

Content

Title :	Statute for Industrial Innovation Ch
Date :	2018.06.20
Legislative :	<p>1.Full Text (72 Articles), enacted and promulgated per Presidential Decree No. Hua-Tzung-(I)-Yi-09900112301 dated May 12, 2010. Article 10 shall be effective from January 1, 2010 to December 31, 2019, while all the other articles shall come into force from the date of promulgation.</p> <p>2.Amended Articles 10 and 70 promulgated per Presidential Decree No. Hua-Tzung-(I)-Yi-10300092641 dated June 18, 2014.</p> <p>3.Amended Articles 10, 33 and 72, and added Articles 12-1, 19-1 and 67-1, promulgated per Presidential Decree No. Hua-Tzung-(I)-Yi-10400152831 dated December 30, 2015. Amended Article 10 and added Articles 12-1 and 19-1 shall be effective from January 1, 2016 to December 31, 2019, while the other amended or added articles shall come into force from the date of promulgation.</p> <p>4.Amended Articles 2, 8, 9, 10, 12, 12-1, 13, 18, 19-1, 27, 67-1, 68, 70, and 72, added Articles 9-1, 12-2, 23-1, 23-2, 46-1, and 67-2, and deleted Articles 6, 11, and 24, promulgated per Presidential Decree No. Hua-Tzung-(I)-Yi-10600141601 dated November 22, 2017. Articles 10, 12-1, 12-2, 19-1, and 23-2 shall be effective from November 3, 2017 to December 31, 2019, and Article 23-1 shall be effective from January 1, 2017 to December 31, 2019, while all the other amended or added articles shall come into force from the date of promulgation.</p> <p>5.Amended Articles 19-1 and 72, promulgated per Presidential Decree No. Hua-Tzung-(I)-Yi-10700065671 dated June 20, 2018.</p>
Content :	<p>Chapter I General Provisions</p> <p>Article 1 This Statute is enacted for the furtherance of industrial innovation, improvement of the industrial environment, and enhancement of industrial competitiveness.The term“industries”as used in this Statute shall refer to agricultural, industrial,and service businesses.</p> <p>Article 2 The terms used in this Statute are defined as follows: 1.Company: A company incorporated in accordance with the provisions of the Company Act. 2.Limited partnership: A juridical person organized and registered pursuant to the Limited Partnership Act. 3.Enterprise: A sole proprietorship, partnership, limited partnership, company, or farmers’organization that has been registered in accordance with the law. 4.Intangible assets: Assets that do not have physical form but have clearly discernible contents,have economic value, and can be directly controlled and disposed of without interference from any other party.</p> <p>Article 3 The term“competent authority”as used in this Statute refers to the Ministry of Economic Affairs at the central government level, the special municipality government at the special municipality level,and the county (city) government at the county (city) level.</p> <p>Chapter II Basic Guidelines</p> <p>Article 4</p>

Within one year after the promulgation of this Statute, the Executive Yuan shall submit a Framework for Industrial Development.

Each central authority in charge of relevant enterprises shall formulate its Industrial Development Direction and Industrial Development Plan, which shall be submitted to the Executive Yuan for approval, and shall be reviewed on a regular basis.

Each central authority in charge of relevant enterprises shall be responsible for promoting the development of the industries subject to its jurisdiction.

Article 5

The special municipality and county (city) government may formulate local industrial development strategies. When formulating such strategies, it shall consult with each central authority in charge of relevant enterprises.

The central authorities in charge of relevant enterprises may provide incentives or grants for the special municipality and county (city) government, to promote local industrial development.

Article 6 (deleted)

Article 7

The central authorities in charge of relevant enterprises shall provide guidance or grants to industries that are in difficulties, industries that are on the verge of being in difficulties, traditional industries, and small and medium enterprises, to help them raise their productivity and the quality of their products; and to help them establish industry-specific country-of-origin marks to certify their products as made in Taiwan.

Article 8

The Executive Yuan shall undertake comprehensive industry surveys, assessment and analysis with respect to the impact of the domestic and international economic circumstances on the developments and innovations of domestic industries, and shall put forth industry and innovation support plans and review such plans periodically.

The industry and innovation support plans as referred to in the preceding Paragraph shall include special guiding plans for supporting industries that are in difficulties, industries that are on the verge of being in difficulties, traditional industries, and small and medium enterprises.

Chapter III Grants or Guidance for Innovation Activities

Article 9

The central authorities in charge of relevant enterprises may provide grants, incentives or guidance to promote the following matters:

1. Promotion of industrial innovation or R&D.
2. Provision of guidance relating to industrial technology and industrial upgrading.
3. Encouraging enterprises to establish innovation or R&D centers.
4. Assisting in the establishment of innovation or R&D institutions.
5. Promoting collaboration between industries, academic institutions, and research institutions.
6. Encouraging enterprises to participate in manpower cultivation in schools.
7. Ensuring that there is an adequate supply of industrial human resources.
8. Helping local industries to innovate.
9. Encouraging enterprises to use big data and open government data to develop and innovate commercial applications or service models.
10. Other matters relating to the promotion of industrial innovation or R&D.

The regulations governing the recipients of the grants, incentives or guidance as referred to in the preceding Paragraph, the eligibility criteria, the review standards, the application procedures, the approving authority, and other related matters shall be prescribed by the central authorities in charge of relevant enterprises.

