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ICEbreakers: Unlocking Japan

Hot topics

2018 tax reform proposal: On 14 December 2017, the proposals for the 2018 tax reform were released by the ruling coalition parties, which include the following major corporate tax changes:

- The wage increase tax credit regime will be expanded for companies that increase wages.
- Tax incentives for promoting information collaboration will be introduced.
- The rules on corporate reorganizations will be revised.
- The conditions for eligibility for certain R&D or other tax incentives will be tightened.
- The definition of a permanent establishment (PE) will be expanded to align Japanese domestic tax law with the definition under the OECD's BEPS project.

Overview of some key items in the reform proposal

- **Tax incentives for promoting information collaboration:**
  If a company obtains certification for its innovative data utilization plan and develops software according to that plan, assets acquired and used for information collaboration will be eligible for special depreciation (30% of the acquisition cost) or a credit (5%, or if certain conditions are not satisfied, 3%).
- **Tightening of R&D or other tax incentives:**
  If a large company does not satisfy any of the following for a fiscal year beginning from 1 April 2018 to 31 March 2021, certain tax credits will not be available to the company for that fiscal year. However, this will not apply to a fiscal year (excluding the fiscal year in which the company was established or merged) for which the company's profit is equal to or less than the profit for the previous fiscal year:
  - Average wage payments > Comparative average wage payments; or
  - Domestic capital investment > 10% of total depreciation Costs
- **Revision of PE related provisions:**
  - Revision of PE definition
    - ➢ Expansion of the scope of a dependent agent PE
    - ➢ Reduction of the scope of an independent agent
    - ➢ Limitation on activities excepted from PE recognition
  - Clarify rules when there are differences between tax treaties and Japanese law.
- **Revisions related to corporate reorganizations:**
  - Revisions to the calculation of gains on a share transfer in a special business reorganization.
  - Revisions to the controlling continuity test with respect to a 100% group if the transaction is expected to be followed by a qualified distribution of shares.
  - Revision of the employment continuity test/business continuity tests if the transaction is expected to be followed by the transfer of business or employees carried out among 100% group companies.
  - Revisions to the scope of corporate reorganizations without consideration.
- **Amendments to anti-tax haven rules (i.e. CFC rules):**
  - Changes to the economic activity tests.
  - Changes to the amount of passive income and capital gains included in the parent company's income.
  - Revisions to the treatment of passive income of foreign financial subsidiaries.
  - Revision of the measure for eliminating double taxation.
- **Other:**
  - Amendments to Japanese law for the implementation of the OECD Multilateral Instrument.
  - Clarification regarding information provided to foreign authorities under tax treaties, etc.

* These proposals have not yet been enacted and could change before becoming law.

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