SEOUL METROPOLITAN GOVERNMENT OPERATING RULE ON TAX INVESTIGATIONS

Enactment No. 2687, May. 01, 1995
Partial Amendment No. 3173, Mar. 20, 2001
Amendment of Other Laws No. 3617, Apr. 17, 2008
Partial Amendment No. 3781, Dec. 30, 2010
Partial Amendment No. 3804, Jun. 23, 2011
Whole Amendment No. 4081, Apr. 07, 2016
Amendment of Other Laws No. 4143, Feb. 23, 2017
Amendment of Other Laws No. 4166, Jun. 01, 2017
Amendment of Other Laws No. 4198, Jan. 18, 2018
Partial Amendment No. 4247, Oct. 18, 2018
Partial Amendment No. 4351, Jun. 04, 2020
Amendment of Other Laws No. 4461, Jan. 13, 2022
Amendment of Other Laws No. 4606, Dec. 29, 2023
Whole Amendment No. 4684, Jan. 20, 2025

CHAPTER GENERAL PROVISIONS

Article 1 (Purpose)

CHAPTER GENERAL PROVISIONSThe purpose of this Rule is to ensure efficiency in tax investigations while safeguarding the rights and interests of taxpayers (including special collection obligors; the same shall apply hereinafter) to the maximum extent by providing for matters that shall be complied with in conducting tax investigations in connection with taxes levied by the Seoul Metropolitan Government (hereinafter referred to as "city taxes") pursuant to Article 136 of the Framework Act on Local Taxes. <Amended by Rule No. 3804, Jun. 23, 2011>

Article 2 (Definitions)

The terms used in this Rule shall be defined as follows: <Amended by Rule No. 3804, Jun. 23, 2011>
1. The term "tax investigation" means an investigative officer's activities of questioning a taxpayer or any other person or examining, investigating, or inspecting account books, documents, or other articles with the authority to conduct inquiries and inspections under Article 136 of the Framework Act on Local Taxes: Provided, That investigations into offenses under the Punishment of Tax Evaders Act shall not be included herein; <Amended by Rule No. 3804, Jun. 23, 2011>
2. The term "investigative officer" means a tax officer who is ordered by the Mayor or the head of a Gu to conduct a tax investigation on a certain taxpayer; <Amended by Rule No. 3804, Jun. 23, 2011>
3. The term "general investigation" means an investigation into whether requirements for levying a local tax on a certain taxpayer are met or the tax base amount or the tax rate applied to a certain taxpayer is appropriate; <Amended by Rule No. 3804, Jun. 23, 2011>
4. The term "special investigation" means a tax investigation conducted in accordance with a separate plan where it is difficult to produce actual results by conducting a general investigation in view of the method of evading a tax or the scale of tax evasion; <Amended by Rule No. 3804, Jun. 23, 2011>
5. The term "direct investigation" means a tax investigation conducted by visiting a taxpayer's office, factory, residence, or other place to investigate the taxpayer or persons related to the taxpayer face to face; <Amended by Rule No. 3804, Jun. 23, 2011>
6. The term "documentary investigation" means an investigation into whether a local tax paid or levied is appropriate by examining a return filed or a document submitted by a taxpayer. <Amended by Rule No. 3804, Jun. 23, 2011>

Article 3 (Basic Principles of Tax Investigation)

Every tax investigation shall be carried out in good faith in compliance with the following principles: <Amended by Rule No. 3804, Jun. 23, 2011>
1. Principle of good faith: <Amended by Rule No. 3804, Jun. 23, 2011>
Every tax investigation shall be executed in good faith, and in particular, no disposition shall be made against a taxpayer in contravention of the rules already publicized;
2. Principle of documentary taxation:
Every tax investigation and the exercise of tax-levying power shall be based on objective evidence, such as a corporate accounting books and evidencing materials related thereto, and shall be convincing to taxpayers;
3. Principle of proportionate investigation:
Every tax investigation shall be conducted within the minimum extent necessary for accomplishing the purpose of the tax investigation;
4. Principle of separate investigation of each taxpayer:

Every tax investigation shall be conducted separately in view of the level of integrity of returns filed, the type of business, and other objective criteria.

