



KPMG Japan Tax Newsletter

19 June 2017



2017 TAX REFORM

INHERITANCE TAX/GIFT TAX AMENDMENTS TO SCOPE OF TAX PAYMENT OBLIGATIONS ON PROPERTIES LOCATED OUTSIDE JAPAN

I. Scope of Tax Payment Obligations – Before Amendment.....	2
II. Scope of Tax Payment Obligations – After Amendment.....	3
III. Timing of Application.....	5

Inheritance tax and gift tax are levied on an heir who acquired properties by inheritance and an individual (donee) who acquired properties from another individual (donor) as a gift, respectively. The scope of taxable properties depends on whether the decedent/donor or the heir/donee has or had domicile in Japan and whether the heir/donee holds Japanese nationality.

Under the 2017 tax reform, the scope of the tax payment obligations of inheritance tax/gift tax was amended in that inheritance tax/gift tax will not be imposed on properties located outside Japan with respect to inheritance/gifts involving foreign people living or having lived temporarily in Japan under certain conditions in order to encourage foreign people to live and work in Japan. On the other hand, certain cases have been added to those where inheritance tax/gift tax is imposed on all properties in order to deter tax saving by Japanese wealthy people through relocating outside Japan.

I. Scope of Tax Payment Obligations – Before Amendment

Before the 2017 tax reform, the scope of the tax payment obligations of inheritance tax/gift tax was as follows:

Decedent / Donor \ Heir / Donee		Domicile in Japan	No domicile in Japan		
			Japanese national		Non-Japanese national
			Domicile in Japan within past 5 years	No domicile in Japan within past 5 years	
Domicile in Japan					
No domicile in Japan	Domicile in Japan within past 5 years				
	No domicile in Japan within past 5 years				

[Scope of taxable properties]

- All properties
- Only properties located in Japan

As shown above, there were no specific rules to apply to foreign people living temporarily in Japan. Even where a foreign national living temporarily in Japan was a decedent/donor or an heir/donee, not only properties located in Japan but also properties located outside Japan were treated as taxable properties. Thus, there was concern that such potential tax issues could be a disincentive for foreign people to live and work in Japan.

In addition, there were cases seen among Japanese wealthy people who move their properties overseas and live there for more than 5 years to make those properties non-taxable, since inheritance tax/gift tax was only imposed on properties located in Japan when both a Japanese decedent/donor and a Japanese heir/donee had lived outside Japan for more than 5 years.

In consideration of the above circumstances, the scope of the tax payment obligations for inheritance tax/ gift tax on properties located outside Japan was amended under the 2017 tax reform.

II. Scope of Tax Payment Obligations – After Amendment

Under the 2017 tax reform, the scope of the tax payment obligations of inheritance tax/gift tax has been amended as follows:

Decedent / Donor \ Heir / Donee		Domicile in Japan		No domicile in Japan		
				Japanese national		Non-Japanese national
		A	Domicile in Japan within past <u>10 years</u>	No domicile in Japan within past <u>10 years</u>		
Domicile in Japan						
B						
No domicile in Japan	Domicile in Japan within past <u>10 years</u>					(subject to a transitional measure)
	C(1)					
No domicile in Japan within past <u>10 years</u> – C(2)						

[Scope of taxable properties]

