Content

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Content：	

Chapter 1 General Provisions

Article 1

The Regulations are enacted pursuant to the provisions set out in Paragraph 5, Article 80 of the Income Tax Act (hereinafter referred to as the "ITA").

Article 2

The transactions concerning allocation of the revenue, cost, expenses, and profit or loss between or among a domestic enterprise and other domestic or foreign profit-seeking enterprises with which it has an associated relationship, and those between or among such an enterprise and another enterprise by which it is directly or indirectly owned or controlled shall conform to regular business practice so as to enable the accurate computation of tax liabilities of these enterprises within the territory of the Republic of China ("ROC").

In the event that the arrangements for the transactions of the profit-seeking enterprises referred to in the preceding paragraph result in an evasion or reduction of their tax liabilities within the territory of the ROC, the collection authorities-in-charge, for the purpose of accurate computation of the taxable income and tax liabilities of the relevant profit-seeking enterprises, may conduct investigations in accordance with any applicable acts and, subject to the approval of the Ministry of Finance ("MOF"), make an adjustment in accordance with regular business practice pursuant to the provisions set out in Article 43-1 of the ITA.

The transactions concerning allocation of the revenue, cost, expenses, and profit or loss between or among companies subject to the provisions set out in the Financial Holding Company Act or the Enterprise Merger and Acquisition Act and their subsidiaries, and those between or among such companies or their subsidiaries and other local or foreign individuals, profit-seeking enterprises, as well as educational, cultural, public welfare, and charity institutions or organizations shall conform to regular transaction practice.

In the event that the arrangements for the transactions of the companies referred to in the preceding paragraph result in an evasion or reduction of their tax liabilities within the territory of the ROC, the collection authorities-in-charge, for the purpose of accurately computing the taxable income and tax liabilities of the relevant taxpayers, may conduct investigations in accordance with any applicable acts and, subject to the approval of the respective competent authorities, make an adjustment in accordance with regular transaction practice pursuant to the provisions set out in Paragraph 1, Article 50 of the Financial Holding Company Act or Subparagraph 1, Paragraph 1, Article 47 of the Enterprise Mergers and Acquisitions Act.

Article 3

The circumstance whereby a profit-seeking enterprise has an affiliated relationship with other domestic or foreign profit-seeking enterprises, or is directly or indirectly owned or controlled by another enterprise as set forth in Article 43-1 of the ITA shall refer to any of the following by and among the profit-seeking enterprises:

1. A profit-seeking enterprise directly or indirectly holds 20% or more of the total issued voting shares or total capital of another profit-seeking enterprise;

2. Twenty percent or more of the total outstanding voting shares or capital stock in a profit-seeking enterprise and another profit-seeking enterprise are directly or indirectly owned or controlled by the same person;

3. A profit-seeking enterprise holds the highest percentage of the total outstanding voting shares or capital stock in another profit-seeking enterprise and such percentage reaches 10% or more;

4. One half or more of the executive shareholders or directors of a profit-seeking enterprise and those of another enterprise are the same;

5. A profit-seeking enterprise directly or indirectly holds more than 50% of the total issued shares or total capital of another profit-seeking enterprise, and the majority of the latter's board of directors is appointed by the former;

6. The chairman, general manager or its equivalent or other superior of one profit-seeking enterprise is that of another enterprise, or has the relation of a spouse or blood relation within the second degree with that of another profit-seeking enterprise;

7. In the case where the head office of a profit-seeking enterprise is located outside the territory of the ROC, its branch office within the territory of the ROC, and its head office or branch offices outside the territory of the ROC are related parties. In the case where the head office of a profit-seeking enterprise is within the territory of the ROC, the head office or branch office within the territory of the ROC and its branch offices outside the territory of the ROC are related parties;

8. A profit-seeking enterprise directly or indirectly controls the personnel, finance, or business operation of another profit-seeking enterprise, including situations where:

(1) The enterprise appoints the general manager or its equivalent or other superior of another profit-seeking enterprise;

(2) The enterprise that is not a financial institution lends money or guarantees the loans to another profit-seeking enterprise to an amount representing 1/3 or more of its total assets;

(3) The profit-seeking enterprise cannot commence its production and business activities without the other enterprise's provision of patent, trademark, copyright, secret formula, proprietary technology, or any franchises, in which the sales of such production and business activities account for 50% or more of the total sales of the former profit-seeking enterprise in the same year;

(4) The price and terms of the profit-seeking enterprise's purchase of raw materials, components and goods are controlled by another profit-seeking enterprise; and the underlined purchase of such raw materials and goods accounts for 50% or more of the total purchase of raw materials and goods of the former profit-seeking enterprise in the same year; and

(5) The sales of products of the profit-seeking enterprise are controlled by another profit-seeking enterprise, and the underlined sales of such products account for 50% or more of the total sales of the former profit-seeking enterprise.

9. A profit-seeking enterprise and another one have entered into a joint venture agreement, or an agreement to conduct business jointly; and

10. Other circumstances whereby a profit-seeking enterprise has control or major influence over the personnel, finance, business operation, or management decisions of another profit-seeking enterprise.

Article 4

The definitions of the terms as used in the Regulations are as follows:

1. "Affiliated Enterprise(s)" shall mean those enterprises having a subordinate or control relationship with respect to each other as set forth in the preceding Article.

2. "Related Parties" shall mean the Affiliated Enterprises referred to in the preceding subparagraph or the following parties:

(1) A profit-seeking enterprise and a foundation which receives a donation from the profit-seeking enterprise in the amount representing 1/3 or more of the total funds in its balance sheet of such foundation;

(2) A profit-seeking enterprise and a foundation whose one half or more of the total number of directors consist of the directors, supervisors, general manager or its equivalent or other superior of the profit-seeking enterprise, as well as the spouse of any such person.

(3) A profit-seeking enterprise and its directors, supervisors, general manager or its equivalent or other superior, vice general managers, assistant general managers, and department heads under the direct supervision of the general manager;

(4) A profit-seeking enterprise and the spouses of its directors, supervisors, general manager or its equivalent or other superior;

(5) A profit-seeking enterprise and the relatives of its chairman of the board, or general manager or its equivalent and other superior within the second degree; and

(6) A profit-seeking enterprise and the persons who evidentially have the power to control over the enterprise or have material influence ability over the personnel, financial, business operation, or management policy of the enterprise.

3. "Unrelated Parties" shall mean any person other than those specified in the preceding subparagraph.

4. "Controlled Transactions" shall mean transactions conducted by and between/among Related Parties that fall within the scope set forth in Paragraph 1 or 3 of Article 2.

5. "Uncontrolled Transactions" shall mean transactions conducted by and between/among Unrelated Parties.

6. "Transaction Result" shall mean transaction price or profit.

7. "Non-arm's-length" shall mean the situation when the conditions are made or imposed between (Related) Parties in their commercial or financial relations that differ from those made by Unrelated Parties, resulting in the failure to accrue any profits that would have been accrued to one of the parties by reason of those conditions.

8. "Tangible Assets" shall mean merchandise, raw materials, supplies, work-in-progress, finished goods, by-products, short-term investment, securities, accounts receivable, notes receivable, creditor’ s rights and other receivables, fixed assets, deferred assets, long-term investment, and other Tangible Assets.

9. "Intangible Assets" shall mean business rights, copyright, patent, trademark, enterprise name, brand name, design or model, plan, secret formula, trade secrets, or information concerning industrial, commercial, or scientific experience or proprietary knowledge, all franchises online marketing, client data, and other rights that have property value;

10. "Transfer Pricing" shall mean the price or profit in Controlled Transactions conducted by profit-seeking enterprises.

11. "Arm's-length Method" shall mean a method for assessing whether the price or profit in Controlled Transactions is at the arm's length or for determining the arm's length result of Controlled Transactions.

12. "Business Restructurings" shall mean the redeployment of functions, assets, and/or risks among Affiliated Enterprises. It may also involve the termination or substantial renegotiation of existing contractual terms or arrangements, and reorganize or adjust the structure of the organizations. They have typically consisted of:

(1) Conversion of full-fledged distributors into limited-risk distributors and vice versa; similarly, conversion of full-fledged distributors into commissionaires and vice versa.

