



**COUNTRY
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Japan

PRIVATE CLIENT

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This country-specific Q&A provides an overview of private client laws and regulations applicable in Japan.

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JAPAN

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1. Which factors bring an individual within the scope of tax on income and capital gains?

Under Japanese tax law, in brief, an individual's tax residency status and the source of income affects a range of taxation imposed on such Individual. A permanent resident (defined below) is subject to income taxation on all of his/her income, regardless of where the income is generated, and the range of taxable income is limited depending on the tax residency status as follows.

1.1 The tax residency status

As explained above, the range of taxes imposed on an individual differs depending on the individual's tax residency status in Japan as follows:

(i) Resident (Individual who has a residence in Japan or has had a place of temporary stay in Japan for 1 year or more) (a) Permanent Resident (Resident who has Japanese nationality, or Resident who does not have Japanese nationality and has had a residence or place of temporary stay in Japan for a period exceeding five years in the most recent decade.)

Worldwide income.

(b) Non-permanent Resident (Resident who does not have Japanese nationality and has had a residence or place of temporary stay in Japan for a period not exceeding five years in the most recent decade.) Income other than foreign-sourced income, and foreign-sourced income that is paid in Japan or transmitted from abroad.

(ii) Non-Resident (Any individual other than a Resident)

Only Japan-sourced income.

Whether an individual has a residence or place of temporary stay is determined based on a comprehensive review of various factors. However, the objective facts including whether the individual owns or rents a house in Japan, how long the individual stays in Japan each year and whether the individual has an occupation in Japan

would be key factors.

1.2 Source rule

As a general rule, Japanese tax law specifies the following types of Japan-sourced taxable income:

(i) Business income derived from a permanent establishment ("PE") in Japan; (ii) Income from the utilization or holding of assets located in Japan (excluding as stated below); (iii) Income from the transfer of certain types of assets located in Japan (including shares of Japanese corporations in certain situations and excluding as stated in (v)); (iv) Distribution of profit from a partnership which has a PE in Japan; (v) Income from the transfer of real estate (including leasehold of land) in Japan; (vi) Consideration for the provision of personal services carried out in Japan; (vii) Rents from real property, ships and airplanes located/registered in Japan; (viii) Interest on bonds or debentures; (ix) Dividends paid by Japanese corporations or investment trusts in Japan; (x) Interest on loans paid by business operators engaging in Japan; (xi) Royalties from intellectual property in Japan / rents from movables in Japan; (xii) Wages or compensation in consideration of services carried out in Japan; (xiii) Awards received from sales promotional activities; (xiv) Annuities from life insurance policies; and (xv) Distribution of profits from a silent partnership (tokumei kumiai).

Please note that the source rule under an applicable tax treaty would override the above rule regarding Japan-sourced taxable income under Japanese domestic tax law.

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

2.1 Types of income on individual revenue

At the outset, regarding income taxation on an individual, such individual is subject to (i) income tax (including special income tax for reconstruction, which is a special tax imposed by the Japanese government for the purposes of reconstructing cities affected by the 2011 Great East Japan Earthquake). Hereinafter the same) as national tax and (ii) local resident tax and local business tax (if any) as local taxes under Japanese tax law.

An individual is generally required to file tax returns on his/her income accrued each year (from January 1st to December 31) by March 15 of the following year. However, as an exception, several types of income are taxed only by withholding. For example, an individual who acquires only income categorized as "employment income" or "retirement income" (e.g., wages, directors' compensation or severance allowance) is not required to file a tax return as long as (i) the total amount of "employment income" is JPY 20 million or less and (ii) all income earned by the individual is withheld at source.

The applicable tax rate is generally a progressive tax rate, the maximum of which is 56.155% of income tax including 10% of local resident tax. The applicable tax rate of local business tax differs depending on the type of business (5% for most types).

As an exception, capital gains derived from real estate or securities (including shares) are subject to income taxation at the following fixed tax rates for tax residents of Japan:

(i) Real Estate

15.315% (income tax) □ 5% (local resident tax)

30.63% (income tax) □ 9% (local resident tax) in the case where the holding period as of January 1st of the relevant year in which an individual transfers the real estate is 5 years or less

(ii) Securities

15.315% (income tax) □ 5% (local resident tax)

2.2 Exit tax

In the case where an individual leaving Japan (i.e., becoming a non-tax resident of Japan) meets the following requirements, such individual is subject to exit tax under Japanese tax law unless such individual returns to Japan within 5 years (10 years if extended) after the departure.