Article 4 (Duty of Confidentiality)

No investigative officer (including his/her senior managers) shall disclose any fact known to him/her in the course of a tax investigation but not disclosed to the general public or any information that may, if disclosed, adversely affect the State, a local government, or the taxpayer concerned not only while in service, but also after retiring from office. <Amended by Rule No. 3804, Jun. 23, 2011>

Article 5 (Jurisdiction over Tax Investigation)

(1) Administrative affairs related to a tax investigation shall be carried out by the head of the Gu having jurisdiction over the tax domicile of the city tax at issue pursuant to Article 5 (1) of the Seoul Metropolitan Government Framework Ordinance on Taxes: Provided, That the Mayor him/herself may carry out such administrative affairs, if necessary. <Amended by Rule No. 3804, Jun. 23, 2011>

(2) The Mayor or the head of a Gu may request the head of another local government to conduct a tax investigation, if it is found necessary in carrying out a tax investigation pursuant to paragraph (1). <Amended by Rule No. 3804, Jun. 23, 2011>

Article 6 (Cooperation in Tax Investigation)

(1) If cooperation from another local government is required because a taxpayer's domicile (or the address of his/her main office or principal place of business; the same shall apply hereinafter) is not within the jurisdiction over the tax domicile of his/her place of business (or his/her branch office, place of manufacturing, place of distribution, place of storage, or similar; the same shall apply hereinafter), the Mayor or the head of the competent Gu shall request the head of such another local government to cooperate in an investigation before the commencement of the investigation or while conducting the investigation, clearly stating matters in which cooperation is sought for. <Amended by Rule No. 3804, Jun. 23, 2011>

(2) The Mayor or the head of a Gu in receipt of a request from the head of another local government for cooperation shall promptly conduct an investigation and notify him/her the results thereof.

Article 7 (Relationship with other Regulations, etc.)

This Rule shall take precedence over other regulations, service guidelines, etc. regarding tax investigations.

CHAPTER   SELECTION OF PERSONS SUBJECT TO INVESTIGATION

Article 8 (Categorized Selection of Persons subject to Investigation)

CHAPTER   SELECTION OF PERSONS SUBJECT TO INVESTIGATIONPersons subject to investigation shall be selected after being categorized according to the level of integrity of returns filed with respect to city taxes and payment of such taxes, the type of business, and other relevant criteria.

Article 9 (Maintaining Fairness and Validity of Selection Criteria)

In establishing criteria for the selection of persons subject to investigation, the fairness and validity of tax investigations shall be maintained by producing clear and objective criteria convincing to taxpayers.

Article 10 (Respect for Returns Filed in Good Faith by Taxpayers)

The Mayor and the head of a Gu shall select persons subject to investigation within the minimum extent necessary for inducing taxpayers to make voluntary tax payments in good faith and for realizing fair taxation.

Article 11 (Persons subject to General Investigation)

(1) The Mayor and the head of a Gu shall comprehensively examine the current status of the comprehensive management of taxable sources of taxpayers and returns filed by them in writing and select persons subject to general investigation in compliance with the principles provided by this Rule. <Amended by Rule No. 3781, Dec. 30, 2010>

(2) In principle, general investigation shall be conducted on the basis of documents, but any of the following persons may be subjected to direct investigation: <Amended by Rule No. 3781, Dec. 30, 2010>

1. A person who fails to submit an answer to a written inquiry or who provides a false answer to such inquiry;
2. A person who has acquired real property worth not less than one billion won during the latest five years;
3. A person who has had not less than ten million won of local taxes exempted or reduced during the latest five years;
4. A person whose other taxable but omitted sources are discovered.

(3) Taxpayers may be excluded from investigation to the extent that does not undermine fairness, if necessary for the prevention of double investigations of an identical taxpayer, creation of a climate for voluntary tax payment, and the efficient support for economic and social policies. <Amended by Rule No. 3781, Dec. 30, 2010; Rule No. 3804, Jun. 23, 2011>

Article 12 (Persons subject to Special Investigation)

(1) A person shall be subject to special investigation, if he/she is suspected or doubted of tax evasion, in light of information or data on tax evasion, and the specific criteria for the selection thereof may be established separately.
(2) Selecting persons subject to special investigation pursuant to paragraph (1) shall be made in accordance with objective criteria after comprehensive analysis of the details of voluntary payments made so far.

