

Estate Taxation Highlights

Tax reform on income derived from listed shares for individual income tax purposes

Issue 6, October 2011



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On January 25, 2011 a draft bill for the 2011 Tax Reform (“Draft Bill”) was submitted to the Diet. After the Tohoku Earthquake the discussion on the Draft Bill was suspended. A part of the Draft Bill was approved on June 22, 2011 and become effective on June 30, 2011 (“June Bill”).
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1. Outline of the June bill

This newsletter provides a summary on the June Bill in regard to the taxation of divided income and capital gains/losses arising from the sale of listed shares for individual income tax purposes, such as the extension of the applicable concessionary tax rates for two years, the postponement of the introduction date for Japanese version of Individual Savings Account (“Japanese ISA”) and lowering the ownership threshold for major shareholders.

2. Dividend on listed shares

(i) Extension of the applicable period of the concessionary tax rates for dividend on listed shares
Dividend on listed shares is subject to comprehensive taxation assessment, *Sogo Kazei*, or separate taxation assessment, *Shinkoku Bunri Kazei*, where a Japanese resident individual or a non-resident individual who has a permanent establishment (“PE”) in Japan, elects to file a tax return. In the case whereby filing is not required, dividend income would be subject to withholding tax as a final tax.

The tax rate for comprehensive taxation assessment is on progressive basis (from 5% to 40%) for national tax and a 10% fixed rate for local tax.

The tax rates of separate taxation assessment are, in general, 15% national tax and 5% local tax. However, the concessionary rates of 7% and 3%, respectively, are currently available as the applicable period for the preferential treatment is extended for an additional two (2) years to December 31, 2013.

(ii) Extension of the applicable period of the concessionary withholding tax rates for dividend on listed shares

The dividend from listed shares are generally subject to 15% national tax and 5% local tax. However, similar to (i) above, the applicable period for the preferential treatment with regard to the concessionary withholding tax rates of 7% (national tax) and 3% (local tax), is extended for an additional two (2) years to December 31, 2013.

3. Postponement of the introduction date of Japanese ISA

Although it was determined to launch the Japanese ISA on January 1, 2012, the introduction date was postponed to January 1, 2014.

Japanese ISA has been considered to be introduced for the purpose of promotion from savings to investment and thus dividends and capital gains from the small amount of long-term continuous investment will be exempt. Details of Japanese ISA are as follows:

- (i) Exempt investment income: dividends and capital gains arising from an exempt account (*)
- (ii) Annual exempt investment limit: JPY1,000,000
- (iii) Total exempt investment limit: JPY3,000,000 (JPY1,000,000 for three years from 2014 to 2016)
- (iv) Investment period: ten (10) years maximum term (during that period sale of the investment product is permissible)
- (v) Number of exempt account to be opened: one account per annum
- (vi) Eligible person to open an exempt account: a Japanese resident individual or a non-resident individual with a PE in Japan, who is at least 20 years of age on January 1 in the year where the person opens an exempt account
- (vii) Period of opening an account: any time of the three years period from January 1, 2014 to December 31, 2016

(*) An exempt account is an account which is opened in accordance with certain procedures and is subject to a book-entry system for listed securities in order to apply for income exemption.

Please note that any capital loss incurred would be deemed to be nil as any capital gain derived from the above exempt account is exempted.

4. Lowering the ownership threshold for major shareholders

The reduced rates for the dividends stated in section 2 (i), (ii) above and the exemption for the dividends in 3 above are not applicable to the so-called major shareholders. Prior to the 2011 tax reform, the definition of a major shareholder was a shareholder who owns at least 5% of the outstanding shares. Such ownership threshold is lowered to 3%.

This reform applies to the dividends stated in section 2(i) and (ii) above, which may otherwise be applicable to preferential tax rates, paid on or after October 1, 2011.

5. Capital gains derived from the sale of listed shares

(i) Extension of the applicable period of the concessionary tax rates for capital gains derived from the sale of listed shares

Capital gains derived from the sale of listed shares are in general subject to separate taxation at a rate of 15% national tax and 5% local tax. However, the concessionary rates of 7% and 3%, respectively, are currently available and the applicable period for the preferential treatment is extended to December 31, 2013.