	All properties
	Only properties located in Japan

A	<p>Heir/donee</p> <ul style="list-style-type: none"> who has domicile in Japan and a resident status under Table 1 of the Immigration Control and Refugee Recognition Act when an event causing inheritance/gift occurs and whose total period of having domicile in Japan is 10 years or less within the past 15 years before an event causing inheritance/gift occurs 				
B	<p>Decedent/donor</p> <ul style="list-style-type: none"> who has domicile in Japan and a resident status under Table 1 of the Immigration Control and Refugee Recognition Act when an event causing inheritance/gift occurs and whose total period of having domicile in Japan is 10 years or less within the past 15 years before an event causing inheritance/gift occurs 				
C	<table border="1" style="width: 100%;"> <tr> <td style="background-color: #D3D3D3; text-align: center; vertical-align: middle;">(1)</td> <td> <p>Decedent/donor</p> <ul style="list-style-type: none"> who does not have domicile in Japan when an event causing inheritance/gift occurs, who had been domiciled in Japan at a point in time within 10 years before an event causing inheritance/gift occurs, whose total period of having domicile in Japan is 10 years or less within the past 15 years before an event causing inheritance/gift occurs and who does not have Japanese nationality for the period of having domicile in Japan </td> </tr> <tr> <td style="background-color: #D3D3D3; text-align: center; vertical-align: middle;">(2)</td> <td> <p>Decedent/donor</p> <ul style="list-style-type: none"> who does not have domicile in Japan when an event causing inheritance/gift occurs and who had never been domiciled in Japan within 10 years before an event causing inheritance/gift occurs </td> </tr> </table>	(1)	<p>Decedent/donor</p> <ul style="list-style-type: none"> who does not have domicile in Japan when an event causing inheritance/gift occurs, who had been domiciled in Japan at a point in time within 10 years before an event causing inheritance/gift occurs, whose total period of having domicile in Japan is 10 years or less within the past 15 years before an event causing inheritance/gift occurs and who does not have Japanese nationality for the period of having domicile in Japan 	(2)	<p>Decedent/donor</p> <ul style="list-style-type: none"> who does not have domicile in Japan when an event causing inheritance/gift occurs and who had never been domiciled in Japan within 10 years before an event causing inheritance/gift occurs
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[Resident status under the Immigration Control and Refugee Recognition Act]

Table 1	(1)	Diplomat, Official, Professor, Artist, Religious Activities, Journalist
	(2)	Highly Skilled Professional, Business Manager, Legal/Accounting Services, Medical Services, Researcher, Instructor, Engineer/Specialist in Humanities/International Services, Intra-company Transferee, Entertainer, Skilled Labor, Technical Intern Training
	(3)	Cultural Activities, Temporary Visitor
	(4)	Student, Trainee, Dependent
	(5)	Designated Activities
Table 2		Permanent Resident, Spouse or Child of Japanese National, Spouse or Child of Permanent Resident, Long-Term Resident

Because working visas such as intra-company transferee and ‘Dependent’ are included in Table 1, many foreign people and their family members staying in Japan are likely to satisfy one of the conditions of A (heir/donee) or B (decedent/donor) in the previous page.

The amendments to the scope of tax payment obligations will bring several practical impacts including the following:

- Where a decedent/donor or an heir/donee is a foreign national living for 10 years or less in Japan, only properties located in Japan will generally be taxable for inheritance tax/gift tax purposes.
- Where a foreign national is a decedent/donor after they leave Japan, if they stayed in Japan for 10 years or less, only properties located in Japan will generally be taxable for inheritance tax/gift tax purposes as well.
- The tax treatment utilized by Japanese wealthy people to reduce their tax burden was amended in that it will be required that both a Japanese decedent/donor and a Japanese heir/donee not have domicile in Japan within 10 years (5 years before the amendment) before an event causing inheritance/gift occurs in order to make properties located outside Japan non-taxable.
- Where an heir/donee who has neither domicile in Japan nor Japanese nationality obtains properties from a decedent/donor who does not have domicile in Japan when an event causing inheritance/gift occurs and had been domiciled in Japan at a point in time within 10 years before that time (excluding a person falling under C (1)), properties located outside Japan will also be taxable properties.

III. Timing of Application

In principle

The amendments discussed in II. above will be applied to inheritance tax/gift tax levied on properties acquired on or after 1 April 2017 by inheritance/gifts.

Transitional measure

In addition, there is a transitional measure related to the amendment applied to cases where an heir/donee who has neither domicile in Japan nor Japanese nationality obtains properties from a decedent/donor who does not have domicile in Japan when an event causing inheritance/gift occurs and had been domiciled in Japan at a point in time within 10 years before that time (excluding a person falling under C (1)).

Where the heir/donee obtains properties during the period from 1 April 2017 to 31 March 2022 from a person who has neither domicile in Japan nor Japanese nationality for the period from 1 April 2017 to the time when an event causing inheritance/gift occurs, the scope of properties subject to inheritance tax/gift tax will be limited to properties located in Japan.

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