

Amendment of the Certified Public Tax Accountant Act

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1. Introduction

The outline of the FY2022 tax reform proposals (policy for the tax reform bill for the next fiscal year) announced by the ruling coalition in December 2021 touches on a “review of the certified public tax accountant (hereinafter referred to as “CPTA”) system.” This paper explains what kind of revisions are being considered.

2. The Certified Public Tax Accountant Act (The CPTA Act)

The CPTA Act is a law that was promulgated and enacted in 1951. It stipulates and clarifies the rights and obligations of CPTAs. Since 1951, the Act has been revised every several years. Most recently, in 2014, advance notification for tax investigations, etc., was stipulated. Article 1 of the Act sets forth the mission of CPTAs, stating that “The mission of CPTAs shall be to strive the appropriate tax obligations stipulated by laws and regulations...from an independent and fair standpoint.” This is the basic principle for the work of CPTAs. The Act also stipulates disciplinary actions and penal provisions concerning the work, obligations, etc., of CPTAs, such as the suspension of business in the case of violating such obligations.

3. Article 40 of the Certified Public Tax Accountant Act: Establishment of Offices

Article 40 prohibits CPTAs from establishing two or more offices. The main reason for this is to limit the expansion of the scope of operations that exceed the oversight capacity of an individual CPTA, as well as to prevent persons other than CPTAs from engaging in the work of CPTAs. In other words, even a CPTA corporation must have at least one CPTA in one office. CPTA offices must not be established in places other than the designated places in principle.

4. Contents of the Revisions in the Tax Reform Proposals Outline

The promotion of computerization of CPTA operations is the main pillar of the specific revisions to the CPTA Act in the outline of the tax reform proposals this time, which include a review of judging criteria for CPTA offices. Due to COVID-19 prevention measures, remote work is also being recommended for CPTA offices. It is possible for CPTAs themselves as well as staff to work from their homes, etc., without commuting to an office. Such a change in the social landscape was not anticipated at all in the stipulation regarding offices in Article 40 of the CPTA Act. Therefore, the revisions announced on this occasion state that the handling of the criteria for offices shall be “handled operationally, such as not determining whether an establishment is an office-based on physical facts such as the existence or non-existence of facilities or employees.” A revision to this part of the Act will be the first since the Act was enacted.

5. Review of Article 40 of the Certified Public Tax Accountant Act

Up until now, there were severe penalties such as suspension of business, etc., when CPTAs were identified as having two or more offices. CPTAs have paid the utmost attention to ensure that they do not infringe this article. Therefore, it may be difficult to cast off the traditional concept of an “office.” In reality, due to the evolution of ICT, etc., it has become difficult to find significance in

specifying a physical “office,” resulting in the review this time. On the other hand, in order to secure the objective of Article 40, regulation by another method will be necessary. In whatever form, a new configuration for the operations of CPTAs is required that is in harmony with modern society utilizing ICT.

Specific Contents of the Review of the International Taxation System

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1. Introduction

As the globalization of the economy advances and transactions become more diverse and complex, international taxation is becoming ever more important. In recent years, against the backdrop of increasing international criticism against tax avoidance by some multinational corporate groups which take advantage of gaps or loopholes in the tax systems of each country, an awareness has arisen that it is necessary for the international community to cooperate against international tax avoidance, etc. Under such an awareness, the OECD/G20 has been vigorously advancing efforts for the BEPS (Base Erosion and Profit Shifting) project, aiming to counter base erosion and profit shifting, through the reconfiguration of international taxation rules by means of multilateral cooperation. Japan has been taking a leading role in coordinating this project. As far as “addressing the tax challenges of a digital economy,” which still remained unsolved in the BEPS project, the vigorous discussion took place centered around the OECD and in October 2021 a historical agreement was reached related to reviewing the international tax system.

This agreement will respond to changes in the state of the economy such as digitalization as well as contribute to curtailing the race to lower corporate taxes excessively and develop a fair competitive environment between companies. Japan will continue to take a leading role in the international implementation of this agreement and at the same time, advance the development of legislation under the international agreement.

2. Summary of the Specific Contents of the FY2022 Outline of Tax Reform Proposals

(1) Review of Japanese Earning Stripping Rules (Excessive Interest Tax Payment)

(National Taxes)

With regard to the special provision for taxation related to the interest expenses subject to the rules (so-called “Japanese earnings stripping rules”), the special provision shall apply also to the income amount related to domestic source income given below, which is subject to taxation as corporate taxes of foreign corporate entities.

- 1) Domestic source income other than income attributable to a permanent establishment of a foreign corporate entity that owns a permanent establishment
- 2) Domestic source income of a foreign entity that does not own a permanent establishment

(Local Taxes)

With regard to corporate inhabitant taxes and corporate enterprise taxes, similar measures will be implemented according to the handling of national taxes.

