

Regulation for Enforcement of the Income Tax Act (Limited to the provisions related to nonresidents and foreign corporations)

(Order of the Ministry of Finance No. 11 of March 31, 1965)

Part I General Provisions

Chapter II Non-taxable Income

(Details of Requirements for Foreign Government Officials, etc. Whose Salaries Are Deemed to Be Exempt from Taxation)

Article 3 The person specified by Ministry of Finance Order as prescribed in Article 24, item (i) (Requirements for Foreign Government Officials, etc. Whose Salaries Are Deemed to Be Exempt from Taxation) of the Order is to be a special permanent resident specified by the Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan (Act No. 71 of 1991).

Part II Tax Liability of Residents

Chapter II Exemptions and Deductions from Income and Tax Credits

(Documents for Receiving a Credit for Foreign Tax)

Article 41 The documents specified by Ministry of Finance Order as prescribed in Article 95, paragraph (5) (Credit for Foreign Tax) of the Act are to be the following:

- (i) a document that contains the name and the amount of the tax imposed under foreign laws or regulations for which the person seeks application of the provisions of Article 95, paragraph (1) of the Act, the date on which the payment of the tax was determined and the date of the payment or the date of the scheduled payment, the name of the foreign state or the local government thereof that is imposing the tax, and an explanation as to how the tax falls under the category of a foreign income tax as prescribed in the same paragraph (referred to as "foreign income tax" in the following item);
- (ii) where the provisions of Article 95, paragraph (4) of the Act apply, a document that contains the amount of reduced foreign income tax in the year pertaining to the tax reduction prescribed in Article 226, paragraph (1) (Special Provisions on Cases Wherein Foreign Income Tax Was Reduced) of the Order and the date on which the reduction was determined, an explanation as to how the amount of the foreign income tax was used as the basis for calculation of the amount to be credited under Article 95,

paragraphs (1) to (3) of the Act in each year preceding or including the year prior to the year pertaining to the tax reduction, and the details concerning the calculation of the amount of reduced creditable foreign income tax as prescribed in Article 226, paragraph (1) of the Order;

- (iii) a copy of the return form for the tax certifying that the tax prescribed in item (i) has been imposed or other alternative documents related to the tax, and when the tax has already been paid, a document certifying the payment thereof.

(Documents for Receiving a Credit for Foreign Tax by Carryover or Carryback)

Article 42 (1) The documents specified by Ministry of Finance Order as prescribed in Article 95, paragraph (6) (Credits for Foreign Tax) of the Act are to be documents equivalent to those listed in the items of the preceding Article where there is no creditable amount under paragraph (1) of the same Article and the person seeks the application of the provisions of paragraph (2) of the same Article.

- (2) The items that are the basis for calculation of the maximum creditable amount to be carried over or of the amount of creditable foreign income tax to be carried over, as prescribed in Article 95, paragraph (6) of the Act, must be indicated by showing the details of the calculations listed in the following items:

- (i) the calculation of the unused portion within the maximum creditable amount of national or local tax prescribed in Article 224, paragraph (4) or paragraph (5) (Maximum Creditable Amount to Be Carried Over, etc.) of the Order (hereinafter referred to as the "unused portion within the maximum creditable amount" in this Article) or the amount exceeding the maximum creditable amount prescribed in paragraph (6) of the same Article (hereinafter referred to as the "amount exceeding the maximum creditable amount" in this Article) for the year;
- (ii) the calculation of the unused portion within the maximum creditable amount or the amount exceeding the maximum creditable amount for each of the three years leading up to and including the year prior to the relevant year (where the amounts differ from the amounts indicated, as the unused portion within the maximum creditable amount or the amount exceeding the maximum creditable amount for the relevant year, in the documents under Article 95, paragraph (6) of the Act that are attached to the tax return for each of those years, either of those amounts or those indicated, whichever is smaller);
- (iii) the calculation of the amount, out of the unused portion within the maximum creditable amount or the amount exceeding the maximum creditable amount set forth in the preceding item, that is deemed not to exist

pursuant to the provisions of Article 224, paragraph (3), or Article 225, paragraph (3) or paragraph (4) (Amount of Creditable Foreign Income Tax to Be Carried Over, etc.) of the Order, and the amount that remains after deducting the portion deemed not to exist from the unused portion within the maximum creditable amount or the amount exceeding the maximum creditable amount;

- (iv) the calculation of the maximum creditable amount to be carried over or the creditable foreign income tax to be carried over as prescribed in Article 95, paragraph (2) or paragraph (3) of the Act, calculated based on the amount exceeding the maximum creditable amount, the unused portion within the maximum creditable amount, or the remaining amount prescribed in the preceding item for the year.

