

Japan Inbound Tax & Legal Newsletter

Overview of tax controversy procedures

January 2019, No. 35

In brief

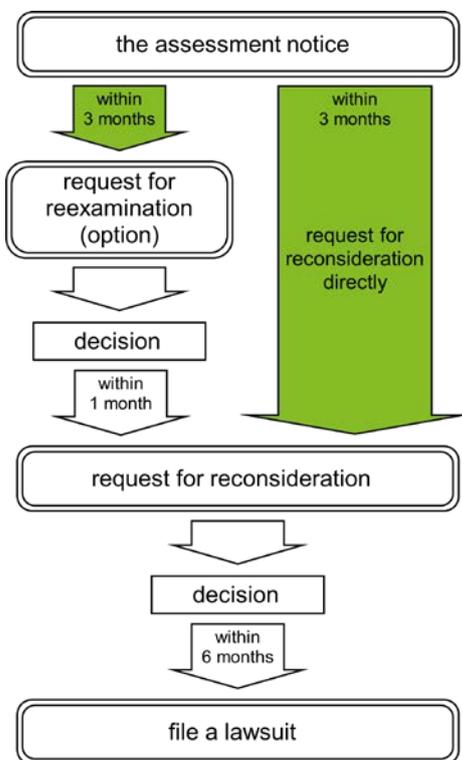
Companies and individuals that are required to file tax returns in Japan have options available to challenge a notice of assessment that the tax authorities (generally, the regional taxation bureau or tax office) issue as a result of a tax audit. A summary of the relevant procedures is below.

In a case where the tax authorities issue an assessment notice, the taxpayer may either accept the assessment or challenge it by filing a request for reexamination with the tax authorities that issued the assessment or a request for reconsideration with the Director-General of the National Tax Tribunal (NTT).

If the taxpayer requests a reexamination, but the tax authorities rule against the taxpayer and stand by the first assessment, the taxpayer still may file a request for reconsideration with the Director-General of the NTT.

In general, the taxpayer may bring a case to court only after the Director-General of the NTT renders an unfavorable decision in a request for reconsideration.

The following diagram summarizes the potential options and the general timing requirements for taxpayers to challenge an assessment notice, which are described in further detail below.



1. Request for reexamination

If a taxpayer would like to challenge the assessment notice issued by the tax authorities, the taxpayer may file a request for reexamination with the authorities that issued the assessment notice before requesting reconsideration from the Director-General of the NTT. In general, the taxpayer must file a request for reexamination within three months from the date following the date of receipt of the assessment notice.

The tax authorities have a special division that generally handles the requests for reexamination, which often is the same division that reviewed the original assessment notices, and the tax authorities generally make an effort to issue their decision no later than three months after receipt of a request.

In other words, the reexamination process is a quick internal review process and, as such, the assessment is unlikely to be overturned unless the assessment notice was based on inaccurate information or the taxpayer has obtained evidence that was not available during the tax audit.

2. Request for reconsideration

Another option for a taxpayer that would like to challenge the assessment notice issued by the tax authorities is to directly request reconsideration from the Director-General of the NTT. In this case, in general, the taxpayer must file a request for reconsideration within three months from the date immediately following the date of receipt of the assessment notice.

If a taxpayer files a request for reexamination but the tax authorities deny the request, the taxpayer may file a request for reconsideration with the Director-General of the NTT. In general, the request must be filed within one month from the date immediately following the date a copy of the tax authorities' decision was delivered to the taxpayer.

Upon receiving a request for reconsideration, the Director-General of the NTT will notify the tax authorities that issued the assessment notice that a request for reconsideration has been filed, and the tax authorities will file their responses with the director-general. The taxpayer then may file a brief supporting its position with the director-general. After a series of exchanges of briefs and examinations by NTT appeal judges, the Director-General of the NTT will issue its decision in writing, generally no later than one year after the filing of a request for reconsideration.

The NTT is not a fully independent organization and more than half of its staff are dispatched from the tax authorities as part of their job rotations. However, it should be noted that (i) civil court judges or public prosecutors head the NTT, including the major regional tax tribunals, and (ii) attorneys, certified public tax accountants and certified public accountants are hired as fixed-term appeal judges.

3. Filing a lawsuit

If a taxpayer would like to challenge the decision rendered by the Director-General of the NTT, the taxpayer may bring the case to court. In general, the taxpayer must file a lawsuit within six months from the date immediately following the date of receipt of the decision from the Director-General of the NTT. The taxpayer also may bring the case to the court if no decision is rendered by the Director-General within three months from the date immediately following the date the taxpayer filed a request for reconsideration with the director-general.

Japan has a three-tiered judicial system: the district courts (the first level), the high courts (the second level) and the Supreme Court (the final level). A taxpayer would file its initial lawsuit in district court and may appeal an unfavorable decision to the higher courts.



