

## What to do if there's a dispute over tax?

Let's learn from the latest tribunal case  
where a taxpayer won and think together!



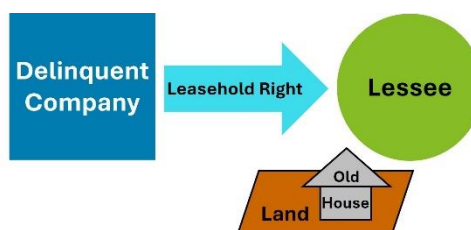
### I haven't heard anything about a seizure!

#### Executive Summary

- The National Tax Tribunal is not only reliable for fact-finding. It also has considerable authority when it comes to interpreting private law.
- We will provide an explanation based on the National Tax Tribunal Decision on 25 September 2024.
- You can also watch our YouTube lecture on this episode in Japanese [here](#).

#### 1. Leasehold right held by the Lessee

- The lessee in this case (the “Lessee”) was the son who inherited the leasehold right to a plot of land with ownership of an old house from his father. In May 2014, he registered the transfer of this ownership, treating the old house as part of the inheritance.
- The lessor of this land had been delinquent in paying taxes. In May 2016, the tax authorities in this case (the “Tax Authorities”) seized the land in order to collect taxes from the delinquent company. However, the Lessee was not notified about the seizure of the land.
- The issue in question was whether the Lessee could assert the leasehold right against the Tax Authorities. If a lessee can assert a leasehold right against the tax authorities at the time the land is seized, the lessee should also be able to assert the leasehold right against any subsequent buyer who purchased the land at a public auction.
- Furthermore, if land subject to a leasehold right is seized, and the delinquent company possesses other significant assets, the lessee can request the tax authorities to change the target of their seizure. Therefore, when the tax authorities seize land, they are required to notify the holder of the leasehold right if they are aware of the existence of such a holder.



#### 2. Public auction notice issued by the Tax Authorities

- In 2023, the Tax Authorities decided to auction off the seized land in order to collect taxes from the delinquent company. When auctioning seized land, key details regarding the auction must be announced at least 10 days prior to the auction date. Accordingly, the Tax Authorities issued a public notice regarding the auction of the seized land.

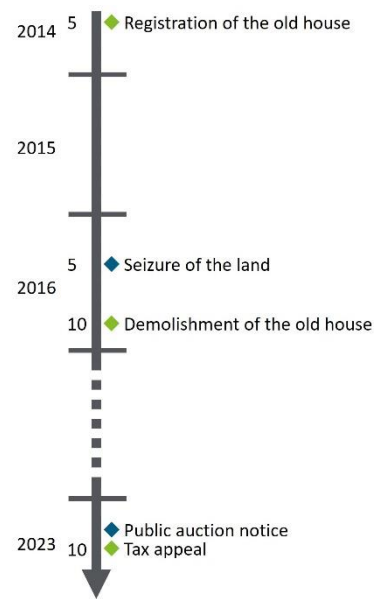
- Subsequently, the Tax Authorities received an inquiry from the Lessee. However, the Tax Authorities responded that the Lessee could not assert his leasehold right against the Tax Authorities. This was because the leasehold right was not registered, and the old house that had been on the land had already been demolished.
- From the Lessee's side, when the Lessee learned that the land where he held the leasehold right was going to be auctioned, he hurriedly contacted the Tax Authorities, but was completely ignored. If the Lessee left things as they were, the land would soon be auctioned. Once it was auctioned, the Lessee had no idea what would happen to his leasehold right. Thus, the Lessee filed a tax appeal.

