

# Japan Inbound Tax & Legal Alert

## NTA FAQs clarify relief available for taxpayers affected by COVID-19

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### In Brief

To assist companies whose business has been disrupted by the coronavirus (COVID-19) in meeting their tax obligations, Japan's National Tax Agency (NTA) released a set of frequently asked questions ([FAQs](#) in Japanese only/PDF) on 25 March 2020 to clarify the application of existing relief measures in light of the spread of COVID-19. The FAQs describe the conditions under which companies will be entitled to relief from the deadlines for filing tax returns and making tax payments (including an option to defer the payment of taxes), and outline the procedures companies must follow to benefit from the relief. The FAQs also indicate that companies may be able to deduct certain expenses related to donations to support those affected by COVID-19.

The relief measures described in the FAQs apply to national taxes (e.g., corporation tax, Japanese consumption tax (JCT), payroll tax (i.e., withholding tax on salary), etc.). While the specific relief measures discussed in the FAQs do not apply to local taxes (e.g., enterprise tax, inhabitants tax, etc.), similar relief generally is available under local tax law.

### Extension of filing/payment deadlines

The NTA has not issued a general filing extension for all corporation tax returns in relation to COVID-19. However, an extension may be granted on a taxpayer-by-taxpayer basis for companies having difficulty in filing returns or making payments due to unavoidable circumstances (e.g., natural disasters, serious injury/illness, etc.) if the company files an application with the tax office. Specifically with regard to COVID-19, the FAQs indicate that the tax authorities recognize that there may be cases in which a company cannot file a tax return or pay tax by the deadline due to unavoidable circumstances (e.g., where its employees have been requested to refrain from going outside if proximity to an infected patient is identified). In such cases, taxpayers may be granted an extension upon application. Filings and payments for which such an extension is granted will not be subject to late filing/payment penalties or interest.

Additionally, if, as a result of COVID-19, the preparation of documents necessary for the submission of the tax return/payment (e.g., tax return/financial statement documents, etc.) is delayed for any of the following reasons that makes it difficult to file a return/payment by the due date, the due date may be extended by application:

- A tax accountant who provides tax compliance services, etc. (or a member of the accountant's office staff) contracts the virus.
- Restrictions are placed on the entry/departure of taxpayers, corporate officers, accounting managers, etc. that are in foreign countries, resulting in their inability to obtain a visa.
- Companies, tax accountants' offices, etc. are unable to maintain normal business operations for the following reasons:
  - The accounting department must be closed for a considerable period of time (e.g., when an employee of the department in charge of accounting has been infected or had close contact with an infected patient); or
  - A significant number of employees in the accounting department use vacation time in response to temporary school closures and/or to companies encouraging them to use vacation time to prevent the spread of infection.
- The company takes emergency measures to prevent the spread of infectious disease, such as delaying the timing of the ordinary general shareholders' meeting, so as not to create a large gathering of shareholders. Note, however, that for JCT purposes, an extension is not available merely because the ordinary general shareholders' meeting is postponed due to COVID-19, since, unlike the corporation tax return, the JCT return is not based on the final settlement of accounts.

In addition to the specific reasons above, the tax authorities may grant an extension based on the individual circumstances relating to each application.

When applying for an extension, the taxpayer will be asked to confirm the circumstances under which it is unable to file a tax return or make a payment. As a result, specific facts should be included when completing the application form (e.g., regarding the situation of the applicant, the involvement of a tax accountant, the situation relating to the closure of a department or restrictions on business, and/or an outline of the emergency measures taken).

### Process to apply for extensions

Taxpayers wishing to apply for an extension must submit the form "Application for Extension of Due Date for Filing of Return, Payment, etc. Due to Disaster," generally within one month after the date on which the disaster or other unavoidable circumstance ends, and the filing deadline will be extended until a date designated by the tax authorities (generally within two months from the day when the disaster/circumstance ends). No guidance is provided in the FAQs regarding the day when the disaster/unavoidable circumstance relating to COVID-19 will be considered to end.

To complete the application, the taxpayer will need to include, among other things, basic information (i.e., name, address, corporate number, etc.), the type of deadline for which the extension is sought (e.g., income tax return and payment deadline, etc.), the dates on which the applicable damage due to the disaster/unavoidable circumstance began and ended, and a description of the damage sustained, along with any supporting reference materials.

