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Global Tax Alert

Japan enacts tax measures in response to COVID-19

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Executive summary

On 30 April 2020, the bill for Japan's COVID-19 related measures (the Measures) was enacted following passage of the Measures by the Japanese Diet.¹ The Measures generally follow the outline announced by the Japanese Government on 7 April 2020² that are aimed at providing relief through the tax system for businesses in distress. The Measures are part of the Government's third stimulus package.³

This Alert summarizes the key tax provisions relevant to businesses.

Detailed discussion

Tax payment deferral

If a taxpayer's gross income for a given period (at least one month) on or after 1 February 2020 decreases by 20% or more as compared to the previous year's corresponding period and the taxpayer is experiencing difficulty making payments in a timely manner, tax payment deferrals are available for up to one year upon application by the taxpayer. A broad range of taxes including corporate income tax (National tax and Local tax), consumption tax and payroll tax are eligible for the deferral. The deferral is also available for social security contributions.

The deferral does not require collateral and is interest free. At the time of the tax payment deferral application, the taxpayer is generally required to provide financial information (e.g., gross income, cash balance) to assist with the assessment of eligibility for a deferral. However, an oral explanation may be acceptable if the relevant documentation cannot be provided.

This measure applies to taxes due between 1 February 2020 and 31 January 2021, including such taxes due before the Measures take effect.

Net Operating Loss (NOL) carryback

Under the current corporate income tax law, an NOL carryback is generally only available for companies with common capital of JPY100 million (US\$1 million) or less that are not directly or indirectly wholly owned by a company with common capital of JPY500 million (US\$5 million) or more. The carryback period is one year.

The Measures expanded the scope of the NOL carryback to companies with common capital of up to JPY1 billion (US\$10 million) that are not directly or indirectly wholly owned by companies with common capital exceeding JPY1 billion.⁴

The carryback applies to NOLs incurred in fiscal years ending between 1 February 2020 and 31 January 2022. This measure provides distressed companies with an opportunity to receive a cash tax refund (at a rate of c. 25%) of taxes paid in the prior fiscal year if NOLs are incurred in the current fiscal year.

In addition to the expanded NOL carryback, losses arising from the disaster (Disaster losses) can be carried back for two years without the common capital limitations discussed above under the existing law. In light of the COVID-19 downturn, the Government recently clarified that Disaster losses include (but are not limited to) disposal of food by restaurants, disposal of contaminated equipment, sanitizer expenses, face mask and air purifier expenses and disposal of products for cancelled events.

Property tax and city planning tax relief

Property tax and city planning tax are payable at a rate of 1.4% and 0.3% respectively on the appraised value of certain tangible assets. The Measures provide small and medium-sized enterprises (SMEs) with relief from property tax and city planning tax for 2021 (i.e., for assets held at 1 January 2021) upon application by the taxpayer by the due date of 31 January 2021.

These taxes are reduced as follows:

- ▶ By 50% if the taxpayer's gross income for a given three-month period between February 2020 and October 2020 decreases by 30% or more but less than 50%, as compared with the previous corresponding period.
- ▶ By 100% if the taxpayer's gross income for a given three-month period between February 2020 and October 2020 decreases by 50% or more, as compared with the previous corresponding period.

A qualified SME is defined as follows:

- ▶ Companies with common capital of JPY100 million or less (excluding companies with ownership interests of 50% or more held by non-SMEs)
- ▶ Companies with no common capital and no more than 1,000 employees

Property tax and city planning tax reductions are not available for 2020 but may qualify for the tax payment deferrals as discussed above.

Expanded scope of reduced property tax on certified high-productivity assets

Under the existing law, certified high-productivity assets including machinery, equipment and building facilities are eligible for a reduced property tax rate of 0% to 0.7% (as opposed to the general rate of 1.4%) for assets acquired by 31 March 2021. The Measures added certified buildings and structures to the scope and extend the effective period for two years.

Telework investment incentives

Certified telework-related investments were added to the scope of the existing tax incentives for qualified SMEs. The incentives provide either 100% special depreciation or 7 to 10% tax credit (capped at 20% of corporate income tax payable).

Late voluntary elections for consumption taxes

When taxpayers voluntarily seek to become a consumption taxpayer (or remove their consumption taxpayer status), taxpayers generally must make an election by the end of the taxable period preceding the taxable period for which the election is to apply. The Measures allow for a late election if a taxpayer's gross income decreases by 50% or more for a given period (for at least one month) between 1 February 2020 and 31 January 2021, whereby the election immediately

takes effect if filed and approved by the tax office by the due date of the consumption tax return filing (i.e., generally two months after the end of the taxable period).

Taxpayers are generally not permitted to become a non-consumption taxpayer for at least two years once a voluntary election is made, however an election under this measure can be cancelled from the next tax period.

Stamp duty relief on qualified loan agreements

Stamp duty on loan agreements that would otherwise be payable at a rate of up to JPY600,000 (US\$6,000) is not imposed if the loan is for a business impacted by the current crisis.

Tax return filing deferrals

There are no new or expanded measures impacting corporate tax return filing deadlines. However, an extension may be available under the existing law on a case-by-case basis upon application by the taxpayer, if filing or payment is practically difficult due to the current crisis.

Endnotes

1. Japanese bicameral legislature.
2. See EY Global Tax Alert, [Japan announces tax measures in response to Covid-19](#), dated 9 April 2020.
3. The first package was announced on 13 February 2020 and the second package was announced on 10 March 2020. The economic provisions, including the three stimulus packages, were originally valued at JPY108 trillion (US\$1 trillion), but later increased to JPY117 trillion.
4. There are other companies which are excluded from the scope of the NOL carryback (e.g., mutual insurance companies, investment corporations, Tokutei Mokuteki Kaisha (TMKs)).

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