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Although this newsletter provides an outline of the new law, we recommend that you consult with us for specific advice relating to your circumstances and do not take any action based solely on the contents of this Newsletter.

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### Liberalisation of Regime for Foreign Law Firms in Japan

#### Summary of the Main Changes Effective from 1 April 2005

Changes which liberalised the law concerning non-Japanese lawyers ("gaiben") in Japan took effect on 1 April 2005. The main changes were as follows:

- Gaiben may now employ Japanese lawyers ("bengoshi"). Previously this was prohibited, although bengoshi were able to employ gaiben. Gaiben are, however, still prevented from giving instructions to bengoshi on matters "outside the scope of the gaibens' competence".
- Gaiben and bengoshi may now enter into unrestricted joint ventures (called "Gaikokuho Kyodo Jigyo" or GKJ) and share the GKJ's profits. Although the activities of a GKJ are unrestricted, the gaiben themselves are not permitted to intervene in the legal business of the GKJ which is outside the scope of their competence.
- The existing form of limited scope joint enterprise between gaiben and bengoshi (known as a Tokutei Kyodo Jigyo or TKJ) has been abolished with effect from 1 April 2005.

The stated intention of these changes is to allow gaiben and bengoshi to work together seamlessly to provide both Japanese and non-Japanese legal advice to clients within and outside Japan.

Note that gaiben are still required to register individually with the Japan Federation of Bar Associations ("Nichibenren"), and must continue to practice as individuals (i.e. gaiben are unable to practice through corporate entities). A GKJ is therefore a form of Japanese partnership between the participating gaiben individuals and the participating bengoshi individual or the bengoshi corporation, rather than being a joint venture between the foreign law firm and a Japanese law firm.

## Japanese tax issues arising from the establishment of a GKJ

Some of the most commonly seen Japanese tax issues arising from the creation of GKJ include:

- Implications of the establishment of a GKJ structure, such as the creation of taxable gains and losses, and gift tax on contributions to the GKJ.
- Implications for the taxation of the income of the GKJ (impact on pass-through treatment of income and allocation to non-resident partners)
- Treatment of “internal” transactions (between the firms participating in the GKJ) for Japanese consumption tax purposes and domestic withholding tax (on legal fees).

Each of the above areas will require consideration based on the specific fact pattern involved. PricewaterhouseCoopers is able to provide advice and compliance assistance to foreign law firms either wishing to establish GKJ with Japanese bengoshi or wishing to establish independent offices in Japan.

For further information, please contact your usual engagement team or one of the below:

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