

Act on Special Measures Concerning Taxation (Limited to the provisions related to nonresidents and foreign corporations)

(Act No. 26 of March 31, 1957)

Chapter II Special Provisions for the Income Tax Act Section 1 Interest Income and Dividend Income

(Special Provisions for Taxation on Interest on Book-Entry Transfer National Government Bonds)

Article 5-2 (1) Where a nonresident or foreign corporation who satisfies the requirements specified in each of the following items for the category of bonds listed in the relevant item that are held thereby, receives payment of interest (excluding interest subject to the provision of Article 8 (1) or (2)) on book-entry transfer national government bonds prescribed by Article 88 of the Act on Book-Entry Transfer of Company Bonds, etc. (excluding coupon-only book-entry transfer national government bonds prescribed in Article 90 (3) of the said Act; hereinafter referred to in this Article as "book-entry transfer national government bonds") or local government bonds which shall be subject to the provisions of the said Act pursuant to Article 66 of the said Act as applied mutatis mutandis pursuant to Article 113 of the said Act (hereinafter referred to in this Article as "book-entry transfer local government bonds"), for which the nonresident or foreign corporation has made entries or records under the book-entry transfer system in his/her or its account established with a specified book-entry transfer institution, specified account management institution or specified indirect account management institution (hereinafter referred to in this Article as a "specified book-entry transfer institution, etc.") or a qualified foreign intermediary, via a business office or any other office of the said specified book-entry transfer institution, etc. located in Japan (including a post office; hereinafter referred to in this Article as a "business office, etc.") or a specified overseas business office, etc. of the said qualified foreign intermediary, income tax shall not be imposed with respect to such interest to be received (limited to the part of interest equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as the amount corresponding to the period during which the nonresident or foreign corporation has continued to hold the said book-entry transfer national government bonds or the said book-entry transfer local government bonds (limited to the period during which he/she or it has continued to hold entries or records under the book-entry transfer system regarding the said book-entry

transfer national government bonds or the said book-entry transfer local government bonds; hereinafter referred to in this Article as the "holding period"):

(i) Book-entry transfer national government bonds: The following requirements:

(a) The said nonresident or foreign corporation shall, when seeking the application of the provision of this paragraph for the first time with regard to interest on the said book-entry transfer national government bonds, submit a document stating such intention, his/her or its name and address (or a place specified by a Ordinance of the Ministry of Finance in the case of a nonresident who has his/her residence in Japan or any other person specified by an Ordinance of the Ministry of Finance; hereinafter the same shall apply in this Article) and any other matters specified by an Ordinance of the Ministry of Finance (hereinafter referred to in this Article as a "written application for tax exemption of book-entry transfer national government bonds") to the competent district director having jurisdiction over the place for tax payment pertaining to the said interest pursuant to the provision of Article 17 of the Income Tax Act, via the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. is a specified account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and a specified book-entry transfer institution; in the case where the said specified book-entry transfer institution, etc. is a specified indirect account management institution, submission shall be made via [1] the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. makes entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds through another specified indirect account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and such other specified indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds), [2] the specified account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds, and [3] a specified book-entry transfer institution; hereinafter the same shall apply in this item), or via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary is a foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary makes entries or

records under the book-entry transfer system regarding the said book-entry transfer national government bonds through another foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds) and the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds; the same shall apply in (b)) and the specified book-entry transfer institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds.

- (b) The said nonresident or foreign corporation shall, no later than the day preceding the day on which he/she or it is to receive interest on the said book-entry transfer national government bonds, submit a document stating his/her or its holding period for the said book-entry transfer national government bonds and any other matters specified by an Ordinance of the Ministry of Finance (referred to in paragraph (8) and paragraph (17) as a "statement of the holding period of book-entry transfer national government bonds") to the district director prescribed in (a), via the said specified book-entry transfer institution, etc. or via the said qualified foreign intermediary and the specified book-entry transfer institution, etc. pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds.
- (ii) Book-entry transfer local government bonds: The following requirements:
 - (a) The said nonresident or foreign corporation shall, when seeking the application of the provision of this paragraph for the first time with regard to interest on the said book-entry transfer local government bonds, submit a document stating such intention, his/her or its name and address, and any other matters specified by an Ordinance of the Ministry of Finance (hereinafter referred to in this Article as a "written application for tax exemption of book-entry transfer local government bonds") to the competent district director having jurisdiction over the place for tax payment pertaining to said interest pursuant to the provision of Article 17 of the Income Tax Act, via the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. is a specified account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and a specified book-entry transfer institution; in the case where the said specified book-entry transfer institution, etc. is a specified indirect account

management institution, submission shall be made via [1] the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. makes entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds through another specified indirect account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and such other specified indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds), [2] the specified account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, and [3] a specified book-entry transfer institution; hereinafter the same shall apply in this item) and the person who pays the said interest, or via [1] the said qualified foreign intermediary (in the case where the said qualified foreign intermediary is a foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary makes entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds through another foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds) and the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds; the same shall apply in (b)), [2] the specified book-entry transfer institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, and [3] the person who pays the said interest.

- (b) The said nonresident or foreign corporation shall, no later than the day preceding the day on which he/she or it is to receive interest on the said book-entry transfer local government bonds, submit a document stating his/her or its holding period for the said book-entry transfer local government bonds and any other matters specified by an Ordinance of the Ministry of Finance (referred to in paragraph (8) and paragraph (17) as "statement of the holding period of book-entry transfer local government bonds") to the district director prescribed in (a), via the said specified book-entry transfer institution, etc. and the person who pays the said interest, or via the said qualified foreign intermediary, the specified book-entry

transfer institution, etc. pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, and the person who pays the said interest.

- (2) With respect to interest on book-entry transfer national government bonds and interest on book-entry transfer local government bonds to be received by a nonresident or foreign corporation, who is the trustee of a foreign investment trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation (Act No. 198 of 1951); hereinafter the same shall apply in this paragraph), for the trust property under the said foreign investment trust, the provision of the preceding paragraph shall apply only where the said foreign investment trust is one that satisfies the following requirements (referred to as a "qualified foreign securities investment trust" in paragraph (9)):
- (i) The said foreign investment trust falls under the category of securities investment trust or publicly offered bond investment trust.
 - (ii) The public offering of beneficial rights based on the establishment of the said foreign investment trust has been conducted, outside Japan, by way of a solicitation of acquisition prescribed in Article 2 (3) of the Financial Instruments and Exchange Act which is equivalent to the one listed in item (i) of Article 2 (3), and it is stated in the prospectus of the said foreign investment trust or any other document similar thereto that the relevant solicitation of acquisition is equivalent to the one listed in the said item.
 - (iii) The public offering of beneficial rights based on the establishment of the said foreign investment trust has not been conducted in Japan.
- (3) The provisions of paragraph (1) shall not apply to interest on book-entry transfer national government bonds and interest on book-entry transfer local government bonds to be received by a nonresident having permanent establishments in Japan, which is attributed to a business conducted by the said nonresident in Japan or which is otherwise specified by a Cabinet Order. In this case, where the nonresident satisfies the requirements specified in the items of the said paragraph, the provision of Article 212 of the Income Tax Act shall not apply to the said interest to be received (limited to the part of interest equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as the amount corresponding to the holding period).
- (4) With regard to the application of the provisions of Article 3 and Article 3-2 in the case where the provisions of paragraph (1) and the preceding paragraph shall apply, in Article 3 (1), the phrase "excluding interest specified by a Cabinet Order; hereinafter referred to in this Article and the next Article as "interest, etc." " shall be deemed to be replaced with "excluding interest subject to the provision of the second sentence of Article 5-2 (3); hereinafter referred to in this Article as "interest, etc.""; in Article 3 (3), the phrase "interest, etc.

receivable" shall be deemed to be replaced with "interest, etc. (excluding interest subject to the provision of Article 5-2 (1); hereinafter the same shall apply in this paragraph) receivable"; in Article 3-2, the phrase "a domestic corporation or a foreign corporation having permanent establishments in Japan" shall be deemed to be replaced with "nonresident or foreign corporation," the phrase "interest, etc. payable" shall be deemed to be replaced with "interest payable subject to the provision of Article 5-2 (1) or the second sentence of Article 5-2 (3)," and the phrase "the said interest, etc." shall be deemed to be replaced with "the said interest."

- (5) In this Article, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Specified book-entry transfer institution: A book-entry transfer institution prescribed in Article 2 (2) of the Act on Book-Entry Transfer of Company Bonds, etc. (including an institution that shall be deemed to be a book-entry transfer institution pursuant to the provision of Article 48 of the said Act), which has obtained consent from the State for handling national government bonds pursuant to the provision of Article 13 of the said Act or obtained consent from the issuer of local government bonds for handling the said local government bonds pursuant to the provision of the said Article
 - (ii) Specified account management institution: An account management institution prescribed in Article 2 (4) of the Act on Book-Entry Transfer of Company Bonds, etc. (referred to in the next item and item (vii) as an "account management institution"), with which a specified book-entry transfer institution has established an account pursuant to the provision of Article 12 (1) of the said Act
 - (iii) Specified indirect account management institution: An account management institution, which falls under any one of the following (excluding an institution that falls under the category of foreign indirect account management institution):
 - (a) An institution with which a specified account management institution has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
 - (b) An institution with which an institution that falls under the category of specified indirect account management institution pursuant to the provision of (a) or (c) has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
 - (c) An institution with which an institution that falls under the category of specified indirect account management institution pursuant to the provision of (b) has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
 - (iv) Qualified foreign intermediary: A foreign indirect account management

- institution or foreign further indirect account management institution, which has obtained, in the capacity of institution having its head office or principal office in the Contracting State other than Japan (referred to in the next item as the "other Contracting State") of a convention prescribed by Article 162 of the Income Tax Act (limited to a convention that provides that the Contracting States shall exchange information on the assessment and collection of taxes with each other), pursuant to the provision of a Cabinet Order, the approval of the district director prescribed in paragraph (1)(i)(a) for book-entry transfer national government bonds or the approval of the district director prescribed in paragraph (1)(ii)(a) for book-entry transfer local government bonds
- (v) Specified overseas business office, etc.: A business office or any other office of a qualified foreign intermediary, which is located in the other Contracting State
- (vi) Entries or records under the book-entry transfer system: Entries or records in a transfer account book provided for in the Act on Book-Entry Transfer of Company Bonds, etc. which are made pursuant to the provisions of the said Act
- (vii) Foreign further indirect account management institution: An account management institution (limited to an institution that falls under the category of institution prescribed in Article 44 (1)(xiv) of the Act on Book-Entry Transfer of Company Bonds, etc., and excluding a domestic corporation; referred to in the next item as a "foreign account management institution"), which falls under any one of the following:
- (a) An institution with which a foreign indirect account management institution has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
- (b) An institution with which an institution that falls under the category of foreign further indirect account management institution pursuant to the provisions of (a) or (c) has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
- (c) An institution with which an institution that falls under the category of foreign further indirect account management institution pursuant to the provision of (b) has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
- (viii) Foreign indirect account management institution: A foreign account management institution with which a specified account management institution or specified indirect account management institution has established an account pursuant to the provision of Article 44 (1) of the Act on Book-Entry Transfer of Company Bonds, etc.
- (6) Where an application for approval set forth in item (iv) of the preceding

paragraph has been filed, the district director may dismiss the application when he/she finds a fact that falls under any one of the following items with regard to the applicant:

- (i) It is found that any document necessary for filing the application contains a defective or false entry or that the application has not otherwise been filed pursuant to the provision of a Cabinet Order prescribed in item (iv) of the preceding paragraph.
 - (ii) The applicant is currently delinquent in paying national tax, and it is significantly difficult to collect the tax amount in arrear.
 - (iii) There is a reasonable ground for finding that it is difficult for the applicant to keep books, make records therein or preserve the books pursuant to the provision of paragraph (13) or give notice pursuant to the provision of paragraph (14).
- (7) When the district director finds that a fact that falls under any one of the items of the preceding paragraph has occurred with regard to the institution that has obtained the approval set forth in paragraph (5)(iv), he/she may rescind the approval pursuant to the provision of a Cabinet Order.
- (8) In the case referred to in paragraph (1)(i) or (ii), where a written application for tax exemption of book-entry transfer national government bonds or statement of the holding period of book-entry transfer national government bonds has been submitted to the district director prescribed in item (i)(a) of the said paragraph or a written application for tax exemption of book-entry transfer local government bonds or statement of the holding period of book-entry transfer local government bonds has been submitted to the district director prescribed in item (ii)(a) of the said paragraph, it shall be deemed that the submission to the relevant district director has been made when the business office, etc. of the specified book-entry transfer institution, etc. or the specified overseas business office, etc. of the qualified foreign intermediary, via which submission should be made, has received the said written application for tax exemption of book-entry transfer national government bonds or statement of the holding period of book-entry transfer national government bonds or the said written application for tax exemption of book-entry transfer local government bonds or statement of the holding period of book-entry transfer local government bonds, from the person who submitted the relevant document.
- (9) A person who submits a written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds shall, upon submission, present the person's certificate of alien registration, certificate of registered matters of the corporation and any other document specified by a Cabinet Order to the head of the business office, etc. of the specified book-entry transfer institution, etc. or the head of the specified overseas business office, etc. of the qualified

foreign intermediary, to which the said written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds is submitted, and the said head of the business office, etc. of the specified book-entry transfer institution, etc. or the said head of the specified overseas business office, etc. of the qualified foreign intermediary shall confirm, by the documents presented thereto, the name and address stated in the said written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds (in the case where the provision of paragraph (2) shall apply, such name and address, as well as the name of the qualified foreign securities investment trust should be confirmed).

- (10) Where a person who has submitted a written application for tax exemption of book-entry transfer national government bonds has, after submission, changed the name or address initially stated in the said written application for tax exemption of book-entry transfer national government bonds, the person shall, no later than the day preceding the day on which the person is to receive, for the first time since the date of change, payment of interest on the book-entry transfer national government bonds for which the person made entries or records under the book-entry transfer system through the specified book-entry transfer institution, etc. or qualified foreign intermediary to which the person submitted the said written application for tax exemption of book-entry transfer national government bonds, submit a written application stating the person's new name or address and any other matters specified by an Ordinance of the Ministry of Finance, to the district director prescribed in paragraph (1)(i)(a), via the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. is a specified account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and a specified book-entry transfer institution; in the case where the said specified book-entry transfer institution, etc. is a specified indirect account management institution, submission shall be made via [1] the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. makes entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds through another specified indirect account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and such other specified indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds), [2] the specified account management institution pertaining to the entries or records under the book-entry transfer system

regarding the said book-entry transfer national government bonds, and [3] a specified book-entry transfer institution; hereinafter the same shall apply in this paragraph), or via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary is a foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary makes entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds through another foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds) and the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds) and the specified book-entry transfer institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds. In this case, where the person has failed to submit the said written application, the provision of paragraph (1) shall not apply to interest on the said book-entry transfer national government bonds to be received by the person on or after the day on which the change has been made.

- (11) Where a person who submitted a written application for tax exemption of book-entry transfer local government bonds has, after submission, changed the name or address initially stated in the said written application for tax exemption of book-entry transfer local government bonds, the person shall, no later than the day preceding the day on which the person is to receive, for the first time since the date of change, payment of interest on the book-entry transfer local government bonds for which the person made entries or records under the book-entry transfer system through the specified book-entry transfer institution, etc. or qualified foreign intermediary to which the person submitted the said written application for tax exemption of book-entry transfer local government bonds, submit a written application stating the person's new name or address and any other matters specified by an Ordinance of the Ministry of Finance, to the district director prescribed in paragraph (1)(ii)(a), via the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. is a specified account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and a specified book-entry transfer institution; in the case where the said specified book-entry transfer institution, etc. is a specified indirect account management institution, submission shall be made

via [1] the said specified book-entry transfer institution, etc. (in the case where the said specified book-entry transfer institution, etc. makes entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds through another specified indirect account management institution, submission shall be made via the said specified book-entry transfer institution, etc. and such other specified indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds), [2] the specified account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, and [3] a specified book-entry transfer institution; hereinafter the same shall apply in this paragraph) and the person who pays the said interest, or via [1] the said qualified foreign intermediary (in the case where the said qualified foreign intermediary is a foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary (in the case where the said qualified foreign intermediary makes entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds through another foreign further indirect account management institution, submission shall be made via the said qualified foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds) and the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds), [2] the specified book-entry transfer institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, and [3] the person who pays the said interest. In this case, where the person has failed to submit the said written application, the provision of paragraph (1) shall not apply to interest on the said book-entry transfer local government bonds to be received by the person on or after the day on which the change has been made.

- (12) The provisions of paragraph (8) and paragraph (9) shall apply mutatis mutandis where the person who submits a written application prescribed in the preceding two paragraphs submits the relevant written application. In this case: in paragraph (8), the phrase "paragraph (1)(i) or (ii)" shall be deemed to be replaced with "paragraph (10) or paragraph (11)"; the phrase "a written application for tax exemption of book-entry transfer national government bonds or statement of the holding period of book-entry transfer national government bonds has been submitted to the district director prescribed in item (i)(a) of the said paragraph" shall be deemed to be replaced with "a

written application prescribed in paragraph (10) has been submitted to the district director prescribed in paragraph (1)(i)(a)"; the phrase "a written application for tax exemption of book-entry transfer local government bonds or statement of the holding period of book-entry transfer local government bonds has been submitted to the district director prescribed in item (ii)(a) of the said paragraph" shall be deemed to be replaced with "a written application prescribed in paragraph (11) has been submitted to the district director prescribed in paragraph (1)(ii)(a)"; the phrase "the said written application for tax exemption of book-entry transfer national government bonds or statement of the holding period of book-entry transfer national government bonds or the said written application for tax exemption of book-entry transfer local government bonds or statement of the holding period of book-entry transfer local government bonds" shall be deemed to be replaced with "the relevant written application"; in paragraph (9), the phrase "person who submits a written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds" shall be deemed to be replaced with "person who submits a written application prescribed in the next paragraph or paragraph (11)"; the phrase "the said written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds" shall be deemed to be replaced with "the relevant written application"; the term "name" shall be deemed to be replaced with "new name."

- (13) A specified book-entry transfer institution, etc. and a qualified foreign intermediary shall keep books with regard to book-entry transfer national government bonds or book-entry transfer local government bonds for which a person who has submitted a written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds made entries or records under the book-entry transfer system through the said specified book-entry transfer institution, etc. or the said qualified foreign intermediary, and shall state or record in such books, pursuant to the provision of a Cabinet Order, the day on which entries or records under the book-entry transfer system were made with regard to the said book-entry transfer national government bonds or book-entry transfer local government bonds, and any other matters specified by an Ordinance of the Ministry of Finance, for each person who has submitted the said written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds.
- (14) A qualified foreign intermediary shall, for each person who has submitted a written application for tax exemption of book-entry transfer national

government bonds or written application for tax exemption of book-entry transfer local government bonds, pursuant to the provision of a Cabinet Order, give notice of the day on which entries or records under the book-entry transfer system were made with regard to the book-entry transfer national government bonds or book-entry transfer local government bonds for which the person who has submitted the said written application for tax exemption of book-entry transfer national government bonds or written application for tax exemption of book-entry transfer local government bonds made entries or records under the book-entry transfer system through the said qualified foreign intermediary, and any other matters specified by an Ordinance of the Ministry of Finance, to the specified book-entry transfer institution, etc. through which the said qualified foreign intermediary made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds or book-entry transfer local government bonds (in the case where the said qualified foreign intermediary is a foreign further indirect account management institution, notice shall be given to the specified book-entry transfer institution, etc. through which the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds or book-entry transfer local government bonds made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds or book-entry transfer local government bonds) by way of a document or any other means specified by a Cabinet Order. In this case, the said specified book-entry transfer institution, etc. shall keep books with regard to the said book-entry transfer national government bonds or book-entry transfer local government bonds, and shall state or record, pursuant to the provision of a Cabinet Order, these matters in such books for each person who has submitted the relevant written application.

- (15) With regard to book-entry transfer national government bonds that a nonresident or foreign corporation has acquired before the last day of the accounting period for interest thereon, which satisfy the following requirements (in the case where the said nonresident or foreign corporation has made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds through the specified book-entry transfer institution, etc. (in the case where entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds have been made through a qualified foreign intermediary: the specified book-entry transfer institution, etc. prescribed in the preceding paragraph that is related to the said qualified foreign intermediary pertaining to the said book-entry transfer national government bonds; hereinafter the same shall apply in this paragraph) through which the person who held the

said book-entry transfer national government bonds before acquisition (hereinafter referred to in this paragraph as the "previous holder") made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds, the requirements listed in item (i) and (ii) shall apply) (such national government bonds hereinafter referred to as "national government bonds eligible for aggregation"), the nonresident's or foreign corporation's holding period pertaining to the said national government bonds eligible for aggregation shall include the previous holder's holding period pertaining to the said national government bonds eligible for aggregation:

- (i) The said book-entry transfer national government bonds were held by a nonresident, foreign corporation, any of the domestic corporations listed in Appended Table 1, item (i) of the Income Tax Act or a trustee of a charitable trust or participant protection trust prescribed in Article 11 (3) of the said Act (hereinafter referred to in this item and item (i) of the next paragraph as a "charitable trust, etc."), or a financial institution prescribed in Article 8 (1) (limited to a domestic corporation), financial instruments business operator, etc. prescribed in Article 8 (2) (limited to a domestic corporation) or domestic corporation prescribed in Article 8 (3) (in the case of book-entry transfer national government bonds that were held by a nonresident or foreign corporation: limited to those specified by a Cabinet Order; in the case of book-entry transfer national government bonds that were held by a trustee of a charitable trust, etc.: limited to those included in the trust property under the said charitable trust, etc.), and any of those persons held entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds immediately before the acquisition thereof.
- (ii) The said nonresident or foreign corporation has continued to hold entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds after the acquisition thereof.
- (iii) The specified book-entry transfer institution, etc. through which the said nonresident or foreign corporation has made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds has received notice, from the specified book-entry transfer institution, etc. through which the previous holder of the said book-entry transfer national government bonds made entries or records under the book-entry transfer system regarding the said book-entry transfer national government bonds, stating the said previous holder's holding period pertaining to the said book-entry transfer national government bonds and any other matters specified by an Ordinance of the Ministry of Finance, by way of a document or any other means specified by a Cabinet Order.

(16) With regard to book-entry transfer local government bonds that a nonresident or foreign corporation has acquired before the last day of the accounting period for interest thereon, which satisfy the following requirements (in the case where the said nonresident or foreign corporation has made entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds through the specified book-entry transfer institution, etc. (in the case where entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds have been made through a qualified foreign intermediary: the specified book-entry transfer institution, etc. prescribed in paragraph (14) that is related to the said qualified foreign intermediary pertaining to the said book-entry transfer local government bonds; hereinafter the same shall apply in this paragraph) through which the person who held the said book-entry transfer local government bonds before acquisition (hereinafter referred to in this paragraph as the "previous holder") made entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, the requirements listed in item (i) and (ii) shall apply) (such local government bonds hereinafter referred to as "local government bonds eligible for aggregation"), the nonresident's or foreign corporation's holding period pertaining to the said local government bonds eligible for aggregation shall include the previous holder's holding period pertaining to the said local government bonds eligible for aggregation:

- (i) The said book-entry transfer local government bonds were held by a nonresident, foreign corporation, any of the domestic corporations listed in Appended Table 1, item (i) of the Income Tax Act or a trustee of a charitable trust, etc., or a financial institution prescribed in Article 8 (1) (limited to a domestic corporation), financial instruments business operator, etc. prescribed in Article 8 (2) (limited to a domestic corporation) or domestic corporation prescribed in Article 8 (3) (in the case of book-entry transfer local government bonds that were held by a nonresident or foreign corporation: limited to those specified by a Cabinet Order; in the case of book-entry transfer local government bonds that were held by a trustee of a charitable trust, etc.: limited to those included in the trust property under the said charitable trust, etc.), and any of those persons held entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds immediately before the acquisition thereof.
- (ii) The said nonresident or foreign corporation has continued to hold entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds after the acquisition thereof.
- (iii) The specified book-entry transfer institution, etc. through which the said nonresident or foreign corporation has made entries or records under the

book-entry transfer system regarding the said book-entry transfer local government bonds has received notice, from the specified book-entry transfer institution, etc. through which the previous holder of the said book-entry transfer local government bonds made entries or records under the book-entry transfer system regarding the said book-entry transfer local government bonds, stating the said previous holder's holding period pertaining to the said book-entry transfer local government bonds and any other matters specified by an Ordinance of the Ministry of Finance, by way of a document or any other means specified by a Cabinet Order.

- (17) Special provisions for the submission by a specified book-entry transfer institution, etc. of a written application for tax exemption of book-entry transfer national government bonds or statement of the holding period of book-entry transfer national government bonds or a written application for tax exemption of book-entry transfer local government bonds or statement of the holding period of book-entry transfer local government bonds, matters concerning the preservation of documents, etc. pertaining to the notice set forth in paragraph (15)(iii) or paragraph (16)(iii), and other necessary matters concerning the application of the provisions of paragraph (1) to paragraph (4) and paragraph (6) to the preceding paragraph shall be specified by a Cabinet Order.

(Special Provisions for Taxation on Interest on Foreign-issued Company Bonds)

Article 6 (1) A domestic corporation shall be liable to pay income tax with respect to interest (excluding interest subject to the provisions of Article 3-3 (2) or (6)) receivable on foreign-issued company bonds (meaning bonds issued outside Japan by a domestic corporation, interest on which is to be paid outside Japan; the same shall apply in paragraph (11)) other than designated foreign-issued company bonds prescribed in paragraph (11) (hereinafter referred to in this Article as "general foreign-issued company bonds"), which have been issued during the period from April 1, 1998, to March 31, 2008, and income tax shall be imposed by applying a tax rate of 15 percent to the amount of interest receivable.

- (2) A person who pays interest (excluding interest subject to the provision of Article 3-3 (3) or (6)) on general foreign-issued company bonds that the person has issued during the period from April 1, 1998, to March 31, 2008, to a resident or domestic corporation shall, upon payment, collect income tax equivalent to the amount calculated by multiplying the amount of interest payable by a tax rate of 15 percent, and pay it to the State no later than the last day of the month following the month that includes the date of collection.
- (3) Income tax to be collected and paid pursuant to the provision of the preceding paragraph shall be deemed to be withholding income tax prescribed in Article 2

(1)(xlv) of the Income Tax Act, and the provisions of the said Act, the Act on General Rules for National Taxes, and the National Tax Collection Act shall be applied thereto. In this case, where the person who is to receive interest receivable on general foreign-issued company bonds prescribed in paragraph (1) is a domestic corporation, with regard to the application of the provisions of the Corporation Tax Act to the said domestic corporation, the phrase "or prize money" in Article 68 (1), Article 81-14 (1) and Article 100 (1) of the said Act shall be deemed to be replaced with "or prize money... or interest receivable on general foreign-issued company bonds prescribed in Article 6 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Interest on Foreign-issued Company Bonds, etc.)," and the phrase "the said Act" in these clauses shall be deemed to be replaced with "the Income Tax Act or the Act on Special Measures Concerning Taxation."

- (4) Where a nonresident or foreign corporation receives payment of interest on general foreign-issued company bonds issued during the period from April 1, 1998, to March 31, 2008, and the nonresident or foreign corporation has submitted, upon receiving payment of interest, a written application stating that he/she or it seeks the application of the provision of this paragraph with respect to the interest receivable, as well as his/her or its name and his/her domicile or residence or the location of its head office or principal office, each of which is located outside Japan, and any other matters specified by an Ordinance of the Ministry of Finance (hereinafter referred to in this Article as a "written application for tax exemption"), via the person who pays the interest (in the case where the said interest is paid via a person in charge of handling payment specified by a Cabinet Order (hereinafter referred to in this paragraph, paragraph (7) and paragraph (11) as a "person in charge of handling payment"), submission shall be made via the said person in charge of handling payment and the person who pays the interest), to the competent district director having jurisdiction over the place for tax payment pursuant to the provision of Article 17 of the Income Tax Act which pertains to the person who makes payment in terms of the said interest (in the case where another place has been designated pursuant to the provision of Article 18 (2) of the said Act: the designated place for tax payment), income tax shall not be imposed on the interest to be received; provided, however, that this shall not apply to such interest to be paid to a nonresident having permanent establishments in Japan, which is attributed to a business conducted by such nonresident or which is otherwise specified by a Cabinet Order.
- (5) The provision of Article 212 of the Income Tax Act shall not apply to the interest prescribed in the proviso of the preceding paragraph.
- (6) In the case referred to in paragraph (4), where a written application for tax exemption has been submitted to the district director prescribed in the said

paragraph, it shall be deemed that the submission to the district director has been made when the written application has been received by the person who pays the interest prescribed in the said paragraph.

- (7) Where a nonresident or foreign corporation receives payment of interest on general foreign-issued company bonds issued during the period from April 1, 1998, to March 31, 2008, which fall under the category of specified foreign-issued company bonds and for which the nonresident or foreign corporation has, pursuant to the provision of a Cabinet Order, entrusted custody with the person in charge of handling payment, if [1] the said person in charge of handling payment thus entrusted with custody (hereinafter referred to in this paragraph as the "person in charge of handling custody and payment") who provides intermediary, brokerage or agent services (hereinafter referred to in this paragraph as the "intermediary services, etc.") for the receipt of interest on the said specified foreign-issued company bonds has, before receiving the delivery of such interest in the course of the intermediary services, etc., given notice of the matters specified in each of the following items for the category listed in the relevant item and any other matters specified by an Ordinance of the Ministry of Finance with respect to the person who is to receive the interest (excluding interest subject to the provision of Article 3-3 (3) or (6); hereinafter the same shall apply in this paragraph) (these matters hereinafter referred to in this paragraph and paragraph (14) as "interest recipient information"), to the person who pays the interest (in the case where the interest is delivered via another person in charge of handling payment with whom the said person in charge of handling custody and payment has further entrusted custody, notice shall be given to the person who pays the interest via such other person in charge of handling payment), and [2] the person who pays the interest has, upon payment of the interest, prepared a document stating the matters concerning the person who is to receive the interest and any other matters specified by an Ordinance of the Ministry of Finance (limited to a document prepared based on the information on the interest recipient provided by the said person in charge of handling custody and payment; referred to in paragraph (9) and paragraph (14) as the "interest recipient confirmation document"), and submitted it to the competent district director having jurisdiction over the place for tax payment prescribed in Article 17 of the Income Tax Act which pertains to the person who makes payment in terms of the said interest (in the case where another place has been designated pursuant to the provision of Article 18 (2) of the said Act: the designated place for tax payment), the said nonresident or foreign corporation shall be deemed to have submitted a written application for tax exemption pursuant to the provision of paragraph (4) with respect to the interest receivable thereby:
- (i) Where all persons who are to receive payment of the said interest are

- nonresidents or foreign corporations: This fact
- (ii) Where there is a resident(s) or domestic corporation(s) among the persons who are to receive payment of the said interest: The total amount receivable by the nonresidents and foreign corporations who are to receive the said interest.
- (8) The provisions of the main clause of paragraph (4) and the provisions of the preceding two paragraphs shall apply mutatis mutandis where a financial institution or financial instruments business operator specified by a Cabinet Order (limited to a domestic corporation; referred to in the next paragraph as a "domestic financial institution, etc.") receives payment of interest (excluding interest subject to Article 3-3 (2) or (6)) on general foreign-issued company bonds issued during the period from April 1, 1998, to March 31, 2008. In this case: in the main clause of paragraph (4), the phrase "his/her or its name and his/her domicile or residence or the location of its head office or principal office" shall be deemed to be replaced with "its name and the location of its head office or principal office"; in paragraph (7)(i), the phrase "nonresidents or foreign corporations" shall be deemed to be replaced with "nonresidents or foreign corporations or domestic financial institutions, etc. prescribed in the next paragraph"; in paragraph (7)(ii), the phrase "domestic corporation(s)" shall be deemed to be replaced with "domestic corporation(s) (excluding a domestic financial institution(s), etc. prescribed in the next paragraph," and the phrase "foreign corporation(s)" shall be deemed to be replaced with "domestic corporation(s) and domestic financial institution(s), etc. prescribed in the said paragraph."
- (9) Specified foreign-issued company bonds prescribed in paragraph (7) shall mean general foreign-issued company bonds that satisfy the following requirements:
- (i) In the underwriting contract, etc. (meaning a contract for underwriting, dealing in public offering or secondary distribution, or any other operations equivalent thereto pertaining to the issue of bonds (hereinafter referred to in this item as "underwriting, etc.)) concluded by the person who issues the said general foreign-issued company bonds, it is provided that the person who performs the underwriting, etc. shall not pressure a resident or domestic corporation (excluding a domestic financial institution, etc.) into acquiring or buying the said general foreign-issued company bonds by way of public offering or secondary distribution, dealing in public offering or secondary distribution, or any other operations equivalent thereto under the said underwriting contract, etc.
 - (ii) In the certificates of the said general foreign-issued company bonds and the prospectus pertaining to the issue thereof, it is stated that where a resident or domestic corporation receives payment of interest on the said general

- foreign-issued company bonds (where a domestic financial institution, etc. receives payment, the case where it has submitted a written application for tax exemption pursuant to the provision of the main clause of paragraph (4) and the provision of paragraph (6) as applied mutatis mutandis pursuant to the preceding paragraph or where the person who pays interest on the said general foreign-issued company bonds has submitted an interest recipient confirmation document pursuant to the provision of paragraph (7) as applied mutatis mutandis pursuant to the preceding paragraph shall be excluded), income tax shall be imposed on any interest on the amount specified in (a) or (b) below for the category listed in (a) or (b) respectively:
- (a) Where a resident or domestic corporation receives payment (excluding the case listed in (b)): The amount receivable
 - (b) Where a public corporation, etc. prescribed in Article 3-3 (6) or a financial institution or financial instruments business operator, etc. receives payment via a person in charge of handling payment in Japan prescribed in the said paragraph (limited to the case where any of these has submitted a written application prescribed in the said paragraph): The amount receivable, after deducting therefrom the amount specified by a Cabinet Order prescribed in the said paragraph
- (10) Income tax shall not be imposed with respect to any interest to be received by a nonresident or foreign corporation on designated foreign-issued company bonds issued during the period from April 1, 1998, to March 31, 2008; provided, however, that this shall not apply to such interest to be paid to a nonresident having permanent establishments in Japan, which is attributed to a business conducted by such nonresident or which is otherwise specified by a Cabinet Order.
- (11) Designated foreign-issued company bonds prescribed in the preceding paragraph shall mean foreign-issued company bonds issued in a state designated by a Cabinet Order where due to the laws or regulations enforced or practices accepted therein, the person in charge of handling payment of interest is not allowed to disclose the information on the person who is to receive payment and the fact that such disclosure is not allowed seems to be recognized internationally (hereinafter referred to in this paragraph as a "designated state"), which satisfy the requirement that interest thereon shall be paid in the relevant designated state and any other requirements specified by a Cabinet Order.
- (12) The provision of Article 212 of the Income Tax Act shall not apply to the interest prescribed in the proviso of paragraph (10).
- (13) The provisions of the preceding paragraphs shall apply mutatis mutandis to bonds in foreign currency (limited to bonds in foreign currency prescribed in Article 2 (1) and Article 4 of the Act on the Issue of Government Bonds in

Foreign Currency (Act No. 63 of 1963), which are issued outside Japan and interest on which is paid outside Japan) issued during the period from April 1, 1998, to March 31, 2008. In this case, the phrase "Article 6 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Interest on Foreign-issued company bonds, etc.)" in paragraph (3) shall be deemed to be replaced with "Article 6 (1) of the Act on Special Measures Concerning Taxation as applied mutatis mutandis pursuant to Article 6 (13) (Special Provisions for Taxation on Bonds in Foreign Currency)."

