

Act on Special Measures to Promote Research and Development Business, etc. by Specified Multinational Enterprises

(Act No. 55 of August 3, 2012)

Chapter I General Provisions (Articles 1 to 3)

Chapter II Promoting Research and Development Business, etc. (Articles 4 to 11)

Chapter III Miscellaneous Provisions (Articles 12 to 15)

Chapter IV Penal Provisions (Article 16)

Supplementary Provisions

Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to facilitate the creation of new business and contribute to the expansion of employment opportunities through the implementation of special measures to promote the activities of specified multinational enterprises that intend to newly engage in research and development business and supervisory business in Japan, given the growing importance of Japan becoming a center for international economic activities in Asia and other regions, and in the midst of changes in the global economic environment and other circumstances surrounding Japan, thereby contributing to the sound development of the national economy.

(Definitions)

Article 2 (1) The term "specified multinational enterprise" as used in this Act means a corporation that falls under both of the following items:

- (i) a corporation that has established a subsidiary corporation or other similar entity (in which the corporation has a majority of the voting rights of all shareholders, etc. (meaning the voting rights of all shareholders or equity investors; the same applies hereinafter), or a corporation which is otherwise prescribed by order of the competent ministry as being closely related to the corporation) in the State or region (hereinafter referred to as "the State, etc." in this item and in paragraph (4) below), other than the State, etc. in which the head office or principal office of the corporation is located, which is prescribed by order of the competent ministry as being engaged in business activities on an international scale;
- (ii) a corporation that is prescribed by order of the competent ministry as being

- recognized as having advanced knowledge or technology.
- (2) The term "domestic related company" as used in this Act means a company which is prescribed by order of the competent ministry as a domestic company in which a specified multinational enterprise has the majority of the voting rights of all Shareholders, etc. or which otherwise has a close relationship with the specified multinational enterprise.
- (3) The term "research and development business" as used in this Act means the business of conducting research and development of advanced industrial technology suitable for advancing technological innovation (hereinafter referred to as "advanced technology" in this paragraph) (including the business of developing products or services with the use of the relevant advanced technology), as prescribed by order of the competent ministry due to having the potential to create new business and expand employment opportunities.
- (4) The term "supervisory business" as used in this Act means the act of establishing policies for the business engaged in by two or more corporations (limited to cases where these corporations' head offices or principal offices are located in two or more countries, etc.), while supervising the ensuring of financing for the corporations and the implementation of policies and other business engaged in by the corporations, by way of obtaining or retaining the majority of the voting rights of all shareholders, etc. of the corporations respectively, as prescribed by order of the competent ministry due to having the potential to create new business and expand employment opportunities.
- (5) The term "small and medium sized enterprise operator" as used in this Act means an entity that falls under any of the following items:
- (i) any company whose amount of stated capital or total amount of capital contribution is 300,000,000 yen or less and any company whose number of regularly hired employees is 300 or less, the main business of which is classified as manufacturing business, construction business, or transportation business, or other business types (excluding business types listed in the following item to item (iv) and those prescribed by Cabinet Order as set forth in item (v));
 - (ii) any company whose amount of stated capital or total amount of capital contribution is 100,000,000 yen or less and any company whose number of regularly hired employees is 100 or less, the main business of which is classified as wholesale business (excluding the business types prescribed by Cabinet Order as set forth in item (v));
 - (iii) any company whose amount of stated capital or total amount of capital contribution is 50,000,000 yen or less and any company whose number of regular employees is 100 or less, the main business of which is classified as service industry (excluding the business types prescribed by Cabinet Order as set forth in item (v));

- (iv) any company whose amount of stated capital or total amount of capital contribution is 50,000,000 yen or less and any company whose number of regularly hired employees is 50 or less, the main business of which is classified as retail business (excluding the business types prescribed by Cabinet Order as set forth in the following item);
- (v) any company whose amount of stated capital or total amount of capital contribution is not more than the amount prescribed by Cabinet Order for each business type and any company whose number of regularly hired employees is not more than the number prescribed by Cabinet Order for each business type, the main business of which is classified as falling under the business type prescribed by the Cabinet Order.

