

Cabinet Order No. 141

The Cabinet Order Amending in Part the Special Tax Measures Law (unofficial translation)

In conjunction with the enactment of the Law Amending in Part the Special Tax Measures Law, etc. (Law No. 7 of 2001), the Cabinet shall institute this Cabinet Order to enforce the said Law on the basis of the supplementary provisions of the Law and the stipulations of the Special Tax Measures Law (Law No. 26 of 1957).

Special Cases of Tax Write-off for Donations to Approved Specified Nonprofit Corporations

1. The requirements specified by Cabinet Order as stated in Article 39.22.2 and Article 66.11.2.(b) of the Law shall be as follows:
 - i. That the amount described in (b) shall make up more than one-third of the amount described in (a) during “the preceding two fiscal years, etc.”
 - a. Amount remaining after subsidies from the national or local governments, extra income, and other gains specified by ordinance of the Ministry of Finance have been deducted from the total amount of income.
 - b. Amount remaining after the amount that exceeds the standard limit per donor (which means the amount of one donor’s total donations exceeding two (2) percent of the total amount of donations received) and the total amount of donations specified by ordinance of the Ministry of Finance have been deducted from the total amount of donations received.
 - ii. That the percentage under one of the following items in the preceding two fiscal years, etc. is less than eighty (80) percent.
 - a. The percentage in the total amount of donations received of the total donations from individuals residing or maintaining an office, place of business, or other premises (hereafter “office, etc.” in this Sub-section ii and in Section 2) in the same city, township, or village (ward in Tokyo, or ward in any of the cities specially designated under Article 252.19.(a) of the Local Government Law; the same applies in this Sub-section and in Section 2) as well as from corporations that have an “office, etc.” in the same city, township, or village.
 - b. The percentage, as specified by ordinance of the Ministry of Finance, of the said corporation’s specified nonprofit activities (those activities specified in Article 2.(a) of the Law to Promote Specified Nonprofit Activities [Law No. 7 of 1998]; the same applies in this Sub-section and in Section 5) in the same city, township, or village in the specified nonprofit activities conducted by the corporation.
 - c. The percentage of individuals residing or maintaining an “office, etc.” in the same city, township, or village, and corporations that have an “office, etc.” in the same city, township, or village in the total number of individuals and organizations directly from which the said corporation has received the transfer or loan of their assets or the provision of their services (referred to as “transfer of assets, etc.” in Sub-section iii and Sub-section vi, following) pertaining to its specified nonprofit activities.
 - iii. That activities under each of the following items, as specified by ordinance of the Ministry of Finance, make up under fifty (50) percent of activities over the preceding two fiscal years, etc.
 - a. Activities consisting of transfer of assets, etc. (excluding what has been provided in exchange for nothing, and what is specified by ordinance of the Ministry of Finance) targeted at member(s) or such others specified by ordinance of the Ministry of Finance (referred to as “members, etc.” in this Sub-section), as well as intercourse among members, etc., communications, exchange of views, and other activities targeted at members, etc.
 - b. Activities (excluding transfer of assets, etc. to members, etc.) that benefit specific persons, including members, etc. of the said corporation, members of specific organizations, people engaged in specific occupations, and people who live or maintain an office, etc. in places specially designated by ordinance of the Ministry of Finance.
 - c. Promotional, advertising, research, information-providing, and other activities concerning specific publications or persons.
 - d. Activities that call on specific persons against their will to do, or not to do, something.
 - iv. With regard to administrative organization and accounting, the following requirements shall be fulfilled.
 - a. Persons such as those described below make up less than one third of the number of officers and the number of employees.
 - (i) Relatives and those with special ties specified by ordinance of the Ministry of Finance (referred to as “relatives, etc.” in (ii) below).

