GLOBAL LEGAL INSIGHTS

# Corporate Tax

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# Japan

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## Introduction

After 20 years in a deflationary trend, the Japanese economy appears to be enjoying a silver lining. In December 2012, the Liberal Democratic Party of Japan (the "LDP") won a landslide victory over the Democratic Party of Japan. Mr Shinzo Abe, the new prime minister under the LDP-led coalition, declaring bold monetary easing and fiscal stimulus, appointed as the governor of the Bank of Japan, Mr Haruhiko Kuroda, an advocate of the inflation target theory and aggressive monetary easing, a strategy that has been driving down the yen in the range of JPY99-to-US$1, JPY152-to-£1, and JPY130-to-€1 on 9 April, 2013. The direction was apparently embraced by the market, pushing the Japanese stock market to JPY13,200, exceeding the level it enjoyed just prior to the 2008 Lehman shock. The change in the financial environment could provide foreign investors with an opportunity to invest in the Japanese market again rather than exit from it.

This article is intended to introduce readers to recent developments in Japanese corporate and international taxation, principally in the context of in-bound investment as well as deal-planning. The primary subjects include, as legislative highlights, the decreased corporation tax rate, coupled with the expanded taxable income base, and the newly introduced earnings-stripping rule that will have a significant impact on the predominant debt-push-down strategy. Turning to enforcement mechanisms, we look at the Japanese tax authorities' aggressive application of the anti-avoidance rules; a new case finding a permanent establishment (PE); transfer pricing updates; and recent tax treaty amendments.

## Legislative highlights

<u>Decreased corporation tax rate</u>

The nominal rate of national corporation tax has been lowered by 4.5% to 25.5%, effective for the taxable years commencing on or after 1 April, 2012. Specifically, for a calendar-year company, the new rate applies from 2013. The effective corporation tax rate has become 35.64%, combined with local taxes, namely, the corporation inhabitants' tax and the deductible enterprise tax; together they decreased by 5.05% from the previous 40.69% for corporations with stated capital of JPY100m or more and located in Tokyo.

However, with the additional 10% of the corporation tax amount imposed as the 'Restoration Surtax', a temporary measure to fund restoration after the Great East Japan Earthquake that took place on 11 March, 2011, the effective rate is approximately 38.01% for the three taxable years. The applicable taxable years are a three-year period from the first taxable year commencing during the period between 1 April, 2012 and 31 March, 2015. Specifically, for a calendar-year company, the additional tax applies in 2013, 2014 and 2015.

<u>Taxable corporation income base</u>

The reduction (apart from the Restoration Surtax) of the corporation tax rate is at the cost of an expanded taxable income base, which could have a net incremental effect on taxpayers, depending on their tax position. The expanded taxable income base includes the following:

*Limitations on carry-forward loss deduction*

The carry-forward of losses (no distinction of ordinary or capital) is limited to 80% of taxable income in the current taxable year. On the other hand, the period within which the losses can be carried forward is extended from seven years to nine years. The losses qualifying for the extension are those recognised in taxable years ending on or after 1 April, 2008.

*250% declining balance method depreciation reduced to 200%*

For declining balance method depreciation, the statutory multiple has been reduced to 200% from 250% (multiplied by the depreciation rate under the straight-line method) applicable to depreciable assets acquired on or after 1 April, 2012.

*Abolition of bad debt allowance*

Deductions for bad debt allowances have been generally abolished, effective for taxable years commencing on or after 1 April, 2012, and specifically from 2013 for a calendar-year company, with certain exceptions (among others, for banks). The deductible portion (*vis-à-vis* the deductible amount before the amendment) is phased in: for a calendar-year company, 75% in 2013, 50% in 2014, 25% in 2015 and 0% in 2016 or after.

<u>Newly introduced earnings-stripping rule</u>

*Introduction*

The 2012 Tax Reform introduced a new Japanese earnings-stripping rule that denies the deductibility of interest expenses paid to related parties that are disproportionate in relation to the relevant payor corporation's before-interest income. Specifically, under the new rule, deduction of a corporation's Net Related Interest Payment (as defined below) is limited to 50% of Adjusted Income (as defined below). The new rule is effective for taxable years commencing on or after 1 April, 2013, and specifically from 2014 for a calendar-year company.