(14) In addition to what is specified in paragraph (3), the procedure for confirmation of the matters stated in a written application for tax exemption and any other matters concerning the submission of a written application for tax exemption, matters concerning a notice of the interest recipient information as well as preservation and management of such information provided in the notice, special provisions for omitting a notice in the case where there is no change in the interest recipient information provided in the previous notice, matters concerning the submission of an interest recipient confirmation document, matters concerning documents to be attached to a final return form which is filed by a person who has been subject to the collection of income tax pursuant to the provision of paragraph (2) with respect to interest on general foreign-issued company bonds, and other necessary matters concerning the application of the provisions of paragraph (1), paragraph (2), and paragraph (4) to the preceding paragraph shall be specified by a Cabinet Order.

(Exclusion from Taxation of Interest on Deposits, etc. Settled in the Special International Financial Transactions Account)

Article 7 Where a financial institution prescribed in paragraph (3) of Article 21 of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949) has received deposits or borrowings during the period from April 1, 1998, to March 31, 2008, from a foreign corporation that has been certified, pursuant to the provision of an Ordinance of the Ministry of Finance, as falling under the category of nonresident prescribed in the said paragraph, and settled such deposits or borrowings in a special international financial transactions account prescribed in the said paragraph (hereinafter referred to in this Article as a "special international financial transactions account"), income tax shall not be imposed with respect to any interest on the deposits or borrowings to be paid to the said foreign corporation; provided, however, that where any event has occurred that is in violation of the provision of a Cabinet Order established pursuant to the provision of Article 21 (4) of the said Act, which pertains to the matters concerning the settlement of a special international financial transactions account, the provision of the main clause of this Article shall not

apply to such interest pertaining to the accounting period that includes the day on which such event has occurred.

**Section 4-2 Special Provisions for Taxation on Income, etc. of Specified
Foreign Subsidiary Companies, etc. Related to Residents**
**Subsection 1 Special Provisions for Taxation on Income of Specified
Foreign Subsidiary Companies, etc. Related to Residents**

(Inclusion in Gross Income of Retained Income of Specified Foreign Subsidiary
Companies, etc. Related to Residents)

Article 40-4 (1) Where an affiliated foreign company related to any of the following residents, which falls under the category of affiliated foreign company specified by a Cabinet Order as a company whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign subsidiary company, etc."), in each business year (meaning a business year prescribed in Article 2 (2)(xix); hereinafter the same shall apply in this Article) beginning on or after April 1, 1978, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph and the next paragraph as "dividend of surplus, etc.") (such adjusted amount hereinafter referred to in this Article as "eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. held by the resident through direct and/or indirect ownership, while taking into consideration the contents of the claim (meaning a claim to demand dividend of surplus, etc., distribution of property and any other economic benefit; hereinafter the same shall apply in this paragraph and the next paragraph) vested in such shares, etc. (meaning shares or capital contributions; the same shall apply in this paragraph and the next paragraph) (such part of eligible retained income hereinafter referred to as "taxable retained income" in the next Article) shall be deemed to be the resident's income categorized as miscellaneous income, and included in his/her gross income in the calculation of the amount of his/her miscellaneous income for the year that includes the day on which two months have elapsed since the day

following the last day of the relevant business year:

- (i) A resident who holds shares, etc. of the affiliated foreign company through direct and/or indirect ownership, the ratio of whose shares, etc. to the total number or total amount of issued shares of or capital contributions to the said affiliated foreign company (excluding the shares, etc. held by the said affiliated foreign company) (in the case where the said foreign affiliated company is a corporation listed in (a) to (c): the said ratio or the ratio listed in (a) to (c), whichever is larger; referred to in the next item as the "direct and/or indirect ownership ratio for shares, etc. of an affiliated foreign company") is five percent or more:
 - (a) A corporation that issues shares, etc. in which more than one voting right (limited to a voting right pertaining to a resolution on dividend of surplus, etc.; hereinafter the same shall apply in this item and the next paragraph) is vested (excluding a corporation listed in (c)): The ratio of the number of voting rights in the said affiliated foreign company held by the resident through direct and/or indirect ownership to the total number of voting rights in the said affiliated foreign company
 - (b) A corporation that issues shares, etc. in which different claims are vested (excluding a corporation listed in (c)): The ratio of the amount of dividend of surplus, etc. based on the claim for the said affiliated foreign company held by the resident through direct and/or indirect ownership to the total amount of dividend of surplus, etc. receivable based on the claims vested in the shares, etc. of the said affiliated foreign company
 - (c) A corporation that issues both shares, etc. in which more than one voting right is vested and shares, etc. in which different claims are vested: The ratio specified in (a) or the ratio specified in (b), whichever is larger
 - (ii) A resident who belongs to a family shareholder group whose direct and/or indirect ownership ratio for shares, etc. of the foreign affiliated company is five percent or more (excluding the resident listed in the preceding item).
- (2) In the preceding paragraph and this paragraph, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Foreign affiliated company: A foreign corporation in which the ratio of the sum of the number or amount of shares, etc. held through direct and/or indirect ownership by residents, domestic corporations and specially-related nonresidents (meaning nonresidents who have a special relationship specified by a Cabinet Order with residents or domestic corporations; hereinafter the same shall apply in this item) to the total number or total amount of issued shares or capital contributions (excluding the shares, etc. held by the foreign corporation) (in the case where the foreign corporation is a corporation listed in (a) to (c): the said ratio or the ratio listed in (a) to (c), whichever is larger) is more than 50 percent:

- (a) A corporation that issues shares, etc. in which more than one voting right (excluding a corporation listed in (c)): The ratio of the sum of the number of voting rights in the said foreign corporation held through direct and/or indirect ownership by residents, domestic corporations and specially-related nonresidents to the total number of voting rights in the said foreign corporation
- (b) A corporation that issues shares, etc. in which different claims are vested (excluding a corporation listed in (c)): The ratio of the sum of the amount of dividend of surplus, etc. based on the claims for the said foreign corporation held through direct and/or indirect ownership by residents, domestic corporations and specially-related nonresidents to the total amount of dividend of surplus, etc. receivable based on the claims vested in the shares, etc. of the said foreign corporation
- (c) A corporation that issues both shares, etc. in which more than one voting right is vested and shares, etc. in which different claims are vested: The ratio specified in (a) or the ratio specified in (b), whichever is larger
- (ii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign subsidiary company, etc. in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year
- (iii) Number of shares, etc. (held) through direct and/or indirect ownership: The sum of the number of shares of or amount of capital contributions to a foreign corporation held directly by an individual or domestic corporation and the number of shares of or amount of capital contributions to the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
- (iv) Number of voting rights (held) through direct and/or indirect ownership: The sum of the number of voting rights in a foreign corporation held directly by an individual or domestic corporation and the number of voting rights in the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
- (v) Amount of dividend of surplus, etc. based on the claims (held) through direct and/or indirect ownership: The sum of the amount of dividend of surplus, etc. receivable based on the claims in the shares, etc. of a foreign corporation held directly by an individual or domestic corporation and the

amount of dividend of surplus, etc. receivable based on the claims in the shares, etc. of the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation

(vi) Family shareholder group: A group of persons who directly or indirectly hold shares, etc. of an affiliated foreign company, within which a resident or domestic corporation has a special relationship specified by a Cabinet Order with the rest of the persons in the group (excluding a foreign corporation)

(3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign subsidiary company, etc. related to a resident listed in each item of paragraph (1) (excluding a company engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to in the next paragraph as the "case where a specified foreign subsidiary company, etc. has a fixed facility"), the phrase "amount that is adjusted" in the said paragraph shall be deemed to be replaced with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a personnel expense for people engaged in the business at the said specified foreign subsidiary, etc."

(4) Where a specified foreign subsidiary company, etc. prescribed in the preceding paragraph that is related to a resident listed in each item of paragraph (1) has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and the preceding paragraph shall not apply to the eligible retained income of the said specified foreign subsidiary company, etc. for the relevant business year:

(i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts business mainly with a person other than [1] a resident listed in each item of paragraph (1) who is related

- to the said specified foreign subsidiary company, etc., [2] a domestic corporation listed in each item of Article 66-6 (1) that is related to the said specified foreign subsidiary company, etc., [3] a consolidated corporation listed in each item of Article 68-90 (1) that is related to the said specified foreign subsidiary company, etc. or [4] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] to [3]
- (ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts a business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order).
- (5) A resident listed in each item of paragraph (1) shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign subsidiary company, etc. related to the said resident as well as any other documents specified by an Ordinance of the Ministry of Finance, to his/her final return form for the year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.
- (6) The provisions of paragraph (3) and paragraph (4) shall apply only where the resident has attached, to his/her final return form, a document stating that these provisions shall apply, and preserved documents or any other materials that certify that these provisions shall apply.
- (7) Where a resident holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc.(meaning the trustee's assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust), and the provisions of this Article (excluding paragraph (3), paragraph (4) and the preceding paragraph) to Article 40-6 shall be applied thereto.
- (8) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply in the case where the provision of the preceding paragraph shall apply.

Article 40-5 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign subsidiary company, etc. related to a resident who

is subject to the provision of paragraph (1) of the preceding Article with respect to its income tax for the relevant year and each year before the relevant year, or where an event listed in item (iii) has occurred with regard to an affiliated foreign company prescribed in paragraph (2)(i) of the said Article (limited to an affiliated foreign company that has received, from the said specified foreign subsidiary company, etc., payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item), which is specified by a Cabinet Order; hereinafter the same shall apply in this Article) that is related to the said resident, if the amount prescribed in each item contains any amount calculated pursuant to the method specified by a Cabinet Order as being appropriated from the taxable retained income pertaining to the resident (such amount hereinafter referred to in this Article as "taxed amount of dividend, etc."), the amount equivalent to the taxed amount of dividend, etc. shall, pursuant to the provision of a Cabinet Order, be deducted when calculating the amount of dividend income pertaining to the amount of dividend of surplus, etc. to be received by the resident from the specified foreign subsidiary company, etc. or foreign affiliated company for the year that includes the day on which the relevant event has occurred (including any amount that shall be deemed to be dividend of surplus, etc. from the said specified foreign subsidiary company, etc. or the said affiliated foreign company pursuant to the provision of Article 25 (1) of the Income Tax Act; hereinafter referred to in this Article and the next Article as the "amount of dividend, etc.") or calculating the amount of miscellaneous income pertaining to the taxable retained income to be included in the resident's gross income pursuant to the provision of paragraph (1) of the preceding Article:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
- (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve (meaning the amount of profit reserve prescribed in Article 2 (2)(xx); the same shall apply in the next item) which is to be decreased due to the delivery
- (iii) Payment of dividend of surplus, etc. to the said resident or delivery of money or any other assets to the said resident by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery
- (iv) Payment of distribution of profit to the resident: The amount of

distribution of profit to be paid

- (2) Where the amount equivalent to the taxed amount of dividend, etc. of the resident prescribed in the preceding paragraph for each of the three years preceding the relevant year contains any amount that remains after making deduction pursuant to the provision of the said paragraph (excluding any amount deducted for each of these years pursuant to the provision of this paragraph; hereinafter referred to in this paragraph as the "remaining amount of dividend, etc. after deduction"), the said remaining amount of dividend, etc. after deduction shall, pursuant to the provision of a Cabinet Order, be deducted when calculating the amount of dividend income pertaining to the amount of dividend of surplus, etc. to be received by the resident from the specified foreign subsidiary company, etc. or foreign affiliated company for the relevant year or calculating the amount of miscellaneous income pertaining to the taxable retained income to be included in the resident's gross income pursuant to the provision of paragraph (1) of the preceding Article.
- (3) The provisions of paragraph (1) and the preceding paragraph shall apply only where the resident has filed a final return form for the year prescribed in paragraph (1) or has continued to file the said final return form as well as final return forms for the subsequent years from the year following the said year until the year in which the resident seeks the application of the provision of the preceding paragraph, and the resident has stated, in his/her final return form for the year prescribed in paragraph (1) as well as final return forms for the said subsequent years, the deduction of the deductible amounts pursuant to the provision of the said paragraph or the preceding paragraph, and attached thereto a written statement concerning the said deductible amounts as well as the calculation of the amount of dividend income pertaining to the amount of dividend, etc. to be received from the specified foreign subsidiary company or affiliated foreign company and the amount of miscellaneous income pertaining to the taxable retained income to be included in the resident's gross income, both of which are prescribed in paragraph (1) and the preceding paragraph. In this case, the amount to be deducted pursuant to the provision of paragraph (1) or the preceding paragraph shall be limited to the amount stated as such amount to be deducted.
- (4) Even where a resident has not filed a final return form for the year for which he/she seeks deduction pursuant to the provision of paragraph (1) or paragraph (2) or has filed a final return form without a statement made therein or written statement attached thereto regarding the whole or part of the amount to be deducted, the district director may, when he/she finds any unavoidable reason for the resident's failure to file a necessary final return form, make a necessary statement therein or attach a necessary written statement thereto, apply the provision of paragraph (1) or paragraph (2) to any amount for which the

statement or written statement set forth in the said paragraph has not been made or attached, only if a document containing the statement set forth in the said paragraph and a written statement set forth in the said paragraph are submitted.

Article 40-6 Matters concerning the determination as to whether or not a resident falls under any of the categories listed in the items of Article 44-4 (1), the calculation of the maximum amount of deduction prescribed in Article 95 (1) of the Income Tax Act with regard to the amount of dividend, etc. that a resident receives from a specified foreign subsidiary company, etc. related to the said resident, and other necessary matters concerning the application of the provisions of the preceding two Articles shall be specified by a Cabinet Order.

**Subsection 3 Special Provisions for Taxation on Income, etc. of
Specified Foreign Corporations Related to Residents Who Are
Specially-Related Shareholders, etc.**

(Inclusion in Gross Income of Retained Income of Specified Foreign Corporations Related to Residents Who Are Specially-Related Shareholders, etc.)

Article 40-10 (1) Where, between a specially-related shareholder, etc. (meaning a person who falls under the category of specified shareholder, etc. as well as an individual and a corporation having a special relationship therewith as specified by a Cabinet Order; hereinafter the same shall apply in this Subsection) and a specially-related domestic corporation, there is a relationship specified by a Cabinet Order as a relationship whereby the said specially-related shareholder, etc. indirectly holds shares, etc. (meaning shares or capital contributions; hereinafter the same shall apply in this paragraph and the next paragraph) that accounts for 80 percent or more of the total number or total amount of issued shares of or capital contributions to the said specially-related domestic corporation (excluding the shares or capital contributions held by the corporation; hereinafter referred to in this paragraph and the next paragraph as "issued shares, etc.") (such relationship referred to in the next paragraph as a "specified relationship"), and a foreign corporation specified by a Cabinet Order as acting as an intermediary between the said specially-related shareholder, etc. and the said specially-related domestic corporation by way of the holding of the issued shares, etc. (hereinafter referred to in this Subsection as an "affiliated foreign corporation"), which falls under the category of affiliated foreign corporation specified by a Cabinet Order as a corporation whose tax burden to be imposed on its income earned in

a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign corporation"), in each business year (meaning a business year prescribed in Article 2 (2)(xix); hereinafter the same shall apply in this Article) beginning on or after October 1, 2007, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such adjusted amount hereinafter referred to in this Article as "eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign corporation held by the resident who is the said specially-related shareholder, etc. through direct and/or indirect ownership, while taking into consideration the contents of the claim (meaning a claim to demand dividend of surplus, etc., distribution of property and any other economic benefit) vested in such shares, etc. (such part of eligible retained income referred to in the next Article as "taxable retained income") shall be deemed to be the income of the resident who is the said specially-related shareholder, etc. categorized as miscellaneous income, and included in his/her gross income in the calculation of the amount of his/her miscellaneous income for the year that includes the day on which two months have elapsed since the day following the last day of the relevant business year:

- (2) In this Subsection, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Specified shareholder, etc.: An individual and corporation holding, at the time immediately before a specified relationship is established, shares, etc. of a specified domestic corporation (meaning a domestic corporation wherein not more than five shareholders, etc. (meaning shareholders, etc. prescribed in Article 2 (1)(viii)-2 of the Income Tax Act) as well as individuals and corporations having a special relationship therewith as specified by a Cabinet Order hold shares, etc. that account for 80 percent or more of the total number or total amount of its issued shares, etc. at that time; the same shall apply in the next item)
 - (ii) Specially-related domestic corporation: A specified domestic corporation, or a domestic corporation specified by a Cabinet Order as a corporation that has received the transfer of the majority of assets and liabilities from a specified

domestic corporation

- (iii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign corporation in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year
 - (iv) Number of shares, etc. held through direct and/or indirect ownership: The sum of the number of shares of or amount of capital contributions to a foreign corporation held directly by a resident or domestic corporation and the number of shares of or amount of capital contributions to the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
- (3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign corporation related to a resident who is a specially-related shareholder, etc. (excluding a corporation engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to as the "case where a specified foreign corporation has a fixed facility" in the next paragraph), the phrase "amount that is adjusted" in the said paragraph shall be deemed to be replaced with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a personnel expense for people engaged in the business at the said specified foreign corporation."
- (4) Where a specified foreign corporation prescribed in the preceding paragraph that is related to a resident who is a specially-related shareholder, etc. has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and

the preceding paragraph shall not apply to the eligible retained income of the said specified foreign corporation for the relevant business year:

- (i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign corporation conducts business mainly with a person other than [1] a specially-related domestic corporation that is related to the said specified foreign corporation, [2] a specially-related shareholder, etc. or [3] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] or [2]
 - (ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign corporation conducts business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order prescribed in Article 40-4 (4)(ii)).
- (5) A resident who is a specially-related shareholder, etc. shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign corporation related to the said resident as well as any other documents specified by an Ordinance of the Ministry of Finance, to his/her final return form for the year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.
- (6) The provisions of paragraph (3) and paragraph (4) shall apply only where the resident has attached, to his/her final return form, a document stating that these provisions shall apply, and preserved documents or any other materials that certify that these provisions shall apply.
- (7) The provision of paragraph (1) shall not apply where an affiliated foreign corporation related to a resident who is a specially-related shareholder, etc. falls under the category of affiliated foreign company prescribed in Article 40-4 (2)(i) and the said resident who is the said specially-related shareholder, etc. falls under the category of resident listed in each item of Article 40-4 (1).
- (8) Where a resident who is a specially-related shareholder, etc. holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc.(meaning the trustee's

assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust), and the provisions of this Article (excluding paragraph (3), paragraph (4) and paragraph (6)) to Article 40-12 shall be applied thereto.

- (9) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply mutatis mutandis in the case where the provision of the preceding paragraph shall apply.

Article 40-11 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign corporation related to a resident who is subject to the provision of paragraph (1) of the preceding Article with respect to its income tax for the relevant year and each year before the relevant year, or where an event listed in item (iii) has occurred with regard to an affiliated foreign corporation (limited to an affiliated foreign corporation that has received, from the said specified foreign corporation, payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item (ii)), which is specified by a Cabinet Order; hereinafter the same shall apply in this Article) that is related to the said resident, if the amount prescribed in each item contains any amount calculated pursuant to the method specified by a Cabinet Order as being appropriated from the taxable retained income pertaining to the resident (such amount hereinafter referred to in this Article as "taxed amount of dividend, etc."), the amount equivalent to the taxed amount of dividend, etc. shall, pursuant to the provision of a Cabinet Order, be deducted when calculating the amount of dividend income pertaining to the amount of dividend of surplus, etc. to be received by the resident from the specified foreign corporation or foreign affiliated corporation for the year that includes the day on which the relevant event has occurred (including any amount that shall be deemed to be dividend of surplus, etc. from the said specified foreign corporation or the said affiliated foreign corporation pursuant to the provision of Article 25 (1) of the Income Tax Act; hereinafter referred to in this Article and the next Article as the "amount of dividend, etc.") or calculating the amount of miscellaneous income pertaining to the taxable retained income to be included in the resident's gross income pursuant to the provision of paragraph (1) of the preceding Article:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
- (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act:

The amount equivalent to the amount of profit reserve (meaning the amount of profit reserve prescribed in Article 2 (2)(xx); the same shall apply in the next item) which is to be decreased due to the delivery

- (iii) Payment of dividend of surplus, etc. to the resident or delivery of money or any other assets to the resident by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery
- (2) Where the amount equivalent to the taxed amount of dividend, etc. of the resident prescribed in the preceding paragraph for each of the three years preceding the relevant year contains any amount that remains after making deductions pursuant to the provision of the said paragraph (excluding any amount deducted for each of these years pursuant to the provision of this paragraph; hereinafter referred to in this paragraph as the "remaining amount of dividend, etc. after deduction"), the said remaining amount of dividend, etc. after deduction shall, pursuant to the provision of a Cabinet Order, be deducted when calculating the amount of dividend income pertaining to the amount of dividend of surplus, etc. to be received by the resident from the specified foreign corporation or foreign affiliated corporation for the relevant year or calculating the amount of miscellaneous income pertaining to the taxable retained income to be included in the resident's gross income pursuant to the provision of paragraph (1) of the preceding Article.
- (3) The provisions of Article 40-5 (3) and (4) shall apply mutatis mutandis in the case where the provisions of the preceding two paragraphs shall apply. In this case, each term or phrase listed in the middle column of the table below that appears in the provision listed in the upper [left hand] column of the same table shall be deemed to be replaced with the corresponding term or phrase listed in the lower [right hand] column of the same table.

| | | |
|-----------------|--|--|
| Article 40-5(3) | The provisions of paragraph (1) and the preceding paragraph shall apply only where the resident has filed a final return form for the year prescribed in paragraph (1) | The provisions of Article 40-11(1) or (2) shall apply only where the resident has filed a final return form for the year prescribed in paragraph (1) of the said Article |
| | the year following the said year until the year in which the resident seeks the application of the provision of the preceding paragraph | the year following the said year until the year in which the resident seeks the application of the provision of paragraph (2) of the said Article |

| | | |
|-----------------|---|---|
| | his/her final return form for the year prescribed in paragraph (1) | his/her final return form for the year prescribed in paragraph (1) of the said Article |
| | the said paragraph or the preceding paragraph | the said paragraph or paragraph (2) of the said Article |
| | the amount of dividend income pertaining to the amount of dividend, etc. to be received from the specified foreign subsidiary company, etc. or affiliated foreign company..., both of which are prescribed in paragraph (1) and the preceding paragraph | the amount of dividend income pertaining to the amount of dividend, etc. to be received from the specified foreign corporation or affiliated foreign corporation..., both of which are prescribed in paragraph (1) or (2) of the said Article |
| | paragraph (1) or the preceding paragraph | paragraph (1) or (2) of the said Article |
| Article 40-5(4) | paragraph (1) preceding paragraph | Article 40-11(1) preceding paragraph as applied mutatis mutandis pursuant to paragraph (3) of the said Article |

Article 40-12 Matters concerning the determination as to whether or not there is a specified relationship prescribed in Article 40-10 (1) between a specially-related shareholder, etc. and a specially-related domestic corporation, the calculation of the maximum amount of deduction prescribed in Article 95 (1) of the Income Tax Act with regard to the amount of dividend, etc. that a resident receives from a specified foreign corporation related to the said resident, and other necessary matters concerning the application of the provisions of the preceding two Articles shall be specified by a Cabinet Order.

Section 6 Other Special Provisions

(Separate Taxation, etc. for Profit from Redemption, etc.)

Article 41-12 (1) With respect to profit receivable by an individual from redemption of discount bonds issued on or after April 1, 1988, notwithstanding the provisions of Article 22, Article 89 and Article 165 of the Income Tax Act, income tax shall be imposed separately from his/her other income, by applying a tax rate of 18 percent (or 16 percent in the case of company bonds issued by a Trans-Tokyo Bay Highway constructor prescribed in Article 2 (1) of the Act on Special Measures Concerning the Construction of the Trans-Tokyo Bay Highway (Act No. 45 of 1986) with the approval set forth in Article 10 (1) of the

said Act and bonds issued by the Organization for Promoting Urban Development prescribed in Article 3 (1) of the Act on Special Measures Concerning the Promotion of Urban Development with the approval set forth in Article 8 (3) of the said Act, which fall under the category of discount bonds (referred to in the next paragraph and paragraph (3) as "specified discount bonds") to such amount receivable.

- (2) A domestic corporation or foreign corporation shall be liable to pay income tax with respect to profit receivable from redemption of discount bonds issued on or after April 1, 1988, and income tax shall be imposed by applying a tax rate of 18 percent (or 16 percent in the case of profit receivable from redemption of specified discount bonds).
- (3) The issuer (including a person specified by a Cabinet Order as being equivalent thereto; the same shall apply in paragraph (5) and paragraph (6)) of discount bonds issued on or after April 1, 1988, shall collect, upon issue of the said discount bonds, from the person who is to acquire the bonds, income tax equivalent to the amount calculated by deducting the issue price from the face value of the said discount bonds and then multiplying the result by a tax rate of 18 percent (or 16 percent in the case of profit receivable from redemption of specified discount bonds), and pay it to the State no later than the tenth day of the month following the month that includes the date of collection, pursuant to the provision of a Cabinet Order.
- (4) Income tax to be collected and paid pursuant to the provision of the preceding paragraph shall be deemed to be withholding income tax prescribed in Article 2 (1)(xlv) of the Income Tax Act, and the provisions of the said Act (excluding Part II, Part III, and Part V, Chapter I), the Act on General Rules for National Taxes, and the National Tax Collection Act shall be applied thereto; where redemption (including retirement by purchase) is made with respect to discount bonds set forth in the preceding paragraph, income tax to be collected pursuant to the provision of the preceding paragraph shall, pursuant to the provision of a Cabinet Order, be deemed to be income tax that is to be collected from the acquirer set forth in the said paragraph (in the case where the said acquirer is not the person who is to receive the redemption: the said person who is to receive the redemption) as income tax on profit from redemption when the acquirer receives the said redemption. In this case, where the said acquirer is a domestic corporation or foreign corporation, with regard to the application of the provisions of the Corporation Tax Act to the said domestic corporation or foreign corporation: in Article 68 (1), Article 81-14 (1) and Article 100 (1) of the said Act, the phrase "or prize money" shall be deemed to be replaced with "or prize money... or profit from redemption prescribed in Article 41-12 (2) of the Act on Special Measures Concerning Taxation (Separate Taxation, etc. for Profit from Redemption)," and the phrase "the said Act" shall

be deemed to be replaced with "the Income Tax Act or the Act on Special Measures Concerning Taxation"; in Article 144 of the said Act, "the Income Tax Act" shall be deemed to be replaced with "the Income Tax Act or the Act on Special Measures Concerning Taxation," and the phrase "the said Act" shall be deemed to be replaced with "the Income Tax Act."

