

Japan Tax Update

Tohoku Earthquake and tax implications

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Tohoku Earthquake and tax implications

Zeirishi-Hojin PricewaterhouseCoopers wishes to express its sympathy for all those affected by the Tohoku Earthquake and related events.

It has been reported that special tax legislation addressing issues arising from the earthquake is currently being discussed and planned to be submitted to the Diet for approval within this month. In this newsletter, we provide an outline of the general tax treatment of Tohoku Earthquake related issues based on the current tax laws and information issued by the tax authorities and local government as of April 11, 2011.

This newsletter covers the following:

1. Scope of losses incurred as a result of natural disasters
2. Tax treatment of disaster losses and donations
3. Extension of tax filing/payment due dates
4. Relief for tax payments and tax liabilities

1 . Scope of losses incurred as a result of natural disasters

The nature of losses incurred by a corporation as a result of a natural disaster will vary depending upon the location of its business, type of business operations, etc. For accounting purposes, examples are provided by “Audit Guidance on the Affected Corporation by the Tohoku-Pacific Ocean Earthquake” issued by the JICPA on March 30, 2011 including:

- (1) Impairment losses on fixed assets (tangible and intangible) and inventories and losses on destroyed fixed assets and inventories
- (2) Inspection costs and evacuation costs relating to damaged assets
- (3) Recovery costs relating to damaged assets and expenditure to avoid further impairment of damaged assets
- (4) Relocation expenses relating to damaged factories or shops
- (5) Overhead costs incurred during the period when the operations are suspended due to natural disaster
- (6) Economic support to affected vendors, customers and agents, including consolation payments, loan and debt relief
- (7) Economic support for affected employees and relatives, including consolation payments, loan and accommodation expenditure

2 . Tax treatment of disaster losses and donations

The tax treatment of disaster losses and donations in relation to the Tohoku Earthquake is published on the home pages of the National Tax Agency and local government. A summary follows.

- (1) Losses on assets (fixed assets and inventories)

A corporate taxpayer may deduct the following losses (other than accrued amounts as of the year end):

- 1) Losses incurred from destroyed or damaged assets
- 2) Removal or evacuation costs relating to damaged assets
- 3) Removal or evacuation costs relating to rubble and debris

- (2) Restoration costs pertaining to damaged assets

A corporate taxpayer may deduct expenditure relating to damaged assets as a current expense (repair expense) rather than a capital expenditure. However, if new assets are acquired to replace damaged assets, this expenditure should be capitalized and depreciated.

Type of expenditure	Tax treatment
Restoration costs of damaged assets	Current expense (repairing expense)
Construction to reinforce damaged assets to restore the durability or usage; construction for drainage system to avoid mudslides	Current expense (tax and accounting treatment should be the same)
Expenditure other than above	30% of expenditure is allocated to current expense and 70% is allocated to capitalized costs (tax and accounting treatment should be the same)

- (3) Economic support for affected vendors, customers and agents

Expenditure incurred by a corporate taxpayer for the purpose of providing economic support to affected vendors, customers and agents during the recovery period are not treated as non-deductible donations or entertainment expenditure but may be fully deducted. This expenditure includes:

- 1) Costs incurred in relation to consolation payments, donation of business facilities or provision of personnel services
- 2) Losses from forgiveness of debts including accounts receivable, loans, etc.
- 3) Economic losses from reduced interest rates or lease payments relating to contracts entered into prior to the disaster
- 4) Economic losses from low interest or no interest loans, accommodation, etc.

(4) Economic support for affected employees and relatives

Expenditures incurred by a corporate taxpayer for the purpose of providing economic support to affected employees (including those hired by sub-contractors) and their relatives during the recovery period are not treated as salary or other income subject to individual income taxation and are not subject to any withholding tax obligation to the extent the amount is reasonable taking into account the social status of the recipient and their relationship to the taxpayer. A corporate taxpayer may claim a deduction for this expenditure as welfare or outsourcing expenses.

In addition, economic benefits provided by an employer in the form of low or zero interest rate loans to affected employee or directors to assist with their living costs is not subject to income taxation for the recipient provided the loan period is reasonable.

(5) Charitable donations

1) Monetary donations

Charitable donations made by a corporate or individual taxpayer to the following organizations are deductible:

- a. National or local government
- b. The Japanese Red Cross (the account of “Tohoku Kanto Daishinsai Gienkin”) or press (collecting donations on behalf of the national or local governments)
- c. The Central Community Chest of Japan
- d. Specified fund raising entities (collecting donations on behalf of the national or local governments)

	Corporate taxpayer (Employer)	Individual taxpayer (Directors and employees)
Deductible amount	Full amount of donation	Donation over 2,000 yen but not exceeding 40% of income
Requirement for deduction	<ul style="list-style-type: none"> • Prepare Schedule 14(2) • Maintain supporting documentation 	<ul style="list-style-type: none"> • Claim donation deduction in tax return • Attach specified supporting documentation

2) Non-monetary donations by a corporation

Donations by a corporate taxpayer of its products to an unspecified number of affected people for aid or relief is not treated as non-deductible donations or entertainment expenditures, and the cost of such donations may be fully deducted similar to advertising costs.

3. Extension of tax payment/filing due dates

Affected taxpayers will be allowed to extend the due date for filing of tax returns and payment of national and local taxes where the original due date is on or after March 11, 2011.

- (1) Extension allowed for taxpayer to file tax returns or make tax payments in designated areas (Aomori, Iwate, Miyagi, Fukushima and Ibaraki)

Taxpayers in designated areas will be allowed to extend the due date for the filing of tax returns and payment of national and local taxes where the original due date is on or after March 11, 2011. The extended filing due date

has not yet been determined but will be announced taking into consideration the circumstances of the affected taxpayers in the designated areas.

(2) Extension allowed for taxpayers to file tax returns or make tax payments upon application

For taxpayers other than (1) above, an extension may be allowed where the taxpayer cannot file its tax return or make tax payments in a timely manner due to a disaster-related disruption. This extension can be obtained by filing the relevant application within one month from the date when the disaster and resulting disruption ceased, which prevented the taxpayer from filing or making payment. If granted, the original due date will be extended to two months after the date when the disaster and resulting disruption ceased.

4. Relief for tax payments and tax liabilities

For taxpayers where approximately 20% of their total assets were destroyed as a result of the disaster, an extension of up to one year for tax payments (national and local tax) due within one year of the disaster can be obtained by filing of the relevant application within two months from the date when the disaster and resulting disruption ceased.

Relief for real estate acquisition tax is provided for (1) damaged real estate acquired prior to the earthquake, and (2) real estate acquired to replace damaged real estate. Details of such relief are provided in the home pages of local governments.

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