

# **Income Tax Act (Limited to the provisions related to nonresidents and foreign corporations)**

(Act No. 33 of March 31, 1965)

## **Part I General Provisions**

### **Chapter II Tax Liability**

(Taxpayer)

- Article 5 (1) A resident shall be liable to pay income tax pursuant to this Act.
- (2) A nonresident shall be liable to pay income tax pursuant to this Act in any of the following cases:
- (i) Where the nonresident has domestic source income prescribed in Article 161 (Domestic Source Income) (hereinafter referred to as "domestic source income" in the next item) (excluding the case listed in the said item).
  - (ii) Where the nonresident receives, in Japan, payment of taxable income of a domestic corporation attributed to the trust property under a trust subject to corporation taxation for which he/she accepts the position of trustee (meaning interest, etc., dividend, etc., compensation money for benefits, profit, margin profit, distribution of profit or monetary award listed in the items of Article 174 (Tax Base of Income Tax in the case of Domestic Corporations); hereinafter the same shall apply in this Article), or receives payment of taxable income of a foreign corporation attributed to the said trust property (meaning domestic source income listed in Article 161 (i)-2 to (vii) or (ix) to (xii); hereinafter the same shall apply in this Article).
- (3) A domestic corporation shall be liable to pay income tax pursuant to this Act when it receives, in Japan, payment of taxable income of a domestic corporation, or receives payment of taxable income of a foreign corporation attributed to the trust property under a trust subject to corporation taxation for which it accepts the position of trustee.
- (4) A foreign corporation shall be liable to pay income tax pursuant to this Act when it receives payment of taxable income of a foreign corporation, or receives, in Japan, payment of taxable income of a domestic corporation attributed to the trust property under a trust subject to corporation taxation for which its accepts the position of trustee.

### **Chapter III Scope of Taxable Income**

(Scope of Taxable Income)

- Article 7 (1) Income tax shall be imposed with respect to income specified in

each of the following items for the category of person listed in the relevant item:

- (i) A resident other than a non-permanent resident: All income
  - (ii) A non-permanent resident: Domestic source income prescribed in Article 161 (Domestic Source Income) (hereinafter referred to as "domestic source income" in this Article), and any other income paid in Japan or remitted to Japan from abroad
  - (iii) A nonresident: Domestic source income listed in each item of Article 164 (1) and (2) (Method of Taxation on Nonresidents) for the category of nonresident listed in the relevant item of Article 164 (1)
  - (iv) A domestic corporation: Interest, etc., dividend, etc., compensation money for benefits, profit, margin profit, distribution of profit or monetary award listed in the items of Article 174 (Tax Base of Income Tax in the case of Domestic Corporations), which is paid in Japan
  - (v) A foreign corporation: Domestic source income listed in Article 161 (i)-2 to (vii) and (ix) to (xii) (in the case of a foreign corporation listed in Article 141 (iv) of the Corporation Tax Act (Foreign Corporations Having No Permanent Establishments in Japan; excluding that listed in Article 161 (i)-2)
- (2) Necessary matters concerning the scope of income listed in item (ii) of the preceding paragraph shall be specified by a Cabinet Order.

(Scope of Taxable Income in the case of Change of Category of Taxpayer)

Article 8 Where an individual, in the relevant year, falls under more than one category among [1] the category of resident other than a non-permanent resident, [2] the category of non-permanent resident, and [3] the categories of nonresident listed in the items of Article 164 (1) (Method of Taxation on Nonresidents), income tax shall be imposed on the income listed in paragraph (1)(i) to (iii) of the preceding Article, which has arisen during the respective period when the individual has been a [1] resident other than a non-permanent resident, [2] non-permanent resident or [3] nonresident listed in the relevant item in the said year.

### **Part III Tax Liabilities of Nonresidents and Corporations**

#### **Chapter I Domestic Source Income**

(Domestic Source Income)

Article 161 The term "domestic source income" as used in this Part means any of the following:

- (i) Income from a business conducted in Japan or from the utilization, holding or transfer of assets located in Japan (excluding the types of income falling under the next item to item (xii)) or any other income specified by a Cabinet

- Order as arising from sources within Japan
- (i)-2 Profit from a business conducted in Japan under a partnership contract prescribed in Article 667 (1) of the Civil Code (Partnership Contracts) (including a contract specified by a Cabinet Order as being similar thereto; hereinafter the same shall apply in this item), which is distributed under the said partnership contract and is specified by a Cabinet Order
  - (i)-3 Consideration for the transfer of land or any right on land, or any building and auxiliary equipment or structure thereof, all of which are located in Japan (excluding any consideration specified by a Cabinet Order)
  - (ii) Consideration received by a person who conducts a business that is mainly intended to provide personal services in Japan and is specified by a Cabinet Order, for the provision of the said personal services
  - (iii) Consideration for the lending of real estate located in Japan, any right on real estate located in Japan or a right of quarrying pursuant to the provisions of the Quarrying Act (Act No. 291 of 1950) (including the establishment of superficies or a right of quarrying or any other act carried out for having another person use real estate, any right on real estate or right of quarrying), the establishment of a mining lease pursuant to the provisions of the Mining Act (Act No. 289 of 1950) or the lending of a vessel or aircraft to a resident or domestic corporation
  - (iv) Interest, etc. prescribed in Article 23 (1) (Interest Income), which is listed in any of the following:
    - (a) Interest on Japanese national government bonds or Japanese local government bonds or bonds issued by a domestic corporation, all of which fall under the category of government or company bonds
    - (b) Interest on deposits or savings which have been deposited with a business office or other office, or any other business facility equivalent thereto, located in Japan (hereinafter referred to as "business office" in this Part)
    - (c) Distribution of profit from a jointly managed money trust, bond investment trust or publicly offered bond investment trust which has been entrusted with a business office located in Japan
  - (v) Dividend, etc. prescribed in Article 24 (1) (Dividend Income), which is listed in any of the following:
    - (a) Dividend of surplus, dividend of profit, distribution of surplus or interest on funds prescribed in Article 24 (1) which is received from a domestic corporation
    - (b) Distribution of profit from an investment trust (excluding a bond investment trust and a publicly offered bond investment trust) or a specified trust issuing a beneficiary certificate which has been entrusted with a business office located in Japan
  - (vi) Interest on a loan provided for a person who performs operations in Japan