Article 9-1

To promote state-owned enterprises' innovation or research and development

(R&D), state-owned enterprises are required to have an R&D budget accounting for a certain percentage of its total expenditure. If the R&D budget of a state-owned enterprise falls short of such a percentage for two consecutive years, the central competent authority shall consult the authority in charge of the enterprise for setting up a review and adjustment mechanism for such enterprise.

The percentage of the R&D budget in the total expenditure under the preceding paragraph shall be set by the central competent authority taking into account the characteristics and scales of each type of state-owned enterprises after consulting the authority in charge of such enterprises.

Unless otherwise specified in the treaties or agreements to which the ROC is a party, a state-owned enterprise may apply a limited tendering procedure to a procurement project for cooperation or commissioned study for innovation or R&D with a value reaching the threshold for public announcement, without being subject to the restrictions under Article 19 or Paragraph 1 of Article 22 of the Government Procurement Act.

The ownership or the right to license others regarding the R&D results generated from the cooperation or commissioned study for innovation or R&D projects conducted by state-owned enterprises under the preceding paragraph may be conferred, in whole or in part, on the entities doing such innovation or R&D, without being subject to the restrictions under the National Property Act.

The R&D results that have been conferred on a public school, public institution (organization) or public enterprise in accordance with the preceding Paragraph and their safekeeping, use, profits, utilization and disposal shall not be subject to the restrictions under Articles 11, 13, 14, 20, 25, 28, 29, 33, 35, 36, 56, 57, 58, 60, or 64 of the National Property Act.

The ownership and utilization of the R&D results and the income generated therefrom as referred to in Paragraph 1 and Paragraph 2 of this Article shall follow the principles of fairness and effectiveness, taking into account the proportion and contribution of capital and service, the nature of the R&D results, potential of application, social benefits, national security, and impacts on the market. Regulations for the objectives, prerequisites, durations, scopes, proportions (in whole or in part), registration, administration, allocation of profits, recusal, and disclosure of relevant information shall be prescribed by the central competent authority in consultation with the authority in charge of such state-owned enterprises.

Article 10

To promote industrial innovation, where a company or limited partnership has not violated any environmental protection, labor safety and health, or food safety and sanitation laws in the past three years, the company or limited partnership may select one of the following incentives for crediting the funds invested by it in research and development against the profit-seeking enterprise income tax payable by it. Once the company or limited partnership selects an incentive, it cannot change its selection, and the creditable amount shall not exceed 30 percent of the profit-seeking enterprise income tax payable by it in the then current year.

1. Up to fifteen percent of the R&D expenses may be credited against the profit-seeking enterprise income tax payable by it in the then current year.

2. Up to ten percent of the R&D expenses may be credited against the profit-seeking enterprise income tax payable by it in each of the three years following the then current year.

The regulations governing the scope of application of the investment credit under the preceding Paragraph, the application deadline, the application procedure, the approval authority, the implementation period, and the tax credit rate shall be prescribed by the central competent authority in consultation with the Ministry of Finance.

Article 11 (deleted)

Chapter IV Circulation and Utilization of Intangible Assets

Article 12

To promote the circulation and utilization of the results of innovation or R&D, when sponsoring, commissioning certain entities to do, or funding innovation or

R&D projects, the central authorities in charge of relevant enterprises and the state-owned enterprises subordinate to such authorities shall require the entities conducting such innovation or R&D to devise the strategy for applying such innovation or R&D results for business operation, substantively analyze the intellectual property rights, ensure the quality of the intellectual property, give comprehensive protection to the results, and evaluate circulation and utilization methods.

The circulation and utilization of the intellectual property under the preceding paragraph shall be valued by a legally qualified intangible asset valuation associate or by an institution or person registered in accordance with Article 13, and the evaluation material shall be recorded in the information service system designated by the central competent authority.

The scope of application, promotion, administration measures, and other matters regarding the innovation and R&D under Paragraph 1 of this Article shall be prescribed by the central competent authority.

Article 12-1

To promote the circulation and application of the results of innovation or R&D, where an R.O.C. individual, company or limited partnership receives revenue from assignment or licensing of his/her/its intellectual property rights in his/her/its own R&D results, up to 200 percent of his/her/its R&D expenditures in the then current year may be deducted from the amount of his/her/its taxable income up to the amount of the above revenue in that year, and in the case of a company or limited partnership, the company or limited partnership may choose between the tax credit against its R&D expenditures under this Paragraph and the tax credit under Article 10.

Where an R.O.C. individual, company or limited partnership assigns, or grants a license to use, his/her/its intellectual property rights in his/her/its own R&D results to a company, the individual, company or limited partnership may opt to exclude the new shares acquired as the consideration from his/her/its income taxable in the year such shares are acquired. Once an option is made, it cannot be reversed. However, after the individual, company or limited partnership has opted to exclude such new shares from his/her/its income taxable in the year such shares are acquired, if the shares are transferred or are delivered by book-entry transfer to an account with a securities depository enterprise, the entire transfer price, the market price of the shares at the time of giving away or distribution as estate, or the market price of the shares on the date of book-entry transfer less the expenses or costs incurred for acquisition of the shares but not yet recognized, shall be included in the revenue for the year of transfer or book-entry transfer and be declared for assessment of income tax.

