

## Japan

### Scope

The Consumption Tax (CT) which is also locally known as Shouhi-zei was introduced on 1 April 1989.

The following transactions are generally subject to CT, unless such transactions are specifically listed as non-taxable transactions:

- The transfer or lease of goods located in Japan and supply of services by a business for consideration in Japan.
- Import of goods
- Import of services performed via telecommunications digital online such as the distribution of e-books, music or advertisement on or after 1 October 2015.

### Taxable person

Taxable persons are enterprises who conduct taxable transactions in Japan, and individuals and corporations who clear goods from the Customs.

The term 'enterprises' includes corporations, organisations without judicial personality and individuals doing business, regardless of whether they are residents or non-residents in Japan.

There is no separate procedure for the registration of foreign businesses except that they are required to appoint a tax representative when they do not have an office or employees in Japan and except for Registered Offshore Business Person (see below section "**Registration number**").

### Goods

#### Definition

The term 'goods' means any asset including rights and intangible asset which are the object of a transaction (transfer or lease).

#### Place of supply

The general rule is that transactions are deemed to take place where the asset is located at the time of the transaction or in the place where the service is provided. Listed below are some examples of particular types of supply and where they are deemed to take place.

Transactions	Place of supply
Ships and aeroplanes	The registration office when registered in Japan, otherwise the supplier's office
Patents, utility models, designs and	The registration office (if in two or more

rights to use circuits and trademarks	countries, the supplier's office)
Securities (except golf memberships)	Existing place of securities
Copyrights, know-how and similar rights	The supplier's office
Goodwill, fishery rights and common piscatorial rights	The supplier's office
Mining rights	The mining site
Registered government bonds	Register's office
Investment in partnerships	Head office of the partnership
Mortgage bonds	The location of the mortgaged security
Pecuniary credits	Creditor's office
Shares in golf clubs	The location of the golf club

### **Time of supply**

The time of supply is, in principle, the date of delivery.

### **Value**

The tax base is the amount of consideration for the supply.

## **Services**

### **Definition**

The term 'provision of services' means rendering services including, for example, construction work, repairs, transportation, storage, printing, advertising, brokerage, entertainment, technical assistance, furnishing information, performing, writing and service facilities where a service based on intellectual knowledge or skills is provided, including services provided by attorneys, public accountants, tax accountants, writers, athletes, film directors and chess players.

### **Place of supply**

Services are generally taken to be supplied in Japan if the service is provided in Japan, or the supplier is based in Japan.

<b>Transactions</b>	<b>Place of supply</b>
International transportation	Either the place of departure, shipment or arrival if in Japan
International communication and mail	Either the place of forwarding or reception if in Japan
Insurance	Office of the insurance company
Supply of information or design	Office of the supplier
Scientific and/or technological services for the construction or production of manufacturing facilities	Place from which the majority of the supplies and services are provided

**Regarding the provision of services performed via telecommunications digital online such as the distribution of e-books, music or advertisement on or after 1 October 2015 (defined as "Provision of Telecommunication**

**Services"), the in-or-out-of-scope criteria is changed to the destination place of the person who receives the services, instead of the origin place of the service supplying office, and thus the import of such Provision of Telecommunication Services is subject to CT on or after 1 October 2015.**

### **Time of supply**

The time of supply is, in principle, the date of service delivery.

### **Value**

The tax base is the amount of consideration paid or to be paid for the supply of service.

## **Rates**

### **Standard rate**

The standard rate of CT is 8% (to be increased to 10% from 1 April 2017) and applies to all transactions not qualifying for an exemption if conducted by a business for consideration in Japan.

### **Zero rate**

A zero rate applies to, but is not limited to:

- Export of tangible goods
- Certain services supplied to non-residents
- International transportation services
- International communication services

### **Exemption**

The following supplies are non-taxable (i.e. no CT is charged on supplies and there is no credit given for related CT incurred as a cost):

- Sales or leases of land
- Sales of securities
- Interest on loans and guarantee fees, etc.
- Sales of postal stamps and similar items
- Provision of public services, international postal money orders and international postal money transfers as well as foreign exchange transactions
- Provision of certain medical services insured under certain medical insurance laws
- Provision of certain social welfare services
- Tuition and entrance examination fees for certain schools including textbooks
- Residential rents
- Others (child birth costs, cremation costs, and special equipment for disabled persons).