- (including moneys equivalent thereto), which pertains to the said operations (excluding interest specified by a Cabinet Order)
- (vii) Any of the following royalties or considerations received from a person who performs operations in Japan, which pertain to the said operations:
    - (a) Royalty for an industrial property right or any other right concerning technology, a production method involving special technology or any other equivalent right or method, or consideration for the transfer thereof
    - (b) Royalty for a copyright (including right of publication, neighboring right, and any other equivalent right), or consideration for the transfer thereof
    - (c) Royalty for machinery, equipment or any other tool specified by a Cabinet Order
  - (viii) Any of the following pay, remuneration or pension:
    - (a) Salary, compensation, wage, annual allowance, bonus or any other pay or remuneration for the provision of personal services that has the nature of any of these, which arises from work or the provision otherwise of personal services carried out in Japan (including work carried out outside Japan by a person acting as an officer of a domestic corporation and other provision of personal services, which are specified by a Cabinet Order)
    - (b) Public pension, etc. prescribed in Article 35 (3) (Definition of Public Pension, etc.) (excluding a pension specified by a Cabinet Order)
    - (c) Retirement allowance, etc. prescribed in Article 30 (1) (Retirement Income), which arises from work or the provision otherwise of personal services carried out by a person entitled to receive it during the period when he/she has been a resident (including work that has been carried out by a person acting as an officer of a domestic corporation during the period when he/she has been a nonresident and other provision of personal services, which are specified by a Cabinet Order)
  - (ix) Monetary award for the advertisement of a business conducted in Japan, which is specified by a Cabinet Order
  - (x) Pension received under a life insurance contract, casualty insurance contract or any other contract for a pension concluded via a business office located in Japan or via a person who acts as an agent for conclusion of contracts in Japan, which does not fall under the category of pension set forth in item (viii)(b) (including a surplus distributed or a refund paid under the relevant contract for a pension on or after the date of commencement of the payment of a pension, and a lump sum payment given in lieu of a pension under the said contract)
  - (xi) Any of the following compensation money for benefits, interest, profit or margin profit:
    - (a) Compensation money for benefits listed in Article 174 (iii) (Tax Base of Income Tax in the case of Domestic Corporations), which pertains to

installment deposits that have been accepted by a business office located in Japan

- (b) Compensation money for benefits listed in Article 174 (iv), which pertains to installments prescribed in the said item that have been accepted by a business office located in Japan
- (c) Interest listed in Article 174 (v), which pertains to a contract prescribed in the said item that has been concluded via a business office located in Japan
- (d) Profit listed in Article 174 (vi), which pertains to a contract prescribed in the said item that has been concluded via a business office located in Japan
- (e) Margin profit listed in Article 174 (vii), which pertains to deposits or savings that have been accepted by a business office located in Japan
- (f) Margin profit listed in Article 174 (viii), which pertains to a contract prescribed in the said item that has been concluded via a business office located in Japan or via a person who acts as an agent for conclusion of contracts in Japan
- (xii) Distribution of profit received under a silent partnership contract (including a contract specified by a Cabinet Order as being equivalent thereto) with respect to capital contributions to a person who conducts a business in Japan

(Domestic Source Income Subject to the Provisions of Tax Conventions)

Article 162 Where a convention for the avoidance of double taxation with respect to taxes on income that Japan has concluded contains provisions on domestic source income that are different from the provisions of the preceding Article, the domestic source income of a person who is subject to such convention shall, notwithstanding the said Article, be governed as specified in the convention to the extent of such different provisions. In this case, where the convention contains provisions on domestic source income that can replace the provisions of items (ii) to (xii) of the said Article, with regard to the application of the part of this Act that relates to the matters prescribed in these items, any income treated as domestic source income under the convention shall be deemed to be the corresponding domestic source income listed in the relevant item.

(Details of Scope of Domestic Source Income)

Article 163 In addition to what is specified in the preceding two Articles, necessary matters concerning the scope of domestic source income shall be specified by a Cabinet Order.

## **Chapter II Tax Liabilities of Nonresidents**

### **Section 1 General Rules**

(Method of Taxation on Nonresidents)

Article 164 (1) The amount of income tax imposed on a nonresident shall be calculated by applying the provisions of Subsection 1 of the next Section (Comprehensive Income Taxation on Nonresidents) to domestic source income listed in each of the following items for the category of nonresident listed in the relevant item:

- (i) A nonresident who has, in Japan, branch offices, factories or any other fixed places for conducting a business which are specified by a Cabinet Order: All domestic source income
  - (ii) A nonresident who has carried out construction, installation, assembly or any other work or provided services for directing and supervising such work (hereinafter referred to as "construction work, etc." in this Article) in Japan for more than one year (excluding a nonresident who falls under the preceding item): Any of the following domestic source income:
    - (a) Domestic source income listed in Article 161 (i) to (iii) (Domestic Source Income)
    - (b) Domestic source income listed in Article 161 (iv) to (xii), which is attributed to the business related to construction work, etc. that is conducted by the nonresident in Japan
  - (iii) A nonresident who has, in Japan, a person who is authorized to conclude a contract on his/her behalf or any other person equivalent to such an authorized person specified by a Cabinet Order (hereinafter referred to as an "agent, etc." in this Article) (excluding a nonresident who falls under item (i)): Any of the following domestic source income:
    - (a) Domestic source income listed in Article 161 (i) to (iii)
    - (b) Domestic source income listed in Article 161 (iv) to (xii), which is attributed to the business conducted by the nonresident in Japan via the said agent, etc.
  - (iv) A nonresident other than one listed in the preceding three items: Any of the following domestic source income:
    - (a) Domestic source income listed in Article 161 (i) and (i)-3 which has arisen from the utilization or holding of assets located in Japan or the transfer of real estate located in Japan, or any such income which is specified by a Cabinet Order
    - (b) Domestic source income listed in Article 161 (ii) and (iii)
- (2) Where a nonresident listed in each of the following items has domestic source income listed in the relevant item, the amount of income tax imposed on the nonresident shall be calculated by applying the provisions of Section 3 (Separate Income Taxation on Nonresidents) to domestic source income listed in the relevant income, in addition to what is calculated pursuant to the

provision of the preceding paragraph:

- (i) A nonresident listed in item (ii) or (iii) of the preceding paragraph: Domestic source income listed in Article 161 (iv) to (xii), which is not attributed to a business related to construction work, etc. prescribed in item (ii) of the preceding paragraph or business conducted via an agent, etc. prescribed in item (iii) of the same paragraph
- (ii) A nonresident listed in item (iv) of the preceding paragraph: Domestic source income listed in Article 161 (iv) to (xii)

## **Section 2 Comprehensive Income Taxation on Nonresidents**

### **Subsection 1 Calculation of Tax Base, Tax Amount, etc.**

(Calculation of Tax Base, Tax Amount, etc. of Income Tax in the case of Comprehensive Taxation)

Article 165 The tax base and tax amount of income tax imposed on a nonresident listed in each item of paragraph (1) of the preceding Article with respect to domestic source income listed in the relevant item (hereinafter referred to as "income tax in the case of comprehensive taxation" in this Section) shall be the amount calculated with respect to the domestic source income listed in the relevant item pursuant to the method specified by a Cabinet Order and in accordance with the provisions Part II, Chapter I to Chapter IV (Calculation of Tax Base, Tax Amount, etc. of Income Tax in the case of Residents) (excluding Article 73 to Article 77 (Medical Expenses Deduction, etc.), Article 79 (Exemption for Persons with Disabilities), Article 81 to Article 85 (Exemption for Widows (Widowers), etc.), and Article 95 (Credit for Foreign Tax)).

### **Subsection 2 Filing of Return, Payment and Refund**

(Filing of Return, Payment and Refund)

Article 166 The provisions of Part II, Chapter V (Filing of Return, Payment and Refund in the case of Residents) shall apply mutatis mutandis to the filing of a return, payment and refund of income tax in the case of comprehensive taxation on nonresidents. In this case, in Article 120 (3)(iii) (Final Income Tax Return), the term "resident" shall be deemed to be replaced with "nonresident, or a nonresident who performs operations both in and outside Japan," and the term "withholding records" shall be deemed to be replaced with "withholding records, or detailed statements of revenue and expenditure specified by an Ordinance of the Ministry of Finance" ; in Article 120 (4), the phrase "resident who performs operations" shall be deemed to be replaced with "nonresident who performs operations in Japan" ; in Article 143 (Blue Return), the phrase "performs operations" shall be deemed to be replaced with "performs operations

in Japan" ; Article 144 (Application for Approval of Filing Blue Return) and Article 147 (Case of Constructive Approval of Filing Blue Return), the phrase "commenced operations" shall be deemed to be replaced with "commenced operations in Japan."

### **Subsection 3 Special Provisions for Request for Reassessment**

(Special Provisions for Request for Reassessment)

Article 167 The provisions of Part II, Chapter VI (Special Provisions for Request for Reassessment in the case of Residents) shall apply mutatis mutandis to a request for reassessment pursuant to the provision of Article 23 (1) of the Act on General Rules for National Taxes (Request for Reassessment) with regard to income tax in the case of comprehensive taxation on nonresidents.

### **Subsection 4 Reassessment and Determination**

(Reassessment and Determination)

Article 168 The provisions of Part II, Chapter VII (Reassessment and Determination in the case of Residents) shall apply mutatis mutandis to the reassessment or determination of income tax in the case of comprehensive taxation of on nonresidents.

### **Section 3 Separate Income Taxation on Nonresidents**

(Tax Base of Income Tax in the case of Separate Taxation)

Article 169 With respect to domestic source income specified in each item of Article 164 (2) (Method of Taxation on Nonresidents) earned by a nonresident, income tax shall be imposed separately from his/her other income, and the tax base of such income tax shall be the amount of the said domestic source income receivable (in the case of domestic source income listed in any of the following items, the amount specified in the relevant item):

- (i) Interest, etc. listed in Article 161 (iv) (Domestic Source Income), which is interest on bearer government or company bonds or distribution of profit based on a bearer beneficiary certificate of a loan trust, bond investment trust or publicly offered bond investment trust: The amount received
- (ii) Dividend, etc. listed in Article 161 (v), which is dividend of the surplus of bearer shares, etc. (meaning dividend of surplus prescribed in Article 24 (1) (Dividend Income)) or distribution of profit based on a bearer beneficiary certificate of an investment trust (excluding a bond investment trust and a publicly offered bond investment trust) or trust issuing a specified beneficiary certificate: The amount received