### Deferral of payment of taxes

The extension of the filing/payment deadline for national tax outlined above applies to situations where a company is incapable of filing a return/paying tax due to a natural disaster or other unavoidable circumstance. Alternatively, for taxpayers that are capable of filing a return but are unable to pay the national tax liability in a lump sum due to a lack of funds caused by other reasons (e.g., a decline in sales or other cash flow issues related to the disaster/unavoidable circumstance), there is a relief measure for payment deferral. In general, such taxpayers may apply for a grace period that allows for payment of tax in installments over a maximum of one year with no penalties and reduced or no interest (where interest applies, the rate in 2020 is reduced from 8.9% annually to 1.6% annually), by submitting an application to the tax office. Two types of grace periods exist, one providing a moratorium on the sale of property and the other permitting the deferral of tax payments:

■ **Moratorium on sale of property:** If, as a result of COVID-19, a taxpayer has difficulty paying an existing overdue national tax liability and its assets have been seized to be sold to cover the tax liability, the taxpayer generally may be eligible for a moratorium on the sale of the assets for a period of up to one year if all of the following requirements are met and the taxpayer submits an application to the tax office within six months of the payment deadline:

- Payment of national tax in a lump sum would appear to make it difficult to continue business operations;
- The taxpayer appears to have a sincere intention to pay the tax; and
- The taxpayer is not delinquent in paying national taxes other than the national tax for which the moratorium on the sale of property is sought.

■ **Deferral of payment:** Deferral of payment may be available if the taxpayer experiences any of the following as a result of COVID-19:

- A considerable loss of assets occurs;
- The taxpayer or the taxpayer's family become ill;
- Business operations are discontinued or suspended; or
- The business incurs significant losses.

The tax authorities note in the FAQs that they will be flexible in the event that a tax payment cannot be made due to COVID-19. In an effort to simplify the application and examination process for the grace period, the tax authorities request that taxpayers contact their local tax office as soon as possible in the event that payments are not able to be made due to the virus.

As mentioned above, where a grace period is granted, the national tax to which the grace period applies may be paid in installments (determined based on the status of the taxpayer's assets) over the grace period. The payments generally will not be subject to penalties, but interest may be imposed at the reduced rate mentioned above (1.6% annually for 2020). If there is a compelling reason for being unable to pay tax during the grace period, the tax authorities may grant an additional grace period of one year.

## Process to apply for deferral of tax payments

To apply for a grace period for deferral of tax payments, taxpayers must submit an application, documents clarifying the status of their assets and liabilities, documents estimating future income and expenditures, documents through which the individual circumstances of the taxpayer can be evaluated, etc. If the taxpayer has difficulty preparing the necessary documents, the person in charge of tax collection at the local tax office may orally confirm the required information.

Additionally, while collateral normally is required for a taxpayer to be eligible for the grace period for deferral of tax payments, for taxpayers that are eligible due to the effects of COVID-19, collateral will not be required unless it is clear from the state of the taxpayer's assets that it is capable of providing collateral.

## Deductibility of expenses related to COVID-19

The FAQs clarify that if, in response to COVID-19, a company donates its own products to assist unspecified persons or a group of affected persons, etc. (during the period up to the date on which the disaster/unavoidable circumstance relating to COVID-19 is considered to end), the expenses required to provide such support (including delivery costs) generally may be deductible from the company's taxable income for corporation tax purposes.

### Deloitte's View

Taxpayers that are concerned that they may not meet (or that already have missed) a filing or payment deadline related to any national tax imposed in Japan due to challenges associated with COVID-19 may wish to consult with their tax advisor and/or discuss their specific situation with the relevant NTA tax office before filing an application for a deadline extension or deferral of tax payments.

In particular, for taxpayers applying for deferral of tax payments, the specific amount and timing of payments is determined based on the specific circumstances of the taxpayer, so taxpayers may wish to contact the NTA to discuss their specific situation as soon as possible if they believe they will have difficulty in paying tax.

As there is no specific deadline to file an application for an extension of filing/payment deadlines or for the deferral of tax payments, companies that already have missed the filing or payment deadline still may be able to apply for relief.

It is important to note that any relief is granted entirely at the discretion of the NTA; however, it is expected that the NTA will be flexible in granting relief to taxpayers that can demonstrate they fall within the circumstances described in the FAQs.

As the economic impact from COVID-19 continues to unfold, additional economic relief (including tax relief) may be introduced and could supersede the guidance currently provided in the FAQs. Taxpayers may access the [NTA website](#) (in Japanese) and other government websites for the latest information.

\*This newsletter is written based on information as of 1 April 2020.

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