Snapshot: succession law in Japan

City-Yuwa Partners **View In Analytics**

Japan | October 27 2025

Legal Framework

Key legislation

What key legislation and regulations are relevant to foreign individuals moving to or investing in your jurisdiction? What government bodies are charged with enforcing these laws and what is the extent of their powers?

The key legislation relevant to foreign individuals moving to Japan is the Immigration Control and Refugee Recognition Act (ICRRA). In order to stay in Japan for a medium-to-long term period, a foreign individual will need to obtain a residence status depending on the activities they will be doing in Japan. In order to engage in activities that can earn an individual a compensation, salary and remuneration in Japan, they must obtain a residence status that allows them to work, unless such person has a residence status listed in Appended Table II of the ICRRA. The Immigration Services Agency is in charge of enforcing the ICRRA. Their powers are broad, ranging from refusal of entry to deportation.

The Foreign Exchange and Foreign Trade Act (FEFTA) and some other laws concerning specific businesses (eg, the Broadcasting Act and Radio Act) provide for restrictions on foreign individuals investing in Japan.

Under the FEFTA, when a foreign individual living outside Japan engages in direct investment into Japan - for example, by acquiring shares in a domestic company, acquiring real estate in Japan or succeeding to the business of a domestic company through transfer or merger - they are required to submit a prior notification (for pre-screening) or a post- transaction report to the Minister of Finance (via the Bank of Japan). Particular attention should be paid to industries subject to regulation in fields related to national security, public order or the stability of citizens' lives, as investments into these industries may require prior notification.

Real property

Are there any particular rules or restrictions on foreign individuals purchasing or investing in real property in your jurisdiction?

In principle, a foreign individual may purchase and invest in real property in Japan. The name and address of a legal owner of land and building in Japan shall be registered on the publicly searchable register at the competent Legal Affairs Bureau.

The Act on the Review and Regulations of the Use of Real Estate Surrounding Important Facilities and on Remote Territorial Islands, which came into force in September 2021, requires prior notification for the sale and purchase for particularly important special restricted areas, such as

the grounds around Self-Defense Force bases and nuclear power plants. It could be said that this advance notification is used to regulate the sale or purchase of real estate by foreign capital.

If a foreign individual who is living outside Japan purchases or invests in real property in Japan, a post- transaction report to the Minister of Finance via the Bank of Japan is required according to the FEFTA.

Establishing a business

Are there any particular rules or restrictions on foreign individuals establishing a business in your jurisdiction?

In general, Japan does not impose restrictions on foreign individuals establishing a business in Japan. However, in order to protect national security, maintain public order and ensure public safety, acquisition of shares of domestic companies by a foreign individual living outside Japan is restricted under the FEFTA and some laws concerning specific businesses. Under the FEFTA, the acquisition of certain domestic shares by a foreign individual is considered to be inward direct investment and a prior notification or post-investment report must be submitted to the Minister of Finance through the Bank of Japan. In certain business (eg, telecommunications, broadcasting and aviation), some laws also impose restrictions on foreign individuals investing in domestic companies.

Tax

Residence and domicile

How does an individual become taxable in your jurisdiction?

The main tax imposed on an individual's income is the income tax under the Income Tax Act (ITA). For individuals, the tax year runs from 1 January through to 31 December. Individual income tax returns must generally be filed no later than 15 March of the following year. There is no legal concept of 'domicile' in Japan. For income tax purposes, however, income taxes are imposed based on a taxpayer's residence status.

Individuals are classified into resident taxpayers and non-resident taxpayers based on their residency status.

Resident

An individual whose address or residence is in Japan is considered a resident. 'Address' means a person's centre of living and 'residence' means the place where an individual lives continuously for a certain period of time but cannot be deemed the centre of living. An individual with an address or more than one year of residence in Japan is defined as a resident.

A resident is subject to income tax on their worldwide income. A resident without Japanese nationality who has lived in Japan for less than five years of the past 10 years is a non-permanent resident. A non-permanent resident belongs to the same taxpayer category as a resident. However, a non-permanent resident's tax liability on income from foreign sources is limited. This means that income derived from foreign sources is not subject to Japanese tax unless it is paid in Japan or it is remitted into Japan.

Non-resident

All individuals other than residents are considered non-residents. Non-resident taxpayers are subject to Japanese income tax only on income derived from sources in Japan.

Income

What, if any, taxes apply to an individual's income?

In addition to income tax (imposed at a national level), a special reconstruction tax (also imposed at a national level), equivalent to 2.1 per cent of income tax, is payable from 1 January 2013 to 31 December 2037. Further, a resident is subject to local inhabitant's income tax based on their taxable income for the previous year. An individual who is a resident of Japan on 1 January of a given tax year must pay the local inhabitant's income tax on income from the prior year. Therefore, an individual with residency on 1 January 2024 who is no longer resident at some point in 2024 and move outside Japan must pay the inhabitants tax on the taxable income for 2023.

There are two categories of local inhabitant tax: the prefectural level and the municipal level. The tax bases for income tax and local inhabitant taxes are almost identical.

