# 2020 Tax Reform Proposals: Financial Services Industry & Real Estate Market

December 2019

## In brief

The 2020 tax reform proposals (known as *Taiko*) submitted by the Government's Ruling Party were released last Thursday, December 12, 2019. These proposals are submitted to the Japanese parliament (*Diet*) in early 2020.

This News Flash provides a brief and immediate summary highlighting several significant developments specifically of interest to Japan's financial services industry and real estate market. A broader summary of the 2020 tax reform proposals is published separately in our Japan Tax Update, with subsequent more detailed summaries to follow.

A link to the *Taiko* (in Japanese) is via:

https://jimin.jp-east-2.storage.api.nifcloud.com/pdf/news/policy/140786_1.pdf?_ga=2.66787950.1559003444.1576222034-2043898272.1576121871

The Japanese language version of this News Flash was issued last Friday.

## In detail

**1. Modifications to limit claims for foreign tax credits to take account of foreign tax changes and charges on specified income including that of the US BEAT taxation**

Foreign taxes imposed on income that is not recognized as taxable income in Japan is excluded from foreign taxes subject to the foreign tax credit (FTC) regimes.

Under the 2020 tax reform proposals, the scope of foreign taxes subject to the FTC rule will be further restricted by excluding:

- foreign taxes imposed on a foreign subsidiary's income where deemed for foreign tax purposes as the Japanese corporation's income in foreign jurisdiction; and
- foreign taxes imposed on deemed income earned by foreign branch offices of Japanese corporations where payments from foreign offices to a head office, etc., are disregarded.

This latter change, in particular, affects the Japanese tax treatment of US taxes arising under the so-called BEAT provisions.

This amendment will be applicable on or after January 1, 2022 for individual income tax and for fiscal years beginning on or after April 1, 2021 for corporation tax.

### 2. Modifications to expand the scope of interest payments within the scope of the earnings stripping rules to account for the branch / head office treatments of the income recipient

Interest expense where subject to Japanese taxation of the income recipient is excluded from the deductibility restrictions under the earnings stripping rules.

Under the 2020 tax reform proposals, where the economic benefits arising from debt claims held by a permanent establishment in Japan of a foreign corporation are planned to be transferred to its head office, interest payments on such debt claims will now be included within the scope of interest payments (and thus restricted) under the earnings stripping rules.

### 3. Special relieving taxation measures for J-REITs

(1) Japan’s controlled foreign corporation tax regime

Where J-REITs are subject to Japan’s Controlled Foreign Corporation (**CFC**) tax regime, foreign taxes imposed on its CFC’s income will be deemed as paid by J-REITs, and can now be utilized to offset withholding tax on dividends paid by J-REITs to its shareholders.

This amendment will be effective for CFC fiscal periods ending on or after April 1, 2020.

(2) Extension of concessionary measures regarding renewable energy facilities

Where a J-REIT acquires renewable energy facilities during the period to March 31, 2020, a concessionary treatment is permitted to be included as qualifying assets (for dividend deductibility test purposes) for fiscal periods ending on and before 10 years after the date of leasing these facilities.

This acquisition period will now be extended for a further three (3) years ending March 31, 2023.

### 4. Restrictions introduced on the planning arrangements to claim refunds on consumption tax incurred on the acquisition of rental residential buildings

Input consumption tax paid on the acquisition of a building to be rented for residential purposes will be modified so as to be excluded from claiming an input consumption tax credit. In particular, these changes restrict planning arrangements put in place in the first period following the acquisition of a new residential building.

This change will apply for acquisition on or after October 1, 2020.

As part of these measures, the rental income of the building will be treated as non-taxable for consumption tax purposes if its purpose is clear as that of a residential building from the circumstances, etc., of the building, irrespective of what is stated or not stated in the contract of acquisition.

This change will apply for leasing on or after April 1, 2020.

## 5. Modifications to exclude from concessionary separate taxation derivatives where written over crypto currency

Where individuals trade/settle derivative transactions, etc., separate taxation at a flat rate of 20.315% is generally applied when filing individual tax returns.

Under the 2020 tax reform proposals, derivative transactions in relation to crypto currencies will be specifically excluded from this separate taxation. This aligns the treatment of the derivatives where the crypto currency is its reference asset with the holding of crypto currencies directly.

## 6. Other changes

A number of other changes of specific note include:

- Special measures introduced to restrict the ability to claim accelerated depreciation for individuals who own “older” foreign rental properties is to be introduced from 2021. A separate News Flash has been published on this reform which can be accessed in our Global Mobility News.

- Changes to the tax-advantaged savings arrangements known as NISA will include extending the reserved period for another five (5) years until December 31, 2042, as well as other more modifications to the administration of NISA products.

## Let’s talk

For a more in-depth discussion of how these 2020 tax reforms might affect you or your business, please contact:

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