

Client Alert

April 2015

New Exit Tax to Apply to Both Japanese Nationals and Certain Long Term Foreign Residents

Japan's 2015 tax legislation was passed by Japan's Diet and promulgated on March 31, 2015. The legislation includes a new "exit tax", which will apply to both expatriating Japanese nationals and certain long-term foreign residents. The goal of the new exit tax regime is to prevent wealthy individuals holding securities with unrealized gain from avoiding Japanese individual income tax by moving to countries that impose little or no tax on capital gains, such as Hong Kong, Singapore and Switzerland.

This Client Alert discusses the rules of the new exit tax regime, its scope, and details of its applicability.

1. Overview of the New Exit Tax Regime

Where a Japan resident subject to the exit tax (per the conditions set out below) expatriates from Japan¹ on or after **July 1, 2015**, under the new tax regime he/she will be subject to individual income tax on unrealized gain from certain taxable assets.

If an individual is subject to the exit tax, he or she must pay tax on the deemed gain realized at applicable individual income tax rates. The specific rate at which tax will be owed depends on the tax category of the income realized. Japan's individual income tax is made up of several income categories, with varying rates. For example, capital gain arising on the transfer of listed or non-listed stocks is generally subject to tax at a flat 15.315%.²

1.1. Persons Subject to Tax

The new regime will apply to any person who:

- (a) is a Japan resident, or whose principal place of residence ("*jusho*"), or temporary place of residence ("*kyosho*") has been Japan for a period of time exceeding five out of the last 10 years prior to expatriation (please see additional comments below with respect to non-Japanese nationals); and

¹ Even a long term business trip or period spent studying abroad lasting one year or more would be considered "expatriation" in this context.

² If the gain on the transfer of listed or non-listed stocks is categorized to the taxpayer as business income or miscellaneous income, the rate would also generally be a flat 15.315% (Special Measures Tax Law ("SMTL") 37-10(1)). If the securities subject to this regime include assets other than stocks, depending on the asset, progressive tax rates may apply. In such a case, the top tax bracket is 45.945%.

- (b) has taxable assets (as defined below) with a combined value of at least JPY 100 million (approximately USD 840,000).³

In the case of an individual who is not a Japanese national, the five-year period discussed in (a), above, does **not** include time spent in Japan under a visa status specified under Table 1 of the Immigration Control and Refugee Recognition Act. Table 1 includes work status visas, such as intra-company transferee visas or business investor/manager visas, under which expatriate employees are typically assigned to Japan. Therefore, the exit tax will **not** apply to expatriates who have resided in Japan on such visas.

The five-year period does, however, apply to non-Japanese persons present in Japan under a visa status specified under Table 2 of the Immigration Control and Refugee Recognition Act. The visa statuses set out under Table 2 include permanent residents, spouses of Japanese nationals, etc. Non-Japanese nationals in Japan with a visa status categorized under Table 2 are potentially subject to the exit tax.⁴

In contrast to Japanese nationals, for whom the five-year residency test will be applied retroactively from the July 1, 2015 effective date of the new exit rules, the five-year residency period is applied to non-Japanese nationals with Table 2 permanent residency or similar visa status on a prospective basis only. In the case of such non-Japanese nationals, the five-year period is counted from the July 1, 2015 effective date of the exit tax rules.⁵ Therefore, even where a non-Japanese national has been present in Japan under a Table 2 visa status for more than five years as of July 1, 2015, he/she would not potentially be subject to the exit tax immediately after the law comes into effect, but rather only after the passage of five years from July 1, 2015.

1.2. Taxable Assets

In order to determine whether the JPY 100 million threshold is met, the law considers the following types of assets:⁶

- (a) Certain securities, as defined under the Income Tax Law,⁷ and any interest held in a silent partnership (*i.e.* a *Tokumei Kumiai* or “TK”) contract;
- (b) Unsettled credit transactions or when-issued transactions; and
- (c) Unsettled derivatives.

³ Amended Income Tax Law (“ITL”) 60-2(5).