In addition, in the case of an individual entrepreneur operating a business in Japan, a local enterprise tax will also be imposed on their business income by the prefectural tax authorities where their office is located. The applicable tax rate differs based on the category of business operated by the sole entrepreneur, as well as the location of their office, but it generally ranges from between 3 per cent and 5 per cent. This local enterprise tax is levied in addition to income tax.

Capital gains

What, if any, taxes apply to an individual's capital gains?

Tax preferential treatments are available for certain capital gains, such as gains as a result of the rise in the value of shares of corporations. With regard to individuals, capital gains derived from the sale of shares or derived from the sale of bonds are taxed at a rate of 20.315 per cent (comprising a 15.315 per cent income tax rate (including special reconstruction tax; the same applies below) and a 5 per cent local inhabitant tax rate) until 31 December 2037. Capital gains derived from the sale of real property will be subject to tax at the rate of 20.315 per cent (same as above) from the present until 31 December 2037 if the real property is held for more than five years as of January 1 of the year of transfer. Reduced tax rates will be applicable to capital gains derived from the sale of land for residential purposes if certain requirements are met. Capital gains derived from the sale of real property held for five years or less as of January 1 of the year of transfer will be taxed at 39.63 per cent (comprising a 30.63 per cent income tax rate, and a 9 per cent local inhabitant tax rate).

Individuals who have been residents of Japan for more than five years out of the past 10 years immediately prior to the date of departure can be subject to exit taxes. These taxes are imposed on unrealised capital gains from financial assets (eg, shares) calculated at the time of departure. The target of these exit taxes are individuals with financial assets exceeding ¥100 million. These financial assets can include:

- company stock;
- government bonds;
- corporate bonds;
- equity in anonymous partnerships; and
- unsettled derivatives.

An individual subject to the exit tax will be allowed to enjoy a tax payment grace period for five years from the date of departure (a maximum of 10 years is possible by submitting the appropriate application) by appointing a tax agent and paying a deposit at the time of departure.

If an individual who has already paid the exit tax returns to Japan within five years of the date of departure without actually having sold the assets that were taxed, the exit tax can be refunded.

The exit tax can be imposed when the financial assets to be covered by the exit tax are inherited or gifted from applicable resident to a non-resident. Even in these cases, Japanese inheritance/gift tax may also be imposed separately depending on the situation.

The exit tax will not apply to foreign individuals living in Japan with working residence status, such as business managers, intra-company transferees or engineers or specialists in humanities or international services listed in Appended Table I of the Immigration Control and Refugee Recognition Act (ICRRA).

Lifetime gifts

What, if any, taxes apply if an individual makes lifetime gifts?

Unlike in the United States, Japanese gift/inheritance taxes are levied on the beneficiary rather than on the deceased's estate or on the individuals who made the gift.

The annual gift tax basic deduction is ¥1.1 million per beneficiary. The gift tax return must generally be filed no later than 15 March of the year after receiving a gift exceeding the annual gift tax basic deduction.

The calculation of gift tax is done by applying the following progressive rate to the sum of the taxable gift which a beneficiary acquired by gift in the calendar year from January 1 through December 31 after deducting the basic deduction of ¥1.1 million per annum. A beneficiary who is at least 18 years old and receives a gift from a lineal ancestor can in some cases receive a special favourable tax rate which is different from the below:

- less or equal to ¥2 million: 10 per cent;
- less or equal to ¥3 million: 15 per cent;
- less or equal to ¥4 million: 20 per cent;
- less or equal to ¥6 million: 30 per cent;
- less or equal to ¥10 million: 40 per cent;
- less or equal to ¥15 million: 45 per cent;
- less or equal to ¥30 million: 50 per cent; and
- over ¥30 million: 55 per cent.

Inheritance

What, if any, taxes apply to an individual’s transfers on death and to their estate following death?

The rules on the scope of inheritance/gift tax were recently substantially amended. The tax is imposed on a worldwide basis, but foreign assets can be excluded depending on where the deceased/donor and the beneficiaries reside, and whether the party has Japanese nationality, their visa status and length of stay in Japan. For example, transfers of foreign assets from a deceased (or donor) Japanese national living outside Japan at their passing (or gift) but who had an address in Japan within 10 years prior to the inheritance (or gift) to heirs or beneficiary living outside Japan shall be subject to Japanese inheritance (or gift) tax. In other words, a Japanese national who has had an address in Japan within 10 years prior to death (or gift) cannot avoid Japanese inheritance (or gift) tax on their foreign assets. Since the matrix of these rules and regulations are very complicated, whether foreign assets are subject to Japanese inheritance or gift tax should be confirmed by a Japanese estate planning professional.

Inheritance tax is imposed on the aggregate value of all assets acquired on the death of the deceased. If the aggregate value does not exceed the basic deduction - which is currently ¥30 million, plus an amount equal to ¥6 million multiplied by the number of statutory heirs under the Japanese Civil Code - there is no need to file an inheritance tax return and pay inheritance tax. The inheritance tax rate, which is progressive, ranges from 10 per cent (on amounts of ¥10 million or less) to 55 per cent (on amounts of over ¥600 million). It is applied not to the deceased's estate as a whole, but to the amount that each statutory heir legally acquires pursuant to their statutory share under the Civil Code. The total tax amount calculated according to the statutory share is then allocated among those who actually acquire the estate according to the will or estate distribution agreement among the statutory heirs and beneficiaries. If a person who acquires the assets is not a spouse or first-degree family member of the deceased, an additional 20 per cent inheritance tax will be imposed.