## **Imports/exports**

8 % (10% from 1 April 2017) CT is imposed at import of goods and collected by Customs.

The import of services is currently not subject to CT. However, due to a Consumption Tax reform, CT will be assessed on imports of electronic supplies and advertisements with effect from 1 October 2015 as stated below. Exports of goods and services are not liable to CT.

## **Documentation**

An export declaration is needed to prove an export of goods. Written documentation is needed to prove an export of services (e.g. a contract with an overseas person).

## **Recovery/offset**

### **Recovery**

A business is able to credit the entire input tax where 95% or more of turnover consists of taxable supplies on the conditions that the taxpayer's taxable supplies during the current period are JPY 500 million (USD 4.2 million) or less per year.

There are certain supplies that are specifically denied input (consumption tax) deduction in the itemised method shown below. These include:

- The development costs of land for sales; and
- The purchase costs of medicine for medical care insured under the Health Insurance Law.

### **Apportionment**

When a business makes a mixture of taxable and non-taxable supplies, it must review the CT it incurs on its purchases to see if it can be recovered in full.

The following rules apply to CT recovery for partly non-taxable businesses:

- If 95% or more of sales are taxable supplies, all input tax can be claimed on the conditions that the taxpayer's taxable supplies during the current period are JPY 500 million (USD 4.2 million) or less per year. Under the new law, when a taxable enterprise has taxable supplies during the current period exceeding JPY 500 million (USD 4.2 million), input CT allocated to such non-taxable sales without credit cannot be credited against output CT from the tax year beginning on or after 1 April 2012 (i.e. from 2013 if its fiscal year-end is 31 December).

- If more than 5% of the turnover consists of supplies that are exempt without credit, the input tax allocated to the exempt supplies cannot be credited against output tax.

### **Pro-rata rule**

Where the taxable sales ratio is less than 95%, input tax credit is calculated using the following itemised method or proportional method:

### **Itemised method**

Where taxable purchases can be classified into the following items, the amount of input tax credit is computed by using the itemised method shown below:

- (1) Taxable purchases for transfer of taxable assets only;
- (2) Taxable purchases for transfer of other assets only; or
- (3) Taxable purchases for transfer of taxable assets and other assets in common.

Computation:  $(A) + (B) \times (C)$

(A) = Consumption tax amount on (1)

(B) = Consumption tax amount on (3)

(C) = Taxable sales ratio (or substitutional ratio); or

(C) = Taxable sales ratio, in principle.

### **Proportional method**

Where a taxable purchase cannot be classified as above, the amount of input tax credit is computed by using the proportional method (i.e. aggregated amount of consumption tax on taxable purchases x taxable sales ratio). Once this proportional method is chosen, it cannot be changed for two years.

### **Simplified system**

Business enterprises with taxable sales during the base period of JPY 50 million (USD 420,000) or less can, if they so elect, forgo the credit for taxes paid on inputs and tax input tax credit at the rates shown in the table below (depending on their business classification) on taxable sales. Once this simplified tax system is chosen, it cannot be changed for two years.

<b>Business classification</b>	<b>%</b>
<b>Rates of deemed input CT credit on taxable sales:</b>	
Wholesalers	90
Retailers	80
Manufacturing, construction, mining, farming, forestry, fishing	70
Others (e.g., Restaurant, food)	60
Services, transportation, communication, finance, insurance	50
Real estate	40

**Pre-registration claims**

A 'registration' is not required for a business enterprise to charge CT to the customer. A business can generally recover the CT charged to it before it starts to make supplies.

**Post-registration claims**

A 'registration' is not required for a business enterprise to charge CT to the customer. CT incurred after cessation of business is not generally reclaimable.

**Change of use/capital items**

Certain adjustment on input tax credit may be required in case of diversion of fixed assets from taxable business use to non-taxable business use.

**Compliance/obligations****Registration**

No registration threshold is applicable as the invoice system for indirect taxes has not been adopted in Japan.

Businesses, whose taxable supplies during the base period are JPY 10 million (approx. USD 84,000) or less, are generally exempt from filing a CT return and paying net consumption tax.

