

Estate Taxation Highlights

New requirement for reporting of overseas assets

Issue 12, August 2013



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This newsletter provides the summary of the reporting of overseas assets including the updates on the details of the reporting provided by a Circular issued in March 2013.
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On March 30, 2012, the Diet approved the 2012 Tax Reform Bill, which included a new annual reporting requirement for tax residents in Japan with overseas assets of more than JPY 50 million in aggregate value. This reporting will start with 2013 year-end assets, and the first report will be due March 17, 2014.

More recently, in anticipation of the inaugural reporting year, the Japanese tax authorities have announced specific instructions, including a Circular issued in March 2013 to provide more clarity on the reporting of overseas assets.

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1. New annual reporting for overseas assets

In an effort to improve income and inheritance tax compliance relating to overseas assets, ‘permanent residents’ in Japan (Japanese nationals or foreign individuals who have been in Japan for more than 5 years out of the preceding 10 years) who hold certain assets have a new annual reporting requirement. This requirement arises when permanent residents hold assets including non financial assets, outside of Japan which exceeds JPY 50 million in gross values (liabilities such as home loans will not be considered) as of December 31. The person must then disclose such assets by submitting an annual report to the tax office by March 15th of the following year.

(i) Definition of an ‘asset’

For the purpose of the ‘Overseas Assets Reporting’, an asset means anything that has economic value which can be estimated into a monetary value. So, unlike offshore assets disclosures in other countries, the reporting in Japan will have a broader scope and will cover more than just financial assets. Some of the more common assets include:

- real estate properties
- bank accounts
- brokerage accounts
- bonds
- shares
- insurance products
- vested equity awards (such as stock options) that are not yet paid/exercised
- interests in partnerships and trusts
- antiques
- jewelry and other valuables.

Assets for both business and personal purposes need to be included.

(ii) Individual income tax return not a prerequisite

The ‘Overseas Assets Reporting’ is separate from the individual income tax return and therefore, the new report must be filed regardless of whether an individual income tax return is required to be filed. For example, a non-working spouse with no Japan tax return filing requirement is required to submit the reporting if he/she has overseas assets of more than JPY 50 million. Also, joint assets located outside of Japan need to be reported by each asset holder separately based on his/her portion.

To be clear, this requirement would apply not only to foreigners and expatriates, but also to Japanese nationals as well.

However, the ‘Overseas Assets Reporting’ is not required for individuals who have permanently left Japan or were deceased by March 15th of the following year. Please note that if a tax representative is appointed on behalf of the departed individual, such exemption would not apply.

(iii) Overlap with current reporting rules

Currently, taxpayers with gross income over JPY 20 million are required to submit the ‘Details of Assets and Liabilities’ statement along with the individual income tax return. Starting with the 2013 tax year, there will be individuals who are required to submit both the ‘Details of Assets and Liabilities’ and the ‘Overseas Assets Reporting’. In such a case, taxpayers do not need to report overseas assets in the ‘Details of Assets and Liabilities’ if such assets are disclosed in the ‘Overseas Assets Reporting’.

Please note, however, that the reverse is not permitted, and thus the overseas assets cannot be omitted from the new reporting form.

(iv) Location of overseas assets

‘Overseas assets’ mean assets located outside of Japan. Whether a particular asset is located outside of Japan is determined in accordance with the Inheritance Tax Law and the related ministerial order. Locations for some of the more common assets are listed in Fig. 1-1 at the end of this publication.

(v) Valuations of overseas assets

Values for the purpose of the 'Overseas Assets Reporting' are either fair values or estimated values as of December 31 of that year. The 'fair value' is a value that is commonly established through a transaction between unrelated parties. This includes an appraisal value by a professional person and the ending price published at a financial instruments exchange.

The 'estimated value' means a value computed in a rational manner based on the asset's acquisition price or a sample selling price of a similar asset. Some of the more common items are listed in Fig. 1-2 at the end of this publication.

(vi) Tax audits, penalties, and penalty tax

The 'Overseas Assets Reporting' is subject to the tax audit by the National Tax Agency. The regulation permits the right of inspection to the tax authorities regarding the reporting. This means that during the course of an income tax audit, the income tax auditor could inspect this form even though it is not part of the tax return.