The transfer under the preceding paragraph refers to purchase, sale, giving away, distribution as estate, cancellation of shares as a result of capital reduction, corporate liquidation, or change in ownership due to other causes.

Where an individual's income is calculated in accordance with Paragraph 1 or 2 hereof but is not declared or proved by any documents, the sum of his/her costs and necessary expenses shall be calculated at 30 percent of his/her revenue, the transfer price, the market price of the shares at the time of giving away or distribution as estate, or the market price of the shares on the date of book-entry transfer, and be deducted from the individual's taxable income.

The incentives under Paragraph 2 are available only if the company issuing shares submits the required documents and information in the prescribed format to the central authority in charge of relevant enterprises for certification in the year it accepts contributions in exchange for its shares. A copy of the results of the certification shall also be delivered to the taxation authority at the place where the company is located.

The regulations governing the scope of application of the R&D expenditures deductible from the taxable income under Paragraph 1, the application deadline, the application procedure, the approving authority, and other related matters shall be prescribed by the central competent authority in consultation with the Ministry of Finance.

The scope of the intellectual property rights in the R&D results under Paragraphs 1 and 2, and the format, the application procedure, and the formats of the required documents under Paragraph 5 shall be prescribed by the central competent authority.

The regulations governing the procedure for deferred payment and assessment on shares acquired with the transferred or licensed intellectual property rights in R&D results under Paragraph 2, the documents to be submitted, and other related matters shall be prescribed by the Ministry of Finance.

Article 12-2

Where a domestic academic or research institution assigns the intellectual property rights resulting from its R&D achievements and conferred on it to a company or licenses the company to use such rights in accordance with Paragraph 1, Article 6 of the Fundamental Science and Technology Act, and acquires shares in the company, and distributes such shares to the R.O.C. creators of such intellectual property rights in accordance with Paragraph 3, Article 6 of the Fundamental Science and Technology Act, such an R.O.C. creator may opt to exclude the new shares so acquired from his/her income taxable in the year such shares are acquired. Once such option is made, it cannot be reversed. However, after the creator has opted to exclude such new shares from his/her income taxable in the year such shares are acquired, if the shares are transferred or are delivered by book-entry transfer to an account with a securities depository enterprise, the entire transfer price, the market price of the shares at the time of giving away or distribution as estate, or the market price of the shares on the date of book-entry transfer shall be included in the creator's salary for the year of transfer or book-entry transfer and be declared for assessment of income tax in accordance with the Income Tax Act.

The assignment under the preceding paragraph refers to purchase, sale, giving away, distribution as estate, cancellation of shares as a result of capital reduction, corporate liquidation, or change in ownership due to other causes.

Where a domestic academic or research institution distributes shares to R.O.C. creators in accordance with Paragraph 1 of this Article and desires to be qualified for the incentive under that paragraph, it shall submit duly formatted documents to the competent authority specified in Paragraph 3, Article 6 of the Fundamental Science and Technology Act for approval. A copy of the decision of the competent authority shall be served on the company issuing the shares and the taxation authority at the place where the company is located.

The scope of the intellectual's property rights derived from an academic or research institution's own R&D achievements and conferred on it in accordance with Paragraph 1, Article 6 of the Fundamental Science and Technology Act, the rules for recognition of the shares distributed to R.O.C. creators in accordance with Paragraph 3, Article 6 of said Act, and the formats of the documents, the application procedure and the required documents under the preceding paragraph shall be prescribed by the Ministry of Science and Technology. The procedure for declaring deferral of the income tax payable for the shares acquired by the R.O.C. creators under Paragraph 1, the documents to be submitted, and other related matters shall be prescribed by the Ministry of Finance.

Article 13

To assist enterprises in presenting the value of intangible assets derived from industrial innovations, the central competent authorities shall invite the relevant agencies to attend to the following matters:

1. Formulation and implementation of the standards for valuation services.
2. Establishment and management of valuation databases.
3. Cultivation and training of valuation associates, and setting up the mechanisms for registering and managing valuation personnel and institutions.
4. Promotion of investment in or financing with intangible assets, securitization transactions, insurance, completion guarantee, and other matters.

The central authority in charge of relevant industries may provide grants to certified or registered intangible asset valuation associates and institutions for their valuation activities in accordance with the law. The valuation associates and institutions receiving the grants shall register the valuation data from their valuation projects subject to the grants on the information service systems designated by the central competent authority.

The criteria for doing the valuation under Subparagraph 1, Paragraph 1, the application of such criteria, the measures for promoting the creation and management of the databases under Subparagraph 2, Paragraph 1, and other related matters shall be prescribed by the central competent

authority in consultation with the financial competent authorities and other relevant agencies.

The scope and terms of registration of valuation associates and institutions under Subparagraph 3, Paragraph 1, the method of applying for such registration, the matters to be reviewed, such associates' and institutions' obligation to cooperate, the management measures, and rules for revoking or invalidating registration, and other relevant matters shall be prescribed by the central competent authority in consultation with the relevant agencies.

The matters to be promoted under Subparagraph 4, Paragraph 1 shall be prescribed by the central competent authority in consultation with the financial competent authorities and other relevant agencies.