CT holiday is not granted to a new company established on or after 1 April 2014 under certain circumstances,

Two Year CT Holiday is reduced by half for businesses whose taxable supplies during the 'base period' (defined as the period two years prior to the current year) are JPY 10 million (USD 84,000) or less, and have taxable sales and domestic salary expenses paid in Japan both of which are exceeding JPY 10 million (USD 84,000) during the first 6 months of the previous fiscal year (excluding the previous fiscal year of 7 months or less). Such a business would automatically become a taxable enterprise for CT purposes for the fiscal year beginning on or after 1 January 2013.

When the business acquires certain fixed assets which may be subject to adjustment [i.e. assets, excluding inventory, with an acquisition cost of JPY 1 million (USD 8,400) or more] and claims purchase tax credits, the business cannot elect non-taxpayer status or the simplified tax system for a period of three years including the following taxable period when the business acquires the fixed assets. This applies for the taxable period starting on or after 1 April 2010, or for a company established on or after 1 April 2010.

a) 2 years mandatory taxable period where CT exemption is not applied by voluntary filing of tax report for election of taxable enterprise for CT purposes, or

b) Initial 2 years mandatory taxable period where the company is established with its paid-in capital of JPY 10 million (USD 84,000) or more.

A corporation with paid-in capital of JPY 10 million (USD 84,000) or more will become a taxable business for the initial two years of its establishment. Also, there are special rules for corporate 'Split-Up' or 'Spin-Off' for such an exemption.

### **Registration number**

Once a tax return is filed, a unique reference number with the format 99 99 99 99 is given by the tax authorities.

As the My Number System (the Social Security and Tax Number System) is introduced from 1 January 2016, all the corporate taxpayers are granted 13 digits Corporate Number and all the individual persons having a residency certificate are granted 12 digits Individual Number in early October 2015. Corporate Number and Individual Number must be shown on their tax returns from the tax period beginning on or after 1 January 2016.

For the time being, the input tax credit on a taxable purchase for receiving the Provision of B2C (Business to Consumer) Telecommunication Services from an Offshore Business Person on or after 1 October 2015 is not allowed [even though it was actually provided to a business person]. However, the input tax credit on a taxable purchase for receiving the Provision of B2C (Business to Consumer) Telecommunication Services from a "Registered Offshore Business Person" is allowed if the incoming invoice or the like describing the registration number, etc. of such Registered Offshore Business Person is retained under certain conditions. "Registered Offshore Business Person" is defined as a certain Offshore Business Person (limited to a taxpayer only for whom the tax-exempt threshold system is not applied (i.e. does not have tax-exempt status)) who satisfies certain conditions and submits an application to the NTA Commissioner via the district tax office having a jurisdiction over the tax place on or after 1 July 2015 and was registered with the NTA Commissioner.

### **Group registration**

CT grouping is not permitted and each legal entity must file its own return.

### **Invoices, including e-invoicing**

The following data is required to be shown on invoices for CT purposes:

- Supplier's name
- Recipient's name
- Purchase date
- Products/services should be itemised
- The amount.

Only hardcopies of invoices are allowed.

**Records**

The company is generally required to maintain both accounting records and creditors' invoices, in order to claim input tax credit.

**Retention period**

The archiving period is 7 years under the Consumption Tax law (10 years under the Commercial Code).

Records (excluding invoice, contract and receipt) can be kept solely in electronic form. The application for retention of books and documents by means of electromagnetic records must be approved by the relevant tax office.

Records can be kept outside Japan. The records must be promptly transferred to Japan upon the tax auditor's request. However, the intent of the law is for the records to be maintained in Japan.

**Returns****Periods**

A taxpayer can choose to make returns annually, quarterly or monthly.

**Due dates**

The due date for filing a CT return and making the tax due is two months after the end of each taxable period. No extensions are allowed.

For annual filings, provisional payments are required either bi-annually, quarterly or monthly, depending on the prior year's tax liability.

**Payment**

The CT is due at the same time as when the return has to be filed. Payment should only be by cash or cheque. It can be paid at any authorised bank or post office.

