

Japan

1. Government requirements

Registration requirements

Tax notifications required when establishing a company

When establishing a company, the following notifications related to payroll calculations must be filed with the tax authorities.

1. Tax office

- Notification of Establishment/Relocation/Closure of a salary-paying office must be submitted within one month of establishment (Income Tax Act 230).
- Application for Approval Made in Relation to the Special Provision for Due Dates for Withholding Income Tax needs to be submitted by the last day of the month before the company intends to implement the special withholding timing. By filing this application, a company may pay withholding tax semi-annually rather than on a monthly basis. This can only be applied if there are always less than 10 people receiving salaries (Income Tax Act 216, 217, 218).

2. Municipalities in which employees are resident

- Notification of Transfer of Salaried Workers for Special Collection must be submitted promptly to the municipality where employees reside (Local Tax Act 321).

Ongoing compliance requirements

Withholding income tax

All types of income earned by individual are taxable and this is not limited to salary and bonuses, remuneration fees paid to professional services, interests and dividends, capital gains etc. from stock, and other relative income. The payer of the various earnings made to the individuals has the responsibility to calculate and withhold income tax and pay to the tax office.

For residents, withholding tax calculation will differ among income type. Withholding income tax calculation for salaries and bonuses paid by company to employees adopts the progressive taxation system and the tax rate range from 5% to 45% plus 2.1% of calculated income tax as special income tax for reconstruction.

It is required for the employees to submit Declaration of exemption for dependent form to the company by the day before receiving the first salary of the year in order to apply the lower tax rate (Ko-ran) and treat the special deductions such as dependents, and disability. The company must keep the form and submit to the tax office upon the request.

The tax should be withheld at the same time as the whatever taxable payment is made to the employee and the withheld tax payment is due on 10th of the following month of occurrence of taxable payment. (Income Tax Act 9, 36,183,186,194)

Retirement allowance

Withholding tax calculation for retirement allowance differs from the one for salary/bonuses. With submission of Application concerning receipt of retirement income form from the employee, the retirement income for nonspecified officer is calculated as follows:

(Amount of earnings from general retirement allowance – Deduction for retirement income) × $\frac{1}{2}$

In case of specified officer, the same formula applies except for not multiplying by 1/2.

It is required for the employee receiving the retirement allowance to submit Application concerning receipt of retirement income form in order to apply the progressive tax rate from 5.105% to 45.945% (including special income tax for reconstruction), but if it is not submitted, flat 20.42% (including special income tax for reconstruction) applies.

The tax should be withheld at the same time as the whatever taxable payment is made to the employee and the withheld tax payment is due on 10th of the following month of occurrence of taxable payment. (Income Tax Act 30, 202,203)

Withholding income tax for nonresidents

The scope of income and the amount to be withheld will differ among resident and nonresident in Japan. Individuals will be determined as residents if they have a domicile in Japan or reside in Japan continuously for one year or more. For expatriates on assignment, if the period in the assignment letter is over one year, they will become residents immediately. If the assignment period is less than one year, they will be treated as nonresidents but if the actual period of residency in Japan reaches one full year, they will become residents.

For nonresidents, a flat rate of 20% for income tax plus special income tax for reconstruction which is 2% of income tax withheld, totaling to 20.42% will apply.

If expatriates being regarded as residents are paid in both home country and Japan, withholding income tax is eligible for payments made through Japan payroll. There is no obligation to withhold tax for payments made outside Japan and therefore unless concluded necessary, in general shadow payroll is not required in Japan. The income received in home country should be reported in the tax return filing and tax be paid based on the report.

But if the expatriates are nonresidents and payer has address or branch office (PE) in Japan, the payment made outside Japan is subject to withholding taxable.

(Income Tax Act 161181183212, 220)

Inhabitant Tax

Individuals will be eligible to pay inhabitant tax if they had taxable income in the previous year and continue to be resident of Japan as of 1 January. If the individual was employed to a company as of 31 December and yearend tax adjustment had been performed to their income, the company will send the information (Salary payment report) to the resident municipal office. Based on this information, inhabitant tax amount will be calculated by the resident municipal office and provided to the company. (It is approximately 10% of the total taxable income). The company will arrange to deduct the instructed amount and pay to the municipal offices. The payment is due on 10th of the following month of the deduction. If the individual happens to leave the company, the municipal office will send notification and payment forms directly to the individual. (Local Tax Act 321-3,4,5)

Issuing a certificate of annual income and withholding taxes

1. When paying salaries to employees in Japan, the company must prepare two copies of the annual income and withholding tax forms for each employee and submit one copy to the tax office by the 31 January of the following year; the employee retains the other copy (Income Tax Act 226).
2. When making a retirement allowance payment in Japan to employees, the company must prepare two withholding tax slips for each employee and submit one to the tax office within one month of the employee leaving the company and one to the employee (Income Tax Act 226).