(Basic Policy)

Article 3 (1) The competent minister is required to formulate Basic Policy Concerning Promotion of Research and Development Business and Supervisory Business by Specified Multinational Enterprises (hereinafter referred to as the "basic policy").

(2) The basic policy is to specify the following matters:

- (i) matters concerning the significance of and the basic course of action to promote research and development business and supervisory business by specified multinational enterprises;
- (ii) matters concerning the details of research and development business and supervisory business by specified multinational enterprises;
- (iii) matters concerning prevention of any outflow to foreign countries of patented inventions, technology, etc., held by Japanese business operators, and other matters to be taken into consideration when promoting research and development business and supervisory business by specified multinational enterprises.

(3) Prior to the formulation of the basic policy or any revision thereof, the competent minister must consult with the heads of relevant administrative organs.

(4) Upon having formulated or revised the basic policy, the competent minister must publicize the contents thereof without delay.

Chapter II Promotion of Research and Development Business, etc.

(Certification of Research and Development Business Plans)

Article 4 (1) A specified multinational enterprise that seeks to newly engage in research and development business in Japan and establish a domestic related company to conduct the new research and development business (excluding any of those specified multinational enterprises whose subsidiary corporations or

other similar entities (meaning a corporation in which the specified multinational enterprise has the majority of the voting rights of all shareholders, etc. or which is otherwise prescribed by order of the competent ministry as being closely related to the specified multinational enterprise; hereinafter the same applies in Article 6, paragraph (1)) have already been engaged in the research and development business in Japan) may prepare a plan concerning the research and development business (hereinafter referred to as a "research and development business plan") and submit this to the competent minister as prescribed by order of the competent ministry, and may receive certification to the effect that the research and development business is suitable.

- (2) Research and development business plans must describe the following matters:
 - (i) details of the research and development business;
 - (ii) the number of regularly hired employees at the research and development business, and other matters prescribed by order of the competent ministry regarding the employees;
 - (iii) the term of the research and development business;
 - (iv) the amount of funds required to conduct the research and development business and the fund procurement method;
 - (v) in cases where a specified multinational enterprise seeks application of special provisions for taxation set forth in each paragraph of Article 11, an indication of this, and whether the domestic related company to be established is to operate any business other than the research and development business.
- (3) When the competent minister receives an application for certification set forth in paragraph (1) and finds that the research and development business plan for which the application has been made conforms to all of the following requirements, they are to provide certification:
 - (i) the matters set forth in item (i) of the preceding paragraph are suitable in light of the basic policy;
 - (ii) the number of employees set forth in item (ii) of the preceding paragraph is not less than the number prescribed by order of the competent ministry, and other matters concerning the employees conform to the requirements prescribed by order of the competent ministry;
 - (iii) the term of the research and development business set forth in item (iii) of the preceding paragraph conforms to the term prescribed by order of the competent ministry;
 - (iv) the matters set forth in items (i) through (iv) of the preceding paragraph are suitable for engaging in the research and development business smoothly and reliably;

(v) in cases where the specified multinational enterprise seeks application of special provisions for taxation prescribed in each paragraph of Article 11 to the research and development business, the domestic related company to be established for that purpose is engaged solely in the research and development business.

(Changes to Research and Development Business Plans)

Article 5 (1) An entity that has received certification set forth in paragraph (1) of the preceding Article (including a domestic related company that has been established according to the research and development business plan for which the certification has been given; hereinafter referred to as a "certified research and development business operator") is required to obtain certification from the competent minister, as prescribed by order of the competent ministry, when it seeks to make any change to the research and development business plan for which the certification has been given.

(2) If the competent minister finds that a certified research and development business operator fails to engage in research and development business according to the research and development business plan for which the certification set forth in paragraph (1) of the preceding Article has been given (or if a change has been certified pursuant to the preceding paragraph, the changed research and development business plan; hereinafter referred to as a "certified research and development business plan"), it may rescind the certification.

(3) If the competent minister finds that a certified research and development business plan no longer conforms to any one of the items of paragraph (3) of the preceding Article, it may instruct the relevant certified research and development business operator to make a change to the certified research and development business plan, or rescind the certification.

(4) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the certification set forth in paragraph (1) of this Article.

