Introducing and analyzing the Scope and Benefits of the Regulation「Statute for Upgrading Industries」in The Biotechnology Industry in Taiwan

The recent important regulation for supporting the biopharmaceutical industry in Taiwan has been the 「Statute for Upgrading Industries」 (hereinafter referred to as 「the Statute」).The main purpose of the Statue is for upgrading all industry for future economic development, so it applies to various industries, ranging from agriculture, industrial and service businesses. In other words, the Statute does not offer incentive measures to biopharmaceutical industry in particular, but focuses on promoting the industry development in general.

Statute for Upgrading Industry and Related Regulations

Generally speaking, the Statute has a widespread influence on industry development in Taiwan. The incentive measures provided in the Statute is complicated and covered other related regulations under its legal framework. Thus, the article will be taking a multi-facet perspective in discussing the how Statute relates to the biopharmaceutical industry.

1 、 Scope of Application

According to Article 1 of the Statute, the term 「industries」 refers to agricultural, industrial and service businesses. Consequently, nearly all kinds of industries fall under this definition, and the Statute is applicable to all of them. Moreover, in order to promote the development and application of emerging technology as well as cultivating the recognized industry, the Statute provides much more favorable terms to these industries. These emerging and major strategic industries includes computer, communication and consumer electronics (3C), precise mechanics and automation, aerospace, biomedical and chemical production, green technology, material science, nanotechnology, security and other product or service recognized by the Executive Yuan.

2 、 Tax Benefits

The Statute offers several types of tax benefits, so the industry could receive sufficient reward in every way it could, and promote a sound cycle in creating new values through these benefits.

(1) Benefits for the purchase of automation equipment

The said procured equipment and technology over NTD600, 000 may credit a certain percentage of the investment against the amount of profit-seeking enterprise income tax payable for the then current year. For the purchase of production technology, 5% may be credited. For the purchase of equipment, 7% may be credited. And any investment plan that includes the purchasing of equipment for automation can qualify for a low-interest preferential loan. Besides, for science-based industrial company imported overseas equipment that is not manufacture by local manufactures, from January 1, 2002, the imported equipment shall be exempted from import and business tax. And if the company is a bonded factory, the raw materials to be imported from abroad by it shall also be exempt from import duties and business tax.

(2) Benefits for R&D expenditure

Expenditure concurred for developing new products, improving production technology, or improving label-providing technology may credit 30%of the investment against the amount of profit-seeking enterprise income tax payable for the then current year. Research expenditures of the current year exceeding the average research expenditure for the past two years, the excess in research expenditure shall be 50% deductible. Instruments and equipments purchased by for exclusive R&D purpose, experimentation, or quality inspection may be accelerated to two years. At last, Biotech and New Pharmaceuticals Company engages in R&D activities, such as Contract research Organization (CRO), may credit 30% of the investment against the amount of profit-seeking enterprise income tax payable.

(3) Personnel Training

When a company trained staff and registered for business-related course, may credit 30% of the training cost against the amount of profit-seeking enterprise income tax payable for the then current year. Where training expenses for the current year exceeds the two-year average, 50% of the excess portion may be credited.

(4) Benefit for Newly Emerging Strategic Industries

Corporate shareholders invest in newly emerging strategic industries are entitled to select one of the following tax benefits:

1. A profit seeking enterprise may credit up to 20% of the price paid for acquisition of such stock against the profit seeking enterprise income tax. An individual may credit up to 10%. As of January and once every year, there will be a 1% reduction of the price paid for acquisition of such stock against the consolidated income tax payable in the then current year.

2. A company, within two years from the beginning date for payment of the stock price by its shareholders, selects, with the approval of its shareholder meeting, the application of an exemption from profit-seeking enterprise income tax and waives the shareholders investment credit against payable income tax as mentioned above. However, that once the selection is made, no changes shall be allowed.

(5) Benefits for Investment in Equipment or Technology Used for Pollution Control

To prevent our environment from further pollution, the Government offers tax benefits to reward companies in making improvements. Investment in equipment or technology used for pollution control may credit 7% of the equipment expenditure, and 5% of the expenditure on technology against the amount of profit-seeking enterprise income tax payable for the then current year. For any equipment that has been verified in use and specialized in air pollution control, noise pollution control, vibration control, water pollution control, environmental surveillance and waste disposal, shall be exempt from import duties and business tax. And for investment plans that planned implementation of energy saving systems can apply for a low interest loan.

(6) Incentive for Operation Headquarter

To encourage companies to utilize worldwide resources and set up international operation network, if they established operation headquarters within the territory of the Republic of China reaching a specific size and bringing about significant economic benefit, their following incomes shall be exempted from profit-seeking enterprise income tax:

1. The income derived from provision of management services or R&D services.

2. The royalty payment received under its investments to its affiliates abroad.

3. The investment return and asset disposal received under its investment to its affiliates abroad.

(7) Exchange of Technology for Stock Option

The emerging-industrycompany recognized by government, upon adoption of a resolution by a majority voting of the directors present at a meeting of its board of directors attended by two-thirds of the directors of the company, may issue stock options to corporation or individual in exchange for authorization or transfer of patent and technologies.

(8) Deferral of Taxes on the Exchange of Technology for Shares

Taxes on income earned by investors from the acquisition of shares in emerging-industry companies in exchange for technology will be deferred for five years, on condition that the shares exchanged for technology amount to more than 20% of the company's total stock equity and that the number of persons who obtain shares in exchange for technology does not exceed five.

3 、 Technical Assistance and Capital Investment

The rapid industry development has been closely tied to the infusion of funds. In addition to tax benefits, the Statute incorporates regulations especially for technical assistance and capital investment as below:

(1) In order to introduce or transfer advanced technologies, technical organization formed with the contribution of government shall provide appropriate technical assistance as required.

(2) In order to advance technologies, enhance R&D activities and further upgrade industries, the relevant central government authorities in charge of end enterprises may promote the implementation of industrial and technological projects by providing subsidies to such R&D projects.

(3) In order to assist the start-up of domestic small-medium technological enterprises and the overall upgrading of the entire industries, guidance and assistance shall be provided for the development of venture capital enterprises.

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