

# Computation of net profits and net loss of companies granted investment promotion



In order that the computation of net profits and net loss of companies or juristic partnerships that are granted investment promotion is consistent with the computation of net profits and net loss according to the conditions under the provisions of the Revenue Code, the Revenue Department hereby gives explanation for the information of all concerned as follows:

1. Computation of net profits and net loss derived from the carrying on of promoted business must be in accordance with the rules and conditions under the Revenue Code.
2. Revenues to be included in the computation of net profits from the carrying on of business which shall be exempted from corporate income tax mean the following revenues:
  - 2.1 Revenues from the sale of products, produces or provision of services under a promoted project which do not exceed the annual production volume or do not exceed the size of business that provides service as specified in a promotion certificate.
  - 2.2 Revenues from the sale of by-products and semi-finished goods according to the types and volumes specified in a promotion certificate.
  - 2.3 Revenues from the disposal of machinery, component parts, accessories, tools, instruments and properties which have been used in the carrying on of the business under a promoted project and are worn out or become unfit for the further use as approved by the Office of the Board of Investment and the Revenue Department.

In case that the machinery, component parts, accessories, tools, instruments and properties under the first paragraph are also used in the business that is not exempt from corporate income tax, the revenues under the first paragraph shall be allocated proportionally to the revenues which are derived from the business that is exempt from the corporate income tax and the revenues which are derives from business that is not exempt from the corporate income tax.

2.4 Revenues in the category of the interest or other revenues arising from any activity in the normal course of business as approved by the Office of the Board of Investment and the Revenue Department.

In case that the promoted persons also carry on business that is not exempt from corporate income tax, the revenues under the first paragraph shall be allocated proportionately to the revenues which are derived from business that is exempt from corporate income tax, and the revenues which are derived from business that is not exempt from corporate income tax.



3. In case that the prompted persons carry on both the business that is exempt from corporate income tax and the business that is not exempt from corporate income tax, the net profits and net loss of each business shall be computed separately. However, in the computation of the net profits for payment of corporate income tax, the net profits and net loss from both the business that is exempt from corporate income tax and the business that is not exempt from corporate income tax shall be combined and the following shall be observed:

3.1 In case that the total results of operation show net profits:

(a) If there are net profits from both businesses, the promoted persons must pay corporate income tax on net profits from the business which is not exempt from corporate income tax.

(b) if there are net profits from the business that is not exempt from corporate income tax in an amount more than net loss from the business that is exempt from corporate income tax, the promoted persons must pay corporate income tax computed on the total net profits.

(c) If there are net profits from the business that is exempt from the corporate income tax in an amount more than net loss from the business that is not exempt from corporate income tax, the promoted persons must not pay corporate income tax and shall be exempt from corporate income tax on the full amount of total net profits.

3.2 In case that the total results of operation show no net profits:

The promoted persons must not pay corporate income tax even if the business that is not exempt from corporate income tax derives net profits.

4. In the deduction of annual loss arising during period of exemption from the corporate income tax out of net profits arising after period of exemption from corporate income tax, the following shall be observed.

4.1 In case that the promoted persons carry on business that is exempted from corporate income tax only, the following shall be observed:

(a) The promoted persons shall have the right to deduct annual loss arising during period of exemption from corporate income tax out of net profits arising after period of exemption from corporate income tax for a duration not exceeding five years from the expiry date of such period. The annual loss mentioned above means the annual loss arising during period of exemption from corporate income tax which must not be deducted out of the annual profits arising during period of exemption from corporate income tax by virtue of section 65 ter (12) of the Revenue Code.

(b) In the deduction of annual loss out of net profits under (a), the promoted persons may choose to make deduction out of net profits of any year or several years.

4.2 In case that the promoted persons carry on both the business that is exempt from corporate income tax and the business that is not exempt from corporate income tax, the following shall be observed:

(a) In case that the business that is exempt from corporate income tax incurs annual loss and the business that is not exempt from corporate income tax derives net profits, the promoted persons shall have the right to deduct annual loss of the business that is exempt from corporate income tax out of net profits of the business that is not exempt from corporate income tax during the period of exemption from corporate income tax by virtue of Section 65 ter (12) of the Revenue Code.

(b) In case that the business that is exempt from corporate income tax incurs annual loss and the business that is not exempt from corporate income tax derives net profits and has accumulated annual loss brought forward from previous year, the promoted persons must detect the accumulated annual loss brought forward from previous year of the business that is not exempt from corporate income tax out of net profits of the business that is not exempt from corporate income tax first. If the business that is not exempt from corporate income tax has any residual net profits, the promoted persons shall then have the right to deduct annual loss of the business that is exempt from corporate income tax out of net profits of the business that is not exempt from corporate income tax during the period of exemption from corporate income tax by virtue of Section 65 ter (12) of the Revenue Code.

(b) In case that the business that is exempt from corporate income tax incurs annual loss and the business that is not exempt from corporate income tax derives net profits and has accumulated annual loss brought forward from previous year, the promoted persons must detect the accumulated annual loss brought forward from previous year of the business that is not exempt from corporate income tax out of net profits of the business that is not exempt from corporate income tax first. If the business that is not exempt from corporate income tax has any residual net profits, the promoted persons shall then have the right to deduct annual loss of the business that is exempt from corporate income tax out of net profits of the business that is not exempt from corporate income tax during the period of exemption from corporate income tax by virtue of Section 65 ter (12) of the Revenue Code.

(c) The promoted persons shall have the right to deduct a portion of any residual annual loss under (a) or (b) of the business that is exempt from corporate income tax which exceeds the net profits of such business that arise during the period of exemption from corporate income tax, out of the net profits arising after the period of exemption from corporate income tax for a duration not exceeding five years as from the expiry date of the period of exemption from corporate income tax, and shall be entitled to choose to comply with (4.1) (b).

5. Dividends that are derived from the business that is exempt from corporate income tax and are to be exempted from inclusion in the computation for income tax payment shall be dividends which are paid by promoted persons and received by dividend receivers within the period that the promoted persons are exempt from corporate income tax.

6. Dividends on which receivers are eligible for exemption from personal income tax or corporate income tax must be dividends paid out of net profits of the business that is exempt from corporate income tax only.



7. In case that the promoted persons carry on both the business that is exempt from corporate income tax and the business that is not exempt from corporate income tax, the promoted persons may pay dividends out of net profits arising from either business in whatever amount but the dividend receivers shall be exempt from corporate income tax only on the dividends paid out of net profits of the business that is exempt from corporate income tax.

In case that the promoted persons pay dividends without specifying the business from which dividends are paid out of its net profits, such dividends shall be allocated proportionally to the net profits of the business that is exempt from corporate income tax and the net profits of the business that is not exempt from corporate income tax.

8. In case that the promoted persons who are subject to various rates of income taxes or are granted reduction of the rate of corporate income tax are distributors of dividends, they must clearly specify in the certificates of withholding tax as to which amounts of the income paid are derived from the business that is subject income tax and which rates of taxes are applicable.




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