Japan:
2015 tax reform proposals announced

On 30 December 2014, the ruling parties of Japan released an outline of the 2015 tax reform proposals, a number of which may affect foreign-based companies doing business in Japan and foreign nationals working in Japan. It is important to note that the proposed measures could be modified as they progress through the legislative process.

Corporate tax

- Through reductions in both the national corporate tax rate and the local enterprise tax rate, the standard effective income tax rate in Japan for companies with stated capital over JPY 100 million would decrease from 34.62% to 31.33% over the next two years, starting with tax years beginning on or after 1 April 2015. The effective tax rate based on the maximum rates applicable in Tokyo to a company whose paid-in capital is over JPY 100 million currently is 35.64%, and the future tax rates for such a company will be available once the enterprise tax rates (income component) for Tokyo are determined.
- The amount of taxable income that may be offset by tax losses carried forward would decrease from 80% to 50% over the next three years, starting with tax years beginning on or after 1 April 2015. However, the tax loss carryover period would increase from nine years to 10 years for tax losses incurred in tax years beginning on or after 1 April 2017.
- The tax rates for both the capital factor and the value-added factor of the factor-based enterprise tax regime (imposed on companies with stated capital over JPY 100 million) would increase from 0.2% to 0.4% and from 0.48% to 0.96%, respectively, over the next two years, starting with tax years beginning on or after 1 April 2015. (A reduction of the value-added factor tax base could be available for certain taxpayers that raise employee wages.)
- The ownership threshold required to fully exclude dividends received from another Japanese company from taxable income would increase from 25% or more to more than 33.3%. In addition, only 20% (currently, 50%) of dividends received from domestic shareholdings of 5% or less would be able to be excluded from taxable income. Dividends received from domestic shareholdings of more than 5% up to 33.3% would be eligible for a 50% exclusion.
- The special measure allowing an increase in the limit for the tax credit available for R&D expenditure to 30% (originally 20%) of the total corporate tax liability would be abolished and replaced with a 30% overall credit limit in certain cases. The one-year carryover for any excess R&D tax credit would be abolished.
- One of the requirements to take a tax credit for wage increases would be relaxed. Companies increasing wages by 4% (currently, 5%) over a specified base period for tax years beginning on or after 1 April 2016 would be eligible for the tax credit, provided other conditions are satisfied. The required increase would be further reduced to 3% for small and medium-sized companies with stated capital of JPY 100 million or less.
- Various tax incentives, including special depreciation and tax credits, would be provided to companies that invest in assets and hire employees in specified regional areas of Japan.
- Additional measures related to the revisions to the taxation of permanent establishments that were included as part of the 2014 tax reform would be introduced.
(e.g. where a foreign company earns interest on short-term accounts receivable (generally less than six months), the interest would not be considered Japan-source income for Japanese corporate income tax purposes).

- The 95% foreign dividend exemption regime would not apply to foreign dividends that are deductible in the jurisdiction of the payer. This rule generally would be effective for tax years beginning on or after 1 April 2016, with grandfathering rules for existing shares applying for periods beginning before 1 April 2018.
- Several amendments would be made to the controlled foreign corporation (CFC) regime, including changing the effective tax rate for triggering the CFC rules to less than 20%, from the current 20% or less.

**Consumption tax (JCT)**

- The place of supply for cross-border digital services (e.g. the provision of e-books and online advertising services) would change from the office of the supplier to the domicile of the recipient. The supply of cross-border digital services would be classified as business-to-business (B2B) supplies or business-to-consumer (B2C) supplies, according to their nature and service terms. A reverse-charge mechanism would apply to B2B supplies, and recipients (rather than suppliers) would be liable to account for output JCT on the supply. The new rules would apply for transactions taking place on or after 1 October 2015.
- The JCT rate increase to 10% would be postponed by 18 months to 1 April 2017, and the “economic conditions” clause giving the government discretion to cancel the rate increase based on prevailing economic conditions would be removed. A broad discussion on the introduction of multiple JCT rates in 2017 would be launched.

**Individual tax**

- Income tax would be levied on built-in gains on shares held by individuals who have maintained an abode in Japan for more than five of the preceding 10 years and who have assets worth more than JPY 100 million, at the time these individuals exit Japan. The tax would apply for individuals leaving Japan on or after 1 July 2015.
- Additional documentation requirements would be imposed on individuals claiming a nonresident as a dependent on their income tax return.

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