The new regulation is intended to plug a loophole for excessive interest payments in relation to income, which is not covered by the existing thin capitalisation and transfer pricing rules. The thin capitalisation rule is not applicable to a large quantity of interest payments in cases where not only debt but also equity is increased. The transfer pricing rule does not work as an effective countermeasure to an interest payment that is excessive in terms of quantity, insofar as the interest rate is within a range of an arm's length price. With the foregoing background, Japanese legislators thought it necessary to curb earnings-stripping by way of interest payments to non-Japanese related parties that are excessive in relation to income.

*Operative concepts*

Under the new rule, a relevant corporation's Net Related Interest Payment in excess of 50% of Adjusted Income is not deductible. The new rule is promulgated by using the following key concepts: "Related Parties"; "Net Related Interest Payment"; and "Adjusted Income", which are set out below:

"**Related Parties**" are defined as:

(i) persons who control, are controlled by or under common control with the relevant corporation (a Japanese corporation; and a Japanese branch of a non-Japanese corporation to the extent of being connected to its business in Japan) by measure of a 50% or more equity relationship;

(ii) persons who effectively control or are controlled by the relevant corporation by way of: (a) half-or-more officers or a representative officer; (b) operational dependency; or (c) substantial financial relationship; or

(iii) third party lenders who, for the purpose of lending to the relevant corporation, (a) borrow from, (b) are guaranteed by, or (c) are provided securities by, Related Parties as defined in (i) or (ii) above.

"**Net Related Interest Payment**" is a concept to capsulise interest payment that effectively decreases the income subject to Japanese corporation tax, which is specifically defined as:

- The interest expenses (including lease payments, original issue discounts, payable bond premiums and guarantee fees) that:
  1. are paid to Related Parties (Japanese and non-Japanese);
  2. subtracted by the amount of interest subject to Japanese corporation tax upon recipient

Related Parties (not including withholding tax on interest income paid by non-Japanese Related Parties having no Permanent Establishment in Japan);

3. exclude back-to-back repo interest expenses; and
4. are further subtracted by interest income of the relevant payor corporation deemed to be received from third party or non-resident borrowers under the promulgated formula, using as a parameter the ratio of (related interest payment) / (gross interest payment).

"**Adjusted Income**" is a concept to capsulise net income before interest without considering various special tax treatments to approximate economic profit before interest, specifically defined as taxable income subject to:

1. adding back, among others, Net Related Interest Payment (as defined above), depreciation expenses, deducted received dividends, dividends received from non-Japanese subsidiaries, bad debt losses and carried-forward losses; and
2. excluding, among others, deemed income under the Japanese controlled foreign corporation (CFC) regime, and disallowed donation expenses.

*Exceptions*

(i) The rule does not apply in cases where the interest expenses are not deemed as artificially inflated; specifically, if the interest expenses to Related Parties (deducting back-to-back repo interest expenses, but before subtracting interest income from third-party or non-resident borrowers) are 50% or less than the gross interest expenses (excluding interest expenses to Related Parties for which interest expenses Japanese corporation tax is imposed upon recipient Related Parties). This may help financial institutions generally.

(ii) A *de-minimis* exception is available for the Net Related Interest Payment that is no more than JPY10m.

*Carry-forward*

A carry-forward is allowed for seven succeeding taxable years.

*Planning perspective*

The new rule will limit the effect of a debt-push-down strategy (see below) and will have a considerable impact on the deal structure for buying out a Japanese company generating income in Japan.

Consumption tax

Under the amended Consumption Tax Act, the consumption tax rate, national and local combined, will be increased from the current 5% to 8% for relevant transactions made on or after 1 April, 2014 through 30 September 2015, followed by 10% for those made on or after 1 October 2015.

## Enforcement highlights – aggressive application of anti-avoidance rules to M&A transactions

Overview

In recent years, the Japanese tax authorities have been taking a tougher stance on corporate reorganisations and cross-border transactions to see if there are any attempts to avoid taxation. As one of the institutional efforts to tackle the increasing complexities, the Special Investigating Task Force was set up within the Tokyo Regional Tax Bureau to scrutinise transactions. On another front, Japan has entered into information exchange agreements with 64 countries as of November 2012 and has participated in the Joint International Tax Shelter Information Centre, or JITSIC, established by the US, UK, Canada, Australia and Japan to exchange information with respect to international tax avoidance schemes. Furthermore, the Japanese authorities agreed with the US authorities to cooperate in the implementation of US FATCA.

