporated company.
5. A photocopy of the certified contract issued by share certification institution; a sample of registered share certificates which have been issued upon incorporation or capital increase for expansion and which have been certified by a certification institution, and the application form for the certification of share certificates.
6. Documents which can prove that the share price has actually been paid by the shareholders of the profit-seeking enterprise.
7. A detailed list of the creditable amount of registered share certificates which satisfies all the conditions under Paragraph 1 of the preceding Article and which has been held by the profit-seeking enterprise shareholder for more than four years (including the shareholder's account number, name, and business identification number, the number of shares subscribed, the amount of share price subscribed, the date of payment, the number of the share certificate or the passbook of securities, the number of shares which have been held for more than four years, the creditable amount, and the amount of creditable tax).

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Article 6

Private institutions in the preceding article which have obtained approval for issuing “Certificate of Investment Tax Credit for Profit-seeking Enterprise Shareholders” from the local tax collection authority shall then issue “Certificates of Investment Tax Credit for Profit-seeking Enterprise Shareholders” to its profit-seeking enterprise shareholders who have continuously held registered share certificates for more than four years.
Profit-seeking enterprise shareholders shall apply to the local tax collection authority for tax credit when filing their profit-seeking enterprise income tax return in the year of claiming tax credit along with the Certificate mentioned in the preceding Paragraph.
The form of the “Certificate of Investment Tax Credit for Profit-seeking Enterprise Shareholders” shall be formulated by the Ministry of Finance.

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Article 7

For private institutions eligible for the application of these Regulations, the equity capital raised by it in accordance with an approved investment plan of incorporation or capital increase for expansion shall only be used to the implement the scope of major infrastructure projects in the investment plan.
To implement the scope of major infrastructure projects in the investment plan as referred in the preceding Paragraph shall mean the following expenditures on the scope of such investment plan:
1.Cost on acquisition of land, construction costs and related expenses for major infrastructure projects.
2.Expenditures on procurement and self-development of new equipment and technology.
In the case where the actual amount of the raised equity capital used in the implementation of the scope of major infrastructure projects does not comply with the investment plan, the private institution shall submit certifying documents to the authority in charge for recordation. The authority in charge shall notify the tax collection authority where the private institution is located when issuing the letter of recordation.
Where the raised equity capital specified in Paragraph 1 is not entirely used to implement the scope of major infrastructure projects in the investment plan within the timeframe of aforesaid plan, the amount of tax credit to profit-seeking enterprise shareholders shall be calculated by the ratio of expenditures on the implementation of scope of major infrastructure projects to the amount of capital raised.
The text in Paragraphs 2 and 3 amended on April 5, 2017 shall apply to the investment plan for incorporation or capital increase for expansion after the revision of these Regulations coming into force.

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Article 8

In the case of a private institution carrying out a capital reduction other than making up for losses during the construction or operation period, the amount of capital deduction shall not be applied to these Regulations. The private institution shall, within six months from the day following the date of issuance of its change registration form, apply with the local tax collection authority to correct or cancel the Certificate of Investment Tax Credit for Profit-seeking Enterprise Shareholders.
The profit-seeking enterprise shareholder of the preceding Paragraph private institution who has claimed the tax credit against the profit-seeking enterprise income tax shall pay 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.

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Article 9

The following rules shall apply to profit-seeking enterprise shareholders claiming the tax credits when private institution whose investment concession agreement was terminated by the authority in charge according 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 tax credit to profit-seeking enterprise shareholders under these Regulations not yet credited shall not be claimed from the year the investment contract is terminated.
2.If the private institution is responsible for the termination of the concession agreement, the profit-seeking enterprise shareholders shall not be eligible to apply the tax credit.
The profit-seeking enterprise shareholders shall not be eligible to apply the tax credit if a private institution has been 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 after completing the total investments of a major infrastructure project.
Under any of the circumstances set forth in the preceding two Paragraphs, the private institutions shall apply with the local tax collection authority to correct or cancel the Certificate of Investment Tax Credit for Profit-seeking Enterprise Shareholders.
Under any of the circumstances set forth the Subparagraph 2 of Paragraph 1 or Paragraph 2, the profit-seeking enterprise shareholder of a private institution that has claimed the tax credits against the profit-seeking enterprise income tax shall pay 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. Such supplementary payment of tax shall also apply to the profit-seeking enterprise shareholders that still filed the tax credit from the year the investment contract was terminated under Subparagraph 1 of Paragraph 1.
If the authority in charge of the major infrastructure projects terminates the concession agreement according to Articles 52 or 53 of the Act, or recognizes 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 of the facts and evidence together.

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Article 10

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

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