

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

(Cabinet Order No. 96 of March 31, 1965)

Part I General Provisions

Chapter II Scope of Taxable Income

Section 1 Scope of Taxable Income

(Scope of Taxable Amount of Foreign Source Income of Non-Permanent Residents)

Article 17 The scope of income other than domestic source income prescribed in Article 7, paragraph (1), item (ii) (Scope of Taxable Income of Non-Permanent Residents) of the Act (hereinafter referred to as "foreign source income" in this Article), which is paid in Japan or remitted to Japan from abroad, is as provided in the following:

- (i) where a non-permanent resident has received a remittance from abroad in each year, it is deemed that the non-permanent resident's income that is categorized as foreign source income paid outside Japan for that year has been remitted up to the amount of the remittance received; provided, however, that where the non-permanent resident has any income that is categorized as domestic source income paid outside Japan as prescribed in Article 161 (Domestic Source Income) of the Act (hereinafter referred to as "domestic source income" in this Article) for the relevant year, it is deemed that the income categorized as domestic source income has been remitted, and then, if any amount remains, it is deemed that income categorized as foreign source income has been remitted up to the remaining amount;
- (ii) the amount of income prescribed in the preceding item is to be the amount equivalent to the sum of the amounts of various types of income calculated in accordance with the provisions of Articles 23 to 35 (Types of Income and Amounts of Various Types of Income) and Article 69 (Aggregation of Profits and Losses) of the Act with regard to a non-permanent resident's income that is categorized as foreign source income paid outside Japan and income categorized as domestic source income paid outside Japan, respectively. In this case, if these amounts of income include salary income or retirement income, the amount of revenue concerned is deemed to be the amount of salary income or amount of retirement income, respectively, and if they include timber income, capital gains or occasional income, the amount calculated by deducting, from the amount of revenue concerned, the amount

- of necessary expenses prescribed in Article 32, paragraph (3) (Amount of Timber Income) of the Act, costs for acquisition of assets prescribed in Article 33, paragraph (3) (Amount of Capital Gains) of the Act and costs for transfer of the acquired assets, and the amount of expenditure prescribed in Article 34, paragraph (2) (Amount of Occasional Income) of the Act, is deemed to be the amount of timber income, amount of capital gains or amount of occasional income, respectively;
- (iii) in the case where the provisions of Article 7, paragraph (1), item (ii) of the Act and the preceding two items apply, if any of the various types of income categorized as foreign source income or various types of income categorized as domestic source income are paid in and outside Japan, respectively, the amount calculated by multiplying the amount of that type of income (in the case of the income prescribed in the second sentence of the preceding item, the amount calculated pursuant to the provisions of the second sentence of the same item) by the ratio of the amount paid in Japan or amount paid outside Japan, respectively, to the amount of revenue pertaining to that type of income, is deemed to be the amount of that type of income paid in Japan or paid outside Japan, respectively;
- (iv) in the case referred to in item (i), if there are two or more types of income categorized as foreign source income that is paid outside Japan, it is deemed that with regard to the amount of each of those types of income, the amount equivalent to the amount calculated by multiplying the amount of remittance pertaining to the foreign source income that is deemed to be remitted pursuant to the provisions of the same item by the ratio of the amount of that type of income (in the case of the income prescribed in the second sentence of item (ii), the amount calculated pursuant to the provisions of the second sentence of the same item) to the sum of the amounts of those various types of income;
- (v) with regard to various types of income categorized as a non-permanent resident's foreign source income that is paid outside Japan and is deemed to be remitted pursuant to the provisions of the preceding items, the amount of the non-permanent resident's gross income, retirement income and timber income is to be calculated, respectively, by combining each of those types of income with income categorized as foreign source income that is paid in Japan and income categorized as domestic source income, both of which are of the same type as the former;
- (vi) if, before the end of each year, either a resident other than a non-permanent resident or a nonresident becomes a non-permanent resident, or if a non-permanent resident becomes either a resident other than a non-permanent resident or a nonresident, the provisions of the preceding items apply to the amount of income categorized as foreign source income or

domestic source income that has arisen during the period when the individual in question was a non-permanent resident, which is paid outside Japan, and the amount remitted to Japan from abroad during that period.

Part III Tax Liability of Nonresidents and Corporations

Chapter I Domestic Source Income

(Income from Business Conducted in Japan)

Article 279 (1) In the case of an individual who conducts a business consisting of operations both in and outside Japan, the income listed in each of the following items for the case listed in the relevant item is treated as the individual's income from a business conducted in Japan prescribed in Article 161, item (i) (Domestic Source Income) of the Act:

- (i) where the individual transfers, in Japan, inventories (limited to movables; hereinafter the same applies in this Article) that were transferred to the relevant individual outside Japan, without conducting any act of manufacturing, processing or breeding or any other act aimed at adding value to the inventories (hereinafter referred to as "manufacturing, etc." in this Article) outside Japan (including the case where the individual carries out manufacturing, etc. with regard to the relevant inventories in Japan, and then transfers inventories acquired through the manufacturing, etc.): All income arising from the transfer conducted in Japan;
- (ii) where the individual carries out manufacturing, etc. (including extraction; hereinafter the same applies in this item) in or outside Japan, and then transfers, in or out of Japan, inventories acquired through the manufacturing, etc. (including the case where the individual additionally carries out other manufacturing, etc. in or outside Japan, with regard to the relevant inventories, and then transfers inventories thus acquired): The portion of all of the income arising from the relevant transfer which, if the operations performed by the individual in the course of conducting the relevant transfer or manufacturing, etc. were divided into those performed in Japan (hereinafter referred to as "domestic operations" in this Article) and those performed outside Japan (hereinafter referred to as "overseas operations" in this Article) and the overseas operations were performed by a person other than the individual and the relevant inventories were transferred from the relevant other person to the individual under ordinary trade terms, and vice versa, should have arisen from the domestic operations;
- (iii) where the individual concludes a contract for, or procures personnel or materials necessary for, construction, installation, assembly or any other work outside Japan, and carries out the work in Japan: All income arising

- from the work;
- (iv) where the individual has a transportation business consisting of operations both in and outside Japan using vessels or aircrafts: The portion of all of the income arising from that business which should be determined as that arising from the individual's domestic operations based on the revenue arising in relation to passengers or cargos taken on board in Japan in the case of a business wherein transportation is done by vessel, or on the revenue arising or necessary expenses incurred in relation to the domestic operations, the value of the fixed assets used for the domestic operations, or any other factor by which the degree of contribution of the domestic operations to the generation of income from the transportation business can be sufficiently estimated in the case of a business wherein the transportation is done by aircraft;
 - (v) where the individual has a non-life insurance or life insurance business consisting of operations both in and outside Japan: The portion of all of the income arising from that business from insurance policies concluded via a business office for that business located in Japan or via a person who acts as an agent for conclusion of insurance policies in Japan;
 - (vi) where the individual has a publishing or broadcasting business, and provides advertising services consisting of operations both in and outside Japan for another person: The portion of all of the income arising from the advertising services which arises from the revenues from the advertising conducted in Japan;
 - (vii) where the individual conducts any business (including an act conducted as a part of some other business) that consists of operations both in and outside Japan and that falls under none of the categories listed in the preceding items: The portion of all of the income arising from that business from the domestic operations if the operations performed in the course of conducting that business were divided into domestic operations and overseas operations, and if these operations were performed by different independent business operators, and transactions were then made between these operators under ordinary trade terms, or which should be determined as that arising from the domestic operations based on the revenue arising from or necessary expenses incurred in relation to the domestic operations, the value of the fixed assets used for the domestic operations, or any other factor by which the degree of contribution of the domestic operations to the generation of the income of that business can be sufficiently estimated.
- (2) Where an individual transfers inventories out of Japan that had been transferred to the individual in Japan, without conducting any manufacturing, etc. with regard to the inventories in Japan, income from the transfer is not to be included in the individual's income from a business conducted in Japan

prescribed in Article 161, item (i) of the Act.

- (3) Where an individual prescribed in paragraph (1) carries out any of the following acts, the provisions of the same paragraph apply by deeming that no income has arisen from that act:
 - (i) advertisement, provision of information, market research, basic research or any other act which is carried out by the individual outside or in Japan and which plays a supplementary function for the implementation of the business conducted by the individual in or outside Japan, respectively;
 - (ii) act of using money, industrial property rights or any other assets which belong to the business conducted by the individual in or outside Japan, for the business conducted by the individual outside or in Japan, respectively.
- (4) Where any of the following facts exist with regard to inventories prescribed in paragraph (1), item (i) or item (ii) or paragraph (2), these provisions apply by deeming that the transfer of the relevant inventories has been conducted in Japan:
 - (i) immediately prior to the delivery to the transferee, the inventories to be delivered were located in Japan or managed through the business conducted in Japan by the individual who is the transferor (meaning a business conducted by the individual in Japan at any fixed places for conducting a business as prescribed in Article 164, paragraph (1), item (i) (Nonresidents With a Permanent Establishment in Japan) of the Act or a business prescribed in Article 164, paragraph (1), item (ii) or item (iii) of the Act);
 - (ii) a contract on the transfer has been concluded in Japan;
 - (iii) an essential part of the receipt of order, negotiation or any other act for concluding the contract on the transfer has been performed in Japan.
- (5) Income arising from a money loan, investment or any other act equivalent thereto conducted vis-à-vis a person who is outside Japan by an individual prescribed in paragraph (1) via a place prescribed in Article 164, paragraph (1), item (i) of the Act that the individual holds in Japan, if it is attributable to the business conducted at the relevant place, is treated, notwithstanding the provisions of paragraph (1), as the individual's income from a business conducted in Japan as prescribed in Article 161, item (i) of the Act; provided, however, that this does not apply where the individual has attached, to the tax return, a document proving the fact that, in the foreign state where the act has been conducted (excluding a state that imposes a tax on the individual's total income on the basis of the individual's domicile, residence, nationality or any other factor similar thereto), foreign income tax prescribed in Article 221, paragraph (1) (Scope of Foreign Income Tax) has been imposed or is to be imposed on any income from the act.
- (6) Even where an individual has filed a tax return without the document set forth in the proviso of the preceding paragraph attached thereto, the district

director may, when finding any unavoidable reason for the individual's failure to attach that document, apply the provisions of the proviso of the same paragraph, only after the document has been submitted.