- (ii) Officers or employees of the said corporation and those of a specific corporation (including a corporation whose stocks or investment funds held directly or indirectly make up more than fifty (50) percent of the total number of stocks issued by the corporation or the total investment in the corporation, and other corporations with special ties specified by ordinance of the Ministry of Finance), and their relatives, etc.
 - b. Accounts are audited by a certified public accountant or an approved auditing firm, or the said corporation records its accounts in ledgers and other documents as specified by ordinance of the Ministry of Finance and maintains said ledgers and documents.
 - c. No expenditures of unclear purpose or other inappropriate accounts as specified by ordinance of the Ministry of Finance are made.
 - v. With regard to the said corporation's activities, the following requirements shall be fulfilled.
 - a. The following activities, as specified in Article 2.(b).(2) of the Law to Promote Specified Nonprofit Activities, are not conducted.
 - (i) Activities for the purpose of propagating religious teachings, performing ceremonies, or educating or cultivating believers.
 - (ii) Activities for the purpose of promoting, supporting, or opposing a political principle.
 - (iii) Activities for the purpose of recommending, supporting, or opposing a candidate (including a prospective candidate) for a specific public office (public office as specified in Article 3 of the Public Offices Election Law [Law No. 100 of 1950]; the same applies elsewhere in this Sub-section), or those in public positions, or political parties.
 - b. Activities do not yield special benefits to the said corporation's officers, employees, or other workers, or to the donors, or their relatives, or to those with special relations with these people, as specified by ordinance of the Ministry of Finance. The requirements that no special relations are formed with other specific persons, as specified by ordinance of the Ministry of Finance, shall be met.
 - c. Operating expenses related to specified nonprofit activities make up more than eighty (80) percent of total operating expenses.
 - d. More than seventy (70) percent of the total amount of donations received are allotted for specified nonprofit activities.
 - e. When the said corporation provides grants or subsidies, it submits beforehand, to the director general of the National Tax Administration Agency by way of the superintendent of the tax office with jurisdiction over the place of its tax payment or the location of its main office, documents describing the methods of inviting and selecting applicants and the content of the grants or subsidies, and, after the providing of grants or subsidies, documents describing the results, without delay.
 - f. When the said corporation remits or transfers money overseas, it submits beforehand, to the director general of the National Tax Administration Agency by way of the superintendent of the tax office with jurisdiction over the place of its tax payment or the location of its main office, documents describing the amount of money, the purpose for which it is to be spent, and the planned date of provision. (When it is difficult to submit such documents beforehand because of emergency, as in the case of aid extended to a disaster-hit area, documents describing the amount of money, the purpose of use, and the date of its provision shall be submitted without delay.)
 - vi. When a request is made for perusal of the following documents, perusal shall be granted unless there is good reason for refusal of the request.
 - a. The "report of activities, etc.," "list of officers, etc.," and "articles of incorporation, etc.," as specified in Article 28.(b) of the Law to Promote Specified Nonprofit Activities.
 - b. Stipulations concerning the payment of officers' or employees' salaries.
 - c. Copies of the documents submitted in accordance with the stipulations of items (e) and (f) of the preceding Sub-section.
 - d. Documents explaining the details of income and other fund-related items, the items concerning the transfer of assets, etc. and donations, and other items specified by ordinance of the Ministry of Finance.
 - e. Documents described in Sub-section iv, Section 4.
 - vii. No facts show that the corporation has ever violated the law, obtained or attempted to obtain gains through fraud or any other illegal activity, or engaged in any activity detrimental to the public interest.
 - viii. On the starting date of the fiscal year of the said corporation including the date of its submission for the written application as specified in Section 3 (if the fiscal year is not fixed, the starting date shall be January 1st of the year that includes the date of its submission of the application), more than one year shall have passed since the date of its founding. (If the said corporation is a corporation approved under Article 66.11-2.(b) of the Law [the Law Amending in Part the Special Tax Measures Law and Others], more than two years shall have passed either since the starting date of the fiscal year that follows the final year of the preceding two fiscal years, etc. pertaining to the