(Certification of Supervisory Business Plans)

Article 6 (1) A specified multinational enterprise that seeks to newly engage in supervisory business in Japan and establish a domestic related company to conduct the new supervisory business (excluding any specified multinational enterprises whose subsidiary corporations or other similar entities have already been engaged in the supervisory business in Japan) may prepare a plan concerning the supervisory business (hereinafter referred to as a "supervisory business plan") and submit it to the competent minister as prescribed by order of the competent ministry, and may receive certification to the effect that the supervisory business is suitable.

- (2) Supervisory business plans must describe the following matters:
- (i) the details of the supervisory business;
 - (ii) the number of regularly hired employees at the supervisory business, and other matters prescribed by order of the competent ministry regarding the employees;
 - (iii) the term of the supervisory business;
 - (iv) the amount of funds required to conduct the supervisory business and the fund procurement method;
 - (v) in cases where the specified multinational enterprise seeks application of special provisions for taxation prescribed in each paragraph of Article 11, an indication of this, and whether the domestic related company to be established is to operate any business other than the supervisory business.
- (3) When the competent minister receives an application for certification set forth in paragraph (1) and finds that the supervisory business plan for which the application has been made conforms to all of the following requirements, the competent minister is to provide certification:
- (i) the matters set forth in item (i) of the preceding paragraph are suitable in light of the basic policy;
 - (ii) the number of employees set forth in item (ii) of the preceding paragraph is not less than the number prescribed by order of the competent ministry, and other matters concerning the employees conform to the requirements prescribed by order of the competent ministry;
 - (iii) the term of the supervisory business set forth in item (iii) of the preceding paragraph conforms to the term prescribed by order of the competent ministry;
 - (iv) the matters set forth in items (i) through (iv) of the preceding paragraph are suitable for engaging in the supervisory business smoothly and reliably;
 - (v) in cases where the specified multinational enterprise seeks application of special provisions for taxation prescribed in each paragraph of Article 11 to the supervisory business, the domestic related company established for that purpose is engaged solely in the supervisory business.

(Changes to Supervisory Business Plans)

Article 7 (1) An entity that has received certification set forth in paragraph (1) of the preceding Article (including a domestic related company that has been established according to the supervisory business plan for which the certification has been given; hereinafter referred to as a "certified supervisory business operator") is required to obtain certification from the competent minister, as prescribed by order of the competent ministry, when it seeks to make any change to the supervisory business plan for which the certification has been given.

- (2) If the competent minister finds that a certified supervisory business operator fails to engage in supervisory business according to the supervisory business plan for which certification set forth in paragraph (1) of the preceding Article has been given (or if a change has been certified pursuant to the preceding paragraph, the changed supervisory business plan; hereinafter referred to as a "certified supervisory business plan"), it may rescind the certification.
- (3) If the competent minister finds that a certified supervisory business plan no longer conforms to any one of the items of paragraph (3) of the preceding Article, it may instruct the relevant certified supervisory business operator to make a change to the certified supervisory business plan, or rescind the certification.
- (4) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to a certification set forth in paragraph (1) of this Article.

(Special Provisions for the Foreign Exchange and Foreign Trade Act)

Article 8 With regard to application of provisions of Article 27, paragraph (2) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949), in cases where a notification of acquisition of shares or equity of a domestic related company, which is sought to be carried out by a foreign investor as prescribed in Article 26, paragraph (1) of the same Act according to a certified research and development business plan or a certified supervisory business plan, is given pursuant to the provisions of Article 27, paragraph (1) of the same Act, the term "30 days" in paragraph (2) of the Article is deemed to be replaced with "two weeks."

(Special Provisions for the Small and Medium Business Investment & Consultation Companies Act)

Article 9 (1) In addition to the types of business listed in each item of Article 5, paragraph (1) of the Small and Medium Business Investment & Consultation Companies Act (Act No. 101 of 1963), a small and medium business investment & consultation company may engage in the following types of business:

- (i) subscribing for shares issued when a small and medium-sized enterprise, which is a certified research and development business operator or a certified supervisory business operator, incorporates a stock company whose amount of stated capital exceeds 300,000,000 yen for the purpose of engaging in research and development business or supervisory business, in accordance with a certified research and development business plan or a certified supervisory business plan, and holding shares pertaining to the subscription;
- (ii) subscribing for shares, share options (excluding those attached to bonds with share options), or bonds with share options, etc. (meaning bonds with share options, etc. prescribed in Article 5, paragraph (1), item (ii) of the