Deloitte's View

After an audit, the tax authorities generally recommend that taxpayers that have filed a tax return containing errors or omissions file an amended tax return voluntarily instead of waiting for the issuance of an assessment notice. Some taxpayers find it difficult to challenge the tax authorities' positions and tend to follow their recommendations provided prior to the issuance of a notice of assessment, even if the taxpayer disagrees with the tax authorities' position. However, to enhance the transparency of the tax audit process, it would be prudent to carefully analyze whether the taxpayer's position is reasonable and verifiable by evidence with a help of certified public tax accountants and tax attorneys, and consider the available appeals options before accepting such recommendations.

Newsletter Archives

To see past newsletters, please visit our website. www.deloitte.com/jp/inboundtaxnewsletter

Subscribe to Japan: Inbound Tax Alert and tax@hand

To automatically receive future newsletters, please email deloitte-tokyo.newsletter@tohmatu.co.jp and register by providing your name, company, position, and email address.

Click [here](#) to download our tax@hand app to view inbound tax alerts and other content on your mobile device.

Contacts

Deloitte Tohmatu Tax & Legal Inbound Group

Not all 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:

Jun Sawada, Inbound Group Leader		jun.sawada@tohmatu.co.jp	+81 3 6213 3927
Business Tax Services	Sunie Oue, Partner	sunie.oue@tohmatu.co.jp	+81 3 6213 3753
	David Bickle, Partner	david.bickle@tohmatu.co.jp	+81 3 6213 3743
Indirect Tax Services	Chikara Okada, Partner	chikara.okada@tohmatu.co.jp	+81 3 6213 3900
Global Employer Services	Russell Bird, Partner	russell.bird@tohmatu.co.jp	+81 3 6213 3979
Transfer Pricing	Timothy O'Brien, Partner	timothy.obrien@tohmatu.co.jp	+81 3 6213 3923
	Samuel Gordon, Partner	samuel.gordon@tohmatu.co.jp	+81 3 6213 3760
Tax Management Consulting	Sam Reeves, Director	sam.reeves@tohmatu.co.jp	+81 80 4087 6475
Financial Service Industry	Yang Ho Kim, Partner	yangho.kim@tohmatu.co.jp	+81 3 6213 3841
	Kai Hielscher, Partner	kai.hielscher@tohmatu.co.jp	+81 90 9855 9819
Tax Controversy	Yutaka Kitamura, Director	yutaka.kitamura@tohmatu.co.jp	+81 70 3192 5611
Legal	Kaori Oka, Partner	kaori.oka@tohmatu.co.jp	+81 3 6895 2678
Immigration	Yoshito Kijima, Partner	yoshito.kijima@tohmatu.co.jp	+81 80 4183 4429

Issued by

Deloitte Tohmatu Tax Co. Tokyo Office

Marunouchi-Nijubashi Building, 3-2-3 Marunouchi, Chiyoda-ku, Tokyo 100-8362, Japan

Tel: +81 3 6213 3800

email: tax.cs@tohmatu.co.jp

Corporate Info: www.deloitte.com/jp/en/tax

Deloitte Tohmatu Group (Deloitte Japan) is a collective term that refers to Deloitte Tohmatu LLC, which is the Japan member firm of Deloitte Touche Tohmatu Limited (DTTL), a UK private company limited by guarantee, and firms affiliated with Deloitte Tohmatu LLC that include Deloitte Touche Tohmatu LLC, Deloitte Tohmatu Consulting LLC, Deloitte Tohmatu Financial Advisory LLC, Deloitte Tohmatu Tax Co., DT Legal Japan, and Deloitte Tohmatu Corporate Solutions LLC. Deloitte Tohmatu Group is known as one of the largest professional services groups in Japan. Through the firms in the Group, Deloitte Tohmatu Group provides audit & assurance, risk advisory, consulting, financial advisory, tax, legal and related services in accordance with applicable laws and regulations. With about 11,000 professionals in nearly 40 cities throughout Japan, Deloitte Tohmatu Group serves a number of clients including multinational enterprises and major Japanese businesses. For more information, please visit the Deloitte Tohmatu Group (Deloitte Japan)'s website at www.deloitte.com/jp/en.

Deloitte provides audit & assurance, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 245,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

Deloitte refers to one or more of Deloitte Touche Tohmatu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

All of the contents of these materials are copyrighted by Deloitte Touche Tohmatu Limited, its member firms, or their related entities including, but not limited to, Deloitte Tohmatu Tax Co. (collectively, the "Deloitte Network") and may not be reprinted, duplicated, etc., without the prior written permission of the Deloitte Network under relevant copyright laws.

These materials describe only our general and current observations about a sample case in accordance with relevant tax laws and other effective authorities, and none of Deloitte Network is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. The opinions expressed in the materials represent the personal views of individual writers and do not represent the official views of Deloitte Network. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Member of

Deloitte Touche Tohmatu Limited

© 2019. For information, contact Deloitte Tohmatu Tax Co., DT Legal Japan, Deloitte Tohmatu Immigration Co.



IS 669126 / ISO 27001