Article 14

To encourage enterprises to make use of intellectual property to create operational benefits, the central authorities in charge of relevant enterprises may assist enterprises in the establishment of systems for the protection and management of intellectual property.

Article 15

To improve the efficiency of the circulation and utilization of intellectual property, the central authorities in charge of relevant enterprises may establish service mechanisms to provide the following services:

- 1.Establishment of information service systems to provide information relating to the circulation of intellectual property.
- 2.Provision of information relating to value addition and combination of intellectual property.
- 3.Implementation of activities relating to the promotion and marketing of intellectual property.
- 4.Assistance in the development of the intellectual property services industry.
- 5.Providing guidance to industries on financing through the use of intellectual property.
- 6.Other applications of intellectual property.

Article 16

To encourage industry to develop brands, the central authorities in charge of relevant enterprises may provide incentives, grants, or guidance for enterprises that take part in international exhibitions and trade fairs, explore sales opportunities, or undertake brand development with the aim of developing international brands and raising their international image.

The regulations governing the recipients of the incentives, grants, or guidance as referred to in the preceding Paragraph, the eligibility criteria, the review standards, the application procedures, the approving authority, and other relevant matters shall be prescribed by the central authorities in charge of relevant enterprises.

Chapter V Industrial Human Resource Development

Article 17

To strengthen the availability of the human resources required for industrial development, the Executive Yuan shall designate an agency to establish mechanisms to coordinate the development of industrial human resources and promote the following:

- 1.Coordination with the central authorities in charge of relevant enterprises to conduct surveys and projections on the supply and demand of human resources for key industries.
- 2.Integration of supply and demand data relating to industrial human resources, and formulation of industrial human resource development strategies.
- 3.Coordination of matters relating to the promotion of industrial human resources development.
- 4.Promotion of planning for collaboration between industries, academic institutions, research institutions, and vocational training institutions.

Article 18

Unless otherwise provided by law, the central authorities in charge of relevant enterprises may conduct the following matters in line with the needs of industrial development:

- 1.Formulating occupational competency standards for industrial human resources.
- 2.Promoting capability assessment of industrial human resources.
- 3.Promoting enterprises' adoption of, private participation in, international mutual recognition of, the matters under the preceding two subparagraphs.

The regulations governing the mechanisms for capability assessment of industrial human resources, the quality standard, the issuance, extension, replacement, reissuance, revocation and invalidation of professional capability assessment certificates, and recognition and revocation of private capability assessment as referred to in Subparagraphs 2 and 3 of the preceding paragraph, and other relevant matters shall be prescribed by the central authorities in charge of relevant enterprises.

Article 19

To strengthen the resources for the cultivation of industrial human resources, the central authorities in charge of relevant enterprises may provide guidance to support the development of industrial human resources cultivation institutions

or organizations, and to introduce international human resources cultivation institutions into Taiwan.

Article 19-1

Where a company employee acquires stock-based employee compensation, the employee may opt to exclude up to an annual total of NT\$5 million worth of the acquired shares from his/her annual taxable income as calculated at the market price prevailing in the year such shares are acquired or the year of the day the acquired shares become disposable. Once an option is made, it cannot be reversed. However, employee who has opted to exclude the acquired shares from the annual taxable income in the year such shares are acquired, when the shares are transferred or book-entry transferred to an account of a securities depository enterprise, the entire transfer price, the market price of the shares at the time of giving away or distribution as estate, or the market price of the shares on the date of book-entry transfer is deemed the employee's revenue for the year of transfer or book-entry transfer and must be declared for assessment of income tax in accordance with the Income Tax Act.

Where a company employee has opted to apply the regulations in the preceding paragraph, and has held the shares and continued to work at the company for two years or more from the day the shares are acquired, when the shares are transferred or book-entry transferred to an account of a securities depository enterprise, and the entire transfer price, the market price of the shares at the time of giving away or distribution as estate, or the market price of the shares on the date of book-entry transfer is higher than the market price on the day the shares are transferred or become disposable, the market price on the day the shares are transferred or become disposable shall be included in the revenue for the year of transfer or book-entry transfer, and be declared for assessment of income tax in accordance with the Income Tax Act. However, where a company employee has not declared for assessment of income tax, or has been declared for assessment of income tax but cannot provide documentation proof of the market price on the day the shares are transferred or become disposable, and the market price on the day the shares become disposable cannot be obtained by the taxation authority, the above provisions shall not apply.

Where an employee of the preceding paragraph has continued to work at the company for two years or more, his years of service may be combined with the years of service from any of the following companies.

1. A company over 50 percent of whose total issued voting shares or total capital is held by the company granting the stock-based employee compensation.

2. A company that holds over 50 percent of the total issued voting shares or total capital of the company granting the stock-based employee compensation.

A company employee as referred to in the preceding three paragraphs shall be a person described in one of the following subparagraphs and not be the chairman of the board, a director or a supervisor who is concurrently a managerial officer of the company.

1. An employee of the company that gives stock-based compensation to its employees.

2. In accordance with the Company Act or the Securities and Exchange Act, an employee of a company over 50 percent of whose total issued voting shares or total capital is held by the company granting the stock-based employee compensation. The stock-based employee compensation under Paragraph 1 refers to shares issued as employee compensation, employee stock options at cash capital increase, treasury shares redeemed for issuance to employees, share subscription warrants issued to employees, and new restricted shares issued to employees.