Chapter III Filing of Returns, Payment, and Refunds

Section 2 Tax Returns and Payment and Refunds of Tax Based Thereon

Subsection 1 Tax Returns

(Matters to Be Indicated in Documents to Be Attached to the Tax Returns of Residents Who Used to Be Non-permanent Residents)

Article 47-4 (1) The matters specified by Ministry of Finance Order as prescribed in Article 120, paragraph (5) (Income Tax Returns) of the Act are the following:

- (i) the name of the person who is filing the return form set forth in Article 120, paragraph (5) of the Act, and the person's nationality and domicile or residence;
- (ii) the date on which the person came to have a domicile or residence in Japan and the date on which the person ceased to have a domicile or residence in Japan for each of the ten years leading up to and including the year prior to the relevant year, and the period of time during which the person had a domicile or residence in Japan;
- (iii) the respective periods of time during which the person was a non-permanent resident (meaning a non-permanent resident as prescribed in Article 2, paragraph (1), item (iv) (Definitions) of the Act; hereinafter the same applies in this item and the following item), a resident other than a non-permanent resident, and a nonresident in the relevant year;
- (iv) the following amounts of income that arose in the period during which the person was a non-permanent resident in the relevant year:
 - (a) the amount of domestic source income as prescribed in Article 161 (Domestic Source Income) of the Act;
 - (b) the amount of the income other than domestic source income as prescribed in (a), and the amounts of the portion thereof that was paid in Japan and the portion thereof that was remitted from outside Japan;

- (v) other reference materials.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to the matters specified by Ministry of Finance Order as prescribed in Article 120, paragraph (5) of the Act that are to be indicated in documents set forth in the same paragraph and that are to be attached to a tax return pursuant to the provisions of Article 120, paragraph (5) of the Act as applied mutatis mutandis pursuant to Article 122, paragraph (3) (Return for Receiving a Refund, etc.), Article 123, paragraph (3) (Final Return of Loss), Article 125, paragraph (4) (Tax Returns in Cases Where the Taxpayer Has Died During the Year), and Article 127, paragraph (4), (Tax Returns in Cases Where the Taxpayer Leaves the Country During the Year) of the Act, respectively.

Part III Tax Liability of Nonresidents and Corporations

Chapter I Tax Liability of Nonresidents

(Scope of Shares Similar to Listed Shares of Real Estate-Related Corporations)
Article 66-2 Shares to be specified by Ministry of Finance Order as being similar to shares or capital contributions listed on a financial instruments exchange, as prescribed in Article 291, paragraph (9), item (i) (Taxable Income of Nonresidents Without a Permanent Establishment) of the Order, are as follows:

- (i) shares registered as issues registered for over-the-counter trading (meaning shares (including capital contributions and units of investment prescribed in Article 2, paragraph (14) (Definitions) of the Act on Investment Trusts and Investment Corporations; hereinafter the same applies in this Article) that an authorized financial instruments firms association as prescribed in Article 2, paragraph (13) (Definitions) of the Financial Instruments and Exchange Act (referred to as an "authorized financial instruments firms association" in the following item) has registered, in accordance with the rules it has defined, as shares whose sales prices for over-the-counter trading are to be publicized and for which materials concerning the issuing corporation thereof are to be open to the public);
- (ii) shares of over-the-counter controlled issues (meaning shares which have been delisted from a financial instruments exchange as prescribed in Article 2, paragraph (16) of the Financial Instruments and Exchange Act or whose registration as issues registered for over-the-counter trading as prescribed in the preceding item has been canceled, and which have been designated by an authorized financial instruments firms association in accordance with the rules it has defined);
- (iii) shares traded on a foreign financial instruments market as prescribed in Article 2, paragraph (8), item (iii), (b) of the Financial Instruments and

Exchange Act.