⁴ Visa statuses under Table 1 include investor/business manager, intra-company transferee, engineer, and temporary visitor. Holders of such visas would not be subject to the exit tax. Visa categories such as permanent resident, spouse or child of a Japanese national, or long-term resident are not included in Table 1 but rather in Table 2. Non-Japanese nationals present in Japan on such a visa would potentially be subject to the exit tax upon leaving Japan. For the complete text of Tables 1 and 2 of the Immigration Control and Refugee Recognition Act, please see Appendix 1.

⁵ ITL Enforcement Cabinet Order (“ITL ECO”) 170(2) and ITL ECO Supplementary Provisions with respect to the 2015 tax legislation 8(2).

⁶ ITL 60-2(1)(2)and(3).

⁷ Specified securities are defined in Individual Income Tax Law Article 2(1)(xvii), which refers to ITL ECO 4 and the Financial Instruments and Exchange Act (“FIEA”) 2(1), including government bonds, corporate stocks, corporate bonds, investment trust beneficiary certificates, and shares in a Japanese LLC (*i.e.* a *Godō Kaisha* “GK” corporation). Foreign stocks and bonds and stock option certificates are also included. For the full list of securities defined under ITL ECO 4 and FIEA 2(1), please see Appendix 2.

1.3. Price at Which Assets are Deemed to Have Been Transferred

A taxpayer subject to the exit tax will be deemed to have transferred certain taxable assets at the assets' fair market value as of a certain date, and will be taxed on the gains arising from such transfer accordingly.⁸ The relevant dates are determined per the following:

- (i) Where (a) the taxpayer has filed an application appointing a tax administrator by the time the taxpayer files individual income tax returns covering the year in which the taxpayer expatriates from Japan;⁹ or (b) after the taxpayer's expatriation, the taxpayer has not filed an application appointing a tax administrator and filed individual income tax returns covering the year that the taxpayer expatriated from Japan; or (c) income tax for the year the taxpayer expatriated from Japan is levied through a decision of the Japanese tax authorities:

The fair market value on the date of expatriation from Japan.

- (ii) In cases other than (i):

The fair market value on the date three months prior to expatriation from Japan.

2. Exceptions from General Exit Tax Rules

2.1. Relief Where Taxable Person Repatriates to Japan Within Five Years of Expatriation

Where an individual who was taxed under the exit tax regime repatriates to Japan within five years of the initial expatriation, and if such individual still owns the taxable assets, the individual can apply to have the exit tax cancelled by filing a request for correction within four months after repatriating.¹⁰

If a taxpayer has received a 10-year grace period with respect to payment of taxes owed as a result of the exit tax regime (see discussion of grace period rules below), the five-year period described above is increased to 10 years.

3. Grace Period with Respect to Payment of Exit Tax

3.1. Conditions Required to Obtain Grace Period

The tax authorities may grant a taxpayer who has a tax liability as a result of the exit tax regime a five-year grace period with respect to payment of taxes owed as a result of the exit tax regime, if the taxpayer:¹¹

- Requests on his/her individual income tax return in the year of expatriation that the tax authorities provide a grace period with respect to payment of taxes owed under the regime; and
- Provides the tax authorities (a) by the date of expatriation, an application appointing a tax administrator; and (b) by the filing deadline of individual

⁸ ITL 60-2(1),(2)and(3).

⁹ The tax authorities have indicated that an application appointing a tax administrator should generally be filed by the taxpayer's expatriation date.

¹⁰ ITL 60-2(6)(i) and ITL 153-2(1).

¹¹ ITL 137-2(1).

income tax returns covering the year of expatriation (*i.e.* March 15 of the following year), collateral¹² covering the amount of tax due.

The grace period may be extended to 10 years if a taxpayer requests an extension.

