


Japan tax alert

Ernst & Young Shinnihon Tax



Updates of Tax measures for Great East Japan Earthquake restoration and the 2011 Tax Reform

(This tax alert is a summary of the Japanese newsletter published on the same topic in December 2011.)

On 30 November 2011, the “Special measures to secure the funds to realize the restoration of the damages following the Great East Japan Earthquake (“Restoration Funding Bill”)” was passed/enacted in the House of Councillors.

In addition, the part of the “Reform bill for partial revision of income tax law, etc. in response to the changing economic structure (“Revised bill”)” (Re-revised bill) relating to the corporate income tax, the tax environment and administrative matters of the Revised bill was passed/enacted in the House of Councillors on 30 November 2011.

This alert provides further information on the Restoration Funding Bill and the Re-revised bill.

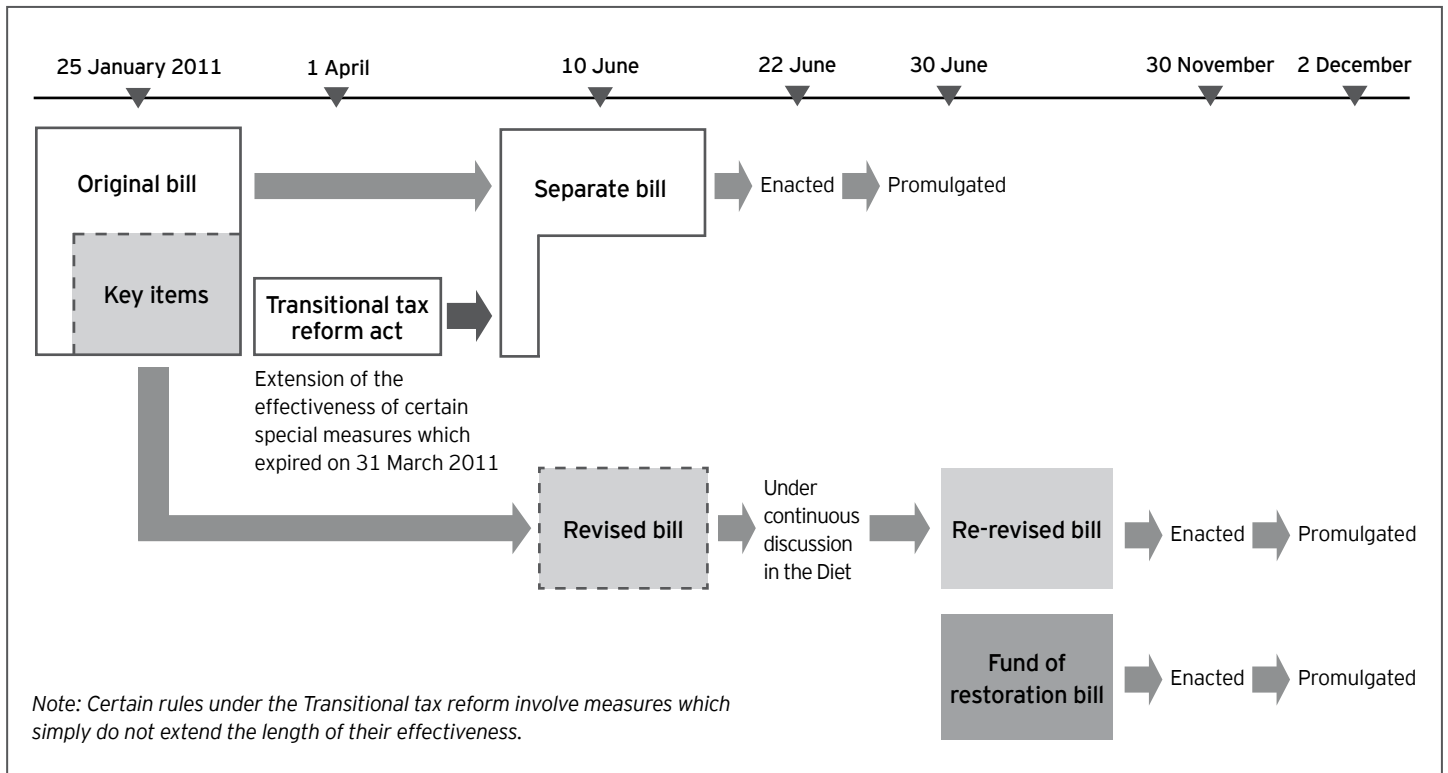
Timeline for discussion relating to the 2011 Tax Reform

The Separate act, which is a part of the 2011 tax reform bill ("Original bill") excluding certain key items, as well as the Act on General Rule for National Tax was promulgated on 30 June 2011. The remaining part of the Original bill was renamed as the "Reform bill for partial revision of income tax law, etc. in response to the changing economic structure" ("Revised bill"). The items in the Revised Bill relating to the corporate income tax, the tax environment and administrative matters ("Re-revised bill") was passed/enacted on 30 November 2011.

In addition to the 2011 tax reform, the Restoration Funding Bill was passed/enacted on 30 November 2011 so as to secure the financial resources to realize the restoration of the damages following the Great East Japan Earthquake.

The following chart explains in more detail the timeline for the tax reform.