(Income from Assets Located in Japan)

Article 280 (1) Income arising from the utilization or holding of the following assets is treated as income arising from the utilization or holding of assets located in Japan prescribed in Article 161, item (i) (Domestic Source Income) of the Act:

(i) Japanese national government bonds, Japanese local government bonds, bonds issued by a domestic corporation or promissory notes listed in Article 2, paragraph (1), item (xv) (Definitions) of the Financial Instruments and Exchange Act, all of which fall under the category of public and corporate bonds;

(ii) claims pertaining to loans to residents which are other than those pertaining to operations performed by those residents;

(iii) the right to receive the insurance proceeds or distribution of surpluses (including those equivalent thereto) based on a life insurance policy or any other similar contract concluded via a business office, office or others equivalent thereto (referred to as a "business office" in the following paragraph) or a person who acts as an agent for the conclusion of contracts in Japan.

(2) Income arising from the transfer of the following assets (including the transfer or extinguishment of rights corresponding to the amount of money and the value of assets other than money with regard to shares, etc. prescribed in Article 37-10, paragraph (2) (Special Provisions on Taxation of Capital Gains, etc. from Shares, etc.) of the Act on Special Measures Concerning Taxation, which has resulted from the event prescribed in each item of paragraph (3) or paragraph (4) of the same Article that has been the cause of the delivery of the money and the assets other than money in the case where the sum of the amount and value thereof is deemed to be the amount of revenue pertaining to capital gains, etc. from shares, etc. prescribed in paragraph (1) of the same Article pursuant to the provisions of paragraph (3) or paragraph (4) of the same Article; hereinafter the same applies in this paragraph) is treated as income arising from the transfer of assets located in Japan prescribed in Article 161, item (i) of the Act:

(i) rights established by a license, permission or other similar dispositions based on Japanese laws and regulations;

(ii) the securities prescribed in Article 2, paragraph (1) of the Financial Instruments and Exchange Act or the rights listed in Article 4, item (i) or item (iii) (Scope of Those Equivalent to Securities) (excluding rights listed in

the following item) which are listed as follows:

- (a) those that are transferred in a financial instruments exchange market as prescribed in Article 2, paragraph (17) of the Financial Instruments and Exchange Act;
- (b) those that are transferred via a business office located in Japan;
- (c) securities or rights for which certificates, instruments, or documents proving the rights were located in Japan immediately prior to the time when the transfer became obligatory based on a contract or other terms;
- (iii) the following public and corporate bonds or equities:
 - (a) national government bonds registered pursuant to the provisions of the Act on National Government Bonds (Act No. 134 of 1906);
 - (b) public and corporate bonds entered or recorded in the transfer account book prescribed in the Act on Book-Entry Transfer of Company Bonds, Shares, etc.;
 - (c) equities listed in Article 4, item (ii) which pertain to domestic corporations;
- (iv) shares, etc. prescribed in Article 291, paragraph (1), item (iii) (Taxable Income of Nonresidents Without a Permanent Establishment) whose transfer yields the income falling under (a) or (b) of the same item;
- (v) shares, etc. prescribed in Article 291, paragraph (1), item (iv) whose transfer yields the income falling under the same item;
- (vi) where owning the shares or capital contributions of a corporation pertaining to the ownership or management of a golf course located in Japan is required so that the owner becomes a person entitled to use the golf course continuously under advantageous terms compared to general users, those shares or capital contributions;
- (vii) the right concerning deposits or savings, installment savings, or installments prescribed in Article 2, paragraph (4) (Definitions, etc.) of the Banking Act which have been received by a business office located in Japan, or the right concerning jointly managed money trusts (excluding loan trusts) which have been entrusted to a business office located in Japan;
- (viii) the claims pertaining to loans prescribed in Article 161, item (vi) of the Act or item (ii) of the preceding paragraph;
- (ix) the right to receive a pension prescribed in Article 161, item (viii),(b) or item (x) of the Act or the right listed in item (iii) of the preceding paragraph;
- (x) the claims pertaining to a contract prescribed in Article 161, item (xi), (c) of the Act;
- (xi) the right to receive the distribution of profits prescribed in Article 161, item (xii) of the Act;
- (xii) the business right pertaining to a business conducted in Japan;
- (xiii) the right concerning the utilization of golf courses or other facilities

- located in Japan;
- (xiv) beyond assets listed in the preceding items, assets that had been located in Japan immediately prior to the time when the transfer of the assets became obligatory based on a contract or other terms (excluding movables that are inventories).

(Income with a Domestic Source)

Article 281 The income specified by Cabinet Order prescribed in Article 161, item (i) (Domestic Source Income) of the Act is to be the income listed as follows (excluding income falling under items (i)-2 to (xii) of the same Article):

- (i) income pertaining to insurance proceeds, compensation, or monetary damages (including income similar thereto) that is to be received for operations performed in Japan or assets located in Japan;
- (ii) income arising from receiving, from a corporation, a gift of assets that are located in Japan;
- (iii) income pertaining to items that were hidden in the ground and that were discovered in Japan or lost property that was found in Japan;
- (iv) income pertaining to money and goods or other economic benefits (excluding benefits given in the form of travel or other provision of services in lieu of which money or goods may not be chosen) that is received as a prize based on a prize competition held in Japan;
- (v) beyond what is listed in the preceding three items, occasional income acquired upon carrying out any act in Japan;
- (vi) beyond what is listed in the preceding items, income pertaining to economic benefit that is given with regard to operations performed in Japan or assets located in Japan.

(Profits from Business Conducted in Japan under a Partnership)

Article 281-2 (1) The agreement specified by Cabinet Order prescribed in Article 161, item (i)-2 (Domestic Source Income) of the Act is to be any of the following agreements:

- (i) a partnership agreement under a limited partnership for investment as prescribed in Article 3, paragraph (1) (Partnership Agreements under Limited Partnerships for Investment) of the Act on Limited Partnerships for Investment (Act No. 90 of 1998);
- (ii) a limited liability partnership agreement as prescribed in Article 3, paragraph (1) (Limited Liability Partnership Agreements) of the Act on Limited Liability Partnerships (Act No. 40 of 2005);
- (iii) an agreement similar to any of the following agreements in a foreign state:
- (a) a partnership agreement as prescribed in Article 667, paragraph (1) (Partnership Agreements) of the Civil Code (Act No. 89 of 1896);

- (b) any of the agreements listed in the preceding two items.
- (2) The profit specified by Cabinet Order prescribed in Article 161, item (i)-2 of the Act is to be the revenue from a business conducted in Japan under a partnership agreement prescribed in Article 161, item (i)-2 of the Act (hereinafter referred to as a "partnership agreement" in this paragraph), after deducting therefrom expenses pertaining to the revenue (including income tax collected pursuant to the provisions of Article 212, paragraph (1) (Withholding Obligation) of the Act with respect to the domestic source income listed in Article 161, items (i)-3 to (xii) of the Act), which is allocated under the partnership agreement to the partners who are party to the partnership agreement (including partners who were party to the partnership agreement as well as those who are or were party to the agreement listed in item (iii) of the preceding paragraph).

(Consideration for the Transfer of Land Located in Japan)

Article 281-3 The consideration specified by Cabinet Order prescribed in Article 161, item (i)-3 (Domestic Source Income) of the Act is to be the consideration for the transfer of land, etc. (land or any right on land, or any building and auxiliary equipment or structure thereof, all of which are located in Japan; hereinafter the same applies in this Article) (excluding one that amounts to more than 100 million yen), which is paid by an individual who has received the land, etc. for the purpose of using it as the individual's own residence or the relative's residence.

(Scope of Business That Has as Its Main Content the Provision of Personal Services)

Article 282 The business specified by Cabinet Order prescribed in Article 161, item (ii) (Domestic Source Income) of the Act is to be the business listed as follows:

- (i) a business that has as its main content the provision of the services of motion picture or theater actors, musicians and any other entertainers or professional athletes;
- (ii) a business that has as its main content the provision of the services of attorneys, certified public accountants, or architects or other professional services;
- (iii) a business that has as its main content the provision of services carried out by persons who have expert knowledge or specialist skills in science and technology, business management or other fields, by utilizing the knowledge or skills (excluding a business conducted in association with the principal operations of a person who engages in sales and other businesses concerning machinery and equipment, and a business that has as its main content the

provision of services for directing and supervising construction, installation, assembly or any other work as prescribed in Article 164, paragraph (1), item (ii) (Method of Taxation for Nonresidents) of the Act or Article 141, item (ii) (Tax Base for a Foreign Corporation's Corporation Tax) of the Corporation Tax Act).

(Interest Attributable to Business Conducted in Japan)

Article 282-2 Interest specified by Cabinet Order prescribed in Article 161, item (iv), (b) (Domestic Source Income) of the Act is to be the interest listed as follows:

- (i) interest on bonds issued by a foreign corporation listed in Article 141, item (i) (Foreign Corporations With a Permanent Establishment in Japan) of the Corporation Tax Act that is attributed to the foreign corporation's business conducted in Japan through any fixed place for conducting business prescribed in the same item;
- (ii) interest on bonds issued by a foreign corporation listed in Article 141, item (ii) or item (iii) of the Corporation Tax Act that is attributed to the foreign corporation's business prescribed in those items.