3.2. Interest / Reporting Requirements / Resident Status During the Grace Period

- Where a taxpayer has received a grace period for the payment of taxes, he or she must file a report regarding ownership of the taxable assets as of December 31 of each year by March 15 of the following year. If the taxpayer fails to file such a report, the grace period is treated as expiring four months after the March 15 report filing deadline.¹³
- The taxpayer must also pay interest upon expiration of the grace period on the outstanding tax liability during the grace period.¹⁴ The interest payment must be made together with the payment of the underlying principal tax liability (as opposed to paying the interest during the grace period).
- A taxpayer receiving a grace period to pay the exit tax is deemed to be a Japan resident during the grace period.¹⁵

3.3. Transfer of Securities During the Grace Period / Adjustment for Double Taxation

- Where the taxpayer transfers taxable assets during the grace period, the deadline for payment of the exit tax will be four months after the transfer date.¹⁶
- If the actual transfer price of the assets is lower than the deemed transfer price of the assets upon which the exit tax was calculated upon expatriation, exit tax liability can be reduced to the extent of the liability computed by the actual transfer price by filing a request for a correction within four months of the asset transfer date.¹⁷
- If foreign tax was levied upon any gain arising from the actual transfer of the taxable assets, and the taxpayer did not receive relief in the foreign jurisdiction for such double taxation, a taxpayer may apply for a foreign tax

¹² The following assets are acceptable as collateral (General Law of National Taxes Article 50):

- (i) National and local government bonds;
- (ii) Corporate bonds;
- (iii) Land;
- (iv) Buildings, trees, registered ships and aircrafts, cars and registered and insured construction machines;
- (v) Special property units that are available for collateral purposes under certain industry-based special collateral laws; the relevant industries include railway, factory, mining, track, canal, fishery, harbor transportation business, road traffic business and sightseeing facilities;
- (vi) Guarantee by a guarantor approved by the tax office; or
- (vii) Cash.

¹³ ITL 137-2(6) and (8).

¹⁴ The interest rate is 1.8% for 2015.

¹⁵ ITL ECO 170(2)(ii). The purpose of deemed resident treatment during the grace period is to shut down a possible loophole in the law. Without this rule, a taxpayer that has received a grace period might be able to skirt application of the exit tax in a subsequent period by repeatedly, over the subsequent 10 year period, repatriating and expatriating from Japan.

¹⁶ ITL 137-2(5).

¹⁷ ITL 60-2(8) and ITL 153-2(2).

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credit in Japan by filing a request for correction within four months of the date that the foreign tax liability was fixed.¹⁸

3.4. Payment upon Expiration of Grace Period

If the fair market value on the expiration date of the grace period is lower than the deemed transfer price that was used to calculate the exit tax at the time of expatriation, the exit tax can be reduced by filing a request for correction within four months after the grace period ends.¹⁹ Such relief would not be available if the taxpayer had paid the exit tax before the expiration date of the grace period (*i.e.* a reduction in the exit tax amount as a result of reduction in the fair market value of the assets is available only where the taxpayer makes use of the grace period).

4. Transfer of Taxable Assets upon Inheritance or Donation

In the case of an inheritance or gift of assets that is taxable in Japan, the new exit tax regime may result in double taxation. In the case of an inheritance, where the decedent lived in Japan for more than five years in a 10 year period prior to passing, and he/she had taxable assets discussed in 1.2 with a value of JPY 100 million or more, and if the heir is a non-resident, exit tax would be levied on unrealized gain at the time of inheritance. Similarly, in the case of a gift of assets from an individual otherwise subject to the exit tax to a non-resident, the exit tax would apply. There would thus be double taxation of individual income tax (*i.e.* exit tax) on the deceased / donor and inheritance / gift tax on the heir / donee.²⁰

Likewise, if an individual had previously been subject to Japanese exit tax upon expatriation from Japan with respect to taxable assets discussed in 1.2, and the recipient of a gift/inheritance from such individual is subsequently subject to Japanese gift tax / inheritance tax with respect to the same assets, no relief from Japanese double taxation is available under the exit tax regime or Japanese inheritance / gift tax rules as currently in effect.

