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Japanese Tax Environment & Tax Reform

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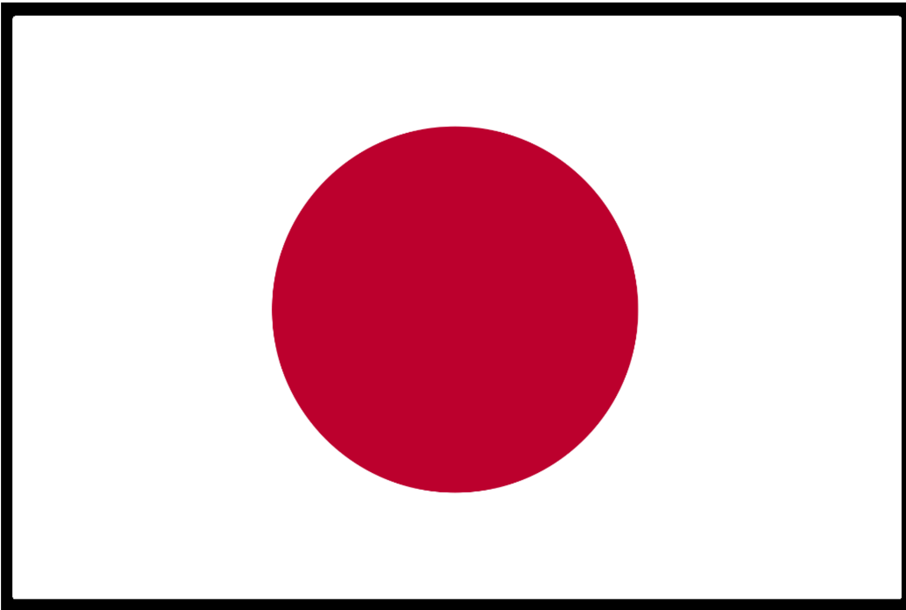


Approx. 5,500 partners and staff in 10 offices

Agenda

- ❖ Business Considerations
- ❖ Japanese Tax System – General Information
- ❖ Structuring
- ❖ Recent Tax Reform

Business considerations

- Choice of Entity:

  - Corporation (kumiai)
    - Joint stock companies (kabushiki kaisha)
    - Limited liability company (Godo Kaisha)

  - Partnership
    - Under the Commercial Code (tokumei kuniai)
    - Under the Civil Code (nin-i kumiai)

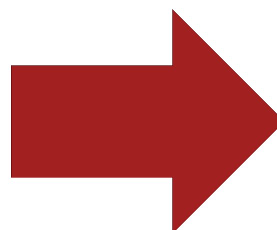
  - Branch office

- Immigration & Legal Issues:

  - Visas
  - Opening Bank Accounts

Japanese Tax System - General Information

	Before
	National tax
Corporate tax	24.43%
	Local tax
Inhabitant tax	3.814%
Enterprise tax	10.07%
Statutory tax rate	**38.32%**
Effective tax rate	**34.81%**



Now Enacted	
Fiscal year commencing between 1 April 2018 and 31 March 2019	**Fiscal years commencing on or after 1 April 2019**
24.22%	25.59%
3.782%	2.413%
10.07%	10.08%
38.08%	**38.08%**
34.59%	**34.60%**

- **Withholding taxes – Domestic Rates**:
  - ❑ Dividends – 20% / 15%
  - ❑ Royalties – 20%
  - ❑ Interest – 20% / 15%

Japanese Tax System - General Information (Cont.)

- A company that has its principal or main office in Japan is considered to be a Japanese resident
- Country-by-Country (CbC) reporting – multinational companies with group revenue of JPY 100 billion (approx. US$ 905 million) or more, are required to file CbC report
- Group Consolidation – A tax consolidation regime applies to entities 100% owned (directly or indirectly) by a Japanese company

*Japanese Tax System – Withholding Taxes under Selected Tax Treaties**

	Dividends	Interest	Royalties
Japanese domestic tax law	15% / 20%	0% / 15% / 20%	20%
Israel	5%	10%	10%
U.S.	0% / 5%	10%	0%
UK	0%	0%	0%
Switzerland	0% / 5%	0% / 10%	0%
Hong Kong	0%	0%	4.95%

* General rates. Different rates may apply, depending on the facts and circumstances of the relevant case.