The move of implementing strict investigations culminated in corrections made on some M&A transactions, which reportedly included: (1) denial of the merging company's carried-forward losses succeeded to by the acquiring company, due to the alleged lack of qualifying conditions; (2) denial of amortisation of goodwill recognised in the taxable reorganisation; and (3) denial of interest expenses accruing out of pushed-down debts financed for a reorganisation of a Japanese company.

The approaches adopted by the Japanese tax authorities appear to be aggressive and a departure from precedent court cases. It remains to be seen whether these cases will be upheld by the National Tax Tribunal or the court, which have reportedly been reviewing the cases. Below are some general observations to be drawn from these cases, based on the facts and circumstances according to the press release of the subject companies, when available, and media coverage.

*Case (1) − Denial of the merging company's carried-forward losses succeeded to by the acquiring company*[1]

This case involves a tax-free statutory merger under the Corporation Act of Japan after which carried-forward losses that accrued with the merging company, the target, may be succeeded to and used by the acquiring company (on which the correction was made) under certain conditions (set forth below). In a series of transactions, the acquiring company acquired 100% of the shares of the target, which thereafter merged into the acquiring company in a tax-free merger between the parent (the acquiring company) and its wholly-owned subsidiary (the target). In general, the succession and usage by the acquiring company of the carried-forward losses that accrued with the merging company are subject to conditions codified in the Corporation Tax Act, which are essentially indicative of a merger being a "joint" business of both companies rather than an acquisition of the merging company where its existing shareholders' control is forfeited. The condition specifically at issue is that a statutory-defined Specified Director (which includes the representative director and vice president) of the merging company shall be a prospective Specified Director of the acquiring company. The Japanese tax authorities are said to have found that the transactions lacked business necessity and further that, notwithstanding the fact that the representative director of the acquiring company had been appointed vice president of the merging company, the appointment was "a mere formality" to satisfy the said condition. The tax authorities are said to have found that the subject merger was a sequence of transactions structured from the outset, and the acquisition price was inflated to factor in the decreased amount of tax due to the carried-forward losses, and therefore have concluded that the transactions were "abnormal, irregular" and thus deniable under the anti-avoidance rule.

*Case (2) − Denial of amortisation of goodwill recognised in a taxable reorganisation*[2]

Another correction involves a statutory reorganisation, taxable in this case, where goodwill was recognised. The target was carved out from the parent under a corporate split codified in the Corporation Act of Japan, after which the target became wholly-owned by the parent. After the corporate split, shares of the target were sold by the parent to the acquiring company. Given the prospective share sale, the preceding corporate split was not qualified for tax-free status, and thus taxable under the Corporation Tax Act of Japan, on the grounds that at the time of the corporate split, the share sale from the parent to the acquiring company had been intended (which would result in the severing of the parent's continuity of control over the carved-out subsidiary). The target (i.e., the carved-out subsidiary) had recognised as goodwill the difference of (x) the fair market value of the whole business succeeded to from the parent, and (y) the net fair market value of the assets and liabilities of the target, which would be amortised by a straight-line method over five years under the Corporation Tax Act of Japan. The Japanese tax authorities have reportedly denied a part of the amortisation, based on the finding that the corporate split was intentionally structured as "taxable", which entailed the recognition of goodwill, and therefore deniable under the anti-avoidance rule.

*Case (3) − Denial of interest expenses accruing out of pushed-down debts*[3]

The other case is a denial of the interest expenses paid by a Japanese company to a non-Japanese company, having the effect of stripping earnings generated by a Japanese operating company. According to the media report, a new Japanese company in the form of a GK *(godo kaisha)* was established and financed by equity of JPY29.5bn as well as debt of JPY80bn borrowed from a related non-Japanese lender (the latter figure is 2.7 times the former and thus not subject to the Japanese thin capitalisation rule, having a three-to-one threshold). The existing operating company in the form of a KK *(kabushiki kaisha)* merged into the new GK, which had been the borrower *vis-à-vis* the related non-Japanese lender as set forth above. The new GK paid interest expenses, thereby effectively offsetting earnings generated by businesses that had been owned by the former existing operating KK, to the non-Japanese related lender. The Japanese tax authorities are reported to have found that the reorganisation lacked an economic rationale, and the deductibility of the interest expenses was denied under the anti-avoidance rule. Note that the newly-introduced earnings-stripping rule set forth above was not enacted at that time and not applicable to this case.