(i) The individual has a residence in Japan exceeding 5 years in the recent 10 years before the departure; and

(ii) The total amount of securities, unsettled margin trading and unsettled derivative transactions that such resident has is JPY 100 million or more at the time of departure.

Exit tax is imposed on deemed capital gains derived from securities, unsettled margin trading and unsettled derivative transactions at a flat tax rate of 15.315%. The Individual is required to file a tax return or a tax deferral application form (in the case where the individual intends to return to Japan) by the time of departure.

3. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

Under Japanese tax law, salaries (e.g., wages or severance allowance), public pension, bank interest, fees for certain professionals, dividends and royalties paid in Japan are generally withheld at source.

In addition, regarding payment to non-tax residents of Japan or foreign corporations, certain types of payment which are categorized as either of the following Japan-sourced income ((iv) to (xv) of Japan-sourced income as stated in question 1) paid by Japanese residents to non-tax residents (including foreign corporations) are subject to withholding at 10.42%, 15.315% or 20.42%. Such withholding may be exempted or reduced by the applicable tax treaty.

(i) Distribution of profit from a partnership which has a PE in Japan; (ii) Income from the transfer of real estate (including leasehold of land) in Japan; (iii) Consideration for the provision of personal services carried out in Japan; (iv) Rents from real property, ships and airplanes located/registered in Japan; (v) Interest on bonds or debentures; (vi) Dividends paid by Japanese corporations or investment trusts in Japan; (vii) Interest on loans paid by business operators engaging in Japan; (viii) Royalties from intellectual property in Japan / rents from movables in Japan; (ix) Wages or compensation in consideration of services carried out in Japan; (x) Awards received from sales promotional activities; (xi) Annuities from life insurance policies; and (xii) Distribution of profits from a silent partnership (tokumei kumiai).

In the case where an individual files a tax return on his/her income, the withholding amount would be credited from the calculated amount of income tax.

4. How does the jurisdiction approach the

elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

In the case where an individual tax resident of Japan is subject to income taxation, such individual would benefit from foreign tax credits in the calculation of income tax at the time of tax filing.

In addition, in order to avoid double taxation, the Japanese government has concluded tax treaties with many countries/areas. More specifically, as of 1 December 2023, Japan has concluded 85 tax treaties that are applicable to 154 jurisdictions. Furthermore, as of 20 November 2023, Japan has adopted most parts of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting and selected 43 jurisdictions as applicable countries/areas.

5. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

No. There is no concept of a wealth tax under Japanese tax law.

6. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

6.1 Description of inheritance tax and gift tax

Under Japanese tax law, inheritance tax and gift tax are imposed on the transfer of assets by individuals to other individuals for free.

(i) Inheritance tax Heirs or recipients of an estate due to inheritance are subject to inheritance tax if the total amount of taxable assets exceeds the threshold specified under the Inheritance Tax Act. The current threshold is JPY 30 million plus the amount equal to JPY 6 million multiplied by the number of statutory heirs under Japanese civil law.

The tax rate is a progressive tax rate on the portion of each heir, and the maximum tax rate is 55%. The actual tax amount is briefly calculated as follows: (i) the total

amount of inheritance tax is calculated on the premise that heirs divide the estate according to the statutory portion under Japanese civil law, (ii) the total amount of inheritance tax is allocated to each heir/recipient according to the ratio of actual portions of the estate held by them and (iii) tax credits are applied to each heir/recipient.

Heirs/recipients are generally required to file a tax return within 10 months from the death of the decedent.

(ii) Gift tax Recipients of assets by a gift are subject to gift tax if the total amount of gifts per year received by the recipient exceeds JPY 1.1 million.

The tax rate is a progressive tax rate, and the maximum tax rate is 55%.

Recipients are generally required to file a tax return by March 15 of the following year.

6.2 The range of taxable assets

The range of assets on which both inheritance and gift tax can be imposed differ depending briefly on (i) whether the transferor/recipient has a residence in Japan at the time of inheritance/gift (regarding Japanese nationals, whether the transferor/recipient has a residence in Japan in the latest 10 years before the inheritance/gift) and (ii) where each of the succeeding assets is located.