(Interest on Loans Pertaining to Domestic Operations)

Article 283 (1) The interest specified by Cabinet Order prescribed in Article 161, item (vi) (Domestic Source Income) of the Act is to be the interest on the following claims for which the period between the day of their occurrence and the day on which the obligation is to be performed (for claims for which the period is scheduled to be extended substantially by the extension of the period or in other ways (hereinafter referred to as the "extension, etc. of the period" in this paragraph), the extended period; hereinafter referred to as the "period for performance" in this paragraph) does not exceed six months (including claims during the original period for performance before the extension, etc. of the period in the case where the period for performance of the claims, whose original period for performance at the time of coming into effect did not exceed six months, has come to exceed six months by the extension, etc. of the period):

- (i) claims pertaining to a consideration for the transfer of assets or provision of services for a person who carries out operations in Japan;
 - (ii) claims which a financial institution holds against a person who carries out operations in Japan with regard to the settlement of the consideration prescribed in the preceding item.
- (2) The interest prescribed in the preceding paragraph is not to be included in the income arising from the utilization or holding of assets located in Japan under Article 161, item (i) of the Act, but is to be included in the income arising from a business conducted in Japan under the same item.

(3) With regard to the application of the provisions of Article 161, item (vi) of the Act, loans provided for a resident or a domestic corporation for the purpose of purchasing a vessel or aircraft to be used for the operations by the resident or the domestic corporation are treated as loans falling under the provisions of the same item, and loans provided for a nonresident or a foreign corporation for the purpose of purchasing a vessel or an aircraft to be used for the operations by the nonresident or the foreign corporation are treated as loans other than those falling under the provisions of Article 161, item (vi) of the Act.

(Royalties Pertaining to Domestic Operations)

Article 284 (1) The tools specified by Cabinet Order prescribed in Article 161, item (vii), (c) (Domestic Source Income) of the Act are to be vehicles, carriers, industrial tools, apparatuses and equipment.

(2) With regard to the application of the provisions of Article 161, item (vii) of the Act, royalties for the assets prescribed in (b) or (c) of the same item which are used in a vessel or aircraft used for the operations by a resident or a domestic corporation are treated as royalties falling under the provisions of the same item, and royalties for those assets which are used in a vessel or aircraft used for the operations by a nonresident or a foreign corporation are treated as royalties other than that falling under the provisions of the same item.

(Scope of Salaries, Remuneration or Pension Arising from a Source in Japan)

Article 285 (1) The provision of personal services specified by Cabinet Order prescribed in Article 161, item (viii), (a) (Domestic Source Income) of the Act is to be any of the following work and other provision of personal services:

(i) work carried out outside Japan by a person acting as an officer of a domestic corporation (excluding the work carried out by the person acting as an officer in the case where the person also works full time as an employee of the domestic corporation);

(ii) work and other provision of personal services carried out on a vessel or aircraft operated by a resident or domestic corporation (excluding the temporary provision of personal services carried out at a port of call outside Japan).

(2) The public pension, etc. specified by Cabinet Order prescribed in Article 161, item (viii), (b) of the Act is to be the public pension paid under a scheme prescribed in Article 72, paragraph (2), item (vii) (Lump Sum Payment under Laws and Regulations of Foreign States, etc.) (including benefits similar thereto).

(3) The provision of personal services specified by Cabinet Order prescribed in Article 161, item (viii), (c) of the Act is to be any of the work and other provision of personal services listed in the items of paragraph (1), which has

been carried out by a person during the period when the person was a nonresident.

(Monetary Award for Business Advertisement)

Article 286 The monetary award specified by Cabinet Order prescribed in Article 161, item (ix) (Domestic Source Income) of the Act is to be money and goods or other economic benefits (excluding benefits given in the form of travel or other provision of services in lieu of which money or goods may not be chosen) that is paid as a prize for the advertisement of a business conducted in Japan.

(Scope of Contracts for Pensions)

Article 287 The contracts specified by Cabinet Order prescribed in Article 161, item (x) (Domestic Source Income) of the Act are to be a life insurance policy, etc. prescribed in Article 183, paragraph (3) (Meaning of Life Insurance Policy, etc.) or a non-life insurance policy, etc. prescribed in Article 184, paragraph (1) (Insurance Premiums, etc. Deducted in the Calculation of the Amount of Miscellaneous Income Pertaining to Non-Life Insurance Pensions, etc.), which specify the payment of pensions.

(Scope of Agreements Equivalent to a Silent Partnership Agreement)

Article 288 The agreement specified by Cabinet Order prescribed in Article 161, item (xii) (Domestic Source Income) of the Act is to be an agreement in which one party promises to make a capital contribution to the business of the counterparty and the counterparty promises to allocate thereto profits arising from that business.

Chapter II Tax Liability of Nonresidents

Section 1 General Rules

(Branch Offices and Other Fixed Places for Conducting a Business Held by a Nonresident)

Article 289 (1) The places specified by Cabinet Order prescribed in Article 164, paragraph (1), item (i) (Method of Taxation for Nonresidents) of the Act are to be the places listed as follows:

- (i) branch offices, local offices or other places of business or offices, factories, or warehouses (limited to those used by warehousemen for their businesses);
- (ii) mines, quarries, or other places where natural resources are extracted;
- (iii) any other fixed places for conducting a business equivalent to the places listed in the preceding two items.

(2) The following places are not to be included in the places referred to in the preceding paragraph:

- (i) any fixed places used by a nonresident only for the purpose of operations to purchase assets;
- (ii) any fixed places used by a nonresident only for the purpose of retaining the nonresident's assets;
- (iii) any fixed places used by a nonresident only for the purpose of carrying out advertising, provision of information, market research, basic research or any other act which plays an auxiliary function in the implementation of the business.

(The Agent Retained by a Nonresident)

Article 290 The person specified by Cabinet Order prescribed in Article 164, paragraph (1), item (iii) (Method of Taxation for Nonresidents) is to be a person listed as follows (where the person performs operations in the course of conducting the business, independently and in an ordinary manner, for a nonresident prescribed in the relevant item, excluding that person):

- (i) a person who is authorized to conclude, on behalf of a nonresident, a contract regarding its business (excluding a contract which enables the nonresident to purchase assets; hereinafter the same applies in this Article) and regularly exercises the authority (excluding a person who conducts the same or a similar business as that of the nonresident and performs operations for concluding the contract on behalf of the nonresident from an indispensable necessity based on the nature of its business);
- (ii) a person who retains, on behalf of a nonresident, a certain amount of assets for responding to ordinary requests from customers and delivers those assets to customers at their request;
- (iii) a person who regularly performs, on behalf of, either solely or mainly, a single nonresident (including the nonresident's relatives or other persons who have special relationships with the nonresident) an essential part of the receipt of an order, negotiation or any other act for concluding contracts for its business.

(Taxable Income of Nonresidents without a Permanent Establishment)

Article 291 (1) The domestic source income specified by Cabinet Order prescribed in Article 164, paragraph (1), item (iv) (Method of Taxation for Nonresidents) of the Act is to be the income listed as follows:

- (i) income arising from the transfer of a right on real estate located in Japan, a mining right pursuant to the provisions of the Mining Act (Act No. 289 of 1950), or a right of quarrying pursuant to the provisions of the Quarrying Act (Act No. 291 of 1950);
- (ii) income arising from the cutting or transfer of ownership of forests located in Japan;

- (iii) the following income arising from the transfer (meaning the transfer prescribed in Article 280, paragraph (2) (Income Arising from the Transfer of Assets Located in Japan); hereinafter the same applies in this Article) of shares issued by a domestic corporation (including the right to be a shareholder, the right to receive an allotment of shares, and the right to receive a share option and an allotment of share option) or any other equities of a contributory to a domestic corporation (excluding equities of a contributory to a special former special purpose company prescribed in Article 230, paragraph (1) (Transitional Measures upon Partial Revision under the Act for the Partial Revision of the Act on Securitization of Specific Assets by Special Purpose Companies) of the Act on the Development of Related Acts Associated with the Enforcement of the Companies Act; hereinafter those shares or any other equities are referred to as "shares, etc." in this paragraph and paragraph (4)):
- (a) income arising from collecting the same issues of shares, etc. of a domestic corporation and transferring the shares, etc., by using the position as the owner thereof, to the domestic corporation or its specially-related persons or under an agreement made by the domestic corporation or its specially-related persons or a person commissioned by them;
 - (b) income arising from the transfer of shares, etc. of a domestic corporation by a nonresident who is a specially-related shareholder, etc. of the domestic corporation;
- (iv) income arising from the transfer of shares (including capital contributions and units of investments prescribed in Article 2, paragraph (14) (Definitions) of the Act on Investment Trust and Investment Corporation (hereinafter referred to as "units of investment" in paragraph (9)); the same applies in paragraph (8) and paragraph (9)) of a real estate-related corporation;
- (v) income arising from the transfer of shares, capital contributions, or rights listed in Article 280, paragraph (2), item (vi) or item (xiii);
- (vi) beyond what is listed in the preceding items, income arising from the transfer of assets located in Japan that is conducted during the period when a nonresident stays in Japan;
- (vii) income prescribed in Article 281 (Income with a Domestic Source).
- (2) The collection of shares, etc. prescribed in item (iii), (a) of the preceding paragraph is to be a collection in the case where a financial instruments exchange (meaning a financial instruments exchange prescribed in Article 2, paragraph (16) (Definitions) of the Financial Instruments and Exchange Act; the same applies in paragraph (9)) or the authorized financial instruments firms association prescribed in paragraph (13) of the same Article has requested a member thereof (including a trading participant prescribed in paragraph (19) of the same Article) to submit a report or materials with regard

to the details of the buying and selling as there has been or is suspected to have been a collection of a considerable number of shares that may cause fluctuations in the value of specified issues of shares or other abnormal movements in trading status, or another collection similar thereto.