Article 12-2 (Exemption of Small, Good-Faith Enterprises, etc. from Tax Investigation)

(1) Any of the following persons with no local tax overdue as of the date of selection of persons exempt from tax investigation shall be exempted from tax investigation for three years:
1. A person who has acquired real property worth less than one billion won during the latest five years;
2. A person selected as a taxpayer of merit pursuant to subparagraph 3 of Article 2 of the Seoul Metropolitan Government Ordinance on Support of Exemplary Taxpayers, etc.;
3. A small enterprise under Article 2 (2) of the Framework Act on Small and Medium Enterprises or a small business proprietor under subparagraph 2 of Article 2 of the Act on Special Measures for Development of Small and Micro Enterprises: Provided, That a small enterprise or a small business proprietor who has acquired real property worth not less than two billion won during the latest five years shall be excluded herefrom.
(2) Notwithstanding paragraph (1), a person shall not be subject to exemption from tax investigation in any of the following cases:
1. If a corporation registered as a construction business entity has performed construction works worth not less than ten billion won in contract prices during a year;
2. If a corporation has more than 50 employees;
3. If any other taxable but omitted source has been discovered.
[This Article Newly Inserted by Rule No. 3781, Dec. 30, 2010]

CHAPTER CONDUCTING TAX INVESTIGATION

Article 13 (Prohibition on Double Investigation)

CHAPTER CONDUCTING TAX INVESTIGATION(1) No general investigation shall be conducted more than twice a year with regard to one and the same taxpayer: Provided, That the foregoing shall not apply when a taxpayer is suspected of tax evasion on clear evidence or where a cause or event arises to make it necessary to collect a tax before the payment deadline. <Amended by Rule No. 3804, Jun. 23, 2011>
(2) When the Mayor or the head of a Gu establishes a plan for general investigation, he/she shall take measures necessary for preventing double investigation.

Article 14 (Observance of Scope of Investigation, etc.)

When an investigative officer intends to conduct a tax investigation, he/she shall determine the scope, period, and method of the investigation in advance and observe such.

Article 15 (Limitation of Place of Investigation)

A tax investigation shall be conducted at the domicile, abode, office, or place of business of a taxpayer: Provided, That the foregoing shall not apply where it is necessary to conduct an investigation at any other place for the convenience of the relevant taxpayer.

Article 16 (Limitation of Investigation Hours)

Unless there are extraordinary circumstances, a direct, face-to-face tax investigation of a taxpayer shall be conducted during the taxpayer's ordinary business hours.

Article 17 (Prior Notice of Tax Investigation, etc.)

(1) When the tax authorities intend to conduct a tax investigation, it shall notify the taxpayer subject to the investigation of the tax item subject to the investigation, the reasons for the investigation, and matters specified in the subparagraphs of Article 92 (1) of the Enforcement Decree of the Framework Act on Local Taxes not later than ten days before the commencement of the investigation: Provided, That the foregoing shall not apply where it is considered impossible to accomplish the purposes of tax investigation because of possible destruction of evidence or any other cause or event, if prior notice is given. <Amended by Rule No. 3804, Jun. 23, 2011>
(2) A taxpayer who receives notice under paragraph (1) may, if he/she has difficulty in undergoing a tax investigation due to any of the following causes or events, file an application for the postponement of the investigation with the Mayor or the head of the competent Gu: <Amended by Rule No. 3804, Jun. 23, 2011>
1. If the taxpayer has severe difficulty in business due to a fire or any other disaster;
2. If the taxpayer is found to have difficulty in responding to the tax investigation because the taxpayer or his/her tax agent is ill or

away on a long business trip or due to any other cause or event;
3. If account books or supporting documents are seized or held provisionally in custody by an agency with authority;
4. If any cause or event similar to those under subparagraphs 1 through 3 arises.
(3) A person who intends to have a tax investigation postponed pursuant to paragraph (2) shall file an application with the Mayor or the head of the competent Gu, describing the following matters: <Amended by Rule No. 3804, Jun. 23, 2011>
1. The name and address or abode of the person who intends to have the tax investigation postponed;
2. The period during which he/she intends to have the tax investigation postponed;
3. The reason why he/she intends to have the tax investigation postponed;
4. Other necessary matters.
(4) The Mayor or the head of the competent Gu in receipt of an application under paragraph (3) shall make a decision on whether to permit the postponement and shall give notice of the decision by the date of commencement of the investigation. <Amended by Rule No. 3804, Jun. 23, 2011>
[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

Article 18 (Period of Investigation)

The Mayor or the head of a Gu shall determine a period of investigation of not more than 20 days for each person subject to investigation in advance before commencing a tax investigation, and the period of investigation shall be as short as possible. <Amended by Rule No. 3804, Jun. 23, 2011>