For example, the taxable assets would be limited to the assets located in Japan in the following cases:

(i) Between Japanese nationals, neither a decedent/transferor nor any heirs/recipients have had a residence in Japan in the latest 10 years before the inheritance/gift; and (ii) Between foreign nationals, (a) neither a decedent/transferor nor any heirs/recipients have a residence in Japan at the time of inheritance/gift; and (b) a foreign national, who has a residence in Japan and a working visa, transfers assets by inheritance/gift to foreign nationals who have had a residence for a period not exceeding 10 years in the latest 15 years before the inheritance/gift.

6.3 Exit Tax

Same as mentioned in 2.3, in the case where a decedent/transferor meets the following requirements, a gift or a bequest by such individual to non-resident recipient is subject to exit tax under Japanese tax law unless the recipient intends to return to Japan within 5 years (10 years if extended) after the departure.

(i) Such individual has a residence in Japan for a period

exceeding 5 years in the recent 10 years before the departure; and (iii) The total amount of securities, unsettled margin trading and unsettled derivative transactions that such resident has is JPY 100 million or more at the time of departure.

7. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

Yes. There are several tax reliefs, such as special deductions, available especially on an inheritance or gifts to a spouse or lineal descendants.

For example, regarding inheritance tax, a spouse benefits from a special tax credit corresponding to the amount of taxable assets: JPY 160 million or half of the taxable assets, whichever is higher. In addition, regarding gift tax, a preferable gift tax rate is applied to a gift to an individual who is 20 years old or more from the lineal ascendants.

In addition, in the case where several requirements are met, inheritance tax and gift tax are exempted on a share transfer from a business owner to the next generation.

Such tax reliefs are usually applicable by making a tax filing or by submitting the relevant application form.

8. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

Yes. For example, if certain requirements are met, donations to a public interest incorporated association/foundation are eligible for special deductions of up to 25% of income tax per year.

In addition, although a gift from an individual to a corporation generally triggers a deemed capital gain, such capital gain derived from the donation to non-profit corporations would be exempted if certain requirements are met.

These tax treatments would be applied by making a tax filing or by submitting the relevant application form.

9. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

Firstly, at the time of acquisition of real property, an acquiror is subject to real property acquisition tax, regardless of the owner's residency status. The tax amount is usually 3% (for real estate) or 4% of the acquisition price.

In addition, fixed assets tax and urban planning tax are imposed on an owner of real estate in Japan as of January 1 every year, regardless of the owner's residency status. The total tax amount of these taxes per year is usually 1.4% of the valuation price of the real property.

10. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

No. Digital assets are taxed in the same way as non-digital assets.

Regarding income taxation, cryptocurrencies are mainly categorized as payment methods and not generally considered as assets from which capital gains are derived. Income derived from cryptocurrency-related transactions (e.g., mining, staking and lending) is taxed as "miscellaneous income" at progressive tax rate.

In addition, digital assets are generally included in the taxable income of inheritance tax or gift tax, as long as they have economic value.

11. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

If an individual is a business operator, such individual is generally subject to consumption tax at a flat tax rate of 10% (8% for certain products). In this case, such individual is required to file a tax return each year (from January 1st to December 31) by March 15 of the following year. However, in the case where the total amount of taxable sales is JPY 10 million or less, an individual is generally exempted from taxation.

Consumption tax is equivalent to VAT (Value Added Tax) or sales tax in Japan. The amount of consumption tax is briefly calculated by deducting the input amount from the output amount.

12. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

No.

13. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

At the time when an individual decides to establish a residence in Japan, such individual should carefully consider whether they will be subject to inheritance tax and exit tax.

14. What are the main rules of succession, and what are the scope and effect of any rules of forced heirship?

14.1 General rules of the succession

At the time of the decedent's death, the whole estate (the assets held by the decedent) is generally deemed as a joint tenancy among heirs, unless there is a will and testament which specifies the allocation of the estate. Accordingly, each heir cannot generally dispose of the estate without an agreement on division of the estate.

As an exception, in order to pay the amount of certain expenses and/or the amount of inheritance tax, heirs are eligible to withdraw the deposits held in the relevant account of a financial institution held in the decedent's name, to the extent that the aggregate amount of the withdrawal does not exceed one third of the amount of each deposit.

14.2 The range of forced heirship

Regarding forced heirship, under Japanese civil law, if a decedent passes away without a will and testament, a spouse of the decedent always becomes a forced heir. In addition, the following family members become forced heirs with the spouse in the following order of precedence: (i) descendants, (ii) ascendants and (iii) siblings.