### 3. Decision made by the National Tax Tribunal

- At the time the tax authorities seize land from a lessor, if the lessee of the land has a registered building on the land, they can assert their leasehold right against the tax authorities. Furthermore, the significance of the requirements for asserting a leasehold right lies in making the existence of the leasehold right on the subject property recognizable. Therefore, as long as the leasehold right continues to exist, the lessee can maintain the ability to assert their right against the tax authorities, even if the requirements for asserting said right is extinguished after the seizure.
- In this instance, at the time the Tax Authorities seized the land, the Lessee possessed the registered old house on the land. Consequently, it could be said that the Lessee held a leasehold right that could be asserted against the Tax Authorities at the time the public auction notice was issued.
- Next, the National Tax Tribunal examined whether the public auction notice for the land was illegal. When the tax authorities seize land, they are required to notify the holder of the leasehold right if they are aware of such a person.
- However, when the Tax Authorities seized the land in this case, they were aware that the Lessee owned the registered old house and held the leasehold right, but they did not notify the Lessee. Therefore, the public auction notice in this case was issued without the notification that holds significant importance for protecting the rights of the Lessee, making it illegal.
- Additionally, when auctioning seized land, key details of the auction must be announced. If a lessee has met the requirements for asserting a leasehold right, this must be included as part of the key details in the public auction notice. This is because the purchaser of the land at the auction must assume the leasehold right.
- However, the public auction notice in this case did not include the fact that the Lessee's leasehold right was maintained in relation to the Tax Authorities. Consequently, the public auction notice in this case was also illegal due to the omission of key details. Thus, the National Tax Tribunal revoked the public auction notice.

### 4. Tips for resolving differences of opinion

- Recently, the National Tax Tribunal appears to have been making fact-finding judgments that are fair to taxpayers. Even if a taxpayer is subjected to a tax assessment based on incorrect fact-finding by the tax authorities, there is a sense of reassurance that filing a tax appeal will lead to the correction of such errors.
- The National Tax Tribunal is not only reliable when it comes to fact-finding, but is also dependable in terms of the interpretation of private law. There have been an increasing number of cases where it feels like the National Tax Tribunal has made in-depth judgments on the interpretation of private law, which serves as the foundation for applying tax laws.
- While it might be difficult for the National Tax Tribunal to delve deeply into the interpretation of tax laws themselves, the fact that it thoroughly examines the interpretation of private law, which forms the foundation for applying tax laws, may not be widely known.



# Tax controversy is a means of defending taxpayers against tax assessments.

## Guide to tax controversy services

Deloitte Tohmatsu defends taxpayers against tax assessments through tax controversy.

Deloitte Tohmatsu has a proven track record of resolving tax issues by providing comprehensive services, ranging from submitting rebuttal letters and legal opinions to representing taxpayers in tax appeals and tax litigation, thereby defending taxpayers against tax assessments.



## Tax reform proposal is a means of changing the tax rules themselves.

### Guide to tax reform proposal service

Deloitte Tohmatsu supports efforts to change the tax rules themselves through tax reform proposals.

Deloitte Tohmatsu has a proven track record of resolving tax issues by advising taxpayers on tax reform proposals and changing the tax rules themselves.

#### Cases where a tax reform proposal is effective

Even if there are issues with the current tax rules, once the tax authorities issue a tax assessment based on those rules, judicial resolution of tax issues becomes difficult. However, by amending laws, regulations, or administrative circulars, it is possible to change the problematic tax rules themselves, thereby resolving tax issues legislatively or administratively. In cases where it is necessary to change the tax rules themselves, a tax reform proposal proves to be effective.



#### Tax reform proposal service

We provide advice to taxpayers on tax reform proposals based on a success fee or hourly fee, supporting efforts to change the tax rules themselves. We carefully examine the issues with the current tax rules, propose feasible amendments to laws, regulations, or administrative circulars, prepare the rationale for why such amendments should be implemented, and strongly back up the realization of tax reform proposals.

## Our strong credentials in resolving tax issues make us a top choice.

### Track record of tax controversy / tax reform proposal services

Deloitte Tohmatsu has a proven track record of resolving tax issues through tax controversy / tax reform proposal.

In numerous cases that we have undertaken and been involved in, we have resolved tax issues through tax controversy / tax reform proposal. Some recent examples where tax issues were resolved are as follows.

