

Japan

EY Contacts:

Tokyo

Ernst & Young Tax Co.
Hibiya Mitsui Tower
Tokyo Midtown Hibiya
1-1-2 Yurakucho
Chiyoda-ku
Tokyo 100-0006
Japan

Kenji Ueda
kenji.ueda@jp.ey.com
+81 70 3876 5003

Michiko Nishimura
michiko.nishimura@jp.ey.com
+81 70 3853 3586

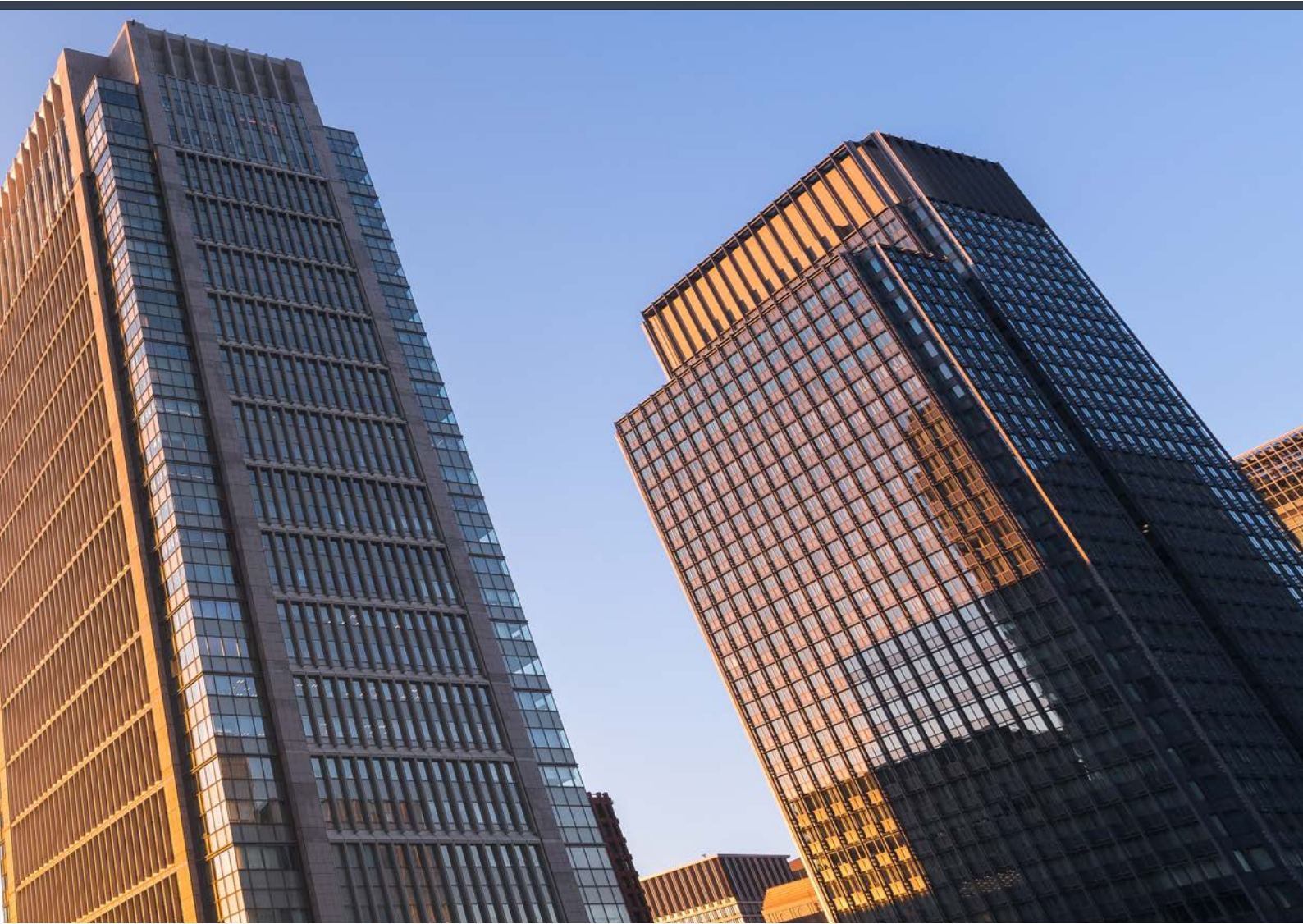
1. Types of tax

1.1 Inheritance tax

The Japanese Inheritance Tax Law (*sozoku zei ho*) covers inheritance tax (*sozoku zei*) and gift tax (*zoyo zei*). Inheritance tax is imposed on an individual who acquires property by inheritance or bequest upon the death of the decedent. Gift tax is imposed on an individual who acquires properties by gift (or economic benefit by deemed gift). Gift tax is supplementary to inheritance tax. Both taxes are national taxes and no local tax is assessed on the transfer of property due to inheritance or a gift.

