

Estate Taxation Highlights

2011 & 2012 Tax Reform and Tax Audit Trend on High Net Worth Individuals

Issue 7, December 2011



.....
Although a major tax reform was proposed early this year including changes in tax rates and exemption amounts with regard to inheritance tax and gift tax matters, the 2011 Tax Reform Draft Bill was amended to delete such parts as a result of negotiations among political parties, and passed the Diet on November 30, 2011.

As the 2012 tax reform proposals were released on December 10, 2011, this newsletter provides a prime focus on the matters related to high net worth individuals (“HNWI”).

This newsletter also covers a recent tax audit trend based on the data published by National Tax Agency (“NTA”), which shows that recent tax audits are targeted towards HNWI and overseas properties.
.....

1. 2011 Tax Reform Draft Bill on Inheritance and Gift Tax Matters

The 2011 Tax Reform Draft Bill included a drastic change of applicable tax rates and basic exemption amounts which could have impacted HNWI. It was amended to delete such changes, and it finally passed the Diet together with the Special Restoration Tax Law on November 30, 2011. Accordingly, no change has occurred and the current tax treatment in regard to inheritance tax and gift tax will continue for the time being.

The above changes will be discussed in the course of a drastic tax reform, but currently the details have not yet been announced and we will need to keep close watch.

However, there is a favorable tax reform passed as a part of the 2011 Tax Reform Bill, which is a spousal tax relief for the inheritance and gift tax purposes. Application of a spousal tax relief used to require a description in the original tax return. However, after the 2011 tax reform, spousal tax relief may be applied in an amended tax return or a claim for refund. This is effective for the inheritance or gift tax filing due date, in principle, on or after December 2, 2011.

2. 2012 Tax Reform Proposal and Signing of Convention on Mutual Administrative Assistance in Tax Matters

On December 10, 2011, the 2012 Tax Reform Proposal was announced. The major points with regard to HNWI, overseas properties and inheritance & gift tax matters are as follows:

(1) Introduction of submitting certain documents regarding overseas properties

In order to contribute proper taxation and tax collection for the purposes of inheritance tax, gift tax, and individual income tax, a new documentation requirement will be introduced for resident individuals who own overseas properties in excess of JPY50 million. The inception date of this requirement is proposed to be March 15, 2014 for overseas properties owned as of December 31, 2013.

For the encouragement of the above requirement, penalty tax relief/aggravation will also be introduced in the case of failing to file a tax return with the correct amount of tax due or failing to file a tax return. The details of relief/aggravation are as follows:

- a. In the case of submission of satisfactory documentation of overseas properties, the applied additional tax for deficiency return as a penalty is 5% lighter for the purposes of individual income tax and inheritance tax.
- b. In the case of failing to submit satisfactory documentation, the applied additional tax for deficiency return as a penalty is 5% heavier for the individual income tax purpose.
- c. Other than a. and b. above, certain provisions of inquiries and penalties for non-submission and fraudulent description may also be introduced.

(2) Signing of Convention on Mutual Administrative Assistance in Tax Matters

On November 4, 2011, the Japanese Government signed the Convention on Mutual Administrative Assistance in Tax Matters and its protocol in the Cannes G20 Summit. The convention will be effective after approval by the Diet. This convention prescribes mutual administrative assistance, such as information exchange and assistance in recovery and service of documents. Once the Convention becomes effective, the Japanese government will be able to request a foreign government for seizure of a foreign property. As of November 3, 2011, the signed countries of this convention are as follows:

Japan	UK	Denmark	Slovenia	USA
Korea	France	Norway	Azerbaijan	Canada
Australia	Germany	Sweden	Ukraine	Mexico
Indonesia	Italy	Finland	Georgia	Argentina
	Spain	Iceland	Moldova	Brazil
	Portugal	Ireland	Turkey	
	The Netherlands	Russia	South Africa	
	Belgium	Poland		

In order to ensure the implementation of the above treaty and existing bilateral double tax treaties, the 2012 Tax Reform proposed introducing related tax laws, which is planned to become effective on or after July 1, 2013.