- (iii) Pension listed in Article 161 (viii)(b): The amount of pension receivable, after deducting therefrom the amount calculated by multiplying 60,000 yen by the number of months corresponding to the said amount of pension receivable
- (iv) Monetary award listed in Article 161 (ix): The amount receivable, after deducting 500,000 yen therefrom
- (v) Pension listed in Article 161 (x): The amount receivable under the contract prescribed in the said item, after deducting therefrom the amount of insurance premiums or installments paid under the said contract, which is calculated by the method specified by a Cabinet Order as the amount corresponding to the said amount receivable

(Tax Rate for Income Tax in the case of Separate Taxation)

Article 170 The amount of income tax prescribed in the preceding Article shall be the amount calculated by multiplying the amount of domestic source income prescribed in the said Article by a tax rate of 20 percent (or by a tax rate of 15 percent in the case of domestic source income listed in Article 161 (iv) and (xi) (Domestic Source Income)).

(Taxation on Retirement Income at the Taxpayer's Option)

Article 171 Where a nonresident prescribed in Article 169 (Tax Base) receives payment of a retirement allowance, etc. (meaning the retirement allowance, etc. prescribed in Article 30 (1) (Retirement Income); hereinafter the same shall apply in this Section) that falls under the provision of Article 161 (viii)(c) (Retirement Allowance, etc. Arising from Work Carried out in the Capacity of Resident), the nonresident may, notwithstanding the provision of the preceding Article, opt for imposition of taxation on himself/herself of income tax based on the amount equivalent to the tax amount calculated by deeming that he/she has received, in the capacity of a resident, the total amount of the retirement allowance, etc. to be received within the relevant year by reason of the retirement causing the payment of the said retirement allowance, etc. (in the case where there is more than one retirement allowance, etc. to be received within the relevant year, by reason of the respective retirement causing the payment of each retirement allowance, etc.), and applying the provisions of Article 30 and Article 89 (Tax Rate) to the said total amount.

(Tax Payment by Self-Assessment Without Withholding at Source for Pay, etc.)

Article 172 (1) Where a nonresident prescribed in Article 169 (Tax Base) receives payment of pay or remuneration listed in Article 161 (viii)(a) or (c) (Pay, etc. Arising from Work Carried out in Japan), and the provisions of Part IV, Chapter V (Withholding at Source of Income of Nonresidents or Corporations)

do not apply to the said pay or remuneration, the nonresident shall, except where he/she may file a return form pursuant to the provision of the next Article, file a return form to the district director no later than March 15 of the year following the relevant year (in the case where the nonresident ceases to have his/her residence in Japan before that date, no later than the day on which he/she ceases to have residence), stating the following matters:

- (i) Any part of the amount of pay or remuneration listed in Article 161 (viii)(a) or (c) to be received within the relevant year, to which the provisions of Part IV, Chapter V shall not apply (in the case where the said part of the amount to which the said provisions shall not apply includes any amount of the retirement allowance, etc. prescribed in the preceding Article, and the nonresident opts for taxation under the said Article with respect to the said retirement allowance, etc., the amount of the said retirement allowance, etc. shall be excluded), and the amount of income tax calculated by applying the provision of Article 170 (Tax Rate) to the said part of the amount
  - (ii) In the case where any part of the amount of pay or remuneration prescribed in the preceding item shall be stated in a return form to be filed pursuant to the provision of this paragraph due to the fact that the nonresident has ceased to have his/her residence in Japan before the end of the relevant year, the said part of the amount, and the amount of income tax calculated by applying the provision of Article 170 thereto
  - (iii) The amount of income tax listed in item (i), after deducting therefrom the amount of income tax listed in the preceding item
  - (iv) The basis of the calculation of the amount listed in item (i), the type of work carried out by the nonresident in Japan, and any other matters specified by an Ordinance of the Ministry of Finance.
- (2) Where a nonresident who is to file a return form pursuant to the provision of the preceding paragraph with respect to the retirement allowance, etc. prescribed in the preceding Article opts for taxation under the said Article with respect to the said retirement allowance, etc., the nonresident shall state, in the return form, the following matters in addition to the matters listed in the items of the said paragraph:
- (i) The total amount of the retirement allowance, etc. to be received within the relevant year (limited to the part of the amount subject to the provision of the preceding Article), and the amount of income tax calculated by applying the provision of the said Article to the said total amount
  - (ii) In the case where there is any amount of income tax that has been collected or is to be collected pursuant to the provisions of Part IV, Chapter V, with respect to the retirement allowance, etc. to be received within the relevant year, the said amount of income tax (in the case where any part of the amount of the said retirement allowance, etc. shall be stated in a return form

- to be filed pursuant to the provision of the preceding paragraph due to the fact that the person has ceased to have his/her residence in Japan before the end of the relevant year, the amount of income tax calculated by applying the provision of Article 170 to the said part of the amount shall be included)
- (iii) The amount of income tax listed in item (i), after deducting therefrom the amount of income tax listed in the preceding item
  - (iv) The breakdown of the total amount of the retirement allowance, etc. listed in item (i) by payer, each payer's name, and each payer's domicile or residence or the location of each payer's head office or principal office
  - (v) The basis of the calculation of the amount of income tax listed in item (i)
- (3) A nonresident who has filed a return form pursuant to the provision of paragraph (1) shall pay income tax equivalent to the amount listed in item (iii) of the said paragraph (in the case of a person subject to the provision of the preceding paragraph, the sum of the said amount and the amount listed in item (iii) of the same paragraph) to the State by the due date of filing the said return form.

