



JAPAN: SIGNIFICANT CHANGES IN CONSUMPTION TAX

RAISE IN CONSUMPTION TAX RATE POSTPONED

On November 18, 2014, Shinzo Abe, the Japanese Prime Minister, officially announced that the increase of the consumption tax rate which was originally planned to occur in October 2015, will be postponed to April 1, 2017. The consumption tax rate increased from 5% to 8% on April 1, 2014 and was planned to increase again from 8% to 10% in October 2015. The 2012 amendment of the Consumption Tax Act has a supplementary provision that requires the government to review the economic statistics and enables it to suspend or postpone the increase depending on the economic circumstances (“Economic Condition Clause”). The government decided not to raise the rate pursuant to this clause because the statistics for the third quarter of 2014 showed weak economic growth for Japan.

The postponement is also provided in the government’s 2015 tax reform proposals¹, approved by the cabinet on January 14, 2015. It states that the Economic Condition Clause should be deleted from the Consumption Tax Act, and as a result it is assumed that no further postponement will occur again.


Introducing reduced tax rate for several daily necessities and groceries (“Multiple Tax Rate System”) has been under discussion in relation to the increase of consumption tax rate. One of the ruling coalition parties (*Komeito*) is actively proposing the Multiple Tax Rate System and the ruling parties’ 2015 tax reform proposals state that it should be introduced when the consumption tax rate becomes 10%, although this item is not addressed in the government’s 2015 tax reform proposals.

CHANGE IN CROSS-BORDER E-COMMERCE

Another significant topic in the government’s 2015 tax reform proposals is a change in cross-border e-commerce services (i.e. sale of digital books, downloading of music, and advertising by using telecommunication etc.). Under the current Consumption Tax Act, the performance of e-commerce services by offshore service providers is generally not taxed in Japan. The amendment of this rule has been discussed due to domestic online service providers’ claim that they have been less competitive than offshore providers because of this rule. The 2015 tax reform proposals state that the Consumption Tax Act will be amended to impose the consumption tax on electronic services by offshore providers starting from October 1, 2015.

The proposed new rule is similar to the rule which has already been introduced in the EU – two ways to tax cross-border e-commerce services depending on the nature of the services rendered (i.e. business to business “B2B” or business to consumer “B2C”). As for B2B transactions, a “Reverse Charge Construction” has been proposed. Under this system, offshore service providers will not be responsible for paying the Consumption Tax, which would normally be paid by the service provider to the National Tax Agency (“NTA”), and the Japanese purchaser will be required to pay the Consumption Tax to the NTA instead, although they can credit the paid tax amount afterwards. On the other hand, for B2C transactions, offshore service providers will have an obligation to collect Consumption Tax from Japan-based consumers and to pay such collected Consumption Tax to the NTA by registering as a “registered foreign supplier.”

¹ There are two tax reform proposals under the Liberal Democratic Party, led by Shinzo Abe, (and its coalition ruling partners) regime: (i) the ruling party’s proposal, which is normally issued in December; and (ii) the government’s proposal, which is issued after the ruling party’s proposal and after having approved by the cabinet. These two proposals are almost identical, although some of the items mentioned in the ruling party’s proposal will not be incorporated in the government’s proposal. The expected tax law is to be in line with the government’s tax reform proposal.



Upon amendment, offshore business operators will have to check if their transactions are B2B or B2C and if they need to register as a registered foreign supplier. At this stage, B2B transactions are defined as transactions in which a Japanese purchaser is obviously recognized as a business operator considering the contents and conditions of the service, while B2C transactions are defined as transactions other than B2B transactions. However, the criteria is unclear (it may be clarified in the cabinet order or NTA's administrative circular notice after the amendment). The registration process for registered foreign supplier and the penalty for failure to register have not yet been announced.

According to the government's tax reform proposals, the new rule is planned to be applied to transactions made on or after October 1, 2015 and the registration of foreign suppliers will become available starting from July 1, 2015. Also, the detailed regulations and guidelines are expected to be published before the implementation of the new rule.

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