Implementing year-end adjustment

At the end of the year, the employer should perform yearend tax adjustment to employees whose salary for the year is JPY20m or less by collecting declarations from employees and recalculate tax amount of the year based on the employee's annual taxable income and declarations. The differentials should be reimbursed or additionally collected and finalize the amount in final payroll month i.e., December. The adjustment results (Annual withholding tax report) should also be reported to the tax office and finalize the annual payment in December payroll payment. (Due 10 January, next year) (Income Tax Act 190)

2. Pension requirements

Registration requirements

Subscribing to social security

1. Health insurance, nursing care insurance and employee pension

Employees who fulfil certain requirements must subscribe to employee health insurance, nursing care insurance (employees from 40 to 64 years old) and the employee pension plan. Example of requirements: Fulltime employees are required to enroll in health, nursing care, and employee pension plans. Part-time employees are required to join these plans where, in principle, the part-time employee's working hours per week and working days per month are at least 75% of those of normal full-time employees (Health Insurance Law, Long-Term Care Insurance Law, Employees' Pension Law, etc.).

2. Employment insurance

Employees who fulfil certain requirements must enroll in employment insurance. Examples of requirements: workers expected to be employed continuously for at least 31 days, or work more than 20 hours of work per week (Employment Insurance Act)

3. Workers' compensation insurance

Workers employed by an office, must be insured for workers' compensation (Industrial Accident Compensation Insurance Act).

Social Security notifications required when establishing a company.

All offices of a company which continuously employ workers must subscribe to social security. The following reports or notifications must be submitted to the following Authorities by the company when establishing a company and hiring employees.

1. Health Insurance Association and Pension Office
 - Report on establishment and employment for health and pension insurance must be submitted with a certified copy of company registration within five days of establishment
 - Report on new employment must be submitted within five days of the employment (Health Insurance Act 3,48 /Pension Insurance Act 6,27)
2. Public Employment Security Office
 - Report on establishment and employment for employment insurance must be submitted with a copy of report on establishment of a labor insurance relationship and a certified copy of company registration within 10 days of establishment.
 - Report on new employment must be submitted by 10th of following month of the employee joining the company (Employment Insurance Act 5, 7)
3. Labor Standards Inspection Office

- • □Report on establishment of a labor insurance relationship must be submitted with a certified copy of company registration within 10 days from the first date a worker joins the company (Act on the Collection, etc. of Insurance Premiums of Labor Insurance Act 4)
- Labor Insurance Estimated Premiums Declaration must be submitted within 50 days from the first date the worker joins the company (continued business) (Act on the Collection, etc. of Insurance Premiums of Labor Insurance,15)
- Report stating that the company hired the first employee to which the Labor Standards Law applies must be promptly submitted (Labor Standards Act 104)

Ongoing compliance requirements

Employee pension and health insurance standard compensation

When an employee joins a company, the company must conduct procedures for them to subscribe to the employee pension plan and health insurance

The standard monthly compensation amount which forms the basis of social security premiums is determined according to compensation on joining the company, and provided there is no significant change subsequently; social security premiums are deducted from the monthly salary for one year based on the same standard monthly compensation amount. (Health Insurance Act40, Employees' Pension Insurance Act 20)

For employee pension, contribution rates are 18.3% of each insured worker's standard monthly remuneration (maximum: JPY650,000) and standard bonus (maximum: 1.5 million yen). For Health Insurance, contribution rate for those under 39 years is 9.87% of each insured worker's standard monthly remuneration (maximum: 1.39 million yen) and standard bonus (maximum: 5.73 million yen per year). For those from 40 to 64 years, the rate goes to be 11.66%.

This rate is given above is Japan Health Insurance Association Tokyo branch. The rate differs among each prefecture of Japan Health Insurance Association and other private health insurance association that the company is enrolled. The contribution is equally covered by both insured worker and employer.