Small and Medium Business Investment & Consultation Companies Act; hereinafter the same applies in this item and in the following paragraph), and holding the shares, the share options (including the shares issued or transferred through exercise of the share options), or bonds with share options, etc. (including the shares issued or transferred through exercise of the share options attached to bonds with share options, etc.) pertaining to the subscription, which have been issued by a small and medium-sized enterprise, which is a certified research and development business operator or a supervisory business operator, and which is also a stock company with the amount of stated capital exceeding 300,000,000 yen, in order to procure the funds required for the purpose of engaging in research and development business or supervisory business in accordance with a certified research and development business plan or a certified supervisory business plan.

- (2) With regard to application of the Small and Medium Business Investment & Consultation Companies Act, the subscription for shares and the holding of the shares pertaining to a subscription pursuant to the provisions of item (i) of the preceding paragraph, and the subscription for shares, share options (excluding those attached to bonds with share options), or bonds with share options, etc. and the holding of the shares, the share options (including the shares issued or transferred through the exercise of the share options), or the bonds with share options, etc. (including shares issued or transferred through exercise of share options attached to bonds with share options, etc.) pertaining to a subscription pursuant to the provisions of item (ii) of the paragraph, are deemed to be the types of business set forth in Article 5, paragraph (1), items (i) and (ii) of the same Act, respectively.

(Special Provisions for Patent Fees)

Article 10 (1) When a person who is to pay patent fees with regard to a patented invention resulting from research and development business conducted in accordance with a certified research and development business plan (limited to inventions for which application for a patent has been made within two years from the expiration date of the term of the research and development business under the certified research and development business plan), for each year from the first to the tenth year pursuant to the provisions of Article 107, paragraph (1) of the Patent Act (Act No.121 of 1959), is a person who falls under both of the following items, the Commissioner of the Japan Patent Office may grant the person a reduction of, exemption from, or a grace period for the payment of patent fees, pursuant to Cabinet Order provisions:

- (i) a small and medium-sized enterprise engaging in the research and development business;
- (ii) in cases where the patented invention is an employee invention as defined

in Article 35, paragraph (1) of the Patent Act made by an employee, etc. prescribed in paragraph (1) of that Article (hereinafter the employee, etc. is referred to as the "employee, etc." in this item and in item (ii) of the following paragraph, and the invention is referred to as an "employee invention" in item (ii) of the following paragraph), and a contract, work regulations or other rules provide in advance that the employer, etc. prescribed in paragraph (1) of that Article (hereinafter referred to as the "employer, etc." in this item and in item (ii) of the following paragraph) may succeed to the right to grant of patent, the employer, etc. who has succeeded to the right to grant of patent from the employee, etc.

(2) When a person who requests examination of their own patent application with regard to an invention resulting from research and development business conducted in accordance with a certified research and development business plan (limited to inventions for which the application for a patent has been made within two years from the expiration date of the term of the research and development business under the certified research and development business plan) is a person who falls under both of the following items, the Commissioner of the Japan Patent Office may grant the person a reduction of, or exemption from the fees for requesting a patent application examination payable pursuant to the provisions of Article 195, paragraph (2) of the Patent Act, pursuant to the provisions of Cabinet Order:

- (i) a small and medium-sized enterprise engaging in research and development business;
- (ii) in cases where the invention is an employee invention made by an employee, etc., and a contract, work regulations or other rules provide in advance that the employer, etc. may succeed to the right to obtain patents, the employer, etc. who has succeeded to the right to grant of patent from the employee, etc.

(Special Provisions for Taxation)

Article 11 (1) Pursuant to provisions of the Act on Special Measures Concerning Taxation (Act No. 26 of 1957), special provisions for taxation are to apply to income of a certified research and development business operator (limited to a domestic related company established by an entity which has received certification of a research and development business plan, conforming to Article 4, paragraph (3), item (v); the same applies in the following paragraph) or a certified supervisory business operator (limited to a domestic related company established by an entity which has received certification for a supervisory business plan, conforming to Article 6, paragraph (3), item (v); the same applies in the following paragraph) deriving from the research and development business or the supervisory business carried out in accordance with the certified research and development business plan or the certified

supervisory business plan.