The following are the rates applied to the amount acquired as per statutory share:

- up to ¥10 million: 10 per cent;
- less or equal to ¥30 million: 15 per cent;
- less or equal to ¥50 million: 20 per cent;
- less or equal to ¥100 million: 30 per cent;
- less or equal to ¥200 million: 40 per cent;
- less or equal to ¥300 million: 45 per cent;
- less or equal to ¥600 million: 50 per cent; and
- over ¥600 million: 55 per cent.

In addition to the basic deduction, available deductions and exemptions include:

- a gift tax credit for persons who paid gift tax for assets gifted from the deceased in the seven years prior to the death of the deceased (within the three years for gifts acquired prior to December 31, 2023);
- a spousal credit, which is ¥160 million or the spousal intestacy shares of the total taxable assets whichever is higher;
- an exemption for minors;
- an exemption for disabled persons; and
- an exemption for inheritance from successive generations.

The deadline for the inheritance tax return and payment should be within 10 months of the taxpayer learning of the death of the deceased. Generally, extensions are not allowed.

Real property

What, if any, taxes apply to an individual's real property?

A real property acquisition tax (local tax) is imposed on the acquirer when the real property is acquired. The standard tax rate is 4 per cent, but currently a reduced rate of 3 per cent is applicable to land and residential buildings. A notice of tax payment will be sent from the competent local government accordingly and payment must be made by the deadline stated in the notice.

Registration tax is imposed on the registration of real property when the application for registration is filed. The standard rate for the ownership of new buildings is 0.4 per cent, but currently a reduced rate of 0.15 per cent is applicable to the ownership of new residential buildings. The standard rate for the transfer of real estate is 2 per cent, but currently a reduced

rate of 1.5 per cent is applicable to land and 3 per cent to residential buildings. If the ground for acquisition of real property is inheritance, inheritance tax is imposed, and registration tax will also be imposed in a reduced tax rate of 0.4 per cent of the value of the real property, while real property acquisition tax will not be imposed.

During the period in which real property is held, as ongoing taxes, a fixed asset tax (local tax) is imposed at a standard rate of 1.4 per cent, although this varies depending on the local government. Various tax preferential treatments are available for a fixed asset tax. In addition, real property located in certain areas will be subject to city planning tax at a maximum rate of 0.3 per cent, which varies depending on the local government.

Non-cash assets

What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?

In general, there are neither taxes nor duties on exportation.

Customs and duties are levied depending on the goods to be imported. In addition, upon importation, a consumption tax will be levied at a rate of 10 per cent (or 8 per cent for certain products - eg, food and non-alcoholic beverages). The tax base for foreign cargo is the total of the CIF price (ie, price including freight and insurance) plus the amount equivalent to the amount of customs duties and individual consumption taxes other than consumption tax.

The rates of customs and duties are stated in the Customs Tariff Act. Certain economic partnership agreements to which Japan is a signatory provide preferential treatment in terms of tariff rates.

Customs and duties are applicable even if the importation is for personal use and enjoyment. However, if goods are imported using general cargo or postal packages and the value of such goods is less than ¥200,000, a simplified tariff code will be applied. No customs and duties are payable on imported goods that have a value of ¥10,000 or less, except for alcohol and cigarettes.

Other taxes

What, if any, other taxes may be particularly relevant to an individual?

Consumption tax may be relevant to an individual. The present rate is 10 per cent. Certain products, such as food and non-alcoholic beverages, may enjoy a reduced tax rate of 8 per cent. A taxpayer of consumption tax is:

- a person or a legal person who, as a business, with consideration, sells or leases assets and provides services within Japan; or
- a person or a legal person who receives goods from a bonded area.

There is no concept of wealth tax in Japan; however, real property owners are subject to fixed assets tax annually.

Trusts and other holding vehicles

What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Trusts are generally allowed in Japan, even though it is a civil law jurisdiction. However, trusts are not widely used in Japan for estate planning purposes. One reason is that, unlike the US system, inheritance under Japanese law does not require probate, which can take a considerable amount of time to complete (strictly speaking, holographic wills and secret certificates will need to be

probated; however, Japanese probate is merely a procedure to acknowledge the existence of the will and its terms). Therefore, there is no need to rely on trusts to avoid probate. Further, paid professional trustees must be licensed by the government and there is only a small number of such licensed trustees. However, the key reason that trusts are not widely used in Japan as an estate planning device is that they cannot be used in Japan as a tax-reduction strategy.