(2) Conversion of full-fledged manufacturers into contract-manufacturers and vice versa; similarly, conversion of full-fledged manufacturers into toll-manufacturers and vice versa.

(3) Transfers of intangible property rights to an intra-group-appointed enterprise to centralize control by management or to decentralize control to other enterprises of the intra-group.

(4) Streamlining an organization or closing one's business or part of one's business.

(5) Other arrangements announced by the MOF.

13. "Multinational Enterprise (MNE) Group" shall mean a collection of profit-seeking enterprises related through affiliated relationship or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange; the group shall include two or more enterprises the tax residence for which is in different jurisdictions, or include an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction.

14. "Ultimate Parent Entity" shall mean a constituent entity of an MNE Group that meets the following criteria:

(1) it owns directly or indirectly a sufficient interest in one or more other constituent entities of the MNE Group such that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and

(2) there is no other constituent entity of such MNE Group that owns directly or indirectly an interest described in (1) above in the first mentioned constituent entity.

If a company, regulated by the Financial Holding Company Act or the Corporate Merger and Acquisition Act, or one of its subsidiaries engaged in transactions with Unrelated Parties resulting in allocation of mutual revenue, cost, expenses, profit or loss not made at arm's-length, they shall be deemed as Related Parties when the collection authorities-in-charge conduct their investigations, and the transactions among them shall be deemed Controlled Transactions..

Article 5

The types of transactions governed by the Regulations are as follows:

1. Transfer of Tangible Assets, including sale, exchange, gift or other arrangements;

2. Use of Tangible Assets, including lease, provided as collateral, held, used or occupied by the other party, or other arrangements;

3. Transfer of Intangible Assets, including sale, exchange, gift or other arrangements;

4. Use of Intangible Assets, including license, sub-license, provided for others' use or other arrangements;

5. Rendering of services, including marketing, management, administration, technology, personnel, R&D, information processing, legal, accounting or other services;

6. Use of Funds, including loans, prepayments, temporary payments, guarantees, payment extension or other arrangements; and

7. Other types of transactions prescribed by the MOF.

Chapter 2 Arm's-length Principle

Article 6

When filing profit-seeking enterprise income tax returns, profit-seeking enterprises shall evaluate whether the results of their Controlled Transactions are at arm's-length or determine the arm's-length results of Controlled Transactions in accordance with the Regulations. The Regulations shall also apply when the collection authorities-in-charge conduct investigations and assessments on the Non-arm's-length Transfer Pricing cases.

Article 7

When profit-seeking enterprises and competent tax authorities evaluate whether the results of Controlled Transactions are at arm's-length or determine the arm's-length results of Controlled Transactions based on the preceding Article, the following principles shall be followed:

1. Comparable principle: The results of comparable Uncontrolled Transactions conducted by Unrelated Parties in comparable circumstances are deemed as the arm's-length transaction results and shall be compared with the results of Controlled Transactions to evaluate whether or not the latter results are at arm's-length.

2. The adoption of the most appropriate Arm's-length Method: The most appropriate Arm's-length Method shall be applied based on the different transaction types and in accordance with the Regulations when determining the Arm's-length result.

3. The Evaluation on a specific transaction basis: The different arm's-length methods shall, unless such a method otherwise requires, apply to each transaction on a transaction-by-transaction basis. However, if separate transactions are linked or continuous, such transactions should be evaluated together using the most appropriate Arm's-length Method to determine the Arm's-length transaction result.

4. The using of the current year data:

(1) The Arm's-length result shall be determined based on the data of current year, i.e. the year when the profit-seeking enterprises conduct Controlled Transactions and that of the same year in which Unrelated Parties undertake Comparable Uncontrolled Transactions. However, in any of the following situations, the multiple year data covering the current year and previous years can be used:

i. The industry to which the business enterprise belongs has been affected by the business cycles.

ii. Tangible Assets, Intangible Assets and services have been affected by their respective life cycles.

iii. The profit-seeking enterprise adopts the market penetration strategy.

iv. The profit-based method is adopted to determine the arm's length result.

v. Other circumstances prescribed by the MOF.

(2) If the data of current year mentioned under the preceding Item are the financial statements for the Comparable Uncontrolled Transaction under Article 20 and such data is not available to the profit-seeking enterprise when it files the current year profit-seeking enterprise income tax return, the profit-seeking enterprise may replace such

information with the average of three consecutive prior years of comparable Uncontrolled Transactions. In any exceptional situations in the preceding subparagraph, the profit-seeking enterprise may use the consecutive prior year's data of the comparable Uncontrolled Transactions without current year data. (3) When the profit-seeking enterprise follows the preceding subparagraph, the collection authorities-in-charge shall adopt the same principle as those used by the taxpayer when investigating and assessing the Non-arm's-length Transfer Pricing.

5. Use of arm's-length range:

(1) The term "Arm's-length range" refers to a range of Arm's-length results of two or more comparable Uncontrolled Transactions when applying the same Arm's-length Method. If the data of the comparable Uncontrolled Transaction is incomplete for determining the differences between it and the Controlled Transaction, or for making adjustments to eliminate the impacts on the transaction result caused by such differences, the range of between the 25th percentile to the 75th percentile of the Arm's-length result shall be used as the "Arm's-length range".

(2) When using multiple year data in accordance with item 1 of the preceding subparagraph, the Arm's-length range in item 1 of this subparagraph shall be determined based on the respective average of the multiple year results of the comparable Uncontrolled Transactions.

(3) If the result of a Controlled Transaction falls within the Arm's-length range, the transaction shall be deemed as made on an Arm's-length basis and no adjustment is required. If the result falls outside the Arm's-length range, the transaction result shall be adjusted in accordance with the median of the results of all comparable Uncontrolled Transactions under item 1 or the median of the range constituted by the average of the multiple year results under item 2 of this subparagraph.

(4) If the internal comparable Uncontrolled Transactions of the profit-seeking enterprise undertaking with its unrelated party is highly comparable to the Controlled Transactions so as to determine a single reliable Arm's-length result of the Controlled Transaction, such result may be used, regardless of the provision of the preceding item 1 to item 3.

(5) If the adjustment, made in accordance with the preceding two items, would decrease tax liability within the territory of the ROC, no adjustment shall be made.

6. Analysis of Reasons for losses: If a profit-seeking enterprise declares loss but its group has a positive result globally, the reason of the loss and the Arm's-length nature of the transactions between/among it and Associated Enterprises shall be analyzed.

7. Separate evaluation of revenues and expenditures: The receivables of one party of two parties making Controlled Transaction to the other party, and those of the other party to such party, shall be evaluated based on the price when calculating the accrued revenues and expenses of either party separately.

8. Other Arm's-length principles prescribed by the MOF.

Article 8

The term "comparable circumstances" or "comparable transactions" referred to in Paragraph 1 of the preceding Article means the same or similar circumstances or transactions. When determining whether the circumstances of a profit-seeking enterprise and Unrelated Parties, or its Controlled Transaction and Uncontrolled Transactions made between Unrelated Parties are the same or similar, and the degree of its comparability, the following factors affecting the price or profits should be considered:

1. Characteristics of the assets or services:

(1)Where Tangible Assets are the objects of the transaction, the physical features of the assets, their quality, their volume of supply, and whether any Intangible Assets are included;

(2)Where Intangible Assets are the objects of the transaction, the form of transaction (i.e. licensing or sale), the type of assets, the duration and degree of protection under the laws, and the anticipated benefits from the use of the assets.

(3)Where services are the objects of the transaction, the nature of the services and whether any Intangible Assets are included.

2. Functions performed, including:

(1) research and development;

(2) product design;

(3) procurement and raw material/supply management;

(4) manufacturing, processing and assembling;

(5) marketing, distribution, inventory management, warranty, advertising, and product services;

(6) transportation and warehousing; and

(7) operative management, accounting, finance, legal, credit, collection, training and personnel management services.

3. Contractual terms, including:

(1) the form of consideration charged or paid;

(2) transaction volume;

(3) scope and terms of after-sale warranties provided;

(4) rights to renew or amend the contract;

(5) the duration of relevant license or contract, and the rights of termination or re-negotiation of the contract;

(6) agreement on provision of auxiliary or supplementary services between the transaction parties;

(7) terms of delivery, such as FOB or CIF; and

(8) terms of credit and payment.