- (3) The specially-related persons prescribed in paragraph (1), item (iii), (a) are to be an officer or a major shareholder, etc. of a domestic corporation (including a person who will become a major shareholder, etc. of the domestic corporation by obtaining shares, etc. prescribed in (a) of the same item from a person who has collected those shares, etc.) referred to in (a) of the same item, a relative of those persons, a corporation managed by those persons, a major business client of the domestic corporation or any other person who has equivalent special relationships with the domestic corporation.
- (4) The specially-related shareholder, etc. prescribed in paragraph (1), item (iii), (b) means a person listed as follows:
- (i) a single shareholder, etc. of the domestic corporation referred to in paragraph (1), item (iii), (b);
 - (ii) a person who has a special relationship as prescribed in Article 4 of the Order for Enforcement of the Corporation Tax Act (Scope of Persons or Corporations Connected with Basic Shareholders) or another equivalent relationship to the single shareholder, etc.;
 - (iii) a person who will fall under the category of a shareholder, etc. with regard to the shares, etc. of a domestic corporation referred to in paragraph (1), item (iii), (b) which belong to partnership property pertaining to a partnership agreement (including the following partnership agreements) concluded by the single shareholder, etc. (excluding persons listed in the preceding two items):
 - (a) a partnership agreement concluded by a partnership (including those similar thereto; hereinafter the same applies in this paragraph) that was established through a partnership agreement concluded with the single shareholder, etc.;
 - (b) a partnership agreement concluded by a partnership that was established through a partnership agreement concluded as listed in (a) or (c);
 - (c) a partnership agreement concluded by a partnership that was established through a partnership agreement concluded as listed in (b).
- (5) The partnership agreement prescribed in the preceding paragraph and paragraph (10) means an agreement listed as follows, and the partnership property prescribed in these provisions means what is prescribed in the following items in accordance with the agreement categories listed in those respective items:
- (i) a partnership agreement prescribed in Article 667, paragraph (1) (Partnership Agreements) of the Civil Code: Partnership property prescribed in Article 668 (Joint Ownership in Partnership Property) of the same Act;

- (ii) a partnership agreement under a limited partnership for investment prescribed in Article 3, paragraph (1) (Partnership Agreements under Limited Partnerships for Investment) of the Act on Limited Partnerships for Investment: Partnership property prescribed in Article 668 of the Civil Code which is applied mutatis mutandis pursuant to Article 16 (Mutatis Mutandis Application of the Civil Code) of the Act on Limited Partnerships for Investment;
 - (iii) a limited liability partnership agreement prescribed in Article 3, paragraph (1) (Limited Liability Partnership Agreements) of the Limited Liability Partnership Act: Partnership property prescribed in Article 668 of the Civil Code which is applied mutatis mutandis pursuant to Article 56 (Mutatis Mutandis Application of the Civil Code) of the Act on Limited Liability Business Partnership agreements;
 - (iv) any agreement similar to the agreements listed in the preceding three items in a foreign state (hereinafter referred to a "partnership agreement in a foreign state" in this item): Property similar to the partnership property prescribed in the preceding three items pertaining to the partnership agreement in a foreign state.
- (6) The transfer of shares, etc. prescribed in paragraph (1), item (iii), (b) is to be limited to the transfer of shares or capital contributions prescribed in item (ii) in the year containing the date of that transfer by the nonresident referred to in item (iii), (b) of the same paragraph (hereinafter referred to as the "year containing the date of transfer" in this paragraph and paragraph (9)) in the case satisfying the following requirements:
- (i) at any time within three years prior to the final day of the year containing the date of transfer, a specially-related shareholder, etc. of the domestic corporation referred to in paragraph (1), item (iii), (b) owned the domestic corporation's issued shares or capital contributions (referred to as "issued shares, etc." in the following item and following paragraph) which are equivalent to 25 percent or more of the total number or total amount of the domestic corporation's issued shares or capital contributions (in the case where the specially-related shareholder, etc. is a person listed in paragraph (4), item (iii), the issued shares or capital contributions are limited to those that belong to partnership property; the same applies in the following item and following paragraph);
 - (ii) in the year containing the date of transfer, a specially-related shareholder, etc. of the domestic corporation referred to in paragraph (1), item (iii), (b), including the nonresident referred to in (b) of the same item, transferred shares or capital contributions which are equivalent to five percent or more of the total number or total amount of the domestic corporation's issued shares, etc. immediately prior to the first transfer of the domestic

corporation's shares or capital contributions.

(7) In the case falling under any of the following items, the provisions of the preceding paragraph apply by deeming that a specially-related shareholder, etc. of the domestic corporation referred to in paragraph (1), item (iii), (b) including the nonresident referred to in (b) of the same item has transferred shares or capital contributions prescribed in item (ii) of the preceding paragraph that satisfy the requirements listed in the same item:

(i) where the nonresident referred to in paragraph (1), item (iii), (b) has received, through a company split by split-off prescribed in Article 2, item (xii)-9 (Definitions) of the Corporation Tax Act (hereinafter referred to as a "company split by split-off" in this item) of the domestic corporation referred to in (b) of the same item which had issued shares or capital contributions that the nonresident owns, which falls under any of the following cases of company splits, a delivery of shares of a succeeding corporation in a company split prescribed in Article 2, item (xii)-3 of the same Act (hereinafter referred to as a "succeeding corporation in a company split" in this item), shares of a succeeding parent corporation in a company split prescribed in Article 113, paragraph (1) (Acquisition Cost for Shares, etc. Acquired in a Company Split by Split-Off) (hereinafter referred to as a "succeeding parent corporation in a company split" in this item) or other assets, when the rate obtained by multiplying the rate pertaining to the company split by split-off prescribed in Article 113, paragraph (2) by the rate of the number or amount of the domestic corporation's shares or capital contributions which the specially-related shareholder, etc. of the domestic corporation including the nonresident had owned immediately prior to the company split by split-off among the total number or total amount of the domestic corporation's issued shares, etc. immediately prior to the company split by split-off is five percent or more:

(a) a company split by split-off wherein a shareholder, etc. of the split corporation prescribed in Article 2, item (xii)-2 of the Corporation Tax Act (hereinafter referred to as the "split corporation" in this item) involved in the company split by split-off is provided with assets other than the shares (including capital contributions; hereinafter the same applies in this item) of the succeeding corporation in the company split or shares of the succeeding parent corporation in the company split (excluding money and other assets provided for the shareholder, etc. as a dividend of surplus or dividend of profit pertaining to shares, except for assets as a consideration for a company split prescribed in Article 2, item (xii)-9 of the same Act);

(b) a company split by split-off wherein the shares of the succeeding corporation in the company split or shares of the succeeding parent corporation in the company split are not provided in proportion to the

number of shares (or the amount of capital contributions) of the split corporation in the company split by split-off that are held by each shareholder, etc. of the split corporation;

- (ii) where the nonresident referred to in paragraph (1), item (iii), (b) has received the delivery of money or other assets as the return of the capital (meaning the return of the capital prescribed in Article 25, paragraph (1), item (iii) (The Amount Deemed to Be Dividends, etc.) of the Act) or the distribution of residual assets through dissolution (hereinafter referred to as the "return, etc." in this item) of the domestic corporation referred to in paragraph (1), item (iii), (b) which had issued shares or capital contributions that the nonresident owns, when the rate obtained by multiplying the rate pertaining to the return, etc. prescribed in Article 114, paragraph (1) (Acquisition Costs on a Return, etc. of the Capital) by the rate of the number or amount of the domestic corporation's shares or capital contributions which the specially-related shareholder, etc. of the domestic corporation including the nonresident had owned immediately prior to the return, etc. among the total number or total amount of the domestic corporation's issued shares, etc. immediately prior to the return, etc. is five percent or more.
- (8) The real estate-related corporation prescribed in paragraph (1), item (iv) means a corporation for which the rate of the sum of the values of the following assets accounts for 50 percent or more of the total amount of its gross assets:
 - (i) land, etc. located in Japan (meaning land or a right on land, buildings and facilities attached thereto, or structures; hereinafter the same applies in this paragraph);
 - (ii) shares of a corporation for which the rate of the sum of the values of land, etc. located in Japan accounts for 50 percent or more of the total amount of its gross assets;
 - (iii) shares (excluding those falling under shares listed in the preceding item) of a corporation which owns shares listed in the preceding item or the following item (limited to a corporation for which the rate of the sum of the values of land, etc. located in Japan and shares listed in the preceding item, this item, and the following item among the total amount of its gross assets is 50 percent or more);
 - (iv) shares (excluding those falling under shares listed in the preceding two items) of a corporation which owns shares listed in the preceding item (limited to a corporation for which the rate of the sum of the values of land, etc. located in Japan and shares listed in the preceding two items and this item among the total amount of its gross assets is 50 percent or more).
- (9) The transfer of shares (including units of investment; hereinafter the same applies in this paragraph) prescribed in paragraph (1), item (iv) is to be limited to the transfer of shares or capital contributions listed as follows:

- (i) the transfer of shares or capital contributions in the case where a specially-related shareholder, etc. of the real estate-related corporation referred to in paragraph (1), item (iv) pertaining to the shares or capital contributions (limited to those listed in a financial instruments exchange or others specified by Ministry of Finance Order as being similar thereto; referred to as "listed shares, etc." in the following item) had owned, on December 31st of the year preceding the year containing the date of transfer (hereinafter referred to as the "base date" in this paragraph), the number or amount of shares or capital contributions accounting for five percent or more of the total number or total amount of the real estate-related corporation's issued shares (or issued units of investment in the case of an investment corporation prescribed in Article 2, paragraph (12) of the Act on Investment Trust and Investment Corporation) or capital contributions (excluding own shares or capital contributions that the real estate-related corporation owns; referred to as "issued shares, etc." in the following item) and the person who transferred the shares or capital contributions is the specially-related shareholder, etc.;
 - (ii) the transfer of shares or capital contributions in the case where a specially-related shareholder, etc. of the real estate-related corporation referred to in paragraph (1), item (iv) pertaining to the shares or capital contributions (excluding listed shares, etc.) had owned, on the base date, the number or amount of shares or capital contributions accounting for two percent or more of the total number or total amount of the real estate-related corporation's issued shares, etc. (in the case where the specially-related shareholder, etc. is a person listed in item (iii) of the following paragraph, limited to those that belong to partnership property referred to in the same item) and the person who transferred the shares or contributions is the specially-related shareholder, etc.
- (10) The specially-related shareholder, etc. prescribed in the preceding paragraph means a person listed as follows:
- (i) a single shareholder, etc. of the real estate-related corporation referred to in paragraph (1), item (iv);
 - (ii) a person who has a special relationship as prescribed in Article 4 of the Order for Enforcement of the Corporation Tax Act, or another equivalent relationship to the single shareholder, etc.;
 - (iii) a person (excluding those listed in the preceding two items) who will fall under the category of a shareholder, etc. with regard to shares of the real estate-related corporation referred to in paragraph (1), item (iv) which belong to partnership property pertaining to a partnership agreement (including those listed as follows) concluded by the single shareholder, etc.:
 - (a) a partnership agreement concluded by a partnership (including those

similar thereto; hereinafter the same applies in this paragraph) that was established through a partnership agreement concluded with the single shareholder, etc.;

- (b) a partnership agreement concluded by a partnership that was established through a partnership agreement concluded as listed in (a) or (c);
- (c) a partnership agreement concluded by a partnership that was established through a partnership agreement concluded as listed in (b).