The tax treatment of trusts under Japanese law is completely different from that of other countries. For Japanese tax purposes, there are broadly three categories of trusts:

- Transparent trusts (or beneficiary taxed trust): such trusts are generally treated as transparent for Japanese tax purposes and the beneficiary of the trust will be deemed to directly own the underlying entrusted property;
- Collective investment trusts: such trusts will be taxed when the distribution of the profit is made to the beneficiaries. Neither the trust itself nor the trustee is subject to tax on income derived from the entrusted property. Mutual funds are typically included in this category; and
- Corporate-taxable trusts: such trusts are taxable in a similar manner to an ordinary corporation. A specific purpose trust or a trust with no actual beneficiary (eg, discretionary trust before a beneficiary is designated or appointed) is typically categorised as a corporate taxable trust. Further, if a beneficiary who is appointed after the establishment of the trust is a relative of the settlor, inheritance/gift tax is imposed on the trustee and the corporation tax previously imposed is deducted from the inheritance/gift tax. Upon such appointment, the trust assets are treated as being acquired by the beneficiary. No income tax is imposed, but inheritance/gift tax is levied.

In addition to trusts, the following are also used as vehicles for estate planning:

- general incorporated associations and general incorporated foundations; and
- asset management companies (eg, stock companies or limited liability companies).

In particular, asset management companies are often used because they are relatively flexible in managing their organisation and assets.

Charities

How are charities taxed in your jurisdiction?

Japan has several types of non-profit organisations that may receive tax advantages of differing degrees.

A public charity (a public organisation), the most public-benefiting group, can be set up under strict conditions in Japan such as that more than 50 per cent of its expenses must be related to public interest activities and certification from the prefectural governor or the prime minister, depending on the type of public interest matter. Such entities must be registered at the Legal Affairs Bureau and are regulated by its supervisory authority (the prefectural governor or the prime minister). Generally, such charities are tax-exempt entities, including on the donations and charitable contributions they receive. However, if such charities have certain premises established as offices and continuously conduct business in certain areas for profit as stipulated in the Corporate Tax Act, such businesses are taxable to the extent profits are derived from such businesses.

Japan’s preferential tax treatment for charities in Japan does not apply to charities based outside Japan.

Anti-avoidance and anti-abuse provisions

What anti-avoidance and anti-abuse tax provisions apply in the context of private client wealth management?

The Inheritance Tax Act has some anti-avoidance and anti-abuse tax provisions.

Each property owned by the deceased at the time of death is assessed in accordance with the Basic Directive on the Evaluation of Assets (BDEA). However, the BDEA also states that 'the value of property that is deemed to be significantly inappropriate for valuation based on this directive shall be assessed under the instructions of the Commissioner of the National Tax Agency' (paragraph 6 of the General Rule). In other words, even if property is assessed in accordance with the BDEA, if the Commissioner of the National Tax Agency deems it to be significantly inappropriate, the property will be assessed using a method that differs from the BDEA. For example, this paragraph 6 was applied to real property purchased for inheritance tax reduction purposes. Further, if a transaction or calculation conducted by a closely held company unreasonably reduces the burden of inheritance tax or gift tax on its shareholders, the tax authorities are entitled to deny such a transaction or calculation and levy an appropriate amount of tax.

To restrict aggressive or abusive tax planning, such as making a bequest or donation to a certain corporation substantially controlled by the person who made the bequest or donation or a family member of that person, inheritance tax or gift tax shall be levied on a person who receives special benefits from the corporation.

The same applies to making a bequest or donation to a non-juridical entity substantially controlled by the person who made the bequest or donation or a family member of that person, where the non-juridical entity shall be deemed to be an individual for inheritance tax and gift tax and that inheritance tax or gift tax shall be levied on the non-juridical entity, with some exceptions.

Trusts and foundations

Trusts

Does your jurisdiction recognise trusts?

Trusts are recognised in Japan and are regulated by the Trust Act. Despite its civil law regime, Japan has had a trust system for more than 100 years. However, trusts were rarely used in Japan for estate planning until 2006, when the Trust Act was substantially amended. The amendments introduced several improvements to facilitate the use of trusts for family wealth management and estate planning. Nevertheless, the taxation of trusts (which takes a hostile view of estate transfers) discourages some high net worth families from using trusts for estate planning.

In general, trusts can be established by settlors transferring their properties to trustees who then hold legal title to the properties for the benefit of the beneficiaries, who may or may not be the settlors. Trust properties, the legal title of which has been transferred from settlors to trustees, become remote from the settlors’ bankruptcy.

Trustees manage or dispose of trust property in accordance with certain trust objectives and carry out the necessary acts to achieve such objectives in accordance with the trustees' duties, such as the duties of care and loyalty. Although trust properties are incapable of being legal entities, they must be segregated from the trustees' own properties, and they must be kept free from seizure by the trustees' own creditors and bankruptcy. There are three methods by which a trust may be established:

- by a contract between the settlor and the trustee;
- by the will of the settlor; or
- by a declaration from the settlor, in a notarised deed or another prescribed form, that the trust will manage or dispose of property in accordance with certain objectives and will carry out the necessary acts to achieve such objectives.

Japan has not ratified the Convention of 1 July 1985 on the Law Applicable to Trusts and their Recognition. Further, there is no provision on trusts in the Act on General Rules for Application of Laws (AGRAL). However, according to the court precedents, a trust established under the law of another jurisdiction (ie, foreign trust) may be valid if such trust is valid under its governing law or the law most closely related to the trust if there is no agreement on the governing law.

