

Estate Taxation Highlights

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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. 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.

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The intention of this Newsletter is to provide an outline of the Japanese tax reforms for 2010 based on the Reform Act that was promulgated on March 31, 2010, 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.

Japanese Inheritance Tax Payers – Case Studies –

As the Japanese economy has become more integrated and globalized, the numbers of Japanese who possess his/her assets both in Japan and outside of Japan are increasing. Furthermore, it is often the case that both the deceased and his/her heir(s) have domicile outside of Japan.

Based on the increasing trend described above, Japanese tax authorities has included in the year 2000 tax reform that taxable assets are subject to Japanese inheritance tax on worldwide basis unless both the deceased and heir(s) with Japanese nationality do not have Japanese domicile within 5 years prior to the deceased date. (Prior the tax reform, taxable assets of non-Japanese resident heir(s) with Japanese nationality were only included assets located in Japan.)

In addition, there are increasing numbers of case where foreign nationals who work in Japan has become Japanese inheritance tax payer during his/her working period in Japan.

This letter, we will outline the criteria of Japanese inheritance taxpayer and introduce typical taxable case studies.

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1. Classification of Japanese inheritance taxpayers and categories of taxable assets

(1) Chart for Japanese inheritance taxpayers

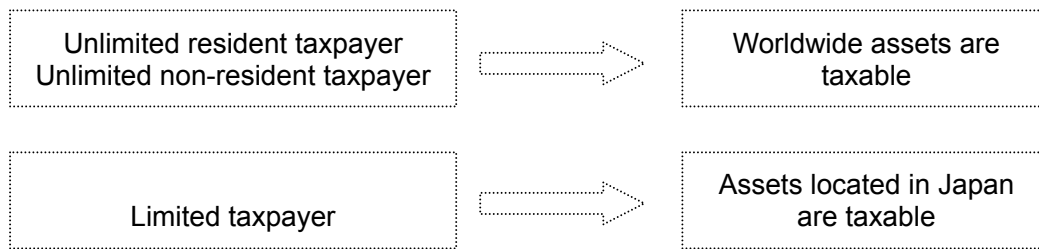
Japanese inheritance tax is levied on person who inherits assets from the deceased. Based on Japanese inheritance tax law, taxable assets are determined base on taxpayers' domicile. There are 3 classifications, unlimited resident taxpayers, unlimited non-resident taxpayers and limited taxpayers. (Other than 3 classifications described above, there is another classification, but we do not refer to that classification in this letter.)

Classification	Situations			Range of taxable assets
	Domicile at the time of deceased	Nationalities of transferee	Domicile of decedent and heir(s) within 5 years prior to the deceased date	
1 Unlimited resident taxpayer	In Japan	Anyone	-	Worldwide basis
2 Unlimited non-resident taxpayer	Outside of Japan	Japanese	Either heir(s) or decedent had been domiciled in Japan within 5 years prior to the inheritance.	Worldwide basis
3 Limited taxpayer	Outside of Japan	Japanese	Both heir(s) and decedent had never been domiciled in Japan within 5 years prior to the inheritance.	Assets located in Japan
		Non Japanese	-	

As above, limited taxpayer is limited to the person who satisfies the following criteria:

- a. Heir with Japanese nationality whose domicile is outside Japan inherits assets located in Japan, and both of the heir and the decedent had never been domiciled in Japan within 5 years prior to the inheritance or
- b. Heir without Japanese nationality whose domicile is outside Japan inherits assets located in Japan

When heir does not meet the limited taxpayer criteria, the heir will be an unlimited taxpayer even though the heir does not have domicile in Japan, and the inherited assets located outside Japan are subject to Japanese inheritance tax as the same for assets located in Japan.



(2) Characteristics on criteria for determining the taxpayer classification of Japanese inheritance tax law

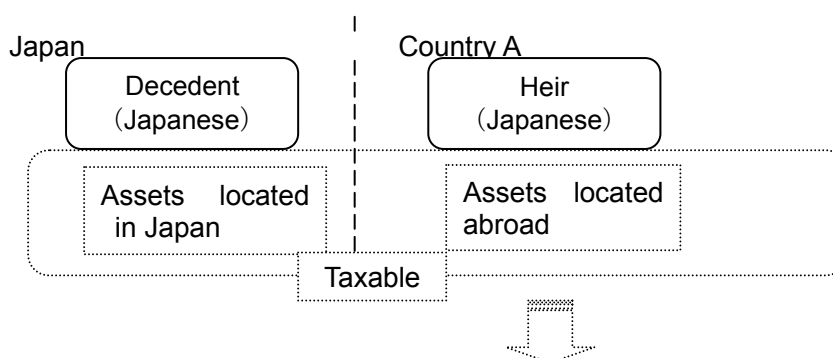
- a. The primary criterion is not base on the domicile of a decedent but the domicile of the heirs.
- b. When the heir has a domicile in Japan at the time of inheritance, the inherited assets (worldwide basis) are subject to Japanese inheritance tax even if the heir does not have Japanese citizenship.
- c. When the heir has a domicile outside Japan, the first determination for taxable asset is based on the nationality of the heir. If the heir is a foreign national and lives outside of Japan, the heir is only taxed on assets located in Japan.
- d. When the heir has a domicile outside of Japan but retains Japanese nationality, the classification depends on whether the heir and the decedent have been domiciled in Japan within 5 years prior to the inheritance. If both heir and the decedent have not been domiciled in Japan within 5 years prior to the inheritance, then taxable assets only include assets located in Japan. If either the heir or decedent has domicile in Japan within 5 years prior to the inheritance, taxable assets would include assets on worldwide basis.