4. Risks assumed, including:

(1) market risks, such as risks of fluctuation in costs, demand, pricing, and inventory level;

(2) risks associated with the success or failure of research and development activities;

(3) financial risks, such as fluctuation in foreign currency rates of exchange and interest rates;

(4) credit risks, such as risks in credit extension and collection; and

(5)product liability risks.

5. Economic and market conditions, including:

(1) the similarity of geographic markets;

(2) the relevant size of each market and its potential of development;

(3) the level of the markets, such as wholesale or retail;

(4) the market share;

(5) the extent of competition in each market, consumer purchasing power, the alternatives available to the buyers and sellers;

(6) government regulations of the market;

(7) status of the industry, such as whether it is an emerging industry or declining industry; and

(8) transportation costs.

6. Business strategies, including:

(1) strategies on innovation and new product development;

(2) risk aversion; and

(3) market penetration strategies.

7. Other factors affecting the degree of comparability.

If there is a substantial difference on the aforesaid factors between the circumstances of a profit-seeking enterprise and Unrelated Parties, or between its Controlled Transaction and a Uncontrolled Transactions made between Unrelated Parties, an adjustment shall be made to the prices or profits in the comparable Uncontrolled Transaction taking into account the impact of such differences; if the impact from such differences could be eliminated after the appropriate adjustments, the Unrelated Parties and Uncontrolled Transactions may be selected as the comparables.

The preceding two paragraphs shall also apply to the situations when the profit-seeking enterprise determines the degree of comparability of its Controlled Transactions with Related Parties and the Uncontrolled Transactions with Unrelated Parties as well as whether such Uncontrolled Transactions with Unrelated Parties can be selected as the comparables.

Article 9

When profit-seeking enterprises and the collection authorities-in-charge determine the most appropriate Arm’s-length Method as set forth in Subparagraph 2 of Article 7 hereof, the determination shall be made based on the transaction types of Controlled Transactions applying Articles 10 to 13 respectively, and based on the following two criteria.

1. Degree of comparability: The determination shall be made based on the degree of comparability between the profit-seeking enterprise and its Controlled Transactions and the comparables. The factors set forth in the first Paragraph of the preceding Article shall be taken into consideration; in particular, special attention shall be drawn to the similarities of those specific factors set forth in Paragraph 2 of Article 14, Paragraphs 2 to 4 of Articles 15, Paragraph 4 of Article 16, Paragraph 3 of Article 17, Paragraph 7 of Article 18 and Paragraph 2 of Article 19. The greater the degree of comparability, the higher will be the applicability of the methods.

2. Quality of the data and assumptions: The determination shall be made based on the factors, including: the completeness, accuracy and adequacy of the data collected to identify the differences as set forth in the preceding paragraph, the possibility and appropriateness of making adjustment in accordance with the second Paragraph of the preceding Article to eliminate such differences, and the reasonableness of the assumptions made. The better quality of the data and assumptions, the higher applicability of the methods will be.

Article 9-1

A reallocation of profits by business restructurings shall be consistent with the Arm’s-length principle. The following factors should be considered:

1. Special considerations for risks:

(1) Whether the contractual reallocation of risks between associated enterprises is consistent with the economic substance of the transaction.

(2) Whether the allocation and attribution of functions, assets and risks in the Controlled Transaction before and after the restructuring is at arm’s length.

(3) To make sure to have greater control over the risk and financial capacity to assume the risk.

2. Arm’s length compensation for the restructuring itself:

(1) The business reasons for and the expected benefits from the restructuring.

(2) The rights and obligations of the parties before and after the restructuring.

(3) Whether the transfer of profit potential is consistent with the reallocation of the risks.

(4) Whether the compensation for the transfer of tangible assets, intangible assets, and activities involved by business restructuring is at arm’s length.

(5) Whether the compensation for the business restructuring parties about the damage from contract termination or renegotiation is at arm’s length

3. Arm’s length remuneration for post-restructuring Controlled Transactions:

(1) The comparability analysis done for the controlled transactions after business restructuring to determine the Arm’s-length Method for the aforementioned transactions.

(2) Comparing the relationship between compensation for the restructuring and post-restructuring remuneration.

The collection authorities-in-charge use related documents about business restructuring provided by taxpayers to recognize the actual transactions undertaken. When the economic substance of Controlled Transactions differs from its form, the collection authorities shall make adjustments to the Non-arm's-length transfer pricing cases in accordance with its substance.

Chapter 3 Arm's-length Methods

Article 10

The applicable Arm's-length Methods in connection with the transfer and use of Tangible Assets include the following:

1. Comparable Uncontrolled Price Method.

2. Resale Price Method.

3. Cost Plus Method.

4. Comparable Profit Method.

5. Profit Split Method.

6. Other Arm’s-length Methods approved by the MOF.

Article 11

The applicable Arm's-length Transaction Methods in connection with the transfer and use of Intangible Assets include the following:

1. Comparable Uncontrolled Transaction Method.

2. Comparable Profit Method.

3. Profit Split Method.

4. Other Arm’s-length Methods approved by the MOF.

Article 12

The applicable Arm's-length Methods in connection with services rendered include the following:

1. Comparable Uncontrolled Price Method.

2. Cost Plus Method.

3. Comparable Profit Method.

4. Profit Split Method.

5. Other Arm's-length Methods approved by the MOF.

Article 13

The applicable Arm's-length Methods in connection with use of funds include the following:

1. Comparable Uncontrolled Price Method.

2. Cost Plus Method.

3. Other Arm's-length Methods approved by the MOF.

Article 14

The Comparable Uncontrolled Price Method under these Regulations shall refer to the situation where the Arm's-length price charged in a Controlled Transaction would be the price charged for the transfer or use of Tangible Assets, provision of services or use of funds in a comparable Uncontrolled Transaction between Unrelated Parties under comparable circumstances.

In order to evaluate the applicability of the Comparable Uncontrolled Price Method, the factors described in Paragraph 1 of Article 8 shall be considered; in particular, the differences of the characteristics of the assets or services, contractual terms and economic circumstances involved in Controlled Transactions undertaken by profit-seeking enterprises and Uncontrolled Transactions made between Unrelated Parties. Where such differences exist, appropriate adjustments are to be made to eliminate their impacts on the Arm's-length price. In the event that the impacts of such differences are unable to be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall be adopted.

Article 15

The Comparable Uncontrolled Transaction Method under these Regulations shall refer to the situation where the Arm's-length price charged in a Controlled Transaction would be the price charged for the transfer or use of Intangible Assets in a comparable Uncontrolled Transaction between Unrelated Parties under comparable circumstances.

In order to evaluate the applicability of the method, the factors described in Paragraph 1 of Article 8 shall be considered; in particular, the degree of comparability of Intangible Assets which are the objects of Controlled Transactions undertaken by profit-seeking enterprises and Uncontrolled Transactions made between Unrelated Parties, and the circumstances therein between such enterprises and Unrelated Parties. Where the differences of such factors exist, appropriate adjustments are to be made to eliminate their impacts on the Arm's-length price. In the event that the impacts of such differences on the price are unable to be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall apply.

The degree of comparability of the foregoing Intangible Assets shall be assessed based on whether such Intangible Property is used for similar products or manufacturing processes within the same general industry or market, or have similar profit potential. The profit potential of Intangible Assets is measured by directly calculating the net present value of the benefits to be realized through the use or subsequent transfer of the Intangible Property, considering the capital investment and start-up expenses required, the risks to be assumed and other relevant considerations.