The penalty for fraudulent reporting is imprisonment up to 1 year, or a fine up to JPY 500,000. The same penalty is also applied for those who do not submit the 'Overseas Assets Reporting' by the due date without any allowable reasons. This penalty provision will be applicable for the report submitted on or after January 1, 2015.

In addition, there are special applications of the penalty tax in connection with this new requirement. If the penalty tax is due to an understatement of income from overseas assets which have been properly disclosed on the 'Overseas Assets Reporting', the penalty tax rate will be reduced by 5 percentage points. Conversely, if the penalty tax is due to an understatement of income from the overseas assets which have not been properly disclosed on the new assets reporting, then the penalty tax rate will be increased by 5 percentage points.

2. NTA has provided additional details

Japan's National Tax Agency (NTA) issued a Circular on March 29 of this year, which provides specific instructions on the 'Overseas Assets Reporting.' The discussion above is a high-level summary and does not describe all of the clarifications and details provided by the NTA. Examples of items covered in the Circular include:

- definition of assets (2-1)
- various types of assets that are required to be reported on the new report (5-3)
- how to show asset type, amount (units), value, location, and other instruction such as reporting an asset that is for both personal and business use (5-4)
- definition of fair value (5-7)
- how to figure 'estimated value' and related examples (5-8)
- treatment of joint ownership (5-12)
- overseas assets not subject to the reporting requirement (6-2).

3. International cooperation among governments

In recent years, the environment for tax assessment and collection by Japan and other countries relating to overseas assets has changed quite drastically. The 'Overseas Assets Reporting' discussed in this publication is such an example.

Globally, there is international cooperation among government agencies for tax assessment and collection. More than 50 countries have signed the multilateral Convention on Mutual Administration Assistance in Tax Matters (as of July 2013) for exchanging tax data and helping tax collection. Japan signed the convention in November 2011 and it became effective in June 2013.

Domestically, the National Tax Agency issued the Revised Basic Circular for National Tax Collection Act in June 2013. One of the changes in the revised Circular is that for delinquent taxpayers whose assets are located outside of Japan, the Japanese government can now ask the other country's government to help collect the unpaid tax.

All of these examples of increased cooperation between governments are intended to enable the collection of taxes more easily and efficiently.

Fig. 1-1 Location by asset type

Asset types	Determination of location
Movable assets	Movable assets' location
Real estate properties	Real estate location
Deposits, savings	Location of the office which accepts such deposits or savings
Insurance money	Location of the main branch or the main office of the insurance company
Retirement payments, etc.	Address of the payer of such remuneration or the location of the main branch or the main office
Securities	Location of office in which the brokerage account for such securities was opened
Stock options (classified as other assets)	Location of the corporation that issues the stocks

Fig. 1-2 Valuation method by asset type

Asset types	Determination of value
Real estate properties (land)	1) Taxable value for property tax purposes 2) Acquisition cost reasonably adjusted by price fluctuations after the purchase 3) Selling price if the property was sold between January 1 of the following year and the date when the 'Overseas Assets Reporting' was submitted
Real estate properties (buildings)	1) One of above methods used for determining the value of land 2) If the building is not used for business, acquisition cost less accumulated depreciation through December 31 * For buildings used for business, acquisition cost less accumulated depreciation can be used
Insurance money	Amount of mid-term (cancellation) refund as of December 31
Securities(unlisted securities)	1) Selling price of the same type of securities as of December 31 (or the available price immediately preceding 12/31) 2) If 1) is not available, selling price if it is sold between January 1 of the following year and the date when the 'Overseas Assets Reporting' was submitted 3) Acquisition cost if both of 1) and 2) is not available
Stock options	Stock price as of December 31 (or the available price immediately preceding 12/31) less exercise price
Nin-i Kumiai interest <i>under the Article 667 of Japanese Civil Code</i>	Net asset value as of December 31, or that of closest date prior to 12/31, multiplied by percentage of ownership; if the net asset value data is not available, use the initial contribution

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