Section 2 Comprehensive Income Taxation on Nonresidents

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

(Calculation of the Tax Base for a Nonresident's Comprehensive Income Tax)
Article 292 (1) When calculating the tax base and tax amount of comprehensive income tax prescribed in Article 165 (Calculation of the Tax Base, Tax Amount, etc. for Comprehensive Income Taxation) of the Act imposed on a nonresident in accordance with the provisions of the Act listed in the following items pursuant to the provisions of the same Article, the provisions of those respective items are applicable:

- (i) Article 24 (Dividend Income) of the Act: The shares and other principal that is to yield dividend income prescribed in paragraph (2) of the same Article are to be limited to the principal held by a nonresident that is to yield dividend, etc. listed in Article 161, item (v) (Domestic Source Income) of the Act;
- (ii) Article 30 (Retirement Income) of the Act: The amount of deduction for retirement income prescribed in paragraph (3) of the same Article is to be limited to the portion of the amount listed in each item of the same paragraph which corresponds to the work and other provision of personal services (including the work and other provision of personal services prescribed in Article 285, paragraph (3) (Work, etc. Deemed to Have Been Carried Out in Japan)) which has been carried out by a person who receives a retirement allowance, etc. set forth in paragraph (1) of the same Article during the period when the person has been a resident;
- (iii) Article 45 (Exclusion from Necessary Expenses of Expenses Related to House Keeping, etc.) of the Act: The taxes or delinquent charges or penalties imposed by local governments prescribed in paragraph (1), items (ii) to (v) of the same Article (hereinafter referred to as "income tax, etc." in this item) are to include equivalents with income tax, etc. that are imposed by foreign states or local governments thereof;
- (iv) Article 47 (Calculation of the Cost of Sales of Inventories, etc. and the Method of Valuation Thereof) of the Act: The inventories prescribed in paragraph (1) of the same Article are to be limited to the nonresident's

- inventories located in Japan;
- (v) Article 49 (Calculation of the Depreciation Allowance of Depreciable Assets and the Method of Depreciation Thereof) of the Act: The depreciable assets prescribed in paragraph (1) of the same Article are to be limited to the nonresident's depreciable assets located in Japan;
- (vi) Article 50 (Calculation of the Depreciation Allowance of Deferred Assets and the Method of Depreciation Thereof) of the Act: The deferred assets prescribed in paragraph (1) of the same Article are to be limited to the nonresident's deferred assets attributable to the business that the nonresident conducts in Japan or those pertaining to the nonresident's assets located in Japan;
- (vii) Article 51 (Inclusion in Necessary Expenses of Losses on Assets) of the Act: the assets prescribed in paragraph (1) and paragraph (4) of the same Article and the forests prescribed in paragraph (3) of the same Article are to be limited to assets and forests held by a nonresident that existed in Japan at the time when the losses prescribed in these provisions occurred, and the accounts receivable, loans, advance payments or any other claims equivalent thereto prescribed in paragraph (2) of the same Article (hereinafter referred to as "accounts receivable, etc." in this item) are to be limited to accounts receivable, etc. pertaining to a business prescribed in the same paragraph which a nonresident conducts in Japan;
- (viii) Article 52 (Reserves for Bad Debts) of the Act: The credits qualifying for bad debt reserves, etc. prescribed in paragraph (1) of the same Article are to be limited to the credits qualifying for bad debt reserves, etc. pertaining to a business prescribed in the same paragraph which a nonresident conducts in Japan;
- (ix) Article 53 (Reserves for Losses on Goods Unsold) of the Act: The sales of inventories pertaining to the business prescribed in paragraph (1) of the same Article are to be limited to the sales of the inventories pertaining to a business prescribed in the same paragraph which a nonresident conducts in Japan (excluding inventories pertaining to sales on a deferred payment basis prescribed in Article 65, paragraph (3) (Deferred Payment Sales, etc.) of the Act, for which the provisions of the main clause of paragraph (1) or paragraph (2) of the same Article have been applied regarding the amount of revenue and expenses thereof);
- (x) Article 54 (Reserves for Retirement Allowance) of the Act: The employees prescribed in paragraph (1) of the same Article are to be limited to the nonresident's employees who work full time in Japan for a business prescribed in the same paragraph which the nonresident conducts in Japan;
- (xi) Article 57-2 (Special Provisions on Deduction of Specific Expenditures by Salary Income Earners) of the Act: The specific expenditures prescribed in

- paragraph (2) of the same Article are to be limited to the portion of expenditures prescribed in the same paragraph which corresponds to work and other provision of personal services carried out in Japan (including work and other provision of personal services prescribed in the items of Article 285, paragraph (3));
- (xii) Article 58 (Special Provisions on Capital Gains in an Exchange of Fixed Assets) of the Act: The acquired assets and transferred assets prescribed in paragraph (1) of the same Article are to be limited to fixed assets that exist in Japan at the time of the exchange prescribed in the same paragraph;
- (xiii) Article 62 (Loss Caused by Disasters for Assets Not Ordinarily Necessary for Daily Life) of the Act: The assets not necessary for maintenance of an ordinary livelihood prescribed in paragraph (1) of the same Article are to be limited to the assets listed in Article 164, paragraph (1), items (i) to (iii) (Method of Taxation for Nonresidents) of the Act held by a nonresident which are located in Japan, and the assets listed in Article 164, paragraph (1), item (iv) of the Act held by a nonresident the transfer of which is to yield income that falls under the category of domestic source income listed in Article 164, paragraph (1), item (iv) of the Act;
- (xiv) Article 65 of the Act: The sale on a deferred payment basis, etc. prescribed in paragraph (1) of the same Article is to be limited to the sale on a deferred payment basis, etc. pertaining to a business which a nonresident conducts in Japan;
- (xv) Article 67-2 of the Act (Calculation of the Amount of Income from Lease Transactions): The lease transaction prescribed in paragraph (1) of the same Article is to be limited to the lease transaction pertaining to the business conducted by a nonresident in Japan or the assets held by a nonresident in Japan;
- (xvi) Article 72 (Deduction of Casualty Losses) of the Act: The losses from a disaster or theft or embezzlement prescribed in paragraph (1) of the same Article are to be limited to the losses that occurred to assets held by a nonresident that are located in Japan.
- (2) When calculating the tax base and tax amount of comprehensive income tax prescribed in Article 165 of the Act imposed on a nonresident in accordance with the provisions of Part II, Chapter I, Chapter II and Chapter IV (Calculation of the Tax Base, etc. for Residents) pursuant to the provisions of the same Article, the terms listed in the middle column of the following table in the provisions listed in the left-hand column of the same table are deemed to be replaced with the terms listed in the right-hand column of the same table, respectively.

| | | |
|---|--|--|
| Article 64, paragraph (2) (Treatment of Installments, etc. under the Constitution for Corporate Pension Plan, etc. with Defined Benefits) | the amount paid | the amount paid (the amount paid by deeming that an employee of a nonresident who works full-time in Japan for a business that the nonresident conducts in Japan is a recipient of mutual aid, participant, beneficiary, etc., participant in a corporate pension plan, or beneficiary, etc. of a trust |
| | value of these shares as of that time) | value of these shares as of that time); limited to the portion pertaining to the period of full-time employment in Japan) |
| Article 82-4, paragraph (2) (Treatment of Trust Money, etc. Paid under the Contract for a Wage-Earners' Asset-Building Fund) | the amount paid | the amount paid (the amount paid by deeming that an employee of a nonresident who works full-time in Japan for a business that the nonresident conducts in Japan is a beneficiary, etc. of a trust or a worker prescribed in the same paragraph; limited to the portion pertaining to the period of full-time employment in Japan |
| Article 99, paragraph (1) (Methods for Valuating Inventories) | are the methods listed as follows: | are the methods listed as follows. In this case, when the inventories contain assets that a nonresident owned outside Japan but has now transferred to Japan (hereinafter referred to as "transferred assets" in this paragraph), the provisions of this Division apply to the transferred assets by deeming that the nonresident acquired the transferred assets at the time of the transfer: |
| Article 100, paragraph (2) (Selection of Methods for Valuating Inventories) | commenced the business | commenced the business in Japan |
| Article 103, paragraph (1), item (i) (Acquisition Cost for Inventories) | inventories purchased | inventories purchased (including transferred assets prescribed in Article 99, paragraph (1) (Methods for Valuating Inventories) that were purchased outside Japan) |
| Article 103, paragraph (1), item (iii) | inventories acquired | inventories acquired (including transferred assets prescribed in Article 99, paragraph (1) that are other than those prescribed in item (i)) |

| | | |
|---|---|---|
| Article 120, paragraph (1) and Article 120-2, paragraph (1) (Methods for Depreciating Depreciable Assets) | are the methods prescribed in those respective items: | are the methods prescribed in those respective items. In this case, when the said depreciable assets contain assets that a nonresident owned outside Japan but has now transferred to Japan (hereinafter referred to as "transferred assets" in this paragraph), the provisions of this Division, Article 138 (Inclusion of Acquisition Costs for Small Amounts of Depreciable Assets in Necessary Expenses), and Article 139 (Inclusion of Lump-Sum Depreciable Assets in Necessary Expenses) apply to the transferred assets by deeming that the nonresident acquired the transferred assets at the time of the transfer: |
| Article 123, paragraph (2), item (i) and item (ii) (Selection of Methods for Depreciating Depreciable Assets) | commenced the operations | commenced the operations in Japan |
| Article 123, paragraph (2), item (iii) | resident who has established a new place of business | nonresident (excluding those falling under item (i)) who has established a new place of business in Japan |
| Article 126, paragraph (1), item (v) (Acquisition Cost for Depreciable Assets) | depreciable assets acquired | depreciable assets (including transferred assets prescribed in Article 120, paragraph (1) and transferred assets prescribed in Article 120-2, paragraph (1)) acquired |
| Article 132, paragraph (1) (Special Provisions on the Depreciation Allowance of Depreciable Assets, etc. Used for Operations before the End of Each Year) | used for the operations | used for the operations performed in Japan |
| Article 135 (Special Provisions for Calculation of Depreciation Allowance in the Case of Non-Business Assets Being Used for Operations) | assets to be depreciated | assets to be depreciated that are located in Japan |

| | used for the operations | used for the operations performed in Japan |
|---|--|--|
| Article 137, paragraph (1), item (i) (Calculation of the Depreciation Allowance of Deferred Assets) | operations yielding real estate income, business income, timber income or miscellaneous income | operations yielding real estate income, business income, timber income or miscellaneous income that are performed in Japan |
| Article 139, paragraph (1) and paragraph (2) (Inclusion of Lump-Sum Depreciable Assets in Necessary Expenses) | used for the operations | used for the operations performed in Japan |