Computation of inheritance tax

Inheritance tax is imposed on the aggregate value of all net taxable properties acquired by inheritance or bequest minus basic exemption. However, the individual heirs are taxed, not the estate. Inheritance tax is calculated, assuming that each statutory heir inherits based on its statutory



share, regardless of how and to whom the property is to be distributed. Then, the total amount of tax calculated is allocated between those who actually received the decedent's properties in accordance with his or her will or as agreed upon by the heirs. The total amount of tax is calculated based on the statutory heirs and legatees, whereas the tax liability is attributed to those who actually acquired the properties.

Computation

The computation is based on the following steps:

- ▶ Aggregate the amount of taxable properties assumed to be acquired by all heirs and legatees (net of the liabilities succeeded), "aggregated taxable estate value"
- ▶ Deduct the basic exemption of JPY30 million plus JPY6 million multiplied by the number of statutory heirs from the above "aggregated taxable estate value"
- ▶ Allocate the aggregated taxable estate value to each statutory heir according to their statutory share

- Calculate the inheritance tax separately for each statutory heir's portion allocated above by the application of the following progressive rates (JPY):

Up to 10 million	10%
Above 10 million up to 30 million	15%
Above 30 million up to 50 million	20%
Above 50 million up to 100 million	30%
Above 100 million up to 200 million	40%
Above 200 million up to 300 million	45%
Above 300 million up to 600 million	50%
Above 600 million	55%

- Aggregate the inheritance tax calculated above, "aggregated inheritance tax"
- Allocate the aggregated inheritance tax to each of the heirs and legatees based on the ratio of the value of the taxable properties actually acquired by him or her against the aggregated taxable estate value
- A 20% surtax is imposed on heirs or legatees of anyone who is not the decedent's spouse, the decedent's parents or the decedent's children. Where the decedent's grandchild became the decedent's adopted child, he or she is also subject to a 20% surtax.
- Deduct applicable tax credits for each heir (see Section 4)

The property acquired by a gift from the deceased within three years of the death of the deceased is regarded as estate property, subject to inheritance tax. Any gift tax imposed on the acquisition of such property is creditable against the inheritance tax liability.

1.2 Gift tax

Gift tax is imposed on individuals who acquire property by gift during the lifetime of the donor. Gift tax is also imposed on economic benefits received by deemed gift.

Computation of gift tax

The taxable base of gift tax is determined as the value of properties obtained by a gift (or by a deemed gift) during each calendar year, after an annual basic exemption of JPY1.1 million is applied. The applicable tax rates are as follows:

Those other than as described on the right		Where donee is 18 years of age or older and donor is his or her lineal ascendant/descendant	
Tax base (JPY)	Rate	Tax base (JPY)	Rate
Not more than 2 million	10%	Not more than 2 million	10%
Above 2 million up to 3 million	15%	Above 2 million up to 3 million	15%
Above 3 million up to 4 million	20%	Above 3 million up to 4 million	15%
Above 4 million up to 6 million	30%	Above 4 million up to 6 million	20%
Above 6 million up to 10 million	40%	Above 6 million up to 10 million	30%
Above 10 million up to 15 million	45%	Above 10 million up to 15 million	40%
Above 15 million up to 30 million	50%	Above 15 million up to 30 million	45%
Above 30 million	55%	Above 30 million up to 45 million	50%
		Above 45 million	55%

1.3 Real estate transfer tax

Registration and license tax

The registration of the transfer of ownership of real property by inheritance is subject to registration and license tax at the rate of 0.4% of assessed value of the land and building. The registration of the transfer of ownership by gift or sales is generally subject to registration and license tax at a standard rate of 2%.

Real estate acquisition tax

The acquisition of real property by gift or sale is generally subject to real estate acquisition tax at 4%. As a temporary measure, the acquisition of land and residential buildings is subject to real estate acquisition tax at a reduced rate of 3% until 31 March 2024. The tax base of the land for residential purposes is further reduced by 50%. However, the acquisition of real property by inheritance is exempt from real estate acquisition tax.