5. Who Should Consider What Action?

- Wealth management advisors outside of Japan, such as in Hong Kong or Singapore, who have clients who currently live in Japan that are considering immigration to Hong Kong, Singapore or elsewhere should take into consideration exit tax levied when their clients expatriate from Japan.
- Companies that second employees to Japan should check their seconded employees' visa status and consider whether an employee in Japan on a permanent resident or spousal visa could change their visa status to one outside the scope of the exit tax, such as an intra-company transferee. Companies should also consider the coverage or non-coverage of any tax equalization package in light of the company's tax equalization policy.
- Entrepreneurs doing business in Japan using a spousal visa rather than under an investor visa because the former is easier to obtain may wish to reconsider in light of the new exit tax regime rules.

¹⁸ ITL 95-2(1) and ITL 153-5.

¹⁹ ITL 60-2(10) and ITL 153-2(3).

²⁰ ITL 60-3(1), (2) and (3).

Appendix 1

Table 1(1) to (5) and Table 2 of the Immigration Control and Refugee Recognition Act:

Please note that the tables below are provided for reference purposes only; the information in the tables is effective as of March 31, 2015. Due to recent legislation affecting the Immigration Control and Refugee Recognition Act, there have been certain minor changes (not affecting requirements relating to visa status) effective April 1, 2015. For detailed information please contact us.

Table 1(1)

| Status of Residence | Authorized Activities |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Diplomat | Activities on the part of constituent members of diplomatic missions or consular offices of foreign governments hosted by the Japanese Government; activities on the part of those who are provided with similar privileges and/or immunities as are granted to diplomatic missions pursuant to treaties or international customary practices; and activities on the part of their family members belonging to the same household. |
| Official | Activities on the part of those who engage in the official business of foreign governments or international organizations recognized by the Japanese Government, and activities on the part of their family members belonging to the same household (except for the activities listed in the right-hand column under this table's "Diplomat" column). |
| Professor | Activities for research, guidance of research or education at a university, an equivalent educational institution, or a college of technology (<i>kotosenmongakko</i>). |
| Artist | Artistic activities that produce income, including music, the fine arts, literature, etc. (except for the activities listed in the right-hand column under the "Entertainer" column in Table 1(2)). |
| Religious Activities | Missionary and other religious activities conducted by foreign religious workers dispatched by a foreign religious organization. |
| Journalist | News coverage and other journalistic activities conducted based on a contract with a foreign journalistic organization. |

Table 1(2)

| Status of Residence | Authorized Activities |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Investor / Business Manager | Activities to commence the operation of an international trade or other business, to invest in an international trade or other business and to operate or manage said business, or to operate or manage an international trade or other business on behalf of foreign nationals (including foreign juridical persons; hereinafter the same shall apply in this section) who have commenced such operations or who have invested in such a business (except for activities to engage in the operation or management of a business which is prohibited without the legal qualifications listed in the right-hand column of the "Legal/Accounting Services" section in this table). |
| Legal / Accounting Services | Activities to engage in a legal or accounting business which may lawfully only be carried out by registered foreign lawyers (<i>gaikokuhojimbengoshi</i>), certified public accountants (<i>gaikokukoninkaikeishi</i>) or those with other legal qualifications. |
| Medical Services | Activities to engage in medical treatment services which may lawfully only be undertaken by physicians, dentists or those with other legal qualifications. |
| Researcher | Activities to engage in research based on a contract with a public or private organization in Japan (except for the activities listed in the right-hand column of the "Professor" section in Table 1(1)). |
| Instructor | Activities to engage in language instruction or other education at an elementary school, junior high school, senior high school, secondary educational school (<i>chutokyoikugakko</i>), school for special needs education, vocational school (<i>senshugakko</i>), miscellaneous educational institution (<i>kakushugakko</i>) or other educational institution equivalent to a |

