

## **Outline of Japan's Provisional Choices of Application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting**

The followings are the outline of the contents of the provisional list regarding the choices of application of the Convention submitted by Japan at the time of the signature to the Convention.

The choices made by the Parties to the Convention which submitted the provisional lists at the time of the signature will be determined in the final lists notified at the time of the ratification, acceptance or approval of the Convention, and the contents of the provisional lists may be modified in those final lists.

The concrete application of the provisions of the Convention to each of the existing tax agreements is subject to the choices of such provisions made by Japan and the other party to each of the tax agreements in accordance with the conditions for applying such provisions provided for in the Convention.

The choices made by the Signatories to the Convention including Japan are available on the website of the OECD.

### **1. Jurisdictions which are Parties to the Tax Agreements chosen by Japan as to be Covered by the Convention (35 Jurisdictions)**

Australia	Bulgaria	Canada	China	Czech Republic
Fiji	Finland	France	Germany	Hong Kong
Hungary	India	Indonesia	Ireland	Israel
Italy	Korea	Kuwait	Luxembourg	Malaysia
Mexico	Netherland	New Zealand	Norway	Pakistan
Poland	Portugal	Romania	Saudi Arabia	Singapore
Slovak Republic	South Africa	Sweden	Turkey	United Kingdom

### **2. Provisions of the Convention chosen to apply by Japan**

- 1) Provisions for application of the Convention to income derived through fiscally transparent entities (Article 3)
- 2) Provisions for determination of the resident state of a dual resident entity (Article 4)
- 3) Provisions regarding the wording of the preamble of tax agreements referring to the purposes of the tax agreements (Article 6)
- 4) Provisions for denial of treaty benefits based on the principal purpose of a transaction (Article 7)
- 5) Provisions for taxation on capital gains from the alienation of shares or comparable rights deriving their value principally from immovable property (Article 9)
- 6) Provisions for limitation of benefits for profits attributable to permanent establishments situated in third jurisdictions (Article 10)
- 7) Provisions regarding artificial avoidance of the permanent establishment status through commissionaire arrangements (Article 12)
- 8) Provisions regarding artificial avoidance of the permanent establishment status through the specific activity exemptions (Article 13)
- 9) Provisions for improving mutual agreement procedures (Article 16)

- 10) Provisions for corresponding adjustments to transfer pricing taxation (Article 17)
- 11) Provisions for mandatory binding arbitration (Part VI)

### **3. Provisions of the Convention chosen not to apply by Japan**

- 1) Provisions for limitation of application of the exemption method for eliminating double taxation (Article 5)
- 2) Provisions for limitation on benefits to persons satisfying certain conditions such as qualified persons (Article 7)
- 3) Provisions for limitation of application of reduced tax rates to the dividend transfer transactions (Article 8)
- 4) Provisions for restriction of the taxing right of a jurisdiction on its own residents (Article 11)
- 5) Provisions regarding artificial avoidance of permanent establishment status through splitting-up of contracts (Article 14)