1.4 Endowment tax

There is no endowment tax in Japan. As described in Section 4, if the heir makes donations of property to certain specified nonprofit organizations or foundations of the Japanese government or a local public organization by the filing due date of the inheritance tax, the property is exempt from the inheritance tax.

1.5 Transfer duty

There is no transfer duty other than real estate transfer taxes (see Section 1.3).

1.6 Net wealth tax

There is no net wealth tax in Japan.

2. Who is liable?

2.1 Unlimited liability

Nationality and domicile

In principle, an heir or donee who is domiciled in Japan upon acquisition of property by inheritance, bequest of a decedent or by gift has unlimited liability for inheritance tax or gift tax, regardless of his or her nationality (exception applies to a temporary staying non-Japanese). In cases where an heir or donee has Japanese nationality but is not domiciled in Japan at the time of property acquisition, he or she will still be subject to unlimited liability if either the heir or the deceased, or the donee or the donor has been domiciled in Japan at any time within 10 years immediately before the time of death of the decedent or at the time of the gift (unlimited liability taxpayer with Japanese nationality). In cases where an heir or donee without Japanese nationality is not domiciled in Japan, he or she is also subject to unlimited liability if the deceased or the donor is domiciled in Japan at the death of the decedent or at the time of the gift or had a domicile in Japan anytime within the 10 years preceding the inheritance or gift.

Unlimited liability taxpayers are subject to inheritance tax or gift tax on all of the properties acquired regardless of whether the properties are located in or outside Japan.

Temporary staying non-Japanese

There are special treatments for a person without Japanese nationality who is domiciled in Japan but is considered temporarily staying in Japan. A person without Japanese nationality having a visa issued under table 1 of the Immigration Act is considered temporarily staying in Japan.

If an heir or donee is temporarily staying in Japan, whose total period of being domiciled in Japan is, in aggregate, less than 10 years within the past 15 years before the inheritance or gift, such person is treated as a limited liability taxpayer subject to inheritance tax or gift tax only on properties located in Japan, to the extent that the properties are acquired from a deceased/donor, either who is also temporarily staying in Japan at the death or at the time of the gift, or who has not domiciled in Japan in the last 10 years.

Domicile

For the purposes of inheritance tax and gift tax, a “domicile” is defined as the principal base of living, which is determined based on facts and circumstances. The following individuals (as heirs or donees) will be treated as being domiciled in Japan, although they are actually located outside Japan:

- ▶ An individual who is studying abroad and is treated as a dependent of a Japanese resident for Japanese income tax purposes
- ▶ An individual who is assigned to work or provide personal services outside Japan for a period of approximately one year or less

2.2 Limited liability

If a deceased or a donor has not been domiciled in Japan in the last 10 years and: i) an heir or donee who is of Japanese nationality and has not been domiciled in Japan in the last 10 years or ii) an heir or donee who is without Japanese nationality and does not have a domicile in Japan at the time of death of the decedent or at the time of the gift, then the heir or donee is categorized as a limited liability taxpayer. The limited liability taxpayer is subject to inheritance tax or gift tax only on the properties situated in Japan.

If a deceased or a donor is a temporarily staying non-Japanese at the time of death or at the time of the gift, an heir or donee is not subject to inheritance or gift taxation relating to the properties situated outside of Japan, if he/she is:

- ▶ A Japanese national who has not domiciled in Japan in the last 10 years
- Or
- ▶ A non-Japanese national who is not domiciled in Japan at the time of the inheritance or the gift

As an exception to the foregoing, a gift of foreign properties is subject to gift taxation if the gift is made within two years from the donor's departure from Japan and the donor becomes Japan resident again within two years from the departure.

Whether the property is situated in Japan or not is determined based on the following location rules:

Kind of property	Location
Personal property	Place where the property is located
Real property	Place where the real property is situated
Ships or aircraft	Place where they are registered
Mining or quarry rights	Location of the mine or quarry
Fishing concession rights	Place of the coast nearest to the fishing grounds
Deposits with a bank	Location of the office deposited
Insurance proceeds	Location of the head office or the principal office of the insurance company that issued the policy

Kind of property	Location
Retirement allowances	Location of the head office or the principal office of the payer company
Loans	The domicile, the head office or the principal office of the debtor
Shares in a company or bond and debentures issued by a company	Place where the issuing company has the head office or the principal office
Interests in collective investment trusts or taxable trusts	Location of the trustee's office
Patents, trademarks, etc.	Place where they are registered
Copyrights or publishing rights	Location of the publisher's office
Trade receivables, goodwill and other rights related to business operation	Place of business to which they are related
Japanese government bonds	Japan
Foreign government bonds	Country of issuance
Others	The domicile of the deceased or the donor

3. Rates

Progressive rates (10% to 55%) are applicable, with an exception of gift tax settlement at time of inheritance tax (20% flat rate) (see below).