2025	Tax reform proposal	Earnings stripping rules		
	Legal opinion	Accrual basis principle	Rebuttal letter	Inheritance tax
	Rebuttal letter	Requirements for re-examination	Rebuttal letter	Taxable sales ratio
	Tax appeal	Entertainment expenses	Legal opinion	CFC regime
2024	Rebuttal letter	Donations	Legal opinion	Heavy penalty tax
	Tax litigation	Article 132-2 of Corporation Tax Act	Tax appeal	Revocation of blue form tax return approval
	Legal opinion	CFC regime	Tax appeal	Property tax
2023	Legal opinion	Bad debt losses and losses on sale of receivables	Legal opinion	Entertainment expenses
	Legal opinion	Article 132-2 of Corporation Tax Act	Legal opinion	Advantageous placement of shares
	Tax litigation	CFC regime		
2022	Legal opinion	Property tax	Tax appeal	Deemed capital gains
	Tax appeal	Corporate gains on donations	Legal opinion	Deemed capital gains
2021	Tax appeal	Reorganization tax regime		
2020	Legal opinion	Stamp tax		

## Introduction to YouTube lectures and publications

**Deloitte Tohmatsu distributes and publishes insights to help taxpayers defend themselves against tax assessments.**

The YouTube lectures "What to do if there's a dispute over tax?" are released monthly in 10-minute episodes in Japanese. We also publish English newsletters, once a month based on the YouTube lectures.



## Contact

### Yutaka Kitamura

Tax Controversy Leader at Tax & Legal of Deloitte Tohmatsu Group  
Partner at DT Legal Japan  
email [yutaka.kitamura@tohmatsu.co.jp](mailto:yutaka.kitamura@tohmatsu.co.jp)

### Tsutomu Yamatoya

Counsel at DT Legal Japan  
email [tsutomu.yamatoya@tohmatsu.co.jp](mailto:tsutomu.yamatoya@tohmatsu.co.jp)

### DT Legal Japan

Tokyo Office Shin-Tokyo Building, 3-3-1 Marunouchi  
Chiyoda-Ku, Tokyo, 100-0005, Japan  
Tel +81 3 6870 3300  
Osaka Office Yodoyabashi Mitsui Building, 4-1-1 Itabashi,  
Chuo-Ku, Osaka-shi, Osaka, 541-0042, Japan  
Tel +81 6 7711 2540  
email [dtlegal@tohmatsu.co.jp](mailto:dtlegal@tohmatsu.co.jp)  
Corporate Info [www.deloitte.com/jp/en/dtlegal](http://www.deloitte.com/jp/en/dtlegal)  
Dai-Ichi Tokyo Bar Association (Tokyo Office)

# Deloitte. Legal

Deloitte Tohmatsu Group (Deloitte Japan) is a collective term that refers to Deloitte Tohmatsu LLC, which is the Member of Deloitte Asia Pacific Limited and of the Deloitte Network in Japan, and firms affiliated with Deloitte Tohmatsu LLC that include Deloitte Touche Tohmatsu LLC, Deloitte Tohmatsu Risk Advisory LLC, Deloitte Tohmatsu Consulting LLC, Deloitte Tohmatsu Financial Advisory LLC, Deloitte Tohmatsu Tax Co., DT Legal Japan, and Deloitte Tohmatsu Group LLC. Deloitte Tohmatsu Group is known as one of the largest professional services groups in Japan. Through the firms in the Group, Deloitte Tohmatsu Group provides professional services in accordance with applicable laws and regulations. With more than 20,000 people in about 30 cities throughout Japan, Deloitte Tohmatsu Group serves a number of clients including multinational enterprises and major Japanese businesses. For more information, please visit the Group's website at [www.deloitte.com/jp](http://www.deloitte.com/jp).

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

Deloitte provides leading professional services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our people deliver measurable and lasting results that help reinforce public trust in capital markets, and enable clients to transform and thrive. Building on its 180 year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte's approximately 460,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

All of the contents of these materials are copyrighted by Deloitte Touche Tohmatsu Limited, its member firms, or their related entities including, but not limited to, Deloitte Tohmatsu Tax Co. (collectively, the "Deloitte Network") and may not be reprinted, duplicated, etc., without the prior written permission of the Deloitte Network under relevant copyright laws.

These materials describe only our general and current observations about a sample case in accordance with relevant tax laws and other effective authorities, and none of Deloitte Network is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. The opinions expressed in the materials represent the personal views of individual writers and do not represent the official views of Deloitte Network. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Member of  
**Deloitte Touche Tohmatsu Limited**

© 2025. For information, contact Deloitte Tohmatsu Group.



IS/BCMS それぞれの認証範囲はこちらをご覧ください  
<http://www.bsigroup.com/clientDirectory>