



GES NewsFlash

Japan – Increased Scrutiny of Individuals Working in Japan

October 21, 2010

In this issue:

Summary

Employers: Withholding tax audits

Individuals: Detailed review of tax records

Tax Reform 2010: Increased Penalties

Immigration

People to Contact

Summary

The year opened with press coverage of individual income tax audits into financial services employees who had underreported or failed to report equity income, such as stock options, restricted stock units, etc., issued by the foreign parent of the Japanese entity, on their Japan tax returns. At a time when tax authorities are looking to increase falling tax revenues, it is perhaps not surprising that a trend towards increased tax and immigration scrutiny of individuals coming to Japan to work developed as the year progressed.

Employers: Withholding tax audits

Withholding tax auditors, focusing on the expenses being paid in Japan for foreign employees, and whether such expenses were correctly reported for withholding tax purposes, have been very active over recent months.

The types of documents and information being requested of the Japanese entity includes records of expense payments, recharge costs, corporate secondment agreements and individual's assignment letters along with, of course, payroll records.

Even if Japan paid expenses were reported on an individual's income tax return and the tax paid therewith, this does not correct the failure to correctly operate withholding tax and therefore penalties and interest can be assessed.

Furthermore, it is possible for withholding tax audits to be the springboard for further action by the authorities who may use the information gathered to target individual tax audits or review corporate issues such as permanent establishment and transfer pricing.

Deloitte's View

Local entities should review their payroll reporting to ensure that all Japan paid expenses are being correctly reported for withholding tax purposes. Foreign companies who second employees to Japan should assist the local entity in formulating an audit strategy. Local contacts may not be familiar with how to manage an audit and provide information outside the audit's scope, potentially protracting and expanding the scope of the original audit.

Individuals: Detailed review of tax records

We have seen tax offices in the central Tokyo area focus on high-income expatriates and requesting detailed information about income reported on individual tax returns and, in particular, questioning how the taxable amount of certain items were calculated. There is also evidence that the officers are comparing tax returns against information provided in prior tax years and against the "Statement of Assets and Liabilities" looking for discrepancies between income and assets reported from one year to the next. Foreign tax returns used to substantiate foreign tax credit claims are also being analyzed by the tax auditors.

Deloitte's View

The "Statement of Asset and Liabilities" is an information return that is required for taxpayers with net taxable income of JPY20 million and above. Currently there are no penalties for not filing this return, which does not impact the individual income tax calculation, although tax offices are now pursuing those eligible taxpayers that do not file the forms and are clearly using this as a "litmus" test of whether the income reported on the individual tax return is complete.

Tax Reform 2010: Increased Penalties

As we highlighted earlier this year, the 2010 Japan tax reforms introduced stricter penalties for non-compliance including increased maximum jail terms for tax evasion from five years to ten years and penalties for evasion to be doubled.

Deloitte's View

The Tokyo Regional Tax Bureau has examiners who can conduct audits in English and are experienced in reviewing assignment letters and other documentation relating to foreign employees on secondment to Japan. Therefore, employers should be taking steps to ensure that they, and their employees in Japan are fully compliant for Japan tax purposes to avoid exposure to increased penalties and reputational risk as stories of significant tax evasion do appear in the Japanese media.

Immigration

There is building anecdotal evidence showing that the immigration authorities are focusing more closely than ever on immigration requirements for frequent visitors.

This has resulted in cases of detention of a business traveler entering on a temporary visa. Immigration records are also accessible to the tax office for at least the previous seven years.

Deloitte's View

The recent case shows that employers, more than ever, need to be making sure that all aspects of business travel are being dealt with and that the potential risks relating to immigration and tax have been dealt with - no one wants to be called in to help retrieve an employee from detention or worse, if it can be avoided. Therefore, employers should put in place a methodology to capture data about short term business travelers (where they are traveling to and from, for how long, etc) which can then be reviewed for tax and immigration issues. For more information on this issue, see our guide "Business travelers to Japan: Don't let a business trip become a business headache" at www.tohmatsu.com/tax/ges/br/en

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

Russell Bird

Tel: +81 (0)3 6213 3979

Frances Somerville

Tel: +81 (0)3 6213 3851

Be sure to visit us at our Web site: www.tohmatsu.com/tax/ges/en/, as well as our Global Web site: www.deloitte.com/tax

This NewsFlash information is also included in our bi-weekly GES newsletter, *Global InSight*, which you will receive directly if you are on the central distribution list.

If you are not on the central distribution list and received this communication by some other means, you can follow these few simple steps to be added to the central distribution list.

- Go to the [Deloitte Subscriptions Page](#) on Deloitte.com
- Make sure that under Step 1 you select "Tax" and "Global Employer Services"
- Under Step 2, select "Global Insight"
- Under Step 3, fill out your contact information and click "Save my profile"

If you require information about doing business in a specific country, including individual tax considerations, please log on to www.deloittetaxguides.com and select

the countries of interest. In addition to detailed guides, there are at-a-glance summaries contained in the Snapshot series section.

[Back to Top](#)

[Home](#) | [Security](#) | [Legal](#) | [Privacy](#)

1633 Broadway
New York, NY 10019 – 6754
United States

© 2010 Deloitte Touche Tohmatsu.

Deloitte refers to one or more Deloitte Touche Tohmatsu, a Swiss Verein, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu and its member firms.

 [Deloitte RSS feeds](#)