- (5) Where the issuer of discount bonds issued on or after April 1, 1988, redeems the said discount bonds by bringing the redemption date forward or retires the said discount bonds by purchase prior to the redemption date, the said issuer shall refund, pursuant to the provision of a Cabinet Order, to the person who is to receive such redemption (including retirement by purchase), part of the amount equivalent to the amount of income tax collected pursuant to the provision of paragraph (3) and deemed to be income tax set forth in the preceding paragraph.
- (6) Where the issuer of discount bonds issued on or after April 1, 1988, makes payment of profit from redemption of the said discount bonds to a corporation prescribed in Article 11 (1) or (2) of the Income Tax Act or a trustee of a charitable trust or participant protection trust prescribed in paragraph (3) of the said Article (in the case of payment to a trustee of a charitable trust or participant protection trust: such payment of profit from redemption shall be limited to payment related to the relevant trust property), the said issuer shall refund, pursuant to the provision of a Cabinet Order, to the person who is to receive payment, the whole or part of the amount equivalent to the amount of income tax collected pursuant to the provision of paragraph (3) and deemed to be income tax set forth in paragraph (4) (excluding the amount for which a refund shall be made pursuant to the provision of the preceding paragraph).
- (7) Discount bonds prescribed in the preceding paragraphs shall mean government or company bonds (limited to those specified by a Cabinet Order) issued by means of a discount, except for those listed in the following, and profit from the redemption prescribed in these paragraphs shall mean margin profit generated when the redemption price of discount bonds (or the purchase price of discount bonds in the case of retirement by purchase) exceeds the issue price thereof:
 - (i) Bonds in foreign currency prescribed in Article 1 (1) of the Act on the Issue of Government Bonds in Foreign Currency that are issued pursuant to the provision of Article 1 (1) of the said Act or paragraph (3) of the said Article (including the cases where it is applied mutatis mutandis pursuant to Article 4 of the said Act) (including bonds in foreign currency prescribed in Article 4 of the said Act)
 - (ii) Bonds issued by a corporation established under special laws or regulations pursuant to the provision of the said laws or regulations, which are specified by a Cabinet Order

- (8) In addition to what is specified in paragraph (3) to paragraph (6), necessary matters concerning the application of the provisions of paragraph (1) and paragraph (2) shall be specified by a Cabinet Order.
- (9) Where, with respect to government or company bonds issued by means of a discount on or after April 1, 1999, that are listed in the following (including those specified by a Cabinet Order as being similar thereto), for which a period from the date of issue to the redemption date is not more than one year (hereinafter referred to in this paragraph as "short-term government or company bonds"), specified entries or records under the book-entry transfer system (meaning entries or records in a transfer account book set forth in the Act on Book-Entry Transfer of Company Bonds, etc. which are made pursuant to the provisions of the said Act; hereinafter referred to in this Article as "entries or records under the book-entry transfer system"), which are specified by a Cabinet Order; hereinafter the same shall apply in this paragraph) are made together with all other short-term government or company bonds that have the same brand at the time of issue, such short-term government or company bonds for which the said specified entries or records under the book-entry transfer system are made (limited to those that satisfy the requirements specified by an Ordinance of the Ministry of Finance for bonds held by a specified person; hereinafter referred to in this Article as "specified short-term government or company bonds") shall not fall under the category of discount bonds prescribed in paragraph (1) to paragraph (6):
- (i) National government bonds issued pursuant to the provision of Article 5 (1) or Article 5-2 of the Special Account for the National Debt Consolidation Fund Act (Act No. 6 of 1906)
 - (ii) National government bonds issued pursuant to the provision of Article 3 or Article 4 of the Foodstuff Control Special Account Act (Act No. 37 of 1921)
 - (iii) National government bonds issued pursuant to the provision of Article 7 (1) of the Public Finance Act (Act No. 34 of 1947)
 - (iv) National government bonds issued pursuant to the provision of Article 6 (1) or the proviso of Article 6 (2) of the Special Account for National Forest Service Act (Act No. 38 of 1947)
 - (v) National government bonds issued pursuant to the provision of Article 4 (1) or Article 18 (1) or the proviso of Article 18 (2) of the Foreign Exchange Fund Special Account Act (Act No. 56 of 1951)
 - (vi) National government bonds issued pursuant to the provision of Article 9 (1) of the Fiscal Loan Fund Act (Act No. 100 of 1951)
 - (vii) National government bonds issued pursuant to the provision of Article 11 (1) or Article 12 of the Fiscal Loan Fund Special Account Act (Act No. 101 of 1951)
 - (viii) National government bonds issued pursuant to the provision of Article 12

- (2) or Article 13 (1) of the Act on the Special Account for Petroleum and the More Sophisticated Structure of Demand and Supply of Energy Policies (Act No. 12 of 1967)
- (ix) Short-term company bonds prescribed in Article 66 (i) of the Act on Book-Entry Transfer of Company Bonds, etc. or book-entry transfer bonds in foreign currency prescribed in Article 36 (1) of the Supplementary Provisions of the said Act, which satisfy the requirements specified by an Ordinance of the Ministry of Finance
- (x) Short-term Shoko Chukin Bank bonds prescribed in Article 33-2 of the Shoko Chukin Bank Act (Act No. 14 of 1936)
- (xi) Short-term investment corporation bonds prescribed in Article 139-12 (1) of the Act on Investment Trust and Investment Corporation
- (xii) Short-term bonds prescribed in Article 54-4 (1) of the Shinkin Bank Act (Act No. 238 of 1951)
- (xiii) Short-term company bonds prescribed in Article 61-10 (1) of the Insurance Business Act (Act No. 105 of 1995)
- (xiv) Specified short-term company bonds prescribed in Article 2 (8) of the Act on Securitization of Assets
- (xv) Short-term Norinchukin Bank bonds prescribed in Article 62-2 (1) of the Norinchukin Bank Act (Act No. 93 of 2001)
- (10) The provision of Article 37-15 (1) shall not apply to any income specified by a Cabinet Order as income from the transfer of specified short-term government or company bonds issued in Japan.
- (11) The provision of Article 37-15 (2) shall not apply to the transfer of specified short-term government or company bonds issued in Japan.
- (12) Where a person (excluding the corporations listed in Appended Table 1 of the Corporation Tax Act, specified book-entry transfer institution, etc., foreign intermediary and any other person specified by a Cabinet Order) makes, for the first time since April 1, 1999, entries or records under the book-entry transfer system with regard to specified book-entry transfer national government bonds, etc. (meaning specified short-term government or company bonds, principal-only book-entry transfer national government bonds prescribed in Article 90 (2) of the Act on Book-Entry Transfer of Company Bonds, etc., and coupon-only book-entry transfer national government bonds prescribed in paragraph (3) of the said Article for which separate trading of principal and interest prescribed in paragraph (1) of the said Article has been conducted pursuant to the provision of an Ordinance of the Ministry of Finance; hereinafter the same shall apply in this Article) in the person's account that will be or has been established with a specified book-entry transfer institution, etc. (meaning a [1] book-entry transfer institution prescribed in Article 2 (2) of the Act on Book-Entry Transfer of Company Bonds,

etc., [2] an institution that shall be deemed to be the said book-entry transfer institution pursuant to the provision of Article 48 of the said Act, and [3] a specified account management institution (meaning a specified account management institution prescribed in Article 5-2 (5)(ii)) and specified indirect account management institution (meaning a specified indirect account management institution prescribed in Article 5-2 (5)(iii)), with each of which the said book-entry transfer institution (including an institution that shall be deemed as such) has established an account in accordance with the operational rules prescribed in Article 3 (1)(v) of the said Act; hereinafter the same shall apply in this Article) or established with a foreign intermediary (meaning a foreign indirect account management institution prescribed in Article 5-2 (5)(viii) (hereinafter referred to in this Article as a "foreign indirect account management institution") and a foreign further indirect account management institution prescribed in Article 5-2 (5)(vii) (hereinafter referred to in this Article as a "foreign further indirect account management institution"); hereinafter the same shall apply in this Article), via a business office, etc. (meaning a business office, etc. prescribed in Article 5-2 (1); hereinafter the same shall apply in this Article) of the said specified book-entry transfer institution, etc. or an overseas business office, etc. (meaning a business office or any other office of a foreign intermediary which is located outside Japan; hereinafter the same shall apply in this paragraph and the next paragraph) of the said foreign intermediary, such person shall, upon making the first entries or records under the book-entry transfer system (limited to those made in the said account; hereinafter the same shall apply in this Article), submit a written notice stating the person's name and address (or any other place specified by an Ordinance of the Ministry of Finance in the case where the person does not have an address in Japan; hereinafter the same shall apply in this Article) and any other matters specified by an Ordinance of the Ministry of Finance, to the head of the business office, etc. of the specified book-entry transfer institution, etc. through which the person makes the entries or records under the book-entry transfer system, or submit such a written notice via the foreign intermediary through which the person makes entries or records under the book-entry transfer system (in the case where the said foreign intermediary is a foreign further indirect account management institution, submission shall be made via the said foreign intermediary (in the case where the said foreign intermediary makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. through another foreign further indirect account management institution, submission shall be made via the said foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said

specified book-entry transfer national government bonds, etc.) and the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.), to the head of the business office, etc. of the specified book-entry transfer institution, etc. through which the said foreign intermediary (in the case where the said foreign intermediary is a foreign further indirect account management institution: the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. In this case, such person who submits the said written notice shall present a copy of the person's certificate of residence, certificate of registered matters of the corporation and any other document specified by a Cabinet Order (hereinafter referred to in this paragraph to paragraph (18) as "identification documents") to the head of the business office, etc. of the specified book-entry transfer institution, etc. to which the said written notice is submitted (excluding the case where the said written notice is submitted via the said foreign intermediary; hereinafter the same shall apply in this paragraph) or to the head of the overseas business office, etc. of the said foreign intermediary to which the said written notice is submitted, and the head of the business office, etc. of the specified book-entry-transfer institution, etc. to which the said written notice is submitted or the head of the overseas business office, etc. of the said foreign intermediary to which the said written notice is submitted shall confirm, by the said identification documents, the name and address stated in the said written notice.

- (13) In the case referred to in the first part of the preceding paragraph, where the written notice set forth in the said paragraph has been received by the head of the overseas business office, etc. of the foreign intermediary set forth in the said paragraph, it shall be deemed that the said written notice has been submitted to the head of the business office, etc. of the specified book-entry transfer institution, etc. through which the person makes entries or records under the book-entry transfer system regarding the specified book-entry transfer national government bonds, etc. set forth in the said paragraph, when it has been received by the said head of the overseas business office, etc. of the foreign intermediary.
- (14) A foreign intermediary that has made a confirmation set forth in the second part of paragraph (12) shall, for each person who makes entries or records under the book-entry transfer system set forth in the said paragraph, submit a document certifying that the confirmation set forth in the said paragraph has been made, the identification documents used for the said confirmation and

any other document specified by a Cabinet Order, to the head of the business office, etc. of the specified book-entry transfer institution through which the said foreign intermediary makes the said entries or records under the book-entry transfer system regarding the specified book-entry transfer national government bonds, etc. (in the case where the said foreign intermediary is a foreign further indirect account management institution, submission shall be made via the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. (in the case where the said foreign intermediary makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. through another foreign further indirect account management institution, submission shall be made via the said foreign intermediary and such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) to the head of the business office, etc. of the specified book-entry transfer institution, etc. through which the said foreign indirect account management institution makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.)

- (15) A foreign intermediary shall keep books with regard to the book-entry transfer national government bonds, etc. for which the person who makes entries or records under the book-entry transfer system prescribed in paragraph (12) has made entries or records under the book-entry transfer system through the said foreign intermediary, and shall state or record in such books, pursuant to the provision of a Cabinet Order, the day on which entries or records under the book-entry transfer system have been made with regard to the said book-entry transfer national government bonds, etc., and any other matters specified by an Ordinance of the Ministry of Finance, for each person who makes entries or records under the book-entry transfer system.
- (16) A foreign intermediary shall, for each person who makes entries or records under the book-entry transfer system prescribed in the preceding paragraph, pursuant to the provision of a Cabinet Order, give notice of the day on which entries or records under the book-entry transfer system have been made with regard to the specified book-entry transfer national government bonds, etc. for which the said person who makes entries or records under the book-entry transfer system has made entries or records under the book-entry transfer system through the said foreign intermediary, and any other matters specified by an Ordinance of the Ministry of Finance, to the specified book-entry transfer institution, etc. through which the said foreign intermediary has made entries

or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. (in the case where the said foreign intermediary is a foreign further indirect account management institution, notice shall be given to the specified book-entry transfer institution, etc. through which the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. has made entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) by way of a document or any other means specified by a Cabinet Order. In this case, the said specified book-entry transfer institution, etc. shall keep books with regard to the said book-entry transfer national government bonds, etc., and shall state or record, pursuant to the provision of a Cabinet Order, these matters in such books for each person who makes the said entries or records under the book-entry transfer system.

(17) A person (excluding the corporations listed in Appended Table 1 of the Corporation Tax Act and any other persons specified by a Cabinet Order) who has transferred specified book-entry transfer national government bonds, etc. on or after April 1, 1999 (excluding the transfer made by way of book-entry transfer from the account pertaining to entries or records under the book-entry transfer system; hereinafter the same shall apply in this paragraph), and therefore receives, in Japan, payment of a consideration for the transfer of the specified book-entry transfer national government bonds, etc. from the corporation that has accepted the transfer of the specified book-entry transfer national government bonds, etc. (including an association or foundation without juridical personality prescribed in Article 2 (viii) of the said Act; hereinafter the same shall apply in this Article) shall notify the corporation that has accepted the said transfer (hereinafter referred to in this paragraph as the "payer") of the person's name and address by the time the person is to receive payment. In this case, the person who receives payment shall present the person's identification document to the said payer, and the said payer shall confirm, by the said identification document, the person's name and address stated in the notification.

(18) Where, in Japan on or after April, 1, 1999, a person (excluding the corporations listed in Appended Table 1 of the Corporation Tax Act and any other person specified by a Cabinet Order) receives, due to the redemption (including retirement by purchase; hereinafter the same shall apply in this paragraph) of specified book-entry transfer national government bonds, etc., payment of redemption money (or a consideration for the purchase in the case of retirement by purchase; hereinafter the same shall apply in this Article), or receives, due to interest payment pertaining to specified book-entry transfer

national government bonds, etc. (limited to interest on coupon-only book-entry transfer national government bonds prescribed in paragraph (12); hereinafter the same shall apply in this Article), payment of interest, such person shall, upon receiving the redemption or interest payment, submit a written notice stating the person's name and address and any other matters specified by an Ordinance of the Ministry of Finance to the person in charge of handling payment of redemption money or interest (in the case where the said person in charge of handling payment is a foreign intermediary, submission shall be made via the said foreign intermediary (in the case where the said foreign intermediary is a foreign further indirect account management institution, and the said foreign intermediary makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. through a foreign indirect account management institution, submission shall be made via the said foreign intermediary and the said foreign indirect account management institution; in the case where the said foreign intermediary is a foreign further indirect account management institution, and the said foreign intermediary makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc. through another foreign further indirect account management institution, submission shall be made via [1] the said foreign intermediary, [2] such other foreign further indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc., and [3] the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) to the head of the business office, etc. of the specified book-entry transfer institution through which the said foreign intermediary (in the case where the said foreign intermediary is a foreign further indirect account management institution: the foreign indirect account management pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) In this case, the person who submits the said written notice shall present the person's identification document to the said person in charge of handling payment, and the said person in charge of handling payment shall confirm, by the said identification document, the person's name and address stated in the written notice.

- (19) The provision of paragraph (13) shall apply mutatis mutandis to the submission of a written notice set forth in the first part of the preceding

paragraph, and the provision of paragraph (14) shall apply mutatis mutandis to the person who makes the confirmation set forth in the second part of the preceding paragraph. In this case, the phrase "first part of the preceding paragraph" in paragraph (13) shall be deemed to be replaced with "first part of paragraph (18)," and the phrase "second part of paragraph (12)" in paragraph (14) shall be deemed to be replaced with "second part of paragraph (18)."

(20) Special provisions for the submission of a written notice pursuant to the provision of paragraph (12) in the case where entries or records under the book-entry transfer system regarding specified book-entry transfer national government bonds, etc. are made in the account pertaining to entries or records under the book-entry transfer system that has been confirmed pursuant to the provision of Article 5-2 (9), special provisions for the submission of a written notice pursuant to the provision of paragraph (18) with regard to redemption money and interest on specified book-entry transfer national government bonds, etc. for which entries or records under the book-entry transfer system have been made in the account pertaining to entries or records under the book-entry transfer system that has been confirmed pursuant to the provision of Article 5-2 (9), and other necessary matters concerning the application of the provisions of paragraph (12) to the preceding paragraph shall be specified by a Cabinet Order.

(21) Where a person listed in each of the following items pays, in Japan on or after April 1, 1999, a consideration for the transfer of specified book-entry transfer national government bonds, etc. to an individual or a corporation (excluding the corporations listed in Appended Table 1 of the Corporation Tax Act, specified book-entry transfer institution, etc., foreign intermediary, and any other person specified by a Cabinet Order; the same shall apply in the next paragraph) (such person hereinafter referred to in this paragraph as the "payer"; in the case where the person listed in each of the said items is a foreign intermediary, the payer shall be the specified book-entry transfer institution, etc. through which the said foreign intermediary (in the case where the said foreign intermediary is a foreign further indirect account management institution: the foreign indirect account management institution pertaining to the entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.) makes entries or records under the book-entry transfer system regarding the said specified book-entry transfer national government bonds, etc.), the payer shall, for each person who receives payment of a consideration, submit a report stating the name and address of the person who receives the payment, the paid amount of the consideration of the transfer of the specified book-entry transfer national government bonds, etc., and any other matters specified by an Ordinance of the Ministry of Finance (referred to in paragraph (23) to paragraph (25) as a

"report of payment of a consideration for the transfer of specified book-entry transfer national government bonds, etc."), to the competent district director having jurisdiction over the location of the payer's business office, etc. where the affairs for payment of a consideration are handled; hereinafter referred to in this paragraph as the "competent district director"), no later than January 31 of the year following the year that includes the day on which payment has been determined (in the case where the payer is the said specified book-entry transfer institution, etc. that is related to the foreign intermediary with regard to the said specified book-entry transfer national government bonds, etc.: the day on which the said specified book-entry transfer institution, etc. has received a notice pursuant to the provision of paragraph (16) from the said foreign intermediary; hereinafter the same shall apply in this paragraph) (in the case where approval has been obtained from the competent district director pursuant to the provision of a Cabinet Order, submission shall be made no later than the last day of the month following the month that includes the day on which payment has been determined):

- (i) A corporation that has accepted the transfer of the specified book-entry transfer national government bonds, etc. (excluding such corporation that has accepted the transfer via the person listed in the next item)
- (ii) A specified book-entry transfer institution, etc. or foreign intermediary that has been entrusted with sales with regard to the transfer of the specified book-entry transfer national government bonds, etc.

(22) Where a person handles, in Japan on or after April 1, 1999, payment of redemption money or interest on specified book-entry transfer national government bonds, etc. to an individual or corporation (hereinafter referred to in this paragraph as the "person in charge of handling payment"; in the case where the person who handles the said payment is a foreign intermediary, the person in charge of handling payment shall be the specified book-entry transfer institution, etc. prescribed in the preceding paragraph that is related to the said foreign intermediary with regard to the said specified book-entry transfer national government bonds, etc.), the person in charge of handling payment shall, for each person who receives payment of redemption money or interest, submit a report stating the name and address of the person who receives payment, the paid amount of redemption money or interest of the specified book-entry transfer national government bonds, etc., and any other matters specified by an Ordinance of the Ministry of Finance (referred to in the next paragraph to paragraph (25) as a "report of payment of redemption money, etc. of specified book-entry transfer national government bonds, etc."), to the competent district director having jurisdiction over the location of the business office, etc. of the person in charge of handling payment where the affairs for payment of redemption money, etc. are handled; hereinafter referred to in this

paragraph as the "competent district director"), no later than January 31 of the year following the year that includes the day on which payment has been made (in the case where approval has been obtained from the competent district director pursuant to the provision of a Cabinet Order, submission shall be made no later than the last day of the month following the month that includes the day on which payment has been made).

(23) Where the person who pays a consideration for the transfer of specified book-entry transfer national government bonds, etc. prescribed in paragraph (21) or the person who handles payment of redemption money or interest on specified book-entry national government bonds, etc. prescribed in the preceding paragraph has obtained approval from the district director pursuant to the provision of a Cabinet Order, the person may submit an optical disk, magnetic disk or any other recording medium specified by an Ordinance of the Ministry of Finance (hereinafter referred to in this paragraph as an "optical disk, etc.") in which the matters to be stated in a report pursuant to the provisions of the said paragraphs are recorded, instead of submitting the report pursuant to the provisions of the said paragraphs. In this case, with regard to the application of the provisions of the preceding two paragraphs, the next paragraph, paragraph (25), and Article 42-3, the said optical disk, etc. shall be deemed to be a report of payment of a consideration for the transfer of specified book-entry transfer national government bonds, etc. or a report of payment of redemption money, etc. of specified book-entry transfer national government bonds, etc.

(24) In addition to what is specified in the preceding paragraph, special provisions for the submission of a report of payment of a consideration for the transfer of specified book-entry transfer national government bonds, etc. or a report of payment of redemption money, etc. of specified book-entry transfer national government bonds, etc., and other necessary matters concerning the application of the provisions of paragraph (21) and paragraph (22) shall be specified by a Cabinet Order.

(25) The relevant official of the National Tax Agency, the Regional Taxation Bureau, or the Tax Office may, when it is necessary in the examination concerning the submission of a report of payment of a consideration for the transfer of specified book-entry transfer national government bonds, etc. or a report of payment of redemption money, etc. of specified book-entry transfer national government bonds, etc., ask questions of the person who is obliged to submit the said report of payment of a consideration for the transfer of specified book-entry transfer national government bonds, etc. or a report of payment of redemption money, etc. of specified book-entry transfer national government bonds, etc., or inspect the person's books, documents and any other materials concerning the handling of payment of a consideration for the

transfer of specified book-entry transfer national government bonds, etc. or payment of redemption money or interest on specified book-entry transfer national government bonds, etc.

(26) The relevant official of the National Tax Agency, the Regional Taxation Bureau, or the Tax Office shall, when asking questions or conducting an inspection pursuant to the provision of the preceding paragraph, carry an identification card and present it to the person concerned when requested

(27) The authority to ask questions or conduct an inspection pursuant to the provision of paragraph (25) shall not be construed to be granted for criminal investigation.

(Exclusion from Taxation of Discount on Bonds Regarding Foreign-Issued Company Bonds)

Article 41-13 Income tax shall not be imposed with respect to any discount on foreign-issued company bonds (meaning a margin generated where the amount to be received due to redemption of foreign-issued company bonds exceeds the issue price of the foreign-issued company bonds) to be received by a nonresident with regard to foreign-issued company bonds prescribed in Article 6 (1) issued during the period from April 1, 1998, to March 31, 2008; provided, however, that this shall not apply to such discount on foreign-issued company bonds to be received by a nonresident who has permanent establishments in Japan, which is attributed to a business conducted by the said nonresident in Japan or which is otherwise specified by a Cabinet Order

(Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)

Article 42 (1) Where a nonresident or foreign corporation (excluding a nonresident having a residence in Japan or a foreign corporation having an office, place of business or any other business facility equivalent thereto in Japan) engaged in conducting, in Japan, the business prescribed in Article 161 (ii) of the Income Tax Act (limited to a business that is mainly intended to provide the services of motion picture or theatre artistes, musicians and any other entertainers, or professional athletes (hereinafter referred to in this paragraph and paragraph (3) as the "provision of the services of entertainers, etc.)), which is exempt from income tax pursuant to the provisions of a convention prescribed in Article 162 of the said Act (hereinafter referred to in this paragraph as a "tax convention") with respect to the consideration listed in Article 161 (ii) of the said Act for the provision of the services of entertainers, etc. (such nonresident or foreign corporation shall be limited to those to be exempt from income tax on condition that the nonresident or foreign

corporation has no permanent establishments (meaning permanent establishments specified by the said tax convention; hereinafter the same shall apply in this paragraph) in Japan or that the consideration to be received by the nonresident or foreign corporation is not attributed to his/her or its permanent establishments located in Japan; hereinafter referred to in this paragraph and paragraph (3) as a "tax-exempt entertainment corporation, etc."), pays outside Japan to the person listed in any of the following items, pay, remuneration or consideration specified in the relevant item (hereinafter referred to in this Article as "remuneration for the provision of the services of entertainers, etc."), from the consideration for which the tax-exempt entertainment corporation, etc. is exempt from income tax, the said tax-exempt entertainment corporation, etc. shall, upon payment, collect income tax equivalent to the amount calculated by multiplying the amount of remuneration for the provision of the services of entertainers, etc. by a tax rate of 20 percent, and pay it to the State no later than the last day of the month following the month that includes the date of collection:

- (i) Another nonresident who carries out the provision of the services of entertainers, etc. for the said business: Pay or remuneration listed in Article 161 (viii) of the Income Tax Act which pertains to his/her provision of the services of entertainers, etc.
 - (ii) Another nonresident or foreign corporation engaged in conducting a business that is mainly intended to provide the services of entertainers, etc. for the said business: Consideration listed in Article 161 (ii) of the Income Tax Act which pertains to his/her or its provision of the services of entertainers, etc.
- (2) Income tax to be collected and paid pursuant to the provision of the preceding paragraph shall be deemed to be withholding income tax prescribed in Article 2 (1)(xlv) of the Income Tax Act, and the provisions of the said Act, the Act on General Rules for National Taxes, and the National Tax Collection Act shall be applied thereto. In this case, the provisions of the Income Tax Act and the Corporation Tax Act shall be applied pursuant to the following provisions:
- (i) Where the person listed in item (ii) of the preceding paragraph has been subject to the collection of income tax pursuant to the provision of the said paragraph with respect to the consideration specified in the said item, with regard to the application of the provision of Article 215 of the Income Tax Act, the phrase "Article 212 (1) (Withholding Liability)" in the said Article shall be deemed to be replaced with "Article 212 (1) (Withholding Liability) or the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)," and the term "the said paragraph [Article 212

- (1)]" in the said Article shall be deemed to be replaced with "these clauses."
- (ii) Where the person who receives payment of remuneration for the provision of the services of entertainers, etc. is a nonresident, with regard to the application of the provisions of Article 172 and Article 214 of the Income Tax Act to the said nonresident: in Article 172 (1) of the said Act, the phrase "Part IV, Chapter V (Withholding at Source of Income of Nonresidents or Corporations)" shall be deemed to be replaced with "Part IV, Chapter V (Withholding at Source of Income of Nonresidents or Corporations) or the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)," and the phrase "Part IV, Chapter V" shall be deemed to be replaced with "Part IV, Chapter V or the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation"; in Article 214 (1), the phrase "Article 212 (1) (Withholding Liability)" shall be deemed to be replaced with "Article 212 (1) (Withholding Liability) and the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)."
- (iii) Where the person who receives payment of remuneration for the provision of the services of entertainers, etc. is a foreign corporation, with regard to the application of the provisions of Article 180 of the Income Tax Act and Article 144 of the Corporation Tax Act to the said foreign corporation: in Article 180 (1) of the Income Tax Act, the phrase "the preceding two Articles" shall be deemed to be replaced with "the preceding two Articles and the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)"; in Article 144 of the Corporation Tax Act, the phrase "Article 212 (1) of the Income Tax Act (Withholding Liability Regarding Income of Nonresidents or Foreign Corporations)" shall be deemed to be replaced with "Article 212 (1) of the Income Tax Act (Withholding Liability Regarding Income of Nonresidents or Foreign Corporations) or the provision of Article 42 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Withholding at Source of Remuneration, etc. Paid by Tax-Exempt Entertainment Corporations, etc. to Entertainers for Their Provision of Services)," the phrase "Article 215 of the said Act" shall be deemed to be replaced with "Article 215 of the Income Tax Act," the phrase "the said paragraph [Article 212 (1) of the said Act]" shall be deemed to be replaced with "Article 212 (1) of the said Act or the provision of Article 42 (1)

of the Act on Special Measures Concerning Taxation," and the phrase "Article 161 (viii) of the said Act" shall be deemed to be replaced with "Article 161 (viii) of the Income Tax Act."

- (3) With regard to the application of the provisions of Article 179 and Article 213 (1) of the Income Tax Act in the case where a tax-exempt entertainment corporation, etc. receives payment of the consideration listed in Article 161 (ii) of the said Act for the provision of the services of entertainers, etc., the phrase "20 percent" in Article 179 (i) and Article 213 (1)(i) of the said Act shall be deemed to be replaced with "15 percent."
- (4) The treatment of income tax collected, pursuant to the provision of paragraph (1), by the person listed in paragraph (1)(ii) who is a nonresident, and other necessary matters concerning the application of the provisions of the said paragraph and the preceding paragraph shall be specified by a Cabinet Order.

(Special Provisions for Taxation on Interest Received by Foreign Financial Institutions, etc. from Bond Transactions with Repurchase/Resale Agreements)

- Article 42-2 (1) Where a foreign financial institution, etc. receives payment of interest listed in Article 161 (vi) of the Income Tax Act from a specified financial institution, etc., with respect to a bond transaction with a repurchase or resale agreement specified by a Cabinet Order regarding any of the following bonds, which has been commenced during the period from April 1, 2002, to March 31, 2008, and from which the domestic source income listed in Article 161 (vi) of the said Act arises (limited to such transaction that satisfies the requirements specified by a Cabinet Order; referred to in paragraph (10) as a "bond transaction with a repurchase/resale agreement"), income tax shall not be imposed on the interest to be received (excluding the interest specified by a Cabinet Order; hereinafter referred to in this Article as "specified interest"):
- (i) Book-entry transfer national government bonds prescribed in Article 88 of the Act on Book-Entry Transfer of Company Bonds, etc.
 - (ii) Bonds issued or guaranteed by a foreign state or local public entity thereof
 - (iii) Bonds issued or guaranteed by a foreign corporation, which are specified by a Cabinet Order (excluding those listed in the preceding item)
- (2) The provision of the preceding paragraph shall not apply where the foreign financial institution, etc. that receives payment of specified interest (limited to a foreign corporation listed in paragraph (4)(i)(a)) falls under the category of foreign corporation listed in any of the following items:
- (i) A foreign corporation (excluding a corporation of the Contracting State other than Japan of a convention prescribed in Article 162 of the Income Tax Act) that falls under the category of foreign controlling shareholder, etc. prescribed in Article 66-5 (4)(i), which is related to the specified financial

- institution, etc. that pays the said specified interest
- (ii) A foreign corporation that falls under the category of specified foreign subsidiary company, etc. prescribed in Article 40-4 (1) or Article 66-6 (1), which is related to a resident or domestic corporation (excluding a foreign corporation listed in the preceding item)
 - (iii) A foreign corporation (excluding the foreign corporations listed in the preceding two items) in the case where foreign corporation tax (meaning foreign corporation tax prescribed in Article 69 (1) of the Corporation Tax Act; hereinafter the same shall apply in this item) shall not be imposed on the foreign corporation with respect to the said specified interest in the state or territory where its head office or principal office is located (hereinafter referred to in this item as the "state of the head office") (excluding the case where the said specified interest is attributed to a business conducted by the foreign corporation at its business office or other office (referred to in paragraph (4) and paragraph (7) as a "business office, etc.") located in any state or territory other than the state of the head office, and foreign corporation tax shall be imposed on the foreign corporation with respect to the said specified interest in such state or territory)
- (3) The provision of paragraph (1) shall not apply to specified interest which is received by a foreign corporation having permanent establishments in Japan and is attributed to a business conducted by the foreign corporation in Japan.
- (4) In this Article, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Foreign financial institution, etc.: Any of the following foreign corporations:
 - (a) A foreign corporation engaged in the banking business, securities business or insurance business in a foreign state in accordance with the laws and regulations of the said state
 - (b) A central bank of a foreign state
 - (c) An international organization established based on an international agreement
 - (ii) Specified financial institution, etc.: Any of the following corporations:
 - (a) A corporation (limited to a corporation that has a business office, etc. in Japan) which is a financial institution prescribed in Article 8 (1) or which is a financial instruments business operator prescribed in paragraph (2) of the said Article that falls under the category of financial institution prescribed in Article 2 (2) of the Act on Collective Clearing of Specified Financial Transactions Conducted by Financial Institutions, etc. (Act No. 108 of 1998)
 - (b) The Bank of Japan
- (5) A foreign financial institution, etc. that seeks the application of the provision of paragraph (1) shall, pursuant to the provision of a Cabinet Order, submit a

written application stating that it seeks the application of the provision of the said paragraph with respect to the specified interest receivable, as well as its name and the location of its head office or principal office (or any other place specified by an Ordinance of the Ministry of Finance in the case of a foreign corporation having permanent establishments in Japan; hereinafter the same shall apply in this Article) and any other matters specified by an Ordinance of the Ministry of Finance (hereinafter referred to in this Article as a "written application for tax exemption"), no later than the day preceding the day on which the foreign financial institution, etc. is to receive payment for the first time, via the person who pays the specified interest, to the competent district director having jurisdiction over the place for tax payment pursuant to the provision of Article 17 of the Income Tax Act which pertains to the person who makes payment in terms of the said specified interest (in the case where another place has been designated pursuant to the provision of Article 18 (2) of the said Act: the designated place for tax payment).

- (6) In the case referred to in the preceding paragraph, where a written application for tax exemption has been submitted to the district director prescribed in the said paragraph, it shall be deemed that the submission to the district director has been made when the written application has been received by the person who pays the specified interest set forth in the said paragraph.
- (7) A foreign financial institution, etc. that submits a written application for tax exemption shall, upon submission, present its certificate of registered matters of the corporation and any other document specified by a Cabinet Order to the head of the business office, etc. of the specified financial institution, etc. via which submission is made, and the head of the business office, etc. of the said specified financial institution, etc. shall confirm, by the said documents, the name and the location of the head office or principal office stated in the said written application.
- (8) Where a foreign financial institution, etc. that has submitted a written application for tax exemption has, after submission, changed its name or the location of its head office or principal office, the foreign financial institution, etc. shall, no later than the day preceding the day on which the foreign financial institution, etc. is to receive, for the first time since the date of change, payment of specified interest from the specified financial institution, etc. via which the said written application for tax exemption has been submitted, submit a written application stating the new name and location of the head office or principal office of the foreign financial institution, etc. and any other matters specified by an Ordinance of the Ministry of Finance, to the district director prescribed in paragraph (5) via the said specified financial institution, etc. In this case, where the foreign financial institution, etc. has failed to submit the said written application, the provision of paragraph (1)

shall not apply to the specified interest to be received by the foreign financial institution, etc. from the said specified financial institution, etc. on or after the day on which the change has been made.

- (9) The provision of paragraph (7) shall apply mutatis mutandis where the foreign financial institution, etc. that submits a written application prescribed in the preceding paragraph submits the said written application pursuant to the provision of the said paragraph. In this case, in paragraph (7), the phrase "foreign financial institution, etc. that submits a written application for tax exemption" shall be deemed to be replaced with "foreign financial institution, etc. that submits a written application prescribed in the next paragraph," the phrase "the said written application for tax exemption" shall be deemed to be replaced with "the said written application," and the term "the name and the location" shall be deemed to be replaced with "new name and new location."
- (10) A specified financial institution, etc. shall keep books with regard to bond transactions with repurchase/resale agreements conducted with a foreign financial institution, etc. that has submitted a written application for tax exemption, and shall state or record in such books, pursuant to the provision of a Cabinet Order, the day on which a contract for such bond transaction with a repurchase/resale agreement was concluded and any other matters specified by an Ordinance of the Ministry of Finance, for each foreign financial institution, etc. that has submitted a written application for tax exemption.
- (11) The due date of filing a written application for tax exemption, and other necessary matters concerning the application of the provisions of paragraph (1) to paragraph (3) and paragraph (5) to the preceding paragraph shall be specified by a Cabinet Order.

