Japan tax bulletin

Newsletter on important tax and business developments in Japan

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In this issue

Japan's new reporting requirements for overseas assets and share based remuneration, and a new consumption tax bill

This edition of our newsletter contains information on reporting requirements being introduced to help the tax authority identify overseas income and assets, and an outline of recent changes to the consumption tax legislation.

Reporting requirements for share based remuneration

2012 Tax Reforms

As mentioned in our January tax bulletin, the 2012 tax reform proposals introduced a new reporting requirement when an employee or director of a Japanese company (or Japan branch of a foreign company) receives share based remuneration in the overseas parent company of his or her employer.

Detailed regulations have now been released and are covered below.

Reporting requirement

On 31 March of every year, employers will be required to file a report to the relevant tax office covering any exercise, vesting or payment of share based remuneration in the previous calendar year.

Share based remuneration includes stock options, restricted stock, restricted stock units, employee stock ownership plans, phantom stock, share appreciation rights, performance shares and performance units.

The first report will be due in 31 March 2013 covering reportable events in 2012. The report must be filed for each person that is a resident of Japan at the time of the reportable event and include the name and address of the employee, name and home country of the foreign parent company and details of the share based remuneration exercised, vested or paid.

Penalties for non-compliance

If a company or branch fails to file the report or deliberately files a false statement, the most senior officer in the company or branch faces a penalty of either a maximum of one year in prison or a maximum fine of JPY500,000.

Income tax obligation

The exercise or vesting of share awards granted by foreign companies is generally considered as compensation paid abroad. As a result there is no withholding tax requirement and the employees need to file individual income tax returns to declare their share based remuneration and pay their tax due.

Summary

The new reporting requirement will aid the tax authorities in identifying taxable income that might otherwise have been missed if not correctly reported in a tax return. Given the strict penalty for non-compliance, it is vital that the Japanese company or branch ensures that this new obligation is met.

Reporting requirements for overseas assets

2012 Tax Reforms

Also mentioned in our January bulletin was a proposal introduced in an effort to ensure that the taxable income arising from overseas assets is correctly and fully disclosed. Residents of Japan with assets held overseas worth over JPY50 million will be required to file a report disclosing those assets to the tax authority.

Reporting requirement

By 15 March of each year a Japan-resident taxpayer who holds overseas assets with a fair market value of more than JPY50 million as of 31 December of the previous year will be required to file a return declaring those assets. The first report will be due in March 2014 for assets held at 31 December 2013.

The location of assets is to be determined using the regulations applicable to inheritance tax. The table below shows the location for commonly held assets.

Asset	Location
Immovable assets	Physical location of the asset
Cash deposits	Address of the branch where deposits are held
Bonds/Shares	Address of the head office of the issuer

As a result the report will not only identify undeclared sources of foreign income, but could also be used in identifying overseas assets for inheritance tax purposes.

Penalties for non-compliance

The penalties for non-compliance are similar to those for the share based remuneration requirements above. If a taxpayer fails to file the report or deliberately files a false report, they a face a penalty of either a maximum of one year in prison or a maximum fine of JPY500,000. These penalties will apply to the second reporting period (for assets held at 31 December 2014) onwards.

In addition the usual penalty for non-disclosure of income will be increased by 5% to 15% in cases where the underlying asset is not disclosed in this report. If the asset is disclosed, the penalty is reduced to 5% of the income.

Summary

The information disclosed in this report will aid the tax authority not only in indentifying overseas sources of income, but also in ensuring that inheritance estates straddling multiple jurisdictions are fully disclosed. This is another sign of the increasingly aggressive stance the tax authority is taking to cross-border inheritances.

Consumption tax changes

New Legislation

In August a Bill was passed amending certain aspects of the regulations relating to consumption tax. A brief outline of the major changes is given below.

Consumption tax rate

Consumption tax (similar to VAT) is a 5% indirect tax on most goods and services transactions. The Bill confirmed an increase in the rate to 8% from 1 April 2014 to 30 September 2015, and to 10% from 1 October 2015 onwards.

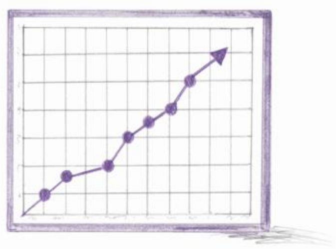
Exempt enterprises

Broadly speaking, under existing rules an enterprise is exempt from consumption tax reporting obligations for a given tax year if its consumption taxable sales in the base period (the tax year two years prior) are below JPY10 million. Therefore newly established enterprises with a share capital of less than JPY10 million are usually exempt from filing consumption tax return for their first two years as they have no sales in their base period (two years before their establishment).

The new Bill states that a newly established enterprise may still have a filing obligation if certain conditions relating to its base period are met. If the enterprise is controlled by a person or company whose taxable sales were greater than JPY500 million during the enterprise's base period, it will still be required to file a consumption tax return and pay any consumption tax due to the tax authority. The new tests will apply to enterprises established from 1 April 2014 onwards.

Summary

The changes to the consumption tax regulations will impact not only businesses but also the end consumer. As a result the government will review the economic conditions at the time of the rate rises to ensure the increased burden is reasonable. In addition measures may be introduced to help those on low incomes who might otherwise be affected disproportionately by the increase.



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