If the payment is late, the business will be charged interest. The interest is calculated at a rate of 2.8% per annum for the first two months after the due date.

After these two months, the rate of interest will increase to 9.1% per annum.

**Refunds**

A tax refund will be made in due course after filing the tax return.

**Content of forms**

The main content is as follows:

- Filing date and name of the Tax Office



- Taxpayer's name, address and phone number
- Taxpayer's reference number
- Name and signature of the taxpayer's representative and accountant in-charge
- Tax period and the type of tax return (i.e. final, interim or amended)
- Taxable sales and output CT thereon
- Taxable purchase and input CT thereon
- Tax exempt sales, non-taxable sales and taxable sales ratio
- Election of calculation method
- Taxable sales in the base period
- Taxpayer's bank account information (in the case of a return of refunds)
- Tax advisor's name and signature.

### **Bad debts**

The CT amount on bad debts is creditable when the account receivable becomes uncollectible for corporate tax purposes.

### **Non-residents**

A non-resident business, which makes taxable supplies in Japan during the base period (generally the year beginning two years before the tax year concerned) of more than JPY 10 million (approx. USD 84,000), will automatically become a taxable business.

In the case of a Provision of B2C (Business to Consumer) Telecommunication Services that is supplied by an Offshore Business Person, such Offshore Business Person becomes a consumption taxpayer. In the case where the first day of the base period (generally the year beginning two years before the tax year concerned) for the business person's tax period started before 1 October 2015, the applicability of the tax-exempt threshold system is judged as if this new legislation on cross border digital services were introduced from the first day of such base period. However, if there is any difficult circumstance for computing annual taxable sales as if this new legislation were introduced from the first day of such base period, annual taxable sales can be calculated as 4 times the 3 month period's taxable sales from 1 April 2015 to 30 June 2015 as if this new legislation were introduced during that period.

In general, a summary of the CT rules applicable to non-residents is as follows:

- (1) The non-resident business does not need to have a fixed or business establishment before it can register for CT in Japan.
- (2) There is a difference if the non-resident business supplies goods or services in Japan before it can register for CT as follows:
  - Supply of goods: In general, if the non-resident business (assuming it is not newly incorporated) has no taxable sale in Japan in the past, it would

be exempt from CT return filing for an initial two accounting years period from its commencement of supplying goods in Japan.

- Supply of services (until 30 September 2015): In general, if the place of supply of the services is located outside Japan as performed by the non-resident business to a resident business in Japan, the supply of the services is not subject to CT. If the place of supply of services is located in Japan, the supply is subject to 5% CT. Also, if the service is partially supplied by the non-resident business within Japan (i.e. the service is supplied both in Japan and outside Japan) and the Japan portion cannot be calculated, or it is not clear as to where the service is supplied by the non-resident business, the CT law provides that the service is deemed to be supplied in a place where the service supplying office is located. Thus, the service is not subject to CT.

### (3) Introduction of CT on cross-border digital services from 1 October 2015

As part of the 2015 Tax Reform, the ruling Liberal Democratic Party and New Komeito coalition recently confirmed plans to subject electronic supplies by offshore suppliers to CT with effect from 1 October 2015. The measure is expected to pass through the Diet around the end of March 2015. The details of the 2015 Ruling Party's Tax Reform Outline were publicly announced on 30 December 2014.

- Change of the in-or-out-of-scope criteria (from origin principle to destination principle)

The provision of digital online services performed via telecommunications, such as the distribution of e-books, music or advertisements, is defined as the "Provision of Telecommunication Services", and the in-or-out-of-scope criteria is changed to the destination place of the person who receives the services, instead of the origin place of the service supplying office.

- Introduction of reverse charge mechanism for Provision of B2B Telecommunications Services

The "Provision of Telecommunication Services" supplied by an Offshore Business Person in which it is clear in view of the nature of such services or the terms and conditions, etc. of such services that the recipient of such services is a business person, is defined as the "Provision of B2B Telecommunication Services". In this case, the consumption tax liability of the transaction is shifted to the business person who receives the provision of services (i.e. the introduction of a reverse charge mechanism).

With the reverse charge mechanism in place, specific purchases among taxable purchases in Japan (hereinafter referred to as “Specific Taxable Purchase”) is included in the scope of consumption tax liability.

