SEOUL METROPOLITAN GOVERNMENT ENFORCEMENT RULE OF THE ORDINANCE ON SUPPORT FOR FOREIGN INVESTMENT

Enactment No. 3458, Nov. 17, 2005
Partial Amendment No. 3516, Nov. 16, 2006
Amendment of Other Laws No. 3549, May. 31, 2007
Partial Amendment No. 3575, Sep. 13, 2007
Amendment of Other Laws No. 3598, Jan. 31, 2008
Partial Amendment No. 3756, Jul. 01, 2010
Amendment of Other Laws No. 3831, Dec. 29, 2011
Partial Amendment No. 3867, Aug. 09, 2012
Partial Amendment No. 4092, Jun. 02, 2016
Amendment of Other Laws No. 4303, Oct. 10, 2019
Partial Amendment No. 4369, Oct. 15, 2020
Amendment of Other Laws No. 4461, Jan. 13, 2022

Article 1 (Purpose)

The purpose of this Rule is to provide for matters necessary for the enforcement of the Seoul Metropolitan Government Ordinance on Support for Foreign Investment. <Amended by Rule No. 3867, Aug. 9, 2012>
[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 2 (Definitions)

The terms used in this Rule shall be defined as follows: <Amended by Rule No. 3575, Sep. 13, 2007; Rule No. 3756, Jul. 1, 2010; Rule No. 3867, Aug. 9, 2012; Rule No. 4092, Jun. 2, 2016>
1. The term "foreign-investment-induced business" means a business managed and operated with induced investment in accordance with the foreign investment inducement plan formulated and implemented by the Mayor of the Seoul Metropolitan Government (hereinafter referred to as the "Mayor");
2. The term "number of full-time employees" means the number of persons who satisfy any of the following, who provide labor to the relevant enterprise in return for wages: Provided, That the foregoing shall not apply to persons who have executed an employment contract for a period less than one year, among fixed-term workers under subparagraph 1 of Article 2 of the Act on the Protection, etc. of Fixed-Term and Part-Time Workers; and among part-time workers under Article 2 (1) 8 of the Labor Standards Act:
(a) The average number of wage earners for the last year mentioned in the report on status of withholding and collecting income tax submitted to the competent tax office under Article 185 (1) of the Enforcement Decree of the Income Tax;
(b) The average number of persons for the last year, whose payments of charges and contributions under Article 3 (1) 11 and 12 of the National Pension Act have been proved (excluding locally insured persons under Article 9 of the aforesaid Act);
(c) The average number of persons for the last year, whose payment of premiums under Article 69 of the National Health Insurance Act have been proved (excluding locally insured persons under Article 6 of the aforesaid Act);
3. The term "new growth engine industries" means the following eight industries nurtured by the Seoul Metropolitan Government as new engines for economic growth:
(a) IT convergence;
(b) Digital content industry;
(c) Green industry;
(d) Business service industry;
(e) Fashion and design;
(f) Financial services;
(g) Tourism and convention services;
(h) Bio-medical services.
[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 3 (Scope of Medium and Small Enterprises)

"Medium and small enterprises" in Article 7 of the Seoul Metropolitan Government Ordinance on Support for Foreign Investment (hereinafter referred to as the "Ordinance") refers to the medium and small enterprises defined in Article 2 of the Framework Act on Small and Medium Enterprises.
[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 4 (Guidelines for Payment of Rewards)

(1) The results of inducement of foreign investment under Article 8 of the Ordinance shall be categorized by type of business, and the amount of a reward payable shall be calculated in accordance with the standards as specified in attached Table 1. <Amended by Rule No. 3867, Aug. 9, 2012>

(2) The amount of a reward payable under paragraph (1) may be adjusted within the range of 50 to 200 percent, taking into consideration the level of contribution to boosting the economy, which shall not exceed 100 million won. <Amended by Rule No. 3867, Aug. 9, 2012>

(3) The reward for a declared amount may be paid within the maximum of 20 percent of the reward for an amount which has arrived under paragraph (1) or (2). <Newly Inserted by Rule No. 3756, Jul. 1, 2010>

