

Japan: Inbound Tax Alert

Japan's new exit tax – effective 1 July 2015

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Introduced in the 2015 tax reform, Japan's new exit tax regime will come into effect from 1 July 2015. From this date onwards, subject to meeting certain conditions, income tax will be imposed on the unrealized profit of financial assets when Japanese residents, including foreign nationals, break residency, as though these assets were disposed of on the departure date.

Covered persons

Japanese tax residents, regardless of nationality, who meet the following conditions will be subject to the exit tax:

- (1) Have covered assets (defined below) of JPY 100 million or more at the point of breaking residency.
- (2) Have stayed in Japan for more than 5 years in the 10 years up to the point of breaking residency.

For foreign nationals, certain periods can be excluded from the resident period in Japan when determining if the "5 years in 10" condition is met as shown in the chart below. Visas in Table 1 include, but are not limited to, Journalist, Investor/Business Manager, Engineer, Specialist in Humanities/International Services, etc., while visas in Table 2 include, but are not limited to, Permanent Resident¹, Spouse or Child of Japanese National, etc.²

		Resident in Japan		Not resident in Japan
		~ 2015/6/30	2015/7/1~	Exit tax deferral period*
Foreign nationals	Visa in Table 1	×	×	N/A
	Visa in Table 2	×	○	○
Japanese nationals		○	○	○

○: included when counting the period of stay

*The period in which tax payment is deferred. See below.

Covered assets

Assets are considered on a worldwide basis, not just those located in Japan, and the 100 million yen threshold is the aggregate of the covered assets held, not for each separate asset holding. Covered assets include:

- Securities (as defined in income tax law)³
- National and municipal bonds
- Corporate bonds
- Tokumei-kumiai contracts
- Unsettled credit transactions and unsettled derivative transactions

Cash and cash deposits, and non-financial assets such as real estate are not covered assets.

1 A "permanent resident" for visa purposes is defined separately to a "permanent resident" for income tax purposes
2 Tables 1 and 2 refer to tables 1 and 2 of the Immigration Control and Refugee Recognition Act.

3 The value of vested, but unexercised stock options and unvested Restricted Stock Units may be included in the definition of "securities", however, we are still waiting for written guidance from the tax authorities about the interpretation of securities for exit tax purposes.

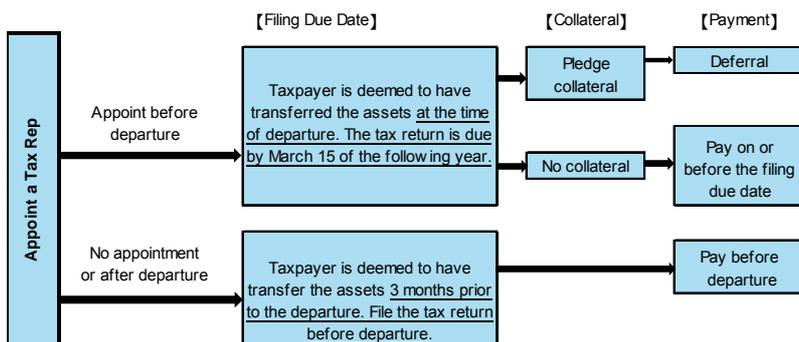
Taxation and other important considerations

Tax Rate

At the time of departure from Japan, a covered person will be subject to the exit tax on the net unrealized gains on covered assets at the same rate as applicable to realized gains for tax residents, currently 15.315% (including the restoration surtax). Local inhabitants tax will not be imposed.

Timing for filing a tax return and making tax payment

The timing for filing a tax return reporting the exit tax and payment of the tax will depend on whether the individual appointed a tax representative prior to departure from Japan and whether any collateral is pledged as shown in the diagram below.



If the deferral of tax payment applies, the deferral period is for 5 years which can be extended to 10 years. The benefit of the deferral is that a covered person may be able to adjust the final exit tax due for events occurring within the deferral period, such as where the value of covered assets declines or if covered assets are sold and foreign tax is imposed on the gain. It should be noted that an interest charge will be applied on the deferred tax payment.

The administrative process for providing collateral is being clarified, but the earliest the collateral would be due is when the returns for those who have appointed a tax represented are due, i.e. 15 March 2016.

Return to Japan

If a covered person breaks residency and returns to Japan within five years from the departure holding the covered assets, a correction to cancel the tax can be requested within four months from the return date to Japan. In this case, interest tax will not be levied, even if the tax deferral had been applied.

Inheritance and gift tax

In this newsletter, we focused on the exit tax being imposed when a covered person leaves Japan. However, exit tax may also be imposed when covered assets are gifted or bequeathed to a non-Japanese resident. In these cases, gift and inheritance tax may also be levied.



Deloitte's View

As the exit tax will not be imposed upon foreign nationals until 1 July 2020 at the earliest, foreign nationals should use this transitional period to consult with their tax and immigration advisors and consider any options available to mitigate the potential impact of the introduction of this tax.

Also, although many secondments to Japan are initially for a period of less than 5 years, employers with foreign nationals secondees (or looking to second a foreign national employee to Japan temporarily) may wish to review with their immigration advisor the visa options given that visa type is now linked to the exposure to the exit tax.

In addition, employers should review tax equalization policies and secondment agreements to deal with any potential exposure to exit tax which may arise. For example, if a new employee who is (or will soon be) a covered person is hired in Japan onto a tax equalized package or if a Japanese national is seconded to Japan such that the exit tax may apply at departure.

The introduction of this new exit tax has gained a lot of attention in the foreign community, but it would appear that the majority of foreign nationals working in Japan temporarily would not be exposed to the new exit tax regime. Whereas less attention is given to Inheritance and Gift tax exposure which may be imposed on tax residents of Japan regardless of the resident period. Please see our [Japan: Inbound Tax Alert February 2015, No. 11](#) issue of our Inbound Tax Alert for further discussion on such exposure.

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