An Offshore Business Person engaged in the Provision of B2B Telecommunications Services in Japan is required to notify the counterparty prior to the provision of such services, that a business person completing a Specific Taxable Purchase of such services becomes a consumption taxpayer.

- Transitional measure to ensure fair taxation

For the time being, the input tax credit on a taxable purchase for receiving the Provision of B2C (Business to Consumer) Telecommunication Services from an Offshore Business Person is not allowed even though it was actually provided to a business person. However, the input tax credit on a taxable purchase for receiving the Provision of B2C Telecommunication Services from a “Registered Offshore Business Person” is allowed if the incoming invoice or the like describing the registration number, etc. of such Registered Offshore Business Person is retained under certain conditions.

(4) Although the filing of a CT return by the non-resident business will not create a permanent establishment in Japan, the tax authorities may raise questions on this issue if the non-resident business files a CT refund return with the tax office.

(5) The consumption tax liability on provision of services such as performing arts, sports or etc. performed in Japan by an Offshore Business Person on or after 1 April 2016 is shifted to the business person who receives the provision of services, instead of the service supplier (introduction of reverse charge mechanism).

### **Refunds to foreign business**

There is a refund system in Japan that can allow an enterprise (including a foreign business) to make a claim to the Japanese tax authorities for a refund of the net input consumption tax (i.e. input tax minus output tax) incurred. In order to claim a refund, the foreign business must make an election to be treated as a ‘taxable enterprise’ in advance. The taxable enterprise may obtain the refund by filing a CT return after the end of the taxable period.

### **Refunds to tourists**

Although there is no refund system for individual tourists, non-residents may purchase tax-exempt commodities at an export shop. Certain conditions apply to such sales.

### **Penalties**

Late submission of filing tax returns will be subject to 5% of tax payable or 15% of tax payable [plus 5% of assessed taxes exceeding the amount of JPY 500,000

(USD 4,200)] in case where the tax return is filed after the tax authority realises tax is due.

For late payment, interest at a rate of 2.8% per annum will be charged for the period from the original due date to two months after the due date.

After the two months, the interest will increase to 9.1% per annum. The maximum penalties for fraud or evasion are 10-year prison term and (or) maximum fine of JPY 10 million (USD 84,000).

### **Other indirect taxes**

There are a number of other indirect taxes in Japan. Some are levied on a national basis, while others are only applied locally.

**National Indirect Taxes** include:

- Liquor tax – tax levied on liquors
- Gasoline tax and local road tax – tax levied on gasoline
- Aircraft fuel tax – tax levied on fuel which an aircraft consumes
- Petroleum tax – tax levied on crude oil, imported petroleum products and gaseous hydrocarbons
- Petroleum gas tax – tax levied on liquefied petroleum gas for automobile fuel contained in a high pressure container
- Tobacco tax, special tobacco tax – tax levied on tobacco products
- Stamp tax – tax paid by affixing and cancelling a stamp on the documents which are exhaustively listed in the Stamp Duty Act provisions
- Registration and license tax – tax levied on registration with regard to property rights, companies, certain professions, etc. and on the obtaining of business licenses
- Electric power resources development tax – tax levied on businesses supplying electric power
- Automobile tonnage tax – tax levied on automobile owners or users

The following are other **Indirect Local Taxes** in Japan:

- Prefectural and municipal tobacco tax

- Golf course tax
- Diesel oil delivery tax
- Bathing tax
- Real property acquisition tax
- Automobile acquisition tax

Prefectures and municipalities are entitled to levy other kinds of taxes with the permission of the national government.

### **Further developments**

A bill has already been passed for the rate increase at a single rate (i.e. from 8% to 10% from 1 April 2017).

### **Useful contacts**

For help with Consumption Tax issues in Japan, please contact:

#### **PricewaterhouseCoopers**

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#### **Tax authority**

The authority that controls Consumption Tax is the **National Tax Agency (NTA)**

[www.nta.go.jp](http://www.nta.go.jp). They are based at:

Kasumigaseki 3-1-1

Chiyoda Ku

100-8978 Tokyo

Other relevant website: [www.nta.go.jp](http://www.nta.go.jp).