Statutory basis and central issues for these cases

All of these corrections invoked the anti-avoidance rules: Article 132-2 for enumerated statutory reorganisations and Article 132 for acts of family corporations (i.e., a corporation over 50% of the shares of which are owned by three or less shareholders' groups) under the Corporation Tax Act of Japan. The anti-avoidance rules, including Article 133-3 applicable to companies that elect to file a Japanese consolidated tax return, have the requirement of "unjustness" in common. There is no statutory breakdown or regulatory guideline for the meaning of the "unjustness", and thus its interpretation is quite open. One major theory construes "unjustness" as "lacking economic rationale", and further describes it as "abnormal or irregular, and no rational reason or business purpose exists except for the tax avoidance"[4]. It appears that the Japanese tax authorities have adopted this theory, and have based their corrections on the finding that no rational reason or business purpose existed, except for tax avoidance.

However, it is uncertain whether these cases will be affirmed by the National Tax Tribunal, a quasi-judicial institution established within the National Tax Agency, and in particular by the court.[5] These corrections raise various questions, such as the following:

*(a) How can the tax authorities deny the discretion of management's business judgment?*

The corrections appear to deem these transactions as having no rational reason or business purpose except for tax avoidance. Assuming the corrections did so find, the basis for the tax authorities to find no rational reason or business purpose is not clear, given that, for example, the merger in (1) above appears to have been intended for the acquisition of the target business. According to the press release of the relevant taxpayer, the acquired business has been operating and has achieved certain business results under the acquiring company. If this is true, it should be difficult for the tax authorities to find no "business purpose".

With respect to (3) above, the choice of entity form, whether KK or GK, and how it is financed, by equity or debt, should be within the discretion of the company's management, setting aside the Japanese thin capitalisation rule (see below). If the third party had acquired the business by being financed in the same way, there should have been no reason to deny the interest expenses, since how the acquisition is financed should be decided by the management rather than the tax authorities. The tax authorities' judgment of "abnormal, irregular" can end up forcing a taxpayer to adopt a transaction structure that will generate a larger amount of tax, and conflict with the discretion of management recognised under the principle of private autonomy.

*(b) Can the consideration of tax effect constitute a basis of "unjustness"?*

With respect to the merger in (1) above, the correction pointed out that the acquisition price was decided reflecting the carried-forward losses to be succeeded to by the acquiring company. However, it is rather normal and regular to consider the tax ramifications when a taxpayer contemplates a transaction. In fact, in a notable case involving two asset transfers, the Tokyo High Court in its decision dated 21 June, 1999, even after recognising that a taxpayer adopted a form of transaction (in that case, two separate purchases as opposed to the single exchange the tax authorities had found) for the purpose of lessening the tax burden, remarked, "needless to say, what legal form and what type of agreement to adopt is entrusted to free choice between both transactional parties", and found no grounds for not permitting the adoption of a legal form aimed at reducing the tax burden. Given the decision, apparently the correction was going too far in deciding "abnormal, irregular".

*(c) Can the anti-avoidance rule override the scope of individual legislations?*

If the anti-avoidance rule were to be affirmed with such a wide scope, it would effectively override the individual legislations, such as the thin capitalisation rule and the newly introduced earnings-stripping rule. This would make individual legislation meaningless, and the correction would be extremely subjective. This would also make tax exposure highly unpredictable, thereby making tax planning significantly more difficult.

Planning perspective

While these cases have been disputed and the decisions are yet to come, it is clear that the Japanese tax authorities are paying a greater amount of attention to M&A deals. The items at issue, namely, succession of carried-forward losses, recognition of goodwill under a taxable acquisition, and debt push-down, are among the commonly chosen instruments in structuring a deal. A higher degree of prudence is needed.

## Permanent establishment (PE)

In 2007, the Japanese tax authorities reportedly made a correction on a US e-commerce company, seemingly finding that it had a permanent establishment (PE), for the reason that its Japanese subsidiaries, which were entrusted with storage and distribution services, functioned as a branch of the US taxpayer.[6] Such correction was said to have been partially cancelled after an agreement between the US and Japanese governments.[7]

On a much smaller scale, an individual non-resident who sold goods by taking orders through an internet site was found by the Japanese tax authorities to have a PE in Japan. The correction was affirmed by the National Tax Tribunal in its decision dated 25 November, 2011. The non-resident taxpayer purchased goods in a foreign country (unknown), imported them into Japan and kept them in his or her flat and warehouse, and the goods would be shipped in accordance with customers' orders placed through his or her internet site. The National Tax Tribunal affirmed the correction in its finding of a PE.