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| | miscellaneous educational institution in facilities and curriculum. |
| Engineer | Activities to engage in services, which require technology and/or knowledge pertinent to physical science, engineering or other natural scientific fields, based on a contract with a public or private organization in Japan (except for the activities listed in the right-hand column of the "Professor" section in Table 1(1) and in the right-hand column of the "Investor/Business Manager", "Medical Services", "Researcher", "Instructor", "Intra-company Transferee" and "Entertainer" sections in this table). |
| Specialist in Humanities / International Services | Activities to engage in services which require knowledge pertinent to jurisprudence, economics, sociology or other human science fields or to engage in services which require specific ways of thinking or sensitivity acquired through experience with foreign culture, based on a contract with a public or private organization in Japan (except for activities listed in the right-hand column of the "Professor", "Artist" and "Journalist" sections in Table 1(1), and activities listed in the right-hand column of the "Investor/Business Manager", "Legal/Accounting Services", "Medical Services", "Researcher", "Instructor", "Intra-company Transferee" and "Entertainer" sections in this table). |
| Intra-company Transferee | Activities on the part of a personnel who is transferred to a business office in Japan for a limited period of time from a business office established in a foreign country by a public or private organization which has a head office, branch office or other business office in Japan, and who engages in the activities listed in the right-hand column of the "Engineer" and "Specialist in Humanities/International Services" sections in this table at this business office. |
| Entertainer | Activities to engage in theatrical performances, musical performances, sports or any other form of show business (except for activities listed in the right-hand column of the "Investor/Business Manager" section in this table). |
| Skilled Labor | Activities to engage in services which require industrial techniques or skills belonging to special fields based on a contract with a public or private organization in Japan. |
| Technical Intern Training | <p>(i) Activities which fall under any of items (a) or (b).</p> <p>(a) Activities by a personnel who works for a business office in a foreign country established by a public or private organization in Japan or by a personnel who works for a business office in a foreign country established by a foreign public or private organization which has a business relationship with a public or private organization in Japan as provided by Ordinance of the Ministry of Justice, the purpose of which is to acquire skill, technology and knowledge (hereinafter referred to as "skills") by engaging in the operational activities of a public or private organization in Japan at its business office in Japan, based on an employment contract with such public or private organization in Japan (including activities of those personnel toward acquiring the knowledge necessary for the relevant activities described above which they are to engage in, which are conducted by being accepted at the business office of the Japanese public or private organization in Japan).</p> <p>(b) Activities to acquire knowledge being accepted by a non-profit organization which conforms to the requirements provided by Ordinance of the Ministry of Justice and activities to acquire skills where such activities are conducted based on such non-profit organization's planning and under its responsibility and supervision, based on an employment contract with a public or private organization in Japan, by engaging in its operational activities.</p> <p>(ii) Activities which fall under (a) or (b).</p> <p>(a) Activities by a personnel, who has acquired skills by engaging in activities as provided in the preceding item (a), in order to further develop such skills, based on an employment contract with a public or private organization in Japan designated by the Minister of Justice, to engage in operational activities requiring such skills at such organization.</p> <p>(b) Activities by a personnel, who has acquired skills by engaging in activities as provided in the preceding item (b), in order to further develop such skills, based on an employment contract with a public or private organization in Japan designated by the Minister of Justice, to engage in operational activities requiring such skills (limited to business activities under the responsibility and control of the non-profit</p> |

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| | organization which conforms to requirements provided by Ordinance of the Ministry of Justice). |
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Table 1(3)

| Status of Residence | Authorized Activities |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cultural Activities | Academic or artistic activities that provide no income, or activities engaged in for the purpose of pursuing specific Japanese cultural or artistic studies, or for the purpose of learning and acquiring Japanese culture or arts under the guidance of experts (except for activities listed in the right-hand column of the "Student" and "Trainee" sections in Appended Table 1(4)). |
| Temporary Visitor | Sightseeing, recreation, sports, visiting relatives, inspection tours, participating in lectures or meetings, business contact or other similar activities during a short stay in Japan. |

