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Japan tax alert

Ernst & Young Tax Co.

Recent updates to Japan CRS

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This update on Japan CRS includes the following key updates, as described in further detail below:

1. Updates to the Japan CRS regulations
2. Update on Japan CRS audits conducted by the Japan National Tax Agency (“NTA”)
3. Election to extend the filing of Japan CRS reporting due to Covid-19

1. Updates to the Japan CRS regulations

The NTA announced updates to the Japan CRS regulations that came into effect starting from 31 March 2020 (from 1 January 2022 for certain provisions). For detailed and specific requirements, reference should be made to the official Japanese sources.

- ▶ The “active NFE” definition under Japan CRS now includes NFE not yet operating a business and has no prior operating history within 24 months from the date it was established.
- ▶ The beneficial owner of a financial account has been clarified to be solely the account holder (and not an agent, signatory or any other intermediary who is holding the account for the benefit of the account holder).
- ▶ The term “entity” has been clarified to include a legal or contractual arrangement such as a partnership or trust.
- ▶ Certain types of equity obtained through stock option plans have been removed from the excluded account definition.
- ▶ The term “reportable person” has been clarified to include the estate of a decedent that was a resident of a reportable jurisdiction, with information such as the name, address, and country of residence required to be reported.
- ▶ Certain entities that have no residence for tax purposes have been clarified to be treated as resident in the country in which their place of effective management is situated (i.e., place where key management and commercial decisions that are necessary for the conduct of business are in substance made).
- ▶ In relation to pre-existing accounts, the date of birth and TIN of the account holder are now only obtained in concern to account holders who are tax resident in reportable jurisdictions.
- ▶ Account aggregation rules have now been clarified to require aggregation based on computerized systems that are able to link holders of jointly held accounts and members of group intercompany accounts. Account aggregation rules have also been clarified to require aggregation based on relationship manager knowledge (or reason to know) if accounts are directly or indirectly owned, controlled or established by the same person. Reporting FIs are required to inform an account holder of their obligation to notify the reporting FI of a change in circumstances of the account holder.
- ▶ The term “reportable person” has now been clarified to exclude governmental entities, including any wholly owned agency or instrumentality of a jurisdiction (e.g., a state, province, county, or municipality).
- ▶ Due diligence procedures to verify account holder information

may include online corporate number search and/or electronic corporate registry database.

- ▶ Anti-avoidance rules have now been clarified to prevent any financial institutions, persons or intermediaries from adopting practices intended to circumvent Japan CRS.

The NTA also updated the Japan CRS FAQs generally to provide further clarifications on existing Japan CRS obligations and requirements, including for due diligence procedures, self-certification and documentation requirements, classifications of certain entities, identification of tax residences, record retention, reporting requirements and procedures.

Reporting FIs in Japan have started to make changes to internal CRS procedures and compliance programs to adopt the above updates to the Japan CRS regulations.

2. Update on Japan CRS audits conducted by the NTA

Following the implementation of Japan CRS on 1 January 2017, the NTA began conducting compliance audits beginning late 2018 on certain reporting FIs in Japan (both domestic and foreign), and is expected to continue the audit program. Although the NTA has not publicly announced their audit procedures and requirements, based on audits conducted to date such procedures are understood to include the requirement for adequate compliance programs, systems and data, and validations of documentation and information to support ongoing compliance.

In preparation for the compliance audits, the NTA has requested that financial institutions utilize a compliance checklist to evaluate their internal compliance for obligations under the Japan CRS regulations for each CRS reporting year (prior to any Japan CRS compliance audit being conducted). The compliance checklist is to be retained by the financial institution and made available to the NTA at the time of the audit. The compliance checklist is comprehensive and consists of 64 question areas that cover key obligations under the Japan CRS regulations. Accordingly, financial institutions should be aware of and prepare for the need to adequately complete the Japan CRS compliance checklist.

3. Election to extend the filing of Japan CRS reporting due to Covid-19

The NTA announced on 10 April 2020 special procedures to request an extension to file Japan CRS reporting for calendar year 2019 due to Covid-19. Reporting financial institutions that have encountered circumstances relating to Covid-19 that require an extension of time for filing Japan CRS reporting are required to call to notify the NTA and provide a reason for the extension request (e.g., difficulty to report due to government stay-at-home directive). Expected extension period to be one to two months depending on each case which will be granted on a case-by-case

basis. After confirmation by phone with the NTA, no further application for extension by electronic means or writing is required. Upon filing Japan CRS reporting after extension has been granted, the reporting should note such fact in the reference information column.

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