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Japan: Inbound Tax Alert

2016 Japanese Tax Reform Proposal - Approved

December 2015 – News Flash

Contents

On 10 December 2015, proposals for the 2016 tax reform (excluding those related to multiple consumption tax rates) were approved by the tax commissions of the Liberal Democratic Party and the New Komeito Party. These proposals have not been formally released yet, but are posted on the website of the Nikkei Shimbun newspaper website. (Japanese / PDF)

Below is a short list of significant proposals that may affect foreign based companies doing business in Japan. It should be emphasized that these proposals have not been enacted yet and could change prior to becoming law. Deloitte will provide further details in a subsequent tax alert once the proposals are formally released.

1. Corporate Tax

1) Reduction of the national corporate tax rate

Tax year	Rate
Current	23.9%
Proposed: Tax years beginning on or after 1 April 2016	23.4%
Proposed: Tax years beginning on or after 1 April 2018	23.2%

2) Revision of the NOL carryforward system

The limitation on the utilization of NOLs shall be revised as follows:

<table>
<tr><th colspan="2">After 2015 tax reform</th><th colspan="2">Proposed revisions</th></tr>
<tr><th>Tax years beginning</th><th>Utilization limit</th><th>Tax years beginning</th><th>Utilization limit</th></tr>
<tr><td rowspan="2">From 1 April 2015 to 31 March 2017</td><td rowspan="2">65%</td><td>From 1 April 2015 to 31 March 2016</td><td>65%</td></tr>
<tr><td>From 1 April 2016 to 31 March 2017</td><td>60%</td></tr>
<tr><td rowspan="2">On or after 1 April 2017</td><td rowspan="2">50%</td><td>From 1 April 2017 to 31 March 2018</td><td>55%</td></tr>
<tr><td>On or after 1 April 2018</td><td>50%</td></tr>
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The NOL carryforward period shall be delayed by one year:

After 2015 tax reform		Proposed revisions	
Tax years beginning	Carryforward period	Tax years beginning	Carryforward period
Before 31 March 2016	9 years	Before 31 March 2017	9 years
On or after 1 April 2017	10 years	On or after 1 April 2018	10 years

The implementation of the NOL-related book retention period and the statute of limitations for correction of NOLs, all of which were determined in the 2015 tax reform, shall also be delayed to tax years beginning on or after 1 April 2018.

3) Revision of the factor based enterprise tax rate

These changes shall be applicable for tax years beginning on or after 1 April 2016.

		Current	Proposed
Value added levy		0.72%	1.2%
Capital levy		0.3%	0.5%
Income levy	Annual income of JPY4 million or less	3.1% (1.6%)	1.9% (0.3%)
	Annual income of over JPY4 million and JPY8 million or less	4.6% (2.3%)	2.7% (0.5%)
	Annual income of over JPY8 million	6.0% (3.1%)	3.6% (0.7%)

The rates of income levy in parentheses are rates after the application of provisional measures law regarding special local corporate tax, etc. The maximum rates which may be imposed by prefectures shall be raised from the current 1.2 to two times the standard rates.

4) Elimination of the declining balance method of depreciation for equipment attached to buildings, structures or buildings for mining purposes acquired on or after 1 April 2016.

5) Reduction and extension of the special depreciation and corporate tax credit for assets acquired in the National Strategic Special Zones or International Strategic Comprehensive Special Zones.

6) Revision and extension of the tax measures related to the job increase credit.

7) Reduction of corporate inhabitant tax rate and increase in the local corporate tax rate. In aggregate, the reduction and increase will offset and there should be no net increase in taxation. These measures shall, in principle, be applicable for tax years beginning on or after 1 April 2017.

	Current		Proposed		Delta
	Standard	Maximum	Standard	Maximum	
Total of corporate tax levy of corporate inhabitant tax	12.9%	16.3%	7.0%	10.4%	▲5.9%
Local corporate tax (national tax)	4.4%		10.3%		+5.9%
Total	17.3%	20.7%	17.3%	20.7%	—

8) Amendments to the types of transactions considered qualified contributions-in-kind for tax purposes.

9) Amendments made to the management retention condition for qualified share-for-share exchanges and share transfers.

10) Clarification of the criteria for determining whether or not the shareholding continuity requirement is satisfied with regard to consolidation-type mergers, incorporation-type company splits or share transfers for the purpose of joint business.

11) Elimination of the prior-notification procedures to deduct director's compensation with respect to certain restricted stock compensation.

12) Revision of Japanese tax law to implement the provisions in the Japan-Taiwan Tax Agreement.

2. Transfer Pricing

The following three documentation requirements shall be established based on recommendations from the OECD's Base Erosion Profit Shifting Action Plan:

- The filing of country-by-country ("CbC") reports with the district director of the relevant tax office shall be applicable for tax years of the ultimate parent company beginning on or after 1 April 2016.
- The fling of the master file with the district director of the relevant tax office shall be applicable for tax years of the ultimate parent company beginning on or after 1 April 2016.
- The preparation and retention of local files shall be applicable for tax years beginning on or after 1 April 2017.

3. Consumption tax

Proposals related to multiple tax rates are expected to be released shortly.

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Not all articles or facts and circumstances are covered in this alert. If you have any questions regarding your specific situation, please contact one of the tax professionals at our Deloitte office in Tokyo as follows:

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