(3) Relief of solidarity tax payments among heirs

Under the current Japanese inheritance tax law, heirs are jointly liable for the total amount of inheritance tax due. When one of the heirs becomes unable to pay the tax due corresponding to his/her receipt of properties many years later, other heirs are required to pay the unpaid tax due even if he/she has already paid his/her own tax liability.

The 2012 Tax Reform Proposal provides that in certain cases, such as if five years have passed or application of deferral or suspension of tax due, solidarity tax payment burden is relieved. The new law is planned to be effective on or after April 1, 2012 for the due date of filing inheritance tax return.

3. Recent Tax Audit Data

The tax audit data regarding inheritance tax for the 2010 operating year (from July 2010 to June 2011) was released by NTA. The number of on-site tax audits in relation to overseas properties increased by 30.9% from 531 for the previous year to 695 for the underlying year. Corresponding to the increase in the number of the on-site tax audits, the number of tax correction cases provided by NTA increased by 36.5% from 85 to 116.

The tax audit data regarding individual income tax for the 2010 operating year was also released. The data included a special reference on HNWI without providing a clear definition, since those individuals who own major interests on shares or considerable real estate began to diversify and internationalise their investing properties and accordingly tax audits have actively been conducted for such HNWI. The number of tax audits on the HNWI was 4,793 which had increased by 56.6% from the previous year and the average correction amount was JPY3.12 million per audit case, which was considerably larger than the average correction amount of JPY1.62 million on a regular individual income tax audit.

The above data included tax audits conducted by the NTA to the HNWI who were making overseas transactions. The NTA used various measures, such as double tax treaties and overseas cash transfer documents in order to carry out effective and active tax audits. The number of the tax audits on individuals who made overseas investments was 1,446 out of the total individual income tax audits on individuals who conducted overseas transactions of 3,727. The average amount of failing tax declaration on overseas investments was JPY16.41 million.

NTA announced the summary of the information exchange data based on the double tax treaties and information exchange treaties. The total number of the requests provided by the NTA to foreign tax authorities was 274 for the 2008 fiscal year, 315 for the 2009 fiscal year and 646 for the 2010 fiscal year.

As you may understand from the above data, the NTA appears to conduct active tax audits specifically targeting HNWI and overseas properties and seek strict tax collection.

For more information, please consult your tax representative or contact any of the following members listed below:

Zeirishi-Hojin PricewaterhouseCoopers

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	Kazuya Kobayashi	81-3-5251-2752	kazuya.kobayashi@jp.pwc.com
Manager	Morito, Yamada	81-80-4104-5411	morito.yamada@jp.pwc.com
	Yoko Shionoya	81-80-3592-6068	yoko.shionoya@jp.pwc.com
	Hiroko Suzuki	81-80-3592-6100	hiroko.x.suzuki@jp.pwc.com
	Kaori Fukada	81-80-4104-5412	kaori.fukada@jp.pwc.com
	Yoshitaka Hamaoka(Osaka)	81-6-7670-0952	yoshitaka.hamaoka@jp.pwc.com

The Tax Practice of PricewaterhouseCoopers Japan (Zeirishi-Hojin PricewaterhouseCoopers) is one of the largest professional tax corporations in Japan with about 500 people. 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.

PwC firms help organisations and individuals create the value they're looking for. We're a network of firms in 158 countries with close to 169,000 people who are committed to delivering quality in assurance, tax and advisory services. Tell us what matters to you and find out more by visiting us at www.pwc.com.

This document has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this document without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this document, and, to the extent permitted by law, Zeirishi-Hojin PricewaterhouseCoopers, its related corporations, partners, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this document or for any decision based on it.

© 2011 Zeirishi-Hojin PricewaterhouseCoopers. All rights reserved.

In this document, "PwC" refers to Zeirishi-Hojin PricewaterhouseCoopers or, as the context requires, the network of member firms of PricewaterhouseCoopers International Limited (PwCIL) or individual member firms of the PwC network. Zeirishi-Hojin PricewaterhouseCoopers is a member firm of PwCIL. Each member firm is a separate legal entity.