The differences of the following factors shall be considered in evaluating

the degree of comparability of the circumstances under Paragraph 2 hereof:

1. The terms of the transfer, including the exploitation rights granted in the Intangible Assets, the exclusive or nonexclusive character of any rights granted, any restriction on use, or any limitation on the geographical area in which the rights may be exploited;

2. The stage of development of the Intangible Assets, including where appropriate, necessary governmental approvals, authorizations, or licenses- in the market in which the Intangible Assets are to be used;

3. Rights to receive updates, revisions, or modifications of the Intangible Assets.

4. The uniqueness of the assets and the period for which it remains unique, including the degree and duration of protection afforded to the assets under the laws of the relevant countries;

5. The duration of the license, contract, or other agreement, and any termination or renegotiation rights;

6. Any economic and product liability risks to be assumed by the transferee; and

7. The functions to be performed by the transferor and transferee, including any ancillary or supportive services.

Article 16

The Resale Price Method set forth hereof shall refer to the situation where the Arm's-length price would be the price computed by the resale price of the assets involved in the Controlled Transactions at which the profit-seeking enterprise undertaking Controlled Transactions resells the assets involved in such Controlled Transactions to Unrelated Parties, subtracting the gross profit calculated in accordance with the gross profit margin realized in comparable Uncontrolled Transactions. The formula is set forth as below:

Arm's-length Price = Resale Price to Unrelated Parties × (1- Gross Profit Margin realized in a comparable Uncontrolled Transaction)

Gross Profit Margin = Gross Profit / Net Sales Revenue

The applicable resale price as referred to in the preceding Paragraph is the price at which the Tangible Assets involved in the Controlled Transaction is resold to the Unrelated Parties. If such resale price is not available, the applicable resale price is equal to the price at which contemporaneous, previous or subsequent resale(s) of the same assets are made, provided, however, that appropriate adjustments shall be made pursuant to Paragraph 2 of Article 8 based on the factors as described in Paragraph 1 of Article 8 that may affect the price or profit.

The gross profit margin of the comparable Uncontrolled Transaction referred to in the first Paragraph shall be the gross profit margin earned by the profit-seeking enterprise undertaking the Controlled Transactions from reselling Tangible Assets of the same category which are purchased from Unrelated Parties to other Unrelated Parties. If such gross profit margin is not available, the gross profit margin can be determined based on the gross profit margin of other profit-seeking enterprises, with similar functions, risks and contractual terms, that purchases Tangible Assets of the same category from Unrelated Parties and resells to other Unrelated Parties.

In order to evaluate the applicability of the resale price method, the factors described in Paragraph 1 of Article 8 shall be considered, particularly the following factors which may affect the gross profit margin:

1. Functions performed, such as sales, marketing, advertising program, and services.

2. Risks assumed, such as inventory levels and turnover rates, and corresponding risks.

3. Contractual terms, such as scope and terms of warranties provided, sales or purchase volume, credit terms and delivery terms.

4. Market conditions, such as the level of the markets, such as wholesale or retail market.

5. Whether or not Intangible Assets are involved in the transaction.

6. Cost structures, such as the age of machinery and equipments.

7. Business experience, such as whether or not the business is in a start-up or mature phase.

8. Management efficiency.

9. Consistency in accounting practices, such as the evaluation method of costs and inventory.

If there are any differences of the factors prescribed in the preceding Paragraph between the profit-seeking enterprise and its Controlled Transactions and comparables, appropriate adjustments shall be made to eliminate the impacts on the gross profit margins. In the event that the impacts of such differences on the margins are unable to be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall apply.

Article 17

The Cost Plus Method set forth in the Regulations shall refer to the situation where the Arm's-length Price of the Controlled Transaction would be the price computed by multiplying the profit-seeking enterprise’s cost of purchasing from Unrelated Parties or producing the transferred assets by the rate of markup on cost rate, realized in comparable Uncontrolled Transactions. The formula is set forth below:

Arm's-length price = Cost of purchasing from Unrelated Parties or actual production cost for self-manufactured products × (1 + Rate of Markup on cost realized in a comparable Uncontrolled Transaction)

Rate of Markup on cost = Gross profit / Purchase cost or actual production cost for self-manufactured products

The " rate of markup on cost realized in a comparable Uncontrolled Transaction" set forth in the preceding Paragraph shall refer to the rate of markup on cost earned by a profit-seeking enterprise undertaking Controlled Transactions from sales of Tangible Assets of the same category, either purchased from Unrelated Parties or self-manufactured to Unrelated Parties. If the “markup on cost rate realized in a comparable Uncontrolled Transaction” is not available, the markup on cost rate can be determined based on the markup on cost rate earned by other profit-seeking enterprises, with similar functions, risks and contractual terms, engaging in the sale of Tangible Assets of the same category, either purchased from Unrelated Parties or self-manufactured.

In order to evaluate the applicability of the Cost Plus Method, the factors described in Paragraph 1 of Article 8 shall be considered, particularly the following factors that may affect the markup on cost rate:

1. Function performed, such as manufacturing and process engineering skills or complexity of installation, and testing function.

2. Risks assumed, such as market risk and foreign currency risks.

3. Contractual terms, such as scope and terms of warranties provided, sales or purchase volume, credit terms and delivery terms.

4. Whether or not Intangible Assets are involved in the transaction.

5. Cost structures, such as the age of machinery and equipments.

6. Business experience, such as whether the business is in a start-up or mature phase.

7. Management efficiency.

8. Consistency in accounting practices, such as the evaluation method of costs and inventory.

If there are any differences of the factors prescribed in the preceding Paragraph between the profit-seeking enterprise and its Controlled Transactions and the comparables, appropriate adjustments are to be made to eliminate the impacts on the markup on cost rate with respect to the Uncontrolled Transaction. In the event that the impacts of such differences on the rate are unable to be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall apply.

The foregoing 4 Paragraphs shall apply to the rendering of services or use of funds.

Article 18

The Comparable Profit Method prescribed in these Assessment Rules refers to the Arm's-length transaction result of a comparable transaction determined based on the comparable operating profit calculated by using the average profit margin of a comparable Uncontrolled Transaction within a specific time period.

The steps of adopting the comparable profit method are as follows:

1. Select the tested parties and tested activities in accordance with Paragraph 3 of this Article.

2. Select the comparable Uncontrolled Transactions similar to the selected tested party and tested activities in accordance with subparagraph 1 of Article 7 and Article 8 hereof.

3. Select the profit level indicator in accordance with Paragraphs 4 to 6 of this Article.

4. Determine the average profit margin of the comparable Uncontrolled Transaction. The average profit margin is equivalent to the sum of the numerator under any subparagraph of Paragraph 4 of this Article within a specific time period divided by the sum of the denominator under the same Paragraph 4 of this Article within the same time period. The aforesaid specific time period is prescribed in Subparagraph 4 of Paragraph 6 of this Article.

5. Calculate the comparable operating profit by using the average profit margin prescribed in the preceding Paragraph and the annual average of the operating assets, net sales revenue, operating expenses, or other items of the related business activities of tested parties within a specific time period, and determine the Arm's-length range in accordance with Item 1 and 2, Subparagraph 5 of Article 7 hereof.

6. The operating profit is deemed to be at Arm’s-length if the average operating profit earned from engaging in the tested business activity by the tested party within a specific period falls within the Arm's-length range prescribed in the preceding Paragraph. If the operating profit falls outside the Arm's-length range, the operating profit of the tested party in the current year shall be adjusted to the median of the operating profits of all the comparable Uncontrolled Transactions in the current year. In the event that the current year data is not available as described under Subparagraph 4 of Paragraph 6 of this Article, the adjustment shall be made based on the median of the operating profit of all the comparable Uncontrolled Transactions as prescribed in the preceding subparagraph.

7. Determine the Arm's-length Result of the participant(s) of the same Controlled Transaction who, other than the tested party, which is/are liable to the ROC income tax pursuant to the ITL, based on the Arm's-length operating profit of the tested party.

The tested party will be the participant of the Controlled Transaction and who could provide the reliable data of the Comparable Uncontrolled Transactions, and the operating profit attributable to the Controlled Transactions can be verified by using the fewest adjustments and get the most reliable results of the adjustment. In other words, the most appropriate tested party will be the least complex of the controlled participants and do not own valuable intangible property or unique assets; or even if it owns such assets but they are similar to the intangible property or unique assets of potential uncontrolled comparables. The so called tested activity will be the most narrow identifiable business activity related to the Controlled Transaction which the tested party joined in. The profit level indicators used by Comparable Profit Method

include:

1. Return on operating assets (“ROA”): the ratio calculated by using the net operating profit as the numerator, and the operating assets as the denominator.

2. Return on Sales (“ROS”): the ratio calculated by using the net operating profit as the numerator, and the net sales revenue as the denominator.

