

# Taxation of expatriate employees in Japan

Expatriates taking up employment in Japan will be subject to comprehensive tax rules and employment visa requirements. Grant Thornton Japan's Expatriate Tax team helps expatriates and their employers deal with Japanese tax and employment visa matters.

In particular, Grant Thornton Japan identifies Japan tax planning opportunities, reviews tax equalisation policies, and provides compliance services concerning Japan tax filing requirements.

## Pre-arrival procedures

Expatriates who require a work visa must submit an application to the immigration authorities prior to taking up employment in Japan. It is therefore very important that the expatriate's employment contract and benefit package are structured in a tax efficient manner before commencing work in Japan.

## Tax year

The fiscal year in Japan is 1 January to 31 December.

## Income subject to tax

The extent of an expatriate's income subject to Japan tax depends on their residency for Japan tax purposes. A permanent resident is subject to income tax on their worldwide income. A non-permanent resident is subject to income tax on Japan source income, and on foreign source income either paid or remitted to Japan. A non-resident is taxed only on Japan source income.

## Residence

A resident is an individual whose domicile is in Japan or who has resided in Japan continuously for a year or more. A non-resident is an individual other than a resident. A resident is further classified into either a permanent resident or a non-permanent resident. A non-permanent resident taxpayer is one who entered Japan with an employment contract of one year or longer or who has lived in Japan for less than five of the past ten years and does not have Japanese nationality. A permanent resident taxpayer is one who has lived in Japan for more than five of the past ten years or has Japanese nationality.

## Income from employment

Income from employment is subject to Income Tax.

Employers deduct tax from salary and wages paid, and remit this withholding to the tax office, generally on a monthly basis. Taxpayers who receive salary income of less than JPY 20M in the fiscal year are not required to file a tax return, unless they are not paid by a Japan employer (I.e. offshore), have multiple sources of salary income, plan to claim a medical expense deduction, or their other income totals more than JPY 200,000.

## Taxable compensation

The definition of income for Income Tax purposes includes wages, salaries, bonuses, benefits in kind and allowances if these are received as a reward for services. Shares and options received in respect of employment may also be included in the taxpayer's assessable income (see below).

## Benefits in kind

The Income Tax Law specifies the tax treatment of the following benefits in kind: residential accommodation, loans to employees or directors, language lessons and insurance. Allowances for taxes, school fees, utility expenses, medical expenses and car expenses granted by an employer are treated as salary income.

## Expatriate concessions

There are no specific tax concessions for expatriates; however the correct structuring of housing and other benefits as part of the compensation package can result in significant tax savings.

## 183 day rule for Non-residents

For non-residents visiting Japan on a short-term basis, Japan's double tax agreements generally exempts such individuals from tax in Japan. While the provisions in each double tax agreement are not identical, the following conditions are typical of the requirements which must be satisfied:

- The individual is in Japan for no more than 183 days in any calendar year, fiscal year, or 12month period;
- The individual's salary is paid by a non-resident employer; and

-None of the individual's salary is treated as a deductible expense by a permanent establishment in Japan.

### Deductions against Income

A number of deductions or allowances may be made from a taxpayer's income, such as:

- deduction for accidental loss
- deduction for social insurance premiums
- allowance for a spouse
- allowance for dependants
- allowance for widow or widower
- basic allowance.

### National income tax rates from 2009

The progressive tax rates for 2009 will be as follows:

First JPY 1,950,000	@5%
Between JPY 1,950,000 and JPY 3,300,000	@10%
Between JPY 3,300,000 and JPY 6,950,000	@20%
Between JPY 6,950,000 and JPY 9,000,000	@23%
Between JPY 9,000,000 and JPY 18,000,000	@33%
Over JPY 18,000,000	@40%

### Local income tax

Japan's local inhabitant tax is levied on individuals who reside in Japan as of 1 January of the current year, and who earned income in Japan during the preceding year. The current tax rate is 10%.