(3) Where a nonresident who conducts, both in and outside Japan, a business consisting of operations yielding real estate income, business income, timber income or miscellaneous income, conducts any of the acts listed in the items of Article 279, paragraph (3) (Incidental Acts, etc.), the amount that a department of the nonresident which performs the relevant operations in Japan receives as expenses related to the relevant acts attributable to that department or the amount of money that the department pays as expenses related to the relevant acts attributable to a department of the nonresident which performs the relevant operations outside Japan is not included in gross revenue or necessary expenses, respectively, when calculating the amount of the nonresident's real estate income, business income, timber income or miscellaneous income pertaining to the relevant operations performed in Japan.

Subsection 2 Filing of Returns, Payment and Refunds

(Filing of Returns, Payment and Refunds)

Article 293 With regard to the matters for the application of the provisions of Part II, Chapter V (Filing of Returns, Payment and Refunds for Residents) as applied mutatis mutandis pursuant to Article 166 (Mutatis Mutandis Application to Nonresidents) of the Act, the provisions of Part II, Chapter V (Filing of Returns, Payment and Refunds for Residents) apply mutatis mutandis.

Subsection 3 Special Provisions on Requests for Reassessment

(Special Provisions on Requests for Reassessment)

Article 294 With regard to the matters for the application of the provisions of Part II, Chapter VI of the Act (Special Provisions on Requests for Reassessment by Residents) as applied mutatis mutandis pursuant to Article 167 (Mutatis Mutandis Application to Nonresidents) of the Act, the provisions of Part II, Chapter VI (Special Provisions on Requests for Reassessment by Residents) apply mutatis mutandis.

Subsection 4 Reassessment and Determination

(Reassessment and Determination)

Article 295 With regard to the matters for the application of the provisions of Part II, Chapter VII of the Act (Reassessment and Determination for Residents) as applied mutatis mutandis pursuant to Article 168 (Application Mutatis Mutandis to Nonresidents) of the Act, the provisions of Part II, Chapter VII (Reassessment and Determination for Residents) apply mutatis mutandis.

Section 3 Separate Income Taxation for Nonresidents

(Tax Base for Pensions under Life Insurance Policies)

Article 296 The amount calculated pursuant to the method specified by Cabinet Order prescribed in Article 169, item (v) (Income Tax Base for Separate Taxation) of the Act is to be the amount listed in each of the following items for the case listed in the relevant item:

- (i) where the contract prescribed in Article 169, item (v) of the Act is a life insurance policy, etc. prescribed in Article 287 (Scope of Contracts for Pensions) that is only intended for payment of a pension: The amount calculated by multiplying the amount receivable prescribed in Article 169, item (v) of the Act by the ratio prescribed in Article 183, paragraph (1), item (ii) (Insurance Premiums, etc. Deducted in the Calculation of the Amount of Miscellaneous Income Pertaining to Life Insurance Pensions, etc.);
- (ii) where the contract prescribed in Article 169, item (v) of the Act is a life insurance policy, etc. prescribed in Article 287 that is intended for a lump sum payment in addition to payment of a pension: The amount specified below for the relevant case listed below:
 - (a) where the amount receivable prescribed in Article 169, item (v) of the Act is the amount of a pension: The amount calculated by multiplying that amount by the ratio prescribed in Article 183, paragraph (1), item (ii) that

is obtained through the calculation prescribed in Article 183, paragraph (1), item (iii);

(b) where the amount receivable prescribed in Article 169, item (v) of the Act is the amount of a lump sum payment: The total amount of insurance premiums or installments prescribed in Article 183, paragraph (2), item (ii) that is obtained through the calculation prescribed in Article 183, paragraph (2), item (iii);

(iii) where the contract prescribed in Article 169, item (v) of the Act is a non-life insurance policy, etc. prescribed in Article 287: The amount calculated by multiplying the amount receivable prescribed in Article 169, item (v) of the Act by the ratio prescribed in Article 184, paragraph (1), item (ii) (Insurance Premiums, etc. Deducted in the Calculation of the Amount of Miscellaneous Income Pertaining to Non-Life Insurance Pensions, etc.).

(Refund Due to Alternative Taxation on Retirement Income)

Article 297 (1) A person who files a return form pursuant to the provisions of Article 173, paragraph (1) (Refund Due to Alternative Taxation on Retirement Income) of the Act must, if any portion of the amount of income tax listed in Article 173, paragraph (1), item (ii) of the Act has been withheld, attach to the final return a written statement of the matters specified by Ministry of Finance Order that explain the withholding.

(2) The person who has filed the return form set forth in the preceding paragraph must, if any portion of the amount of income tax prescribed in the same paragraph that is stated in the return form had not yet been paid by the time of the filing but has been paid later, submit to the competent district director with jurisdiction over the place for tax payment, without delay, a written notice stating the date of payment, the amount of income tax paid and any other necessary matters.

(3) Where the return form set forth in paragraph (1) has been filed, the district director must, without delay, perform the procedure for making a refund or appropriation pursuant to the provisions of Article 173, paragraph (2) of the Act, except where there is a reason to find the amount listed in Article 173, paragraph (1), item (iii) of the Act that is stated in the return form to be in excess.

Chapter III Tax Liability of Corporations

Section 2 Tax Liability of Foreign Corporations

(Domestic Source Income to Be Excluded from the Tax Base for a Foreign Corporation's Income Tax)

Article 303-2 The domestic source income specified by Cabinet Order prescribed

in Article 178 (Tax Base for a Foreign Corporation's Income Tax) of the Act is to be the following domestic source income:

- (i) a consideration listed in Article 161, item (ii) (Domestic Source Income) of the Act for the provision of the services of motion picture or theater actors, musicians and any other entertainers, or professional athletes, which is paid by many and unspecified persons;
- (ii) a consideration listed in Article 161, item (iii) of the Act for the land or any right on land or a house (hereinafter referred to as "land or house, etc." in this item) held by a foreign corporation, which is paid by an individual who has leased the land or house, etc. for the purpose of using it as the individual's own residence or the relative's residence.

(Requirements Allowing the Special Provisions on Taxation to Be Applied to a Foreign Corporation)

Article 304 The requirements specified by Cabinet Order prescribed in Article 180, paragraph (1) (Requirements Allowing the Special Provisions on Taxation to Be Applied to a Foreign Corporation With a Permanent Establishment in Japan) of the Act are to be the following requirements:

- (i) the foreign corporation has submitted a written notice pursuant to the provisions of Article 149, paragraph (1) (Notice of Acquisition of the Status of Foreign Ordinary Corporations) or Article 150, paragraph (3) (Notice of the Commencement of Profit-Making Business by Corporations in the Public Interest, etc. or Associations or Foundations without Juridical Personality) of the Corporation Tax Act;
- (ii) where the foreign corporation is one that is to make a registration pursuant to the provisions of Article 933, paragraph (1) (Registration of a Foreign Company) of the Companies Act or Article 37, paragraph (1) (Registration of Foreign Juridical Persons) of the Civil Code, the foreign corporation has made the registration (in the case of a corporation listed in Article 180, paragraph (1), item (i) of the Act that has made a registration pursuant to the provisions of Article 933, paragraph (1) of the Companies Act, the foreign corporation has made the registration with regard to its business office prescribed in Article 933, paragraph (1), item (ii) of the Companies Act);
- (iii) the domestic source income listed in each item of Article 180, paragraph (1) of the Act for which the foreign corporation seeks the application of the provisions of Article 180, paragraph (1) of the Act is included in the scope of income on which corporation tax is imposed pursuant to the provisions of laws and regulations concerning the corporation tax (including conventions that Japan has concluded on the avoidance of double taxation with respect to taxes on income);
- (iv) the foreign corporation has never evaded income taxes or corporation taxes

- by deceit or other wrongful acts;
- (v) where, for the purpose of seeking the application of the provisions of paragraph (1) of Article 180 of the Act, the foreign corporation presents a certificate set forth in the same paragraph to the payer of domestic source income prescribed in the same paragraph, the foreign corporation is expected to record in books, without fail, the payer's name and domicile, office, place of business or any other place of payment of the relevant domestic source income, and the date on which the certificate is presented;
- (vi) where domestic source income specified in each item of Article 180, paragraph (1) of the Act for the category of corporation listed in the relevant item is paid to the corporation's head office or other office, place of business or any other place equivalent thereto located outside Japan, the corporation is expected to, for the purpose of filing a proper return pursuant to the provisions of the Corporation Tax Act with regard to the relevant domestic source income, notify the corporation's office, place of business or any other place equivalent thereto prescribed in Article 17, item (i) (Place for Tax Payment of Foreign Corporations) of the same Act (in the case where there are two or more of those places, the principal one; hereinafter referred to as the "office, etc. at the place for tax payment" in this item, paragraph (1), item (ii) of the following Article, and Article 306, paragraph (1), item (i) (Procedures Required When a Foreign Corporation No Longer Satisfies the Requirements under the Special Provisions on Taxation, etc.)) of the type, amount, the basis of calculation of the amount, date of payment and any other necessary matters of the domestic source income, and record these matters in its books at the office, etc. at the place for tax payment, without fail, on every occasion that it receives the domestic source income.