This decision is controversial as it appears to conflict with the tax treaty, assuming a certain tax treaty was applicable. Article 5, paragraph 4(b) of the OECD Model Tax Convention provides that a PE shall be deemed not to include "the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery". A commentary on Article 5 of the Model Tax Convention, in its paragraph 21, argues that "the provisions of paragraph 4 [of Article 5] are designed to prevent an enterprise of one State from being taxed in the other State, if it carries on in that other State, activities of a purely preparatory or auxiliary character". In this case, the maintenance of a stock of goods in the flat and warehouse appears to have been "for the purpose of storage, display or delivery", which should not have been a basis to find a PE. However, the Tribunal held that the flat and warehouse were the "sole places to store stock", and "the places where to assign economic added value by attaching specifications or instructions in Japanese", and therefore had "material and indispensable functions" that were "beyond a preparatory or auxiliary character", making the places a PE.

The finding that the flat and warehouse were "beyond preparatory or auxiliary" may suggest the authorities' frustration with the fact that more and more commercial activities are implemented without a physical existence in Japan, and suggest the possibility of extensive findings of a PE even where little physical existence is evident.

## Transfer pricing

Adaption to 2010 Amendment to OECD Guidelines

In response to the amendment of OECD Transfer Pricing Guidelines in 2010, the Japanese transfer pricing rule, which is provided in Article 66-4 of the Special Taxation Measures Law (the "STML"), was overhauled in 2011, and the new set of rules is effective for taxable years commencing on or after October 1, 2011, specifically from 2012 for a calendar-year company. Under the new rule, the selected transfer pricing method should be the "most appropriate method to the circumstances of the case", which confirmed and has furthered the prevalence of the transactional net margin method (TNMM) in Japanese practice. On the other hand, the new rule codified the two-stage residual profit split method (RPSM), which had been provided only in governmental interpretive guidance, to throw off any doubts of its legality and possibly have a wider scope of application. As for a net profit indicator for the TNMM and RPSM, the new rule provides the operating margin on the gross revenue basis or on the full-cost basis, removing the language of the return on assets (ROA) for RPSM. Although applicability of ROA has not been totally removed depending upon facts and circumstances, the new rule has effectively set a higher standard for it, which may make it difficult for certain taxpayers, such as in manufacturing or other asset-intensive activities or in capital-intensive financial activities, to select the most appropriate net profit indicator for their businesses. The 2013 amendment to the STML has adopted the Berry ratios as another indicator, which may help certain distributors.

Transfer pricing enforcement

*Cancellations of corrections using RPSM*

The Japanese tax authorities have tended to apply the RPSM to Japanese companies to assign considerably low operating margins to their non-Japan subsidiaries, on the grounds that they have only simple and limited functions, resulting in the recalculation of a huge amount of income for the Japanese parent. The trend received a significant blow when a major Japanese pharmaceutical company achieved cancellation of the correction of JPY24.6bn (approximately US$299m, £189m or €229m at the then exchange rate) by the National Tax Tribunal on 25 March 2013, following the cancellation of JPY97.7bn (approximately US$1,030m, £676m or €790m at the then exchange rate) by the preceding reconsideration ordered by the Osaka Regional Tax Bureau on 6 April 2012, finally resulting in the cancellation of the full amount of JPY122.3bn after the failed agreement procedure between the US and Japanese governments.[8] While the Japanese tax authorities appear to have changed their strategy and adopted a 'soft' approach by which to incentivise taxpayers to comply with the transfer pricing rule, it remains to be seen if the aggressive enforcements will discontinue.