Section 7-2 Special Provisions for Taxation on Transactions with Foreign Affiliated Persons, etc.

(Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)

Article 66-4 (1) Where a corporation has, in each business year beginning on or after April 1, 1986, conducted a transaction for the sale of assets, purchase of assets, provision of services or any other transaction with a foreign affiliated person related to the said corporation (meaning a foreign corporation that has a relationship with the said corporation whereby either corporation holds, directly or indirectly, shares or capital contributions that account for 50 percent or more of the total number or total amount of issued shares of or capital contributions to the other corporation (excluding the shares or capital contributions held by the other corporation) or any other special relationship specified by a Cabinet Order (referred to in the next paragraph and paragraph

(6) as a "special relationship"); hereinafter the same shall apply in this Article), if the amount of the consideration received by the said corporation from the said foreign affiliated person with respect to the said transaction (excluding, depending on the category of foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act corresponding to the said foreign affiliated person, a transaction from which the said foreign affiliated person earns the domestic source income listed in the relevant item, which is specified by a Cabinet Order; hereinafter referred to in this Article as a "foreign affiliated transaction") is below the arm's length price or if the amount of the consideration paid by the said corporation to the said foreign affiliated person with respect to the said transaction is over the arm's length price, with regard to the application of the provisions of the said Act and any other provisions concerning corporation tax on the said corporation's income for the said business year and its liquidation income due to dissolution (excluding dissolution as a result of a merger; hereinafter the same shall apply in this Article) (liquidation income shall include the income of a corporation that is liable for corporation tax on liquidation income for the business year when liquidation is in progress, and any amount that shall be deemed to be liquidation income due to dissolution pursuant to the provision of Article 103 (1)(ii) of the said Act; the same shall apply in paragraph (7)), the said foreign affiliated transaction shall be deemed to have been conducted at the arm's length price.

(2) The arm's length price prescribed in the preceding paragraph shall mean the amount calculated by the method specified in each of the following items for the category of transaction listed in the relevant item corresponding to the foreign affiliated transaction:

(i) Sale or purchase of inventory assets: Any of the following methods (the method listed in (d) may be applied only where the methods listed in (a) to (c) are unavailable):

(a) Comparable uncontrolled price method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount equivalent to the amount of the consideration for a transaction wherein the seller and the buyer who are not in a special relationship have sold or bought inventory assets of the same type as the inventory assets pertaining to the said foreign affiliated transaction, under circumstances where the transaction level, transaction volume and any other conditions are similar to those of the said foreign affiliated transaction (in the case where such inventory assets of the same type have been sold or bought under circumstances where the transaction level, transaction volume and any other conditions are different from those of the said foreign affiliated transaction, and any variance arising from such difference in the

- conditions can be adjusted, the amount of the consideration as adjusted shall be included)
- (b) Resale price method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount calculated by deducting, from the amount of the consideration gained by the buyer of the inventory assets involved in the said foreign affiliated transaction for having sold the said inventory assets to a person who is not in a special relationship therewith (hereinafter referred to in this paragraph as the "resale price"), the amount of normal profit (meaning the amount calculated by multiplying the said resale price by the normal profit margin specified by a Cabinet Order)
 - (c) Cost plus method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount calculated by adding, to the amount of the cost incurred by the seller of the inventory assets involved in the said foreign affiliated transaction for having acquired the inventory assets by purchase, manufacture or any other acts, the amount of normal profit (meaning the amount calculated by multiplying the said amount of cost by the normal profit margin specified by a Cabinet Order)
 - (d) A method equivalent to the methods listed in (a) to (c) or any other method specified by a Cabinet Order
 - (ii) A transaction other than the transaction listed in the preceding item: Any of the following methods (the method listed in (b) may be applied only where the method listed in (a) is unavailable):
 - (a) A method equivalent to the methods listed in (a) to (c) of the preceding item
 - (b) A method equivalent to the method listed in (d) of the preceding item
- (3) Any part of the amount of a contribution (meaning the amount of a contribution prescribed in Article 37 (7) of the Corporation Tax Act; hereinafter the same shall apply in this paragraph and the next paragraph) expended by a corporation in each business year, which has been paid to a foreign affiliated person related to the said corporation (excluding any amount of contribution paid to a foreign affiliated person that falls under the category of foreign corporation listed in Article 141 (i) to (iii) of the said Act, which shall be included in the amount of gross profit in the calculation of the said foreign affiliated person's income for the relevant business year), shall not be included in the amount of deductible expense in the calculation of the amount of the said corporation's income for the relevant business year (including the amount of income prescribed in Article 102 (1)(i) of the said Act). In this case, with regard to the application of the provision of Article 37 of the said Act to the said corporation, the term "the next paragraph" in paragraph (1) of the said

Article shall be deemed to be replaced with "the next paragraph or the provision of Article 66-4 (3) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)."

- (4) In the case where the provision of paragraph (1) shall apply, any variance between the amount of the consideration for a foreign affiliated transaction and the arm's length price prescribed in the said paragraph which pertains to the said foreign affiliated transaction (excluding a variance that shall be deemed to be the amount of the contribution) shall not be included in the amount of deductible expense in the calculation of the corporation's income for each business year (including the amount of income prescribed in Article 102 (1)(i) of the Corporation Tax Act).
- (5) Any variance prescribed in the preceding paragraph that has arisen during the liquidation of a corporation shall be included in the value of residual property in the calculation of the amount of liquidation income arising from the dissolution of the said corporation.
- (6) In the case specified by a Cabinet Order where a corporation conducts a transaction with a foreign affiliated person related to the said corporation via another person (excluding any other foreign affiliated person related to the said corporation, and a domestic corporation having a special relationship with such other foreign affiliated person; hereinafter referred to in this paragraph as a "non-affiliated person"), the transaction between the said corporation and the said non-affiliated person shall be deemed to be the said corporation's foreign affiliated transaction, and the provision of paragraph (1) shall be applied thereto.
- (7) Where the relevant official of the National Tax Agency or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over a corporation's place for tax payment has requested the corporation to present or submit the books and documents that are considered to be necessary for the calculation of the arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction conducted by the corporation in each business year or copies of such books and documents (in the case where the corporation, instead of preparing or preserving such books and documents, prepares or preserves electromagnetic records (meaning records made in an electronic form, a magnetic form, or any other form not recognizable to human perception, which are used in information processing by computers), such electromagnetic records shall be included; the same shall apply in the next paragraph, paragraph (9) and paragraph (12)(ii)), if the said corporation has failed to present or submit these books and documents or copies thereof without delay, the district director may presume the amount calculated by the method listed in any of the following items (the method listed in item (ii) may

be applied only where the method listed in (i) is unavailable) to be the said arm's length price, and thereby make a reassessment prescribed in Article 2 (xliii) of the Corporation Tax Act (referred to in paragraph (16) as a "reassessment") or a determination prescribed in item (xliv) of the said Article (referred to in paragraph (16) as a "determination") with respect to the said corporation's amount of income or amount of loss for the relevant business year or the amount of liquidation income arising from its dissolution:

- (i) The method listed in paragraph (2)(i)(b) or (c) or the method listed in paragraph (2)(ii)(a) (excluding the method equivalent to the method listed in paragraph (2)(i)(a)), which is applied based on the gross profit margin gained by another corporation from its business on condition that such other corporation's business is the same type as the said corporation's business involving the said foreign affiliated transaction, and that the size and other details are similar between the two businesses, or any other ratio specified by a Cabinet Order as a ratio equivalent to the gross profit margin
 - (ii) A method specified by a Cabinet Order as being similar to the method prescribed in paragraph (2)(i)(d) or the method listed in paragraph (2)(ii)(b) (limited to the method equivalent to the said method specified by a Cabinet Order)
- (8) The relevant official of the National Tax Agency or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over a corporation's place for tax payment may, when it is necessary in the examination concerning the transaction between the corporation and a foreign affiliated person related to the said corporation, request the said corporation to present or submit the books and documents preserved by the said foreign affiliated person or copies thereof. In this case, the said corporation shall endeavor to obtain the said books and documents or copies thereof when requested to present or submit them.
- (9) Where a corporation has failed to present or submit the books and documents or copies thereof prescribed in paragraph (7) without delay, the relevant official of the National Tax Agency or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over the corporation's place for tax payment may, when it is necessary for the calculation of the said corporation's arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction in each business year, ask questions of a person who is engaged in a business that is the same type as the said corporation's business involving the said foreign affiliated transaction, or inspect the books and documents concerning the said business, to the extent considered necessary for such calculation.
- (10) The authority to ask questions or conduct an inspection pursuant to the provision of the preceding paragraph shall not be construed as being granted

for criminal investigation.

- (11) The relevant official of the National Tax Agency, the Regional Taxation Bureau, or the Tax Office shall, when asking questions or conducting an inspection pursuant to the provision of paragraph (9), carry an identification card and present it to the person concerned when requested.
- (12) Any person who falls under any of the following shall be punished by a fine of not more than 100,000 yen:
 - (i) A person who has failed to answer or made a false answer to the questions given by the relevant official pursuant to the provision of paragraph (9) or has refused, obstructed or avoided the inspection pursuant to the provision of the said paragraph
 - (ii) A person who has presented books and documents which contain false statements or records concerning the inspection set forth in the preceding item
- (13) Where the representative person of a corporation (including the administrator of an association or foundation without juridical personality) or an agent, employee or other worker of a corporation or an individual has committed any of the acts of violation set forth in the preceding paragraph with regard to the business of the said corporation or individual, not only the offender shall be punished but also the said corporation or individual shall be punished by the fine prescribed in the said paragraph.
- (14) Where the provision of the preceding paragraph shall apply to an association or foundation without juridical personality, its representative person or administrator shall represent the association or foundation without juridical personality with regard to its procedural act, and the legal provisions concerning criminal procedure that are applicable in the case where a corporation stands as the accused or the suspect shall apply *mutatis mutandis*.
- (15) A corporation shall, where it has conducted a transaction with a foreign affiliated person related to the said corporation in each business year, attach a document stating the said foreign affiliated person's name and the location of its head office or principal office and any other matters specified by an Ordinance of the Ministry of Finance, to the final return form (meaning a final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act) for the relevant business year.
- (16) A reassessment or determination (hereinafter referred to in this paragraph as a "reassessment or determination") or an assessment and decision prescribed in Article 32 (5) of the Act on General Rules for National Taxes (hereinafter referred to in this paragraph as an "assessment and decision"), which is listed in any of the following items, may be made within six years from the due date or other date specified in the relevant item, notwithstanding the provisions of Article 70 (1) to (4) of the said Act (excluding the part

concerning the reassessment listed in paragraph (2)(ii) and (iii) of the said Article (limited to a reassessment pertaining to the amount of net loss, etc. prescribed in the said paragraph)). In this case, with regard to the application of the provisions of Article 70 (5) and Article 71 (1) of the said Act: in Article 70 (5) of the said Act, the phrase "preceding paragraphs" shall be deemed to be replaced with "preceding paragraphs and the provision of Article 66-4 (16) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)"; in Article 71 (1) of the said Act, the phrase "preceding Article" shall be deemed to be replaced with "preceding Article and the provision of Article 66-4 (16) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)," and the phrase "preceding Article" shall be deemed to be replaced with "preceding Article and the said paragraph [Article 66-4 (16) of the said Act]."

- (i) A reassessment or determination of corporation tax to be made based on the fact that a corporation has conducted a transaction with a foreign affiliated person related to the said corporation at the amount of consideration that is different from the arm's length price prescribed in paragraph (1), or a reassessment or determination of corporation tax to be made, upon the said reassessment or determination, to make a change to the tax base, etc. or tax amount, etc. prescribed in Article 19 (1) of the Act on General Rules for National Taxes: The statutory due date of tax return prescribed in Article 2 (vii) of the said Act with regard to corporation tax pertaining to the relevant reassessment or determination (in the case of a reassessment based on a return of claim for a refund prescribed in Article 61 (1) of the said Act: the day on which the said return of claim for a refund has been filed)
 - (ii) A reassessment or determination of corporation tax to be made based on the fact prescribed in the preceding item or submission of a tax return form prescribed in Article 2 (vi) of the Act on General Rules for National Taxes (excluding a return form within the due date prescribed in Article 17 (2) of the said Act; hereinafter referred to in this item as a "tax return form"), or an assessment and decision to be made, upon the reassessment or determination or submission of a tax return form, so as to impose additional tax prescribed in Article 69 of the said Act with regard to the corporation tax to which the change prescribed in the preceding item shall be made upon the said reassessment or determination or the said submission of a tax return form: The date of the establishment of the relevant tax liability
- (17) Where, with regard to corporation tax, the tax amount payable due to the fact that a corporation has conducted a transaction with a foreign affiliated person related to the said corporation at the amount of consideration that is different from the arm's length price prescribed in paragraph (1) falls short, or

the amount of the refund prescribed in Article 2 (vi) of the Act on General Rules for National Taxes is in excess, the prescription of the right of collection of national tax prescribed in Article 72 (1) of the said Act shall not run for one year from the statutory due date prescribed in Article 72 (1) of the said Act for the said corporation tax, except where the provision of Article 73 (3) of the said Act shall apply.

- (18) In the case referred to in the preceding paragraph, the provision of the proviso of Article 73 (3) of the Act on General Rules for National Taxes shall apply mutatis mutandis. In this case, the phrase "two years" in the said proviso shall be deemed to be replaced with "one year."
- (19) Where the provision of paragraph (1) shall apply, and with respect to the arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction conducted between a corporation and a foreign affiliated person related to the said corporation (limited to a foreign affiliated person who shall be deemed, pursuant to the provisions of a convention prescribed in Article 139 of the Corporation Tax Act (hereinafter referred to in this paragraph and paragraph (1) of the next Article as a "tax convention"), to be a resident or corporation in the Contracting State other than Japan (hereinafter referred to in the this paragraph and paragraph (1) of the next Article as the "other Contracting State") of the tax convention), the Minister of Finance has reached an agreement under the said tax convention with the competent authority of the said other Contracting State, or any other requirement specified by a Cabinet Order is satisfied, the regional commissioner or the district director may, pursuant to the provision of a Cabinet Order, grant exemption from the part of the delinquent tax imposed with regard to the corporation tax payable by the said corporation pursuant to the provision of paragraph (1), which corresponds to the base period for the calculation of the delinquent tax for which the Minister of Finance has reached an agreement with the competent authority of the said other Contracting State.
- (20) Matters concerning the determination as to whether or not a foreign corporation falls under the category of foreign affiliated person, and other necessary matters concerning the application of the provisions of paragraph (1) to paragraph (7) shall be specified by a Cabinet Order.

(Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)

Article 66-4-2 (1) Where a domestic corporation has, pursuant to the provisions of a tax convention, filed an objection prescribed in the said tax convention with the Commissioner of the National Tax Agency (including the cases where a foreign corporation has, pursuant to the provisions of a tax convention, filed an objection prescribed in the said tax convention with the competent authority

of the other Contracting State which is related to the foreign corporation), the district director, etc. (meaning the district director, etc. prescribed in Article 46 (1) of the Act on General Rules for National Taxes; hereinafter the same shall apply in this Article) may, upon application by the corporation that has filed the objection, grant a grace of tax payment, up to the amount calculated pursuant to the method specified by a Cabinet Order as the amount of corporation tax payable based on the reassessment or determination listed in paragraph (16)(i) of the preceding Article which pertains to the objection (limited to the amount to be covered by the consultation prescribed in the tax convention with the other Contracting State which pertains to the objection), including the amount of additional tax prescribed in Article 69 of the said Act with regard to the said amount of corporation tax, for the period from the due date for tax payment (meaning the due date for tax payment prescribed in Article 37 (1) of the said Act; in the case where the application has been filed after the due date for tax payment, the period shall start from the date of the filing of the said application) until the day on which one month has elapsed since the day following the day on which a reassessment has been made pursuant to the provision of Article 26 of the said Act based on an agreement with the competent authority of the other Contracting State (in the case where there is no such agreement or in any other case specified by a Cabinet Order: the date specified by a Cabinet Order) (this period shall be referred to as the "grace period for tax payment" in paragraph (7)); provided, however, that this shall not apply where the corporation that has filed the application has been, at the time of filing the application, delinquent in payment of national tax other than the said amount of corporation tax.

- (2) The district director, etc. shall, when granting a grace of tax payment pursuant to the provision of the preceding paragraph (hereinafter referred to in this Article as a "grace of tax payment"), collect security equivalent to the amount under the grace period; provided, however, that this shall not apply where the tax amount under the grace period is not more than 500,000 yen or where there are special circumstances where it is impossible to collect security.
- (3) The provision of Article 46 (6) of the Act on General Rules for National Taxes shall apply mutatis mutandis where security is collected pursuant to the provision of the preceding paragraph.
- (4) The provisions of Article 47 and Article 48 of the Act on General Rules for National Taxes shall apply mutatis mutandis where a grace of tax payment is granted or is not granted. In this case, the phrase "paragraph (1) to paragraph (3) or paragraph (7) of the preceding Article" in Article 47 (2) of the said Act shall be deemed to be replaced with "Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons)."

- (5) Where a corporation that has been granted a grace of tax payment falls under any of the cases listed in the following items, the district director, etc. may rescind the grace. In this case, the provisions of Article 49 (2) and (3) of the Act on General Rules for National Taxes shall apply mutatis mutandis:
- (i) Where the corporation has withdrawn the application set forth in paragraph (1).
 - (ii) Where the corporation does not cooperate in the submission of the necessary documents for the consultation set forth in paragraph (1).
 - (iii) Where there is a fact that falls under any of the items of Article 38 (1) of the Act on General Rules for National Taxes, and it is found to be impossible for the corporation to pay the corporation tax under the grace period in full within the said period.
 - (iv) Where the corporation does not follow the order issued by the district director, etc. pursuant to the provision of Article 51 (1) of the Act on General Rules for National Taxes with regard to the security provided for the corporation tax under the grace period.
 - (v) In addition to what is listed in the preceding items, where it is found to be inappropriate to maintain the grace period due to any change in the state of the corporation's property or other circumstances.
- (6) With regard to the application of the provisions of the Act on General Rules for National Taxes and the National Tax Collection Act to corporation tax under a grace of tax payment: in the Act on General Rules for National Taxes, the term "grace of tax payment" in Article 2 (viii) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons))", the term "grace of tax payment" in Article 52 (1) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons); hereinafter the same shall apply in this paragraph)", and the term "grace of tax payment" in Article 55 (1)(i) and Article 73 (4) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons))"; in the National Tax Collection Act, the term "grace of tax payment" in Article 2 (ix) and (x) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of

Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons))", and the term "Grace of Tax Payment)" in Article 151 (1) shall be deemed to be replaced with "Grace of Tax Payment) (including a grace of tax payment pursuant to the provision of Article 66-4-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons))".

- (7) Where a grace of tax payment has been granted, exemption shall be granted from the part of the delinquent tax imposed with regard to the corporation tax under the grace period, which corresponds to the grace period for tax payment (in the case where the application set forth in paragraph (1) has been filed before the due date for tax payment set forth in the said paragraph, the grace period for tax payment shall include the period from the date of the filing of the said application until the due date for tax payment); provided, however, that where any event has occurred which can be the cause of a rescission pursuant to the provision of paragraph (5), the district director, etc. may choose not to grant exemption with regard to such part of delinquent tax which corresponds to the period after the day on which the said event has occurred.
- (8) Necessary matters concerning the procedure for the application for a grace of tax payment shall be specified by a Cabinet Order.

**Section 7-3 Special Provisions for Taxation on Interest on Liabilities, etc.
Payable to Foreign Controlling Shareholders, etc.**

(Special Provisions for Taxation on Interest on Liabilities, etc. Payable to Foreign Controlling Shareholders, etc.)

- Article 66-5 (1) Where a domestic corporation pays, in each business year beginning on or after April 1, 1992, interest on liabilities, etc. to a foreign controlling shareholder, etc. or fund provider, etc. that is related to the said domestic corporation, and the average balance of liabilities regarding the liabilities owed, for the relevant business year, to the foreign controlling shareholder, etc. and the fund provider, etc. that are related to the said domestic corporation, exceeds threefold the amount of equity interest held by the foreign controlling shareholder, etc. related to the said domestic corporation for the relevant business year, the amount calculated pursuant to the method specified by a Cabinet Order as such excess in the amount of interest on liabilities, etc. payable by the said domestic corporation to the said foreign controlling shareholder, etc. and fund provider, etc. in the relevant business year shall not be included in the amount of deductible expense in the calculation of the amount of income of the said domestic corporation for the relevant business year (including the amount of income prescribed in Article

102 (1)(i) of the Corporation Tax Act); provided, however, that this shall not apply where the average balance of liabilities regarding the total liabilities of the said domestic corporation for the relevant business year (limited to those which can be the cause of payment of interest on liabilities, etc.; the same shall apply in the next paragraph and paragraph (3)) is not more than threefold the amount of equity capital of the said domestic corporation.

- (2) Where the provision of the preceding paragraph shall apply, and the said domestic corporation has any liabilities arising from a specified bond transaction with a repurchase/resale agreement, etc. among its liabilities owed to a foreign controlling shareholder, etc. and a fund provider, etc. that are related to the said domestic corporation, the said domestic corporation may use, as the multiple number applicable to the equity interest held by the foreign controlling shareholder, etc. related to the said domestic corporation or applicable to the amount of equity capital of the said domestic corporation, the multiple number applicable to the equity interest held by a foreign controlling shareholder, etc. related to the said domestic corporation or applicable to the amount of equity capital, which is calculated pursuant to the method specified by a Cabinet Order based on [1] the average balance of liabilities calculated by deducting the average balance of liabilities regarding the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the average balance of liabilities regarding the liabilities owed to the said foreign controlling shareholder, etc. and fund provider, etc., or [2] the average balance of liabilities calculated by deducting the average balance of liabilities regarding the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the average balance of liabilities regarding the total liabilities for the relevant business year, and thereby determine the amount calculated by deducting the amount of interest on liabilities, etc. arising from the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the amount of interest on liabilities, etc. payable to the foreign controlling shareholder, etc. and fund provider, etc. that are related to the said domestic corporation, to be the amount of interest on liabilities, etc. payable to the foreign controlling shareholder, etc. and fund provider, etc. that are related to the said domestic corporation. In this case, the term "threefold" in the preceding paragraph shall be deemed to be replaced with "twofold."
- (3) Where the provision of paragraph (1) shall apply, the said domestic corporation may use, in lieu of the multiple number applicable to the equity interest held by a foreign controlling shareholder, etc. related to the said domestic corporation and applicable to the amount of equity capital of the said domestic corporation, a multiple number that is found to be appropriate in

light of the percentage specified by a Cabinet Order as the percentage of the total liabilities of another domestic corporation to its net assets on condition that such other domestic corporation's business is the same type as the said domestic corporation's business, and the size and other details are similar between the two businesses.

- (4) In this Article, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Foreign controlling shareholder, etc.: A nonresident prescribed in Article 2 (1)(i)-2 (referred to in item (ix) as a "nonresident") or a foreign corporation who has a relationship with a domestic corporation whereby the said nonresident or foreign corporation holds, directly or indirectly, shares or capital contributions that account for 50 percent or more of the total number or the total amount of issued shares of or capital contributions to the said domestic corporation (excluding the shares or capital contributions held by the said domestic corporation) or any other special relationship specified by a Cabinet Order
 - (ii) Fund provider, etc.: A person who provides a domestic corporation with funds, and a person specified by a Cabinet Order as being related to such provision of funds
 - (iii) Interest on liabilities, etc.: Interest on liabilities (including moneys specified by a Cabinet Order as being equivalent thereto; hereinafter the same shall apply in this item) and any other expense specified by a Cabinet Order (excluding the said interest on liabilities and any other expense specified by a Cabinet Order, which are included in the taxable income of the person who is to receive payment thereof, and any other expense specified by a Cabinet Order)
 - (iv) Liabilities owed to a foreign controlling shareholder, etc. and a fund provider, etc.: Liabilities owed to a foreign controlling shareholder, etc. (limited to those which can be the cause of payment of interest on liabilities, etc.) and liabilities owed to a fund provider, etc. that are specified by a Cabinet Order (limited to those which can be the cause of payment of interest on liabilities, etc.)
 - (v) Average balance of liabilities: The amount calculated pursuant to the method specified by a Cabinet Order as the average amount of liabilities
 - (vi) Equity interest held by a foreign controlling shareholder, etc.: The amount calculated pursuant to the method specified by a Cabinet Order as the interest in a domestic corporation's net assets held by a foreign controlling shareholder, etc. for each business year
 - (vii) Amount of equity capital: The amount calculated pursuant to the method specified by a Cabinet Order as the amount of net assets for each business year

- (viii) Specified bond transaction with a repurchase/resale agreement, etc.: A bond transaction with a repurchase/resale agreement (meaning a bond transaction with a repurchase/resale agreement prescribed in Article 42-2 (1)) and a cash-secured bond lending transaction (meaning a transaction for borrowing or lending bonds secured by cash), which are specified by a Cabinet Order
- (ix) Taxable income: [In the case of a resident prescribed in Article 2 (1)(i)-2] each type of income (meaning each type of income prescribed in Article 2 (1)(xxi) of the Income Tax Act) for each year; [in the case of a domestic corporation] income for each business year (including the income of a corporation, which should file a return pursuant to the provision of Article 102 (1) of the Corporation Tax Act, for each business year when liquidation is in progress) or consolidated income for each consolidated business year, or liquidation income; [in the case of a nonresident or foreign corporation] domestic source income specified in the relevant provision for the category of nonresident listed in Article 164 (1)(i) to (iii) of the Income Tax Act corresponding to the said nonresident or the category of foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act corresponding to the said foreign corporation, which is specified by a Cabinet Order
- (5) Any amount excluded from the amount of deductible expense pursuant to the provision of paragraph (1) that has arisen during the liquidation of a domestic corporation shall be included in the value of residual property in the calculation of the amount of the liquidation income arising from the dissolution (excluding dissolution as a result of a merger) of the said domestic corporation.
- (6) The provision of paragraph (2) shall apply only where a domestic corporation has filed a final return form, etc. with a document attached thereto stating that it seeks the application of the provision of the said paragraph and a written statement attached thereto concerning the calculation of the average balance of liabilities regarding the liabilities from a specified bond transaction with a repurchase/resale agreement, etc. and the amount of interest on liabilities, etc., both of which shall be deducted pursuant to the provision of the said paragraph, and preserved the documents on such calculation.
- (7) Even where a domestic corporation has filed a final return form, etc. without the document or written statement set forth in the preceding paragraph attached thereto or failed to preserve the documents on the calculation set forth in the said paragraph, the district director may, when he/she finds any unavoidable reason for the domestic corporation's failure to attach a necessary document or written statement or preserve the necessary documents on the calculation, apply the provision of paragraph (2), only if the said document and written statement as well as the said documents on the calculation are submitted.

- (8) The provision of paragraph (3) shall apply only where a domestic corporation has filed a final return form, etc. with a document attached thereto stating that it seeks the application of the said paragraph, and preserved documents or any other materials (referred to in the next paragraph as "materials, etc.") that certify that the multiple number that it applies is appropriate.
- (9) Even where a domestic corporation has filed a final return form, etc. without a document attached thereto stating that it seeks the application of the provision of paragraph (3) or failed to preserve the materials, etc. that certify that the multiple number that it applies is appropriate, the district director may, when he/she finds any unavoidable reason for the domestic corporation's failure to attach a necessary document or preserve the necessary materials, etc., apply the provision of the said paragraph, only if the said document and the said materials, etc. are submitted.
- (10) The provisions of paragraph (1) to paragraph (4) and paragraph (6) to the preceding paragraph shall apply mutatis mutandis to interest on liabilities, etc. paid by a foreign corporation that conducts a business in Japan (such interest on liabilities, etc. shall be limited to that pertaining to the business conducted in Japan). In this case: in paragraph (1), the phrase "the said domestic corporation" shall be deemed to be replaced with "the said foreign corporation," the term "interest on liabilities, etc." shall be deemed to be replaced with "interest on liabilities, etc. (limited to that pertaining to the business conducted by the said foreign corporation in Japan (hereinafter referred to in this paragraph and paragraph (3) as "business in Japan"; hereinafter the same shall apply in this paragraph and the next paragraph)", the term "liabilities" shall be deemed to be replaced with "liabilities (limited to those arising from the business in Japan; the same shall apply in the next paragraph)", the term "equity interest" shall be deemed to be replaced with "equity interest (limited to that pertaining to the business in Japan; the same shall apply in the next paragraph and paragraph (3))", the phrase "limited to those which can be the cause of payment of interest on liabilities, etc.;" the same shall apply in the next paragraph and paragraph (3)" shall be deemed to be replaced with "limited to those which can be the cause of payment of interest on liabilities, etc. and pertain to the business in Japan; hereinafter the same shall apply in the next paragraph", and the term "amount of equity capital" shall be deemed to be replaced with "amount of equity capital (limited to that pertaining to the business in Japan; hereinafter the same shall apply in the next paragraph and paragraph (3))"; in paragraph (2), the term "domestic corporation" shall be deemed to be replaced with "foreign corporation"; in paragraph (3), the term "domestic corporation" shall be deemed to be replaced with "foreign corporation", the phrase "related to the said domestic corporation" shall be deemed to be replaced with "related to the said foreign corporation", the phrase

"of the said domestic corporation" shall be deemed to be replaced with "of the said foreign corporation", the phrase "as the said domestic corporation's business" shall be deemed to be replaced with "as the said foreign corporation's business in Japan", the term "total liabilities" shall be deemed to be replaced with "total liabilities (limited to those which can be the cause of payment of interest on liabilities, etc.)"; in paragraph (4)(i), the term "foreign corporation" shall be deemed to be replaced with "another foreign corporation", the term "domestic corporation" shall be deemed to be replaced with "foreign corporation"; in paragraph (4)(ii) and (vi), the term "domestic corporation" shall be deemed to be replaced with "foreign corporation".

- (11) The calculation of the average balance of liabilities, etc. regarding liabilities prescribed in paragraph (1) in the case where there is more than one foreign controlling shareholder, etc. prescribed in the said paragraph, the application of the provisions of the Corporation Tax Act with respect to the amount excluded from the amount of deductible expense pursuant to the provision of the said paragraph, and other necessary matters concerning the application of the provisions of the said paragraph to paragraph (4) shall be specified by a Cabinet Order.

Section 7-4 Special Provisions for Taxation on Income, etc. of Specified Foreign Subsidiary Companies of Domestic Corporations
Subsection 1 Special Provisions for Taxation on Income of Specified Foreign Subsidiary Companies of Domestic Corporations

(Inclusion in Gross Profit of Retained Income of Specified Foreign Subsidiary Companies, etc. Related to Domestic Corporations)

- Article 66-6 (1) Where an affiliated foreign company related to any of the following domestic corporations, which falls under the category of affiliated foreign company specified by a Cabinet Order as a company whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign subsidiary company, etc."), in each business year beginning on or after April 1, 1978, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph and the next paragraph as "dividend of surplus, etc.") (such adjusted amount hereinafter referred to in

this Article as "eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. held by the domestic corporation through direct and/or indirect ownership, while taking into consideration the contents of the claim (meaning a claim to demand dividend of surplus, etc., distribution of property and any other economic benefit; hereinafter the same shall apply in this paragraph and the next paragraph) vested in such shares, etc. (meaning shares or capital contributions; the same shall apply in this paragraph and the next paragraph) (such part of eligible retained income hereinafter referred to in this Subsection as "taxable retained income") shall be deemed to be the amount of the domestic corporation's profit, and included in its gross profit in the calculation of the amount of its income for the business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year:

- (i) A domestic corporation that holds shares, etc. of the affiliated foreign company through direct and/or indirect ownership, the ratio of whose shares, etc. to the total number or total amount of issued shares of or capital contributions to the said affiliated foreign company (excluding the shares, etc. held by the said affiliated foreign company) (in the case where the said foreign affiliated company is a corporation listed in (a) to (c): the said ratio or the ratio listed in (a) to (c), whichever is larger; referred to in the next item as the "direct and/or indirect ownership ratio for shares, etc. of an affiliated foreign company") is five percent or more:
 - (a) A corporation that issues shares, etc. in which more than one voting right (limited to a voting right pertaining to a resolution on dividend of surplus, etc.; hereinafter the same shall apply in this item and the next paragraph) is vested (excluding a corporation listed in (c)): The ratio of the number of voting rights in the said affiliated foreign company held by the domestic corporation through direct and/or indirect ownership to the total number of voting rights in the said affiliated foreign company
 - (b) A corporation that issues shares, etc. in which different claims are vested (excluding a corporation listed in (c)): The ratio of the amount of dividend of surplus, etc. based on the claim for the said affiliated foreign company held by the domestic corporation through direct and/or indirect ownership to the total amount of dividend of surplus, etc. receivable based on the claims vested in the shares, etc. of the said affiliated foreign company
 - (c) A corporation that issues both shares, etc. in which more than one voting right is vested and shares, etc. in which different claims are vested: The ratio specified in (a) or the ratio specified in (b), whichever is larger

(ii) A domestic corporation that belongs to a family shareholder group whose direct and/or indirect ownership ratio for shares, etc. of the foreign affiliated company is five percent or more (excluding the domestic corporation listed in the preceding item).