Employee pension and health insurance changes

If there is a change in fixed wages and consequently there is over two grades' changes after three months payroll, companies must report the change the standard monthly compensation by submitting a report on annual revision of standard remuneration. (Health Insurance Act 43, Employees' Pension Insurance Act 23)

Employee pension and health insurance regular revisions

It is necessary to submit a Report on annual revision of standard remuneration for insured persons by 10 July each year. In the calculation basis notification, the standard monthly compensation amount is calculated on the basis of the average compensation amount from April to June; a new standard monthly compensation amount is applied from September's insurance premiums. (Health Insurance Act 41, Employees' Pension Insurance Act 21)

Payment of employee pension and health insurance

The company pays the insurance premiums, received from employees plus the company's own portion to the pension office, etc., by the end of each following month. (Health Insurance Act 164, Employees' Pension Insurance Act 83)

Employment insurance

When paying compensation each month, the company deducts employment insurance calculated at a certain rate to be paid on behalf of the employee. The contributions are calculated by applying a percentage to the total amount of wage payment. The rate is 0.9% total; employer's portion is 0.6% and the employee's portion 0.3% except for few kinds of job (*effective as of April 2021). The rate may be revised every April. The year for calculation of employment insurance is from 1 April to 31 March of the following year. Between 1 June and 10 July each year, the insurance premium amount is calculated based on the total wages in the previous insurance year. The company declares and pays the insurance premiums received from employees together with the insurance premiums payable by the company by 10 July each year. (Act on the Collection, etc. of Insurance Premiums of Labor Insurance 15,19)

Expatriates with Social Security Agreement

Japan has concluded social security agreement with 20 countries and signed the agreement with 3 countries as of October 2020. In case that the expatriates on a temporary assignment to Japan from the countries with effective agreement are insured under the social security of their home country, they shall be exempted from enrolling to the Japanese social security system. The exemption based on the agreement differs among the countries.

For requesting exemption, submission of Certificate of Coverage issued by their home countries' government is required.

Workers' compensation insurance premiums

Employees do not pay premiums for accident insurance. The contribution fee should be 100% covered by the employer, and it is calculated by applying a percentage to the total amount of wage payment. The rate depends on

the type of business; from 0.25% to 8.8% (*effective as of April 2021). The rate may be revised every April. The workers' compensation calculation period is from 1 April to 31 March the following year. Between 1 June and 10 July each year, the insurance premium amount is calculated on the basis of the total wages in the previous insurance year. The company declares with a submission of Labor Finalized and Estimate of following year Insurance Premium Declaration Form and pays the insurance premiums payable by the company by 10 July each year. (Act on the Collection, etc. of Insurance Premiums of Labor Insurance 15,19)

Social security premiums on bonuses

Social security premiums on bonuses are calculated separately from the insurance premiums on salaries. The company must submit a bonus payment notification to the pension office and the health insurance association.

3. Employment obligations

Employment law

There are many laws governing employment relationship. Among them, the Employment Contract Act (ECA) and the Labor Standards Act (LSA) are fundamental regulations. A serious violation of the LSA may result in criminal sanctions.

Governing authority

The Ministry of Health, Labor and Welfare is the main governing authority of employment laws. Within the Ministry, the Prefectural Labor Bureaus fulfil the duties of regionally based general

labor administration agencies. Also, the Labor Standards Inspection Offices provide supervisory oversight to ensure that companies fully comply with LSA working condition regulations and standards.

Minimum wages

Wages to be paid for working hours must meet or exceed the minimum wage requirements provided under the Minimum Wages Act.

Minimum wages mean either:

1. The minimum wages stipulated by each region; or
2. The minimum wages stipulated by each industry.

Working hours and rest time

In principle, LSA 32 states that working hours shall not exceed 8 hours per day and 40 hours per week, excluding rest time. And in accordance with LSA 34, an employer shall provide workers with at least 45 minutes of rest time during working hours when working hours exceed 6 hours, and at least 1 hour when working hours exceed 8 hours.

For an employer to have workers work overtime, LSA 36 states that the employer is required to:

1. Enter into a labor-management agreement with the workers' representative and file the same with the relevant Labor Standards Inspection Office; and
2. Pay statutory increased wages for overtime work. The rate of increase for work in excess of statutory working hours is 25% and for late night work between 22:00 to 5:00 is 25%.

Days off

An employer must provide workers with at least one day off per week (LSA 35). Alternatively, an employer may provide workers with four days off or more during a fourweek period. In order for an employer to have workers, work on such days off, the employer is required to (1) enter into a labor management agreement (LSA 36) with the workers' representative and file the same with the relevant Labor Standards Inspection Office, and (2) pay statutory increased wages for work on days off. The rate of increase for work on statutory days off is 35%.