### Tax returns

March 15<sup>th</sup> (if it falls on a holiday, then the first business day following) is the due date. No extensions are granted, and interest is levied on tax owing if the tax return is filed after the due date.

### Social Insurance

An employer (either a corporate entity or a sole proprietorship with five or more employees) with a Japan payroll is required to join Japan's social security scheme, which comprises medical care insurance, pension insurance and labour insurance. Both the employer and employee are required to contribute. Withholding rates for employees are as follows:

Health insurance	@41/1000
Welfare pension insurance	@74.98/1000
Nursing care insurance (aged 40 ~ 65)	@5.65/1000
Employment insurance	@6/1000

### Stock options

Stock options granted to an employee resident in Japan will be subject to tax in Japan. For non-qualified stock options, the difference between the exercise price and the price at grant will be taxed as employment income. Tax on gains made upon the sale of the stock will be levied on the difference between the sale price and the exercise price.

Qualified stock options will be taxed only upon sale, with capital gains tax being levied on the difference between the sale price and the price at grant. To be qualified, a number of conditions need to be satisfied, including the stock option being granted by a Japanese company.

### Capital gains

Gains on sales of stocks and real property are taxed separately from other income. Gains made on the sale of stocks in a listed company are currently taxed at 10% (temporarily reduced from 20%) and 20% for unlisted companies. For resident individuals, gains made on the sale of real property held for five years or less are taxed at 39%. For real property held for more than five years, gains are taxed at 20%. Owner-occupiers receive a JPY 30m deduction on any gain made upon sale of the property. Gains on the transfer of "movable property" (cars, furniture, etc) under current rules are taxable according to whether they are classified as long-term or short-term gains.

### Investment income

A person who receives investment income such as interest income, dividend income or royalties is subject to withholding income tax at source. Applicable tax rates differ depending upon the situation, e.g. resident or non-resident, or the existence of a tax treaty between Japan and the investor's home jurisdiction.

### Gift tax

Japan's Gift Tax is levied on a person who receives assets from a donor.

**Basic deduction:** 1.1M every year

Taxable income after basic deduction	Tax rate	Deduction
Under 2M	10%	---
Under 3M	15%	100,000
Under 4M	20%	250,000
Under 6M	30%	650,000
Under 10M	40%	1,250,000
Over 10M	50%	2,250,000

### Inheritance tax

Japan's Inheritance Tax (IHT) is based on the residence status of the beneficiary and/or the location of the assets inherited. Beneficiaries domiciled in Japan are subject to IHT on property they receive, while beneficiaries not domiciled in Japan are subject to IHT on assets inherited that are located in Japan. IHT is levied at progressive rates on the fair market value of the property inherited, less related expenses. Further deductions are allowed, depending on the status of the heir/s, and a spouse allowance is also available. The net value of the inheritance is taxed as follows:

Value of inherited assets	Tax rate	Deduction
Up to 10M	10%	---
10M to 30M	15%	500,000
30M to 50M	20%	2,000,000
50M to 100M	30%	7,000,000
100M to 300M	40%	17,000,000
Over 300M	50%	47,000,000

### Tax planning

The advantageous income tax treatment of certain benefits in kind, such as children's school fees, can significantly reduce an expatriate's tax liability. Related issues to consider include: tax implications of offshore / onshore compensation arrangements; the timing of compensation benefits and taxes; employer provided housing; and the tax treatment of directors, foreign entertainers and athletes. Grant Thornton Japan's Expatriate Tax team can advise expatriates on these and related opportunities.

**Contact Information**

**Eric Keuling**  
**Director, International Tax**

T +81 3 5770 8898  
F +81 3 5770 8820  
E [ekeuling@gtjapan.com](mailto:ekeuling@gtjapan.com)

ASG Tax Corporation  
Aoyama Bldg. 9F  
1-2-3 Kitaaoyma, Minato-ku,  
Tokyo 107-0061 JAPAN

The Japanese member of Grant Thornton International

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