



Thinking Beyond Borders: Management of Extended Business Travelers - Japan



April 2023

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Key message

1 Key message

Permanent residents are taxed on their worldwide income whereas non-permanent residents are taxed on their income other than foreign-source income under the Japan tax law, regardless of where it is paid, and their foreign-sourced income paid in and/or remitted into Japan. Non-residents are taxed on Japanese-sourced income only. Individual income taxes in Japan consist of national income tax (NIT) and local inhabitant tax (LIT). Tax treatment is dependent upon individual's residency status.

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability for Japanese tax is determined by residency status. There are two categories of individual taxpayers: resident and non-resident. A resident is an individual whose living base is in Japan or has resided in Japan for a continuous period of 1 year or more. A resident is further classified as either a non-permanent resident or a permanent resident.

A non-permanent resident is a resident who is not a Japanese national and has had a living base or resided in Japan for a period of more than 1 year and 5 years or less in the last 10 years. A non-permanent resident is taxed on the individual's income other than foreign-source income under the Japan tax law, regardless of where it is paid, and their foreign sourced income paid in and/or remitted into Japan.

A permanent resident is a resident who is a Japanese national or has been living in Japan for a period of more than 5 years in the last 10 years. A permanent resident is subject to income tax on worldwide income regardless of source.

A non-resident is an individual other than resident. A non-resident is taxed only on Japanese-sourced income, and generally no deductions or exemptions are available. If a non-resident is a resident of a country/jurisdiction with which Japan has concluded a tax treaty, income may be either exempt or subject to a lower rate of tax, if the individual met certain conditions. Extended business travelers are likely considered non-residents for Japanese tax purposes unless their assignment periods are 1 year or longer.

Japan also levies a local inhabitant tax. A local inhabitant tax is assessed based on the registration with local ward/city office as of 1 January of the following year.

2.2 Definition of source

Employment income is basically considered to arise at the location in which employment services are rendered. Therefore, salary, wage, bonus, or similar remuneration paid to an employee for services performed in Japan is generally considered Japanese-sourced income.

2.3 Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Japan. Generally, Japan's double tax treaties are in line with the Organization for Economic Co-operation and Development (OECD) Model Treaty with respect to the tax-exempt treatment of foreign employees temporarily working in Japan. The Japanese tax authorities currently do not adopt the economic employer approach.

2.4 Types of taxable income

In general, there are 10 types of taxable income as below.

- Employment income
- Interest income
- Dividend income
- Rental income
- Retirement income

- Capital gain
- Temporary income
- Business income
- Income from forestry
- Miscellaneous Income

2.5 Tax rates

For residents, net taxable income is taxed at graduated rates ranging from 5 (5.105) to 45 (45.945) percent as national income tax, plus 10 percent local inhabitant tax¹. Non-residents are subject to national income tax at a flat rate of 20 (20.42) percent. (Note: starting from 2013, surtax of 2.1 percent on national income tax amount is added for 25 years.)

2.6 Exit tax

A special tax regime, exit tax, to impose income tax on unrealized capital gains on financial assets held by individual at the time of departure from Japan will be applied. This scheme was introduced in order to prevent wealthy individuals from avoiding tax on capital gains in Japan by moving out of Japan with appreciated financial assets.

Covered individuals: A resident individual who meets both of the following conditions:

- 1 Has a total value of “financial assets” of 100 million Japanese yen (JPY) or more at the time of departure; and
- 2 Has lived in Japan for more than 5 years² in the previous 10 years before departure

The exit tax is effective for covered individual departing Japan on or after 1 July 2015.

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Social Security

3 Social Security

3.1 Liability for social security

The social insurance program in Japan consists of health insurance, nursing care insurance, pension insurance, employment insurance, and workers' accident compensation insurance. Any individuals who meet the prescribed conditions are expected to participate in these systems as an insured person, regardless of nationality. In principle, individuals who are paid from outside Japan have no mechanism to pay the Japan Social security contribution through offshore payroll. An exemption can be applied where there is a totalization agreement between Japan and the home country/jurisdiction.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

Tax returns are due by 15 March following the tax year-end, which is 31 December. When a taxpayer leaves Japan, the taxpayer must file a tax return before the departure date or by 15 March of the following year if a tax agent is appointed before the departure date. Extensions of the filing deadline are not available. In addition, when meeting certain conditions, overseas assets and/or assets and liabilities reporting statements need to be submitted by 30 June of the following year (This schedule will apply from 2023 tax year onward.)

4.2 Employer reporting and withholding requirements

If compensation is paid through an onshore payroll, the employer is required to withhold income tax on the payments. If the employer of non-residents has an office or place of business in Japan and Japanese-sourced compensation is paid to non-residents outside Japan, the employer is required to withhold non-resident income tax on payments.

In addition, starting from 2012, a new reporting requirement for foreign stock-based compensation was introduced. The Japanese subsidiary or the Japan branch is required to prepare and submit a statement to report foreign stock-based compensation (Form 9-(3)) to the tax authorities by 31 March of the following year.

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Other issues

5 Other issues

5.1 Work permit/visa requirements

Foreigners who wish to work in Japan must obtain a CoE (Certificate of Eligibility) applied by a sponsor in Japan (e.g., host company or employer). Once the Immigration Services Agency in Japan issues the CoE, they are entitled to apply for visa at the competent Japanese embassy / consulate in the home country or country of residence. The CoE holder must obtain a visa and enter Japan within the validity of CoE which is 3 months from the date of issue.

5.2 Double taxation treaties

Japan has an extensive tax treaty network. In addition to Japan's domestic arrangements that provide relief from international double taxation, Japan has entered double taxation treaties with more than 70 countries/jurisdictions to mitigate double taxation and allow cooperation between Japan and overseas tax authorities in enforcing their respective tax laws.

5.3 Permanent establishment implications

The Japanese Corporation Tax Law provides three types of permanent establishments: a fixed place of business permanent establishment, a long-term construction project permanent establishment, and an agency permanent establishment. There is potential that a permanent establishment of a foreign corporation could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has for the foreign corporation.

5.4 Indirect taxes

Consumption tax is applicable at 10 percent on taxable supplies. Consumption tax registration may be required in some circumstances.

5.5 Transfer pricing

Japan has transfer pricing regulations in place for cross border intercompany transactions. Transfer pricing implications could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. In such case, the payment of an arm's length remuneration from the recipient of the benefit to the service provider may be required depending on the nature of the service provided.

5.6 Local data privacy requirements

Japan has data privacy laws.

5.7 Non-deductible costs for assignees

Non-deductible costs for assignees include but not limited to contributions by an employee to non-Japanese pension funds with minor exceptions. Depends on the nature of cost, the deductibility may change. As such, we highly recommend seeking professional advice.

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Footnotes:

- 1 Local inhabitant tax rates depend on the registered office. For an individual who is registered in Tokyo will be taxed at 10 percent.
- 2 The period during staying in Japan with a status of residence under Table 1 of the Immigration Control and Refugee Recognition Act can be excluded.

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