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Can a local government provide cash grants for foreign direct investment based on Article 14-2 (1) of the Foreign Investment Promotion Act (FIPA) even when the local government's ordinances have no legal grounds on providing cash grant for foreign direct investment pursuant to the aforementioned Article?



Yes, a local government can provide cash grants for foreign direct investment based on Article 14-2 (1) of FIPA.



Reasons

Article 14-2 (1) of FIPA regulates that cash grants can be provided to foreign direct investment by central and local governments in certain cases. More specifically, the Article states that when foreign direct investment is made to newly install or expand factory facilities, etc. to operate a business prescribed by Article 121-2 (1) 1 of the Restriction of Special Taxation Act, central and local governments can provide the funds needed for the purpose prescribed by Presidential Decree such as establishment of a factory facility to the relevant foreigner. As such, it is made clear that a local government is eligible to provide cash grants for foreign investment.

In addition, Article 14-2 (4) of FIPA states that a local government may prescribe matters concerning the determination on the provision of cash grants, the method for calculating limits on cash grants, procedures for negotiating the investment support with foreigners and other necessary matters by ordinance, except otherwise expressly prescribed in Paragraph (3) of the same Article. In this regard, the matters to be prescribed by local government ordinances are not whether cash grant will be provided or not, but the method and procedure for provision of cash grant as prescribed by Article 14-2 (3), the method and procedure required for payment of cash grant, etc. depending on regional circumstances, etc. Also, because Article 14-2 (1) states a legal ground for providing cash grants for foreign investment, it cannot be said that cash grants can be provided only when it is stipulated again by ordinances.

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