4. Exemptions and reliefs

Exemptions and tax credits

There are several asset or purpose-related exemptions and personal exemptions as well as tax credits.

Main items of exemptions

- ▶ Donations of properties to certain specified nonprofit organizations or foundations of the Japanese government or a local public organization if the heir makes the donation by the filing due date of the inheritance tax
- ▶ JPY5 million per statutory heir for life insurance proceeds (as deemed estate property)
- ▶ JPY5 million per statutory heir for retirement allowance (as deemed estate property)
- ▶ Only a certain portion (e.g., 20%) of the acquisition of small-scale business or residential land is subject to inheritance tax. A maximum of 330 sq. meters of land used as a residence and a maximum of 400 sq. meters of land used for business qualifies for this treatment.

Main items of tax credits

- ▶ As for inheritance tax to be paid by a spouse, the portion of tax due attributed to the spouse pursuant to the statutory share (the greater amount of the spouse's statutory share or JPY160 million) is creditable against the spouse's inheritance tax due.
- ▶ For minor heirs under 18 years old, JPY100,000 x (18 - heir's age).
- ▶ For handicapped heirs, JPY100,000 (JPY200,000 in the case of special disabilities) x (85 - heir's age).
- ▶ If a decedent has paid by himself or herself inheritance tax for the acquisition of property within 10 years immediately preceding his or her death, a portion of the heir's inheritance tax will be creditable according to a certain formula.
- ▶ A foreign tax credit is available in order to avoid double taxation on the inheritance.

Example

Assuming that (i) the heirs are the spouse and a child (in this case, the portion of statutory share is 50% for each); (ii) the aggregated taxable estate value is JPY1 billion and the aggregated inheritance tax due is JPY395 million; and (iii) the spouse inherits the properties in the amount of JPY500 million, no inheritance tax is payable by the spouse, since tax due attributed to the spouse is based on the statutory share (i.e., JPY197.5 million; JPY395 million x JPY500 million / JPY1,000 million) and the same amount of the credit is applied. The child will have a tax liability of JPY197.5 million (i.e., JPY395 million x JPY500 million / JPY1,000 million).

Gift tax exemptions

The following are exempt from gift tax:

- ▶ Gifts from a corporation, which are subject to income tax
- ▶ Gifts to dependents for living expenses and education
- ▶ Gifts of education funds up to JPY15 million to dependents, made from 1 April 2013 to 31 March 2023, subject to certain conditions
- ▶ Gifts of child-rearing and marriage funds up to JPY10 million to dependents, made from 1 April 2015 to 31 March 2023, subject to certain conditions
- ▶ Gifts to a person engaged in activities for religious, charitable, scientific, educational or social welfare purposes to be used for such activities
- ▶ Gifts of money or goods from a specified public interest trust to students or pupils to support their educational costs
- ▶ Providing a right to receive a subsidy from a local public organization to a handicapped person
- ▶ Qualified donations to a candidate for a public election campaign, which are duly reported
- ▶ Obtaining trust beneficiary rights up to JPY60 million by a special handicapped person according to a special support arrangement
- ▶ One-time exemption of up to JPY20 million of the value of a residential property transferred from a spouse, where the period of marriage is 20 years or more and where the donee uses the property for residential purposes
- ▶ Exemption of up to JPY10 million (JPY15 million for energy-saving, earthquake resistant, barrier-free house) per donee from 1 April 2020 to 31 December 2022 for gifts made in cash by parents to their children of age 18 years or older to acquire a residential house

5. Filing procedures

Filing procedures

The inheritance tax return must be filed within 10 months from the time that the taxpayers become aware of the start of the succession, with the relevant tax office having jurisdiction over the domicile of the deceased. Where two or more taxpayers are domiciled in Japan, a joint tax return will be filed. If the deceased is not domiciled in Japan at the time of death, each heir domiciled in Japan files his or her tax return with the tax office having jurisdiction over his or her domicile. If neither the decedent nor heir is domiciled in Japan, the heir may elect any tax office for filing purposes.

