

## Japan tax alert

Ernst & Young Shinnihon Tax



# Tax matters related to the Great East Japan Earthquake

(This is a translation of selected items from the original tax alert in Japanese published on 26 April 2011.)

With the enormous damage caused by the powerful earthquake and tsunami that struck the northeast coast of Japan on 11 March 2011, as well as the aftershocks and damaged nuclear reactors, the government has discussed various measures to ease the tax burden of those affected by the disaster.

- ▶ 19 April 2011 - The bill of the Special Tax Law for Victims of the Great East Japan Earthquake was submitted to the Diet.
- ▶ 20 April 2011 - The National Tax Agency released a Circular titled Corporate tax treatment for damage and costs related to the Great East Japan Earthquake (Circular).
- ▶ 20 April 2011 - The National Tax Agency made public the Excerpts from the Q&A on corporation tax treatment for damage and costs related to the Great East Japan Earthquake (e.g., special accounts for calamity loss). The Q&A were prepared based on the Q&A with taxpayers affected by the Kobe earthquake of 1995.

# Special Tax Law for Victims of the Great East Japan Earthquake

The following is an outline of two tax items selected from the bill submitted to the Diet on 19 April 2011.

## 1. Potential tax refunds with the carry-back of earthquake-related tax losses

Under the current regime, a loss carry-back of one year is available to certain corporate taxpayers (i.e., small or medium companies). However, any loss incurred in a tax year ending between 11 March 2011 and 10 March 2012 that qualifies as an earthquake-related loss (certain losses on assets including inventory and fixed assets damaged as a result of the earthquake) may be carried back to the two preceding years. The corporate taxpayer may claim a tax refund to the extent that the carried-back loss is used to offset taxable income in years preceding the filing of the tax return for tax years ending between 11 March 2011 and 10 March 2012.

A company with interim filing due between 11 March 2011 and 10 Sept 2011, will also be allowed under the proposed bill to claim a tax refund using the tax loss carry-back on its interim filing.

(See: Reference Materials for National Tax, the Tax Commission, 13 April 2011)

## 2. Improved deductibility of donations from individuals

The limitation on the deductibility of donations made by an individual taxpayer between 11 March 2011 and 31 December 2013 will be increased from the current 40% to 80% of gross taxable income under the proposed bill.

# Corporate tax treatment for damage and costs related to the Great East Japan Earthquake (Circular)

The following outlines one of the tax items from the circular released by the National Tax Agency on 20 April 2011.

## Special account for casualty losses

Tax deductions may be available to a corporate taxpayer who continues to use certain fixed assets that were damaged in the disaster.

Example of deductible loss	General principle
1. Valuation loss on fixed assets due to the deterioration of property	Deductible in the tax year in which the disaster took place.
2. Restoration/recovery costs for assets damaged in the disaster	Deductible in the tax year in which the damage is restored or repaired.

In example 2 above, the tax year in which the loss incurred due to disaster may be different from the tax year in which the repair costs are incurred. However, the deduction of costs that meet all the following conditions will be accelerated and thus become available in the same year as the disaster, if such costs are booked in a "special account for calamity losses":

- ▶ Such costs are necessary for restoration/repair of inventory or fixed assets.
- ▶ Such costs are expected to be incurred within one year of the disaster.
- ▶ The amount of costs can be appropriately evaluated.

For companies with a 31 March year-end who failed to book the loss in a timely manner in a special account for calamity losses due to an unavoidable reason (e.g., the company closed its books before the release of this circular), the loss is recognized as a tax adjustment in the tax return and may still be deductible as an exception to the above rule.

Comments or general inquiries regarding this tax alert may be directed to our Corporate Communications team at [tax.marketing@jp.ey.com](mailto:tax.marketing@jp.ey.com).

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