Japanese tax treatment of the foreign trust is uncertain. However, from the case precedent and conservative tax practice perspective, the Japanese tax authority will examine the foreign trust established under a foreign law to determine whether the concept of trust under such law conforms to a trust under the Japanese Trust Act, based on the following factors: the terms and conditions of the trust agreement; where settlors, beneficiary and trustee reside; and where the trust assets are located in light of the governing law.

Private foundations

Does your jurisdiction recognise private foundations?

Yes, Japan does recognise private foundations. With regard to entities created for non-profit-making purposes, the Act on General Incorporated Associations and General Incorporated Foundations (AGIGIF) provides for general incorporated associations and general incorporated foundations (collectively 'Associations'). An 'Association' is a legal entity consisting of its members. A 'general incorporated foundation' (Foundation) is a legal entity consisting of property. The members of a Foundation manage its property in accordance with the intention of the founder. The members of Associations have no equity interest. For the sake of clarity, the term 'not for profit' does not mean that the companies do not generate profits, but rather that they do not distribute surplus profits.

Under the AGRAL, there is no explicit provision on the governing law for an organisation (legal entity) established under foreign law, including private foundations. Moreover, how to treat an organisation that does not have legal capacity is surprisingly seldom discussed in Japan. In cases where the governing law of the organisation was at issue, the courts mentioned both the law of incorporation principle and the law of its domicile principle. However, there is no reported court decision in Japan specifically addressing the tax treatment of foreign foundations. It is necessary to keep a close eye on the trends in the court cases. However, from the case precedent and conservative tax practice perspective, the Japanese tax authority will examine the foreign foundation established under a foreign law to determine whether the concept of private foundation under such law conforms to a foundation under the AGIGIF based on the terms and conditions of its articles of incorporation, etc. in light of the system under its governing law.

Disputes

What issues typically give rise to disputes relating to trusts and foundations? How are these disputes resolved? (What are the most common causes of action? Which courts are used? Is alternative dispute resolution (ADR) available and commonly used? What remedies are commonly awarded?)

Various issues give rise to disputes relating to trusts and foundations. For example, the validity of family trusts established in situations where a family member suffers from dementia is a typical case. Further, the responsibility of the professional who set up the trust is also sometimes called into question. Although this is not very common at this moment, the number of cases where trusts are used for estate planning has increased since the amendment of the Trust Act in 2006, so it is expected that the number of cases where the responsibility of the trustee is called into question will also increase in the future, as is the case in other countries. In Japan, there is no special court with jurisdiction over disputes relating to trusts or foundations. If the trustee is a trust bank, alternative dispute resolution is generally available for disputes against the trustee. The type of remedy available depends on the nature of the dispute.

Same-sex marriages and civil unions

Same-sex relationships

Does your jurisdiction have any form of legally recognised same-sex relationship?

Japan does not recognise same-sex marriage or civil unions. (Japan is the only country in the G7 that has not yet legalised same-sex marriage.) Therefore, a party to the same-sex marriage cannot be recognised as the other party's statutory heir. Further, under Japanese tax law, the term 'spouse' has the same meaning as in the Civil Code (ie, a spouse in a marital relationship). Accordingly, a person in a same-sex relationship is not eligible for tax benefits granted to a spouse or a marital relationship, such as spousal tax deductions under the Income Tax Act and a spouse's amount of tax exemptions under the Inheritance Tax Act. Some local governments issue same-sex partnership certificates, which provide some benefits, but do not offer legal recognition.

Heterosexual civil unions

Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?

Heterosexual couples who intend to marry are required to submit a marriage notification to a competent municipal government office for the marriage to be formally admitted as a marital relationship under Japanese law.

If a heterosexual couple lives together with the intention to marry but has not submitted a marriage notification, the relationship is not treated as a marital relationship, but it is treated as a common law marriage.

Under the Japanese tax law, the term 'spouse' has the same meaning as in the Civil Code (ie, a spouse in a marital relationship). Accordingly, a person in a common law marriage is not treated as a statutory heir. Further, a person in a common law marriage relationship is not eligible for tax benefits granted to a spouse or a marital relationship, such as spouse tax deductions under the Income Tax Act and a spouse's amount of tax exemptions under the Inheritance Tax Act. However, common law marriage couples are eligible, to a limited extent, for protections and obligations that are substantially similar to those provided for in a marital relationship, for example:

- if a common law marriage is terminated without justifiable reasons, the terminated party to the common law marriage may seek damages against the terminating party;
- if a common law marriage is terminated, a party may ask the other party to distribute community property and joint property; and
- partners to the common law marriage shall share expenses that arise from the relationship, considering their property, income and all other circumstances.

Succession

Estate constitution

What property constitutes an individual's estate for succession purposes?

Unlike in common law countries, statutory heirs in Japan inherit all rights and debts belonging to the deceased directly without court proceeding immediately after the deceased dies. In principle, positive assets belonging to the deceased at the time of their death constitute the estate and will be subject to estate distribution agreement to be agreed among the statutory heirs in the case of intestacy.