- said approval, or since the date of January 1st of the year that follows the final year.)
- ix. By the time it applies for approval under Article 66.11-2.(b) of the Law, the said corporation shall have received a certificate from the competent agency specified in Article 9 of the Law to Promote Specified Nonprofit Activities that testifies that there is not a good reason to suspect the said corporation's violation of law, administrative punishment based on law, or violation of the articles of incorporation.
 - x. The requirements stated in Sub-section iv, (a), (b), (c), and (d) of Sub-section v, Sub-section vi, and Sub-section vii (excluding the requirements in Sub-section vi if approval specified in Article 66.11-2.(b) of the Law pertaining to the said corporation is the first approval obtained) shall be fulfilled over the preceding two fiscal years, etc.
2. If the said corporation's main office is located on a solitary island (except for the case in which the said island has two or more villages, townships, or cities) and if the corporation has no office, etc. in the cities, townships, or villages other than the said island (or in the districts outside the island that are under the jurisdiction of the city, township, or village in which the main office is located), the stipulation in the beginning of the preceding Section 1 that "The requirements . . . shall be as follows" should be "The requirements (excluding the requirements stated in Sub-section ii) shall be as follows" when the stipulations in Article 66.11-2.(b) of the Law are applied here.
 3. A corporation which seeks to obtain approval specified in Article 66.11-2.(b) of the Law shall submit a written application describing the following items to the director general of the National Tax Administration Agency by way of the superintendent of the tax office with jurisdiction over the place of its tax payment or the location of its main office.
 - i. The applicant's name, the location of its main office, and the place of tax payment
 - ii. The name of its representative
 - iii. The date of its founding
 - iv. Overview of activities/programs currently conducted
 - v. Other items for reference
 4. To the written application in Section 3, the following documents shall be attached:
 - i. Activity reports, etc. specified in Article 28.(a) of the Law to Promote Specified Nonprofit Activities for the preceding two fiscal years, etc.
 - ii. "List of officers, etc.," and "articles of incorporation, etc.," as specified in Article 28.(a) of the Law to Promote Specified Nonprofit Activities.
 - iii. Document explaining that the requirements specified by the Cabinet Order as stated in Article 66.11-2.(b) of the Law are met.
 - iv. Document enumerating the details of programs to which donations will be allotted.
 - v. The certificate issued by the competent agency, as specified in Sub-section ix of Section 1.
 5. The preceding two fiscal years, etc. as specified in Sections 1 and 4 means the fiscal years that ended within two years from the starting date of the said corporation's fiscal year that includes the date of the submission of the application described in Section 3.
 6. The requirements specified by the Cabinet Order as stated in Article 66.11-2.(d) are those spelled out in Sub-sections iv to vii of Section 1 in case it may later be found that the corporation that received approval under Article 66.11-2.(b) had not fulfilled the requirements specified by the Cabinet Order as stated in Article 66.11-2.(b) at the time of the said approval, and in case false information has been given in the application submitted in accordance with the stipulations of Section 3 (including the attached documents as stated in Section 4), in the documents submitted in accordance with the stipulations of Section 8, or in the documents mentioned from (a) to (e) in Sub-section vi, Section 1.
 7. The corporation whose approval was cancelled on the basis of the stipulations of Article 66.11-2.(b) of the Law shall not be able to submit an application stated in Section 3 unless after the passage of two years from the next day of the date of the said cancellation.
 8. A corporation that has received approval under Article 66.11-2.(b) of the Law shall submit, within three months from the day following the final date of each fiscal year (each calendar year if the fiscal year is not fixed; and this should be the fiscal year, or the calendar year, that includes a date within the valid period of the said approval), to the director general of the National Tax Administration Agency by way of the superintendent of the tax office with jurisdiction over the place of its tax payment or the location of its main office, the corporation's activity report of the said fiscal year, and documentation concerning the amount of donations received, as well as other documents specified by ordinance of the Ministry of Finance.
 9. When a request is made for perusal of the written application under Section 3 (including the attached documents under Section 4), or the documents specified under (e) and (f) of v, Section 1, or the documents specified by ordinance of the Ministry of Finance as mentioned in the preceding Section, which were submitted by a corporation that received approval under Article 66.11-2.(b) of the Law, the director general of the National Tax Administration Agency shall have them perused in accordance with stipulations by ordinance of the Ministry of Finance.
 10. When changes are made concerning the items announced as specified in Article 66.11-2.(g) of the Law or in other cases where something occurs that falls under the provisions of ordinance of the Ministry of Finance, the specified nonprofit

corporation approved under Article 66.11-2.(b) of the Law shall report such changes or occurrences to the director general of the National Tax Administration Agency by way of the superintendent of the tax office with jurisdiction over the place of its tax payment or the location of its main office.

11. In addition to the stipulations in each of the Sections above, items as necessary shall be stipulated by ordinance of the Ministry of Finance concerning the application of the stipulations in Article 66.11-2 of the Law as well as the application of the stipulations in Section 1 when the said corporation is a corporation founded through merger and one year has not passed since the date of its founding as of the starting date of its fiscal year under which it submits a written application under Section 3.

Supplementary Provisions

(DATE OF ENFORCEMENT)

Article 1 This Cabinet Order shall come into force on April 1, 2001.

Supplementary Notes

Tax Incentives for Donations to Specified Nonprofit Corporations

- a) Donations of individuals to specified nonprofit corporations:
25% of income – 10,000 yen = the maximum amount of income deduction
- b) Donations of for-profit corporations to specified nonprofit corporations:
Capital, etc. x 0.125% + income x 1.25% = maximum amount counted as write-off
- c) Inherited property of individuals donated to specified nonprofit corporations:
Not included in taxable amount subject to inheritance tax.