Transfer under Paragraphs 1 and 2 refers to change in the ownership of shares as a result of sale, gift, distribution as estate, cancellation of shares for capital reduction, company liquidation or other causes.

To be eligible for the incentive under Paragraph 1 to Paragraph 3, the company granting the stock-based employee compensation shall, in the year its employees acquire stock-based employee compensation or the year of the day the acquired shares become disposable, file employees' choices of tax deferral and other related matters in the prescribed formats with the central authority in charge of relevant enterprises for recordation, with copies of the submissions delivered to the taxation authority at the place where the company is located. The formats for filing the above matters shall be prescribed by the central competent authority.

Where a company employee is applicable prescribed by Paragraph 2 or 3, the company granting the stock-based employee compensation to the employee shall, in the year when the employee has held the shares and continued to work at the company for two years, submit documents proving that the employee has held the shares and continued to work at the company for two years or more to the central authority in charge of the relevant enterprises for recordation. A copy of the proof shall be delivered to the taxation authority at the place where the company is located.

The regulations governing the procedure for declaring deferred income on the stock-based employee compensation under Paragraphs 1 to 3, setting of the date of acquisition of the stock and the day the stock becomes disposable, calculation of the annual total of NT\$5 million worth of the acquired shares, determination of the market price, documents required for submission, and other related matters shall be prescribed by the Ministry of Finance.

Chapter viviSix - Promoting Investment in Industry

Article 20

To promote investment, the central competent authority shall be responsible for the following matters:

- 1.Establishment of an inter-ministerial coordination mechanism.
- 2.Provision of consultation and assistance with respect to investment procedures and relevant matters.
- 3.Promotion and coordination of major investment plans.
- 4.Consultation and assistance with regard to other matters in furtherance of investment.

Article 21

To encourage industries to use international resources, the central authorities in charge of relevant enterprises may provide appropriate assistance and guidance with respect to overseas investment or international technology collaboration.

The regulations governing the recipients of assistance and guidance with respect to the overseas investment and technology collaboration as referred to in the preceding paragraph, the eligibility criteria, the review standards, the application procedures, the approving authority, and other relevant matters shall be prescribed by the central authorities in charge of relevant enterprises.

Article 22

Companies wanting to undertake overseas investment shall apply for approval from the central competent authority before making the investment, provided that overseas investments of NT\$1.5 billion or less may be reported to the central competent authority after the investment has been made.

The regulations governing the methods used to make overseas investment as referred to in the preceding paragraph, the types of investment, the application deadline, the application procedures, and other relevant matters shall be prescribed by the central competent authority.

Article 23

To attract funds back for investment in Taiwan, the central competent authority may introduce measures to help investors obtain land for industrial use as an incentive for such investments.

Article 23-1

To help innovative startups develop, a venture capital enterprise as referred to in Article 32, incorporated during the period from January 1, 2017 to December 31, 2019 in accordance with the Limited Partnership Act, meeting the requirements of the following subparagraphs, and using each year's funds equal to at least 50% of the aggregate capital contributions received in that year within the territory of the R.O.C. or investing such funds in foreign companies conducting their substantial operational activities within the territory of the R.O.C. in accordance with the R.O.C. government's policy as approved by the central competent authority on a yearly basis, is eligible for the tax benefit under Paragraph 3.

- 1.On the day the year of incorporation or the second year of incorporation ends, the total capital to be contributed pursuant to the limited partnership agreement

reaches NT\$300 million.

2. On the day the third year of incorporation ends, the total capital contributed by the venture capital enterprise in accordance with the limited partnership agreement reaches NT\$100 million.

3. On the day the fourth year of incorporation ends, the total capital contributed by the venture capital enterprise in accordance with the limited partnership agreement reaches NT\$200 million, and the accumulated sum invested in innovative startups accounts for 30 percent or more of the total capital contribution received by the enterprise in that year or reaches NT\$300 million.

4. On the day the fifth year of incorporation ends, the total capital contributed by the venture capital enterprise in accordance with the limited partnership agreement reaches NT\$300 million, and the accumulated sum invested in innovative startups accounts for 30 percent or more of the total capital contribution received by the enterprise in that year or reaches NT\$300 million.

Where an enterprise having been eligible for the tax benefit under Paragraph 3 subsequently goes to liquidation, the enterprise may be exempt from the restrictions under the preceding paragraph and remains eligible for the tax benefit during liquidation.

Within ten years from the fiscal year of incorporation, an enterprise conforming to Paragraph 1 may calculate its each year's total income in accordance with Article 24 of the Income Tax Act, and calculate each partner's income from seeking profits according to the earning distribution proportion under Paragraph 2, Article 28 of the Limited Partnership Act, and the partner may be taxed or exempt from income tax on such income in accordance with the Income Tax Act. However, an individual or a partner of a profit-seeking enterprise whose head office is not within the territory of the R.O.C. is exempt from income tax sourced from gains derived from securities transactions according to Article 4-1 of the Income Tax Act. When the earnings are distributed to a partner by an enterprise subject to this Paragraph, such earnings shall not be counted as the partner's income.