(4) If a reward shall be paid for a foreign-invested amount that has arrived after a reward under paragraph (3) was paid, such reward shall be paid after deducting the amount of the reward already paid pursuant to paragraph (3). <Newly Inserted by Rule No. 3756, Jul. 1, 2010>

(5) No reward shall be paid in addition to a reward under the body of Article 14-3 (2) of the Foreign Investment Promotion Act. <Amended by Rule No. 3756, Jul. 1, 2010>

(6) If a person obtains a reward by fraud or other wrongful means, the Mayor shall recover the reward fully or partially, as determined by the Mayor. <Amended by Rule No. 3756, Jul. 1, 2010>

[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 5 (Procedure for Payment of Rewards)

(1) In order to pay a reward, the division primarily responsible for foreign-investment-induced businesses shall prepare a report on the payment of the reward in attached Form 1 attached hereto. In such cases, the degree of contribution to the inducement of the investment at each stage, such as negotiations for the inducement of the foreign investment and the execution of a memorandum of understanding, shall be taken into consideration.

(2) When a report on the payment of a reward is prepared in accordance with paragraph (1), the Mayor shall determine the eligibility for the payment of the reward, the amount of the reward, the contribution ratio, etc. through the deliberation by the committee for deliberation on support for inducement of foreign investment under Article 10 (hereinafter referred to as the "committee").

(3) Rewards shall be paid once or more each year, but a reward not paid during the same year, if any, shall be paid in the following year.

[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 6 (Guidelines for Payment of Subsidies)

(1) An employment subsidy under Article 15 of the Ordinance shall be paid within 200 million won per foreign-invested enterprise. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>

(2) An education and training subsidy under Article 16 of the Ordinance shall be paid within 200 million won per foreign-invested enterprise. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>

(3) Subsidies under paragraphs (1) and (2) shall be paid in accordance with the following guidelines. In such cases, new employment or education and training arising from foreign investment shall be realized within five years from the date of the relevant investment (the initial investment or additional investment): <Amended by Rule No. 4092, Jun. 2, 2016>

1. Entities eligible for payment: A foreign-invested enterprise that invests in a foreign-investment-induced business or in any of the new growth engine industries;

2. Prerequisites for payment: The following prerequisites shall be fully met:

(a) The increase in the number of full-time employees resulting from foreign investments in the year before an application is filed shall exceed ten persons compared to the year before the preceding year: Provided, That in cases of an enterprise newly established in the year before an application is filed, the number of full-time employees resulting from new employment shall exceed ten;

(b) The ratio of foreign investment in the relevant foreign-invested enterprise shall be at least 30/100. In such cases, if a national or a corporation of the Republic of Korea directly or indirectly holds voting stocks (including equity shares) of the foreign corporation or enterprise, the portion equivalent to the holding ratio of such stocks shall not be regarded as foreign investment, pursuant to Article 121-2 (11) of the Restriction of Special Taxation Act and Article 116-2 (12) of the Enforcement Decree of the same Act;

(c) In cases of a subsidy for education and training, the education and training shall be provided by an institution specializing in vocational education and training under the Vocational Education and Training Promotion Act;

3. Amount payable: A subsidy not exceeding one million won per month shall be paid for up to six months for each full-time employee hired after the number of persons hired as a result of a foreign investment exceeds ten persons.

[This Article Wholly Amended by Rule No. 3867, Aug. 9, 2012]

Article 7 (Procedure for Payment of Subsidies)

(1) A foreign-invested enterprise that intends to receive an employment subsidy or a subsidy for education and training shall submit an application for payment of a subsidy in attached Form 2 and a report on the current status of full-time employees in attached Form 3 to the Mayor in the year after it performs new employment and conducts education and training by referring to attached Table 2. <Amended by Rule No. 4092, Jun. 2, 2016>

(2) Upon receipt of an application under paragraph (1), the Mayor shall make a decision on whether to pay the subsidy, the amount of payment, etc. according to the results of deliberation by the Committee for Deliberation on Support for Inducement of Foreign Investment under Article 10.

