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Japan Inbound Tax & Legal Alert

Additional tax relief measures proposed as part of COVID-19 emergency economic response plan

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Updated on 1 May 2020: The tax relief measures proposed on 7 April 2020 to combat the economic impact of COVID-19 entered into force on 30 April 2020.

In brief

The Japanese Cabinet approved a proposed COVID-19 emergency economic response plan containing additional tax relief measures on 7 April 2020. Details of the proposed national and local tax measures are published on the Ministry of Finance's website (in Japanese) and the Ministry of Internal Affairs and Communication's website (in Japanese).

This alert outlines some of the proposed national and local tax relief measures for corporate taxpayers. Please note that the measures discussed below are proposals and are subject to change prior to enactment of the relevant laws and regulations.

1. Special provisions regarding one-year tax payment deferral

In response to the effects of COVID-19, all taxpayers (both individuals and corporations, regardless of size) satisfying certain conditions would be granted a tax payment deferral for one year (without the need for collateral) without penalty or interest. The special provision would expand existing relief measures, clarified in frequently asked questions documents released by the National Tax Agency (NTA) on 25 March 2020 and 8 April 2020 (in Japanese/PDFs), which provide collateral and interest-free deferral only in cases of a considerable loss of assets. To qualify for the one-year deferral, the taxpayer would be required to satisfy both of the following conditions:

- During any period of one month or more beginning after 1 February 2020, the taxpayer's revenues from business operations, etc. have decreased by approximately 20% or more compared to the same period in the previous year as a result of COVID-19; and
- The taxpayer has difficulty making a lump sum tax payment. The NTA noted that it would be flexible when determining whether a taxpayer is having difficulty making payments and would take into account the taxpayer's specific circumstances, such as available business funds for the next six months.

The tax payment deferral would cover all national and local taxes (except stamp tax) due between 1 February 2020 and 31 January 2021, and could be retroactively applied to already overdue unpaid taxes (including those qualifying for separate grace periods).

Applications for the deferral would need to be submitted to the NTA no later than the later of: (1) two months after the relevant legislation containing the proposal enters into force; or (2) the due date of the tax payment (generally two months after the close of the tax period, unless an extension has been granted). For payment due dates that already have been extended, the application would need to be submitted by the extended payment date. The information required to complete the application has not yet been released; however, in addition to submitting the application, the taxpayer would be required to submit documents showing its revenue and cash/deposits for the relevant periods. If the taxpayer has difficulty submitting the documentation, it is expected that oral explanations will be acceptable.

2. Special provisions regarding carryback of net operating losses (NOLs)

For corporations filing blue form tax returns, the proposal would include a special carryback provision for certain corporations with stated capital not exceeding JPY 1 billion (normally, the carryback of NOLs applies only for small and medium-sized enterprises (SMEs), which generally are defined as corporations with stated capital of JPY 100 million or less). However, the proposed provision is not expected to apply to (directly or indirectly) wholly-owned subsidiaries of large corporations (i.e., corporations with stated capital exceeding JPY 1 billion) or corporations in which all issued shares are held by multiple large corporations within a 100% affiliated group.

The special carryback provision would apply to NOLs generated during fiscal years ending between 1 February 2020 and 31 January 2022. Under the special provision, the NOL could be carried back to any fiscal year that begins within one year prior to the first day of the fiscal year in which the NOL was generated.

3. Telework investment incentives

The proposal would allow SMEs an immediate 100% depreciation deduction or 7% credit (increased to 10% for corporations with stated capital of JPY 30 million or less) on capital investment to support telework and digitalization (i.e., investment related to remote access, automated control, etc., such as machinery, tools, equipment, fixtures, and software). To qualify for the proposed incentives, the investment must be for new assets (used or leased assets are not eligible), relate to domestic investment in production-related equipment, and be acquired as part of a plan approved by the Ministry of Economy, Trade, and Industry.