Under special circumstances, an enterprise eligible for the tax benefit under the preceding paragraph may file a special request for the central competent authority's approval of a one-time extension of the time limit for exemption under that paragraph for not more than five years three months before the expiration of the time limit.

An enterprise subject to Paragraph 3 shall, during the period of application provided in said paragraph, file annual income tax returns, and current final reports on total business income or income earned from liquidation in the formats prescribed by the Ministry of Finance within the time limits set forth in Paragraph 1 of Article 71, and Paragraphs 1 and 2 of Article 75 of the Income Tax Act; it shall not be subject to the proviso of Paragraph 1, Article 39 of the Income Tax Act regarding deduction of losses, Paragraph 1 of Article 42 of the same Act regarding exclusion of earnings from reinvestment for purpose of calculating taxable income, and any other tax incentives under this Statute or other laws; in addition, it shall not be required to set up a shareholder imputation credit account under Paragraph 1 of Article 66 of the same Act, pay an additional 10-percent profit-seeking income tax on undistributed surplus earnings under Article 66-9 of the same Act, file a statement of changes in the shareholder imputation credit account under Paragraph 2 of Article 102-1 of the same Act, or declare or pay the additional income tax on retained earnings under Paragraph 1 of Article 102-2 of the same Act.

To be eligible for the tax benefit under Paragraph 3, an enterprise shall make the option before the end of February in the year after its establishment. Once an option is made, it cannot be reversed. During the period of application, if the central competent authority finds that the enterprise does not comply with Paragraph 1, the enterprise shall no longer be eligible for the tax benefit under Paragraph 3 and shall pay tax in accordance with the Income Tax Act and the Basic Income Tax Act from the year it loses the eligibility.

An enterprise eligible for the tax benefit under Paragraph 3 may calculate the withholding tax and the deductible tax distributable to each partner in a year out of the amount of tax withheld from the enterprise's income and the deductible income tax on the gross dividends or gross earnings received by the enterprise from its invested enterprises in that year according to the earning distribution proportion under Paragraph 2, Article 28 of the Limited Partnership Act. The withholding tax already paid may be offset against the income tax payable by the partner. The deductible tax distributable to each partner shall be deducted from the income tax payable by the

partner as declared in the partner's annual consolidated income tax return or be included in the balance of the partner's tax offsetting account. An enterprise eligible for the tax benefit under Paragraph 3 shall, before the deadline for filing the income tax return, or the current final report on total business income or income earned from liquidation for each year, issue to each partner a certificate in the format prescribed by the Ministry of Finance indicating the partner's income calculated in accordance with Paragraph 3 and the above-said withholding tax paid and the deductible tax distributable to the partner, and attribute such income to the partner's income for a year in which the settlement date of the enterprise's annual accounts, the day for filing the reasons for its final income tax return for the current period, or the completion date of its liquidation process falls.

Where a partner receiving income under Paragraph 3 is an individual not residing in the R.O.C. or a profit-seeking enterprise having its head office outside the territory of the R.O.C., the responsible person of the enterprise subject to Paragraph 3 shall be considered the income tax withholder. The income tax shall be withheld from the taxpayer's income according to the applicable withholding tax rate before the deadline for filing the income tax return, or the current final report on total business income or income earned from liquidation for the current year and shall be all paid to the national treasury within 10 days after the deadline passes. Withholding certificates proving such tax payment shall be issued to the partners after the certificates have been filed with and verified by the taxation authority. Where tax has been withheld from the partner's income in accordance with the preceding paragraph, the withheld amount shall be deducted from the tax amount payable by the partner.

An innovative startup under Paragraph 1 refers to a company incorporated in accordance with the Company Act or a foreign company conducting its substantial operational activities within the territory of the R.O.C., and having been incorporated for less than five years when an enterprise eligible for the tax benefit under Paragraph 3 acquired new shares issued by the company.

A foreign company conducting its substantial operational activities within the territory of the R.O.C. refers to a company incorporated in accordance with the law of a foreign country, having a subsidiary or branch office in the R.O.C., and approved by the central competent authority as meeting the following requirements:

1. The person who makes significant decisions in business management, financial management, and personnel management for the company is an individual residing in the R.O.C. or a profit-seeking enterprise having its head office within the territory of the R.O.C., or the place where such significant decisions are made is in the R.O.C.
2. The financial statements, records of accounting books, minutes of meetings of the board of directors or minutes of meetings of the shareholders are prepared or stored within the territory of the R.O.C.
3. Major business activities are carried out in the R.O.C.

The regulations for calculating the substantial capital contributions, the funds used within the territory of the R.O.C. or invested in foreign companies conducting their substantial operational activities within the territory of the R.O.C., the proportion of the funds so used or invested, the extent of compliance with the R.O.C. government's policy, the calculation of the percentage of the accumulated sum invested in innovative startups out of the aggregate capital contributions received by a limited partnership, and the application and reviewing procedures under Paragraph 1; the special circumstances and the procedure for applying for extension of the time limit for exemption under Paragraph 4; the regulations for identifying foreign companies conducting substantial operational activities within the territory of the R.O.C. under the preceding paragraph, and required supporting documents; and other relevant matters shall be prescribed by the central competent authorities in consultation with the Ministry of Finance.