The benefit received by a statutory heir through a bequest or a lifetime gift from the deceased is called 'special benefit' under the Civil Code. If any of the statutory heirs received special benefit from the deceased, such special benefit may be considered as estate and will be subject to estate distribution agreement.

Disposition

To what extent do individuals have freedom of disposition over their estate during their lifetime?

Individuals may make all dispositions over their estate, whether by sale or through gifts, during their lifetime, except where such disposition is against public policy, such as a lifetime gift for maintaining an adulterous relationship and thus should be considered void. Further, if statutory heirs who are entitled to a forced heirship right so requests, the special benefit received by the statutory heirs can be considered as estate and will be subject to estate distribution agreement and forced heirship claim.

To what extent do individuals have freedom of disposition over their estate on death?

Individuals have testamentary freedom over their estate, except in cases where such disposition is against public policy. However, there is a forced heirship regime known as 'legally secured portion'. A statutory heir, whose legally secured portion has been infringed under the will, may claim monetary compensation equivalent to infringed forced heirship.

Certain eligible statutory heirs (spouses, children and parents, but not siblings) are reserved one-third to one-half of the deceased's estate. For example, in the event that a deceased had a spouse and one child, the forced heirship for each is one-quarter (thus one-half in total). If a deceased had a spouse and two children, the forced heirship for the spouse is one-quarter and for each child is one-eighth (thus one-half in total). If a deceased had ancestors only, their forced heirship is one-third in total. The eligible statutory heirs must claim their forced heirship if a will infringes their rights within one year after becoming aware of the deceased's death and the infringement.

Intestacy

If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

If the deceased dies intestate and there are multiple statutory heirs, the statutory heirs have a share in the estate as a whole. If the deceased is survived by their spouse, such spouse shall, in principle, always be a statutory heir. Other heirs are determined according to who survives the deceased.

If the deceased is survived by the spouse and children

The spouse and children of the deceased become statutory heirs. If the deceased is survived by their spouse and one or more children, the surviving spouse will take half of the estate, and the surviving children will take the other half in equal shares. If any of the deceased's children died prior to the death of the deceased or lost the right to inheritance due to disqualification or disinheritance, and if any of their lineal descendants is surviving, then such lineal descendant will be an heir per stirpes.

If the deceased is survived by the spouse and lineal ascendants with no surviving children

The lineal ascendants of the deceased, such as their father or mother, may become heirs only if the deceased has no children (and no heirs per stirpes). In this case, the surviving spouse will take two-thirds of the estate, and the surviving lineal ascendants will take one-third of the estate in equal shares.

If the deceased is survived by the spouse and siblings with no surviving children or surviving lineal ascendants

The siblings of the deceased may become heirs only if the deceased has neither surviving children (and no heirs per stirpes) nor surviving lineal ascendants. If the deceased is survived by their spouse and siblings, the surviving spouse will take three-quarters of the estate, and the surviving siblings will take one-quarter of the estate in equal shares. If any of the deceased's siblings died prior to the death of the deceased or lost the right to inheritance due to disqualification or disinheritance, and if their children are surviving, then the child will be an heir per stirpes.

Contributory portions and special benefit

If there is a statutory heir who has made a special contribution to maintenance or formation of the estate of the deceased, such as the deceased's business, medical treatment or nursing the deceased, such contribution is considered when distributing the estate among the statutory heirs. Such portion is called 'contributory portions'. The above-mentioned shares of each statutory heirs are subject to adjustment according to the amounts of contributory portions and special benefit mentioned above.

Adopted and illegitimate children

In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

Adopted and illegitimate children are treated in the same way as natural legitimate children. A person who has attained the age of majority may adopt a minor as their child. If a married person adopts a minor child, such adoption shall be made only jointly with the spouse of the adopting parent, except where the adopted child is the child born from a previous marriage of the spouse.

There are two types of adoption: regular adoption and special adoption. In a regular adoption, the legal relationship between the adopted child and their birth parents remains intact whereas, in a special adoption, said relationship with the birth parent is terminated and the adoptive parents assume a legal status equivalent to that of the child's birth parents. In Japan, adoption is often used as a tool for tax planning and estate planning. Regular adoption is used to increase the basic exemption for inheritance tax purposes (subject to a limitation whereby only one adopted child

may be counted if the adoptive parent has biological children and up to two in the absence of biological children), or to modify the distribution of the statutory inheritance share by having an adoptive child.

Distribution

What law governs the distribution of an individual's estate and does this depend on the type of property within it?

Under Japanese law, the governing law for inheritance (including the intestacy rules and the forced heirship) is the law of the deceased (article 36 of the Act on General Rules for Application of Laws (AGRAL)) with the possibility of the doctrine of renvoi (article 41 of the AGRAL). If the deceased's nationality is Japanese, the Civil Code governs the distribution of the individual's estate. However, if the deceased is a US citizen, for example, the law of the US state most closely related to the deceased governs. In most US states, real property is governed by the law of its situs and personal property is governed by the law of the deceased's domicile at their death. Therefore, if the deceased owned real property in Japan or had its domicile in Japan at their death, even if the deceased is a US citizen, Japanese law will govern their inheritance in Japan.

Formalities

What formalities are required for an individual to make a valid will in your jurisdiction?