(3) A subsidy determined to be paid pursuant to paragraph (2) shall be paid in a lump sum, but shall be paid during the following year, if it is impracticable to pay it during the pertinent year.

[This Article Wholly Amended by Rule No. 3867, Aug. 9, 2012]

Article 8 (Follow-up Management of Payment, etc. of Subsidies)

(1) A foreign-invested enterprise shall maintain at least 30 percent of the number of full-time employees and the foreign investment ratio during the year before filing an application for payment of a subsidy for three years, including the year in which an application for payment of a subsidy is filed. <Amended by Rule No. 4092, Jun. 2, 2016>

(2) Where a foreign-invested enterprise falls under any of the following, the Mayor may wholly or partially revoke his/her decision to pay a subsidy, and shall collect such subsidy upon revoking such: <Amended by Rule No. 4092, Jun. 2, 2016>

1. Where it uses the subsidy for another purpose;
2. Where it obtains the subsidy by filing a false application or by other fraudulent means;
3. Where it violates a requirement under paragraph (1).

(3) Where a foreign-invested enterprise which has been paid a subsidy relocates to any other City/Do, the Mayor may collect the relevant subsidy. <Amended by Rule No. 4092, Jun. 2, 2016>

(4) The Mayor shall conduct inspections for the post management of subsidies every year as at the year in which a foreign-invested enterprise applies for payment of a subsidy. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>

(5) The Seoul Metropolitan Government Ordinance on the Management of Local Subsidies shall apply mutatis mutanids to matters not prescribed by this Rule regarding post management of subsidies. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>

[This Article Wholly Amended by Rule No. 3867, Aug. 9, 2012]

Article 9 (Eligibility for Relaxation of Restrictions on Construction Works, etc.)

"Foreign-invested enterprises that are recognized to have a great impact on the regional economy" in Article 19 of the Ordinance mean any of the following enterprises: <Amended by Rule No. 3575, Sep. 13, 2007>

1. A foreign-invested enterprise that builds or expands a factory or place of business in order to engage in a business of industrial support service business or a business accompanying high technology under Article 121-2 (1) 1 of the Restriction of Special Taxation Act or a strategic industry, if the foreign investment in such a business amounts to ten million U.S. dollars or more; <Amended by Rule No. 3756, Jul. 1, 2010>
2. A foreign-invested enterprise that builds or expands a factory or place of business in order to conduct research and development activities of a business of industrial support service business or a business accompanying high technology under Article 121-2 (1) 1 of the Restriction of Special Taxation Act, if the foreign investment in such a business amounts to five million U.S. dollars or more; <Amended by Rule No. 3756, Jul. 1, 2010>
3. A foreign-invested enterprise that builds or expands a factory or place of business, if the foreign investment amounts to 100 million U.S. dollars or more.

Article 10 (Committee for Deliberation on Support for Inducement of Foreign Investment)

(1) In order to deliberate on matters concerning the payment and collection of rewards, employment subsidies, and education or training subsidies under Articles 4, 6, and 7, the Mayor shall establish a committee for deliberation on support for inducing foreign investment (hereinafter referred to as "Deliberative Committee") under his/her jurisdiction. <Amended by Rule No. 4092, Jun. 2, 2016>

(2) The Deliberative Committee shall be comprised of not exceeding ten members including the chairperson, in consideration of gender equality: <Amended by Rule No. 4092, Jun. 2, 2016>

1. Chairperson: The Policy Officer in charge of foreign investment;
2. Committee members: The Director of the Investment Inducement Division, the Director of the Economic Policy Division, the Director of Job Policy Division, and persons commissioned by the Mayor from among those having abundant knowledge and experience in foreign investment inducement programs.

