

## **Japan Exit Tax:**

On March 31, 2015, the Diet passed the 2015 Tax Reform Proposal into law, which included the 'exit tax' provisions that would require the mark-to-market of certain financial assets and the imposition of capital gains tax on any resulting deemed gains for certain residents in Japan moving abroad or on their certain financial assets transferred abroad.

Effective July 1, 2020, these exit tax rules will apply to foreign national residents holding “Table 2” visas (permanent resident visa and spouse of Japanese national visa being two common examples of Table 2 visas) and meet the conditions below.

Who is subject to the exit tax?

Japan residents who satisfy both of the following conditions are subject to ‘exit tax’:

- a) Individuals who hold certain financial assets with a total value of JPY 100 million or more upon their departure from Japan; and
- b) Individuals who had maintained a jusho or kyosho in Japan\* for more than five years during the 10-year period immediately prior to the Japan departure.

\* For foreign nationals, time residing in Japan under a visa status shown under ‘Table 1’ of the Immigration Control and Refugee Recognition Act is not included. Note: Table 1 would include visa types, such as, highly skilled professional and intra-company transferee, which are commonly used for expatriate assignees.

Time residing in Japan under a “Table 2” visa type such as the permanent resident or spouse/child of Japanese national would count towards the five-year period.

What assets are subject to the exit tax?

The following financial assets are subject to the exit tax:

- securities defined in the Income Tax Law (Article 2(17)) such as stocks , mutual funds, bonds and others.
- ownership of tokumei-kumiai contracts
- unsettled derivative transactions
- unsettled credit transactions
- unsettled hedging transactions for stock risks trading.

Cash or cash deposits do not fall within the definition of securities and non-financial assets such as real estate properties are not subject to the exit tax. It is important to note that the 100 million yen threshold for the exit tax rule applies to the aggregate value of the financial assets, rather than being applied to each asset (or asset class) individually.

## **Japan Gift & Inheritance Tax:**

The 2017 Japan Tax Reform Proposals were passed in the Diet into law on March 27, 2017. They provide Japan gift and inheritance tax relief on non-Japan situs assets to foreign nationals residing in Japan for 10 years or less out of the last 15 years and who hold a “table 1” visa that generally does not allow them to stay indefinitely in Japan, such as a work-related visa.

However, no relief was provided to foreign nationals who hold a “table 2” visa such as a spouse of Japanese national or permanent resident visa or foreign nationals who have resided in Japan for more than 10 years out of the last 15 years; their worldwide assets remain subject to Japanese gift and inheritance tax.

In addition, for the first time, the transfer of worldwide assets by longer-term foreigners will remain subject to Japan inheritance and gift tax after they depart Japan until they have no longer had a jusho in Japan for 10 out of the last 15 years. Therefore, transfer of worldwide assets by longer-term foreigners could remain subject to Japan inheritance and gift tax for up to 5 more years after permanent departure from Japan (also known as the “5-year tail” rule\*).

Foreign national recipients of non-Japan assets from Japanese nationals who have had a jusho in Japan within the last 10 years will also be subject to Japan inheritance and gift tax.

Finally, the 5-year lookback rule for Japanese nationals has been increased to 10 years.

\* The 2018 Japan Tax Reform Proposals were passed in the Diet into law on March 28, 2018. Effective April 1, 2018, the ‘5-year tail’ rule for foreign nationals who permanently depart Japan but had a jusho in Japan for 10 out of the last 15 years is repealed. However, if the foreigner returns to Japan and re-establishes jusho within 2 years of permanent Japan departure then any assets gifted (including assets located outside of Japan) by him/her during this period will be subject to Japan gift tax.

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