(Refund Due to Taxation on Retirement Income at the Taxpayer's Option)

- Article 173 (1) Where a nonresident prescribed in Article 169 (Tax Base) is subject to the provisions of Part IV, Chapter V (Withholding at Source of Income of Nonresidents or Corporations), with respect to the retirement allowance, etc. prescribed in Article 171 (Taxation on Retirement Income at the Taxpayer' Option) to be received thereby, and opts for taxation under the said Article with respect to the said retirement allowance, etc., the nonresident may, in order to receive a refund of income tax pertaining to the said retirement allowance, etc., file a return form to the district director on or after January 1 of the year following the relevant year (in the case where the total amount of the retirement allowance, etc. prescribed in Article 171 has been determined before that date, the day on which the total amount has been determined), stating the following matters:
- (i) The total amount of the retirement allowance, etc. and the amount of income tax, both of which are listed in paragraph (2)(i) of the preceding Article
  - (ii) The amount of income tax listed in paragraph (2)(ii) of the preceding Article
  - (iii) The amount of income tax listed in the preceding item, after deducting therefrom the amount of income tax listed in item (i)
  - (iv) The matters listed in paragraph (2)(iv) and (v) of the preceding Article, and any other matters specified by an Ordinance of the Ministry of Finance
- (2) Where a return form has been filed pursuant to the provision of the preceding paragraph, the district director shall refund income tax equivalent to the amount listed in item (iii) of the said paragraph.
- (3) In the case referred to in the preceding paragraph, where any part of the

amount of income tax listed in paragraph (1)(ii) as stated in the return form set forth in the preceding paragraph (limited to the income tax to be collected pursuant to the provisions of Part IV, Chapter V) has not yet been paid, the part of the amount of refund pursuant to the provision of the preceding paragraph which corresponds to the said unpaid part of income tax shall not be paid until the relevant income tax payment is completed.

- (4) In calculating the interest on refund with respect to a refund pursuant to the provision of paragraph (2), the period set forth in Article 58 (1) of the Act on General Rules for National Taxes (Interest on Refund), which shall be the basis of such calculation, shall be the period from the day following the day on which the return form has been filed pursuant to the provision of paragraph (1) (in the case of a refund pertaining to the amount of income tax prescribed in the preceding paragraph which has been paid after the said date of filing of the return form, the date of payment of the said amount of income tax) until the day on which payment of the relevant refund is determined or the day on which the relevant refund is appropriated (in the case where appropriation has become possible before the said date of appropriation, that day on which it becomes possible).
- (5) In addition to what is specified in the preceding two paragraphs, the procedure for a refund set forth in paragraph (2) and other necessary matters concerning the application of the provisions of the said paragraph shall be specified by a Cabinet Order.

### **Chapter III Tax Liabilities of Corporations**

#### **Section 2 Tax Liabilities of Foreign Corporations**

(Tax Base of Income Tax in the case of Foreign Corporations)

Article 178 The tax base of income tax imposed on a foreign corporation shall be the amount of domestic source income listed in Article 161 (i)-2 to (vii) and (ix) to (xii) (Domestic Source Income) to be received by the foreign corporation (in the case where the foreign corporation is one listed in Article 141 (iv) of the Corporation Tax Act (Foreign Corporations Having No Permanent Establishments in Japan), the tax base shall be limited to the amount of domestic source income listed in Article 161 (i)-3 to (vii) and (ix) to (xii), and excluding that specified by a Cabinet Order) (in the case of domestic source income listed in Article 169 (i), (ii), (iv) and (v) (Tax Base of Income Tax in the case of Separate Taxation), the amount specified in these provisions).

(Tax Rate for Income Tax in the case of Foreign Corporations)

Article 179 The amount of income tax imposed on a foreign corporation shall be the amount specified in each of the following items for the category set forth in

the relevant item:

- (i) Domestic source income prescribed in the preceding Article (excluding those listed in the next item and item (iii)): The amount calculated by multiplying the amount of domestic source income (in the case of domestic source income listed in Article 169 (ii), (iv) and (v) (Tax Base of Income Tax in the case of Separate Taxation); the amount specified in these provisions) by a tax rate of 20 percent
- (ii) Domestic source income listed in Article 161 (i)-3 (Domestic Source Income): The amount calculated by multiplying the amount of domestic source income by a tax rate of ten percent
- (iii) Domestic source income listed in Article 161 (iv) and (xi): The amount calculated by multiplying the amount of domestic source income (in the case of domestic source income listed in Article 169 (i); the amount specified in the said item) by a tax rate of 15 percent

(Special Provisions for Taxation on Domestic Source Income Received by Foreign Corporations Having Permanent Establishments in Japan)

Article 180 (1) Where a corporation specified in each of the following items that satisfies the requirements specified by a Cabinet Order, and which receives payment of domestic source income specified in the relevant item has obtained, pursuant to the provision of a Cabinet Order, a certificate issued by the competent district director having jurisdiction over the place for tax payment concerning corporation tax (hereinafter referred to as the "competent district director" in this Article), certifying that the corporation which receives the said payment satisfies the said requirements and that the domestic source income to be received falls under the category of domestic source income specified in the relevant item, and the corporation has presented the certificate to the person who pays the domestic source income, the provisions of Article 7 (1)(v) (Scope of Taxable Income of Foreign Corporations) and the preceding two Articles shall not apply to the said domestic source income to be received while the certificate remains valid:

- (i) A corporation that falls under the category of foreign corporation listed in Article 141 (i) of the Corporation Tax Act (Foreign Corporations Having Permanent Establishments in Japan) (in the case of a corporation that is a partner under a partnership contract prescribed in Article 161 (i)-2 (Domestic Source Income) (including a person similar thereto who is specified by a Cabinet Order) (hereinafter referred to a "partner corporation" in this paragraph); limited to such corporation specified by a Cabinet Order): Domestic source income listed in Article 161 (i)-2 to (iii), (vi), (vii), (ix) or (x) (in the case of the consideration prescribed in Article 161 (i)-3: limited to such domestic source income related to consideration to be attributed to the

- trust property under a trust prescribed in the proviso of Article 13 (1) (Attribution of Assets and Liabilities in Trust Property and Profit and Expenses to Be Attributed to Trust Property) that has been entrusted with a business office located in Japan)
- (ii) A corporation that falls under the category of foreign corporation listed in Article 141 (ii) of the Corporation Tax Act (in the case of a partner corporation; limited to such corporation specified by a Cabinet Order): Domestic source income specified in the preceding item, which is attributed to a business related to construction work, etc. prescribed in Article 141 (ii) that is conducted by the corporation in Japan
- (iii) A corporation that falls under the category of foreign corporation listed in Article 141 (iii) of the Corporation Tax Act (in the case of a partner corporation: limited to such corporation specified by a Cabinet Order): Domestic source income specified in item (i), which is attributed to a business conducted by the corporation in Japan via an agent, etc. prescribed in Article 141 (iii)
- (2) Where a corporation listed in each item of the preceding paragraph has, after obtaining a certificate prescribed in the said paragraph, ceased to satisfy the requirements prescribed in the said paragraph or ceased to fall under the category of foreign corporation prescribed in the relevant item, the corporation shall, without delay on or after the day on which it has ceased to satisfy the said requirements or to fall under the said category, pursuant to the provision of a Cabinet Order, submit a notification to that effect to the competent district director and also give notice to that effect to the party to which the certificate shall be presented.
- (3) Where the competent district director finds that a corporation listed in each item of paragraph (1) has, after obtaining a certificate prescribed in the said paragraph, ceased to satisfy the requirements prescribed in the said paragraph or ceased to fall under the category of foreign corporation prescribed in the relevant item, he/she shall give notice to that effect, in writing, to the corporation that obtained the certificate.
- (4) In the case referred to in the preceding paragraph, the corporation that has received a notice prescribed in the said paragraph shall, without delay on or after the day on which it has received the notice, give notice to the party to which the certificate prescribed in paragraph (1) shall be presented, to the effect that it has received the notice.
- (5) Having received a notification pursuant to the provision of paragraph (2) or given a notice pursuant to the provision of paragraph (3), the competent district director shall, pursuant to the provision of an Ordinance of the Ministry of Finance, issue public notice regarding the name of the corporation that has submitted the notification or has received the notice, and any other

relevant matters specified by an Ordinance of the Ministry of Finance.

(6) The certificate prescribed in paragraph (1) shall lose its effect in the following cases:

- (i) Where the valid period of the certificate set by the competent district director has expired.
- (ii) Where public notice has been issued pursuant to the provision of the preceding paragraph.

(Special Provisions for Taxation on Interest, etc. on Trust Property)

Article 180-2 (1) Where a trust company that is a foreign corporation (including a financial institution prescribed in Article 1 (1) of the Act on Additional Operation etc. of Trust Business by Financial Institutions (Approval of Additional Operation) that is engaged in trust business prescribed in the said paragraph; hereinafter referred to as a "foreign trust company" in the next paragraph) has caused the person who pays domestic source income listed in Article 161 (iv) (excluding (b)) or (v) (Domestic Source Income) with respect to the government or company bonds, etc. prescribed in Article 176 (1) (Special Provisions for Taxation on Interest, etc. on Trust Property) that are included in the trust property under a securities investment trust prescribed in the said paragraph for which the trust company has accepted the position of trustee, to record, in the books that the person keeps, the fact that the said government or company bonds, etc. are included in the said trust property as well as other matters specified by an Ordinance of the Ministry of Finance, the provisions of Article 7 (1)(v) (Scope of Taxable Income of Foreign Corporations), Article 178 (Tax Base of Income Tax in the case of Foreign Corporations), and Article 179 (Tax Rate for Income Tax in the case of Foreign Corporations) shall not apply to the said domestic source income from the said government or company bond, etc. to be paid during the period when the recordation of the said matters regarding the government or company bonds, etc. remains in the books.

(2) Where a foreign trust company has caused the person who pays domestic source income listed in Article 161 (iv) (excluding (b)), (v) or (xii) with respect to the government or company bonds, etc. prescribed in Article 176 (2) that are included in the trust property under a retirement pension trust prescribed in the said paragraph for which the trust company has accepted the position of trustee, to record, in the books that the person keeps, the fact that the said government or company bonds, etc. are included in the said trust property as well as other matters specified by an Ordinance of the Ministry of Finance, the provisions of Article 7 (1)(v), Article 178, and Article 179 shall not apply to the said domestic source income from the said government or company bond, etc. to be paid during the period when the recordation of the said matters regarding the government or company bonds, etc. remains in the books.

