Deloitte Tax LLP
Global Employer Services

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GES NewsFlash

Japan – New Legislation Announced to Permit Incorporation of Foreign Registered Lawyers Operating in Japan

April 22, 2010

Background

Foreign law firms operating in Japan must operate either through a registered foreign law office ("GJB") or through a partnership with a domestic Japanese bengoshi lawyer ("GKJ"). Historically, their operations could only be provided from the registered office in Japan because, technically, multiple offices in Japan were not permitted.

In contrast, Japanese bengoshi not operating in partnership with a foreign lawyer have been able to incorporate as a Law Corporation since 2001. However, registered foreign lawyers or foreign law firms in GKJ arrangements could not incorporate.

Deregulation of law offices

The Ministry of Justice in Japan ("MOJ") announced on April 12, 2010 that it was going to enact new legislation to relax the restrictions on foreign lawyers operating in Japan and allow them to establish Law Corporations. Furthermore under the new legislation, law firms operating in partnership with Japanese bengoshi will also be able to form Law Corporations.

It is expected that the draft legislation will be submitted to the Diet in this fall, and that this will come into effect in 2012. The MOJ hopes that deregulation will allow foreign law offices to expand operations in Japan and open new branches around Japan.

The MOJ has identified an increasing demand for international legal services in connection with cross-border activities, such as M&A, patent applications, establishments of oversea offices etc. Currently, law offices which can provide international legal services are concentrated in the Tokyo area. With extented law firm coverage made possible under the new law, companies outside of Tokyo should find it easier to receive legal services as international law firms expand operations.

Deloitte's View

The proposed relaxation should be welcome news to many international law firms both to expand their business in Japan but also as a potential opportunity to reduce the compliance burden for maintaining operations in Japan.

Currently most law firms have to file non-resident tax returns for all equity partners of the law firm reporting the allocable share of Japan-source income/losses. Incorporation may remove the need for such tax filings and allow a de facto composite return to be filed.

When details of the reform become clearer, international law firms should review their filing model in Japan. Issues we would expect to be addressed before making an assessment on the benefits of incorporation would be allocation of income, direct and indirect tax costs, transfer of good will, international taxation and foreign tax credit issues and the tax position taken for equity partners in Japan.

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

Russell Bird
Tel: +81 3 6213 3979

Yang Ho Kim
Tel: +81 3 6213 3841

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1633 Broadway
New York, NY 10019 – 6754
United States
