

Foreign Investment Tax Rules, 2020 (1963)

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In exercise of the powers conferred by Section 14 of the Foreign Investment Tax Act, 2019 (1962), Government of Nepal has framed the following Rules:

1. **Short title and commencement:** (1) These Rules may be called as "the Foreign Investment Tax Rules, 2020 (1963)".
(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in these Rules -
 - (a) "Act" means the Foreign Investment Tax Act, 2019 (1962).
 - (b) "Tax" means the foreign investment tax.
 - (c) "Taxpayer" means the person obliged to pay the tax.
 - (d) "Schedule" means the Schedule of these Rules.
3. **Statement to be furnished:** In furnishing the foreign investment statement pursuant to Sub-section (1) and (3) of Section 4 of the Act, each taxpayer has to furnish such statement in a format as referred to in Schedule-1. It shall be sufficient for a taxpayer who has already furnished or caused to be furnished the statement of any foreign investment of any year in a format as referred to in Schedule-1, not to furnish the statement as referred to in Schedule-1, but only to give a due notice in writing indicating the statement previously furnished, in cases where any alteration has been made in the foreign investment as referred to in the statement.

4. **Valuation of foreign investment and assessment of tax:** (1) The Tax Officer shall, in evaluating the foreign investment, evaluate foreign investment as referred to in Schedule 2 on the basis of the market value and rental value submitted by the taxpayer by getting the value certified by making correspondence with the concerned country about such value, if required.

(2) After the Tax Officer has evaluated any foreign investment pursuant to Sub-rule (1) he/she shall determine the figure of the foreign investment tax as per that valuation and the foreign investment tax assessment order has to indicate brief description on how the foreign investment tax has been assessed.

5. **Inquiry into notice given pursuant to Section 11 of the Act:** (1) If a person has given a notice to the Tax Officer pursuant to Section 11 of the Act, the Tax Officer shall make identification of his/her notice if he/she appears in-person or by attorney upon a notice given by the officer and examine all evidence and proofs which he/she has received. If he/she does not so appear, the Tax Officer may cause his/her subordinate Tax Inspector to inquire into the matter. If, on the basis of the statement submitted after holding such inquiry, the Tax Officer is of the opinion that action has to be instituted, he/she shall institute necessary action. If he/she thinks that there are not adequate proofs to institute action, setting out his/her decision, the records of such person who has given the information shall have to keep in his/her office.

(2) If the matter referred to in the notice received pursuant to Sub-rule (1) is held to be true and tax has been recovered accordingly, the Tax Officer shall submit a report through the Director of the Tax Department to provide the reward to be given under the Act.

(3) If a person who has once given a notice does not appear or send his/her attorney subsequently before the Tax Officer as and when

required to so appear or even if he/she him/herself in-person or his/her attorney appears but does not submit any evidence and proof, the notice shall not be deemed to have been completed; and such person shall not be entitled to the reward.

6. **Matters to be taken into consideration while evaluating foreign investment and assessing foreign investment tax:** In evaluating the foreign investment of any person under Section 7 of the Act and assessing the foreign investment tax thereon, the Tax Officer has to take into consideration of the following matters:

- (a) The secret report, if any, made by the Tax Inspector or any one else,
- (b) The details or deed of public inquiry of such foreign investment received from the Tax Inspector or any one else,
- (c) Any other such basis as may be thought proper by the Tax Officer.

7. **Function to be carried out by Tax Director:** If a taxpayer residing outside Nepal desires to get his/her foreign investment evaluated and tax assessed, the Tax Director may get such investment evaluated by the Tax Officer of any District and get the foreign investment tax assessed.

8. **Other functions:** (1) The Tax Officer shall, after completing his/her functions at the headquarters of his/her zone, carry out his/her mission in various places in the zone as per his/her programme of the whole year and issue tax assessment and payment order.

(2) A taxpayer, who resides in an area where the Tax Officer is not available, may furnish the statement as referred to in the Act or these Rules with the local Zonal Office or the Revenue Office. Such Office may have one or more than one employee dealing with tax matters and such employee shall carry out any other acts relating to tax

except assessment and recovery of tax. Such employee shall be under the Zonal Tax Officer.