The telework investment incentives would be available for both corporate and individual income taxpayers. However, for corporate taxpayers choosing to take a credit, the total amount of credit combined with any credits for certain other incentives would be limited to 20% of the corporation's income tax amount for the current fiscal year.

To qualify for the telework investment incentives, the eligible capital investment would need to be made by 31 March 2021.

4. Special provisions regarding election of Japanese consumption tax (JCT) taxpayer status

Currently, JCT taxpayer status elections must be submitted before the start of the relevant tax period and, once made, must apply for at least two years. The proposal would allow taxpayers meeting the following requirements to submit JCT taxpayer status elections after the tax period begins, and withdraw an election during the following tax period:

- The taxpayer has a filing deadline for a tax period that ends after the relevant legislation containing the proposal enters into force;
- The taxpayer's revenues for any period of at least one month between 1 February 2020 and 31 January 2021 have decreased by 50% or more compared to the same period in the prior year as a result of COVID-19; and
- The taxpayer files the JCT taxpayer status election form by the return filing deadline for the applicable tax period.

For taxpayers meeting the requirements and receiving approval from the commissioner of the designated tax office, the special provision would apply to the tax period for which a tax return is due and that ends after the date on which the relevant legislation containing the proposal enters into force.

5. Stamp tax exemption for special loan contracts

Special loan contracts made by public and private financial institutions to businesses affected by COVID-19 would be exempt from stamp tax. The stamp tax exemption measure would apply retroactively to certain businesses that already have concluded special loan contracts for which stamp tax was paid.

6. Fixed asset tax reduction measures for SMEs (as defined under local tax law)

For certain taxpayers impacted by COVID-19 (regardless of industry), the tax base for fixed asset tax and city planning tax on depreciable assets and business-use houses would be reduced as follows:

Decrease in revenues for any three-month period from February 2020 to October 2020 compared to the same period in the previous fiscal year	Tax base reduction
Decrease of 30% or more, but less than 50%	50%
Decrease of 50% or more	100%

The tax base reduction measure would be limited to fiscal year 2021 and apply to persons who have received approval from an approved business innovation support institution and submitted such approval to the relevant municipalities by 31 January 2021.

This newsletter is based on information available as of 10 April 2020 (Updated on 1 May 2020).

Deloitte's View

Many of the tax relief measures contained in the proposed emergency economic response plan are aimed at struggling households and small businesses; however, there are a few measures that would be more broadly available to companies facing financial difficulties in Japan.

Perhaps the most notable provision potentially applicable to foreign parented companies is the proposed expansion of the one-year NOL carryback to companies with stated capital of JPY 1 billion or less. For eligible companies, this would allow a refund of prior year taxes (assuming the company was profitable in the previous year) upon filing the tax return for the fiscal year for which the qualifying NOL is generated, together with a prescribed application. Further, it is expected that Japan's NOL utilization limit rule (under which the NOL offset is limited to 50% of taxable income) will not apply to any carryback.

The proposed tax payment deferral (grace period) system would be available for most taxes a corporation may be obligated to pay. This would include interim tax payments (e.g., for December year end companies, it would include the corporate tax interim payment, which typically is 50% of the prior year's tax liability and due at the end of August 2020). Companies that expect difficulty in making timely interim payments due to reduced revenues and cash flow issues would be able to apply to defer those payments. Alternatively, companies still have the option of calculating certain interim tax liabilities based on the actual financial results of the interim period by filing an interim tax return. From a corporate income tax perspective, the interim tax payment for companies posting no profit in the first six months of their fiscal year may be zero (but certain non-income based taxes still may be required).

Companies seeking a tax payment deferral should consider compiling the documentation requested under the proposed provisions to show financial difficulty and contacting the tax office to discuss the company's specific situation prior to submitting an application.

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Not all facts and circumstances are covered in this alert. If you have any questions regarding your specific situation, please contact one of the tax professionals at our Deloitte office in Tokyo or visit our website www.deloitte.com/jp/inbound-tax-and-legal-services

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