Table 1(4)

| Status of Residence | Authorized Activities |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Student | Activities to receive an education at a university, college of technology (<i>kotosenmongakko</i>), senior high school (including a course of study in the latter part of secondary educational school (<i>chutokyoikugakko</i>)), senior high school course of school for special needs education (<i>tokubetsushiengakko</i>), vocational school (<i>senshugakko</i>), miscellaneous educational institution (<i>kakushugakko</i>) or an equivalent educational institution in terms of facilities and organization in Japan. |
| Trainee | Activities to acquire skills at a public or a private organization in Japan (except for item (i) of the activities listed in the right-hand column of "Technical Intern Training" in Table 1(2) and the right-hand column of the "Student" section in this table). |
| Dependent | Daily activities on the part of a spouse or unmarried minor supported by the foreign national staying in Japan with the status of residence referred to in the left-hand column of Appended Tables 1(1), 1(2) or 1(3) (except for "Diplomat", "Official", "Technical Intern Training" and "Temporary Visitor") or staying with the status of residence of "Student" in this table. |

Table 1(5)

| Status of Residence | Authorized Activities |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Designated Activities | <p>Activities which are specifically designated by the Minister of Justice for foreign nationals as activities that fall under any of the following (a) to (d).</p> <p>(a) Activities conducted based on a contract with a public or private organization in Japan (an organization specifically designated by the Minister of Justice engaged in business activities that meet the requirements, provided for by Ordinance of the Ministry of Justice, of contributing to the efficient promotion of research or the development of industries related to specific fields requiring sophisticated expertise) for research, guidance of research, or education in specific fields at the facilities of the organization (in the case of education, only that which is provided at a university, an educational institution equivalent to a university, or a college of technology (<i>kotosenmongakko</i>)) or in addition, activities related to personally managing a business related to research, guidance of research or education in such specific fields.</p> <p>(b) Activities conducted based on a contract with a public or private organization in Japan (an organization specifically designated by the Minister of Justice engaged in business activities that meet the requirements, provided for by Ordinance of the Ministry of Justice, of contributing to the development of industries related to information processing (information processing as prescribed in Article 2, paragraph</p> |

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| | <p>(1) of the Act on Promotion of Information Processing (Act No. 90 of 1970); the same shall apply hereinafter)) engaged in providing information-processing-related services which require technology and/or knowledge pertinent to natural or human science fields at an office of such organization (an office of the other organization in cases where the public or private organization in Japan dispatches the foreign national to another organization as a temporary worker as prescribed in Article 2, item (ii) of the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (Act No. 88 of 1985)).</p> <p>(c) Daily activities on the part of the spouse or unmarried minor who is supported by the foreign national engaged in the activities listed in a. or b.</p> <p>(d) Activities other than those listed in (a) to (c).</p> |
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Table 2

| Status of Residence | Personal Status or Position for Which Residence is Authorized |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permanent Resident | Those who are permitted permanent resident by the Minister of Justice. |
| Spouse or Child of Japanese National | The spouses of Japanese nationals, those born as the children of Japanese nationals or children adopted by Japanese nationals pursuant to the provisions of Article 817-2 of the Civil Code (Act No. 89 of 1896). |
| Spouse or Child of Permanent Resident | The spouses of those staying under the status of residence of "Permanent Resident" or "Special Permanent Resident" (hereinafter referred to as "permanent or special permanent resident") and those born as children of a permanent or special permanent resident in Japan who have been residing in Japan. |
| Long-term Resident | Those who are authorized to reside in Japan with a period of stay designated by the Minister of Justice in consideration of special circumstances. |

Appendix 2

1. Securities defined under the Enforcement Cabinet Order of Individual Income Tax Law Article 4:
 - (i) Rights prescribed in the securities defined under Article 2(1)(i) to (xv) and (xvii) of the Financial Instruments and Exchange Act, excluding those having the same nature as the securities defined under the said act 2(1)(xvi), limited to those certificates of which have not been issued.
 - (ii) Shares in unlimited companies (i.e. Gomei Kaisha), limited partnership companies (i.e. Goshi Kaisha) and limited liability companies (i.e. Gomei Kaisha: "GK"); shares in cooperative associations (i.e. Kyodo Kumiai) and the like defined under Article 2(vii) of the Corporate Tax Law (Act No. 34 of 1965) held by the members; and shares in other judicial persons.
 - (iii) The rights to be a shareholder or investor, as defined under Article 2(16) of the Act on Investment Trust and Investment Corporations; the right to be an investor of preferred equity, as defined under Article 13 of the Act on Preferred Equity Investment by Cooperative Structured Financial Institutions (Act No. 44 of 1993); the right to be a specified equity member under Article 2(5) of the Act on Securitization of Assets (Act No. 105 of 1998) or a preferred equity member, as defined under Article 26 of the said act; and other rights to be an investor of a corporation.