Regulations for calculation of the income of enterprises subject to Paragraph 3 and the procedure for declaring such income; the timing for including deductible income in shareholder imputation credit accounts under Paragraph 7; the tax withholding procedure under Paragraph 8; and other related matters shall be prescribed by the Ministry of Finance. The income tax withholding rates under Paragraph 8 shall be set by the Ministry of Finance and submitted to the Executive Yuan for approval.

Article 23-2

Where an individual invests at least NT\$1 million in cash in one year in domestic innovative startups which have been incorporated for less than two years and identified by the central authority in charge of relevant enterprises as high-risk innovative startups, and acquires

and holds the new shares issued by the company for two years, up to 50 percent of the investment may be excluded from the individual's consolidated income for the year in which the second anniversary of such shareholding falls. The aggregate amount excludable from an individual's consolidated income each year in accordance with this paragraph shall not exceed NT\$3 million.

The qualifications of the individuals, the scope and qualifications of the high-risk innovative startups, the application deadline, the application procedure, the calculation of the shareholding period, and the authorities giving the approval under the preceding paragraph shall be prescribed or designated by the central competent authorities in consultation with the Ministry of Finance.

Article 24 (deleted)

Article 25

To encourage companies to utilize global resources and internationalize their operations, companies may apply to establish within the territory of the R.O.C. an operational headquarters of a certain size and with significant economic benefits.

With respect to the operational headquarters of a certain size and with significant economic benefits as referred to in the preceding Paragraph, regulations governing the size, the scope of application, the application and approval procedures, and other relevant matters shall be prescribed by the central competent authority.

Chapter Seven - Environment for the Sustainable Development of Industries

Article 26

To encourage the sustainable development of industries, the central authorities in charge of relevant enterprises may provide enterprises with grants or guidance to promote the following matters:

- 1.Assisting enterprises in adapting to international regulations for environmental protection and health and safety.
- 2.Promoting the development and application of technology relating to greenhouse gas reduction and pollution prevention.
- 3.Encouraging enterprises to improve the efficiency of their energy and resource consumption and to adopt relevant technologies that may recycle/renew energy/resources and save energy and water.
- 4.Production of non-toxic, less-polluting products and other products that reduce the burden on the environment.

The regulations governing the recipients of the grants or guidance as referred to in the preceding Paragraph, the eligibility criteria, the review standards, the application procedures, the approving authority, and other relevant matters shall be prescribed by the central authorities in charge of relevant enterprises.

Article 27

Each central authority in charge of relevant enterprises shall encourage government agencies and institutions, and enterprises to procure software, and innovative and green products and services.

To enhance the procurement efficiency for supply and demand, the central competent authority may provide relevant assistance and services to the agencies and institutions making procurements under the preceding paragraph. For procurements made through joint supply contracts in accordance with the preceding paragraph, the common requirements may be defined by the central competent authority in consultation with the central authority in charge of the relevant entities as the policy demands.

Where the software, innovative and green products and services procured in accordance with Paragraph 1 must pass testing, review, accreditation and certification, the charges for such processes may be reduced, waived, or suspended.

A government agency/institution may specify in the tender documentation that priority shall be given to procurement of innovative and green products or services identified as meeting the requirements of Paragraph 1, provided that such priority does not violate any treaty or agreement to which the R.O.C. is a party.

The regulations governing the specifications and categories of, and certification procedures and review standards for, the software, innovative and green products and services under Paragraph 1, the testing and review criteria, accreditation and certification under Paragraph 3, the method of making priority procurement under Paragraph 4, and other

relevant matters shall be prescribed by the central authorities in charge of relevant enterprises.

Article 28

To encourage enterprises to fulfill their social responsibility, the central authorities in charge of relevant enterprises shall assist enterprises to actively disclose the relevant environmental information regarding their production processes, products, services, and other aspects of sustainable development, and the enterprises with outstanding performance may be eligible to receive commendations or awards.

Chapter Eight - Financial Assistance

Article 29

To accelerate industrial innovation and value addition, and promote economic transformation and national development, the Executive Yuan shall establish a National Development Fund.

Article 30

The National Development Fund may be used for the following purposes:

1. To invest in industrial innovation, high-tech development, recyclable/renewable energy/resources, “green energy” industries, introduction of technology, and other important businesses or projects that can enhance the efficiency of industries or improve the industrial structure, in line with the national industrial development strategy.
2. To provide financing facilities to supported projects relating to the sustainable development of industries, pollution prevention, energy conservation, mitigation of the greenhouse effect, and other areas that can enhance the efficiency of industries or improve the industrial structure, in line with the national industrial development strategy.
3. To assist the central authorities in charge of relevant enterprises in handling investment, financing, or technology collaboration expenditure relating to relevant projects.
4. To assist the relevant central authorities in charge of relevant enterprises in expenditure required for projects undertaken for economic development, agricultural technology development, social development, cultural and creative development, introduction of technology, enhancement of R&D, development of own brands, human resources cultivation, improvement of the industrial structure and relevant matters.
5. Other matters approved by the Executive Yuan on a case-by-case basis.

Article 31

The funding sources of the National Development Fund shall be the appropriations from the National Treasury, and in addition, the operating balance of the National Development Fund, if any, may be put into the Fund following due budget approval procedures for continuous use. The regulations governing the management and utilization of the National Development Fund shall be prescribed by the Executive Yuan.