(Procedures Required When a Foreign Corporation Seeks the Application of the Special Provisions on Taxation)

Article 305 (1) A corporation that wishes to obtain a certificate set forth in Article 180, paragraph (1) (Special Provisions on Taxation on Domestic Source Income Received by Foreign Corporations With a Permanent Establishment in Japan) of the Act must submit a written application stating the following matters to the competent district director with jurisdiction over the place for tax payment concerning corporation tax:

- (i) the corporation's name and the location of its head office or principal office;
- (ii) the name and location of the corporation's office, etc. at the place for tax payment, and the name of the person representative of or any other person responsible for that office, etc.;
- (iii) the date on which the written notice prescribed in item (i) of the preceding Article has been submitted and the date on which the registration prescribed

- in item (ii) of the same Article has been made (in the case of a corporation that is unable to make the registration, the detailed statement of the reasons why it is unable to do so);
- (iv) the outline of the circumstances where the corporation satisfies the requirement listed in item (iii) of the preceding Article;
 - (v) the statement that the corporation will keep the records set forth in item (v) of the preceding Article without fail;
 - (vi) where the corporation falls under the case prescribed in item (vi) of the preceding Article, the statement of the circumstances where it falls under that case and the statement that it will give the notice and keep the records set forth in the same item;
 - (vii) where the contents of the business currently conducted by the corporation in Japan are different from the contents of that business as of the time when the written notice was submitted pursuant to the provisions of item (i) of the preceding Article, the outline of the business currently conducted;
 - (viii) the name of the payer of the principal domestic source income for which the corporation seeks the application of the provisions of Article 180, paragraph (1) of the Act by way of the certificate, the payer's domicile, office, place of business or any other place of payment of the domestic source income and the recipient of the payment, as well as the type of the domestic source income and the period during which payment of the domestic source income is expected;
 - (ix) where the corporation falls under any of the categories of foreign corporations prescribed in item (ii) or item (iii) of Article 180, paragraph (1) of the Act, the statement of the circumstances where the domestic source income for which the corporation seeks the application of the provisions of Article 180, paragraph (1) of the Act by way of the certificate falls under the categories of domestic source income listed in these items;
 - (x) other matters useful for reference purposes.
- (2) Where a written application set forth in the preceding paragraph has been submitted, the competent district director set forth in the same paragraph is to, when finding that the corporation that has submitted the written application satisfies the requirements specified in the items of the preceding Article, grant a certificate set forth in the same paragraph.
- (3) The payer of the domestic source income specified in each item of Article 180, paragraph (1) of the Act to whom a corporation listed in the relevant item has presented a certificate set forth in paragraph (1) must keep books with regard to the payment of domestic source income to that corporation, and state in the books the name of that corporation and the validity period of the certificate set forth in the same paragraph.

(Scope of Foreign Corporations Subject to the Special Provisions on Taxation)
Article 305-2 (1) The person similar to a partner who is specified by Cabinet Order prescribed in Article 180, paragraph (1), item (i) (Special Provisions on Taxation of the Domestic Source Income Received by a Foreign Corporation With a Permanent Establishment in Japan) of the Act is to be a person who is party to an agreement listed in Article 281-2, paragraph (1), item (iii) (Profits from a Business Conducted in Japan under a Partnership).

(2) The corporation specified by Cabinet Order prescribed in Article 180, paragraph (1), item (i) of the Act is to be the corporation that falls under the category of foreign corporation listed in Article 141, item (i) (Foreign Corporations With a Permanent Establishment in Japan) of the Corporation Tax Act with regard to a business other than a business conducted under a partnership agreement prescribed in Article 180, paragraph (1), item (i) of the Act (hereinafter referred to as a "partnership agreement" in this Article).

(3) The corporation specified by Cabinet Order prescribed in Article 180, paragraph (1), item (ii) of the Act is to be the corporation that falls under the category of foreign corporation listed in Article 141, item (ii) of the Corporation Tax Act with regard to business other than that conducted under a partnership agreement.

(4) The corporation specified by Cabinet Order prescribed in Article 180, paragraph (1), item (iii) of the Act is to be a corporation that falls under the category of a foreign corporation listed in Article 141, item (iii) of the Corporation Tax Act with regard to business other than that conducted under a partnership agreement.

(Procedures Required When a Foreign Corporation No Longer Satisfies the Requirements under the Special Provisions on Taxation)

Article 306 (1) A corporation that has obtained a certificate set forth in Article 180, paragraph (1) (Special Provisions on Taxation of Domestic Source Income Received by a Foreign Corporation With a Permanent Establishment in Japan) of the Act must, in the case prescribed in Article 180, paragraph (2) of the Act, attach the certificate to a written notice stating the following matters, submit these to the competent district director with jurisdiction over the place for tax payment concerning corporation tax, and notify the payer of domestic source income to whom the corporation has presented the certificate to that effect without delay:

(i) the name and location of the corporation's office, etc. at the place for tax payment, and the name of the person representative of or any other person responsible for that office, etc.;

(ii) the detailed statement of the circumstances where the corporation has ceased to satisfy the requirements listed in the items of Article 304

(Requirements Allowing the Special Provisions on Taxation to Be Applied to a Foreign Corporation) or ceased to fall under any of the categories of foreign corporations prescribed in the items of Article 180, paragraph (1) of the Act;

(iii) the name of the payer of domestic source income to whom the corporation has presented the certificate, and the payer's domicile, office, place of business or any other place of payment of the relevant domestic source income;

(iv) other matters useful for reference purposes.

(2) The corporation prescribed in the preceding paragraph must, where there has been any change to the matters listed in Article 305 (1), item (i) or item (ii) (Procedures Required When a Foreign Corporation Seeks the Application of the Special Provisions on Taxation) which are stated in a written application set forth in Article 305, paragraph (1) pertaining to a certificate set forth in the preceding paragraph, submit a written notice to that effect to the competent district director set forth in the preceding paragraph without delay.

(Credit for Income Tax Paid on Trust Property)

Article 306-2 The amount of income tax to be deducted pursuant to the provisions of Article 180-2, paragraph (3) (Special Provisions on Taxation of Interest, etc. from Trust Property) of the Act is to, when a foreign corporation collects income tax pursuant to the provisions of Article 181 (Withholding Obligation for Interest Income and Dividend Income) or Article 212 (Withholding Obligation for the Income of Nonresidents or Corporations) of the Act with regard to distribution of profit prescribed in Article 180-2, paragraph (3) of the Act (limited to one that corresponds to the accounting period for distribution of profit that includes the day on which that income tax was paid; in the case where the trust property concerning the payment pertains to a securities investment trust established for the purpose of allowing beneficial rights thereof to be acquired by the trustee of another securities investment trust, which is specified by Ministry of Finance Order prescribed in Article 300, paragraph (2) (Credit for Income Tax Paid on Trust Property), it refers to distribution of profit from a securities investment trust other than a public and corporate bond investment trust which is established for the purpose of managing the trust property for making an investment in the beneficial rights of the relevant securities investment trust and for which the offering of beneficial rights upon establishment has been conducted through the public offering prescribed in Article 2, paragraph (1), item (xv)-3 (Definitions)), be deducted from the amount of income tax to be collected and paid.

Part IV Withholding

Chapter IV Withholding on the Income of Nonresidents or Corporations

(Domestic Source Income Exempt from Withholding)

Article 328 The domestic source income specified by Cabinet Order prescribed in Article 212, paragraph (1) (Withholding Obligation for the Income of Nonresidents or Corporations) of the Act is to be any of the following types of domestic source income:

- (i) consideration or remuneration listed in Article 161, item (ii) or item (viii), (a) (Domestic Source Income) of the Act for the provision of the services of motion picture or theatre actors, musicians and any other entertainers, or professional athletes, which is paid by many and unspecified persons;
- (ii) consideration listed in Article 161, item (iii) of the Act for the land or any right on land or a house (hereinafter referred to as "land or house, etc." in this item) held by a nonresident or foreign corporation, which is paid by an individual who has leased the land or house, etc. for the purpose of using it as the individual's own residence or the relative's residence;
- (iii) salaries or remuneration listed in Article 161, item (viii), (a) or (c) of the Act to be paid to a nonresident prescribed in Article 169 (Income Tax Base for Separate Taxation) of the Act, which was the basis of the calculation of the amount of income tax already paid by the nonresident pursuant to the provisions of Article 172 (Tax Payment by Self-Assessment Without Withholding from Salaries, etc.) of the Act by the time of payment of the salaries or remuneration.

(Scope of Persons Similar to Partners)

Article 328-2 The person similar to a partner who is specified by Cabinet Order prescribed in Article 212, paragraph (5) (Withholding Obligation) of the Act is to be the partner in a partnership agreement prescribed in Article 212, paragraph (5) of the Act and the person who has entered into an agreement listed in Article 281-2, paragraph (1), item (iii) (Profits from a Business Conducted in Japan under a Partnership).

(Value of a Prize Paid through Property Other than Money)

Article 329 (1) The amount calculated pursuant to the method specified by Cabinet Order prescribed in Article 213, paragraph (1), item (i), (b) (Tax Amount Collected for Income of Nonresidents or Foreign Corporations) of the Act is to be the amount calculated in accordance with the provisions of Article 321 (Value of a Prize Paid through Property Other than Money) with regard to property other than money prescribed in Article 213, paragraph (1), item (i), (b) of the Act.