There are three ordinary types of will under Japanese law, which may be used by foreign individuals as well as Japanese individuals. They are outlined below.

Notarial will

This is a will made using a notary to whom the testator recited the contents in the presence of two witnesses. The testator and two witnesses sign the will in the presence of the notary and the notary attests. The notary public office retains the original will. The will can be executed immediately after the testator's death without probate at the family court. A notarial will must be written in Japanese; however, a testator who cannot speak and read Japanese can make a notarial will with the assistance of an interpreter.

Holographic will

This is a will drafted in the testator's own handwriting with their seal, signed and dated. A holographic will does not need to be written in Japanese and does not require any witnesses. Japanese law does not allow a typed holographic will, it must be handwritten in principle. However, due to an amendment of the Civil Code that came into effect from 13 January 2019, a testator can attach a typed asset list as a separate writing for a holographic will. To execute the will, it must be filed for probate at the family court. This type of will frequently results in conflicts among statutory heirs, for example, disputing whether the will was drafted in the testator's handwriting or not, or disputing the testator's capacity. Through the enactment of the Act on the Custody of Wills by the Legal Affairs Bureau, the testator is able to ask the Legal Affairs Bureau to keep the holographic will since 10 July 2020. In such case, the probate at the family court will not be necessary.

Secret certificate will

This is a will drafted by the testator (either handwritten or typed) with their seal, signed and affixed. The seal must be affixed on the envelope and the same seal affixed on the will. The testator must present the envelope to a notary before two witnesses, declaring that the document

in the envelope is their will, and provide their name and address, then the notary notes the date that the will is presented and the statement of the testator on the envelope, and the testator and the two witnesses sign on the envelope. Secret certificate wills are rarely used in Japan.

Generally, foreign individuals who have assets in Japan are advised to make a notarial will for their Japanese assets in order to transfer those Japanese assets to beneficiaries in the most efficient manner possible.

Foreign wills

Are foreign wills recognised in your jurisdiction and how is this achieved?

Japan ratified the Hague Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions and enacted the domestic law known as the Act on the Law Applicable to the Form of Wills. Accordingly, a foreign will is valid in Japan if it complies with:

- the law of the place where the act was performed;
- the law of the country where the testator had nationality, either at the time they made the will or at the time of death;
- the law of the place where the testator is domiciled, either at the time they made the will or at the time of death;
- the law of the place where the testator was habitually resident, either at the time they made the will or at the time of death; or
- the law of the place where the real property is located in the case of a will concerning real property.

Most foreign wills are valid and recognised in Japan. However, practically speaking, even if the foreign will is valid and in theory recognised, it is advisable to make Japanese will under Japanese law for assets in Japan as it is quite costly and time consuming to execute a foreign will in Japan; this is because the executor has to persuade the Legal Affairs Bureau or financial institutions that the foreign will is valid in Japan with a translation and sometimes an opinion letter from the local attorney.

Administration

Who has the right to administer an estate?

If there is only one statutory heir and no will, the statutory heir will inherit the entire estate as a whole and is allowed to administer it. If there are two or more statutory heirs and no will, the estate shall belong to those heirs in co-ownership according to their statutory shares, and such co-ownership will be terminated after all the statutory heirs agree on how to distribute the estate and who takes which property through the estate distribution agreement. The statutory heirs may decide to allocate estate differently from their statutory intestacy shares if they may so agree. If the heirs cannot agree, an heir can file a petition for mediation or must file a petition for adjudication of estate administration at the family court.

If there is a will, an executor has in principle the right and duty to administer the estate until the succession of the estate under the will is fully completed. An executor may be designated by the will itself or be appointed by the family court.

How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

In principle under Japanese law, if a deceased dies intestate, the estate automatically and directly passes to the statutory heirs upon the commencement of the inheritance and, if there are two or more statutory heirs, they will co-own the deceased's estate. When the deceased is a Japanese national, the statutory heirs will generally need to submit (1) an estate distribution agreement signed and sealed by all the statutory heirs, and (2) all of the family register of the deceased proving who their statutory heirs are to the Legal Affairs Bureau or to the financial institutions in order to transfer the title of the real property and financial assets. In the case the deceased leaves a will that designates who takes which estate, the statutory heirs or the executor will need to prepare (1) an authenticated copy or certified copy of the will, and (2) all of the family register of the deceased proving who their statutory heirs are to transfer the title from the deceased to the appointed beneficiary. Except for notarial wills or holographic wills stored in the Legal Affairs Bureau, a probate certificate by the family court is required to implement the will.

When a foreign individual dies intestate, all their statutory heirs will need to submit an affidavit stating who the statutory heirs are, instead of providing a Japanese family register. The Legal Affairs Bureau and some financial institutions are very cautious and suspicious to proceed with estate administration procedures involving foreign individuals, which are different from the Japanese procedure they are familiar with, and it is not uncommon not to progress estate administration at all depending on the person in charge. Therefore, it is advisable for foreign individuals to make a Japanese will especially for assets in Japan to transfer the title smoothly after the testator dies.

Challenge

Is there a procedure for disappointed heirs and/or beneficiaries to make a claim against an estate?

