

June 2005  
Gets Vol. 28

## **Taxation on Securitization-Using a Chukan Houjin in the Securitization Scheme**

In recent years the number of securitizations of loans or real estates has been greatly increasing and the types of securitization scheme in financial markets has been varying. In this article, we introduce a type of a securitization scheme that is used in order to achieve a bankruptcy remoteness. In the scheme a Chukan Houjin is used as an equity holding company of a liquidation vehicle. For more information about the securitization scheme described in this article and other recent securitization schemes, please refer to “Kiso Kaisetsu Shokenka-no-Zeimu (Second Edition)” published by Chuokeizai-sha.

### **1. Chukan Houjin**

Chukan Houjin is defined as “an association whose purpose is mutual profit for its members and is not distributing surplus to its members and which is established in accordance with the Law of Chukan Houjin (Article 2-1 of the Law of Chukan Houjin).”

### **2. Role of a Chukan Houjin in a scheme of securitization**

Generally in a liquidation of assets, a bankruptcy remoteness is needed in order to avoid influences of the originator’s bankruptcy on liquidated assets or to intercept possibilities of bankruptcy of the liquidation vehicle claimed by creditors or officers of the liquidation vehicle.

In securitization or liquidation transaction in Japan, a scheme has been used, in order to achieve a bankruptcy remoteness, in which an equity of a liquidation vehicle taking over the assets is held by a SPC established in a tax haven country such as Cayman Islands and the voting rights of the SPC are held by a charitable trust.

However, also in a scheme in which a limited liability Chukan Houjin is used as an equity holding company of a liquidation vehicle, it is considered that a bankruptcy remoteness is achieved by appointing independent lawyers or certified public accountants who are free from the influence of its originator as members of the Chukan Houjin who have voting rights for the Chukan Houjin. In addition to this, due to the advantages in relation to costs of establishment and communication in Japanese, the number of cases in which Chukan Houjin is used as an equity holding company

of a liquidation vehicle has been increasing.

There are two types of Chukan Houjin. The first is a limited liability Chukan Houjin whose members do not assume liability to its creditors. The other is an unlimited liability Chukan Houjin whose members assume liability to its creditors. A limited liability Chukan Houjin is used in a securitization scheme.

### **3. Taxation on a Chukan Houjin**

As a Chukan Houjin is treated as a ordinary corporation under the Japanese Corporate Tax Law, the income subject to corporate tax is not limited to a profit-making business unlike public-interest corporations or non-juridical organizations. Therefore corporate tax is imposed on all income (Article 1-1-8 of the Corporate Tax Basic Circular).

Under the Consumption Tax Law, a Chukan Houjin is treated as a corporation that is described in Schedule 3 of the Consumption Tax Law (Article 156 of the Law of Chukan Houjin).

© 2005 PricewaterhouseCoopers. All rights reserved. "PricewaterhouseCoopers" refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

For further information, please contact Yasuko Takahashi or Mayumi Nakamura at:

E-mail: [pwcjapan.taxpr@jp.pwc.com](mailto:pwcjapan.taxpr@jp.pwc.com) Tel:03-5251-2400