2. Securities defined under Financial Instruments and Exchange Act Article 2(1):
 - (i) national government bonds;
 - (ii) municipal bonds;
 - (iii) bonds issued by a juridical person under a special act (excluding those listed in the following item and item (xi));
 - (iv) specified company bonds prescribed in the Act on Securitization of Assets (Act No. 105 of 1998);
 - (v) company bonds (including those issued by a mutual company; the same shall apply hereinafter);
 - (vi) investment securities issued by a juridical person under a special act (excluding those listed in the following item, item (viii) and item (xi));
 - (vii) preferred equity investment certificates prescribed in the Act on Preferred Equity Investment by Cooperative Structured Financial Institutions (Act No. 44 of 1993; (hereinafter referred to as "Act on Preferred Equity Investment");
 - (viii) preferred equity investment certificates and securities indicating preemptive rights for new preferred equity investment prescribed in the Act on the Liquidation of Assets;
 - (ix) stock certificates and stock option certificates;
 - (x) beneficiary securities of investment trusts or foreign investment trusts prescribed in the Act on Investment Trust and Investment Corporation (Act No.198 of 1951);
 - (xi) investment securities, securities with equity warrant or investment corporation bonds, or foreign investment securities prescribed in the Act on Investment Trust and Investment Corporation;
 - (xii) beneficiary securities of loan trusts;
 - (xiii) beneficiary securities of special purpose trusts prescribed in the Act on Securitization of Assets;
 - (xiv) beneficiary securities of beneficiary securities issuing trusts prescribed in the Trust Act (Act No. 108 of 2006);
 - (xv) promissory notes which have been issued by a juridical person in order to raise funds necessary to operate its business and are designated by a Cabinet Office Ordinance;
 - (xvi) mortgage securities prescribed in the Mortgage securities Act (Act No.15 of 1931);
 - (xvii) securities or certificates which have been issued by a Foreign State or foreign person and have the nature of securities or certificates listed in items (i) to (ix) or item (xvii) up to the preceding item (excluding those specified in the following item);
 - (xviii) securities or certificates which have been issued by a foreign person, indicate a beneficial interest of a trust in which loan receivables held by persons engaging in banking business or persons otherwise conducting money loan in the course of trade are entrusted, or indicate any other similar rights, and are designated by a Cabinet Office Ordinance;
 - (xix) securities or certificates which indicate rights pertaining to transactions specified in Article 2(21)(iii) of this Act conducted in a Financial Instruments Market, in accordance with the requirements and by using methods prescribed by the operator of the Financial Instruments Market, rights pertaining

to transactions which are conducted in a Foreign Financial Instruments Market (meaning the Foreign Financial Instruments Market defined in Article 2(8)(iii)(b); hereinafter the same shall apply in this item) and are similar to ones specified in Article 2(21)(iii), or rights pertaining to transactions specified in Article 2(22)(iii) or (iv) conducted in neither a Financial Instruments Market nor Foreign Financial Instruments Market (those rights are hereinafter referred to as “Options”);

- (xx) securities or certificates which have been issued by a person to whom securities or certificates listed in any of the preceding items are deposited and in a country other than the country in which the deposited securities or certificates were issued and which indicate the rights pertaining to the deposited securities or certificates; and
- (xxi) in addition to what is listed in the preceding items, securities or certificates prescribed by a Cabinet Order as those for which it is found, when taking into consideration the liquidity thereof and other factors, necessary to secure the public interest or protection of investors.