(2) In the preceding paragraph and this paragraph, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:

(i) Foreign affiliated company: A foreign corporation in which the ratio of the sum of the number or amount of shares, etc. held through direct and/or indirect ownership by residents (meaning residents prescribed in Article 2 (1)(i)-2; hereinafter the same shall apply in this item and item (vi)), domestic corporations and specially-related nonresidents (meaning nonresidents prescribed in Article 2 (1)(i)-2 who have a special relationship specified by a Cabinet Order with residents or domestic corporations; hereinafter the same shall apply in this item) to the total number or total amount of issued shares or capital contributions (excluding the shares, etc. held by the foreign corporation) (in the case where the foreign corporation is a corporation listed in (a) to (c): the said ratio or the ratio listed in (a) to (c), whichever is larger) is more than 50 percent:

(a) A corporation that issues shares, etc. in which more than one voting right (excluding a corporation listed in (c)): The ratio of the sum of the number of voting rights in the said foreign corporation held through direct and/or indirect ownership by residents, domestic corporations and specially-related nonresidents to the total number of voting rights in the said foreign corporation

(b) A corporation that issues shares, etc. in which different claims are vested (excluding a corporation listed in (c)): The ratio of the sum of the amount of dividend of surplus, etc. based on the claims for the said foreign corporation held through direct and/or indirect ownership by residents, domestic corporations and specially-related nonresidents to the total amount of dividend of surplus, etc. receivable based on the claims vested in the shares, etc. of the said foreign corporation

(c) A corporation that issues both shares, etc. in which more than one voting right is vested and shares, etc. in which different claims are vested: The ratio specified in (a) or the ratio specified in (b), whichever is larger

(ii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign subsidiary company, etc. in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of

- loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year
- (iii) Number of shares, etc. (held) through direct and/or indirect ownership: The sum of the number of shares of or amount of capital contributions to a foreign corporation held directly by an individual or domestic corporation and the number of shares of or amount of capital contributions to the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
 - (iv) Number of voting rights (held) through direct and/or indirect ownership: The sum of the number of voting rights in a foreign corporation held directly by an individual or domestic corporation and the number of voting rights in the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
 - (v) Amount of dividend of surplus, etc. based on the claims (held) through direct and/or indirect ownership: The sum of the amount of dividend of surplus, etc. receivable based on the claims in the shares, etc. of a foreign corporation held directly by an individual or domestic corporation and the amount of dividend of surplus, etc. receivable based on the claims in the shares, etc. of the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation
 - (vi) Family shareholder group: A group of persons who directly or indirectly hold shares, etc. of an affiliated foreign company, within which a resident or domestic corporation has a special relationship specified by a Cabinet Order with the rest of the persons in the group (excluding a foreign corporation)
- (3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign subsidiary company, etc. related to a domestic corporation listed in each item of paragraph (1) (excluding a company engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to as the "case where a specified foreign subsidiary company, etc. has a fixed facility" in the next paragraph), the phrase "amount that is adjusted" in the said paragraph shall be deemed to

be replaced with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a personnel expense for people engaged in the business at the said specified foreign subsidiary, etc."

(4) Where a specified foreign subsidiary company, etc. prescribed in the preceding paragraph that is related to a domestic corporation listed in each item of paragraph (1) has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and the preceding paragraph shall not apply to the eligible retained income of the said specified foreign subsidiary company, etc. for the relevant business year:

(i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts business mainly with a person other than [1] a resident listed in each item of Article 40-4 (1) who is related to the said specified foreign subsidiary company, etc., [2] a domestic corporation listed in each item of paragraph (1) that is related to the said specified foreign subsidiary company, etc., [3] a consolidated corporation listed in each item of Article 68-90 (1) that is related to the said specified foreign subsidiary company, etc. or [4] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] to [3]

(ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts a business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order).

(5) A domestic corporation listed in each item of paragraph (1) shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign subsidiary company, etc. related to the said domestic corporation as well as any other documents specified by an Ordinance of the Ministry of Finance, to its final return form (meaning a final return form prescribed in Article 2 (xxxi) of the Corporation Tax Act; the same shall apply in the next paragraph) for the business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.

(6) The provisions of paragraph (3) and paragraph (4) shall apply only where the domestic corporation has attached, to its final return form, a document stating that these provisions shall apply, and preserved documents or any other

materials that certify that these provisions shall apply.

- (7) Where a domestic corporation holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc. (meaning the trustee's assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust), and the provisions of this Article (excluding paragraph (3), paragraph (4) and the preceding paragraph) to Article 66-9 shall be applied thereto.
- (8) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply in the case where the provision of the preceding paragraph shall apply.

Article 66-7 (1) Where a domestic corporation listed in each item of paragraph (1) of the preceding Article is subject to the provision of the said paragraph, any part of the amount of foreign corporation tax (meaning foreign corporation tax prescribed in Article 69 (1) of the Corporation Tax Act; the same shall apply in the next paragraph) to be imposed on the income of a specified foreign subsidiary company, etc. related to the said domestic corporation, which is calculated pursuant to the method specified by a Cabinet Order as corresponding to the taxable retained income of the said specified foreign subsidiary company, etc. (up to the amount equivalent to the said taxable retained income) shall, pursuant to the provision of a Cabinet Order, be deemed to be the amount of creditable foreign corporation tax (meaning the amount of creditable corporation tax prescribed in Article 69 (1) of the said Act; hereinafter the same shall apply in this Subsection) paid by the said domestic corporation, and the provisions of Article 69 (1) to (7), (10) and (15) to (18) shall be applied thereto. In this case, in paragraph (10) of the said Article, the phrase "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8)" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in Article 66-7 (1) of the Act on Special Measures Concerning Taxation (Credit for Foreign Tax on Taxable Retained Income of Specified

Foreign Subsidiary Companies, etc. of Domestic Corporations), which shall be deemed to be payable by the said domestic corporation pursuant to the provision of Article 66-7 (1) of the said Act", the phrase "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8) of the said Article" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in Article 68-91 (1) of the said Act (Credit for Foreign Tax on Individually Taxable Retained Income of Specified Foreign Subsidiary Companies, etc. of Consolidated Corporations), which shall be deemed to be payable by the said domestic corporation pursuant to the provision of Article 68-91 (1) of the said Act", and the phrase "paragraph (1) to paragraph (3) of the said Article" shall be deemed to be replaced with "Article 81-15 (1) to (3)."

(2) Where a domestic corporation is, in each consolidated business year, subject to the provision of paragraph (1) of Article 68-90 with respect to the amount equivalent to the individually taxable retained income prescribed in the said paragraph of a specified foreign subsidiary company, etc. prescribed in the said paragraph that is related to the said domestic corporation, if foreign corporation tax shall be imposed on the income of the said specified foreign subsidiary company, etc. during the period of each business year beginning after the last day of the consolidated business year during which the said domestic corporation has been subject to the said provision, the said individually taxable retained income of the said specified foreign subsidiary company, etc. shall be deemed to be the taxable retained income of a specified foreign subsidiary company, etc. prescribed in the preceding paragraph, and the amount of the said foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in paragraph (1) of the said Article shall be deemed to be the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in the preceding paragraph respectively, and the provision of the said paragraph shall be applied thereto.

(3) Where a domestic corporation listed in each item of paragraph (1) of the preceding Article is subject to the provision of the said paragraph with respect to the amount equivalent to the taxable retained income of a specified foreign subsidiary company, etc. that is subject to the provision of the said paragraph, and the said domestic corporation is also subject to the provision of Article 69 (1) to (3) of the Corporation Tax Act pursuant to the provision of paragraph (1), the amount that is deemed to be the amount of creditable foreign corporation tax pursuant to the provision of paragraph (1) shall be included in the amount

of gross profit in the calculation of the amount of income of the said domestic corporation for the business year specified by a Cabinet Order.

Article 66-8 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign subsidiary company, etc. related to a domestic corporation that has been subject to the provision of Article 66-6 (1), or where an event listed in item (iii) has occurred with regard to an affiliated foreign company prescribed in Article 66-6 (2)(i) (limited to an affiliated foreign company that has received, from the said specified foreign subsidiary company, etc., payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item), which is specified by a Cabinet Order; hereinafter the same shall apply in this paragraph) that is related to the said domestic corporation, if the taxable retained income of the said specified foreign subsidiary company, etc. in each business year of the said domestic corporation that commenced within ten years before the first day of the business year that includes the day on which the relevant event has occurred (hereinafter referred to in this Article as "each business year within the preceding ten years"), contains any amount included in the amount of gross profit in the calculation of the amount of the said domestic corporation's income for each business year within the preceding ten years pursuant to the provision of Article 66-6 (1) (excluding any amount included in the amount of deductible expense for each business year within the preceding ten years pursuant to the provision of this paragraph; hereinafter referred to in this Article and the next Article as "taxed amount of retained income"), such taxed amount of retained income shall be included in the amount of deductible expense in the calculation of the amount of the said domestic corporation's income for the business year that includes the day on which the relevant event has occurred, up to the amount equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as part of the amount specified by each of the following items for the type of event corresponding to the event that has occurred with regard to the said specified foreign subsidiary company, etc. or the said foreign affiliated company, which is appropriated from the taxable retained income pertaining to the said domestic corporation:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
- (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be

- decreased due to the delivery
- (iii) Payment of dividend of surplus, etc. to the said domestic corporation or delivery of money or any other assets to the to the said domestic corporation by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery
- (2) Where a domestic corporation has a consolidated business year that commenced within ten years before the first day of the business year that includes the day on which the event listed in any item of the preceding paragraph has occurred, and has an individually taxed amount of retained income (meaning the individually taxed amount of retained income prescribed in Article 68-92 (1); hereinafter the same shall apply in this Article) for the said consolidated business year, with regard to the application of the provision of the preceding paragraph, such individually taxed amount of retained income shall be deemed to be a taxed amount of retained income for each business year within the preceding ten years which corresponds to the period of the said consolidated business year.
- (3) Where a domestic corporation has acquired, as a result of a qualified merger, qualified company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as a "qualified merger, etc."), the transfer of the whole or part of the number of shares, etc. of a specified foreign subsidiary company, etc. held through direct and/or indirect ownership prescribed in Article 66-6 (2)(iii) (hereinafter referred to in this paragraph as the "number of shares, etc. held through direct and/or indirect ownership") by the merged corporation, the split corporation, the corporation making a capital contribution-in-kind or the corporation effecting post-formation acquisition of assets and/or liabilities, with regard to the application of the provision of paragraph (1) in the business year that includes the date of the said qualified merger, etc. and each subsequent business year of the said domestic corporation, the amount specified in each of the following items for the category of qualified merger, etc. listed in the relevant item shall, pursuant to the provision of a Cabinet Order, be deemed to be the taxed amount of retained income of the said domestic corporation for each business year within the preceding ten years:
- (i) Qualified merger: The taxed amount of retained income or individually taxed amount of retained income of the merged corporation involved in the qualified merger for each business year within ten years before the merger (meaning each business year or each consolidated business year that commenced within ten years before the date of the qualified merger)
- (ii) Qualified split-off-type company split: Any part of the taxed amount of

retained income or individually taxed amount of retained income of the split corporation involved in the qualified split-off-type company split for each business year within ten years before the company split (meaning each business year or each consolidated business year that commenced within ten years before the date of the qualified split-off-type company split; the same shall apply in the next paragraph), which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. transferred to and therefore held by the said domestic corporation through direct and/or indirect ownership as a result of the said qualified split-off-type company split, while taking into consideration the contents of the claim prescribed in Article 66-6 (1)

(iii) Qualified spin-off-type company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this item as "qualified spin-off-type company split, etc."): Any part of the taxed amount of retained income or individually taxed amount of retained income of the split corporation, corporation making a capital contribution in kind or corporation effecting a post-formation acquisition of assets and/or liabilities involved in the qualified spin-off-type company split, etc. for each business year within ten years before the company split, etc. (meaning each business year or each consolidated business year that commenced within ten years before the first day of the business year that includes the date of the qualified spin-off-type company split, etc., or each consolidated business year or each business year that commenced within ten years before the first day of the consolidated business year that includes the date of the qualified spin-off-type company split, etc.; the same shall apply in the next paragraph), which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. transferred to and therefore held by the said domestic corporation through direct and/or indirect ownership as a result of the said qualified spin-off-type company split, while taking into consideration the contents of the claim prescribed in Article 66-6 (1)

(4) Where the succeeding corporation in a company split, the corporation receiving capital contribution in kind or the corporation receiving post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as the "succeeding corporation in a company split, etc.") involved in a qualified company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as a "qualified company split, etc.") is subject to the provisions of the preceding paragraph or Article 68-92 (3), with regard to the application

of the provision of paragraph (1) in the business year that includes the date of the said qualified company split, etc. and each subsequent business year of the split corporation, the corporation making a capital contribution in kind or the corporation effecting post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as the "split corporation, etc.") involved in the said qualified company split, etc., no part of the taxed amount of retained income of the said split corporation, etc. for each business year within ten years before the company split or each business year within ten years before the company split, etc. shall be deemed to be the taxed amount of retained income of the said succeeding corporation in a company split, etc. for each business year within the preceding ten years pursuant to the provision of the preceding paragraph, or the individually taxed amount of retained income of the said succeeding corporation in a company split, etc. for each consolidated business year within the preceding ten years (meaning each consolidated business year within the preceding ten years prescribed in paragraph (1) of the said Article).

- (5) The provision of paragraph (1) shall apply only where a domestic corporation has filed a final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act or a consolidated final return form prescribed in Article 2 (xxxiii) of the said Act for each business year after the earliest business year or consolidated business year pertaining to the taxed amount of retained income respectively, with a written statement attached thereto regarding the said taxed amount of retained income or individually taxed amount of retained income and any other matters specified by an Ordinance of the Ministry of Finance, and filed a final return form, etc. for the business year for which the domestic corporation seeks the application of the provision of Article 2 (3) of the said Act, with an application made therein to seek the inclusion in deductible expense of the amount to be included in the amount of deductible expense pursuant to the provision of Article 2 (3) of the said Act and a written statement attached thereto regarding the calculation of the amount to be included in the amount of deductible expense. In this case, the amount to be included in the amount of deductible expense pursuant to the provision of Article 2 (3) of the said Act shall be limited to the amount to be included in the amount of deductible expense based on the said application.
- (6) Even where a domestic corporation has filed a final return form, etc. or a consolidated final return form prescribed in paragraph (1) without the application or written statement attached thereto as set forth in the preceding paragraph regarding the whole or part of the necessary matters including [1] the amount to be included in the amount of deductible expense pursuant to the said paragraph, [2] the taxed amount of retained income or individually taxed amount of retained income and [3] any other matters specified by an Ordinance

of the Ministry of Finance, the district director may, when he/she finds any unavoidable reason for the domestic corporation's failure to make a necessary application or attach a necessary written statement as set forth in the said paragraph, apply the provision of paragraph (1) to any amount for which the application or written statement has not been made or attached, only if such application and written statement are submitted.

- (7) With regard to the application of the provisions of Article 67 (3) and (5) of the Corporation Tax Act, any amount included, pursuant to the provision of paragraph (1), in the amount of deductible expense of a domestic corporation subject to the provision of the said paragraph shall be included in the amount of income, etc. prescribed in these provisions, and any necessary matters concerning the calculation of the amount of profit reserve shall be specified by a Cabinet Order.

Article 66-9 Matters concerning the determination as to whether or not a domestic corporation falls under any of the categories of corporation listed in the items of Article 66-6 (1), the treatment of the part of the amount of creditable foreign corporation tax that shall be deemed to be paid by a domestic corporation pursuant to the provision of Article 66-7 (1), which pertains to the taxed amount of retained income included in the amount of deductible expense in the calculation of the amount of income for each business year pursuant to the provision of paragraph (1) of the preceding Article, and other necessary matters concerning the application of the provisions of the preceding three Articles shall be specified by a Cabinet Order.

Subsection 3 Special Provisions for Taxation on Income of Specified Foreign Corporations Related to Domestic Corporations That Are Specially-Related Shareholders, etc.

(Inclusion in Gross Profit of Retained Income of Specified Foreign Corporations Related to Domestic Corporations That Are Specially-Related Shareholders, etc.)

Article 66-9-6 (1) Where, between a specially-related shareholder, etc. (meaning a person who falls under the category of specified shareholder, etc. as well as an individual and a corporation having a special relationship therewith as specified by a Cabinet Order; hereinafter the same shall apply in this Subsection) and a specially-related domestic corporation, there is a relationship specified by a Cabinet Order as a relationship whereby the said specially-related shareholder, etc. indirectly holds shares, etc. (meaning shares or capital contributions; hereinafter the same shall apply in this paragraph and the next paragraph) that account for 80 percent or more of the total

number or total amount of issued shares of or capital contributions to the said specially-related domestic corporation (excluding the shares or capital contributions held by the corporation; hereinafter referred to in this paragraph and the next paragraph as "issued shares, etc.") (such relationship referred to in the next paragraph as a "specified relationship"), and a foreign corporation specified by a Cabinet Order as acting as an intermediary between the said specially-related shareholder, etc. and the said specially-related domestic corporation by way of the holding of the issued shares, etc. (hereinafter referred to in this Subsection as an "affiliated foreign corporation"), which falls under the category of affiliated foreign corporation specified by a Cabinet Order as a corporation whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign corporation"), in each business year beginning on or after October 1, 2007, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such adjusted amount hereinafter referred to in this Article as "eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign corporation held by the domestic corporation that is the said specially-related shareholder, etc. through direct and/or indirect ownership, while taking into consideration the contents of the claim (meaning a claim to demand dividend of surplus, etc., distribution of property and any other economic benefit) vested in such shares, etc. (such part of eligible retained income hereinafter referred to in this Subsection as "taxable retained income") shall be deemed to be the amount of profit of the domestic corporation that is the said specially-related shareholder, etc., and included in its gross profit in the calculation of the amount of its income for the business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.

(2) In this Subsection, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:

(i) Specified shareholder, etc.: An individual and corporation holding, at the time immediately before a specified relationship is established, shares, etc. of a specified domestic corporation (meaning a domestic corporation wherein

not more than five shareholders, etc. (meaning shareholders, etc. prescribed in Article 2 (xiv) of the Corporation Tax Act) as well as individuals and corporations having a special relationship therewith as specified by a Cabinet Order hold shares, etc. that account for 80 percent or more of the total number or total amount of its issued shares, etc. at that time; the same shall apply in the next item)

(ii) Specially-related domestic corporation: A specified domestic corporation, or a domestic corporation specified by a Cabinet Order as a corporation that has received the transfer of the majority of assets and liabilities from a specified domestic corporation

(iii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign corporation in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year

(iv) Number of shares, etc. held through direct and/or indirect ownership: The sum of the number of shares of or amount of capital contributions to a foreign corporation held directly by a resident prescribed in Article 2 (1)(i)-2 or domestic corporation and the number of shares of or amount of capital contributions to the said foreign corporation specified by a Cabinet Order as being held indirectly by the said individual or domestic corporation via another foreign corporation

(3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign corporation related to a domestic corporation that is a specially-related shareholder, etc. (excluding a corporation engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to as the "case where a specified foreign corporation has a fixed facility" in the next paragraph), the phrase "amount that is adjusted" in the said paragraph shall be deemed to be replaced

with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a personnel expense for people engaged in the business at the said specified foreign corporation."

- (4) Where a specified foreign corporation prescribed in the preceding paragraph related to a domestic corporation that is a specially-related shareholder, etc. has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and the preceding paragraph shall not apply to the eligible retained income of the said specified foreign corporation for the relevant business year:
- (i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign corporation. conducts business mainly with a person other than [1] a specially-related domestic corporation that is related to the said specified foreign corporation, [2] a specially-related shareholder, etc. or [3] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] or [2]
 - (ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign corporation conducts business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order prescribed in Article 66-6 (4)(ii)).
- (5) A domestic corporation that is a specially-related shareholder, etc. shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign corporation related to the said domestic corporation as well as any other documents specified by an Ordinance of the Ministry of Finance, to its final return form (meaning a final return form prescribed in Article 2 (xxxix) of the Corporation Tax Act; the same shall apply in the next paragraph) for the business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.
- (6) The provisions of paragraph (3) and paragraph (4) shall apply only where the domestic corporation has attached, to its final return form, a document stating that these provisions shall apply, and preserved documents or any other materials that certify that these provisions shall apply.
- (7) The provision of paragraph (1) shall not apply where an affiliated foreign

corporation related to a domestic corporation that is a specially-related shareholder, etc. falls under the category of affiliated foreign company prescribed in Article 66-6 (2)(i) and the said domestic corporation that is a specially-related shareholder, etc. falls under the category of domestic corporation listed in each item of Article 66-6 (1).

- (8) Where a domestic corporation that is a specially-related shareholder, etc. holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc. (meaning the trustee's assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust)), and the provisions of this Article (excluding paragraph (3), paragraph (4) and paragraph (6)) to Article 66-9-9 shall be applied thereto.
- (9) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply mutatis mutandis in the case where the provision of the preceding paragraph shall apply.

Article 66-9-7 (1) Where a domestic corporation that is a specially-related shareholder, etc. is subject to the provision of paragraph (1) of the preceding Article, any part of the amount of foreign corporation tax (meaning foreign corporation tax prescribed in Article 69 (1) of the Corporation Tax Act; the same shall apply in the next paragraph) to be imposed on the income of a specified foreign corporation related to the said domestic corporation, which is calculated pursuant to the method specified by a Cabinet Order as corresponding to the taxable retained income of the said specified foreign corporation (up to the amount equivalent to the said taxable retained income) shall, pursuant to the provision of a Cabinet Order, be deemed to be the amount of creditable foreign corporation tax (meaning the amount of creditable corporation tax prescribed in Article 69 (1) of the said Act; hereinafter the same shall apply in this Subsection) paid by the said domestic corporation, and the provisions of Article 69 (1) to (7), (10) and (15) to (18) shall be applied thereto. In this case, in paragraph (10) of the said Article, the phrase "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8)" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable

by the said domestic corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in Article 66-9-7 (1) of the Act on Special Measures Concerning Taxation (Credit for Foreign Tax on Taxable Retained Income of Specified Foreign Corporations), which shall be deemed to be payable by the said domestic corporation pursuant to the provision of Article 66-9-7 (1) of the said Act", the phrase "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8) of the said Article" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said domestic corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in Article 68-93-7 (1) of the said Act (Credit for Foreign Tax on Individually Taxable Retained Income of Specified Foreign Corporations), which shall be deemed to be payable by the said domestic corporation pursuant to the provision of Article 68-93-7 (1) of the said Act", and the phrase "paragraph (1) to paragraph (3) of the said Article" shall be deemed to be replaced with "Article 81-15 (1) to (3)."

- (2) Where a domestic corporation that is a specially-related shareholder, etc. is, in each consolidated business year, subject to the provision of paragraph (1) of Article 68-93-6 with respect to the amount equivalent to the individually taxable retained income prescribed in the said paragraph of a specified foreign corporation prescribed in the said paragraph that is related to the said domestic corporation, if foreign corporation tax shall be imposed on the income of the said specified foreign corporation during the period of each business year beginning after the last day of the consolidated business year during which the said domestic corporation has been subject to the said provision, the said individually taxable retained income of the said specified foreign corporation shall be deemed to be the taxable retained income of a specified foreign corporation prescribed in the preceding paragraph, and the amount of the said foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in paragraph (1) of the said Article shall be deemed to be the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in the preceding paragraph respectively, and the provision of the said paragraph shall be applied thereto.
- (3) Where a domestic corporation that is a specially-related shareholder, etc. is subject to the provision of paragraph (1) of the preceding Article with respect to the amount equivalent to the taxable retained income of a specified foreign corporation that is subject to the provision of the said paragraph, and the said domestic corporation is also subject to the provision of Article 69 (1) to (3) of the Corporation Tax Act pursuant to the provision of paragraph (1), the

amount that is deemed to be the amount of creditable foreign corporation tax pursuant to the provision of paragraph (1) shall be included in the amount of gross profit in the calculation of the amount of income of the said domestic corporation for the business year specified by a Cabinet Order.

Article 66-9-8 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign corporation related to a domestic corporation that has been subject to the provision of Article 66-9-6 (1), or where an event listed in item (iii) has occurred with regard to an affiliated foreign corporation (limited to an affiliated foreign corporation that has received, from the said specified foreign corporation, payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item), which is specified by a Cabinet Order; hereinafter the same shall apply in this paragraph) that is related to the said domestic corporation, if the taxable retained income of the said specified foreign corporation in each business year of the said domestic corporation that commenced within ten years before the first day of the business year that includes the day on which the relevant event has occurred (hereinafter referred to in this Article as "each business year within the preceding ten years"), contains any amount included in the amount of gross profit in the calculation of the amount of the said domestic corporation's income for each business year within the preceding ten years pursuant to the provision of Article 66-9-6 (1) (excluding any amount included in the amount of deductible expense for each business year within the preceding ten years pursuant to the provision of this paragraph; hereinafter referred to in this Article and the next Article as "taxed amount of retained income"), such taxed amount of retained income shall be included in the amount of deductible expense in the calculation of the amount of the said domestic corporation's income for the business year that includes the day on which the relevant event has occurred, up to the amount equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as part of the amount specified by each of the following items for the type of event corresponding to the event that has occurred with regard to the said specified foreign corporation or the said foreign affiliated corporation, which is appropriated from the taxable retained income pertaining to the said domestic corporation:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
- (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act:

The amount equivalent to the amount of profit reserve which is to be decreased due to the delivery

(iii) Payment of dividend of surplus, etc. to the said domestic corporation or delivery of money or any other assets to the to the said domestic corporation by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery

(2) Where a domestic corporation that is a specially-related shareholder, etc. has a consolidated business year that commenced within ten years before the first day of the business year that includes the day on which the event listed in any item of the preceding paragraph has occurred, and has an individually taxed amount of retained income (meaning the individually taxed amount of retained income prescribed in Article 68-93-8 (1); hereinafter the same shall apply in this paragraph) for the said consolidated business year, with regard to the application of the provision of the preceding paragraph, such individually taxed amount of retained income shall be deemed to be a taxed amount of retained income for each business year within the preceding ten years which corresponds to the period of the said consolidated business year.

(3) The provisions of Article 66-8 (3) to (6) shall apply mutatis mutandis in the case where the provision of paragraph (1) shall apply. In this case, each term or phrase listed in the middle column of the table below that appears in the provision listed in the upper [left hand] column of the same table shall be deemed to be replaced with the corresponding term or phrase listed in the lower [right hand] column of the same table.

| | | |
|-----------------|--|--|
| Article 66-8(3) | domestic corporation has acquired, as a result of a qualified merger | domestic corporation that is a specially-related shareholder, etc. prescribed in Article 66-9-6(1) (hereinafter referred to in this paragraph as a "specially-related shareholder, etc.") which is related to a specially-related domestic corporation prescribed in Article 66-9-6(2)(ii) (hereinafter referred to in this paragraph as a "specially-related domestic corporation") has acquired, as a result of a qualified merger |
|-----------------|--|--|

| | | |
|-------------------------------|--|---|
| | by the merged corporation...or the corporation effecting post-formation acquisition of assets and/or liabilities | by the merged corporation...or the corporation effecting post-formation acquisition of assets and/or liabilities that is a specially-related shareholder, etc. related to the said specially-related domestic corporation |
| | of a specified foreign subsidiary company, etc. held through direct and/or indirect ownership prescribed in Article 66-6(2)(iii) | of a specified foreign corporation prescribed in paragraph (1) of the said Article (hereinafter referred to in this paragraph as a "specified foreign corporation") held through direct and/or indirect ownership prescribed in paragraph (2)(iv) of the said Article |
| | of paragraph (1) | of Article 66-9-8(1) |
| | deemed to be the taxed amount of retained income | deemed to be the taxed amount of retained income (meaning the taxed amount of retained income prescribed in the said paragraph [Article 66-9-8(1)]; hereinafter the same shall apply through to paragraph (6)) |
| Article 66-8(3)(i) | individually taxed amount of retained income | individually taxed amount of retained income (meaning the individually taxed amount of retained income prescribed in Article 68-93-8(1); hereinafter the same shall apply through to paragraph (6)) |
| Article 66-8(3)(ii) and (iii) | specified foreign subsidiary company, etc. | specified foreign corporation |
| | Article 66-6(1) | Article 66-9-6(1) |
| Article 66-8(4) | preceding paragraph or Article 68-92(3) | preceding paragraph as applied mutatis mutandis pursuant to Article 66-9-8(3), or Article 68-92(3) as applied mutatis mutandis pursuant to Article 68-93-8(3) |
| | of paragraph (1) | of Article 66-9-8(1) |
| | of preceding paragraph | of preceding paragraph as applied mutatis mutandis pursuant to paragraph (3) of the said Article |
| | paragraph (3) of the said Article | Article 68-92(3) as applied mutatis mutandis pursuant to Article 68-93-8(3) |

| | | |
|-----------------|-----------------------------------|---|
| | paragraph (1) of the said Article | Article 68-93-8(1) |
| Article 66-8(5) | paragraph (1) | Article 66-9-8(1) |
| | preceding paragraph | preceding paragraph as applied mutatis mutandis pursuant to paragraph (3) of the said Article |

(4) The provision of Article 66-8 (7) shall apply mutatis mutandis to the amount included, pursuant to the provision of paragraph (1), in the amount of deductible expense of a domestic corporation that is a specially-related shareholder, etc. subject to the provision of the said paragraph.

Article 66-9-9 Matters concerning the determination as to whether or not there is a specified relationship prescribed in Article 66-9-6 (1) between a specially-related shareholder, etc. and a specially-related domestic corporation, the treatment of the part of the amount of creditable foreign corporation tax that shall be deemed to be paid by a domestic corporation that is a specially-related shareholder, etc. pursuant to the provision of Article 66-9-7 (1), which pertains to the taxed amount of retained income included in the amount of deductible expense in the calculation of the amount of income for each business year pursuant to the provision of paragraph (1) of the preceding Article, and other necessary matters concerning the application of the provisions of the preceding three Articles shall be specified by a Cabinet Order.

Section 8 Other Special Provisions

(Exclusion from Taxation of Interest on Deposits, etc. Settled in the Special International Financial Transactions Account)

Article 67-11 (1) Where, during the period from April 1, 1998, to March 31, 2008, a foreign corporation listed in Article 141 (i) of the Corporation Tax Act, which has been certified, pursuant to the provision of an Ordinance of the Ministry of Finance, as falling under the category of nonresident prescribed in paragraph (3) of Article 21 of the Foreign Exchange and Foreign Trade Act, has made deposits or provided loans to a financial institution prescribed in the said paragraph, and settled such deposits or loans in a special international financial transactions account prescribed in the said paragraph (referred to in the next paragraph as a "special international financial transactions account"), corporation tax shall not be imposed with respect to any interest on the deposits or loans to be received by the said foreign corporation; provided, however, that this shall not apply to any interest which is attributed to a business conducted by the said foreign corporation in Japan or which is

otherwise specified by a Cabinet Order.

- (2) In the case referred to in the preceding paragraph, where any event has occurred that is in violation of the provision of a Cabinet Order established pursuant to the provision of Article 21 (4) of the Foreign Exchange and Foreign Trade Act, which pertains to the matters concerning the settlement of a special international financial transactions account, the provision of the main clause of the preceding Article shall not apply to any interest pertaining to the accounting period that includes the day on which such event has occurred.

(Exclusion from Taxation of Interest on Book-Entry Transfer National Government Bonds)

Article 67-16 (1) Corporation tax shall not be imposed with respect to any interest to be received by a foreign corporation listed in Article 141 (i) of the Corporation Tax Act on book-entry transfer national government bonds or book-entry transfer local government bonds, both of which are prescribed in Article 5-2 (1); provided, however, that this shall not apply to such interest which is attributed to a business conducted by the said foreign corporation in Japan at any place prescribed in Article 141 (i) of the said Act.