(2) Review of Controlled Foreign Company Rules, CFC (Anti-tax Haven Rules)

(National Taxes)

With regard to the requirement that a foreign subsidiary for which all of its issued shares, etc., are directly or indirectly owned by “an insurance company, etc.,” and “an insurance company, etc., that has a specific capital relationship with such an insurance company, etc.,” in relation to the special provision for insurance consignors in the determination of specified foreign subsidiaries, the following review will be implemented.

- 1) In addition to being a domestic corporation (excluding insurance companies, etc. Hereinafter referred to as “domestic corporation subject to determination”) for which all of its issued shares, etc., are directly or indirectly owned by an insurance company, etc., companies for which all of the following conditions are to be met are added in the scope of “an insurance company, etc.”
 - a. The domestic corporation subject to determination conducts the business administration and incidental operations of a foreign subsidiary that conducts insurance business or related business as its main line of business and a 100% Japanese corporate group owns at least 50% of its issued shares.
 - b. Another domestic corporation related to the 100% Japanese corporate group in a. (excluding an insurance company, etc., limited to when it directly or indirectly owns all or part of the issued shares of the foreign subsidiary in a.) exclusively conducts the business administration and incidental operations of the foreign subsidiary.
- 2) The abovementioned “another domestic corporation related to the 100% Japanese corporate group” in (1) a. that “exclusively conducts the business administration and incidental operations of the foreign subsidiary” shall be added to the scope of “an insurance company, etc., that has a specific capital relationship with such insurance company, etc.”

(Local Taxes)

With regard to corporate inhabitant taxes and corporate enterprise taxes, similar measures will be implemented according to the handling of national taxes.

(3) Others

- 1) Review of measures to prevent tax avoidance combining dividends from a subsidiary and transfer of subsidiary shares (special provision for the reduction of the book value of subsidiary shares).
 - a. Determination of conditions to exclude application (conditions for the amount of accumulated earnings on the specified day on which it became subject to control).
 - b. Non-application of measures (regulations to prevent avoidance of application) to prevent the avoidance of this system using dividends, etc., through a subsidiary that fulfills the criteria for the exclusion of the application.

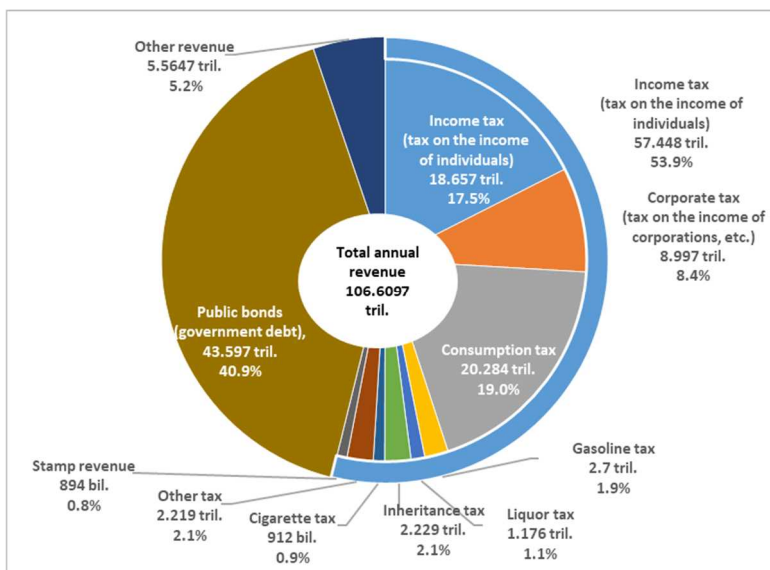
- 2) Review of foreign tax deduction in the same system accompanying the enforcement of the Japanese group relief system.
- 3) Clarification in legislation that income generated from the settlement of market derivative transactions or over-the-counter derivative transactions stipulated by the Financial Instruments and Exchange Act is not included in “investment/owned income of domestic assets” which are domestic source income.
- 4) Measures for a reporting system, etc., for the automatic exchange of financial account information related to non-residents.
- 5) Clarification in legislation that the individual identification numbers gathered through the stipulations of the other country’s laws, etc., can be received and the procedure thereof for information exchange with the tax authorities of another country, etc., of tax treaties, etc.

Acceptance of Applications for Registration as Qualified Invoice Issuers Started on October 1, 2021

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1. Introduction

After several revisions since the implementation of a 3% consumption tax rate in 1989, Japan has started to apply double tax rates: a reduced tax rate (8%) targeting food and beverages, and newspaper and a standard tax rate (10%) in 2019. Prior to the implementation of the qualified invoice retention system in October 2023, the National Tax Agency started the acceptance of applications for registration for qualified invoice issuers from October 1, 2021. Anyone can browse or download the business names of business operators (or names in the case of sole proprietors) of those who have already registered as qualified invoice issuers on the “qualified invoice issuer publication site” operated by the National Tax Agency. About 174,000 corporate entities and 22,000 sole proprietors have already registered (as of December 28, 2021).