Timeline for the tax reform bill and the Restoration Funding Bill



Special tax measures for restoration

Special surtax measures on income tax, corporation tax and individual inhabitants tax are introduced to fund the restoration of the damages following the Great East Japan Earthquake

i. Surtax on income tax

Subject	Taxpayer of income tax and withholding income tax
Surtax rate	2.1%
Taxable periods	25 years from 1 January 2013 to 31 December 2037

The Surtax on income tax is calculated by multiplying the base income tax with 2.1%. The base income tax is determined differently for each category of taxpayers. Taxpayers are obliged to file the Surtax returns same as the final tax returns. The Surtax on the income tax is ultimately due on the due date of the final tax returns.

Please note that withholding taxes due by non-residents individuals and foreign corporations (e.g. dividend, interest or royalty withholding tax) will be considered domestic source income which is also subject to the Surtax.

ii. Surtax on corporation tax

Subject	Taxpayer of corporation tax
Surtax rate	10%
Taxable periods	3 years from the fiscal years beginning from 1 April 2012 to 31 March 2015

The Surtax on corporation tax is calculated by multiplying the base corporation tax with 10%. The base corporation tax is defined as the amount of corporation tax due before adjustments of a certain tax credits, etc. In principle, taxpayers are obliged to file the Surtax returns same as the final corporation tax returns. The Surtax will need to be paid within two months after the end of the relevant fiscal year.

iii. Individual inhabitants tax

The annual amount of taxation on per capita basis of the individual inhabitants tax will be raised by 1,000 yen for a period ten years starting from the fiscal year 2014.

2011 Tax Reform

As to the 2011 tax reform, the following chart provides examples of the key items included in the Separate act which was promulgated on 30 June 2011, as well as the Re-revised bill was passed/enacted on 30 November 2011.

We note that items relating to the reduction of the corporate income tax rate and the broadening of the tax base as included in the Re-revised bill will take effect in the fiscal years beginning on or after 1 April 2012.

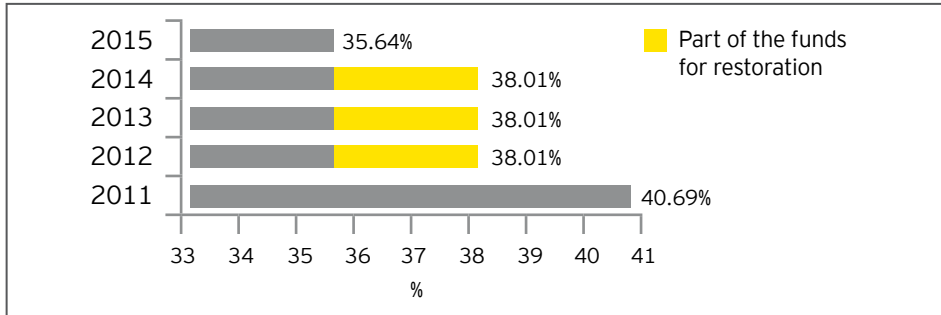
Key items included in the 2011 tax reform

	Separate act	Re-revised bill
Corporate income tax	<ul style="list-style-type: none"> ▸ Amendment of special provision for R&D tax credit ▸ Amendment of the group taxation regime 	<ul style="list-style-type: none"> ▸ Reduction of corporate income tax rate by 4.5% ▸ Items that broaden the tax base <ul style="list-style-type: none"> ▸ Review of the net operating loss carry-forward rules ▸ Amendment of the depreciation provisions ▸ Amendment of bad debt reserves, etc.
International taxation	<ul style="list-style-type: none"> ▸ Amendment of tax haven rules ▸ Reform of the transfer pricing taxation rules ▸ Contribution in kind by foreign corporation ▸ Revision of foreign tax credit rules 	<ul style="list-style-type: none"> ▸ Partial revision of foreign tax credit rule
Tax on income from share investment	<ul style="list-style-type: none"> ▸ Extension of reduced tax rates on dividend income and capital gains ▸ Exemption of small dividend and capital gains accounts for listed shares to be introduced after a two-year delay ▸ Decrease of the threshold of major stockholders which are not entitled to reduced separate withholding tax imposed on dividend income from listed shares ▸ Revision of pass-through treatment of investment vehicles (J-REITs) and special purpose companies 	
Consumption tax	<ul style="list-style-type: none"> ▸ Amendment to tax-exempt status ▸ Amendment to 95% rule 	
Individual income tax		
Inheritance tax	<ul style="list-style-type: none"> ▸ Amendment to joint tax liability 	
Tax environment and administrative matters	<ul style="list-style-type: none"> ▸ Amendment to computation period for interest on refund ▸ Amendment to the Act on General Rules for National Taxes 	<ul style="list-style-type: none"> ▸ Amendment to request for correction/claim ▸ Amendment to tax audit procedures

Summary

Under the Re-revised bill, the corporate income tax rate will be cut by 4.5% from 30% to 25.5% starting from the fiscal years beginning on or after 1 April 2012. Consequently, the effective corporate tax rate, taking also into account the local taxes, will be reduced by approximately 5% from 40.69% to 35.64%. However, the effective tax rate will then further be affected as a result of the 10% surtax charged on the basis of the Restoration Funding Bill.

Change of the effective corporate tax rate (Tokyo)



In addition, once the Re-revised bill is promulgated, corporate taxpayers would be obliged to re-determine the amount of deferred tax assets/liabilities by the end of the fiscal year of the taxpayer based on the new corporate tax rate as adopted for that period. Therefore, corporate taxpayers should determine the respective tax effect in case of the promulgation of the Re-revised bill as well as the Restoration Funding Bill.

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