- (2) Corporation tax shall not be imposed with respect to any interest on foreign-issued company bonds or any discount on foreign-issued company bonds (meaning a margin generated where the amount to be received due to the redemption of foreign-issued company bonds exceeds the issue price of the foreign-issued company bonds) to be received by a foreign corporation with regard to foreign-issued company bonds prescribed in Article 6 (1) issued during the period from April 1, 1998, to March 31, 2008; provided, however, that this shall not apply to such interest or discount on foreign-issued company bonds to be received by a foreign corporation having permanent establishments in Japan prescribed in Article 2 (1)(iv) (hereinafter referred to in this Article and the next Article as a "foreign corporation having permanent establishments in Japan"), which is attributed to a business conducted in Japan by the said foreign corporation having permanent establishments in Japan or which is otherwise specified by a Cabinet Order.

- (3) Corporation tax shall not be imposed with respect to any profit from redemption prescribed in Article 41-12 (7) (referred to in the next paragraph as "profit from redemption") to be received by a foreign corporation with regard to specified short-term government or company bonds prescribed in Article 41-12 (9) which are listed in Article 41-12 (9)(i) to (viii) (referred to in the next paragraph as "specified short-term government bonds"); provided, however, that this shall not apply to such profit from redemption to be received by a foreign corporation having permanent establishments in Japan, which is attributed to a business conducted in Japan by the said foreign corporation

having permanent establishments in Japan or which is otherwise specified by a Cabinet Order.

- (4) With respect to profit from redemption of specified short-term national government bonds to be received by a foreign corporation, which is the trustee of a foreign investment trust prescribed in Article 5-2 (2), for the trust property under the said foreign investment trust, the provision of the preceding paragraph shall apply only where the said foreign investment trust is a qualified foreign securities investment trust prescribed in Article 5-2 (2).
- (5) Corporation tax shall not be imposed with respect to specified interest prescribed in Article 42-2 (1) (limited to interest on which income tax shall not be imposed pursuant to the provision of Article 42-2 (1)) which is received by a foreign corporation listed in Article 141 (i) of the Corporation Tax Act that falls under the category of financial institution, etc. prescribed in Article 42-2 (1), from a specified financial institution, etc. prescribed in Article 42-2 (1) in a bond transaction with a repurchase/resale agreement commenced during the period from April 1, 2002, to March 31, 2008; provided, however, that this shall not apply to such specified interest which is attributed to a business conducted by the said foreign corporation in Japan at any place prescribed in Article 141 (i) of the said Act or which is otherwise specified by a Cabinet Order.

(Special Provisions for Book-Entry Transfer National Government Bonds in Separate Trading)

Article 67-17 (1) Where a foreign corporation has any income from the holding or transfer of book-entry transfer national government bonds in separate trading (meaning principal-only book-entry transfer national government bonds prescribed in Article 90 (2) of the Act on Book-Entry Transfer of Company Bonds, etc. and coupon-only book-entry transfer national government bonds prescribed in paragraph (3) of the said Article for which separate trading of principal and interest prescribed in paragraph (1) of the said Article has been conducted pursuant to the provision of an Ordinance of the Ministry of Finance; hereinafter the same shall apply in this Article), for which the foreign corporation has made entries or records under the book-entry transfer system prescribed in Article 5-2 (5)(vi) (hereinafter referred to in this Article as "entries or records under the book-entry transfer system") in its account established with a specified book-entry transfer institution, etc. prescribed in Article 5-2 (1) (hereinafter referred to in this Article as a "specified book-entry transfer institution, etc.") or a qualified foreign intermediary prescribed in Article 5-2 (5)(iv) (hereinafter referred to in this Article as a "qualified foreign intermediary"), via a business office or any other office of the said specified book-entry transfer institution, etc. located in Japan (including a post office; hereinafter referred to in this Article as a "business office, etc.") or a specified

overseas business office, etc. prescribed in Article 5-2 (5)(v) of the said qualified foreign intermediary, corporation tax shall not be imposed with respect to such interest from the holding or transfer of the said book-entry transfer national government bonds in separate trading.

- (2) With regard to the application of the provisions of the Corporation Tax Act, it shall be deemed that there is no amount of loss or amount specified by a Cabinet Order that is incurred by a foreign corporation from the holding or transfer of book-entry transfer national government bonds in separate trading for which the foreign corporation has made entries or records under the book-entry transfer system in its account established with a specified book-entry transfer institution, etc. or qualified foreign intermediary via a business office, etc. of the said specified book-entry transfer institution, etc. located in Japan or a specified overseas business office, etc. of the said qualified foreign intermediary (such amount hereinafter referred to in this Article as "amount of loss").
- (3) The provisions of the preceding two paragraphs shall not apply to any income earned and amount of loss incurred by a foreign corporation having permanent establishments in Japan from the holding or transfer of book-entry transfer national government bonds in separate trading, which are attributed to a business conducted by the said foreign corporation in Japan.
- (4) With respect to any income earned and amount of loss incurred by a foreign corporation, which is the trustee of a foreign investment trust prescribed in Article 5-2 (2), from the holding or transfer of book-entry transfer national government bonds in separate trading that are included in the trust property under the said foreign investment trust, the provisions of paragraph (1) and paragraph (2) shall apply only where the said foreign investment trust is a qualified foreign securities investment trust prescribed in Article 5-2 (2).

(Special Provisions Concerning the Scope of Qualified Merger, etc.)

Article 68-2-3 (1) Where a merger implemented by a domestic corporation falls under the category of specified intra-group merger (meaning a merger which falls under all of the following items; excluding a merger which satisfies the requirement that any of the major businesses conducted by the merged corporation before the merger is interrelated with any of the businesses conducted by the merging corporation before the said merger, and any other requirements specified by a Cabinet Order), with regard to the application of the provisions of the Corporation Tax Act and any other laws and regulations, the term "merger" in Article 2 (xii)-8(a) to (c) of the Corporation Tax Act shall be deemed to be replaced with "merger (excluding a merger that falls under the category of specified intra-group merger prescribed in Article 68-2-3 (1) of the Act on Special Measures Concerning Taxation (Special Provisions Concerning

the Scope of Qualified Merger, etc.))":

- (i) Where there is a specified controlling interest between the merged corporation and the merging corporation.
 - (ii) Where a shareholder, etc. (meaning a shareholder, etc. prescribed in Article 2 (xiv) of the Corporation Tax Act; the same shall apply in the next paragraph and paragraph (2) of the next Article) of the merged corporation is provided with shares of the merging parent corporation prescribed in Article 2 (xii)-8 of the said Act (limited to shares (including capital contributions; hereinafter the same shall apply in this Article) of a foreign corporation that falls under the category of specified foreign corporation with less tax burden).
- (2) Where a company split implemented by a domestic corporation falls under the category of specified intra-group company split (meaning a company split which falls under all of the following items; excluding a company split which satisfies the requirement that any of the businesses conducted by the split corporation before the split, which is to be conducted by the succeeding corporation in a company split as a result of the said split, is interrelated with any of the businesses conducted by the succeeding corporation in a company split before the said split, and any other requirements specified by a Cabinet Order), with regard to the application of the provisions of the Corporation Tax Act and any other laws and regulations, the term "company split" in Article 2 (xii)-11(a) to (c) of the Corporation Tax Act shall be deemed to be replaced with "company split (excluding a company split that falls under the category of specified intra-group company split prescribed in Article 68-2-3 (2) of the Act on Special Measures Concerning Taxation (Special Provisions Concerning the Scope of Qualified Merger, etc.))":
- (i) Where the split is a split specified by a Cabinet Order as a split in which the majority of the assets and liabilities of the split corporation are transferred to the succeeding corporation in a company split.
 - (ii) Where there is a specified controlling interest between the split corporation and the succeeding corporation in a company split.
 - (iii) Where a shareholder, etc. of the split corporation or the split corporation is provided with shares of the succeeding parent corporation in a company split prescribed in Article 2 (xii)-11 of the Corporation Tax Act (limited to shares of a foreign corporation that falls under the category of specified foreign corporation with less tax burden).
- (3) Where a share exchange implemented by a domestic corporation falls under the category of specified intra-group share exchange (meaning a share exchange which falls under all of the following items; excluding a share exchange which satisfies the requirement that any of the major businesses conducted by the wholly owned subsidiary corporation in a share exchange before the share exchange is interrelated with any of the businesses conducted

by the wholly owning parent corporation in a share exchange before the said share exchange, and any other requirements specified by a Cabinet Order), with regard to the application of the provisions of the Corporation Tax Act and any other laws and regulations, the term "share exchange" in Article 2 (xii)-16(a) to (c) of the Corporation Tax Act shall be deemed to be replaced with "share exchange (excluding a share exchange that falls under the category of specified intra-group share exchange prescribed in Article 68-2-3 (3) of the Act on Special Measures Concerning Taxation (Special Provisions Concerning the Scope of Qualified Merger, etc.))":

- (i) Where there is a specified controlling interest between the wholly owned subsidiary corporation in a share exchange and the wholly owning parent corporation in a share exchange.
 - (ii) Where a shareholder, etc. of the wholly owned subsidiary corporation in a share exchange is provided with shares of the fully controlling parent corporation in a share exchange prescribed in Article 2 (xii)-16 of the Corporation Tax Act (limited to shares of a foreign corporation that falls under the category of specified foreign corporation with less tax burden).
- (4) Where a capital contribution in kind whereby a domestic corporation transfers its assets or liabilities to a foreign corporation falls under the category of specified capital contribution in kind (meaning a capital contribution in kind whereby a domestic corporation transfers shares of a specified foreign subsidiary corporation in its possession to a specified foreign parent corporation, etc. related to the said domestic corporation), with regard to the application of the provisions of the Corporation Tax Act and any other laws and regulations, the term "capital contribution in kind that falls under any of the following (limited to" in Article 2 (xii)-14 of the Corporation Tax Act shall be deemed to be replaced with "capital contribution in kind that falls under any of the following (limited to a specified capital contribution in kind prescribed in Article 68-2-3 (4) of the Act on Special Measures Concerning Taxation (Special Provisions Concerning the Scope of Qualified Merger, etc.))".
- (5) In this Article, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Specified foreign corporation with less tax burden: A foreign corporation specified by a Cabinet Order as a corporation whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan
 - (ii) Specified controlling interest: A relationship between two domestic corporations whereby either domestic corporation holds, directly or indirectly, shares that account for more than 50 percent of the total number or total amount of issued shares of or capital contributions to the other domestic

corporation (excluding the shares or capital contributions held by the other corporation; hereinafter referred to in this paragraph as "issued shares, etc.") or any other special relationship specified by a Cabinet Order

- (iii) Specified foreign subsidiary corporation: A foreign corporation in which, at any time during the period from the first day of the earliest business year that commenced within two years before the first day of the business year of the said foreign corporation that includes the date of the capital contribution in kind, until that date of the capital contribution in kind, residents (meaning residents prescribed in Article 2 (1)(i)-2; hereinafter the same shall apply in this item), domestic corporations and specially-related nonresidents (meaning nonresidents prescribed in Article 2 (1)(i)-2 who have a special relationship specified by a Cabinet Order with residents or domestic corporations) hold shares that account for more than 50 percent of the total number or total amount of shares, etc. of the foreign corporation, and which falls under the category of specified foreign corporation with less tax burden
- (iv) Specified foreign parent corporation, etc.: A foreign corporation which has a relationship with a domestic corporation whereby the said foreign corporation directly or indirectly holds shares that account for 80 percent or more of the total number or total amount of issued shares, etc. of the said domestic corporation, and which falls under the category of specified foreign corporation with less tax burden

- (6) In addition to what is specified in the preceding paragraphs, the necessary matters concerning the application of the provisions of the Corporation Tax Act and any other laws and regulations in the case where a specified intra-group merger prescribed in paragraph (1), specified intra-group company split prescribed in paragraph (2), specified intra-group share exchange prescribed in paragraph (3) or specified capital contribution in kind prescribed in paragraph (4) has been implemented, shall be specified by a Cabinet Order.

(Special Provisions for Taxation on Shareholders, in the event of Specified Merger, etc.)

Article 68-3 (1) Where a corporation has, as a result of a merger (limited to a merger that does not fall under the category of qualified merger) of a domestic corporation to which the said corporation issued old shares (meaning shares (including capital contributions; hereinafter the same shall apply in this Article) that were held by the said corporation), been provided with shares of a foreign corporation which has a relationship with the merging corporation specified by a Cabinet Order as a relationship whereby the foreign corporation holds the whole of the issued shares of or capital contributions to the said merging corporation (excluding the shares held by the merging corporation; referred to in paragraph (3) as "issued shares, etc."), if the shares of the said

foreign corporation are shares of a specified foreign corporation with less tax burden (meaning a specified foreign corporation with less tax burden prescribed in paragraph (5)(i) of the preceding Article; hereinafter the same shall apply in this Article), the provision of Article 61-2 (2) of the Corporation Tax Act (including the case where it is applied mutatis mutandis to the calculation made pursuant to the provision of Article 142 of the said Act) shall not apply.

(2) Where a corporation has, as a result of a specified split-off-type company split implemented by a domestic corporation to which the said corporation issued old shares (meaning shares that were held by the said corporation) (such specified split-off-type company split shall mean a split-off-type company split (meaning a split prescribed in paragraph (2)(i) of the preceding Article, which does not fall under the category of qualified split-off-type company split) whereby a shareholder, etc. of the split corporation has not been provided with assets (excluding money and other assets provided for the said shareholder, etc. as dividend of surplus, etc. prescribed in Article 61-2 (4) of the Corporation Tax Act, except for assets as a consideration for a split prescribed in Article 61-2 (4) of the said Act) other than shares of a specified foreign parent corporation (meaning a parent corporation prescribed in Article 61-2 (4) of the said Act which falls under the category of specified foreign corporation with less tax burden; hereinafter the same shall apply in this paragraph) that is related to the succeeding corporation in the company split), been provided with shares of a specified foreign parent corporation related to the succeeding corporation in the company split, with regard to the application of the provision of Article 61-2 (4) of the said Act (including the case where it is applied mutatis mutandis to the calculation made pursuant to the provision of Article 142 of the said Act), the phrase "split-off-type company split (wherein a shareholder, etc. of the split corporation has not been provided with...(hereinafter referred to as..." shall be deemed to be replaced with "split-off-type company split (wherein a shareholder, etc. of the split corporation has not been provided with...(excluding a split-off-type company split that falls under the category of specified split-off-type company split prescribed in Article 68-3- (2) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Shareholders, etc. in the event of Specified Merger, etc.); hereinafter referred to as...".

(3) Where a corporation has, as a result of a share exchange (limited to a share exchange that does not fall under the category of qualified share exchange) implemented by a domestic corporation to which the said corporation issued old shares (meaning shares that were held by the said corporation), been provided with shares of a foreign corporation which has a relationship with the wholly owning parent corporation in a share exchange specified by a Cabinet Order as

a relationship whereby the foreign corporation holds the whole of the issued shares, etc. of the said wholly owning parent corporation in a share exchange, if the shares of the said foreign corporation are shares of a specified foreign corporation with less tax burden, the provision of Article 61-2 (9) of the Corporation Tax Act (including the case where it is applied mutatis mutandis to the calculation made pursuant to the provision of Article 142 of the said Act) shall not apply.

- (4) The acquisition cost for shares in the case where the provisions of the preceding three paragraphs shall apply, and other necessary matters concerning the application of the provisions of laws and regulations on corporation tax shall be specified by a Cabinet Order.

(Special Provisions for Taxation on Trust Corporations for Special Purpose Trusts)

Article 68-3-2 (1) Any amount specified by a Cabinet Order as the amount of distribution of profit from a special purpose trust listed in Article 2 (xxix)-2(e) of the Corporation Tax Act (hereinafter referred to in this Article as a "special purpose trust") (such amount of distribution of profit hereinafter referred to in this Article as "amount of distribution of profit"), which pertains to the business year of the trust corporation (meaning a trust corporation prescribed in Article 4-7 of the said Act (limited to a trust corporation that shall be deemed to be a domestic corporation pursuant to the provision of Article 4-7 (i) of the said Act as applied mutatis mutandis pursuant to Article 2-2 (3) and therefore be subject to the provisions of this Act); the same shall apply in the next paragraph to paragraph (4)) for the said special purpose trust, shall be included in the amount of deductible expense in the calculation of the amount of [the trust corporation's] income for the business year, if the said special purpose trust satisfies the requirements listed in item (i) and the said business year satisfies the requirements listed in item (ii); provided, however, that where the amount of distribution of profit exceeds the amount specified by a Cabinet Order as the amount of [the trust corporation's] income for the said business year, the amount to be included in the amount of deductible expense shall be limited to such amount specified by a Cabinet Order:

(i) All of the following requirements:

(a) Notification has been made with respect to the said special purpose trust pursuant to the provision of Article 225 (1) of the Act on Securitization of Assets.

(b) The special purpose trust conforms to any of the following conditions:

1. The public offering of beneficial rights of the said special purpose trust by the issuer (meaning an issuer prescribed in Article 2 (5) of the Financial Instruments and Exchange Act; hereinafter the same shall

apply in this item) has been conducted by way of a solicitation of acquisition prescribed in paragraph (3) of the said Article (limited to one that falls under the case listed in item (i) of the said paragraph), and the total issue price of the beneficial rights is not less than 100 million yen.

2. As a result of the public offering of beneficial rights of the said special purpose trust conducted by the issuer, the beneficial rights have been accepted by not less than 50 persons.
 3. As a result of the public offering of beneficial rights of the said special purpose trust conducted by the issuer, the beneficial rights have been accepted only by a qualified institutional investor(s) prescribed in Article 2 (3)(i) of the Financial Instruments and Exchange Act.
- (c) The public offering of beneficial rights of the said special purpose trust conducted by the issuer falls under the category of public offering of beneficial rights specified by a Cabinet Order as one conducted mainly in Japan.
- (d) Any other requirement specified by a Cabinet Order
- (ii) All of the following requirements:
- (a) At the end of the said business year, the trust corporation does not fall under the category of family company prescribed in Article 2 (x) of the Corporation Tax Act.
 - (b) The amount of distribution of profit pertaining to the said business year exceeds 90 percent of the amount specified by a Cabinet Order as the amount of distributable income for the said business year.
 - (c) Any other requirement specified by a Cabinet Order
- (2) With regard to the application of the provision of Article 23 (1) of the Corporation Tax Act to the trust corporation for a special purpose trust, the phrase "received by a domestic corporation" in Article 23 (1) of the said Act shall be deemed to be replaced with "received by a domestic corporation (excluding a trust corporation prescribed in Article 4-7 (Application of This Act to Trust Corporations, etc.) for the special purpose trust listed in Article 2 (xxix)-2(e) (Definitions))".
- (3) With regard to the application of the provision of Article 69 of the Corporation Tax Act to the trust corporation for a special purpose trust, the phrase "amount of income" in paragraph (1) of the said Article shall be deemed to be replaced with "amount of [the trust corporation's] income (in the case of a trust corporation prescribed in Article 4-7 (Application of This Act to Trust Corporations, etc.) for the special purpose trust listed in Article 2 (xxix)-2(e) (Definitions) that is subject to the provision of Article 68-3-2 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Purpose Trusts) (such trust corporation referred

- to in paragraph (8) as a "trust corporation for a special purpose trust"): the amount of income calculated without applying the provision of Article 68-3-2 (1) of the said Act)", and the phrase "Where a domestic corporation" in paragraph (8) of the said Article shall be deemed to be replaced with "Where a domestic corporation (excluding a trust corporation for a special purpose trust; hereinafter the same shall apply in this paragraph and paragraph (11))".
- (4) With regard to the application of the provision of Article 62-3 (3) to the trust corporation for a special purpose trust, the term "the transfer..., which is specified by a Cabinet Order" in Article 62-3 (3) shall be deemed to be replaced with "the transfer..., which is specified by a Cabinet Order, and the transfer conducted by a trust corporation prescribed in Article 68-3-2 (1) for a special purpose trust prescribed in Article 68-3-2 (1), which is conducted in the business year that satisfies the requirements listed in Article 68-3-2 (1)(ii) (excluding (b))".
- (5) With regard to the application of the provisions of Article 23 and Article 93 of the Corporation Tax Act to the amount of distribution of profit from a special purpose trust to be received by a corporation, the phrase "amount listed in item (i)" in Article 23 (1) of the said Act shall be deemed to be replaced with "amount listed in item (i)... and the amount of distribution of profit prescribed in Article 68-3-2 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Purpose Trusts) from the special purpose trust listed in Article 2 (xxix)-2(e) (Definitions)", and the phrase "amount listed in item (iii) of the said Article" in Article 93 (2)(ii) of the said Act shall be deemed to be replaced with "amount listed in item (iii) of the said Article and the amount of distribution of profit prescribed in Article 68-3-2 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Purpose Trusts) from the special purpose trust listed in Article 2 (xxix)-2(e) (Definitions)".
- (6) The provision of paragraph (1) shall apply only where the trust corporation for a special purpose trust has filed a final return form prescribed in Article 2 (xxxi) of the Corporation Tax Act (referred to in the next paragraph as a "final return form") for the business year for which the trust corporation seeks the application of the provision of the said paragraph, with an application made therein to seek the inclusion in deductible expense of the amount to be included in the amount of deductible expense pursuant to the provision of paragraph (1) and a written statement attached thereto regarding the calculation of the amount to be included in the amount of deductible expense, and preserved the documents that certify that the requirements listed in items (i)(b) and (c) of the said paragraph are satisfied.
- (7) Even where the trust corporation for a special purpose trust has filed a final

- return form without the application or written statement set forth in the preceding paragraph attached thereto or failed to preserve the documents on the calculation set forth in the said paragraph, the district director may, when he/she finds any unavoidable reason for the trust corporation's failure to make a necessary application, attach a necessary written statement or preserve the necessary documents on the calculation, apply the provision of paragraph (1).
- (8) The provisions of paragraph (1), paragraph (2), paragraph (4) and the preceding two paragraphs shall apply mutatis mutandis where the trust corporation prescribed in Article 4-7 of the Corporation Tax Act for a special purpose trust (limited to a trust corporation that shall be deemed to be a foreign corporation pursuant to the provision of Article 4-7 (ii) of the said Act as applied mutatis mutandis pursuant to Article 2-2 (3) and therefore be subject to the provisions of this Act, which falls under any of the categories of foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act), pursuant to the provision of Article 142 of the said Act, calculates the amount of income categorized as domestic source income prescribed in Article 141 of the said Act in accordance with the provisions of the said Act. In this case, the phrase "Any amount ...from a special purpose trust..., which pertains to the business year" in paragraph (1) shall be deemed to be replaced with "Any amount ...from a special purpose trust..., which pertains to a business conducted in Japan and also pertains to the business year", and the phrase "Article 23 (1) of the Corporation Tax Act" shall be deemed to be replaced with "Article 23 (1) of the Corporation Tax Act applied in the case where, pursuant to the provision of Article 142 of the Corporation Tax Act, calculation is made in accordance with the provision of Article 23 (1) of the said Act".
- (9) The amount of distribution of profit from a special purpose trust set forth in paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph, which is received by a domestic corporation (such amount hereinafter referred to in this paragraph and the next paragraph as "amount of distribution of profit from a foreign special purpose trust") shall be deemed to be excluded from the amount of dividend, etc. prescribed in Article 69 (8) of the Corporation Tax Act, and the amount of distribution of profit from a foreign special purpose trust to be received by a foreign subsidiary company prescribed in Article 69 (8) of the said Act shall be deemed to be excluded from the amount of dividend, etc. from a foreign second-tier subsidiary company prescribed in Article 68 (11) of the said Act.
- (10) The amount of distribution of profit from a special purpose trust to be received by a foreign corporation (limited to the amount to be received by a foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act (in the case of the amount to be received by a foreign corporation listed in item (ii) or item (iii) of the said Article, the amount shall be limited to the amount to

be attributed to the business prescribed in these provisions that is conducted by the foreign corporation)) shall be deemed to be the amount of dividend of surplus to be received from a domestic corporation prescribed in Article 138 (v)(a) of the said Act, and the provisions of the said Act and any other provisions of laws and regulations concerning corporation tax (excluding the provision of Article 23 (1) of the Corporation Tax Act applied in the case where, pursuant to the provision of Article 142 of the said Act, calculation is made in accordance with the provision of Article 23 (1) of the said Act) shall be applied thereto.

(11) In addition to what is specified in paragraph (6) and paragraph (7), the application of the provisions of paragraph (1) to paragraph (5) and the preceding three paragraphs, and other necessary matters concerning the application of the provisions of laws and regulations concerning corporation tax on income for the relevant business year of a trust corporation prescribed in Article 4-7 of the Corporation Tax Act from a special purpose trust shall be specified by a Cabinet Order.

(Special Provisions for Taxation on Trust Corporations for Special Investment Trusts)

Article 68-3-3 (1) Any amount specified by a Cabinet Order as the amount of distribution of profit from a special investment trust (meaning an investment trust listed in Article 2 (3) of the Act on Investment Trust and Investment Corporation (referred to in item (i) as the "Investment Trust Act", which falls under the category of trust subject to corporation taxation; hereinafter the same shall apply in this Article) (such amount of distribution of profit hereinafter referred to in this Article as "amount of distribution of profit"), which pertains to the business year of the trust corporation (meaning a trust corporation prescribed in Article 4-7 of the Corporation Tax Act (limited to a trust corporation that shall be deemed to be a domestic corporation pursuant to the provision of Article 4-7 (i) of the said Act as applied mutatis mutandis pursuant to Article 2-2 (3) and therefore be subject to the provisions of this Act); the same shall apply in the next paragraph to paragraph (4)) for the said special investment trust, shall be included in the amount of deductible expense in the calculation of the amount of [the trust corporation's] income for the business year, if the said special investment trust satisfies the requirements listed in item (i) and the said business year satisfies the requirements listed in item (ii); provided, however, that where the amount of distribution of profit exceeds the amount specified by a Cabinet Order as the amount of [the trust corporation's] income for the said business year, the amount to be included in the amount of deductible expense shall be limited to such amount specified by a Cabinet Order:

- (i) All of the following requirements:
 - (a) Notification has been made with respect to the said special investment trust pursuant to the provision of Article 4 (1) or Article 49 (1) of the Investment Trust Act.
 - (b) The public offering of beneficial rights of the said special investment trust conducted by the trustee (or the settlor in the case of an investment trust operated with instruction from the settlor prescribed in Article 2 (1) of the Investment Trust Act; the same shall apply in (c)) falls under the category of public offering of beneficial rights specified by a Cabinet Order as one conducted by way of private placement by a qualified institutional investment prescribed in Article 2 (9) of the said Act.
 - (c) The public offering of beneficial rights of the said special investment trust conducted by the settlor falls under the category of public offering of beneficial rights specified by a Cabinet Order as one conducted mainly in Japan.
 - (d) Any other requirement specified by a Cabinet Order
- (ii) All of the following requirements:
 - (a) At the end of the said business year, the trust corporation does not fall under the category of family company prescribed in Article 2 (x) of the Corporation Tax Act.
 - (b) The ratio specified by a Cabinet Order as the ratio of the amount of distribution of profit pertaining to the said business year to the amount of distributable income exceeds 90 percent.
 - (c) Any other requirement specified by a Cabinet Order
- (2) With regard to the application of the provision of Article 23 (1) of the Corporation Tax Act to the trust corporation for a special investment trust, the phrase "received by a domestic corporation" in Article 23 (1) of the said Act shall be deemed to be replaced with "received by a domestic corporation (excluding a trust corporation prescribed in Article 4-7 (Application of This Act to Trust Corporations, etc.) for the special investment trust prescribed in Article 68-3-3 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Investment Trusts) (limited to a special investment trust that satisfies the requirements listed in Article 68-3-3 (1)(i)(b) or (c)))".
- (3) With regard to the application of the provision of Article 69 of the Corporation Tax Act to the trust corporation for a special investment trust, the phrase "amount of income" in paragraph (1) of the said Article shall be deemed to be replaced with "amount of [the trust corporation's] income (in the case of a trust corporation prescribed in Article 4-7 (Application of This Act to Trust Corporations, etc.) for the special investment trust prescribed in Article 68-3-3 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for

Taxation on Trust Corporations for Special Investment Trusts) that is subject to the provision of Article 68-3-3 (1) of the said Act (such trust corporation referred to in paragraph (8) as a "trust corporation for a special investment trust"): the amount of income calculated without applying the provision of Article 68-3-3 (1) of the said Act)", and the phrase "Where a domestic corporation" in paragraph (8) of the said Article shall be deemed to be replaced with "Where a domestic corporation (excluding a trust corporation for a special investment trust; hereinafter the same shall apply in this paragraph and paragraph (11))".

- (4) With regard to the application of the provision of Article 62-3 (3) to the trust corporation for a special investment trust, the term "the transfer..., which is specified by a Cabinet Order" in Article 62-3 (3) shall be deemed to be replaced with "the transfer..., which is specified by a Cabinet Order, and the transfer conducted by a trust corporation prescribed in Article 68-3-3 (1) for a special investment trust prescribed in Article 68-3-3 (1), which is conducted in the business year that satisfies the requirements listed in Article 68-3-3 (1)(ii) (excluding (b))".
- (5) With regard to the application of the provisions of Article 23 and Article 93 of the Corporation Tax Act to the amount of distribution of profit from a special investment trust (limited to a special investment trust that satisfies the requirements listed in paragraph (1)(i)(b) and (c)) to be received by a corporation, the phrase "amount listed in item (i)" in Article 23 (1) of the said Act shall be deemed to be replaced with "amount listed in item (i)... and the amount of distribution of profit prescribed in Article 68-3-3 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Investment Trusts) from the special investment trust prescribed in paragraph (5) of the said Article", and the phrase "amount listed in item (iii) of the said Article" in Article 93 (2)(ii) of the said Act shall be deemed to be replaced with "amount listed in item (iii) of the said Article and the amount of distribution of profit prescribed in Article 68-3-3 (1) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Trust Corporations for Special Investment Trusts) from the special investment trust prescribed in paragraph (5) of the said Article".
- (6) The provision of paragraph (1) shall apply only where the trust corporation for a special investment trust has filed a final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act (referred to in the next paragraph as a "final return form") for the business year for which the trust corporation seeks the application of the provision of the said paragraph, with an application made therein to seek the inclusion in deductible expense of the amount to be included in the amount of deductible expense pursuant to the provision of paragraph (1) and a written statement attached thereto regarding the

calculation of the amount to be included in the amount of deductible expense, and preserved the documents that certify that the requirements listed in item (i)(b) and (c) of the said paragraph are satisfied.

- (7) Even where the trust corporation for a special investment trust has filed a final return form without the application or written statement set forth in the preceding paragraph attached thereto or failed to preserve the documents on the calculation set forth in the said paragraph, the district director may, when he/she finds any unavoidable reason for the trust corporation's failure to make a necessary application, attach a necessary written statement or preserve the necessary documents on the calculation, apply the provision of paragraph (1).
- (8) The provisions of paragraph (1), paragraph (2), paragraph (4) and the preceding two paragraphs shall apply mutatis mutandis where the trust corporation prescribed in Article 4-7 of the Corporation Tax Act for a special investment trust (limited to a trust corporation that shall be deemed to be a foreign corporation pursuant to the provision of Article 4-7 (ii) of the said Act as applied mutatis mutandis pursuant to Article 2-2 (3) and therefore be subject to the provisions of this Act, which falls under any of the categories of foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act), pursuant to the provision of Article 142 of the said Act, calculates the amount of income categorized as domestic source income prescribed in Article 141 of the said Act in accordance with the provisions of the said Act. In this case, the phrase "Any amount ...from a special investment trust..., which pertains to the business year" in paragraph (1) shall be deemed to be replaced with "Any amount ...from a special investment trust..., which pertains to a business conducted in Japan and also pertains to the business year", and the phrase "Article 23 (1) of the Corporation Tax Act" shall be deemed to be replaced with "Article 23 (1) of the Corporation Tax Act applied in the case where, pursuant to the provision of Article 142 of the Corporation Tax Act, calculation is made in accordance with the provision of Article 23 (1) of the said Act".
- (9) The amount of distribution of profit from a special investment trust set forth in paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph (limited to a special investment trust that satisfies the requirements listed in item (i)(b) and (c) of the said paragraph), which is received by a domestic corporation (such amount hereinafter referred to in this paragraph and the next paragraph as "amount of distribution of profit from foreign special investment trust") shall be deemed to be excluded from the amount of dividend, etc. prescribed in Article 69 (8) of the Corporation Tax Act, and the amount of distribution of profit from a foreign special investment trust to be received by a foreign subsidiary company prescribed in Article 69 (8) of the said Act shall be deemed to be excluded from the amount of dividend, etc. from a foreign second-tier subsidiary company prescribed in Article 68 (11) of

the said Act.