Annual paid leave

LSA 39 provides minimum standards for workers' annual paid leave. Under the LSA, annual paid leave accrues automatically if a worker has been employed continuously for at least six months and has reported to work on at least 80% of the total working days. The number of days of annual paid leave gradually increases according to the worker's years of employment (from 10 days upon 6 months completion to 20 days upon completion of 6 years and 6 months). For part-time workers, pro-rated number of days of annual paid leave must be granted.

Dismissal

Generally, there is no concept of "at will" employment in Japan where an employer may terminate the employment contracts of regular workers at any time without cause. Rather, it is generally very difficult for any employer in Japan to unilaterally terminate an employment contract. The default position is that a dismissal by an employer is deemed by law to be an abuse of the employer's authority and therefore null and void if the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms.

However, If the employers have decided to dismiss an employee with a good and acceptable reason from social perspective, they must notify the dismissal 30 days prior to dismissal date or

pay 30 days' worth of wages to the employee. Whichever way, the employer is required to guarantee 30 days wages payment.

Differential treatment for fixed-term or parttime workers

Under the LCA, if the working conditions of a fixed-term employment contract worker is different from those of a non-fixed-term contract, such a difference must not be unreasonable. Factors considered include:

1. The duties of the workers and the extent of responsibility accompanying the said duties
2. The duties of the workers and the extent of responsibility accompanying the said duties
3. Other circumstances.

Similarly, the Act on Improvement, etc. of Employment Management for Part-Time Workers prohibits discriminatory treatment against part-time workers that undertake the same work as ordinary workers (typically full-time workers)

Working conditions

When hiring an employee, the employer shall prepare an employment agreement. The agreement should be prepared for each individual even if their conditions are the same. There are no obligations to prepare a written contract (though it is highly recommended), the employer must notify the working conditions listed below in writing. (LSA 15)

- a. Labor contract period
- b. The conditions for renewal (if the contract period is fixed)
- c. Workplace and job description
- d. Working hours (including starting and finishing time, whether overtime work is required, break hours, holidays and leave)
- e. Wages (including how it is decided, calculation and payment method, cutoff date and payday)
- f. Retirement and dismissal policy (including all grounds of dismissal)
- g. Wage raise policy

If the company includes conditions not meeting the minimal standards defined in the law, the condition will be invalid and will be overridden by the minimal standard.

Rules of Employment

When the company continuously employ 10 or more workers, they are obliged to prepare Rules of Employment and submit to the local Labor Standards Inspection Office. Upon submission, the company shall attach document describing comments/opinions of the representative of workers. Full agreement is not required from the workers' representative but by attaching the document, this will prove that the rule has been shared and acknowledged by the workers. If any amendments are made to the rules, the amended rules of employment shall be submitted. (LSA 89, 90)

The following are mandatory items under the Rules of Employment:

- a. Working hours (including starting and finishing time, break hours, holidays and leave)
- b. Wages (including how it is decided, calculation and payment method, cutoff date and payday, wage raise)
- c. Retirement and dismissal policy (including all grounds of dismissal)
- d. The employer is obliged to disclose Rules of Employment and made accessible to all employees.

4. Payroll requirements

Basic rules for paying wages

1. Currency payment rule

➤ **No payment in kind**

Wages must be paid in currency. Payment in kind is forbidden. However, if there are separate rules in law or labor agreements, payment other than currency may be permitted.

➤ **Remittance of wages to a savings account**

With the employee's consent, wages may be remitted by bank transfer and paid into savings or deposit account at a bank or other financial institution or into a securities account under the employee's name.

2. Full amount payment rule

Wages must be paid in full without deductions. However, in the following cases, deductions may be made from wages:

- Where there are separate stipulations in the law, such as withholding tax, social security, and other deductions
- Where a labor-management agreement has been concluded expenses for company accommodation, payment for purchased items, etc. In such case, it is necessary to conclude an agreement with the employee representative
- When labor was not provided due to absence, late arrival or early departure, or when wages had been paid in advance

3. Once a month rule

Wages must be paid at least once a month (twice a month or once a week is also possible)

4. Fixed payment date rule

A wage payment date must be fixed and specified.

5. Direct payment rule

- Wages must be paid directly to the employee
- Wages must not be paid via another person or to a representative of the employee
- Even for minors, a guardian cannot receive wages on behalf of the employee

5. Banking requirements related to payroll

There is no particular law, but payment of taxes and social security premiums must be made via a Japanese financial institution (Bank of Japan revenue agency).