3. Berry Ratio: the ratio calculated by using the gross profit as the numerator, and the operating expenses as the denominator.

4. Return on cost and expense: the ratio calculated by using the net operating profit as the numerator, and the cost of goods sold or operating cost and expense as the denominator.

5. Other profit level indicators approved by the MOF. The net operating profit mentioned in the preceding paragraph means the amount of the gross operating profit less the operating expenses, excluding the income unrelated to the tested activities and the extra-ordinary income and loss from going-concern activities of the tested party. The operating assets shall be the assets used by the tested party in the relevant business activity, including the fixed assets and current assets but excluding excess cash, short-term and long-term investments, idle assets, and assets irrelevant to the business activities. The operating expenses do not include the non-business related interest expenses, income tax and other expenses irrelevant to the tested activity.

The selection of the profit level indicators prescribed in Paragraph 4 of this Article shall be based on the relevant activity of the tested party, and the following factors shall be considered:

1. The nature of the tested party’s activity.

2. The degree of comparability of the available information regarding the Uncontrolled Transaction, the quality of the data used and the assumptions made.

3. The reliability of the profit level indicator measuring the Arm's-length operating profit of the tested party.

4. The time period covered by the information prescribed in Item 2 of this Paragraph should be able to reflect the reasonable profit of the Uncontrolled Transaction. The time period should include at least three consecutive years including the year of the subject transaction and two years preceding such transaction. In case the current year data is not available to the profit-seeking enterprise when filing the current year profit-seeking enterprise income tax return, the profit-seeking enterprise may use at least three of the consecutive prior years’ data of the comparable Uncontrolled Transactions without current year data.

When evaluating the applicability of Comparable Profit Method, the factors prescribed in Paragraph 1, Article 8 hereof, especially the following factors among the tested parties and tested activities, and the unrelated parties and the related activities conducted by them, shall be considered:

1. The factors affecting the comparability, including the functions performed, risks assumed, the operating assets employed, the market level of the relevant trading products or services, the operation scale, the stage of a business or product cycle, etc.

2. The rationality and compatibility of the allocation of costs and expenses, income and assets between the relevant activities and other activities of the tested parties.

3. Consistency in accounting practices.

If there are any differences of the factors prescribed in the preceding paragraph between the tested parties with the tested activities and the unrelated parties with the business activities conducted by them, appropriate adjustments should be made to eliminate the effect with respect to the operation profit. In the event that the effect of aforementioned differences cannot be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall be employed.

Article 19

The Profit Split Method prescribed in these Regulations refers to allocate the operating profit to each participant, which shall be calculated based on the contribution to the combined operating profits of all participants in the situation where the activities of the participants of the Controlled Transaction are highly integrated so that the profit or losses cannot be measured individually, or where each of the participants of the Controlled Transaction makes unique and valuable contributions in relation to the Controlled Transaction.

The combined operating profit shall be allocated based on the following steps:

1. Allocate regular income based on regular contributions:

(1) Using the combined operating profit as a basis to allocate operating income to each party of the Controlled Transactions to provide a fair market return for its regular contributions of the relevant business activity.

(2) Regular contributions are contributions of the same or similar kind to those made by unrelated parties involved in similar business activities in which it is possible to identify the fair market returns.

(3) When calculating the regular profit, a functional analysis is required to identify the fair market returns on relevant business activities to be allocated in accordance with the functions performed, risks assumed, and resources employed by each participant. The fair market return can be determined pursuant to the 5 preceding Articles hereof.

2. Allocate residual profit in accordance with the contribution of intangible property:

The residual profit, which is equivalent to the amount of the combined operating profit less the regular profit allocated to each participant, shall be divided based on each participant’s relative contribution to the intangible property in the relevant business activity. The relative value of the intangible property contributed by each participant may be measured by external market benchmarks that reflect the fair market value of such intangible property, the capitalized cost of developing the intangibles and all related improvements and updates, less an appropriate amount of amortization.

When evaluating the applicability of the Profit Split Method, the factors prescribed in Paragraph 1 of Article 8, particularly the following factors, shall be considered:

1. The factors to be considered when determining the fair market return of the regular contribution, including the functions performed, risks assumed, the assets employed.

2. The rationality and compatibility of the allocation of costs and expenses, income and assets between the relevant operating activities and other activities of the related parties.

3. Consistency in accounting practices.

4. The degree of reliability of the data used and the assumptions made in measuring the relative value of the intangible property contributed by each participant.

If there are any differences of the factors prescribed in Item 1 to Item 3 of the preceding Paragraph between the Controlled Transaction of the related parties and the Uncontrolled Transactions of comparables, appropriate adjustments should be made to eliminate the effect with respect to the differences. In the event that the effect of such differences cannot be eliminated by appropriate adjustments, other Arm's-length Methods as set forth hereunder shall be employed.

Article 20

The financial statements of the Comparable Uncontrolled Transaction shall be used for calculating the gross margin in a Comparable Uncontrolled Transaction prescribed in Article 16 hereof, the Comparable Uncontrolled

Transaction markup rate prescribed in Article 17 hereof, the profit level indicators of the Comparable Uncontrolled Transaction prescribed in Article 18 hereof, and the fair market return of the unrelated parties prescribed in Article 19 hereof. The basis to determine whether the controlled transaction is an arm's length result should be same to the comparables.

Chapter 4 Documentation

Article 21

When filing income tax returns or making their current final report, profit-seeking enterprises shall stand on the prescribed format; disclose the information regarding Affiliated Enterprises or Related Parties set forth in Subparagraph 1 and 2, Paragraph 1 of Article 4 hereof, respectively, the structure chart of the affiliated or controlling relationship with shareholding ratio, as well as the information regarding the transactions between the profit-seeking enterprises and such Affiliated Enterprises and Related Parties. In the case of a constituent entity of an MNE Group, the profit-seeking enterprise shall disclose the following information: the domestic entity appointed by the MNE Group to submit the master file, as set forth in Paragraph 1, Article 21-1 hereof; the Ultimate Parent Entity, the domestic entity appointed by the MNE Group to submit the country-by-country report or the Surrogate Parent Entity, as set forth in Paragraphs 1, 2 and 3 of Article 22-1 hereof, when filing income tax returns.

Article 21-1

Where a profit-seeking enterprise that is resident in the ROC is a constituent entity of an MNE Group, it shall prepare a master file containing the following information when filing income tax returns and submit the same to the local tax authority within one year after the end of the fiscal year; if there are two or more constituent entities of the same MNE Group that are resident in the ROC, the MNE Group may designate one of such constituent entities to submit the master file:

1. Organizational structure:

   Chart illustrating the MNE's legal and affiliated or controlling relationship or ownership structure and operating geographical location of entities.

2. General description of MNE's businesses:

   (1) Important drivers of business profit.

   (2) A description of the supply chain and the main geographic markets for the group's five largest products and/or service offerings by turnover plus any other products and/or services amounting to more than 5% of group turnover.

   (3) A list and brief description of important service arrangements between members of the MNE Group, other than research and development (R&D) services, including a description of the capabilities of the principal locations providing important services and transfer pricing policies for allocating services costs and determining prices to be paid for intra-group services.

   (4) An analysis describing the principal contributions to value creation by individual entities within the group, i.e., key functions performed, important risks assumed, and important assets used.

   (5) A description of important business restructuring transactions, acquisitions, and divestitures occurring during the fiscal year.

3. MNE Group's intangibles:

   (1) A general description of the MNE's overall strategy for the development, ownership, and exploitation of intangibles, including location of principal R&D facilities and location of R&D management.

   (2) A list of intangibles of the MNE Group that are important for transfer pricing purposes and which entities legally own them.

(3) A list of important agreements among constituent entities related to intangibles, including cost contribution arrangements, principal research service agreements, and license agreements.

(4) A general description of the group's transfer pricing policies related to R&D and intangibles.

(5) A general description of any important transfers of interests in intangibles among constituent entities during the fiscal year concerned, including the entities, countries or jurisdictions, and compensation involved.

4. MNE's intercompany financial activities:

(1) A general description of how the group is financed, including important financing arrangements with non-members of the MNE Group.