- (10) The amount of distribution of profit from a special investment trust to be received by a foreign corporation (limited to the amount to be received by a foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act (in the case of the amount to be received by a foreign corporation listed in item (ii) or item (iii) of the said Article, the amount shall be limited to the amount to be attributed to the business prescribed in these provisions that is conducted by the foreign corporation)) shall be deemed to be the amount of dividend of surplus to be received from a domestic corporation prescribed in Article 138 (v)(a) of the said Act, and the provisions of the said Act and any other provisions of laws and regulations concerning corporation tax (excluding the provision of Article 23 (1) of the Corporation Tax Act applied in the case where, pursuant to the provision of Article 142 of the said Act, calculation is made in accordance with the provision of Article 23 (1) of the said Act) shall be applied thereto.
- (11) In addition to what is specified in paragraph (6) and paragraph (7), the application of the provisions of paragraph (1) to paragraph (5) and the preceding three paragraphs, and other necessary matters concerning the application of the provisions of laws and regulations concerning corporation tax on income for the relevant business year of a trust corporation prescribed in Article 4-7 of the Corporation Tax Act from a special investment trust shall be specified by a Cabinet Order.

Section 22 Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations, etc.

(Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)

- Article 68-88 (1) Where a consolidated corporation has, in each consolidated business year beginning on or after April 1, 2002, conducted a transaction for the sale of assets, purchase of assets, provision of services or any other transaction with a foreign affiliated person related to the said consolidated corporation (meaning a foreign corporation that has a relationship with the said consolidated corporation whereby either corporation holds, directly or indirectly, shares or capital contributions that account for 50 percent or more of the total number or total amount of issued shares of or capital contributions to the other corporation (excluding the shares or capital contributions held by the other corporation) or any other special relationship specified by a Cabinet Order (referred to in the next paragraph and paragraph (5) as a "special relationship"); hereinafter the same shall apply in this Article), if the amount of the consideration received by the said consolidated corporation from the said

foreign affiliated person with respect to the said transaction (excluding, depending on the category of foreign corporation listed in Article 141 (i) to (iii) of the Corporation Tax Act corresponding to the said foreign affiliated person, a transaction from which the said foreign affiliated person earns the domestic source income listed in the relevant item, which is specified by a Cabinet Order prescribed in Article 66-4 (1); hereinafter referred to in this Article as a "foreign affiliated transaction") is below the arm's length price or if the amount of the consideration paid by the said consolidated corporation to the said foreign affiliated person with respect to the said transaction is over the arm's length price, with regard to the application of the provisions of the said Act and any other provisions concerning corporation tax on the said consolidated corporation's consolidated income for the said consolidated business year, the said foreign affiliated transaction shall be deemed to have been conducted at the arm's length price.

- (2) The arm's length price prescribed in the preceding paragraph shall mean the amount calculated by the method specified in each of the following items for the category of transaction listed in the relevant item corresponding to the foreign affiliated transaction:
 - (i) Sale or purchase of inventory assets: Any of the following methods (the method listed in (d) may be applied only where the methods listed in (a) to (c) are unavailable):
 - (a) Comparable uncontrolled price method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount equivalent to the amount of the consideration for a transaction wherein the seller and the buyer who are not in a special relationship have sold or bought inventory assets of the same type as the inventory assets pertaining to the said foreign affiliated transaction, under circumstances where the transaction level, transaction volume and any other conditions are similar to those of the said foreign affiliated transaction (in the case where such inventory assets of the same type have been sold or bought under circumstances where the transaction level, transaction volume and any other conditions are different from those of the said foreign affiliated transaction, and any variance arising from such difference in the conditions can be adjusted, the amount of the consideration as adjusted shall be included)
 - (b) Resale price method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount calculated by deducting, from the amount of the consideration gained by the buyer of the inventory assets involved in the said foreign affiliated transaction for having sold the said inventory assets to a person who is not in a special relationship therewith (hereinafter referred to in this paragraph as the

- "resale price"), the amount of normal profit (meaning the amount calculated by multiplying the said resale price by the normal profit margin specified by a Cabinet Order)
- (c) Cost plus method (meaning the method which uses, as the amount of the consideration for a foreign affiliated transaction, the amount calculated by adding, to the amount of the cost incurred by the seller of the inventory assets involved in the said foreign affiliated transaction for having acquired the inventory assets by purchase, manufacture or any other acts, the amount of normal profit (meaning the amount calculated by multiplying the said amount of cost by the normal profit margin specified by a Cabinet Order)
 - (d) A method equivalent to the methods listed in (a) to (c) or any other method specified by a Cabinet Order
 - (ii) A transaction other than the transaction listed in the preceding item: Any of the following methods (the method listed in (b) may be applied only where the method listed in (a) is unavailable):
 - (a) A method equivalent to the methods listed in (a) to (c) of the preceding item
 - (b) A method equivalent to the method listed in (d) of the preceding item
- (3) Any part of the amount of a contribution (meaning the amount of a contribution prescribed in Article 37 (7) of the Corporation Tax Act as applied mutatis mutandis pursuant to Article 81-6 (6) of the said Act; hereinafter the same shall apply in this paragraph and the next paragraph) expended by a consolidated corporation in each consolidated business year, which has been paid to a foreign affiliated person related to the said consolidated corporation (excluding any amount of contribution paid to a foreign affiliated person that falls under the category of foreign corporation listed in Article 141 (i) to (iii) of the said Act, which shall be included in the amount of gross profit in the calculation of the said foreign affiliated person's income for the relevant business year), shall not be included in the amount of deductible expense in the calculation of the amount of the said consolidated corporation's consolidated income for the relevant consolidated business year. In this case, with regard to the application of the provision of Article 81-6 of the said Act to the said consolidated corporation, the term "the next paragraph" in paragraph (1) of the said Article shall be deemed to be replaced with "the next paragraph or the provision of Article 68-88 (3) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)."
- (4) In the case where the provision of paragraph (1) shall apply, any variance between the amount of the consideration for a foreign affiliated transaction and the arm's length price prescribed in the said paragraph which pertains to

the said foreign affiliated transaction (excluding a variance that shall be deemed to be the amount of the contribution) shall not be included in the amount of deductible expense in the calculation of the consolidated corporation's consolidated income for each consolidated business year.

- (5) In the case specified by a Cabinet Order where a consolidated corporation conducts a transaction with a foreign affiliated person related to the said consolidated corporation via another person (excluding any other foreign affiliated person related to the said consolidated corporation, and a domestic corporation having a special relationship with such other foreign affiliated person; hereinafter referred to in this paragraph as a "non-affiliated person"), the transaction between the said consolidated corporation and the said non-affiliated person shall be deemed to be the said consolidated corporation's foreign affiliated transaction, and the provision of paragraph (1) shall be applied thereto.
- (6) Where the relevant official of the National Tax Agency, the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over a consolidated parent corporation's place for tax payment or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over the location of the head office or principal office of a consolidated subsidiary corporation has requested the said consolidated corporation to present or submit the books and documents that are considered to be necessary for the calculation of the arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction conducted by the consolidated corporation in each consolidated business year or copies of such books and documents (in the case where the consolidated corporation, instead of preparing or preserving such books and documents, prepares or preserves electromagnetic records (meaning records made in an electronic form, a magnetic form, or any other form not recognizable to human perception, which are used in information processing by computers), such electromagnetic records shall be included; hereinafter the same shall apply in this Article), if the said consolidated corporation has failed to present or submit these books and documents or copies thereof without delay, the district director may presume the amount calculated by the method listed in any of the following items (the method listed in item (ii) may be applied only where the method listed in (i) is unavailable) to be the said arm's length price, and thereby make a reassessment prescribed in Article 2 (xliii) of the Corporation Tax Act (referred to in paragraph (16) as a "reassessment") or a determination prescribed in item (xliv) of the said Article (referred to in paragraph (16) as a "determination") with respect to the said consolidated corporation's amount of consolidated income or amount of consolidated loss for the relevant consolidated business year:
- (i) The method listed in paragraph (2)(i)(b) or (c) or the method listed in

paragraph (2)(ii)(a) (excluding the method equivalent to the method listed in paragraph (2)(i)(a)), which is applied based on the gross profit margin gained by another corporation from its business on condition that such other corporation's business is the same type as the said consolidated corporation's business involving the said foreign affiliated transaction, and that the size and other details are similar between the two businesses, or any other ratio specified by a Cabinet Order as a ratio equivalent to the gross profit margin

(ii) A method specified by a Cabinet Order as being equivalent to the method prescribed in paragraph (2)(i)(d) or the method listed in paragraph (2)(ii)(b) (limited to the method equivalent to the said method specified by a Cabinet Order)

(7) The relevant official of the National Tax Agency, the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over a consolidated parent corporation's place for tax payment or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over the location of the head office or principal office of a consolidated subsidiary corporation may, when it is necessary in the examination concerning the transaction between the consolidated corporation and a foreign affiliated person related to the said consolidated corporation, request the said consolidated corporation to present or submit the books and documents preserved by the said foreign affiliated person or copies thereof. In this case, the said consolidated corporation shall endeavor to obtain the said books and documents or copies thereof when requested to present or submit them.

(8) Where a consolidated parent corporation or consolidated subsidiary corporation has failed to present or submit the books and documents or copies thereof prescribed in paragraph (6) without delay, the relevant official of the National Tax Agency, the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over the consolidated parent corporation's place for tax payment or the relevant official of the Tax Office or Regional Taxation Bureau having jurisdiction over the location of the head office or principal office of the consolidated subsidiary corporation may, when it is necessary for the calculation of the said consolidated corporation's arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction in each consolidated business year, ask questions of a person who is engaged in a business that is the same type as the said consolidated corporation's business involving the said foreign affiliated transaction, or inspect the books and documents concerning the said business, to the extent considered necessary for such calculation.

(9) The authority to ask questions or conduct an inspection pursuant to the provision of the preceding paragraph shall not be construed as being granted for criminal investigation.

- (10) The relevant official of the National Tax Agency, the Regional Taxation Bureau, or the Tax Office shall, when asking questions or conducting an inspection pursuant to the provision of paragraph (8), carry an identification card and present it to the person concerned when requested.
- (11) Any person who falls under any of the following shall be punished by a fine of not more than 100,000 yen:
- (i) A person who has failed to answer or made a false answer to the questions given by the relevant official pursuant to the provision of paragraph (8) or has refused, obstructed or avoided the inspection pursuant to the provision of the said paragraph
 - (ii) A person who has presented books and documents which contain false statements or records concerning the inspection set forth in the preceding item
- (12) Where the representative person of a corporation (including the administrator of an association or foundation without juridical personality) or an agent, employee or other worker of a corporation or an individual has committed any of the acts of violation set forth in the preceding paragraph with regard to the business of the said corporation or individual, not only the offender shall be punished but also the said corporation or individual shall be punished by the fine prescribed in the said paragraph.
- (13) Where the provision of the preceding paragraph shall apply to an association or foundation without juridical personality, its representative person or administrator shall represent the association or foundation without juridical personality with regard to its procedural act, and the legal provisions concerning criminal procedure that are applicable in the case where a corporation stands as the accused or the suspect shall apply *mutatis mutandis*.
- (14) A consolidated parent corporation shall, where the said consolidated parent corporation or its consolidated subsidiary corporation has conducted a transaction with a foreign affiliated person related to the said consolidated corporation in each consolidated business year, attach a document stating the said foreign affiliated person's name and the location of its head office or principal office and any other matters specified by an Ordinance of the Ministry of Finance, to the consolidated final return form (meaning a consolidated final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act) for the relevant consolidated business year.
- (15) A consolidated subsidiary corporation shall, where it has conducted a transaction with a foreign affiliated person related to the said consolidated corporation in each consolidated business year, attach a document stating the said foreign affiliated person's name and the location of its head office or principal office and any other matters specified by an Ordinance of the Ministry of Finance, to the document prescribed in Article 81-25 (1) of the

Corporation Tax Act for the relevant consolidated business year which states the individually attributed amount, etc. prescribed in Article 81-25 (1) of the said Act.

(16) A reassessment or determination (hereinafter referred to in this paragraph as a "reassessment or determination") or an assessment and decision prescribed in Article 32 (5) of the Act on General Rules for National Taxes (hereinafter referred to in this paragraph as an "assessment and decision"), which is listed in any of the following items, may be made within six years from the due date or other date specified in the relevant item, notwithstanding the provisions of Article 70 (1) to (4) of the said Act (excluding the part concerning the reassessment listed in paragraph (2)(ii) and (iii) of the said Article (limited to a reassessment pertaining to the amount of net loss, etc. prescribed in the said paragraph)). In this case, with regard to the application of the provisions of Article 70 (5) and Article 71 (1) of the said Act: in Article 70 (5) of the said Act, the phrase "preceding paragraphs" shall be deemed to be replaced with "preceding paragraphs and the provision of Article 68-88 (16) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)"; in Article 71 (1) of the said Act, the phrase "preceding Article" shall be deemed to be replaced with "preceding Article and the provision of Article 68-88 (16) of the Act on Special Measures Concerning Taxation (Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)," and the phrase "preceding Article" shall be deemed to be replaced with "preceding Article and the said paragraph [Article 68-88 (16) of the said Act]."

(i) A reassessment or determination of corporation tax to be made based on the fact that a consolidated corporation has conducted a transaction with a foreign affiliated person related to the said consolidated corporation at the amount of consideration that is different from the arm's length price prescribed in paragraph (1), or a reassessment or determination of corporation tax to be made, upon the said reassessment or determination, to make a change to the tax base, etc. or tax amount, etc. prescribed in Article 19 (1) of the Act on General Rules for National Taxes: The statutory due date of tax return prescribed in Article 2 (vii) of the said Act with regard to corporation tax pertaining to the relevant reassessment or determination (in the case of a reassessment based on a return of claim for a refund prescribed in Article 61 (1) of the said Act: the day on which the said return of claim for a refund has been filed)

(ii) A reassessment or determination of corporation tax to be made based on the fact prescribed in the preceding item or submission of a tax return form prescribed in Article 2 (vi) of the Act on General Rules for National Taxes

(excluding a return form within the due date prescribed in Article 17 (2) of the said Act; hereinafter referred to in this item as a "tax return form"), or an assessment and decision to be made, upon the reassessment or determination or submission of a tax return form, so as to impose additional tax prescribed in Article 69 of the said Act with regard to the corporation tax to which the change prescribed in the preceding item shall be made upon the said reassessment or determination or the said submission of a tax return form: The date of the establishment of the relevant tax liability

- (17) Where, with regard to corporation tax, the tax amount payable due to the fact that a consolidated corporation has conducted a transaction with a foreign affiliated person related to the said consolidated corporation at the amount of consideration that is different from the arm's length price prescribed in paragraph (1) falls short, or the amount of the refund prescribed in Article 2 (vi) of the Act on General Rules for National Taxes is in excess, the prescription of the right of collection of national tax prescribed in Article 72 (1) of the said Act shall not run for one year from the statutory due date prescribed in Article 72 (1) of the said Act for the said corporation tax, except where the provision of Article 73 (3) of the said Act shall apply.
- (18) In the case referred to in the preceding paragraph, the provision of the proviso of Article 73 (3) of the Act on General Rules for National Taxes shall apply *mutatis mutandis*. In this case, the phrase "two years" in the said proviso shall be deemed to be replaced with "one year."
- (19) Where the provision of paragraph (1) shall apply, and with respect to the arm's length price prescribed in paragraph (1) which pertains to a foreign affiliated transaction conducted between a consolidated corporation and a foreign affiliated person related to the said consolidated corporation (limited to a foreign affiliated person who shall be deemed, pursuant to the provisions of a convention prescribed in Article 139 of the Corporation Tax Act (hereinafter referred to in this paragraph and paragraph (1) of the next Article as a "tax convention"), to be a resident or corporation in the Contracting State other than Japan (hereinafter referred to in the this paragraph and paragraph (1) of the next Article as the "other Contracting State") of the tax convention), the Minister of Finance has reached an agreement under the said tax convention with the competent authority of the said other Contracting State, or any other requirement specified by a Cabinet Order is satisfied, the regional commissioner or the district director may, pursuant to the provision of a Cabinet Order, grant exemption from the part of the delinquent tax imposed with regard to the corporation tax payable by the consolidated parent corporation related to the said consolidated corporation pursuant to the provision of paragraph (1), which corresponds to the base period for the calculation of the delinquent tax for which the Minister of Finance has reached

an agreement with the competent authority of the said other Contracting State.
(20) Matters concerning the determination as to whether or not a foreign corporation falls under the category of foreign affiliated person, and other necessary matters concerning the application of the provisions of paragraph (1) to paragraph (6) shall be specified by a Cabinet Order.

(Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)
Article 68-88-2 (1) Where a consolidated parent corporation has, pursuant to the provisions of a tax convention, filed an objection prescribed in the said tax convention with the Commissioner of the National Tax Agency, the district director, etc. (meaning the district director, etc. prescribed in Article 46 (1) of the Act on General Rules for National Taxes; hereinafter the same shall apply in this Article) may, upon application by the consolidated corporation that has filed the objection, grant a grace of tax payment, up to the amount calculated pursuant to the method specified by a Cabinet Order as the amount of corporation tax payable based on the reassessment or determination listed in paragraph (16)(i) of the preceding Article which pertains to the objection (limited to the amount to be covered by the consultation prescribed in the tax convention with the other Contracting State which pertains to the objection), including the amount of additional tax prescribed in Article 69 of the said Act with regard to the said amount of corporation tax, for the period from the due date for tax payment (meaning the due date for tax payment prescribed in Article 37 (1) of the said Act; in the case where the application has been filed after the due date for tax payment, the period shall start from the date of the filing of the said application) until the day on which one month has elapsed since the day following the day on which a reassessment has been made pursuant to the provision of Article 26 of the said Act based on an agreement with the competent authority of the other Contracting State (in the case where there is no such agreement or in any other case specified by a Cabinet Order: the date specified by a Cabinet Order) (this period shall be referred to as the "grace period for tax payment" in paragraph (7)); provided, however, that this shall not apply where the consolidated corporation that has filed the application has been, at the time of filing the application, delinquent in payment of national tax other than the said amount of corporation tax.
(2) The district director, etc. shall, when granting a grace of tax payment pursuant to the provision of the preceding paragraph (hereinafter referred to in this Article as a "grace of tax payment"), collect security equivalent to the amount under the grace period; provided, however, that this shall not apply where the tax amount under the grace period is not more than 500,000 yen or where there are special circumstances where it is impossible to collect security.

- (3) The provision of Article 46 (6) of the Act on General Rules for National Taxes shall apply mutatis mutandis where security is collected pursuant to the provision of the preceding paragraph.
- (4) The provisions of Article 47 and Article 48 of the Act on General Rules for National Taxes shall apply mutatis mutandis where a grace of tax payment is granted or is not granted. In this case, the phrase "paragraph (1) to paragraph (3) or paragraph (7) of the preceding Article" in Article 47 (2) of the said Act shall be deemed to be replaced with "Article 68-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations)."
- (5) Where a consolidated parent corporation that has been granted a grace of tax payment falls under any of the cases listed in the following items, the district director, etc. may rescind the grace. In this case, the provisions of Article 49 (2) and (3) of the Act on General Rules for National Taxes shall apply mutatis mutandis:
- (i) Where the consolidated corporation has withdrawn the application set forth in paragraph (1).
 - (ii) Where the consolidated corporation does not cooperate in the submission of the necessary documents for the consultation set forth in paragraph (1).
 - (iii) Where there is a fact that falls under any of the items of Article 38 (1) of the Act on General Rules for National Taxes, and it is found to be impossible for the consolidated corporation to pay the corporation tax under the grace period in full within the said period.
 - (iv) Where the consolidated corporation does not follow the order issued by the district director, etc. pursuant to the provision of Article 51 (1) of the Act on General Rules for National Taxes with regard to the security provided for the corporation tax under the grace period.
 - (v) In addition to what is listed in the preceding items, where it is found to be inappropriate to maintain the grace period due to any change in the state of the corporation's property or other circumstances.
- (6) With regard to the application of the provisions of the Act on General Rules for National Taxes and the National Tax Collection Act to corporation tax under a grace of tax payment: in the Act on General Rules for National Taxes, the term "grace of tax payment" in Article 2 (viii) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 68-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations))", the term "grace of tax payment" in Article 52 (1) shall be deemed to be replaced with "grace of tax payment (including a grace of tax

payment pursuant to the provision of Article 66-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations); hereinafter the same shall apply in this paragraph)", and the term "grace of tax payment" in Article 55 (1)(i) and Article 73 (4) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 68-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations))"; in the National Tax Collection Act, the term "grace of tax payment" in Article 2 (ix) and (x) shall be deemed to be replaced with "grace of tax payment (including a grace of tax payment pursuant to the provision of Article 68-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations))", and the term "Grace of Tax Payment)" in Article 151 (1) shall be deemed to be replaced with "Grace of Tax Payment) (including a grace of tax payment pursuant to the provision of Article 68-88-2 (1) of the Act on Special Measures Concerning Taxation (Grace of Tax Payment under the Special Provisions for Taxation on Transactions with Foreign Affiliated Persons of Consolidated Corporations))".

- (7) Where a grace of tax payment has been granted, exemption shall be granted from the part of the delinquent tax imposed with regard to the corporation tax under the grace period, which corresponds to the grace period for tax payment (in the case where the application set forth in paragraph (1) has been filed before the due date for tax payment set forth in the said paragraph, the grace period for tax payment shall include the period from the date of the filing of the said application until the due date for tax payment); provided, however, that where any event has occurred which can be the cause of a rescission pursuant to the provision of paragraph (5), the district director, etc. may choose not to grant exemption with regard to such part of delinquent tax which corresponds to the period after the day on which the said event has occurred.
- (8) Necessary matters concerning the procedure for the application for a grace of tax payment shall be specified by a Cabinet Order.

**Section 23 Special Provisions for Taxation on Interest on Liabilities, etc.
Payable to Foreign Controlling Shareholders, etc. of Consolidated
Corporations**

(Special Provisions for Taxation on Interest on Liabilities, etc. Payable to
Foreign Controlling Shareholders, etc. of Consolidated Corporations)

Article 68-89 (1) Where a consolidated corporation pays, in each consolidated business year beginning on or after April 1, 2002, interest on liabilities, etc. to a foreign controlling shareholder, etc. or fund provider, etc. that is related to the said consolidated corporation, and the average balance of liabilities regarding the liabilities owed, for the relevant consolidated business year, to the foreign controlling shareholder, etc. and the fund provider, etc. that are related to the said consolidated corporation, exceeds threefold the amount of equity interest held by the foreign controlling shareholder, etc. related to the said consolidated corporation for the relevant consolidated business year, the amount calculated pursuant to the method specified by a Cabinet Order as such excess in the amount of interest on liabilities, etc. payable by the said consolidated corporation to the said foreign controlling shareholder, etc. and fund provider, etc. in the relevant consolidated business year shall not be included in the amount of deductible expense in the calculation of the amount of consolidated income of the said consolidated corporation for the relevant consolidated business year; provided, however, that this shall not apply where the average balance of liabilities regarding the total liabilities of the said consolidated corporation for the relevant consolidated business year (limited to those which can be the cause of payment of interest on liabilities, etc.; the same shall apply in the next paragraph and paragraph (3)) is not more than threefold the amount of equity capital of the said consolidated corporation.

(2) Where the provision of the preceding paragraph shall apply, and the said consolidated corporation has any liabilities arising from a specified bond transaction with a repurchase/resale agreement, etc. among its liabilities owed to a foreign controlling shareholder, etc. and a fund provider, etc. that are related to the said consolidated corporation, the said consolidated corporation may use, as the multiple number applicable to the equity interest held by the foreign controlling shareholder, etc. related to the said consolidated corporation or applicable to the amount of equity capital of the said consolidated corporation, the multiple number applicable to the equity interest held by a foreign controlling shareholder, etc. related to the said consolidated corporation or applicable to the amount of equity capital, which is calculated pursuant to the method specified by a Cabinet Order based on [1] the average balance of liabilities calculated by deducting the average balance of liabilities regarding the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the average balance of liabilities regarding the liabilities owed to the said foreign controlling shareholder, etc. and fund provider, etc., or [2] the average balance of liabilities calculated by deducting the average balance of liabilities regarding the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the

average balance of liabilities regarding the total liabilities for the relevant consolidated business year, and thereby determine the amount calculated by deducting the amount of interest on liabilities, etc. arising from the specified bond transaction with a repurchase/resale agreement, etc. calculated pursuant to the method specified by a Cabinet Order from the amount of interest on liabilities, etc. payable to the foreign controlling shareholder, etc. and fund provider, etc. that are related to the said consolidated corporation, to be the amount of interest on liabilities, etc. payable to the foreign controlling shareholder, etc. and fund provider, etc. that are related to the said consolidated corporation. In this case, the term "threefold" in the preceding paragraph shall be deemed to be replaced with "twofold."

- (3) Where the provision of paragraph (1) shall apply, the said consolidated corporation may use, in lieu of the multiple number applicable to the equity interest held by a foreign controlling shareholder, etc. related to the said consolidated corporation and applicable to the amount of equity capital of the said consolidated corporation, a multiple number that is found to be appropriate in light of the percentage specified by a Cabinet Order as the percentage of the total liabilities of another domestic corporation to its net assets on condition that such other domestic corporation's business is the same type as the said consolidated corporation's business, and the size and other details are similar between the two businesses.
- (4) In this Article, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Foreign controlling shareholder, etc.: A nonresident prescribed in Article 2 (1)(i)-2 or foreign corporation who has a relationship with a consolidated corporation whereby the said nonresident or foreign corporation holds, directly or indirectly, shares or capital contributions that account for 50 percent or more of the total number or the total amount of issued shares of or capital contributions to the said consolidated corporation (excluding the shares or capital contributions held by the said consolidated corporation) or any other special relationship specified by a Cabinet Order
 - (ii) Fund provider, etc.: A person who provides a consolidated corporation with funds, and a person specified by a Cabinet Order as being related to such provision of funds
 - (iii) Interest on liabilities, etc.: Interest on liabilities (including moneys specified by a Cabinet Order prescribed in Article 66-5 (4)(iii) as being equivalent thereto; hereinafter the same shall apply in this item) and any other expense specified by a Cabinet Order (excluding the said interest on liabilities and any other expense specified by a Cabinet Order, which are included in the taxable income of the person who is to receive payment thereof, and any other expense specified by a Cabinet Order prescribed in

- Article 66-5 (4)(iii))
- (iv) Liabilities owed to a foreign controlling shareholder, etc. and a fund provider, etc.: Liabilities owed to a foreign controlling shareholder, etc. (limited to those which can be the cause of payment of interest on liabilities, etc.) and liabilities owed to a fund provider, etc. that are specified by a Cabinet Order (limited to those which can be the cause of payment of interest on liabilities, etc.)
 - (v) Average balance of liabilities: The amount calculated pursuant to the method specified by a Cabinet Order as the average amount of liabilities
 - (vi) Equity interest held by a foreign controlling shareholder, etc.: The amount calculated pursuant to the method specified by a Cabinet Order as the interest in a consolidated corporation's net assets held by a foreign controlling shareholder, etc. for each consolidated business year
 - (vii) Amount of equity capital: The amount calculated pursuant to the method specified by a Cabinet Order as the amount of net assets for each consolidated business year
 - (viii) Specified bond transaction with a repurchase/resale agreement, etc.: A bond transaction with a repurchase/resale agreement prescribed in Article 66-5 (4)(xiii)
 - (ix) Taxable income: Taxable income prescribed in Article 66-5 (4)(ix)
- (5) The provision of paragraph (2) shall apply only where a consolidated corporation has filed a consolidated final return form, etc. with a document attached thereto stating that it seeks the application of the provision of the said paragraph and a written statement attached thereto concerning the calculation of the average balance of liabilities regarding the liabilities from a specified bond transaction with a repurchase/resale agreement, etc. and the amount of interest on liabilities, etc., both of which shall be deducted pursuant to the provision of the said paragraph, and preserved the documents on such calculation.
- (6) Even where a consolidated corporation has filed a consolidated final return form, etc. without the document or written statement set forth in the preceding paragraph attached thereto or failed to preserve the documents on the calculation set forth in the said paragraph, the district director may, when he/she finds any unavoidable reason for the consolidated corporation's failure to attach a necessary document or written statement or preserve the necessary documents on the calculation, apply the provision of paragraph (2), only if the said document and written statement as well as the said documents on the calculation are submitted.
- (7) The provision of paragraph (3) shall apply only where a consolidated corporation has filed a consolidated final return form, etc. with a document attached thereto stating that it seeks the application of the said paragraph,

and preserved documents or any other materials (hereinafter referred to in the next paragraph as "materials, etc.") that certify that the multiple number that it applies is appropriate.

- (8) Even where a consolidated corporation has filed a consolidated final return form, etc. without a document attached thereto stating that it seeks the application of the provision of paragraph (3) or failed to preserve the materials, etc. that certify that the multiple number that it applies is appropriate, the district director may, when he/she finds any unavoidable reason for the consolidated corporation's failure to attach a necessary document or preserve the necessary materials, etc., apply the provision of the said paragraph, only if the said document and the said materials, etc. are submitted.
- (9) The calculation of the average balance of liabilities, etc. regarding liabilities prescribed in paragraph (1) in the case where there is more than one foreign controlling shareholder, etc. prescribed in the said paragraph, the application of the provisions of the Corporation Tax Act with respect to the amount excluded from the amount of deductible expense pursuant to the provision of the said paragraph, and other necessary matters concerning the application of the provisions of the said paragraph to paragraph (4) shall be specified by a Cabinet Order.

**Section 24 Special Provisions for Taxation on Income, etc. of Specified
Foreign Subsidiary Companies of Consolidated Corporations
Subsection 1 Special Provisions for Taxation on Income of Specified
Foreign Subsidiary Companies of Consolidated Corporations**

(Inclusion in Gross Profit of Retained Income of Specified Foreign Subsidiary
Companies, etc. Related to Consolidated Corporations)

Article 68-90 (1) Where an affiliated foreign company related to any of the following consolidated corporations, which falls under the category of affiliated foreign company specified by a Cabinet Order as a company whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than the tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign subsidiary company, etc."), in each business year, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such adjusted amount hereinafter referred to in this Article as

"eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. held by the consolidated corporation through direct and/or indirect ownership, while taking into consideration the contents of the claim (meaning a claim prescribed in Article 66-6 (1); the same shall apply in item (i)) vested in such shares, etc. (meaning shares or capital contributions; the same shall apply in this paragraph) (such part of eligible retained income hereinafter referred to in this Subsection as "individually taxable retained income") shall be deemed to be the amount of the consolidated corporation's profit, and included in its gross profit in the calculation of the amount of its consolidated income for the consolidated business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year:

- (i) A consolidated corporation that holds shares, etc. of the affiliated foreign company through direct and/or indirect ownership, the ratio of whose shares, etc. to the total number or total amount of issued shares of or capital contributions to the said affiliated foreign company (excluding the shares, etc. held by the said affiliated foreign company) (in the case where the said foreign affiliated company is a corporation listed in (a) to (c): the said ratio or the ratio listed in (a) to (c), whichever is larger; referred to in the next item as the "direct and/or indirect ownership ratio for shares, etc. of an affiliated foreign company") is five percent or more:
 - (a) A corporation that issues shares, etc. in which more than one voting right (limited to a voting right pertaining to a resolution on dividend of surplus, etc.; hereinafter the same shall apply in this item) is vested (excluding a corporation listed in (c)): The ratio of the number of voting rights in the said affiliated foreign company held by the consolidated corporation through direct and/or indirect ownership to the total number of voting rights in the said affiliated foreign company
 - (b) A corporation that issues shares, etc. in which different claims are vested (excluding a corporation listed in (c)): The ratio of the amount of dividend of surplus, etc. based on the claim for the said affiliated foreign company held by the consolidated corporation through direct and/or indirect ownership to the total amount of dividend of surplus, etc. receivable based on the claims vested in the shares, etc. of the said affiliated foreign company
 - (c) A corporation that issues both shares, etc. in which more than one voting right is vested and shares, etc. in which different claims are vested: The ratio specified in (a) or the ratio specified in (b), whichever is larger
- (ii) A consolidated corporation that belongs to a family shareholder group

- whose direct and/or indirect ownership ratio for shares, etc. of the foreign affiliated company is five percent or more (excluding the consolidated corporation listed in the preceding item).
- (2) In the preceding paragraph, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Foreign affiliated company: A foreign corporation prescribed in Article 66-6 (2)(i)
 - (ii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign subsidiary company, etc. in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year
 - (iii) Number of shares, etc. (held) through direct and/or indirect ownership: The number of shares, etc. (held) through direct and/or indirect ownership prescribed in Article 66-6 (2)(iii)
 - (iv) Number of voting rights (held) through direct and/or indirect ownership: The number of voting rights (held) through direct and/or indirect ownership prescribed in Article 66-6 (2)(iv)
 - (v) Amount of dividend of surplus, etc. based on the claims (held) through direct and/or indirect ownership: The amount of dividend of surplus, etc. based on the claims (held) through direct and/or indirect ownership prescribed in Article 66-6 (2)(v)
 - (vi) Family shareholder group: The family shareholder group prescribed in Article 66-6 (2)(vi)
- (3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign subsidiary company, etc. related to a consolidated corporation listed in each item of paragraph (1) (excluding a company engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to as the "case where a specified

foreign subsidiary company, etc. has a fixed facility" in the next paragraph), the phrase "amount that is adjusted" in the said paragraph shall be deemed to be replaced with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a personnel expense for people engaged in the business at the said specified foreign subsidiary, etc."