(2) The amount calculated pursuant to the method specified by Cabinet Order prescribed in Article 213, paragraph (1), item (i), (c) of the Act is to be the

amount calculated in accordance with the provisions of Article 296 (Tax Base for Pension, etc. under Life Insurance Policies, etc.) with regard to the amount of pension to be paid prescribed in Article 213, paragraph (1), item (i), (c) of the Act.

- (3) The amount specified by Cabinet Order prescribed in Article 213, paragraph (2), item (iii) of the Act is to be the amount prescribed in Article 298, paragraph (1) (Tax Base for a Domestic Corporation's Income Tax).

(Requirements Allowing a Nonresident to Be Exempt from Withholding)

Article 330 The requirements specified by Cabinet Order prescribed in Article 214, paragraph (1) (Domestic Source Income of Nonresidents Exempt from Withholding) of the Act are to be the following requirements:

- (i) the nonresident has submitted a written notice pursuant to the provisions of Article 229 (Notice of Commencement of Business, etc.) of the Act;
- (ii) in the case of a nonresident who does not currently reside in the vicinity of the place for tax payment, the nonresident has given notice about the tax agent pursuant to the provisions of Article 117, paragraph (2) (Tax Agent) of the Act on General Rules for National Taxes;
- (iii) the nonresident has submitted a tax return for the income tax for the year preceding the relevant year;
- (iv) the domestic source income listed in each item of Article 214, paragraph (1) of the Act for which the nonresident seeks the application of the provisions of Article 214, paragraph (1) of the Act is included in the scope of income on which income tax in the case of comprehensive income taxation prescribed in Article 165 (Calculation of Tax Base, Tax Amount, etc. for Comprehensive Income Taxation) of the Act is imposed pursuant to the provisions of the Act and other laws and regulations concerning income tax (including conventions that Japan has concluded on the avoidance of double taxation with respect to taxes on income);
- (v) the nonresident has never evaded the income tax by deception or other wrongful acts;
- (vi) where, for the purpose of seeking the application of the provisions of paragraph (1) of Article 214 of the Act, the nonresident presents a certificate set forth in the same paragraph to the payer of domestic source income prescribed in the same paragraph, the nonresident is expected to record in the books, without fail, the payer's name and domicile, office, place of business or any other place of payment of the relevant domestic source income, and the date on which the certificate is presented;
- (vii) where domestic source income specified in each item of Article 214, paragraph (1) of the Act for the category of person listed in the relevant item is paid to the nonresident's domicile, residence, or office, place of business or

any other place equivalent thereto located outside Japan, the nonresident is expected to, for the purpose of filing a proper return pursuant to the provisions of the Act with regard to the relevant domestic source income, notify the office, place of business or any other place equivalent thereto pertaining to the business conducted by the nonresident in Japan (in the case where there are two or more of those places, the principal one; hereinafter referred to as the "office, etc. located in Japan" in this item, paragraph (1), item (ii) of the following Article, and Article 333, paragraph (1), item (i) (Procedures Required When a Nonresident No Longer Satisfies the Requirements for Eligibility for Exemption from Withholding)) of the type, amount, the basis of calculation of the amount, date of payment and any other necessary matters concerning the domestic source income, and record these matters in the books at the office, etc. located in Japan, without fail, on every occasion that the nonresident receives the domestic source income.

(Procedures Required When a Nonresident Seeks an Exemption from Withholding)

Article 331 (1) A person who wishes to obtain a certificate set forth in Article 214, paragraph (1) (Domestic Source Income of Nonresidents Exempt from Withholding) of the Act must submit a written application stating the following matters to the competent district director with jurisdiction over the place for tax payment:

- (i) the person's name and domicile, as well as the person's residence in Japan, if any;
- (ii) the name and location of the person's office, etc. located in Japan, as well as the name of the person representative of or any other person responsible for that office, etc., and the name of the tax agent if the tax agent designated in the notice pursuant to the provisions of Article 117, paragraph (2) (Tax Agent) of the Act on General Rules for National Taxes is not that responsible person;
- (iii) the date on which the written notice prescribed in item (i) of the preceding Article has been submitted;
- (iv) the outline of the circumstances whereby the person satisfies the requirement listed in item (iv) of the preceding Article;
- (v) a statement to the effect that the person will keep the records set forth in item (vi) of the preceding Article without fail;
- (vi) where the person falls under the case prescribed in item (vii) of the preceding Article, a statement of the circumstances whereby the person falls under that case and a statement to the effect that the person will give the notice and keep the records set forth in the same item;
- (vii) the name of the payer of the principal domestic source income for which

the person seeks the application of the provisions of Article 214, paragraph (1) of the Act by way of the certificate, the payer's domicile, office, place of business or any other place of payment of the domestic source income and the recipient of the payment, as well as the type of the domestic source income and the period during which payment of the domestic source income is expected;

(viii) where the person falls under any of the categories of nonresidents prescribed in item (ii) or item (iii) of Article 214, paragraph (1) of the Act, the statement of the circumstances where the domestic source income for which the person seeks the application of the provisions of Article 214, paragraph (1) of the Act by way of the certificate falls under the categories of domestic source income listed in these items;

(ix) other matters useful for reference purposes.

(2) The provisions of Article 305, paragraph (2) and paragraph (3) (Procedures Required When a Foreign Corporation Seeks the Application of the Special Provisions on Taxation) apply mutatis mutandis to the certificate set forth in Article 214, paragraph (1) of the Act for a nonresident.

(Scope of Nonresidents Exempt from Withholding)

Article 331-2 (1) The person similar to a partner who is specified by Cabinet Order prescribed in Article 214, paragraph (1), item (i) (Domestic Source Income of Nonresidents Exempt from Withholding) of the Act is to be a person who has concluded an agreement as listed in Article 281-2, paragraph (1), item (iii) (Profits from a Business Conducted in Japan under a Partnership).

(2) The person specified by Cabinet Order prescribed in Article 214, paragraph (1), item (i) of the Act is to be the person who falls under the category of nonresident listed in Article 164, paragraph (1), item (i) (Nonresidents With a Permanent Establishment in Japan) of the Act with regard to a business other than a business conducted under a partnership agreement prescribed in Article 214, paragraph (1), item (i) of the Act (hereinafter referred to as a "partnership agreement" in this Article).

(3) The person specified by Cabinet Order prescribed in Article 214, paragraph (1), item (ii) of the Act is to be the person who falls under the category of nonresident listed in Article 164, paragraph (1), item (ii) of the Act with regard to a business other than a business conducted under a partnership agreement.

(4) The person specified by Cabinet Order prescribed in Article 214, paragraph (1), item (iii) of the Act is to be the person who falls under the category of nonresident listed in Article 164, paragraph (1), item (iii) of the Act with regard to a business other than a business conducted under a partnership agreement.

(Domestic Source Income of Nonresidents Not Exempt from Withholding)

Article 332 The domestic source income specified by Cabinet Order prescribed in Article 214, paragraph (1), item (i) (Domestic Source Income of Nonresidents Exempt from Withholding) of the Act is to be the following types of domestic source income:

- (i) royalties or consideration as listed in Article 161, item (vii) (Domestic Source Income) of the Act, which falls under the category of remuneration or fees listed in Article 204, paragraph (1), item (i) (Withholding Obligation for Remuneration, Fees, etc.) of the Act;
- (ii) remuneration listed in Article 161, item (viii), (a) of the Act, other than remuneration that falls under the category of remuneration or fees for the provision of personal services listed in Article 204, paragraph (1), item (v) of the Act;
- (iii) a pension listed in Article 161, item (x) of the Act, in which the amount paid is 250,000 yen or more.

(Procedures Required When a Nonresident No Longer Satisfies the Eligibility Requirements for Exemption from Withholding)

Article 333 (1) A person who has obtained a certificate set forth in Article 214, paragraph (1) (Domestic Source Income of Nonresidents Exempt from Withholding) of the Act must, in the case prescribed in Article 214, paragraph (2) of the Act, attach the certificate to a written notice stating the following matters, submit these to the competent district director with jurisdiction over the place for tax payment, and notify the payer of domestic source income to whom the person has presented the certificate to that effect without delay:

- (i) the name and location of the person's office, etc. located in Japan, as well as the name of the person representative of or any other person responsible for that office, etc., and the name of the tax agent if the tax agent designated in the notice pursuant to the provisions of Article 117, paragraph (2) (Tax Agent) of the Act on General Rules for National Taxes is not that responsible person;
 - (ii) a detailed statement of the circumstances whereby the person has ceased to satisfy the requirements listed in the items of Article 330 (Requirements Allowing a Nonresident to Be Exempt from Withholding) or ceased to fall under any of the categories of nonresidents prescribed in the items of Article 214, paragraph (1) of the Act;
 - (iii) the name of the payer of domestic source income to whom the person has presented the certificate, and the payer's domicile, office, place of business or any other place of payment of the relevant domestic source income;
 - (iv) other matters useful for reference purposes.
- (2) The person prescribed in the preceding paragraph must, where there has been

any change to the matters listed in Article 331, paragraph (1), item (i) or item (ii) (Procedures Required Where Nonresidents Seek Exemption from Withholding) which are stated in a written application set forth in Article 331, paragraph (1) pertaining to a certificate set forth in the preceding paragraph, submit a written notice to that effect to the competent district director with jurisdiction over the place for tax payment without delay.

(Salaries or Remuneration of Nonresidents Deemed to Be Subject to Withholding)

Article 334 The amount of salaries or remuneration for which income tax is deemed to have been collected pursuant to the provisions of Article 215 (Special Provisions on Withholding on Salaries, etc. from the Provision of Personal Services by Nonresidents) of the Act is to, if the total amount of the consideration listed in Article 161, item (ii) (Domestic Source Income) of the Act that a person who conducts a business prescribed in Article 161, item (ii) of the Act in Japan has received with regard to that business conducted in Japan does not reach the sum of the amounts of salaries or remuneration listed in Article 161, item (viii), (a) or (c) of the Act to be paid to individual nonresidents who provide personal services for that business conducted in Japan with regard to their provision of personal services, be the amount calculated by multiplying the total amount of consideration by the ratio of the amount of salaries or remuneration to be paid to the respective nonresident to the total amount of the consideration.