- (3) The amount of income tax paid by a foreign corporation with respect to the trust property under a group investment trust (meaning a group investment trust prescribed in Article 176 (3); hereinafter the same shall apply in this Article) for which the corporation has accepted the position of trustee (including any other tax imposed under foreign laws or regulations that is equivalent to income tax and specified by a Cabinet Order prescribed in the said paragraph; the same shall apply in the next paragraph) shall, pursuant to the provision of a Cabinet Order, be deducted from the amount of income tax on the distribution of profit from the said group investment trust.
- (4) The amount of income tax paid with respect to the trust property under a group investment trust that is to be deducted pursuant to the provision of the preceding paragraph shall, in the calculation of the amount of distribution of profit from the said group investment trust, be added to the amount of distribution of profit.

#### **Chapter V Withholding at Source of Income of Nonresidents or Corporations**

(Withholding Liability)

- Article 212 (1) A person who pays a nonresident, in Japan, domestic source income listed in Article 161 (i)-2 to (xii) (in the case where the nonresident falls under the category listed in Article 164 (1)(iv) (Nonresidents Having No Permanent Establishments in Japan): limited to domestic source income listed in Article 161 (i)-3 to (xii), and excluding that specified by a Cabinet Order) or a person who pays a foreign corporation, in Japan, domestic source income listed in Article 161 (i)-2 to (vii) or (ix) to (xii) (in the case where the foreign corporation falls under the category listed in Article 141 (iv) of the Corporation Tax Act (Foreign Corporations Having No Permanent Establishments in Japan): limited to domestic source income listed in Article 161 (i)-3 to (vii) or (ix) to (xii), and excluding the one that falls under the provision of Article 180 (1) (Special Provisions for Taxation on Domestic Source Income Received by Foreign Corporations Having Permanent Establishments in Japan) or Article 180-2 (1) or (2) (Special Provisions for Taxation on Interest, etc. on Trust Property) and that specified by a Cabinet Order) shall, at the time of payment, collect income tax with respect to the said domestic source income, and pay it to the State no later than the tenth day of the month following the month that includes the date of collection.
- (2) Where payment of domestic source income prescribed in the preceding paragraph is made outside Japan, if the person who makes the said payment has his/her domicile or residence in Japan or has an office, place of business or any other place equivalent thereto in Japan, the provision of the said



paragraph shall be applied by deeming that the person pay the domestic source income in Japan. In this case, the phrase "no later than the tenth day of the month" in the said paragraph shall be deemed to be replaced with "no later than the last day of the month."

- (3) A person who pays a domestic corporation, in Japan, interest, etc., dividend, etc., compensation money for benefits, profit, margin profit, distribution of profit or monetary award listed in the items of Article 174 (Tax Base of Income Tax in the case of Domestic Corporations) (excluding those that fall under the provision of Article 176 (1) or (2) (Special Provisions for Taxation on Interest, etc. on Trust Property)) shall, at the time of payment, collect income tax with respect to the said interest, etc., dividend, etc., compensation money for benefits, profit, margin profit, distribution of profit or monetary award, and pay it to the State no later than the tenth day of the month following the month that includes the date of collection.
- (4) The provision of Article 181 (2) (Case of Constructive Payment of Dividend, etc.) shall apply mutatis mutandis in the case where the provision of paragraph (1) or the preceding paragraph shall apply, and the provision of Article 183 (2) (Case of Constructive Payment of Bonus) shall apply mutatis mutandis in the case where paragraph (1) shall apply.
- (5) With respect to domestic source income listed in Article 161 (i)-2 to be distributed as prescribed in the said paragraph, in the case where a nonresident or foreign corporation that is a partner engaged in a partnership contract prescribed in the said item (including a person similar thereto who is specified by a Cabinet Order) receives money or any other assets (hereinafter referred to as "money, etc." in this paragraph) as the domestic source income arising during the accounting period specified in the said partnership contract or any other period similar thereto (in the case where such period is longer than one year: each term set by dividing the period by one year each since the first day of the period (including the last term that is shorter than one year, if any); hereinafter referred to as the "accounting period" in this paragraph), the provisions of this Act shall be applied by deeming that the person who makes the said distribution makes payment of the domestic source income, and deeming that payment has been made as of the day on which the said money, etc. has been paid (in the case where the money, etc. pertaining to the domestic source income has not yet been paid within two months from the day following the end of the accounting period: as of the last day of the two-month period).

(Tax Amount Collected)

Article 213 (1) The amount of income tax to be collected pursuant to the provision of paragraph (1) of the preceding Article shall be the amount specified by each of the following items for the category set forth in the

relevant item:

- (i) Domestic source income prescribed in paragraph (1) of the preceding Article (excluding those listed in the next item and item (iii)): The amount calculated by multiplying the amount of domestic source income (in the case of the domestic source income listed in each of the following sub-items: the amount specified in the relevant sub-item) by a tax rate of 20 percent:
    - (a) Pension listed in Article 161 (viii)(b) (Domestic Source Income): The amount that remains after deducting, from the amount of pension to be paid, the amount calculated by multiplying 60,000 yen by the number of months corresponding to the said amount of pension to be paid
    - (b) Monetary award listed in Article 161 (ix): The amount that remains after deducting 500,000 yen from the amount of monetary award (in the case where monetary award is paid in property other than money: the amount calculated pursuant to the method specified by a Cabinet Order as the value of the property at the time of payment)
    - (c) Pension listed in Article 161 (x): The amount that remains after deducting, from the amount of pension to be paid under the contract prescribed in the said item, the amount of insurance premiums or installments paid under the relevant contract, which is calculated by the method specified by a Cabinet Order as the amount corresponding to the said amount of pension to be paid
  - (ii) Domestic source income listed in Article 161 (i)-3: The amount calculated by multiplying the amount of domestic source income by a tax rate of ten percent
  - (iii) Domestic source income listed in Article 161 (iv) and (xi): The amount calculated by multiplying the amount of domestic source income by a tax rate of 15 percent.
- (2) The amount of income tax to be collected pursuant to the provision of paragraph (3) of the preceding Article shall be the amount specified by each of the following items for the category set forth in the relevant item:
- (i) Interest, etc., compensation money for benefits, profit or margin profit prescribed in paragraph (3) of the preceding Article: The amount calculated by multiplying the amount of each of these by a tax rate of 15 percent
  - (ii) Dividend, etc. or distribution of profit prescribed in paragraph (3) of the preceding Article: The amount calculated by the amount of each of these by a tax rate of 20 percent
  - (iii) Monetary award prescribed in paragraph (3) of the preceding Article: The amount calculated by deducting the amount specified by a Cabinet Order from the amount of monetary award (in the case where monetary award is paid in property other than money: the amount calculated pursuant to the method specified by a Cabinet Order as the value of the property at the time