Japanese Tax System

- Goods and Services tax

- Customs duties / import tariffs

- Tax Incentives

Top 3 issues foreign buyers should be aware of in structuring M&A deals

1 Base erosion

- Relatively high effective corporate tax rate (approximately 31%)
- Debt pushdown, management fees, royalties, interest, etc. commonly used

2 Profit repatriation

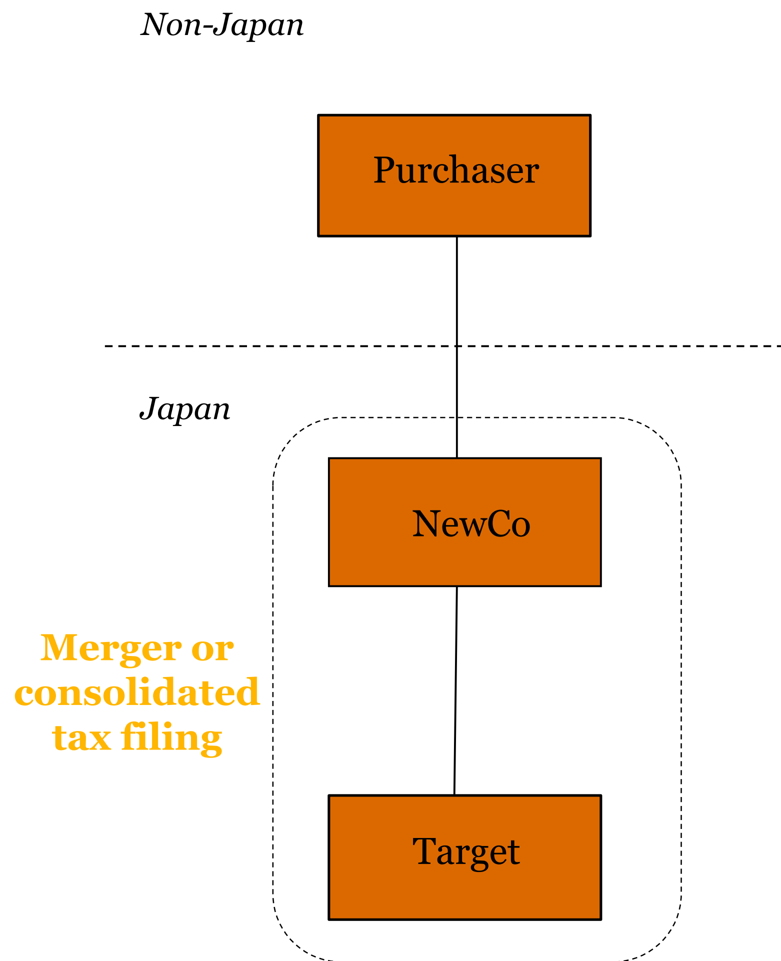
- Domestic dividend withholding tax of 20%
- Tax treaty network provides reduced rates of 10%, 5% or full exemption (latter subject to limitation on benefits provisions and back-to-back /main purpose test provisions in certain treaties)

3 Exit

- Gain on disposal of shares in Japanese company subject to corporate tax at rate of approximately 26%
- Subject to tax treaty exemption (some treaties require satisfaction of limitation on benefits provisions)

Share Deal with Merger or Consolidated Tax Filing

- NewCo acquires Target using debt-equity financing within 3:1 thin capitalization ratio (non-JPY debt is possible)
- NewCo can be established as *Godo Kaisha* to minimize registration tax (with non-taxable conversion to Kabushiki Kaisha)
- Interest deductions offset against income from existing business or carried forward as tax loss for maximum 9 years
- Dividends received by NewCo from Target fully exempt from tax
- Profit repatriation by NewCo through interest payments, repayment of debt or dividends
- Elect consolidated tax filing after 5 years (no revaluation requirement for Target, tax losses of NewCo can be utilized by surviving company)
- Alternatively, merger within 5 years possible if at time of acquisition of Target, its net unrealized gains (including goodwill) did not exceed the amount of its tax losses
- Commercial reasons for consolidated tax filing/merger to minimize anti-avoidance challenge



Basic Plan of 2017 Tax Reform

01 Promote growth strategy

02 Reward companies for raising employee salaries

03 Incentivize R&D efforts

04 Support expansion of Japanese companies into growing global markets

05 Relax filing due dates for corporate tax returns

06 Amend CFC and Tax Haven rules to be in line with BEPS recommendations

07 Greater flexibility in corporate reorganizations

Thank You

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