

Financial Services Tax News

May 2009

PwC Japan Tax Newsletter

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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 Tax Reforms

Special rules for Japanese Corporate tax on land acquisition

For land acquired between January 1, 2009 and December 31, 2010, the 2009 Tax Reforms introduced a special deduction for long-term capital gains on the sale of land and deferral by a reduction of the applicable tax basis.

This Newsletter provides a summary of the above-mentioned special rules and highlights certain aspects in respect of the practical application of these rules.

1. Special deduction for long-term capital gain on sale of land

If a corporate taxpayer (excluding a corporation under liquidation process) acquires land etc. ("Land") during the period from January 1, 2009 to December 31, 2010 and continues to own the Land for more than five (5) years ("Holding Period"), a special deduction of up to JPY 10 million is allowed as a reduction from the taxable income during the fiscal year of its sale. The special deduction is limited to the capital gain arising from the difference between the transfer price of the Land or the fair market value of the property exchanged for the Land and the sum total of the book value of the Land and certain expenses incurred during the transfer. The special deduction will only be applicable if the corporate taxpayer does not apply other special rules on replacement of specific properties within certain prescribed periods.

The following definitions apply:

- Land includes land and the right over the use of land in Japan but excludes inventories (The same definition applies in Section 2 below.);
- Holding Period is the ownership period from the day after the day of acquisition through January 1 of the year of sale; and
- Acquisition of Land excludes acquisition from certain specially related individual or corporation, merger, division, gift, exchange, investment, or qualified subsequently asset-transferred incorporation, finance lease transactions in which title to the lease asset is not transferred to the lessee ("*Shoyuken Iten Gai Finance Lease*"), and other certain acquisitions. (The same definition applies in Section 2 below.)

2. Deferral of tax on gain from sale of land by reduction of tax basis of Land acquired during 2009 and 2010

If a corporate taxpayer acquires Land ("Land A") from January 1, 2009 to December 31, 2010 and files a tax report to apply for the special tax deferral of capital gain by the filing due date of the final tax return for the fiscal year including the day of acquisition of Land A and within ten(10) years after the end of the fiscal year in which Land A was acquired sells another piece of Land ("Land B"), 80% of the capital gain derived from the sale of Land B can be deferred by reducing the tax basis of Land A ("*Asshuku Kicho*") by the same amount.

Such amount is required to be recognized as expenses ("*Asshukuson*") in the final settlement of accounts to be deductible for tax purposes. Instead of recognizing expenses, accumulating the same amount as a reserve in the final settlement of accounts can be allowed (including the method of accumulating a reserve through the distribution of surplus).

Note that:

- The capital gain is the difference between the sale price of Land B and the total amount of its book value and expenses incurred during the sale; and
- 60% of the capital gain instead of 80% is applied if Land A is acquired only in 2010.

3. Application etc.

In order to apply the special rule mentioned above in Section 2, a corporation has to file a copy of the tax report about Land A to the relevant Tax Office by the filing due date of the final tax return for the fiscal year including the day of acquisition of Land A. Please note that this special rule is available for Land A acquired from January 1 this year.

Further, the special rules above require the deductible amount to be reported in the tax return by attaching a certain schedule of calculation details.

In addition, these special rules are also applicable to taxpayers who adopt a consolidated tax method.

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>

Partner	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
	Raymond Kahn	81-3-5251-2909	raymond.a.kahn@jp.pwc.com
	Stuart Porter	81-3-5251-2944	stuart.porter@jp.pwc.com
Managing Director	Marc Lim	81-3-5251-2867	lim.marc@jp.pwc.com
Senior Manager	Kenji Nakamura	81-3-5251-2589	kenji.nakamura@jp.pwc.com
	Yoko Kawasaki	81-3-5251-2450	yoko.kawasaki@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
Manager	Akiko Hakoda	81-3-5251-2486	akiko.hakoda@jp.pwc.com
	Mami Sasaki	81-3-5251-2471	mami.sasaki@jp.pwc.com
	Kyoko Imamura	81-3-5251-2855	kyoko.imamura@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
	Daniel Lutz	81-3-5251-6640	daniel.lutz@jp.pwc.com