Tax payment

In principle, the inheritance tax must be paid in one lump sum in cash by the filing due date. A deferral of the tax payment may be allowed up to 20 years. Furthermore, if a lump-sum cash payment is not possible, inherited property for payment in kind is allowed. The advantage of payment in kind is to avoid income taxation on capital gains, if any, arising from a sale of the inherited property in order to finance the tax payment.

Gift tax settlement at time of inheritance tax

The rates for the gift tax are generally higher than those for inheritance tax. This is intended to prevent the avoidance of inheritance tax. Gift tax is, in principle, settled on a calendar-year basis but there is an exception to this general rule, i.e., a special taxation system for settlement at the time of inheritance by election, which was introduced in 2003 in order to

promote a smooth hand down of property through gifts from living parents to their children. When a parent or grandparent who is 60 years of age or older makes a gift to an adult child or grandchild of age 18 years or older, the following can be elected:

- ▶ If the total amount of the donated properties is JPY25 million or less, no gift tax is payable.
- ▶ If the total amount of the donated properties exceeds JPY25 million, a fixed tax rate of 20% is applied to the excess portion to calculate the gift tax due.

At the time of the parent's or grandparent's death, the above properties will be added to the taxable estate assets and will be subject to inheritance tax. The child or grandchild who elected the special taxation system will credit the gift tax already paid against his or her inheritance tax due. If the already-paid gift tax exceeds the inheritance tax liability, the excess portion will be refunded.

Filing procedures of gift tax

A gift tax return must be filed and gift tax must be paid by 15 March of the year following the gift.

6. Assessments and valuations

Valuation of the property

Introduction

The taxable base of properties for inheritance tax and gift tax purposes is the fair market value at the time of the transfer.

However, the Japanese tax authorities-issued Basic Property Valuation Circular introduced deals with a specific method of valuation for various properties, including land, buildings, tangible and intangible assets, shares in companies, bonds and debentures.

Land

The value of land is generally determined based on the assessed value¹ that the tax authorities annually publish.

Shares

The value of listed shares and shares traded over the counter is generally calculated based on the share price on the valuation date. However, the lowest of the monthly average prices for the month, including the valuation date and the two preceding months, may be used. The value of unlisted shares is calculated based on the size of the company depending on the number of employees, gross assets and annual sales.

- ▶ Large company – comparative value of similar industry company:
The value of unlisted shares in a large company is calculated based on the share price of comparable listed companies.
- ▶ Small company – net asset value method:
The value of unlisted shares in a small company is calculated based on the net asset revaluated for inheritance tax purposes.
- ▶ Medium company:
The value of unlisted shares in a medium company is calculated based on the combination of the comparative value of similar industry company and net asset value methods.

However, unlisted shares acquired by a certain minority shareholder are calculated based on a dividend discount method.

¹ Roadside value per square meter of land or *rosenka*.

7. Trusts, foundations and private purpose funds

Trusts

For Japanese tax purposes, a trust is treated as either transparent, not transparent and not a taxable entity, or a corporation, depending on its legal character. When an individual acquires trust beneficiary interests due to a death or without arm's-length consideration (i.e., by a deemed gift), inheritance tax or gift tax will be assessed on such individual.

Under a 2007 revision of the Japanese Trust Law, new types of trusts have become available:

- ▶ Trusts substituting testaments
- ▶ Trusts under which the subsequent beneficiaries can be designated in advance

By settling the latter type of trust, for example, the settlor of the trust designates his or her spouse as the beneficiary after his or her death and also designates his or her child as the beneficiary after the spouse's death. This newly introduced arrangement of designating subsequent beneficiaries cannot be done by testament. For inheritance tax purposes, the new beneficiary is regarded as obtaining a beneficiary interest from the preceding beneficiary.

Foundations and private purpose funds

The properties transferred from the heir to a noncorporate charitable organization, including foundations and private purpose funds, are subject to inheritance or gift tax, but an exemption may be available if the properties transferred from the heir to such charitable organization are to be used only for authorized charity under Japanese laws. A corporate charitable organization is not subject to inheritance or gift tax, but is subject to corporate income tax on gains by the gift. However, if the recipient of the gift is an authorized nonprofit organization and its income is derived from nonprofit activities (i.e., charity), such income is exempt from corporate income tax.