(2) The identification of any members of the MNE Group that provide a central financing function for the group, including the country or jurisdiction under whose laws the entity is organised and the place of effective management of such entities.

(3) A general description of the MNE's general transfer pricing policies related to financing arrangements between constituent entities.

5. MNE Group's financial and tax positions:

(1) The MNE Group's annual consolidated financial statement for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax, or other purposes.

(2) A list and brief description of the MNE Group's existing unilateral advance pricing agreements and other tax rulings relating to the allocation of income among countries.

Chinese translation of the file shall be attached if the master file in the preceding paragraph is provided in a foreign language. If the master file is in English, the Chinese translation of the file may be provided within one month following the delivery of the tax collection authorities' written notice requiring the translation. In the event that the required translation cannot be provided within the prescribed time limit, the profit-seeking enterprise may apply for an extension with the reason to the tax collection authority prior to the deadline. The extension can be granted only once and cannot exceed one month.

A profit-seeking enterprise within the ROC being a constituent entity of an MNE Group may be exempt from the provisions in the preceding two paragraphs if the enterprise's total revenue, the amount of cross-border controlled transactions, or other relevant matter is below the criteria prescribed by the MOF.

Article 22

A profit-seeking enterprise undertaking Controlled Transactions, when filing the current-year income tax returns or making a current-year final report, shall prepare a transfer pricing report containing at least the following information of the profit-seeking enterprise:

1. A comprehensive business overview, including history, a detailed description of business activities and business strategies pursued by the enterprise, analysis of industry and economic conditions, major competitors, and analysis of economic and legal factors that affect transfer pricing, as well as an indication whether the enterprise has been involved in or affected by business restructuring or intangible transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the enterprise.

2. A description of group organization and management structure, including the management structure and organizational chart, a description of the individuals to whom local management reports and the countries in which such individuals maintain their principal offices, register of directors, supervisors, and managers and data of change one year before and after the current year.

3. Summaries of Controlled Transactions, including:

(1) A description of the types of major transactions and their backgrounds, including procedures, dates, transaction subjects, quantities, terms of sale, contract clauses and purposes of the assets or services of the transactions. The description shall explain the sale or use and benefits concerned.

(2) The parties involved in each type of Controlled Transactions and the relationship amongst them.

(3) The amount of payments and receipts for each type of Controlled Transaction involving the enterprise broken down by country or jurisdiction of the payor or recipient.

(4) Copies or their abridged versions of all material intergroup agreements concluded by the enterprise.

4. Controlled Transaction analysis:

(1) An analysis on the function and risk of each party involved in the Controlled Transaction, including any changes compared to prior years.

(2) A description of an instance complied by the principle of Article 7;

(3) Comparability analysis, a description of comparables and comparable uncontrolled transactions selected by the principle of Article 8, and related information thereof ;

(4) An analysis on the most appropriate Arm's-length Method determined in accordance with Article 9;

(5) An estimation of whether the allocation of profits in the Controlled Transaction is at arm’s length while the Business Restructuring is involved, in accordance with Article 9-1;

(6) A description of the tested party and the most appropriate Arm’s-length Method selected, the reasons for this selection, and an explanation of why alternative methods were not selected;

(7) Transfer Pricing method of related parties for conducting controlled transactions and relevant data;

(8) The conclusion of measurement of the method selected by the most appropriate method including the information of selected comparables and comparable uncontrolled transactions (including profit level indicators), and the source of such information, the adjustments made to eliminate the difference prescribed in Subparagraph 1 of Article 9, assumptions used, arm’s length range, the result of the conformation of the arm’s length and the adjustments based upon the results of the arm’s length transactions, as well as a summary of financial information used in applying the Arm's-length Method. An explanation of the reasons for performing a multi-year analysis under the proviso of Subparagraph 4 of Article 7; and

(9) A copy of existing unilateral advance pricing agreements and any advance rulings concerning cross-border income distribution with other countries or jurisdictions, and which are related to Controlled Transactions described above.

5. Statements and consolidated reports of the Affiliated Enterprises and other materials as required pursuant to Article 369-12 of the Company Law.

6. Other documents in relation to related parties or controlled transactions, which may affect pricing, if any.

In the event that the relationship between two profit-seeking enterprises, due to special market or economic conditions, satisfies the criteria prescribed in Item 3 to 5, Subparagraph 8, Article 3 hereinabove, but nevertheless do not have de facto controlling or subordination relationships, the taxpayers may, prior to filing their annual income tax returns, produce sufficient evidentiary documents to the tax collection authorities for ratification. Once the documents provided have been ratified, the requirements of the transfer pricing report set forth in the preceding paragraphs shall not apply.

Where the total amount of revenue and the amount of Controlled Transactions of a profit-seeking enterprise engaged in Controlled Transactions below the standards as prescribed by the MOF, the transfer pricing report as described in Subparagraph 4, Paragraph 1 of this Article can be replaced with other substitute document that prove the pricing of the Controlled Transactions are at an arm's-length result. The amount of Controlled Transactions excludes the amount of any transaction that is signed in an Advance Pricing Arrangement with the tax collection authorities.

When the tax collection authorities conduct the investigation pursuant to the Regulations, the profit-seeking enterprises shall produce the required transfer pricing report or the substitute document set forth in the preceding subparagraph within one month after receipt of a notice of investigation sent by the tax collection authorities. In the event that the required transfer pricing report or substitute document cannot be produced within the prescribed time limit, the taxpayer should apply for an extension prior to the deadline. The extension can be granted only once and cannot exceed one month. The profit-seeking enterprise should, within one month, provide additional supporting documents as deemed necessary by the tax collection authorities after reviewing the provided transfer pricing report or the substitute document.

The transfer pricing report or the substitute document in the preceding subparagraph provided by profit-seeking enterprises pursuant to the preceding paragraphs should contain a table of contents and an index. Chinese translation shall be attached if the materials provided are in a foreign language, unless otherwise agreed by the tax collection authorities with the provision of the English documents.

Article 22-1

Where a profit-seeking enterprise that is resident in the ROC is the Ultimate Parent Entity of an MNE Group, it shall prepare a country-by-country report of the current fiscal year in accordance with the prescribed format and submit the same to the local tax collection authority within one year after the end of the fiscal year.

Where an MNE group whose UPE is not resident in the ROC, its constituent entity which is resident in the ROC shall submit the country-by-country report prescribed in the preceding paragraph if one of the following conditions applies; where there are two or more constituent entities of the same MNE Group that are resident in the ROC, the MNE Group may designate one of such constituent entities to submit the country-by-country report:

1. The Ultimate Parent Entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence; or,

2. The Ultimate Parent Entity has filed a country-by-country report in its jurisdiction of tax residence, but such jurisdiction does not have an agreement in effect that requires the exchange of country-by-country reports to which the ROC is a party by the time specified in the preceding paragraph for submitting the country-by-country report; or,

3. The Ultimate Parent Entity has filed a country-by-country report in its jurisdiction, and such jurisdiction has an agreement that requires the exchange of country-by-country reports in effect with the ROC; however, the tax collection authority is unable to acquire the country-by-country report in accordance with the agreement.

If one constituent entity is appointed by the MNE Group referred to in the preceding paragraph as a sole substitute for the Ultimate Parent Entity, to submit the country-by-country report (hereinafter referred to as the "Surrogate Parent Entity") and is resident outside of the ROC, any profit-seeking entity of the MNE Group which is resident in the ROC shall not be required to submit a country-by-country report to the local tax collection authority if the MNE Group satisfies the following conditions:

1. The jurisdiction of tax residence of the Surrogate Parent Entity requires filing of country-by-country reports.

2. The jurisdiction in the preceding subparagraph has an agreement that requires the exchange of country-by-country reports in effect with the ROC by the time specified in the first paragraph for submitting the country-by-country report, and the tax collection authority is able to acquire the country-by-country report in accordance with the agreement.

3. The profit-seeking enterprise has disclosed the relevant information of the Ultimate Parent Entity and Surrogate Parent Entity in accordance with Article 21.

If the Surrogate Parent Entity appointed by the MNE Group is a profit-seeking enterprise which is resident in the ROC, it shall submit the country-by-country report in accordance with the first paragraph.