(4) Where a specified foreign subsidiary company, etc. prescribed in the preceding paragraph that is related to a consolidated corporation listed in each item of paragraph (1) has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and the preceding paragraph shall not apply to the eligible retained income of the said specified foreign subsidiary company, etc. for the relevant business year:

(i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts business mainly with a person other than [1] a resident listed in each item of Article 40-4 (1) who is related to the said specified foreign subsidiary company, etc., [2] a domestic corporation listed in each item of Article 66-6 (1) that is related to the said specified foreign subsidiary company, etc., [3] a consolidated corporation listed in each item of paragraph (1) that is related to the said specified foreign subsidiary company, etc. or [4] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] to [3]

(ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign subsidiary company, etc. conducts a business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order prescribed in Article 66-6 (4)(ii)).

(5) A consolidated parent corporation related to a consolidated corporation listed in each item of paragraph (1) shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign subsidiary company, etc. related to the said consolidated corporation as well as any other documents specified by an Ordinance of the Ministry of Finance, to its consolidated final return form (meaning a consolidated final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act; the same shall apply in the next paragraph) for the consolidated business year that includes the day on which two months have elapsed since the day following the last day of the

relevant business year.

- (6) The provisions of paragraph (3) and paragraph (4) shall apply only where the consolidated corporation has attached, to its consolidated final return form, a document stating that these provisions shall apply, and the consolidated corporation or the consolidated parent corporation related to the said consolidated corporation has preserved the documents or any other materials that certify that these provisions shall apply.
- (7) Where a consolidated corporation holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc. (meaning the trustee's assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust), and the provisions of this Article (excluding paragraph (3), paragraph (4) and the preceding paragraph) to Article 68-93 shall be applied thereto.
- (8) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply in the case where the provision of the preceding paragraph shall apply.

Article 68-91 (1) Where a consolidated corporation listed in each item of paragraph (1) of the preceding Article is subject to the provision of the said paragraph, any part of the amount of foreign corporation tax (meaning foreign corporation tax prescribed in Article 69 (1) of the Corporation Tax Act; the same shall apply in the next paragraph) to be imposed on the income of a specified foreign subsidiary company, etc. related to the said consolidated corporation, which is calculated pursuant to the method specified by a Cabinet Order as corresponding to the individually taxable retained income of the said specified foreign subsidiary company, etc. (up to the amount equivalent to the said individually taxable retained income) shall, pursuant to the provision of a Cabinet Order, be deemed to be the amount of individually creditable foreign corporation tax (meaning the amount of individually creditable corporation tax prescribed in Article 81-15 (1) of the said Act; hereinafter the same shall apply in this Subsection) paid by the said consolidated corporation, and the provisions of Article 81-15 (1) to (7), (10) and (15) to (17) shall be applied thereto. In this case, in paragraph (10) of the said Article, the phrase "any part

of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8)" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in Article 68-91 (1) of the Act on Special Measures Concerning Taxation (Credit for Foreign Tax on Individually Taxable Retained Income of Specified Foreign Subsidiary Companies, etc. of Consolidated Corporations), which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of Article 68-91 (1) of the said Act", the phrase "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) of the said Article" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in Article 66-7 (1) of the said Act (Credit for Foreign Tax on Taxable Retained Income of Specified Foreign Subsidiary Companies, etc. of Domestic Corporations), which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of Article 66-7 (1) of the said Act", and the phrase "paragraph (1) to paragraph (3) of the said Article" shall be deemed to be replaced with "Article 69 (1) to (3)."

- (2) Where a domestic corporation is, in each business year (excluding a period that is included in a consolidated business year), subject to the provision of paragraph (1) of Article 66-6 with respect to the amount equivalent to the taxable retained income prescribed in the said paragraph of a specified foreign subsidiary company, etc. prescribed in the said paragraph that is related to the said domestic corporation, if foreign corporation tax shall be imposed on the income of the said specified foreign subsidiary company, etc. during the period of each consolidated business year beginning after the last day of the business year during which the said domestic corporation has been subject to the said provision, the said taxable retained income of the said specified foreign subsidiary company, etc. shall be deemed to be the individually taxable retained income of a specified foreign subsidiary company, etc. prescribed in the preceding paragraph, and the amount of the said foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in paragraph (1) of the said Article shall be deemed to be the amount of foreign corporation tax to be imposed on the income of a specified foreign subsidiary company, etc. prescribed in the preceding paragraph respectively, and the provision of the said paragraph shall be applied thereto.

(3) Where a consolidated corporation listed in each item of paragraph (1) of the preceding Article is subject to the provision of the said paragraph with respect to the amount equivalent to the individually taxable retained income of a specified foreign subsidiary company, etc. that is subject to the provision of the said paragraph, and the said consolidated corporation is also subject to the provision of Article 81-15 (1) to (3) of the Corporation Tax Act pursuant to the provision of paragraph (1), the amount that is deemed to be the amount of individually creditable foreign corporation tax pursuant to the provision of paragraph (1) shall be included in the amount of gross profit in the calculation of the amount of consolidated income of the said consolidated corporation for the consolidated business year specified by a Cabinet Order.

Article 68-92 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign subsidiary company, etc. related to a consolidated corporation that has been subject to the provision of Article 68-90 (1), or where an event listed in item (iii) has occurred with regard to an affiliated foreign company prescribed in Article 68-90 (2)(i) (limited to an affiliated foreign company that has received, from the said specified foreign subsidiary company, etc., payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item), which is specified by a Cabinet Order; hereinafter the same shall apply in this paragraph) that is related to the said consolidated corporation, if the individually taxable retained income of the said specified foreign subsidiary company, etc. in each consolidated business year of the said consolidated corporation that commenced within ten years before the first day of the consolidated business year that includes the day on which the relevant event has occurred (hereinafter referred to in this Article as "each consolidated business year within the preceding ten years"), contains any amount included in the amount of gross profit in the calculation of the amount of the said consolidated corporation's consolidated income for each consolidated business year within the preceding ten years pursuant to the provision of Article 68-90 (1) (excluding any amount included in the amount of deductible expense for each consolidated business year within the preceding ten years pursuant to the provision of this paragraph; hereinafter referred to in this Article as "individually taxed amount of retained income" and the next Article), such individually taxed amount of retained income shall be included in the amount of deductible expense in the calculation of the amount of the said consolidated corporation's consolidated income for the consolidated business year that includes the day on which the relevant event has occurred, up to the amount

equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as part of the amount specified by each of the following items for the type of event corresponding to the event that has occurred with regard to the said specified foreign subsidiary company, etc. or the said foreign affiliated company, which is appropriated from the individually taxable retained income pertaining to the said consolidated corporation:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
 - (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the delivery
 - (iii) Payment of dividend of surplus, etc. to the said consolidated corporation or delivery of money or any other assets to the to the said consolidated corporation by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery
- (2) Where a consolidated corporation has a business year that commenced within ten years before the first day of the consolidated business year that includes the day on which the event listed in any item of the preceding paragraph has occurred, which is not included in a consolidated business year, and has a taxed amount of retained income (meaning a taxed amount of retained income prescribed in Article 66-8 (1); hereinafter the same shall apply in this Article) for the said business year that is not included in a consolidated business year, with regard to the application of the provision of the preceding paragraph, such taxed amount of retained income shall be deemed to be an individually taxed amount of retained income for each consolidated business year within the preceding ten years which corresponds to the period of the said business year.
- (3) Where a consolidated corporation has acquired, as a result of a qualified merger, qualified company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as a "qualified merger, etc."), the transfer of the whole or part of the number of shares, etc. of a specified foreign subsidiary company, etc. held through direct and/or indirect ownership prescribed in Article 66-6 (2)(iii) (hereinafter referred to in this paragraph as the "number of shares, etc. held through direct and/or indirect ownership") by the merged corporation, the split corporation, the corporation making a capital contribution-in-kind or the corporation effecting post-formation acquisition of assets and/or liabilities, with regard to the application of the provision of paragraph (1) in the consolidated business year that includes the date of the

said qualified merger, etc. and each subsequent consolidated business year of the said consolidated corporation, the amount specified in each of the following items for the category of qualified merger, etc. listed in the relevant item shall, pursuant to the provision of a Cabinet Order, be deemed to be the individually taxed amount of retained income of the said consolidated corporation for each consolidated business year within the preceding ten years:

- (i) Qualified merger: The individually taxed amount of retained income or taxed amount of retained income of the merged corporation involved in the qualified merger for each business year within ten years before the merger (meaning each consolidated business year or each business year that commenced within ten years before the date of the qualified merger)
- (ii) Qualified split-off-type company split: Any part of the individually taxed amount of retained income or taxed amount of retained income of the split corporation involved in the qualified split-off-type company split for each business year within ten years before the company split (meaning each consolidated business year or each business year that commenced within ten years before the date of the qualified split-off-type company split; the same shall apply in the next paragraph), which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. transferred to and therefore held by the said consolidated corporation through direct and/or indirect ownership as a result of the said qualified split-off-type company split, while taking into consideration the contents of the claim prescribed in Article 66-6 (1)
- (iii) Qualified spin-off-type company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this item as "qualified spin-off-type company split, etc."): Any part of the individually taxed amount of retained income or taxed amount of retained income of the split corporation, corporation making a capital contribution in kind or corporation effecting a post-formation acquisition of assets and/or liabilities involved in the qualified spin-off-type company split, etc. for each business year within ten years before the company split, etc. (meaning each consolidated business year or each business year that commenced within ten years before the first day of the consolidated business year that includes the date of the qualified spin-off-type company split, etc., or each business year or each consolidated business year that commenced within ten years before the first day of the business year that includes the date of the qualified spin-off-type company split, etc.; the same shall apply in the next paragraph), which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign subsidiary company, etc. transferred

to and therefore held by the said consolidated corporation through direct and/or indirect ownership as a result of the said qualified spin-off-type company split, while taking into consideration the contents of the claim prescribed in Article 66-6 (1)

- (4) Where the succeeding corporation in a company split, the corporation receiving capital contribution in kind or the corporation receiving post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as the "succeeding corporation in a company split, etc.") involved in a qualified company split, qualified capital contribution in kind or qualified post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as a "qualified company split, etc.") is subject to the provisions of the preceding paragraph or Article 66-8 (3), with regard to the application of the provision of paragraph (1) in the consolidated business year that includes the date of the said qualified company split, etc. and each subsequent consolidated business year of the split corporation, the corporation making a capital contribution in kind or the corporation effecting post-formation acquisition of assets and/or liabilities (hereinafter referred to in this paragraph as the "split corporation, etc.") involved in the said qualified company split, etc., no part of the individually taxed amount of retained income of the said split corporation, etc. for each business year within ten years before the company split or each business year within ten years before the company split, etc. shall be deemed to be the individually taxed amount of retained income of the said succeeding corporation in a company split, etc. for each consolidated business year within the preceding ten years pursuant to the provision of the preceding paragraph, or the taxed amount of retained income of the said succeeding corporation in a company split, etc. for each business year within the preceding ten years (meaning each business year within the preceding ten years prescribed in paragraph (1) of the said Article).
- (5) The provision of paragraph (1) shall apply only where a consolidated corporation has filed a consolidated final return form prescribed in Article 2 (3)(xxxii) of the Corporation Tax Act or a final return form prescribed in Article 2 (3)(xxxii) of the said Act for the earliest consolidated business year or business year pertaining to the individually taxed amount of retained income respectively and each subsequent consolidated business year, with a written statement attached thereto regarding the said individually taxed amount of retained income or taxed amount of retained income and any other matters specified by an Ordinance of the Ministry of Finance, and filed a consolidated final return form, etc. for the consolidated business year for which the consolidated corporation seeks the application of the provision of Article 2 (3) of the said Act, with an application made therein to seek the inclusion in deductible expense of the amount to be included in the amount of deductible

expense pursuant to the provision of Article 2 (3) of the said Act and a written statement attached thereto regarding the calculation of the amount to be included in the amount of deductible expense. In this case, the amount to be included in the amount of deductible expense pursuant to the provision of Article 2 (3) of the said Act shall be limited to the amount to be included in the amount of deductible expense based on the said application.

- (6) Even where a consolidated corporation has filed a consolidated final return form, etc. or a final return form prescribed in paragraph (1) without the application or written statement attached thereto as set forth in the preceding paragraph regarding the whole or part of the necessary matters including [1] the amount to be included in the amount of deductible expense pursuant to paragraph (1), [2] the individually taxed amount of retained income or taxed amount of retained income and [3] any other matters specified by an Ordinance of the Ministry of Finance, the district director may, when he/she finds any unavoidable reason for the consolidated corporation's failure to make a necessary application or attach a necessary written statement as set forth in the said paragraph, apply the provision of paragraph (1) to any amount for which the application or written statement has not been made or attached, only if such application and written statement are submitted.
- (7) With regard to the application of the provisions of Article 81-13 (2) and (4) of the Corporation Tax Act, any amount included, pursuant to the provision of paragraph (1), in the amount of deductible expense of a consolidated corporation subject to the provision of the said paragraph shall be included in the amount of consolidated income, etc. prescribed in these provisions, and any necessary matters concerning the calculation of the amount of consolidated profit reserve shall be specified by a Cabinet Order.

Article 68-93 Matters concerning the determination as to whether or not a consolidated corporation falls under any of the categories of corporation listed in the items of Article 68-90 (1), the treatment of the part of the amount of individually creditable foreign corporation tax that shall be deemed to be paid by a consolidated corporation pursuant to the provision of Article 68-91 (1), which pertains to the individually taxed amount of retained income included in the amount of deductible expense in the calculation of the amount of consolidated income for each consolidated business year pursuant to the provision of paragraph (1) of the preceding Article, and other necessary matters concerning the application of the provisions of the preceding three Articles shall be specified by a Cabinet Order.

**Subsection 3 Special Provisions for Taxation on Income of Specified
Foreign Corporations Related to Consolidated Corporations That Are**

Specially-Related Shareholders, etc.

(Inclusion in Gross Profit of Retained Income of Specified Foreign Corporations Related to Consolidated Corporations That Are Specially-Related Shareholders, etc.)

Article 68-93-6 (1) Where, between a specially-related shareholder, etc. (meaning a person who falls under the category of specified shareholder, etc. as well as an individual and a corporation having a special relationship therewith as specified by a Cabinet Order; hereinafter the same shall apply in this Subsection) and a specially-related domestic corporation, there is a special relationship (meaning a relationship specified by a Cabinet Order as a relationship whereby the said specially-related shareholder, etc. indirectly holds shares or capital contributions that account for 80 percent or more of the total number or total amount of issued shares of or capital contributions to the said specially-related domestic corporation (excluding the shares or capital contributions held by the corporation; hereinafter referred to in this paragraph as "issued shares, etc."), and a foreign corporation specified by a Cabinet Order as acting as an intermediary between the said specially-related shareholder, etc. and the said specially-related domestic corporation by way of the holding of the issued shares, etc. (hereinafter referred to in this Subsection as an "affiliated foreign corporation"), which falls under the category of affiliated foreign corporation specified by a Cabinet Order as a corporation whose tax burden to be imposed on its income earned in a state or territory where its head office or principal office is located is significantly lower than a tax burden to be imposed on the income of a corporation in Japan (hereinafter referred to in this Subsection as a "specified foreign corporation"), in each business year beginning on or after October 1, 2007, retains as part of the amount of undistributed income, pursuant to the provision of a Cabinet Order, any amount that is adjusted, with respect to the said amount of undistributed income, based on the tax amount pertaining to the said amount of undistributed income and the amount of dividend of surplus, etc. (meaning dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act) (such adjusted amount hereinafter referred to in this Article as "eligible retained income"), the amount equivalent to the part of eligible retained income which is calculated pursuant to the method specified by a Cabinet Order as the amount of income corresponding to the number of shares, etc. of the said specified foreign corporation held by the consolidated corporation that is the said specially-related shareholder, etc. through direct and/or indirect ownership, while taking into consideration the contents of the claim prescribed in Article 66-9-6 (1) vested in such shares or capital contributions (such part of eligible retained income hereinafter referred

to in this Subsection as "individually taxable retained income") shall be deemed to be the amount of profit of the consolidated corporation that is the said specially-related shareholder, etc., and included in its gross profit in the calculation of the amount of its consolidated income for the consolidated business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.

- (2) In this Subsection, the meanings of the terms listed in the following items shall be as prescribed respectively in those items:
- (i) Specified shareholder, etc.: A specified shareholder, etc. prescribed in Article 66-9-6 (2)(i)
 - (ii) Specially-related domestic corporation: A specially-related domestic corporation prescribed in Article 66-9-6 (2)(ii)
 - (iii) Amount of undistributed income: An amount adjusted, with respect to the amount of income of a specified foreign corporation in its settlement of accounts for each business year, pursuant to the method specified by a Cabinet Order, based on the amount calculated in accordance with the standards specified by a Cabinet Order in a manner equivalent to the manner for calculating the amount of income for each business year pursuant to the Corporation Tax Act and this Act, in terms of the amount of loss incurred in each of the business years that commenced within seven years before the first day of the relevant business year
 - (iv) Number of shares, etc. held through direct and/or indirect ownership: The number of shares, etc. held through direct and/or indirect ownership prescribed in Article 66-9-6 (2)(iv)
- (3) With regard to the application of the provision of paragraph (1) in the case where a specified foreign corporation related to a consolidated corporation that is a specially-related shareholder, etc. (excluding a corporation engaged in, as its principal business, the holding of shares (including capital contributions) or bonds, the provision of industrial property rights or any other rights concerning technology, production methods involving special technology or any other equivalent rights or methods (including the right to use these rights) or copyrights (including rights of publication, neighboring rights and any other equivalent rights) or the lending of vessels or aircrafts) has an office, store, factory or any other fixed facility that is considered to be necessary for conducting its principal business in the state or territory where its head office or principal office is located, and takes charge of managing, controlling and operating the business by itself (referred to in the next paragraph as the "case where a specified foreign corporation has a fixed facility"), the phrase "amount that is adjusted" in the said paragraph shall be deemed to be replaced with "amount that is adjusted,..., after deducting therefrom the amount equivalent to ten percent of the amount of expense specified by a Cabinet Order as a

personnel expense for people engaged in the business at the said specified foreign corporation."

- (4) Where a specified foreign corporation prescribed in the preceding paragraph related to a consolidated corporation that is a specially-related shareholder, etc. has a fixed facility in the state or territory where its head office or principal office is located, and falls under any of the cases listed in the following items depending on the type of business listed in the following items to which its principal business corresponds in each business year, the provisions of paragraph (1) and the preceding paragraph shall not apply to the eligible retained income of the said specified foreign corporation for the relevant business year:
- (i) Wholesale business, banking business, trust business, securities business, insurance business, water transportation business or air transportation business: The case specified by a Cabinet Order in which the said specified foreign corporation conducts business mainly with a person other than [1] a specially-related domestic corporation that is related to the said specified foreign corporation, [2] a specially-related shareholder, etc. or [3] any other person specified by a Cabinet Order as being equivalent to the persons mentioned in [1] or [2]
 - (ii) Business other than those listed in the preceding item: The case specified by a Cabinet Order in which the said specified foreign corporation conducts business mainly in the state or territory where its head office or principal office is located (including the water areas belonging to the said state or territory which are specified by a Cabinet Order prescribed in Article 66-6 (4)(ii)).
- (5) A consolidated parent corporation related to a consolidated corporation that is a specially-related shareholder, etc. shall attach a balance sheet and profit and loss statement for each business year regarding the specified foreign corporation related to the said consolidated corporation as well as any other documents specified by an Ordinance of the Ministry of Finance, to its consolidated final return form (meaning a consolidated final return form prescribed in Article 2 (xxxii) of the Corporation Tax Act; the same shall apply in the next paragraph) for the consolidated business year that includes the day on which two months have elapsed since the day following the last day of the relevant business year.
- (6) The provisions of paragraph (3) and paragraph (4) shall apply only where the consolidated corporation has attached, to its consolidated final return form, a document stating that these provisions shall apply, and the consolidated corporation that is a specially-related shareholder, etc. or the consolidated parent corporation related to the said consolidated corporation has preserved the documents or any other materials that certify that these provisions shall

apply.

- (7) The provision of paragraph (1) shall not apply where an affiliated foreign corporation related to a consolidated corporation that is a specially-related shareholder, etc. falls under the category of affiliated foreign company prescribed in Article 68-90 (2)(i) and the said consolidated corporation that is a specially-related shareholder, etc. falls under the category of consolidated corporation listed in each item of Article 68-90 (1).
- (8) Where a consolidated corporation that is a specially-related shareholder, etc. holds, directly or indirectly, a beneficial right of a foreign trust (meaning a foreign investment trust prescribed in Article 2 (22) of the Act on Investment Trust and Investment Corporation, which is similar to a specified investment trust prescribed in Article 68-3-3 (1); hereinafter the same shall apply in this paragraph), the trustee of the said foreign trust shall be deemed to be a different person for each of the trust assets, etc. under the said foreign trust (meaning assets and liabilities included in the trust property and profits and expenses attributed to the said trust property; hereinafter the same shall apply in this paragraph) and the trustee's own assets, etc. (meaning the trustee's assets and liabilities as well as profits and expenses other than those included in the trust assets, etc. under the foreign trust), and the provisions of this Article (excluding paragraph (3), paragraph (4) and paragraph (6)) to Article 68-93-9 shall be applied thereto.
- (9) The provisions of Article 4-6 (2) and Article 4-7 of the Corporation Tax Act shall apply mutatis mutandis in the case where the provision of the preceding paragraph shall apply.

Article 68-93-7 (1) Where a consolidated corporation that is a specially-related shareholder, etc. is subject to the provision of paragraph (1) of the preceding Article, any part of the amount of foreign corporation tax (meaning foreign corporation tax prescribed in Article 69 (1) of the Corporation Tax Act; the same shall apply in the next paragraph) to be imposed on the income of a specified foreign corporation related to the said consolidated corporation, which is calculated pursuant to the method specified by a Cabinet Order as corresponding to the individually taxable retained income of the said specified foreign corporation (up to the amount equivalent to the said individually taxable retained income) shall, pursuant to the provision of a Cabinet Order, be deemed to be the amount of individually creditable foreign corporation tax (meaning the amount of individually creditable corporation tax prescribed in Article 81-15 (1) of the said Act; hereinafter the same shall apply in this Subsection) paid by the said consolidated corporation, and the provisions of Article 81-15 (1) to (7), (10) and (15) to (17) shall be applied thereto. In this case, in paragraph (10) of the said Article, the phrase "any part of the

amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8)" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in Article 68-93-7 (1) of the Act on Special Measures Concerning Taxation (Credit for Foreign Tax on Individually Taxable Retained Income of Specified Foreign Corporations), which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of Article 68-93-7 (1) of the said Act", the phrase "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) of the said Article" shall be deemed to be replaced with "any part of the amount..., which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of paragraph (8) and any part of the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in Article 66-9-7 (1) of the said Act (Credit for Foreign Tax on Taxable Retained Income of Specified Foreign Corporations), which shall be deemed to be payable by the said consolidated corporation pursuant to the provision of Article 66-9-7 (1) of the said Act", and the phrase "paragraph (1) to paragraph (3) of the said Article" shall be deemed to be replaced with "Article 69 (1) to (3)."

- (2) Where a domestic corporation that is a specially-related shareholder, etc. is, in each business year (excluding a period that is included in a consolidated business year), subject to the provision of paragraph (1) of Article 66-9-6 with respect to the amount equivalent to the taxable retained income prescribed in the said paragraph of a specified foreign corporation prescribed in the said paragraph that is related to the said domestic corporation, if foreign corporation tax shall be imposed on the income of the said specified foreign corporation during the period of each consolidated business year beginning after the last day of the business year during which the said domestic corporation has been subject to the said provision, the said taxable retained income of the said specified foreign corporation shall be deemed to be the individually taxable retained income of a specified foreign corporation prescribed in the preceding paragraph, and the amount of the said foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in paragraph (1) of the said Article shall be deemed to be the amount of foreign corporation tax to be imposed on the income of a specified foreign corporation prescribed in the preceding paragraph respectively, and the provision of the said paragraph shall be applied thereto.
- (3) Where a consolidated corporation that is a specially-related shareholder, etc.

is subject to the provision of paragraph (1) of the preceding Article with respect to the amount equivalent to the individually taxable retained income of a specified foreign corporation that is subject to the provision of the said paragraph, and the said consolidated corporation is also subject to the provision of Article 81-15 (1) to (3) of the Corporation Tax Act pursuant to the provision of paragraph (1), the amount that is deemed to be the amount of individually creditable foreign corporation tax pursuant to the provision of paragraph (1) shall be included in the amount of gross profit in the calculation of the amount of consolidated income of the said consolidated corporation for the consolidated business year specified by a Cabinet Order.

Article 68-93-8 (1) Where an event listed in item (i) or item (ii) has occurred with regard to a specified foreign corporation related to a consolidated corporation that has been subject to the provision of Article 68-93-6 (1), or where an event listed in item (iii) has occurred with regard to an affiliated foreign corporation (limited to an affiliated foreign corporation that has received, from the said specified foreign corporation, payment of dividend of surplus, dividend of profit or distribution of surplus prescribed in Article 23 (1)(i) of the Corporation Tax Act (hereinafter referred to in this paragraph as "dividend of surplus, etc.") (such payment shall include the delivery listed in item (ii) of the amount specified in the said item), which is specified by a Cabinet Order; hereinafter the same shall apply in this paragraph) that is related to the said consolidated corporation, if the individually taxable retained income of the said specified foreign corporation in each consolidated business year of the said consolidated corporation that commenced within ten years before the first day of the consolidated business year that includes the day on which the relevant event has occurred (hereinafter referred to in this Article as "each consolidated business year within the preceding ten years"), contains any amount included in the amount of gross profit in the calculation of the amount of the said consolidated corporation's consolidated income for each consolidated business year within the preceding ten years pursuant to the provision of Article 68-93-6 (1) (excluding any amount included in the amount of deductible expense for each consolidated business year within the preceding ten years pursuant to the provision of this paragraph; hereinafter referred to in this Article and the next Article as "individually taxed amount of retained income"), such individually taxed amount of retained income shall be included in the amount of deductible expense in the calculation of the amount of the said consolidated corporation's consolidated income for the consolidated business year that includes the day on which the relevant event has occurred, up to the amount equivalent to the amount calculated pursuant to the method specified by a Cabinet Order as part of the amount specified by each of the following items for the type of event

corresponding to the event that has occurred with regard to the said specified foreign corporation or the said foreign affiliated corporation, which is appropriated from the individually taxable retained income pertaining to the said consolidated corporation:

- (i) Payment of dividend of surplus, etc.: The amount of dividend of surplus, etc. to be paid
 - (ii) Delivery of money or any other assets by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the delivery
 - (iii) Payment of dividend of surplus, etc. to the said consolidated corporation or delivery of money or any other assets to the said consolidated corporation by reason of the occurrence of any of the events listed in the items of Article 24 (1) of the Corporation Tax Act: The amount equivalent to the amount of profit reserve which is to be decreased due to the amount of dividend of surplus, etc. to be paid or the delivery
- (2) Where a consolidated corporation that is a specially-related shareholder, etc. has a business year that commenced within ten years before the first day of the consolidated business year that includes the day on which the event listed in any item of the preceding paragraph has occurred, which is not included in a consolidated business year, and has a taxed amount of retained income (meaning a taxed amount of retained income prescribed in Article 66-9-8 (1); hereinafter the same shall apply in this paragraph) for the said business year that is not included in a consolidated business year, with regard to the application of the provision of the preceding paragraph, such taxed amount of retained income shall be deemed to be an individually taxed amount of retained income for each consolidated business year within the preceding ten years which corresponds to the period of the said business year.
- (3) The provisions of Article 68-92 (3) to (6) shall apply mutatis mutandis in the case where the provision of paragraph (1) shall apply. In this case, each term or phrase listed in the middle column of the table below that appears in the provision listed in the upper [left hand] column of the same table shall be deemed to be replaced with the corresponding term or phrase listed in the lower [right hand] column of the same table.

| | | |
|------------------|--|--|
| Article 68-92(3) | consolidated corporation has acquired, as a result of a qualified merger | consolidated corporation that is a specially-related shareholder, etc. prescribed in Article 68-93-6(1) (hereinafter referred to in this paragraph as a "specially-related shareholder, etc.") which is related to a specially-related domestic corporation prescribed in Article 68-93-6(2)(ii) (hereinafter referred to in this paragraph as a "specially-related domestic corporation") has acquired, as a result of a qualified merger |
| | by the merged corporation...or the corporation effecting post-formation acquisition of assets and/or liabilities | by the merged corporation...or the corporation effecting post-formation acquisition of assets and/or liabilities that is a specially-related shareholder, etc. related to the said specially-related domestic corporation |
| | of a specified foreign subsidiary company, etc. held through direct and/or indirect ownership prescribed in Article 66-6(2)(iii) | of a specified foreign corporation prescribed in paragraph (1) of the said Article (hereinafter referred to in this paragraph as a "specified foreign corporation") held through direct and/or indirect ownership prescribed in paragraph (2)(iv) of the said Article |
| | of paragraph (1) | of Article 68-93-8(1) |

| | | |
|--------------------------------|---|---|
| | deemed to be the individually taxed amount of retained income | deemed to be the individually taxed amount of retained income (meaning the individually taxed amount of retained income prescribed in the said paragraph [Article 68-93-8(1)]; hereinafter the same shall apply through to paragraph (6)) |
| Article 68-92(3)(i) | or taxed amount of retained income | or taxed amount of retained income (meaning the taxed amount of retained income prescribed in Article 66-9-8(1); hereinafter the same shall apply through to paragraph (6)) |
| Article 68-92(3)(ii) and (iii) | specified foreign subsidiary company, etc. | specified foreign corporation |
| | Article 66-6(1) | Article 66-9-6(1) |
| Article 68-92(4) | preceding paragraph or Article 66-8(3) | preceding paragraph as applied mutatis mutandis pursuant to Article 68-93-8(3), or Article 66-8(3) as applied mutatis mutandis pursuant to Article 66-9-8(3) |
| | of paragraph (1) | of Article 68-93-8(1) |
| | of the preceding paragraph | of the preceding paragraph as applied mutatis mutandis pursuant to paragraph (3) of the said Article |
| | paragraph (3) of the said Article | Article 66-8(3) as applied mutatis mutandis pursuant to Article 66-9-8(3) |
| | paragraph (1) of the said Article | Article 66-9-8(1) |
| Article 68-92(5) | paragraph (1) | Article 68-93-8(1) |
| Article 68-92(6) | paragraph (1) | Article 68-93-8(1) |

| | | |
|--|---------------------|---|
| | preceding paragraph | preceding paragraph as applied mutatis mutandis pursuant to paragraph (3) of the said Article |
|--|---------------------|---|

(4) The provision of Article 68-92 (7) shall apply mutatis mutandis to the amount included, pursuant to the provision of paragraph (1), in the amount of deductible expense of a consolidated corporation that is a specially-related shareholder, etc. subject to the provision of the said paragraph.

Article 68-93-9 Matters concerning the determination as to whether or not there is a specified relationship prescribed in Article 68-93-6 (1) between a specially-related shareholder, etc. and a specially-related domestic corporation, the treatment of the part of the amount of individually creditable foreign corporation tax that shall be deemed to be paid by a consolidated corporation that is a specially-related shareholder, etc. pursuant to the provision of Article 68-93-7 (1), which pertains to the individually taxed amount of retained income included in the amount of deductible expense in the calculation of the amount of consolidated income for each consolidated business year pursuant to the provision of paragraph (1) of the preceding Article, and other necessary matters concerning the application of the provisions of the preceding three Articles shall be specified by a Cabinet Order.