8. Grants

There is no general death grant, but if a burier applies, he or she may be able to receive a payment from a Social Security benefit (i.e., health insurance) to cover the cost of the burial.

9. Life insurance

For purposes of the civil law, life insurance proceeds are considered as properties of a recipient. On the other hand, life insurance proceeds are treated as a receipt of the property upon succession for tax purposes (i.e., subject to inheritance tax).

10. Civil law on succession

10.1 Estate planning

The Japanese Civil Code prescribes the types of wills.

10.2 Japanese civil law on succession

Succession

According to the Japanese Civil Code, all rights and obligations of the decedent transfer to heirs automatically and comprehensively at the time of his or her death. For example, at the time of the decedent's death, all heirs jointly own the estate properties, which are then distributed among the heirs as previously agreed upon. If an heir wants to waive the inheritance or accept the inheritance to the extent of the positive assets, notification to a family court has to be made within three months from the date the heir is informed of his or her inheritance.

According to Article 36 of the Act on General Rules of Application Laws, the law of the deceased's home country (nationality) governs succession.

There are no regional rules on succession law (Civil Code) in Japan.

Statutory heirs (*houtei sozokunin*)

The Japanese Civil Code prescribes for statutory heirship. The decedent's spouse is always a successor. Other than a spouse, the Civil Code provides three priority levels for successors. The spouse always becomes a successor of equal rank to a successor in any of the priority levels. Anyone in the lower priority groups will not become a successor if a higher priority person is alive at the time of the opening of the succession.

An individual who waives an inheritance is not regarded as an heir upon waiver.

The actual allocation of estate properties is made based on agreement among the heirs. The above statutory share is applicable in the case where an agreement is not reached among the heirs.

10.3 Mandatory heirship – legally secured portion of succession (*iryubun*)

The Japanese Civil Code provides mandatory heirship rules enabling certain persons to claim a share of an estate if they are excluded from succession by the decedent's last will. Even if the deceased determines the allocation of his or her estate property by testament, his or her spouse, lineal ascendants and lineal descendants as the heirs have a right to receive the following share, as a total, of the estate under the mandatory heirship rules, and can request equivalent cash payment:

- ▶ When the heirs do not include the spouse and only lineal ascendants: one-third of the estate property
- ▶ Other cases: one-half of the estate

Brothers and sisters are not entitled to claim mandatory heirship.

Priority groups of statutory heirs and mandatory heirship

Order	Statutory heirs	Statutory shares	Mandatory heirship
1	Son(s) and daughter(s) of the deceased (if the sons and daughters are already deceased, lineal descendants of these sons and daughters)	Spouse: one-half Children: one-half in total (equally for each)	Spouse and children: one-half in total Children only: one-half in total
2	Lineal ascendants of the deceased (i.e., father, mother, grandfather, grandmother)	Spouse: two-thirds Lineal ascendants: one-third in total (equally for each)	Spouse and lineal ascendants: one-half in total Lineal ascendants only: one-third in total
3	Brother(s) and sister(s) of the deceased (if the brothers and sisters are already deceased, their sons and daughters)	Spouse: three-quarters Brother(s) and sister(s): one-quarter in total (equally for each)	Spouse, brother(s) and sister(s): one-half for spouse only; no mandatory heirship for brother(s) and sister(s)

10.4 Matrimonial regimes and civil partnerships

In Japan, the matrimonial property regime of strict separation is applied, under which each spouse holds his or her property independently in separate ownership.

Due to the revision of the Civil Code in 2018, the spouse of the decedent acquires the spouse's residence right in certain cases when he/she lived in the building owned by the decedent at the time of the start of inheritance. The spouse's residence right refers to the right to use free of charge for the life of the spouse or for a certain period of time.

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death. As Japan has ratified the 1964 Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, the validity of a foreign-form will may be admitted.

If there is no will, the estate properties will be allocated among the statutory heirs pursuant to their agreement on the allocation. Until such agreement is reached, the estate properties are treated as being jointly owned by the heirs. Income earned from the properties during such period is subject to income taxation and the tax liability is allocated among the statutory heirs pursuant to their respective statutory shares.

10.6 Probate

There is no probate system in Japan. All properties are comprehensively transferred to the heirs at the time of the deceased's death.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Japan.

11.2 Double-taxation treaties

Japan has concluded only one estate tax treaty; it is with the United States and was agreed to in 1955. This tax treaty is not based on the Organisation for Economic Co-operation and Development's inheritance tax treaty model.