The members and contents of the country-by-country report in the preceding four paragraphs are as follows:

1. “Constituent entity of the country-by-country report” shall mean an entity that meets any one of the following conditions:

(1) Any profit-seeking enterprise that is included in the consolidated financial statements of the MNE Group under the law or accounting principles generally applied in its jurisdiction of tax residence of the Ultimate Parent Entity;

(2) Any profit-seeking enterprise that is not included in the consolidated financial statements in the preceding item, but would be so required if equity interests in the Ultimate Parent Entity were traded on a public securities exchange in its jurisdiction of tax residence;

(3) Any such profit-seeking enterprise that is excluded from the MNE Group’s consolidated financial statements in the preceding two items solely on size or materiality grounds; and

(4) Any permanent establishment of any profit-seeking enterprise of the MNE group included in the preceding three items provided the profit-seeking enterprise prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

2. Content of the country-by-country report:

(1) Aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates.

(2) An identification of each constituent entity of the MNE Group setting out the jurisdiction of tax residence of such constituent entity mentioned under the preceding item, and the jurisdiction under the laws of which such constituent entity is organized, and the nature of the main business activity or activities of such constituent entity, which shall include: research and development; holding or managing intellectual property; purchasing or procurement; manufacturing or production; sales, marketing or distribution; administrative, management or support services; provision of services to unrelated parties; internal group finance; regulated financial services; insurance; holding shares or other equity instruments; dormant.

(3) A description of any activity engaged by constituent entities other than the preceding item.

A profit-seeking enterprise that is resident in the ROC being a constituent entity of an MNE Group may be exempt from the submission of country-by-country report in accordance with Paragraphs 1, 2, or 4 hereof if the group's total consolidated revenue during the fiscal year immediately preceding the reporting fiscal year is below the standards prescribed by the MOF.

In the case where the tax collection authority is unable to acquire the country-by-country report as set forth in Subparagraph 3, Paragraph 2 hereof, or where the tax collection authority is able to acquire the country-by-country report in accordance with the agreement as set forth in Subparagraph 2, Paragraph 3 hereof, the country or jurisdiction concerned shall be determined in accordance with a list of countries or jurisdictions with whom the ROC may not effectively carry out the exchange of country-by-country reports as released by the MOF before the submission deadline prescribed in Paragraph 1. However, in a case where the tax collection authority is unable to acquire the country-by-country report of an MNE Group despite the ROC has entered into an information exchange agreement with the country or jurisdiction which is not in the prescribed list, the profit-seeking enterprise shall submit the country-by-country report within

one month after receipt of a written notice sent by the tax collection authority. If the profit-seeking enterprise cannot submit the report within the prescribed time limit, it may apply for an extension before the deadline. The extension can be granted only once and cannot exceed one month.

Article 23

If the transactions undertaken by a profit-seeking enterprise with related parties satisfy the following criteria, the enterprise may file an application for an advance pricing arrangement with the tax collection authorities pursuant to the provisions set out in this Chapter:

1. In order to apply for advance pricing arrangements, the total amount of the transactions shall be no less than NT$500 million; or, the annual amount of such transactions is no less than NT$200 million;

2. No significant tax evasions were committed in the past three years;

3. Documentation as required under Subparagraphs 1 to 3 and Subparagraphs 5 to 9, Paragraph 1 of Article 24 has been well-prepared;

4. Preparation of a Transfer Pricing report as prescribed under Subparagraph 4, Paragraph 1 of Article 24 has been completed; and

5. Other criteria approved by the MOF.

The profit-seeking enterprises which apply for the Advance Pricing Arrangement (hereinafter referred to as the "Applicants") should file the application pursuant to the format prescribed in Subparagraph 1 of the preceding paragraph with the tax collection authorities before the end of the first fiscal year in which the transactions occurred. In situations where more than one Applicant is involved, one of the Applicants shall be designated to file the application (on their behalf). The tax collection authorities shall notify the Applicant whether to accept the application within one month of its receipt of the application in writing. With respect to an accepted application, the Applicant shall supplement the documents and reports set forth in Subparagraph 3 and 4 of the preceding paragraph within three months of the service of the written notice of acceptance.

The prescribed format of the application shall specify the following:

1. Name, government uniform invoice (“GUI”) number or identification number, and address of the Applicant and its agents;

2. Original power of attorney shall be attached if the application is made and filed through an agent;

3. Brief description of the transaction being applied for Advance Pricing Arrangement;

4. Total amount or annual amount of the transactions being applied for Advance Pricing Arrangement;

5. Whether the documents and reports prescribed in Subparagraph 3 and 4, Paragraph 1 of this Article have been fully prepared;

6. Whether in past years the Applicants have ever been subject to investigation on their Non-Arm's-length transactions conducted by the tax collection authorities; and

7. Other information required.

Before filing an Advance Pricing Arrangement in accordance with Paragraph 1, a profit-seeking enterprise may prepare the following information to file a written application of the pre-filing meeting three months prior to the end of the first fiscal year covered by the Advance Pricing Arrangement, to let tax collection authorities assess whether to agree to the application.

1. The application period of the Advance Pricing Arrangement.

2. The global organization structure of the group.

3. Main business scope of the enterprise.

4. The related parties, the type of Controlled Transactions, and an explanation of the functions and risks.

5. Reasons of the application for the Advance Pricing Arrangement.

6. Other necessary explanations.

The tax collection authorities shall complete the aforementioned pre-filing meeting within three months after the application, and notify the applicant in writing about the result. Taxpayers shall prepare the documents and reports in accordance with Subparagraph 3 and 4 of Paragraph 1 to apply for the Advance Pricing Arrangement to the tax collection authorities within three months after receiving the notification.

If an Applicant fails to provide related documents and reports within the time limit prescribed in Paragraph 2 or 5, the tax collection authorities may reject or refuse its application for advance pricing arrangement.

If the profit-seeking enterprises apply for a cross-border Advance Pricing Arrangement or multilateral advance pricing arrangement, they shall apply to our competent authority in accordance with the applicable tax treaty and the related laws to proceed with the mutual agreement with the competent authority of the contracting state.

Article 24

To apply for an Advance Pricing Arrangement with the tax collection authorities, the Applicant or its agent shall furnish the following documents and reports:

1. Organization charts of Affiliated Enterprises home and abroad.

2. Relevant information on the related parties involved in the transactions being applied for Advance Pricing Arrangement, including an analysis report covering the following six aspects: operation, legal, tax, finance, accounting, and economy as well as the income tax return and financial statements for the three years prior to the application.

3. Relevant information concerning the transaction applying for an Advance Pricing Arrangement:

(1) Name of the related parties involved in the transaction and their relationship with the Applicant;

(2) Type, flow, date, object, amount, price, and contractual terms of the transaction as well as the use of property or services transferred. The use shall include the descriptions regarding whether the property is transferred for sale or use and its benefits; and

(3) The time period covered by the related transaction.

4. The transfer pricing report shall, in addition to being subject to Paragraph 1 of Article 22, specify the following information:

(1) Assumptions affecting the pricing;

(2) An analysis of value contribution and profit allocation of related parties in Controlled Transactions.

(3) In case of adopting an Arm's-length Method not provided in the Regulations, a special analysis along with supporting evidentiary documents explaining the reasons why such method is more suitable than those Arm's-length Methods as provided and how it can achieve an Arm's-length result.

(4) Important financial accounting policies that have a direct impact on the pricing methods.

(5) The material differences in financial accounting and tax laws between the countries involved in the transaction being applied for the advance pricing arrangement and the ROC, provided, however, that such differences would have an impact on the adoption of Arm's-length Method.

5. The pricing information of the same or similar transactions conducted by the Applicant and other related parties.

6. The annual forecast of the operation results and business plans within the effective period of the Advance Pricing Arrangement.

7. Upon filing the application, the explanations or conclusions on issues related to the adoption of the Transfer Pricing method that have occurred or are currently under discussion with local or foreign competent authorities or Advance Pricing Arrangement that have been approved.

8. Whether these issues are related to potential double taxation and whether bilateral or multilateral advance pricing arrangements of tax treaty countries are involved.