In the initial budget for FY2021, of the share of tax revenue in the annual government revenue, consumption tax accounts for 19.0%, or 20 trillion 284 billion yen, the largest fiscal resource over income tax and corporate tax.

Source: National Tax Agency website

<https://www.nta.go.jp/taxes/kids/hatten/page03.htm>

2. Changes in Consumption Tax

The major changes in consumption tax are as follows.

1989	The Consumption Tax Act came into force on April 1, and a 3% tax rate was implemented.
1997	The consumption tax rate was raised from 3% to 5%. Of the portion of the tax rate that was raised, a 1% local consumption tax to be distributed to the regions was implemented.
2003	The tax exemption limit of consumption tax for taxable business operators was lowered from sales of 30 million yen to 10 million yen.
2014	The consumption tax rate was raised from 5% to 8% from April 1.
2019	The consumption rate was revised from 8% to 10% from October 1 and a reduced tax rate system was implemented at the same time.

3. Consumption Tax Obligations, Taxable Business Operators, and Tax-exempt Business Operators

In principle, business operators who have taxable sales exceeding 10 million yen during the preparation period (the second preceding year for sole proprietors and the second preceding business year for corporate entities) become taxable persons (taxable business operators) for consumption tax (“taxable business operators”) and must declare and pay consumption tax. On the other hand, business operators with taxable sales of less than 10 million yen during the preparation period are exempt from tax obligations for consumption tax in principle and do not have to declare consumption tax (“tax-exempt business operators”). When calculating consumption tax payment, taxable business operators calculate the consumption tax amount by subtracting the amount of consumption tax related to taxable purchases (“purchase tax credit”) from the amount of consumption tax related to taxable sales. The requirement for the application of purchase tax credits is to retain invoices and a ledger containing certain items. From October 2023, retaining qualified invoices, etc., issued by qualified invoice issuers will become mandatory as a condition for purchase tax credits. Tax-exempt business operators cannot issue qualified invoices as they are not qualified invoice issuers.

4. Rights and Obligations of Qualified Invoice Issuers

Qualified invoice issuers who can issue qualified invoices have the following rights and obligations.

- Qualified invoices can be issued only by registered business operators.
- Qualified invoices must include the registration number issued by the tax office, applied tax rate, consumption tax categorized by the tax rate, etc.
- Registered business operators must issue qualified invoices.
- In order to receive the application for purchase tax credits, it is necessary to retain qualified invoices.
- In order to register as a qualified invoice issuer, registration procedures are necessary.

5. Impact of the Introduction of Qualified Invoices

The handling of purchase tax credits by taxable business operators will be completely different before and after October 1, 2023 (note: there will be six-year transitional measures). Until September 30, invoices issued by tax-exempt business operators can be used for purchase tax credits. However, from October 1, invoices issued by tax-exempt business operators will no longer be eligible for purchase tax credits. Therefore, it has been pointed out that transactions by taxable business operators with tax-exempt business operators will be eliminated or reduced. The introduction of qualified invoices will force 4.88 million tax-exempt business operators to choose whether to remain tax-exempt business operators in their transactions with taxable business operators or register as qualified invoice issuers and become taxable business operators. The government states that according to the figures calculated based on the 2015 national census, of the 3.72 million business operators from the 4.88 million tax-exempt business operators excluding those in the agriculture, forestry, and fisheries industries who ship products to agricultural cooperatives, etc., and business operators whose main revenue is tax-exempt sales, about 1.61 million business operators, calculated by multiplying the B-to-B transaction rate by about 40%, will switch to become taxable business operators. This is expected to increase revenues by about 248 billion yen (according to a response to a question in the Diet on February 26, 2019).

6. Actions of the Japan Federation of Certified Public Tax Accountants' Associations

In accordance with the stipulations of the Certified Public Tax Accountant Act, the Japan Federation of Certified Public Tax Accountants' Associations submits recommendations related to tax reforms to the relevant ministries and agencies. In the FY2022 recommendation, the Federation recommended “to review of the qualified invoice retention system as well as to postpone the timing for the implementation,” from the perspective of the impact on administrative burden and impact on market transactions. The Federation believes that the introduction of the qualified invoice retention system has not yet been thoroughly notified to small and medium-sized, and micro-sized enterprises. As certified public tax accountants, who are experts on taxation as well as practitioners, we recommend that along with notifying the new system to more business operators and providing support for the registration of qualified invoice issuers and preparation for consumption tax payment, a fundamental review of the consumption tax system itself (review of the purchase tax credit method, tax exemption system, etc.) is a critical issue, taking into account the fact that it has been in place for more than thirty years.