

# Financial Services Tax News

October 2009

## PwC Japan Tax Newsletter

The Tax Practice of PricewaterhouseCoopers Japan (Zeirishi-Hojin PricewaterhouseCoopers) is one of the largest professional tax corporations in Japan with about 560 people. Within this practice, our Financial Services Tax Group is comprised of approximately 100 professionals, dedicated specifically to advising the financial services industry. In addition to tax compliance services our tax professionals are experienced in providing tax consulting advice in all aspects of domestic/international taxation including financial and real estate, transfer pricing, M&A, group reorganization, global tax planning, and the consolidated tax system to clients in various industries.

The firms of the PricewaterhouseCoopers global network ([www.pwc.com](http://www.pwc.com)) provide industry-focused assurance, tax and advisory services to build public trust and enhance value for clients and their stakeholders. More than 163,000 people in 151 countries across our network share their thinking, experience and solutions to develop fresh perspectives and practical advice.

This Tax News is provided for general guidance only, and does not constitute the provision of advice or professional consulting of any kind. Before making any decision or taking any action, you should consult your usual PwC contact with all the pertinent facts relevant to your particular situation.

Zeirishi-Hojin PricewaterhouseCoopers  
Financial Services  
Kasumigaseki Bldg., 15F  
2-5 Kasumigaseki 3-chome  
Chiyoda-ku, Tokyo 100-6015  
Telephone: 81-3-5251-2400  
<http://www.pwc.com/jp/tax>

\*connectedthinking

© 2009 Zeirishi-Hojin PricewaterhouseCoopers.  
All rights reserved. "PricewaterhouseCoopers" refers to Zeirishi-Hojin PricewaterhouseCoopers or, as the context requires, the PricewaterhouseCoopers global network or other member firms of the network, each of which is a separate and independent legal entity.

## 2009 Tax Reform on Taxation of covered warrant for individuals

The 2009 Tax Reforms were promulgated on March 31, 2009, and the scope of special tax treatment applicable to certain futures trades was extended to certain listed covered warrants with effect from such listed covered warrants exercised or sold on or after January 1, 2010. Business income, miscellaneous income or capital gains from the exercise or sale of covered warrants listed on a Japanese financial instruments exchange ("**Listed Covered Warrants**") are entitled to the special tax treatment for individual income tax purposes.

Further to the above reform, losses from the exercise or sale of Listed Covered Warrants can be carried over for 3 years and deducted, depending on the original income classification, from business income, miscellaneous income or capital gains from cash settlement, sale or exercise of certain futures trades, including Listed Covered Warrants.

This newsletter provides an outline of the tax reform above.

## Special Tax Treatment for Income from Certain Future Trades

### Before 2009 Tax Reform

When a Japanese resident individual or a non-Japanese resident individual with a permanent establishment in Japan (jointly “**Residents**”) who made certain futures trades (Note 1) settle the futures position in cash (except for a physical delivery trade), business income or miscellaneous income from such futures positions unwound is separated from other income and subject to tax at a special rate of 20% (15% for national tax and 5% for local tax). When losses are incurred from the cash settlement of the futures trades, such losses can be offset, depending on the income classification, against business income or miscellaneous income from the other futures trades. On the other hand, profits from covered warrants (Note 2) exercised or sold were not entitled to this special tax treatment, and subject to tax at marginal rates under aggregate taxation.

(Note 1) “Futures trades” includes commodity futures trades as defined in Article 2, Paragraph 8 of the Commodity Exchange Act, and financial futures trades as defined in Article 2, Paragraph 21, Item 1 to 3 of the Financial Instruments and Exchange Act.

(Note 2) “Covered Warrants” means securities as defined in Article 2, Paragraph 1, Item 19 of the Financial Instruments and Exchange Act, to the extent that the securities reflect rights on trades as listed in Article 2, Paragraph 22, Item 4 of the Financial Instruments and Exchange Act.