Article 32

The central competent authority shall provide guidance and assistance for venture capital enterprises, in order to stimulate the start-up and growth of domestic new businesses. The regulations governing the scope of the venture capital enterprises as referred to in the preceding Paragraph, the provision of guidance and assistance, and other relevant matters shall be prescribed by the central competent authority.

Chapter Nine - Establishment and Management of Industrial Parks

Article 33

A central competent authority, a special municipal/county/city competent authority, a state-owned or private enterprise, or an industrial entrepreneur may select a lot of land at a certain size in accordance with the relevant industrial park establishment policy, and submit a feasibility study report on the land together with all the required documents under the Urban Planning Act, the Regional Planning Act, the Environmental Impact Assessment Act, and other relevant laws and regulations to the authorities administering the above laws and regulations for approval. After approval is obtained from the authorities, the feasibility study report shall be submitted to the central competent authority for approval.

After the central competent authority approves the establishment of an industrial park in accordance with the preceding Paragraph, it shall instruct the relevant special

municipal/county/city competent authority to make a public announcement within 30 days. If such public announcement is not made within the time limit, the central competent authority may make the public announcement on its behalf.

If the area of land selected by a special municipal/county/city competent authority, a state-owned or private enterprise or an industrial entrepreneur in accordance with Paragraph 1 does not exceed a specific size and is located within the administrative district of a single special municipal/county/city, the special municipal/county/city competent authority may propose establishment of an industrial park on the land by submitting the documents required by the applicable laws and regulations to the competent authority administering such laws and regulations for approval. After the competent authority approves the proposal, the proposal shall be submitted to the special municipal/county/city competent authority for approval. After the special municipal/county/city competent authority approves the proposal, it shall publicly announce it within 30 days. Prior to submitting a feasibility study report under Paragraph 1, a central competent authority, special municipal/county/city competent authority, state-owned or private enterprise, or industrial entrepreneur shall hold a public hearing to listen to the views of the owners of the land in question and other interested parties, and shall take full minutes of the meeting and submit the minutes to the relevant competent authorities for their review, except where the state-owned or private enterprise or the industrial entrepreneur proposes to establish an industrial park on its own land.

The guidelines for establishing industrial parks under Paragraph 1, the size of the land required for the establishment of an industrial park, and the size of an industrial park area that may be approved by a special municipal/county/city competent authority as referred to in Paragraph 3 shall be prescribed by the central competent authority in consultation with the Ministry of the Interior.

Article 34

Where a state-owned or private sector enterprise or industrial entrepreneur applies for establishment of an industrial park, prior to the rezoning of the land in question, an amount equivalent to the then current announced land value of 5% of the total land area at the time of the approval for establishment of the industrial park shall be paid to the industrial park development and management fund established by the special municipality or county (city) competent authority, notwithstanding any restriction under the provisions of Article 15-3 of the Regional Planning Act.

The special municipality and county (city) competent authority shall set aside a specified percentage of the sum paid in accordance with the preceding Paragraph to be used for the construction, maintenance, or improvement of relevant public facilities in the vicinity of the industrial park and to improve environmental protection in the affected area.

The percentage of the funds to be set aside as referred to in the preceding Paragraph shall be prescribed by the central competent authority in consultation with the Ministry of the Interior.

Article 35

With respect to the industrial park of which a state-owned or private sector enterprise or an industrial entrepreneur applies for establishment, the construction permit shall be obtained within three years from the next date on which approval of establishment is publicly announced. If the construction permit is not obtained within the prescribed period, the original establishment approval shall become invalid.

After the approval for the establishment of an industrial park becomes invalid, the special municipality or county (city) competent authority shall notify the land registration authority to restore the land to its original zoning and designation pattern, and shall notify the central competent authority for recordation.

Article 36

To promote industrial transformation and upgrading in order to maintain the livelihood of local industries and small and medium enterprises and protect local job opportunities and preserve the environment, the central competent authority may, in consultation with the Ministry of the Interior, plan the establishment of small rural industrial parks or small local industrial parks, and may provide necessary assistance, guidance, or grants.

The regulations governing the recipients of the assistance, guidance, or grants as referred to in the preceding Paragraph, the eligibility criteria, the review standards, the application procedures, and other relevant matters shall be prescribed by the central competent authority.

Article 37

The central competent authority or a special municipality or county (city) competent authority may commission a state-owned or private sector enterprise to file the application for establishment of an industrial park, and undertake the planning, the development, the lease or sale, or the administration of the park.

With respect to the commissioning of enterprises as referred to in the preceding Paragraph, if commissioned state-owned or private sector enterprise is also responsible for raising the necessary funds, it may be by means of open selection and the provisions of the Government Procurement Act and the Act for Promotion of Private Participation in Infrastructure Projects shall not apply.

The regulations governing eligibility of the state-owned or private sector enterprises as referred to in the first Paragraph, the terms and conditions of the commissioning, the scope of commissioned business, and the conditions and procedures for the open selection as referred to in the preceding paragraph, the handling of expiring development contracts, and relevant matters shall be prescribed by the central competent authority.

Data Source : Ministry of Economic Affairs R.O.C.(Taiwan) Laws and Regulations Retrieving System