For example, if the decedent has parents, a spouse and two sons, the spouse (eligible for a half portion of the estate) and two sons (eligible for the remaining half portion) become forced heirs. On the other hand, if the decedent has a spouse, one mother and one sister, the

spouse (eligible to a two-thirds portion) and the mother (eligible to a one-third portion) become the forced heirs. In the case where a decedent leaves behind a spouse and siblings, the eligible portions are three-fourths for the spouse and one-fourth for all the siblings.

14.3 Will and Testament

In the case where a decedent leaves behind a will and testament, the will and testament will govern the apportionment of the estate.

In brief, the will and testament can be made by an autograph letter according to the specific rules under Japanese civil law or by notary (other than these methods, specific methods are available for those with disabilities or in urgent situations.). A will and testament made by an autograph letter generally needs to undergo a confirmation procedure in the family court.

Regardless of the types of will and testament, no probate procedure other than the said court confirmation is required under Japanese law. Accordingly, the actual division of estate is executed among heirs or by the executor appointed by the will and testament or the court order.

Under Japanese civil law, each forced heir other than siblings has a minimum guaranteed portion toward the estate (*Iryubun*), that is half (in the case where only the lineal ascendants are the heirs: one third) of the statutory eligible portion. Accordingly, an heir, who receives a portion of the estate that is less than the guaranteed portion according to the will and testament, can make a claim for a refund of the shortage against the other recipient who succeeded to a portion of the estate exceeding his/her statutory eligible portion.

15. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

There is no special regime for matrimonial property. Under Japanese civil law, there is no regime such as a tenancy by entirety. In addition, Japanese tax law has no joint tax reporting system, so the husband and wife are each separately taxed as an individual.

In addition, there is currently no civil partnership system in Japan.

16. What factors cause the succession law of the jurisdiction to apply on the death of

an individual?

Under Japanese law (the Act on General Rules for Application of Laws), the governing law of an inheritance is generally determined by the nationality of the decedent. Generally, different governing laws do not apply based on the asset types of the estate. As an exception, if the governing law determined by the decedent's nationality specifies Japanese law as the governing law, Japanese civil law would apply to such case (*remission* or *renvoi*).

17. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

Please refer to the explanation in question 16.

18. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

In theory, if an individual has Japanese nationality, such individual should make a will and testament for the ease of succession. In addition, it is better for an individual who has assets located in Japan to make a will and testament, since the transfer of registration or change of the holder's name in Japan can be done by such will and testament.

Regarding the consequences of dying without having made a will and testament, please see 14.1.

As mentioned in 14.3, the formal requirements differ depending on whether a will and testament is made by an autograph letter according to the specific rules under Japanese civil law or by notary. Especially in the former case, (i) the content of the will and testament other than property inventory must be made all by autograph and (ii) the will and testament must include (a) the date it was made, (b) the official names of the persons mentioned therein and (c) the decedent's seal stamp.

19. How is the estate of a deceased individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

Since there is no probate procedure other than the court confirmation of a will and testament by an autograph letter in Japan, an estate of a decedent is generally administered and allocated by heirs themselves. As an exception, if an executor of the asset allocation is designated by a will and testament of the decedent or a court decision, the executor would administrate the estate and would be responsible for collecting the assets, paying debts, and making distributions to beneficiaries.

20. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

Yes. Some business owners create trusts, private foundations and/or family companies in order to hold, administer and regulate succession to private family wealth including shares of their business entities.

21. How are these structures constituted and what are the main rules that govern them?

There is no specific legislation on the holding, administration and regulation for the succession of private family wealth. The general applicable laws are applicable to each type of entity.

For example, the Trust Act and the Trust Business Act apply to trusts. In addition, the General Incorporated Associations and Corporations Act and the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundation apply to associations/foundations.

Regarding family companies, the Companies Act would apply. Family partnerships are usually governed by the Civil Code.

22. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

Except for the corporate registration of private

foundations and family companies that include the corporate name, address of the corporation and its director's name, there is no general registration requirement in Japan.

As an exception, in the case where a private foundation becomes a public-interest corporation under the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundation, some disclosure rules would apply to the corporation.

23. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Under Japanese tax law, trusts are fiscally transparent for tax purposes in general, and the beneficiaries of the trust are deemed to directly hold the assets, and to acquire revenues and/or bear expenses derived from the trust. Accordingly, if a beneficiary transfers his beneficiary rights of the trust, the beneficiary would be subject to taxation as if the assets were directly disposed.

In addition, family partnerships are fiscally-transparent for Japanese tax purposes as well. Accordingly, each partner is subject to taxation through the partnership.

On the other hand, since private foundations and family companies are deemed as separate legal persons from the founders and directors, they are separately taxed.

24. Are foreign trusts, private foundations, etc recognised?

Yes. Foreign trusts and private foundations are generally recognised.

However, Japan has not ratified the Hague Convention on the Law Applicable to Trusts and on their Recognition ("Hague Convention"), so there is no explicit provision regarding the governing law for trusts in conflict of law situations. Such situations are handled in the same way as foreign foundations.

25. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Although the tax treatment of foreign trusts and private foundations are sometimes unclear, such tax treatment would be generally equivalent to the tax treatment of trusts and foundations established under Japanese law, as long as such trusts or private foundations are legally

recognised.

26. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

Under Japanese law, a trustee or private foundation who is a title holder of the assets is generally deemed as a separate/independent legal person from the settlor or beneficiary. Accordingly, trusts and private foundations, etc., can be used to shelter assets from the creditors of a settlor or beneficiary of the structure.

However, such separation of legal personality is determined in substance, and thus there is a possibility that the settlor or beneficiary may be deemed as a title holder of the assets, especially in exceptional cases where the settlor or beneficiary has substantial control of the assets.

27. What provision can be made to hold and manage assets for minor children and grandchildren?

There are relatively few cases where a certain arrangement is introduced for minor children and grandchildren. However, family trusts are used for holding and management of the assets, especially in the case where the beneficiary is anxious about his/her future mental incapacity (i.e., future ability to make decisions) or in the case where the business owner would like to succeed his/her shares to the next generation with the reservation of voting rights.

Such family trusts are fiscally transparent for Japanese tax purposes in general.

28. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

Under Japanese law, individuals who wish to make preparations for the possibility of future mental incapacity often use (i) the voluntary adult guardianship system and (ii) a family trust between family members.

(i) The voluntary adult guardianship system enables an individual to appoint his/her future adult guardian and to decide the range of the guardian's authority in advance by notarized agreement with the guardian candidate. In

the case where the candidate becomes an adult guardian, the guardian can not only manage the assets of the adult ward, but also make decisions on medical treatment and/or nursing homes as long as such matters have been agreed on in the notarized agreement.

In addition, (ii) a family trust between family members can be engaged by the mutual agreement and without any license/permission by the government. The authority of the family trustee is limited to the management of the assets in general.

29. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

General incorporated associations / foundation corporations (*ippan syadan hojin* / *ippan zaidan hojin*) and public interest associations / foundation corporations (*koeki syadan hojin* / *koeki zaidan hojin*) are often used for charitable or philanthropic activities. They are all corporation forms which are separate legal entities from the individual founders.

With the fulfilment of certain requirements under Japanese tax law, they are generally established as non-taxable corporations which are subject to corporation tax imposed only on income derived from certain types of business activities specified under Japanese tax law. In addition, a donor who donates his/her assets to a public interest association / foundation corporation can benefit from special deductions in the calculation of his/her income tax.

These associations/foundations are established according to statutory procedures under the General

Incorporated Associations and Corporations Act.

30. What is the jurisdiction's approach to information sharing with other jurisdictions?

As of December 1, 2023, Japan has concluded 85 tax treaties which include 154 countries and regions, most of which have an exchange of information clause. In addition, the Convention on Mutual Administrative Assistance in Tax Matters was executed in 2011. Under these tax treaties, certain types of information are exchanged.

In addition, automatic information exchange under the CRS (Common Reporting Standard) regime has been implemented since 2018.

Furthermore, under the 2024 tax reform, automatic information exchange under the CARF (Crypto-Asset Reporting Framework) formulated by OECD is going to be implemented.

31. What important legislative changes do you anticipate so far as they affect your advice to private clients?

Under the current legislation on inheritance tax and gift tax, as the applicable tax rate to the same amount of asset transfer is higher than that of inheritance tax, such difference is preventing individuals from shifting assets to their descendants. From this point of view, the Japanese government plans to revise these taxes in order to let the total tax amount of inheritance tax and gift tax be the same regardless of the timing of the assets transfer.

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