(3) The Mayor shall appoint or commission members of the Deliberative Committee from among the following persons whenever the Deliberative Committee holds a meeting; and shall terminate the appointment or commission thereof simultaneously upon closing of the relevant meeting: <Newly Inserted by Rule No. 4092, Jun. 2, 2016>
(a) External members: Experts in the relevant field, who have knowledge and experience in foreign-invested business;
(b) Internal members: Public officials of at least Grade 4 in the Headquarters of the Seoul Metropolitan Government, in charge of affairs concerning foreign investment.
(4) The chairperson shall be elected by the Deliberative Committee from among its members. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>
(5) The Deliberative Committee shall have one administrative secretary for the efficient operation thereof; and the Grade 5 officer in charge of foreign investment shall serve as the administrative secretary. <Amended by Rule No. 4092, Jun. 2, 2016>
(6) The Deliberative Committee shall hold meetings when needed, and hold its meetings when a majority of the constituent members are present and pass resolutions when a majority of the members present give consent. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>
(7) The Deliberative Committee may pay an allowance to members, etc. who attend its meetings, within the budget: Provided, That the foregoing shall not apply where a member who is a public official attends its meetings in direct relation to his/her duties. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>
(8) Other necessary matters concerning the operation of the Deliberative Committee shall be prescribed by the chairperson after obtaining approval from the Deliberative Committee. <Amended by Rule No. 4092, Jun. 2, 2016>
(9) The Seoul Metropolitan Government Ordinance on the Management of Local Subsidies and the Seoul Metropolitan Government Ordinance on the Establishment and Operation of Various Committees shall apply mutatis mutandis to matters not prescribed by this Rule in relation to the composition and operation of the Deliberative Committee. <Newly Inserted by Rule No. 4092, Jun. 2, 2016>
[This Article Wholly Amended by Rule No. 3756, Jul. 1, 2010]

Article 11 (Exclusion and Abstention of Committee Members)

(1) If a committee member or the chairperson has a direct interest in a case brought before the committee for deliberation, such a committee member or the chairperson shall not be permitted to participate in the deliberation and resolution on the case.
(2) If a committee member or the chairperson has an excuse under paragraph (1), he/she may abstain from participating in the deliberation and resolution on the case.
(3) If the chairperson is absent from a meeting of the committee due to exclusion, abstention, etc., an acting chairperson shall be elected by and from among committee members.
[This Article Wholly Amended by Rule No. 3575, Sep. 13, 2007]

ADDENDA

(1) (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

(2) (Applicability to Eligibility for Payment of Rewards)

Article 4 shall apply to foreign investments successfully induced on or after June 21, 2004.

(3) (Applicability to Grant of Employment Subsidies, etc.)

Articles 6 and 7 shall apply to new employment realized or the education or training conducted on or after June 21, 2004.

ADDENDUM <Rule No. 3516, Nov. 16, 2006>

This Rule shall enter into force on the date of its promulgation.

ADDENDA <Rule No. 3549, May 31, 2007>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDA <Rule No. 3575, Sep. 13, 2007>

(1) (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

(2) (Applicability to Guidelines for Grant of Subsidies)

The amended provisions of Article 6 (1) 2 (a) and (1) 3 and Article 7 (1) 2 (a) shall apply to subsidies applied for after this Rule enters into force.

ADDENDA <Rule No. 3598, Jan. 31, 2008>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDA <Rule No. 3756, Jul. 1, 2010>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 (Applicability)

This Rule shall apply to the results of foreign investments that are declared or arrive on or after January 1, 2010.

ADDENDA <Rule No. 3831, Dec. 29, 2012>

Article 1 (Enforcement Date)

This Rule shall enter into force on January 1, 2012. (Proviso Omitted.)

Article 2 Omitted.

ADDENDUM <Rule No. 3867, Aug. 9, 2012>

This Rule shall enter into force on the date of its promulgation.

ADDENDA <Rule No. 4092, Jun. 2, 2016>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Full-time Employees and Post Management)

The former provisions shall apply to full-time employees and post management of any enterprise paid an employment subsidy and education and training subsidy before this Rule enter into force.

Article 3 (Applicability to Limits per Enterprise)

The limits of an employment subsidy and education and training subsidy under Article 6 (1) and (2) per enterprise shall apply beginning with an employment subsidy and education and training subsidy for the payment of which an application is filed in 2017.