(ii) Extension of the applicable period of the concessionary withholding tax rates for capital gains derived from the sale of listed shares

In the case whereby an individual requests custody of listed shares to a security company, a general account or specified account should be chosen. Further election of the specified account (i.e., an account subject to withholding tax ("specified withholding tax account") or an account not to subject to withholding tax) should be determined.

The withholding tax rates on capital gains derived to a specified withholding account is in general 15% national tax and 5% local tax. However, similar to (i) above, the applicable period for the preferential treatment of concessionary withholding tax rates of 7% national tax and 3% local tax, is extended to December 31, 2013.

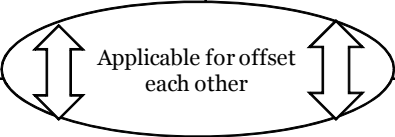
6. Summary of taxation of dividend income and capital gains/losses

(i) Summary of taxation on dividend income

		from 2009 to 2013	from 2014 onward
Listed shares	Shareholders other than major shareholders	Election from (i) to (iii) below (i) Filing comprehensive tax return (credit for dividend is applicable) Progressive rates of national tax from 5% to 40% and fixed rate of local tax rate 10% (ii) Filing separate tax return (credit for dividend is NOT applicable) Fixed rates (national tax rate 7%, local tax rate 3%) Offset capital losses on listed shares applicable (iii) Filing of tax return is not required. (credit for dividend is NOT applicable) Withholding tax as a final tax (national tax 7%, local tax 3%)	Election from (i) to (iii) below/Introduction of Japanese ISA (i) Filing comprehensive tax return (credit for dividend is applicable.) Progressive rates of national tax from 5% to 40% and fixed rate of local tax 10% (ii) Filing separate tax return (credit for dividend is NOT applicable) Fixed rates (national tax rate 15%, local tax rate 5%) Offset capital losses on listed shares applicable (iii) Filing of tax return is not required. (credit for dividend is NOT applicable) Withholding tax as a final tax (national tax 15%, local tax 5%)
	Major shareholders	Only comprehensive tax return is applicable (credit for dividend is applicable). Progressive rates of national tax from 5% to 40% and fixed local tax rate of 10%	
Unlisted shares		*Special treatment for small dividend--Filing of tax return is not required for annual dividend income equal to or less than JPY 100,000 (credit for dividends is NOT applicable) Withholding tax of 20%, as a final tax, for national tax purposes but filing for local tax purposes should be required.	

Note: The above table is based on the assumption that a Japanese resident individual or a non-resident individual with a PE in Japan. Where a non-resident individual without a PE in Japan receives dividends from a Japanese company, in general, withholding tax of 15%, as a final tax, is imposed on the dividends (7% in a certain case until 2013). Please note that double tax treaty may be applicable, in certain cases for exemption or reduced withholding tax rates.

(ii) Summary of capital gains/losses

		from 2009 to 2013	from 2014 onward
Listed shares	Sale through certain financial product trading companies	Filing separate tax return * Fixed tax rates (national tax 7%, local tax 3%) * Capital losses available may be utilized to offset against dividend income. * Capital losses carried forward for three years is applicable.	Filing separate tax return/Introduction of Japanese ISA * Fixed tax rates (national tax 15%, local tax 5%) * Capital losses available may be utilized to offset against dividend income. * Capital losses carried forward for three years is applicable.
	Other than the above		
Unlisted shares		Filing separate tax return * Fixed tax rates (national tax 15%, local tax 5%)	

Note: The above table is based on the assumption that a Japanese resident individuals or a non-resident individual with a PE in Japan. In the case whereby a non-resident individual without a PE in Japan sells shares of a Japanese company and such sale is considered as sale of business, then capital gains are, in general, subject to filing separate tax return at 15%. However, Japanese tax may be exempted by application of an available double tax treaty.

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

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