Article 19 (Limitation on Extension of Period of Investigation)

If purposes of a tax investigation are impossible to accomplish due to a cause or event arising after the commencement of the tax investigation, the Mayor or the head of the competent Gu may extend the initially set period of investigation. <Amended by Rule No. 3804, Jun. 23, 2011>

Article 20 (Prohibition of Search and Seizure)

(1) In conducting a general tax investigation (including any special investigation), to which the Punishment of Tax Evaders Act is not applicable, the tax authorities shall not search a taxpayer's residence, office, or other place, or provisionally hold any account book, document, or other material in custody: Provided, That the foregoing shall not apply to the following cases: <Amended by Rule No. 3804, Jun. 23, 2011>
1. Where it is discovered that an offense is being committed;
2. Where evidence of an offense, such as secret account books, is discovered.
(2) In the case of the proviso to paragraph (1), the investigative officer shall immediately report the relevant fact and shall take measures to switch the investigation to an investigation into a tax offense.
(3) When the tax authorities intend to provisionally hold account books, documents, or other materials in custody pursuant to the proviso to paragraph (1), they shall issue the receipt of articles provisionally held (Form 1) and the list of articles provisionally held (Form 2).

Article 21 (Deposit of Account Books, Documents, etc.)

(1) If it is inevitable to secure evidentiary documents about a suspected offense in conducting a special investigation, the tax authorities may deposit such documents. <Amended by Rule No. 3804, Jun. 23, 2011>
(2) When the tax authorities intend to deposit account books, documents, or other materials pursuant to paragraph (1), they shall issue the receipt of articles deposited (Form 3) and the list of articles deposited (Form 4). <Amended by Rule No. 3804, Jun. 23, 2011>

Article 22 (Countermeasures against Investigative Officers Abusing Investigative Power, etc.)

If an investigative officer or an investigative manager abuses his/her investigative power in any manner in contravention of due process and proper methods, the Mayor or the head of the competent Gu shall take countermeasures necessary for preventing the recurrence of such abuse.

Article 23 (Restriction on Exercise of Investigative Power and Right to Have Assistance from Specialists)

(1) The investigative power over a taxpayer subject to an investigation and persons related to such a taxpayer shall be exercised only to the extent necessary for the investigation.
(2) When a taxpayer becomes subject to a tax investigation with regard to a local tax, he/she may have an attorney-at-law, certified public accountant, certified tax accountant, certified management consultant, or a person who has expertise in taxation attend the investigation or express his/her opinion. <Amended by Rule No. 3804, Jun. 23, 2011>
[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

CHAPTER   MANAGEMENT OF INVESTIGATIONS

Article 24 (Establishment of Investigation Plans)

CHAPTER MANAGEMENT OF INVESTIGATIONS(1) The Mayor or the head of a Gu shall establish an annual comprehensive investigation plan, taking into consideration the workload and conditions of human resources, and examine the period, scope, method, and place of investigation and the preliminary notice of the commencement of investigation to establish an investigation plan for each person subject to investigation. <Amended by Rule No. 3804, Jun. 23, 2011>

(2) When the Mayor intends to establish an investigation plan under paragraph (1), he/she shall collect an annual investigation plan for each person subject to investigation from each Gu and establish a joint tax investigation plan of the Metropolitan Government and Gus so as to protect taxpayers from being subjected to double investigation.

[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

Article 25 (Preparation for Investigations)

(1) When an investigative officer conducts a general investigation, he/she shall analyze and examine the following data available before commencing the investigation, define problems of the person subject to the investigation as well as the main issues of the investigation, and set the direction of the investigation so as to conduct the investigation in an efficient manner: <Amended by Rule No. 3804, Jun. 23, 2011>

1. Details of the voluntary tax payment;
2. Computer-processed data;
3. Data from administrative agencies;
4. Information and data collected from other sources.

(2) An investigative officer shall define problems discovered in the course of preparation for an investigation, prepare a "report on preparation for investigation," and submit the report to the investigative manager.

(3) An investigative manager shall set the direction of an investigation in advance so as to ensure the efficient execution of the investigation and shall show the direction to the relevant investigative officers in detail.

Article 26 (Command of Investigations)

(1) All tax investigations shall be conducted under the command of an investigative manager.

(2) If an investigative manager is unable to command investigations for a lengthy period, a person acting on behalf of the investigative manager shall become the investigative manager.