The eligible statutory heirs (ie, spouse, descendants including adults and ascendants) have forced heirship, but not the siblings. Forced heirship must be claimed for monetary compensation equivalent to the statutory reserved shares, in principle, within one year of having knowledge of the commencement of inheritance and the existence of a gift or testamentary gift to be claimed.

Capacity and power of attorney

Minors

What are the rules for holding and managing the property of a minor in your jurisdiction?

Under Japanese law, the legal capacity of a person to perform juridical act is governed by the law of such person's nationality. In the case of a Japanese citizen, the Civil Code will apply, under which a minor's juridical act without the consent of such minor's statutory agent (in principle, such minor's parents) may be voidable unless such act only grants a right or discharges the minor's duty.

Age of majority

At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

Under the current Civil Code, an individual attains legal capacity to perform a juridical act for holding and managing property when they reach 18 years of age. A minor who is permitted to conduct business has the same capacity to act as an adult as far as such business is concerned.

The legal drinking age has not changed even after the age of majority was lowered to 18 and remains at 20 years of age.

Loss of capacity

If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

Japanese law provides a guardian system for individuals who lack sufficient capacity due to any mental disability; the system is broadly divided into statutory guardianship and voluntary guardianship. The statutory guardianship system is further divided into three categories depending on the degree of the person's capacity of judgement: guardianship, curatorship and assistance.

Under the statutory guardianship system, an adult guardian is appointed by the family court if their related party files a petition for commencement of guardianship. An adult guardian appointed by the family court acts on behalf of the person in performing juridical acts such as contracts while thinking about their interest, and the person or adult guardian may later rescind unfavourable judicial act performed by the person lacking capacity.

The voluntary guardianship system is when a person who has sufficient capacity of judgement signs a voluntary guardianship contract notarised by a public notary that gives the voluntary guardian the authority to manage assets and perform judicial acts on behalf of the person and make judgement on their nursing case. Under the voluntary guardianship system, the person can appoint their adult guardian at their discretion. After signing the voluntary guardianship contract in the presence of a notary and registering it at the Legal Affairs Bureau, voluntary guardianship commences if the related parties file a petition for commencement of the voluntary guardianship when the person's capacity for judgement declines and voluntary guardianship supervisor is appointed by the family court.

Immigration

Visitors' visas

Do foreign nationals require a visa to visit your jurisdiction?

In principle, a visa is required. However, if foreign nationals from certain visa waiver countries intend to visit Japan for certain purposes for a limited period of time, a visa is not required in accordance with the applicable visa exemption programme.

High net worth individuals

Is there a visa programme targeted specifically at high net worth individuals?

A designated activities long-stay visa for sightseeing and recreation has been available since 2015. Under this visa, nationals and citizens of visa waiver countries or regions are entitled to stay in Japan for up to one year if they meet certain requirements, such as:

- being aged 18 or older with savings equivalent to more than ¥30 million owned by themselves and their spouse; and
- travelling as an accompanying spouse of the individual who is mentioned above (they must have the same place of residence and travel together in Japan).

As required documents, the applicant has to present their:

- passport;
- application for visa;
- certificate of eligibility;
- itinerary during their stay in Japan;

- any evidence that their saving exceeds ¥30 million;
- evidence that they and their accompanying spouse having sufficient medical insurance to cover their stay in Japan; and
- evidence that they reside there and have work there and stay long-term lawfully (in the case that they live in a third-party country).

In addition, another category of visa status that high net worth clients use is the highly skilled foreign professional visa. The highly skilled foreign professional visa has the following three sub-categories, depending on the activities of the individual's:

- advanced academic research activities;
- advanced specialised or technical activities; and
- advanced business management activities.

In determining whether a highly skilled foreign professional visa should be issued, a points-based system is used in which case various types of preferential treatment will be available.

After engaging in activities as a highly skilled professional for three years or more, an individual may be promoted from highly skilled foreign professional (lower status) to highly skilled foreign professional (higher status), in which case additional preferential treatment will be available.

On 21 April 2023, in addition to the points-based system, the Japanese government introduced the Japan System for Special Highly-Skilled Professionals (J-Skip). Under the J-Skip system, an individual can stay in Japan with a highly skilled foreign professional visa if such individual has a certain level of education or work experience and earns a certain level of annual income, regardless of the points earned by such individual. In addition, such individual is eligible for various types of preferential treatment in addition to what is available for a highly skilled foreign professional under the points-based system.

Update & trends

Key developments

Are there any proposals in your jurisdiction for new legislation or regulation, or to revise existing legislation or regulation, in areas of law relevant to high net worth individuals, particularly those coming to or investing in your jurisdiction? Are there any other current developments or trends relevant to such individuals that should be noted?

The Japanese government will tighten the business/manager visa requirements for foreign nationals starting a business in Japan, for instance, raising the capital requirement from at least ¥5 million to at least ¥30 million. New requirements regarding the background and educational history of business managers will also be introduced to prevent inappropriate visa acquisitions that deviate from the original purpose.

The Immigration Services Agency plans to introduce the amended ministerial ordinance around the middle of October 2025 after a period of public comments.

City-Yuwa Partners - Hitomi Sakai