- (2) Pursuant to provisions of the Act on Special Measures Concerning Taxation, the special provisions for taxation are to apply to the financial gains of an individual who is a director, executive officer or employee of a certified research and development business operator or a certified supervisory business operator, deriving from the acquisition of shares if the individual has acquired shares of a foreign corporation (limited to a foreign corporation controlling the certified research and development business operator or the supervisory business operator as its subsidiary or other similar entity (meaning a company in which the foreign corporation has a majority of the voting rights of all shareholders or others, or which is otherwise prescribed by order of the competent ministry as being a domestic company closely related to the foreign corporation); hereinafter the same applies in this paragraph) by exercising share options given to it by the foreign corporation.

Chapter III Miscellaneous Provisions

(Responsibilities of the National Government, Local Governments)

Article 12 In order to promote research and development business and supervisory business by specified multinational enterprises, the national government, local governments and the Incorporated Administrative Agency Japan External Trade Organization are to make an effort to comprehensively promote the development of the business environment and other necessary measures to facilitate the smooth operation of research and development business and supervisory business.

(Guidance and Advice)

Article 13 The national government is to provide certified research and development business operators or certified supervisory business operators with the guidance and advice necessary to effectively engage in research and development business or supervisory business in accordance with a certified research and development business plan or a certified supervisory business plan.

(Collection of Reports)

- Article 14 (1) The competent minister may request a certified research and development business operator to submit reports concerning the status of implementation of the certified research and development business plan.
- (2) The competent minister may request a certified supervisory business operator to submit reports concerning the status of implementation of the certified supervisory business plan.

(Competent Ministers)

Article 15 (1) The competent ministers set forth in Article 3, paragraphs (1), (3) and (4) are the Minister of Economy, Trade and Industry, ministers having administrative jurisdiction over the types of business under which a product of a research and development business are directly utilized, and ministers who have jurisdiction over the types of business pertaining to a Supervisory Business.

(2) The competent ministers set forth in Article 4, paragraph (1) and paragraph (3) (including as applied mutatis mutandis pursuant to Article 5, paragraph (4)), Article 5, paragraphs (1) through (3), and paragraph (1) of the preceding Article are the Minister of Economy, Trade and Industry and ministers having administrative jurisdiction over the types of business under which a product of a research and development business are directly utilized.

(3) The competent ministers set forth in Article 6, paragraph (1) and paragraph (3) (including as applied mutatis mutandis pursuant to Article 7, paragraph (4)), Article 7, paragraphs (1) through (3), and paragraph (2) of the preceding Article are the Minister of Economy, Trade and Industry and ministers having administrative jurisdiction over the types of business pertaining to a supervisory business.

(4) An order of the competent ministry set forth in Article 2, paragraph (1), items (i) and (ii) and paragraph (2), and in Article 11, paragraph (2) is an order that is jointly issued by the competent ministers prescribed in paragraph (1); an order of the competent ministry set forth in Article 2, paragraph (3), in Article 4, paragraph (1), paragraph (2), item (ii), and paragraph (3), items (ii) and (iii), and in Article 5, paragraph (1) is an order that is jointly issued by the competent ministers prescribed in paragraph (2); and the order of a competent ministry set forth in Article 2, paragraph (4), in Article 6, paragraph (1), paragraph (2), item (ii), and paragraph (3), items (ii) and (iii), and in Article 7, paragraph (1) is an order that is jointly issued by the competent ministers prescribed in the preceding paragraph.

Chapter IV Penal Provisions

Article 16 (1) A person who fails to make a report as prescribed in Article 14 or who makes a false report is subject to punishment by a fine of up to 300,000 yen.

(2) If a representative, agent, employee or other worker of a corporation has committed the violation prescribed in the preceding paragraph with regard to the business of the corporation, then in addition to punishment of the person who has committed the violation, the corporation itself is also subject to the

punishment prescribed in the paragraph.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding three months from the date of promulgation.

(Review)

Article 2 When five years have passed after the enforcement of this Act, the government is to conduct a review of the status of enforcement of this Act, and is to take requisite measures based on the results thereof whenever it finds such measures necessary.