Article 27 (Commencement of Investigations, etc.)

(1) When an investigative officer commences a tax investigation, he/she shall deliver a document containing the Charter of Local Taxpayers' Rights to the relevant taxpayer. <Amended by Rule No. 3804, Jun. 23, 2011>

(2) When an investigative officer conducts a tax investigation, he/she shall always carry with him/her a certificate proving his/her authority (Form 99 to Article 62 of the Enforcement Rule of the Framework Act on Local Taxes) and shall produce it to people concerned. <Amended by Rule No. 3804, Jun. 23, 2011>

[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

Article 28 (Reporting on Investigations)

(1) An investigative officer shall submit a "daily report" on matters investigated every day to the investigative manager: Provided, That if it is difficult to submit such a report due to remoteness of the place of investigation or other conditions in performance of investigation, he/she may make a report orally or by telephone and then submit a written report according to the investigative manager's instruction.

(2) An investigative officer shall submit an "interim investigation report" on the current status of investigation to the Mayor or the head of the competent Gu in any of the following cases: <Amended by Rule No. 3804, Jun. 23, 2011>

1. If the investigation of a taxpayer takes a long time;
2. If an interim report is required on the discovery of a particularly important fact;
3. If there is an instruction from the Mayor or the head of the competent Gu.

Article 29 (Management of Investigation Progress)

(1) An investigative manager in receipt of an investigation report shall instruct the direction of investigation in detail with regard to the matters to be investigated afterwards and new problems.

(2) Problems encountered while preparing for investigation and matters instructed by an investigative manager shall be investigated thoroughly and the details of the investigation shall be reported in writing. <Amended by Rule No. 3804, Jun. 23, 2011>

(3) Definite evidentiary documents shall be secured for all facts discovered through an investigation to prevent any possible dispute in advance.

Article 30 (Notice of Results of Tax Investigation)

(1) An investigative officer shall, upon completion of a tax investigation into a city tax, promptly give written notice to the taxpayer of the results of the investigation: Provided, That the foregoing shall not apply to any of the following cases: <Amended by Rule No.

3804, Jun. 23, 2011>
1. Where a ground accrues for collecting a tax before the payment deadline pursuant to Article 73 (1) of the Framework Act on Local Taxes;
2. Where the period from the date for giving notice of the results of investigation until the end of the period of exclusion from levying or the date of completion of extinctive prescription is less than three months.;
3. Where it is impossible to give notice because of the closedown of business;
4. Where the taxpayer does not have an address or a place of business in the Republic of Korea with no tax manager appointed.
[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

Article 31 (Notice of Tax Information and Development and Dissemination of Investigation Methods)

(1) Various tax information acquired in the course of investigation shall be recorded in the "tax data processing register" and tax data related to another local government or data related to national taxes shall be notified to the head of the local government or the head of the competent tax office without delay.
(2) An investigative officer shall report to the Mayor and the Minister of Public Administration and Safety on statutory or systematic problems discovered in the course of investigation. <Amended by Rule No. 3617, Apr. 17, 2008>
(3) The Mayor shall manage cases of investigation techniques and notify the head of each Gu of such cases so as to develop and disseminate investigation techniques.
[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

CHAPTER SUPPLEMENTARY PROVISIONS

Article 32 (Code of Conduct, etc. of Investigative Officers)

CHAPTER SUPPLEMENTARY PROVISIONS(1) The identification card of each investigative officer shall be issued in Form 99 to Article 62 of the Enforcement Rule of the Framework Act on Local Taxes and shall be collected and destroyed when he/she retires from office or there is any other change. <Amended by Rule No. 3804, Jun. 23, 2011>
(2) Every investigative officer shall have thorough knowledge of the "Code of Conduct of Investigative Officers and shall observe it. <Amended by Rule No. 3804, Jun. 23, 2011>
(3) The Code of Conduct of Investigative Officers under paragraph (2) shall separately determined by the Mayor. <Amended by Rule No. 3804, Jun. 23, 2011>
[This Article Wholly Amended by Rule No. 3173, Mar. 20, 2001]

ADDENDUM

This Rule shall enter into force on May 1, 1995.

ADDENDUM <Rule No. 3173, Mar. 20, 2001>

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

ADDENDUM <Rule No. 3617, Apr. 17, 2008>

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

ADDENDA <Rule No. 3781, Dec. 30, 2010>

Article 1 (Enforcement Date)

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

Article 2 (Time Limit for Application)