(Filing of Returns, Payment and Refunds)

Article 67 With regard to matters concerning the application of the provisions of Part II, Chapter V (Filing of Returns, Payment and Refunds for Residents) of the Act that are applied mutatis mutandis pursuant to Article 166 (Mutatis Mutandis Application to Nonresidents) of the Act, and the provisions of Part II, Chapter V (Filing of Returns, Payment and Refunds for Residents) of the Order that are applied mutatis mutandis pursuant to Article 293 (Mutatis Mutandis Application to Nonresidents) of the Order, the provisions of Chapter III of the preceding Part (Filing of Returns, Payment and Refunds for Residents) apply mutatis mutandis. In this case, the phrase "commenced operations" in Article 55, item (iv) (Matters to Be Entered in a Written Application for Approval to File a Blue Return) is deemed to be replaced with "commenced operations in Japan"; the term "a balance sheet and profit and loss statement" in Article 57, paragraph (1) (Record, etc. of Transactions for Filing a Blue Return) is deemed to be replaced with "a balance sheet and profit and loss statement (with regard to a blue-return taxpayer who is engaged in operations prescribed in Article 143 (Blue Returns) both in and outside Japan, a balance sheet and profit and loss statement for the taxpayer's operations in Japan, in addition to a balance sheet and profit and loss statement for the entirety of the taxpayer's operations; hereinafter the same applies in this Section)"; and the phrase "commenced operations" in Article 60, paragraph (2) (Settlement) is deemed to be replaced with "commenced operations in Japan".

(Documents to Be Attached to Tax Returns Filed by Nonresidents)

Article 68 The detailed statement specified by Ministry of Finance Order as prescribed in Article 120, paragraph (3), item (iii) (Documents to Be Attached to a Tax Return) of the Act as applied mutatis mutandis pursuant to Article 166 (Mutatis Mutandis Application to Nonresidents) of the Act following the deemed replacement of terms is to be a detailed statement, in which, where the amount of revenue, expenses, or losses related to business conducted both in and outside Japan by a nonresident as prescribed in the same item is allocated as the amount to be included in the amount of gross revenue or necessary expenses, in the calculation of the amount of real estate income, business income, timber income or miscellaneous income related to domestic source income as prescribed in Article 165 (Calculation of Tax Base, Tax Amount, etc. of Income Tax in the Case of Comprehensive Taxation) of the Act for the year related to a return form prescribed in the same paragraph, the amount of gross revenue, expenses or loss, the basis of the calculation concerning the allocation, and any other matters for reference are entered.

(Matters to Be Entered in Return Forms Filed Without Withholding from Salaries, etc.)

Article 69 The matters specified by Ministry of Finance Order as prescribed in Article 172, paragraph (1), item (iv) (Tax Payment by Self-Assessment Without Withholding from Salaries, etc.) of the Act are as follows:

- (i) the name of the person filing a return form set forth in Article 172, paragraph (1) of the Act and the person's domicile or residence in Japan;
- (ii) the name and domicile or residence or the location of the head office or principal office of the defrayer of salaries or remuneration as prescribed in Article 172, paragraph (1), item (i) of the Act (limited to salary or remuneration that is not subject to the provisions of Part IV, Chapter V (Withholding from the Income of Nonresidents or Corporations) of the Act or Article 42, paragraph (1) (Special Provisions on Withholding from Remuneration, etc. Paid by a Tax-Exempt Entertainment Corporation, etc. to Entertainers, etc. for Their Provision of Services) of the Act on Special Measures Concerning Taxation);
- (iii) the day on which the person came to have a domicile in Japan;
- (iv) any other matters for reference.

(Matters to Be Entered in a Return Form for a Refund Due to Alternative Taxation on Retirement Income)

Article 70 The matters specified by Ministry of Finance Order as prescribed in Article 173, paragraph (1), item (iv) (Refund Due to Alternative Taxation on Retirement Income) of the Act are as follows:

- (i) the name of the person filing a return form set forth in Article 173, paragraph (1) of the Act and domicile, and in the case where the person has a residence in Japan, that residence;
- (ii) the basis of calculation for the amount, out of the total amount of retirement allowance, etc. listed in Article 173, paragraph (1), item (i) of the Act, that falls under the portion set forth in Article 161, item (viii), (c) (Retirement Allowance, etc. Arising from Work Carried Out in the Capacity of Resident) of the Act;
- (iii) the name and location of a bank or a post office prescribed in Article 2, paragraph (2) (Definitions) of the Act on Japan Post Network Co., Ltd. (Act No. 100 of 2005) (limited to a post office that carries out bank agent services prescribed in Article 2, paragraph (14) (Definitions, etc.) of the Bank Act (Act No. 59 of 1981) as a business office of the Japan Post Network Co., Ltd., which operates post savings banks prescribed in Article 94 (Definitions) of the Postal Service Privatization Act (Act No. 97 of 2005) as member banks prescribed in Article 2, paragraph (16) of the Bank Act and conducts the

bank agent services) that receives a refund pursuant to the provisions of Article 173, paragraph (2) of the Act;
(iv) any other matters for reference.