### Under 2009 Tax Reform

The scope of special tax treatment which was applied to futures trades was extended to profits from the exercise or sale of Listed Covered Warrants (Note 3). The exercise or sale of Listed Covered Warrants in this context includes an exercise or forfeit of rights reflected on the Listed Covered Warrants, or sale of the Listed Covered Warrants to a securities dealer, whether it is a principal or an agent.

(Note 3) “Listed Covered Warrants” means covered warrants listed on the Japanese financial instruments exchange.

## Carryover of Losses on Future Trades

### Before 2009 Tax Reform

If Residents who file final tax returns have incurred losses from futures positions unwound within three tax years prior to the current year, such losses can be offset, depending on the original income classification, against business income or miscellaneous income from futures settled in cash during the current tax year, to the extent of the business income or miscellaneous income.

### Under 2009 Tax Reform

Further to the special tax treatment applied to Listed Covered Warrants under the 2009 tax reform, losses from the exercise or sale of the Listed Covered Warrants can be carried forward for 3 years.

The above amendments apply effective to the Listed Covered Warrants exercised or sold on or after January 1, 2010.

**For more detailed information, please do not hesitate to contact your financial tax services representative or any of the following members:**

**Zeirishi-Hojin PricewaterhouseCoopers**

Financial Services  
Kasumigaseki Bldg. 15F  
2-5 Kasumigaseki 3-chome  
Chiyoda-ku, Tokyo 100-6015  
Telephone: 81-3-5251-2400  
<http://www.pwc.com/jp/tax>

<b>Partner</b>	Sachihiko Fujimoto	81-3-5251-2423	sachihiko.fujimoto@jp.pwc.com
	Katsuyo Oishi	81-3-5251-2565	katsuyo.oishi@jp.pwc.com
	Yuka Matsuda	81-3-5251-2556	yuka.matsuda@jp.pwc.com
	Tetsuo Iimura	81-3-5251-2834	tetsuo.iimura@jp.pwc.com
	Akemi Kitou	81-3-5251-2461	akemi.kitou@jp.pwc.com
	Hiroshi Takagi	81-3-5251-2788	hiroshi.takagi@jp.pwc.com
	Yoko Kawasaki	81-3-5251-2450	yoko.kawasaki@jp.pwc.com
	Raymond Kahn	81-3-5251-2909	raymond.a.kahn@jp.pwc.com
	Stuart Porter	81-3-5251-2944	stuart.porter@jp.pwc.com
<b>Senior Manager</b>	Marc Lim	81-3-5251-2867	lim.marc@jp.pwc.com
	Kenji Nakamura	81-3-5251-2589	kenji.nakamura@jp.pwc.com
	Kimihito Takano	81-3-5251-2698	kimihito.k.takano@jp.pwc.com
	Nobuyuki Saiki	81-3-5251-2570	nobuyuki.saiki@jp.pwc.com
	Akiko Hakoda	81-3-5251-2486	akiko.hakoda@jp.pwc.com
<b>Manager</b>	Kyoko Imamura	81-3-5251-2855	kyoko.imamura@jp.pwc.com
	Mami Sasaki	81-3-5251-2471	mami.sasaki@jp.pwc.com
	Satoshi Matsunaga	81-3-5251-2586	satoshi.matsunaga@jp.pwc.com
	Soichi Toyama	81-3-5251-6212	soichi.toyama@jp.pwc.com
	Takashi Nonaka	81-3-5251-2417	takashi.nonaka@jp.pwc.com
	Hiroko Suzuki	81-3-5251-2156	hiroko.x.suzuki@jp.pwc.com
	Kotaro Fujino	81-3-5251-2036	kotaro.fujino@jp.pwc.com
	Koichiro Ito	81-3-5251-6525	koichiro.ito@jp.pwc.com
	Nobuyoshi Hiruma	81-3-5251-2871	nobuyoshi.hiruma@jp.pwc.com
	Miyuki Kajiwara	81-3-5251-2520	miyuki.m.kajiwara@jp.pwc.com
	Naoko Makihira	81-3-5251-2223	naoko.makihira@jp.pwc.com
Daniel Lutz	81-3-5251-6640	daniel.lutz@jp.pwc.com	