(3) It shall be the duty of the Tax Inspector to collect data of the taxpayers who seem to be required to pay tax, to hold public inquiries as per the order of the Tax Officer and to carry out such other functions relating to tax as may be assigned and asked by the Tax Officer. He/She shall hold an identity card, to which his/her photograph is affixed, bearing signature of the Tax Director or Zonal tax Officer.

(4) The Tax Director may, from time to time by a notified order, prescribe the format of the register of the foreign investment tax to be maintained in the Tax Office. All kinds of departmental directives mentioned in that order have to be carried out, and the report on recovery of tax has to be made in proper time as specified in that order. Such a report has to bear signature of the Inspector of the section as well.

9. **Realisation of penalty and fine:** In case where the Tax Officer has imposed a penalty and fine on any person under the Act, he/she has to give a time-limit of Thirty Five days to recover the amount of penalty and fine from such person; and in cases where no receipt of payment of the amount is not received even within that time-limit, the Revenue Office or the authority prescribed by Government of Nepal shall upon a notice given by the Tax Officer recover such amount by confiscating, if necessary, the property of such taxpayer in accordance with the procedures mentioned in the prevailing Nepal law.
10. **Powers to issue Orders:** Government of Nepal may, pursuant to the Act or these Rules and taking into account of the situation, publish a Notification in the Nepal Gazette, following any new procedures relating to recovery of foreign investment tax or clarifying the same.

Schedule -1

Statement of foreign investment relating to Rule 3

Tax Officer,

..... Tax Office.

Dear Sir/Madam,

I/we have furnished the following statement pursuant to Section 4 of the Foreign Investment Tax Act and Rule 3 of the Foreign Investment Tax Rules. I/we request that the foreign investment tax be assessed under that Act and the Rules. I/we shall pay the payable tax at the prescribed place within the time-limit as referred to in the Act from the date of receipt of the tax assessment order.

Followings

Description of foreign investment

(a) Cash :

S.N.	<u>Description of Investment</u>	Value as per the market rate prevailing on the 1 st day of last <i>Shrawan</i> (mid-July) or cost value where market rate is not set.	Value in Nepalese Rupees as per the governmental rate
	Place	Value of currency and figure of investment	

1.				
2.				
3.				
4.				

Note bene: Any evidence of the market rate prevailing on the 1st day of last *Shrawan* has to be submitted.

(b) House and land:

S.N.	Description of Investment			
	Place	Rental value of each house and land	According to rental value	Value in Nepalese, Rupees as per the governmental rate
1.				
2.				
3.				
4.				

Schedule -2

(Relating to Rule 4 (1))

Tax Officer's name:-

Taxpayer's index No.:-

Foreign Investment Tax assessment Order

Fiscal year for which foreign investment tax has been levied:-

Section of the Act under which foreign investment tax has been assessed:-

Taxpayers' name and address:-

(a):-

Foreign investment	Market rate of the 1 st day of <i>Shrawan</i> (about mid July)	Total figure as per that rate	Total NRs thereof	Remarks
1.				
2.				
3.				
4.				
Total				

(b):-

House and land	Rental value	Total figure as per that rate	Total figure thereof	Remarks

Total of (a) and (b):-

Rupees in words -

In the case of partition shareholders: Date of foreign investment tax

Their names and address: - assessment order:-

Partition of each partition shareholders: Signature

Tax Inspector's signature: - Tax Officer

Date: - Name of Zonal Tax Officer

Note bene:

1. The map of house and land and evidence of rental value have to be attached.
2. If there be many partition shareholders, name and address of each has to be mentioned.
3. If partition has been made, the registered deed thereof has to be attached.

My/this organisation's above-mentioned statement of foreign investment is true and correct; if proved false, I shall bear and pay according to the Foreign Investment tax Act, 2019 (1962) and Foreign Investment Tax Rules, 2020 (1963).

Date: -Signature

Signature makers' name:-

Taxpayers' full name:-

Designation:-

Address:-