of payment), and then multiplying the result by a tax rate of ten percent

(Domestic Source Income of Nonresidents Exempt from Withholding at Source)

Article 214 (1) Where a person listed in each of the following items, who satisfies the requirements specified by a Cabinet Order and who receives payment of domestic source income specified in the relevant item has obtained, pursuant to the provision of a Cabinet Order, a certificate issued by the competent district director having jurisdiction over the place for tax payment, certifying that the person who receives the said payment satisfies the said requirements and that the domestic source income to be received falls under the category of domestic source income specified in the relevant item, and the person has presented the certificate to the person who pays the domestic source income, the person who makes payment, notwithstanding the provision of Article 212 (1) (Withholding Liability), shall not be required to collect and pay income tax with respect to the domestic source income to be paid to the person who has presented the certificate while the certificate remains valid:

(i) A person who falls under the category of nonresident listed in Article 164

(1)(i) (Nonresidents Having Permanent Establishments in Japan) (in the case of a person who is a partner engaged in a partnership contract prescribed in Article 161 (i)-2 (Domestic Source Income) (including a person similar thereto who is specified by a Cabinet Order) (hereinafter referred to as a "partner individual" in this paragraph); limited to such person specified by a Cabinet Order): Domestic source income listed in Article 161 (i)-2, (ii), (iii), (vi), (vii), (viii)(a) (excluding the part pertaining to pay) or (x) (excluding that specified by a Cabinet Order)

(ii) A person who falls under the category of nonresident listed in Article 164

(1)(ii) (in the case of a partner individual; limited to such person specified by a Cabinet Order): Domestic source income specified in the preceding item, which is attributed to a business related to construction work, etc. prescribed in Article 164 (1)(ii) that is conducted by the person in Japan

(iii) A person who falls under the category of nonresident listed in Article 164

(1)(iii) (in the case of a partner individual; limited to such person specified by a Cabinet Order): Domestic source income prescribed in item (i), which is attributed to a business conducted by the person in Japan via an agent, etc. prescribed in Article 164 (1)(iii).

(2) Where a person listed in each item of the preceding paragraph has, after obtaining a certificate prescribed in the said paragraph, ceased to satisfy the requirements prescribed in the said paragraph or ceased to fall under the category of nonresident prescribed in the relevant item, the person shall, without delay on or after the day on which he/she has ceased to satisfy the said requirements or to fall under the said category, pursuant to the provision of a

Cabinet Order, submit a notification to that effect to the competent district director having jurisdiction over the place for tax payment and also give notice to that effect to the party to which the certificate shall be presented.

- (3) Where the competent district director having jurisdiction over the place for tax payment finds that a person listed in each item of paragraph (1) has, after obtaining a certificate prescribed in the said paragraph, ceased to satisfy the requirements prescribed in the said paragraph or ceased to fall under the category of nonresident prescribed in the relevant item, he/she shall give notice to that effect, in writing, to the person who obtained the certificate.
- (4) In the case referred to in the preceding paragraph, the person who has received a notice prescribed in the said paragraph shall, without delay on or after the day on which he/she has received the notice, give notice to the party to which the certificate prescribed in paragraph (1) shall be presented, to the effect that he/she has received the notice.
- (5) Having received a notification pursuant to the provision of paragraph (2) or given a notice pursuant to the provision of paragraph (3), the competent district director having jurisdiction over the place for tax payment shall, pursuant to the provision of an Ordinance of the Ministry of Finance, issue public notice regarding the name of the person who has submitted the notification or has received the notice, and any other relevant matters specified by an Ordinance of the Ministry of Finance.
- (6) The certificate prescribed in paragraph (1) shall lose its effect in the following cases:
  - (i) Where the valid period of the certificate set by the competent district director having jurisdiction over the place for tax payment has expired.
  - (ii) Where public notice has been issued pursuant to the provision of the preceding paragraph.

(Special Provisions for Withholding at Source of Pay, etc. for Provision of Personal Services by Nonresidents)

Article 215 Where income tax has been collected pursuant to the provision of Article 212 (1) (Withholding Liability) from a nonresident or foreign corporation who conducts, in Japan, a business prescribed in Article 161 (ii) (Domestic Source Income) with respect to the consideration listed in the said item, pursuant to the provision of a Cabinet Order, it shall be deemed that with respect to the pay or remuneration listed in Article 161 (viii)(a) or (c) that is to be paid from the consideration, for which income tax has been collected from the nonresident or foreign corporation, to a nonresident engaged in providing personal services for the said business for the provision of personal services, income tax has been collected pursuant to the provision of Article 212 (1) at the time of payment of the pay or remuneration.