9 January 2015

Japan tax alert

Ernst & Young Tax Co.

2015 Japan tax reform

New exit tax and changes to inheritance/gift tax

A proposal for a new "exit tax" will introduce measures to tax wealthy individuals on their unrealized capital gains, on certain financial assets, at the time of their departure from Japan. While there was concern about the potential impact on residents, it has become apparent that many expatriates will not fall within the scope of this proposed new tax. Foreign taxpayers impacted by this tax seem to be primarily limited to those with permanent resident or spouse/child of Japanese national visa status.

Further the decrease in the amount of basic exemption for inheritance tax coupled with increased tax rates, effective 1 January 2015, has greatly increased the number of inheritance taxpayers. Details of inheritance tax are also provided in this Alert in order to address the increasing number of inquiries regarding this tax. It should be noted that expatriates living in Japan may be subject to inheritance tax on worldwide assets at Japan's high tax rate under the earlier 2013 tax reform.

Exit tax

1. Outline of the proposed exit tax

Where a resident in Japan meets the criteria given in (1) below, holds applicable assets outlined in (2) and leaves Japan to become a non-resident, the assets shall be deemed to have been transferred/sold at the time of such exit and any such gain is subject to the new proposed exit tax.

(1) Taxable persons	Residents meeting **both** of the following criteria i. A person whose total value of taxable financial assets outlined in (2) below is JPY 100 million or more **AND** ii. who has had a Jusho in Japan for more than 5 years over the 10 years prior to exit (for the purpose of determination of the 5 year period above, duration of stay in Japan under certain visa categories are not counted – typically Intra Company Transferee, Investor/Business Manager, Specialist in Humanities/International Relations and all visa categories contained in Table 1 of Immigration Control and Refugee Recognition Act are not counted)
(2) Taxable assets	i. Shares, government and private bonds and all securities under the Income Tax Law, contributions under a silent partnership (*tokumei kumiai*) agreement, and ii. Unsettled derivative transactions, credit transactions or when-issued transactions
(3) Effective date	Applicable to exits from Japan on or after 1 July 2015
(4) Treatment of the exit taxation on returning to Japan	Where the taxpayer who has incurred exit tax on leaving Japan returns to Japan within 5 years (upto 10 years upon application) and remains the holder of the previously taxed assets, the previous taxation can be reversed upon an amended tax return filing within 4 months after the return date.

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2. Grace period for payment of the exit tax

The taxpayer shall be granted a five-year (upto ten-year upon request) grace period for payment of the exit tax from the time of departure from Japan by pledging an asset as collateral to cover the amount of exit tax and by appointing a tax representative in Japan.

3. Adjustments for double taxation

Where the taxpayer, whilst abroad, transfers or sells the taxable asset for which a grace period has been granted earlier and that country does not permit an adjustment for double taxation that arises due to the exit tax levied in Japan, foreign tax credit of foreign income tax shall be available in Japan.

Furthermore, in the event that the taxable assets which were subject to foreign exit tax are transferred in Japan, an adjustment by stepping up the cost basis shall be permitted in Japan.

Inheritance and gift tax

Earlier the 2013 tax reform expanded the scope of taxable assets acquired by way of an inheritance, bequest or gift from a person or to a person with a *Jusho** (primarily a place of residence) in Japan.

In addition, revisions to the amount of basic exemption and tax rates, effective January 2015 will result in higher inheritance or gift tax liabilities. Unlike many countries, such taxes are paid by the receiver (as opposed to the estate or donor in certain jurisdictions) of the assets. The primary revisions are given below:

1. Expanded scope of taxable assets

The scope of inheritance and gift tax were expanded to additionally impose such tax on non-Japanese assets acquired by individuals with neither a *Jusho* in Japan (non-residents) nor Japanese nationality from a decedent or the donor with a *Jusho* in Japan. Earlier only Japanese assets were subject to this tax.

This revision is applicable to non-Japanese assets, acquired by way of an inheritance, bequest or gift on or after 1 April 2013 (see Table 1).

Definition of *Jusho

- *Jusho* or principle place of residence is subjective
- Generally taken to be the place at which one maintains their home
- Additional factors that are considered:
  - Intended duration of the individual's stay in Japan (generally a duration of more than one year)
  - Location of their immediate family
  - Social and employment connections
  - Location of assets and other economic interests

(Table 1) Assets and taxpayers subject to inheritance tax

Heir / Decedent	*Jusho* in Japan	No *Jusho* in Japan		
	Japanese or foreign national	Japanese nationality		Non-Japanese nationality
		Had *Jusho* in Japan within past 5 years	Did not have *Jusho* in Japan in the past 5 years	
Jusho in Japan				New!
No *Jusho* in Japan: Had *Jusho* in Japan within past 5 years		Unlimited liability taxpayer		
No *Jusho* in Japan: Did not have *Jusho* in Japan in the past 5 years			Limited liability taxpayer	

2. Revisions to inheritance tax

The primary revisions effective 1 January 2015 are in the area of basic exemption and tax rate.

Basic exemption → From JPY 50m to JPY 30m

Exemption per statutory heir → From JPY 10m to JPY 6m

(Table 2) Illustrative example of the impact of change in basic exemption

Before revisions	After revisions
JPY 50m + JPY 10m x No. of statutory heir(s)	JPY 30m + JPY 6m x No. of statutory heir(s)

No. of statutory heir(s)	Before revisions	After revisions
3 (e.g. a spouse and two children)	JPY 80m	JPY 48m
2 (e.g. two children)	JPY 70m	JPY 42m

(Table 3) Revisions to inheritance tax rates

Before revisions		After revisions	
Amount of legal inheritance for each statutory heir	Rate	Amount of legal inheritance for each statutory heir	Rate
JPY 10m or less	10%	No change	
More than JPY 10m up to JPY 30m	15%	No change	
More than JPY 30m up to JPY 50m	20%	No change	
More than JPY 50m up to JPY 100m	30%	No change	
More than JPY 100m up to JPY 300m	40%	More than JPY 100m up to JPY 200m	40%
		More than JPY 200m up to JPY 300m	45%
More than JPY 300m	50%	More than JPY 300m up to JPY 600m	50%
		More than JPY 600m	55%

A surcharge of 20% applies to the heirs of anyone who is not the decedent's spouse, parent or children.

(Table 4) Revisions to gift tax rates

Before revisions		After revisions			
Tax base	Rate	Those other than the right		Where donee is 20 years of age or older and donor is his lineal ascendant/descendant	
		Tax base	Rate	Tax base	Rate
JPY 2m or less	10%	No change		No change	
More than JPY 2m up to JPY 3m	15%	No change		No change	
More than JPY 3m up to JPY 4m	20%	No change		More than JPY 3m up to JPY 4m	15%
More than JPY 4m up to JPY 6m	30%	No change		More than JPY 4m up to JPY 6m	20%
More than JPY 6m up to JPY 10m	40%	No change		More than JPY 6m up to JPY 10m	30%
More than JPY 10m	50%	More than JPY 10m up to JPY 15m	45%	More than JPY 10m up to JPY 15m	40%
		More than JPY 15m up to JPY 30m	50%	More than JPY 15m up to JPY 30m	45%
		More than JPY 30m	55%	More than JPY 30m up to JPY 45m	50%
				More than JPY 45m	55%

In closing

The taxable scope of personal assets of expatriates has been expanded over the years. When expatriates are assigned to Japan, analysis from the viewpoint of potential exit tax, inheritance/gift tax together with income tax should be considered.

Comments or general inquiries regarding this tax newsletter may be directed to our Corporate Communications team at tax.marketing@jp.ey.com

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