9. Other information as requested by the tax collection authorities.

The Applicant or its agent shall attach a table of contents and an index when filing the documents and reports in accordance with the preceding paragraph. If the information to be produced is in a foreign language, a Chinese translation thereof shall also be attached, unless otherwise approved by the tax collection authorities to provide an English version.

Article 25

Before the Advance Pricing Arrangement is concluded, in case of any significant occurrence of the events that would affect the transaction result, the Applicant or its agent shall inform the tax collection authorities in writing within one month, and modify the documents and reports as set forth in Paragraph 1 of the preceding article within the prescribed time limit to be submitted to the tax collection authorities. In case that it does not inform or submit the modified documents according to the regulations, the tax collection authorities may terminate the negotiation.

Article 26

Tax collection authorities shall review, assess and reach a conclusion within one year from its receipt of the documents and reports submitted by the Applicant or its agent in accordance with Article 24. When reviewing and assessing the application, if necessary, the tax collection authorities may inquire the Applicant or its agent, or request it to provide supplemental data or documents.

If under special circumstances, an extension of the review and assessment period is necessary, the tax collection authorities shall notify the Applicant or its agent before the expiration of the aforesaid period. The extension period shall not exceed six months. If necessary, another six-month extension is allowed. However, the aforesaid review and extension period is not applicable when an application involves bilateral or multilateral Advance Pricing Arrangement under tax treaties.

Article 27

Within six months since the conclusion has been reached after the review and assessment, the tax collection authorities shall discuss with the Applicant or its agent the comparables and its transaction result, assumptions, pricing policies, calculation methods, application period and other major issues. After reaching an agreement, the Applicant or its agent shall enter into an advance pricing arrangement with the legal representative or authorized person of the tax collection authorities. Once an advance pricing arrangement is signed, both parties shall be obliged to execute and comply with the same accordingly.

The application period of the advance pricing arrangement is limited to three to five years from the year in which the application is filed; provided, however, that if the period of the related transaction is shorter, the period specified in the application shall apply.

Article 28

An Advance Pricing Arrangement shall specify the following contents:

1. Related parties to the arrangement;

2. Controlled Transactions and their period for concerned related parties;

3. Assumptions affecting the pricing policy;

4. Pricing policy and Arm’s-length method adopted;

5. Terms of the arrangement, effective period and its effect;

6. Obligation of the Applicant, including the provision of annual report and impact report in accordance with Article 29 hereof, the retention of documents and reports set forth in Article 24 hereof and the notice of change to factors affecting the transaction result in accordance with Article 31 hereof;

7. The treatments of breaching of the arrangement;

8. Amendments to the arrangement;

9. The approach and procedure of dispute settlement; and

10. Other specific provisions.

Article 29

The Applicant shall submit the annual report on the execution of the Advance Pricing Arrangement to the tax collection authorities within the tax return filing period of the applicable fiscal year during which such Advance Pricing Arrangement is in effective, and retain the documents and reports in accordance with Article 24 hereof.

The foregoing annual report shall include the actual pricing and the profit and loss of each participant, the execution of the Advance Pricing Arrangements, the change of the assumptions and factors affecting the transaction result.

If prior to the sign-off date of the Advance Pricing Arrangement, the Applicant has filed the tax return for the fiscal year within the effective period of the Advance Pricing Arrangement, an impact report on the influences in the contents of the tax return filed by applying the terms of Advance Pricing Arrangement shall be submitted within the period designated by the tax collection authorities, and the requirement to submit the annual report under Paragraph 1 shall not apply.

Article 30

For the transactions conducted in compliance with the terms of the agreement during the effective period of Advance Pricing Arrangement, the tax collection authorities shall assess the taxable income in accordance with the Arm's-length Method and the result described in the arrangement. In the event that there is a violation or incompliance with the terms of the arrangement, the tax collection authority is entitled not to follow the terms stipulated in the arrangement and conduct an investigation in accordance with these Assessment Regulations.

The arrangement shall be deemed void retroactively if the Applicant conceals material matters, provides misleading information, or is involved in fraud or unlawful conducts.

Article 31

During the effective period of Advance Pricing Arrangement, if there is manifest change of the factors affecting the transaction result, including: a change to any key assumptions, the parties involved are no longer associated enterprises or the price should be re-negotiated under the contractual terms, the Applicant shall notify the competent tax authorities within one month from the occurrence of such change, and the competent tax authorities shall, based on the circumstances, take necessary measures, including: negotiate with the profit-seeking enterprise to amend the terms

and conditions of the Advance Pricing Arrangement, or void the application of such Advance Pricing Arrangement.

Article 32

The Applicant who has fully complied with all terms and conditions of the Advance Pricing Arrangement may, prior to the expiration of such agreement, submit the data to evidence no substantial change to the relevant facts or environment resulting in influencing the content of the Advance Pricing Arrangement, apply with the tax collection authorities for an extension. The Advance Pricing Arrangement can be signed again subject to the review and approval of the competent authorities, provided, however, that the extension period shall not exceed five years.

Chapter 6 Investigation, Assessment and Related Adjustments

Article 33

Tax collection authorities shall conduct investigations on the Transfer Pricing of profit-seeking enterprises in accordance with the following rules:

1. Provided that the profit-seeking enterprises have produced the transfer pricing report or the substitute document as required by Article 22 hereof, the competent tax authorities shall assess the Arm's-length result of the Controlled Transactions pursuant to the Regulations, and assess the taxable income of related taxpayers.

2. Provided that the profit-seeking enterprises have not or cannot produce the transfer pricing report or the substitute document pursuant to Article 22 hereof, the tax collection authorities may make an assessment in light of available data. In the event that no available data and the transfer pricing report or the substitute document which the profit-seeking enterprises failed to produce are relevant to the revenue, costs, or expenses, the tax collection authorities may refer to the relevant business net profit, operating cost and operating expense to compute the taxable income according to the profit standard of the same trade concerned pursuant to Article 83 of the ITA and Article 81 of the Enforcement Rules of the ITA.

3. If the profit-seeking enterprises fail to submit or provide the information or document related to their taxable income, the tax collection authorities may handle the case pursuant to Article 46 of the Tax Collection Act.

Article 34

Profit-seeking enterprises undertaking Controlled Transactions shall determine the Arm’s-length result of the Controlled Transactions and report the taxable income in accordance with the criteria set forth in the ITA and these Assessment Regulations. Where the profit-seeking enterprises failed to comply with the Assessment Regulations thereby resulting in a reduction of tax payable, and the tax collection authorities have made adjustments and assessed the taxable income of related taxpayers in accordance with the ITA and these Assessment Regulations, Article 110 of ITA shall apply to the following specific tax omission or under-reporting situations:

1. The reported price of Controlled Transaction is two times or more than the Arm’s Length price assessed by the tax collection authorities; or lower than 50% of the Arm’s-length price.

2. The increase in taxable income of the Controlled Transactions adjusted and assessed by the tax collection authorities is more than 10% of the annual taxable income of the enterprise; and more than 3% of the annual net operating revenue.

3. Profit-seeking Enterprise that cannot produce transfer pricing report as required under Subparagraph 4, Paragraph 1 of Article 22 thereof, and no other documents evidencing the transactions is Arm’s-length result.

4. Other de facto tax omission or under-reporting situations discovered

by the tax collection authorities where the amount of evasion is significant.

The preceding paragraph for the imposition of penalties shall apply to the profit-seeking enterprises income tax returns as at fiscal year 2005.

Article 35

In the event that the tax collection authorities have conducted an investigation pursuant to these Assessment Regulations with respect to the revenue, costs, expenses, or the profit and losses allocation of the Controlled Transaction conducted by a profit-seeking enterprise, and the Arm's-length adjustments have been assessed and approved by the MOF or the competent authorities as set forth in Article 50 of the Financial Holding Company Act, the tax collection authorities shall make corresponding adjustments to the counter-party of the Controlled Transaction provided that it is a taxpayer under ROC tax jurisdiction.

Chapter 7 Supplementary Provision

Article 36

The Regulations shall enter into force from the date of promulgation; however, Articles 21-1 to 22-1 and Subparagraph 3 of Article 33 amended and promulgated on November 13, 2017 shall come into force for the fiscal year of 2017.

Note:

In case of any discrepancy between the English version and the Chinese text of this Act, the Chinese text shall govern.

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