*Attention to restructurings*

In particular, the Japanese tax authorities have been paying attention to restructurings, whereby risk and functions originally assumed by Japanese entities will be taken off and transferred to non-Japanese entities. The Japanese tax authorities lost a case where a correction was made on a Japanese subsidiary service provider that had purchased and resold products before the restructuring. The Tokyo High Court, in its decision dated 20 October 2008, held that a comparable company that the Japanese tax authorities had adopted had no comparability to the taxpayer (the service provider) and cancelled the correction. Faced with similar restructurings, the Japanese tax authorities may seek a way to impose an "exit tax" in the case of outflows of risk and functions on a theory backed by Chapter IX of the 2010 OECD Guidelines. The Guideline states (i) at paragraph 9.41, that "[a]t arm's length a party would not be expected to transfer a risk that is perceived as economically insignificant in exchange for a substantial decrease in its profit potential", and (ii) at paragraph 9.65, that "[w]hen applying the arm's length principle to business restructurings, the question is whether there is a transfer of something of value (rights or other assets)... and that transfer... would be compensated between independent parties in comparable circumstances". Specifically, the Japanese tax authorities announced their understanding that the "unique function" provided in the new Japanese transfer pricing rule, as amended in 2011, not only covers valuable intangibles but extends to other profits, without any indication of which nature of profits will be included if at all. This understanding may suggest the authorities' inclination to apply the new rule to work as the commensurate-with-income standard in order to capture the profit potential in a broader sense. Intra-group restructurings causing a shift of profit potential would draw the authorities' attention and undergo rigorous examination accordingly.

## Tax treaties

Amendment to US-Japan tax treaty

The US and Japan signed a new Protocol to the income tax treaty between the countries on 24 January, 2013, which amends the existing tax treaty concluded in 2003 and effective from 2004. The Protocol has slashed withholding taxes at the source upon certain investment income in order to facilitate mutual investments. Specifically, major amendments include the following:

*Dividend (Article 10)*

To qualify for full exemption of withholding tax (otherwise, 10% or 5% for 10% voting relationship) upon the payor company, the payor company shall be owned by its parent company with "at least 50% voting rights for 6 months or more", relaxed from the current "more than 50% voting rights for 12 months or more", which will make a 50-50 joint venture qualified.

*Interest (Article 11)*

An exemption of withholding tax is afforded generally for interest payments upon the payor, liberalised from the current 10% withholding tax, with exemptions only for financial institutions, with the following exceptions:

(a) interest contingent on sales, profits or other indexes may be taxed at the source at 10%;
(b) interest in excess of the arm's length rate may be taxed at the source at a rate not exceeding 5%; and
(c) interest paid with respect to the ownership interests in an entity used for securitisation of real estate mortgages may be taxed at the source to the extent exceeding the return on comparable debt instruments.

*Capital gain (Article 13)*

The capital gain tax upon the sale of real property is subject to withholding at the location where the real property is situated, which includes shares or interests in a company (regardless of its domicile), partnership or trust deriving the value of its property principally from real property situated in Japan. The amendment will capture the sale of shares of an applicable non-Japanese entity, which has not been subject to the withholding in Japan before the amendment.

*Effective date*

The Protocol is subject to ratification and will enter into force on the date of the exchange of instruments of ratification. The new treaty will be applicable to taxable years beginning on or after January 1 next following the date on which the Protocol enters into force, except for withholding taxes applicable to payments on or after the first day of the third month next following the date on which the Protocol enters into force. No grandfather clause is provided, which allows elective application of the pre- and post-amendment treaty for a certain period.

<u>Amendment to UK-Japan tax treaty and treaties with other countries</u>

On 21 March 2013, the UK and Japan agreed in principle on the draft Protocol amending the UK-Japan tax treaty which was signed and entered into force in 2006. While the details of the Protocol are yet to be made public, the governments proclaim that the amendment will reduce taxation on investment income (dividends and interest) at the source. Apparently, the Japanese government is moving forward to amend its tax treaties with other countries in line with the amended US-Japan treaty set forth above.

* * *

**Endnotes**

1. The facts are based on a press release issued by Yahoo Japan Corporation dated 30 June, 2010, and news reports by Asahi Shimbun dated 1 July, 2010 and The Nikkei (electronic edition) dated 26 July 2010.
2. The facts are based on a news report by Asahi Shimbun dated 1 April, 2012.
3. The facts are based on a news report by Yomiuri Shimbun dated 16 July 2012.
4. Professor Hiroshi Kaneko, *Tax Law, 18th edition*, page 442.
5. Under Japanese tax law, a taxpayer must, in principle, first file a motion for reconsideration with the relevant tax office or bureau, and then file a request for examination before the National Tax Tribunal, before he or she files a complaint before the court.
6. The facts are based on a news report by Yomiuri Shimbun dated 9 July 2009.
7. Shunji Kimura, *Taxation on Foreign Corporation, 2nd edition*, page 615.
8. The facts are based on press releases issued by Takeda Pharmaceutical Company Limited dated 4 November 2008 and 25 March 2013.

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