2. Case studies

We introduce 3 inheritance case studies for your reference summarized below. To simplify the case, we assume the heir of the decedent is one child only and the child inherits all of decedent's assets.

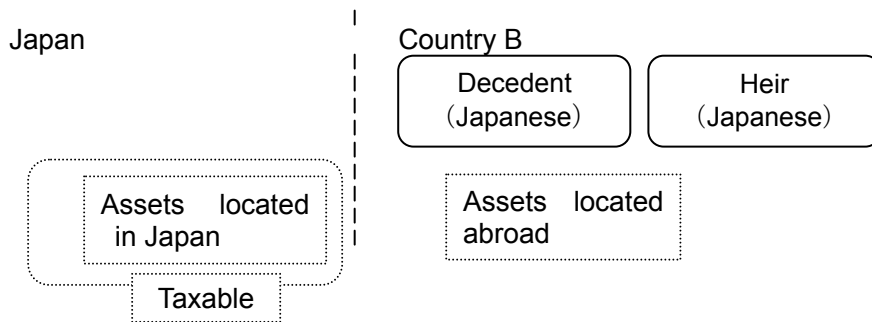
(1) Case - Both of the heir and the decedent are Japanese (i.e. Japanese parent and Japanese child).

- a. Domicile of the decedent is in Japan, and domicile of the heir is outside Japan
 In this case, worldwide asset will be subject to Japanese inheritance tax even if the heir has not been domiciled in Japan (e.g. the heir does not have to be domiciled in Japan when the decedent passes away). In this case, the heir would be an unlimited non-resident taxpayer.
 If the heir is subject to inheritance tax in Country A, inheritance tax amount of Country A will creditable from Japanese inheritance tax by foreign tax credit scheme based on a certain calculation.



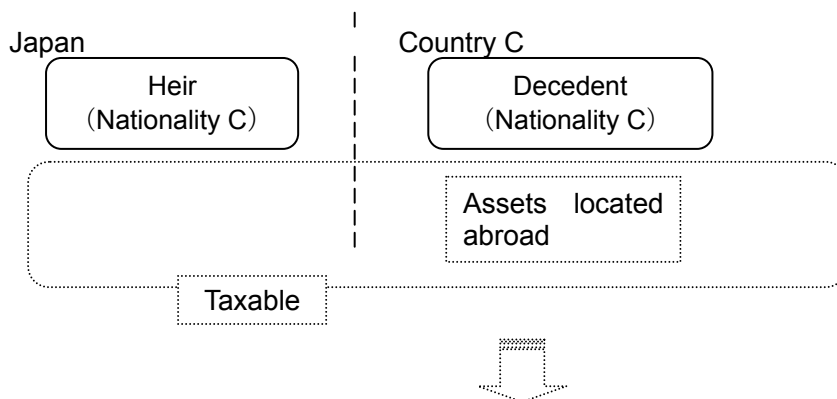
The difference between the tax rates represents the extra tax paid in Japan (assuming Japan has a high inheritance tax rate).

- b. Both of the decedent and the heir had not been domiciled in Japan within 5 years prior to the inheritance. When both the decedent and the heir have not been domiciled in Japan within 5 years, the heir becomes a limited taxpayer and only assets located in Japan are taxable.



(2) Case - Both the decedent and the heir are foreign nationals (i.e. a foreign parent and a foreign child)

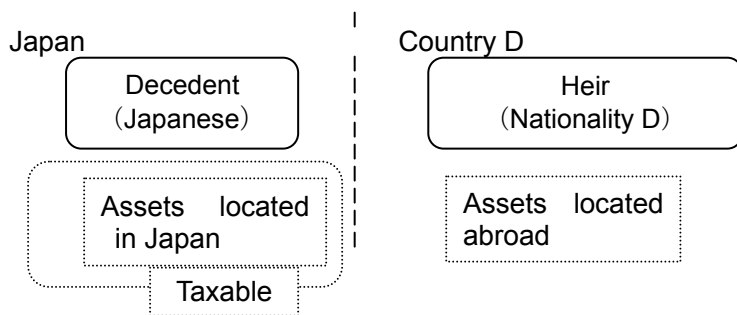
In this case, assume that the heir has been domiciled in Japan by chance at the time of inheritance. Because Japanese inheritance tax rate is basically higher compared with other countries, it sometimes becomes accidental heavy burden for Japanese residents with non-Japanese nationality. Even if the inherited assets are located abroad, these inherited assets are subject to Japanese inheritance tax with up to 50% tax rate based on the total value of the taxable assets. If the inherited assets by the heir are subject to inheritance tax in Country C, inheritance tax amount of Country C will be creditable from Japanese inheritance tax by foreign tax credit as described in the case (1) a.



The difference between the tax rates represents the extra tax paid in Japan (assuming Japan has a high inheritance tax rate).

(3) Case - The decedent is Japanese and the heir is non-Japanese

In this case, we assume that the deceased had been married in Country D and had a child in Country D, and the child has only nationality of Country D while the deceased has moved back to Japan. The deceased has been domiciled in Japan at the time of inheritance, and the inherited assets are located both in Japan and in Country D. The child has been domiciled in Country D. Because the child is limited taxpayer (because the heir has domicile outside Japan and has no Japanese nationality), only the assets located in Japan are taxable.



Please note that the heir will be an unlimited non-resident taxpayer when the child has also Japanese nationality (dual citizenship). In that case, the assets located abroad are also taxable as same as (1) a. because it failed the condition that both the heir (with Japanese nationality) and the parent has not domiciled in Japan within 5 years of the inheritance.

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

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