(Documents to Be Attached to a Return Form for a Refund Due to Alternative Taxation on Retirement Income)

Article 71 (1) The matters specified by Ministry of Finance Order prescribed in Article 297, paragraph (1) (Refund Due to Alternative Taxation on Retirement Income) of the Order are to be the breakdown by defrayer of the amount of retirement allowance, etc. prescribed in Article 171 (Alternative Taxation on Retirement Income) of the Act to be received within the year, for which income tax has been collected pursuant to the provisions of Article 212, paragraph (1) (Withholding Obligation) of the Act, the day and place of the payment, the amount of the collected income tax, the name of defrayers, and their domiciles or residences or the location of the head offices or principal offices.

(2) In the case where a copy of a record set forth in Article 225, paragraph (1), item (viii) (Report of Payment) of the Act concerning payment prescribed in the same paragraph is attached to a return form prescribed in Article 173, paragraph (1) (Refund Due to Alternative Taxation on Retirement Income) of the Act, the matters already entered in the copy of the record, out of the matters prescribed in the preceding paragraph, need not be entered in a detailed statement set forth in Article 297, paragraph (1) of the Order.

Chapter II Tax Liability of Corporations

Section 2 Tax Liability of Foreign Corporations

(Method of Public Notice, etc. for Special Provisions on Taxation on Domestic Source Income Received by Foreign Corporations with a Permanent Establishment in Japan)

Article 72-5 (1) Public notice pursuant to the provisions of Article 180, paragraph (5) (Special Provisions on Taxation on Domestic Source Income Received by Foreign Corporations With a Permanent Establishment in Japan) of the Act is to be given by publishing the matters listed in the items of the following paragraph in the Official Gazette.

(2) The matters specified by Ministry of Finance Order as prescribed in Article 180, paragraph (5) of the Act are as follows:

- (i) the name of the person who made a notification or received a notice as prescribed in Article 180, paragraph (5) of the Act;
- (ii) the name and location of the office, etc. of the person prescribed in the preceding item that is located in the place for tax payment prescribed in Article 305, paragraph (1), item (ii) (Procedures, etc. for Foreign

Corporations to Seek the Application of Special Provisions on Taxation) of the Order and the names of the representative and any other responsible persons thereof;

(iii) the validity period set forth in Article 180, paragraph (6), item (i) of the Act.

(Matters to Be Recorded with Regard to Trust Property under the Securities Investment Trust, etc. of a Foreign Trust Company)

Article 72-6 (1) The matters specified by Ministry of Finance Order as prescribed in Article 180-2, paragraph (1) (Special Provisions for Taxation on Interest, etc. on Trust Property) of the Act are as follows:

(i) the name of the foreign trust company provided for in Article 180-2, paragraph (1) of the Act (referred to as a "foreign trust company" in item (i) of the following paragraph) and the location of its principal office in Japan;

(ii) the name and location of the business office with which the securities investment trust provided for in Article 180-2, paragraph (1) of the Act has been entrusted, and the name of the settlor of the trust contract related to the securities investment trust;

(iii) the date on which the statement was made pursuant to the provisions of Article 180-2, paragraph (1) of the Act.

(2) The matters specified by Ministry of Finance Order as prescribed in Article 180-2, paragraph (2) of the Act are as follows:

(i) the name of the foreign trust company and the location of its principal office in Japan;

(ii) the name and location of the business office with which the retirement pension trust provided for in Article 180-2, paragraph (2) of the Act has been entrusted, and the type of a trust contract related to the retirement pension trust;

(iii) the date on which the statement was made pursuant to the provisions of Article 180-2, paragraph (2) of the Act.

Part IV Withholding

Chapter IV Withholding on the Income of Nonresidents

(Method of Public Notice, etc. for Domestic Source Income Received by Nonresidents that Is Exempt from Withholding)

Article 77-5 (1) Public notice pursuant to the provisions of Article 214, paragraph (5) (Domestic Source Income Received by Nonresidents that Is Exempt from Withholding) of the Act is to be given by publishing matters listed in the items of the following paragraph in the Official Gazette.

(2) The matters specified by Ministry of Finance Order as prescribed in Article

214, paragraph (5) of the Act are as follows:

- (i) the name of the person who made a notification or received a notice as prescribed in Article 214, paragraph (5) of the Act;
- (ii) the name and location of the office, etc. of the person prescribed in the preceding item that is located in Japan and that is prescribed in Article 331, paragraph (1), item (ii) (Procedures Required When a Nonresident Seeks an Exemption from Withholding) of the Order and the names of the representative and any other responsible persons thereof;
- (iii) the validity period set forth in Article 214, paragraph (6), item (i) of the Act.