

# III Proper Tax Examination and Collection

## 1 Promotion of proper and fair tax administration

### ~Balanced allocation of tax officials and conduct strict examination to fraudulent tax avoidance cases~

In order to achieve proper and fair taxation, the NTA takes care of its administration processes in an effective and efficient manner by balancing its allocation of limited human and material resources. For example, it makes full use of its organizational strengths to conduct accurate examinations of large-scale and malicious taxpayers, while making only brief contacts for correcting simple mistakes.

Especially for taxpayers who try to illicitly evade tax burdens, the NTA analyzes information from various angles, chooses subjects to examine, and conducts strict examinations.

#### ● Number of cases related to tax examinations, etc.

Operation year	2008	2009	2010
Number of examinations	332	312	283
Number of cases by brief contact	732	644	639

(thousands)

\* "Brief contact" refers to correction of tax declaration by telephone or by summoning taxpayers to the tax offices.

Approximately 900,000 tax examination cases were conducted annually

### ~Selection of tax examination through the ICT system, development of the administrative system for efficient data collection~

Specifically, the subjects of tax examinations are selected through the KSK system, which contains data related to income tax returns, corporation tax returns, and a variety of other data and information, from the viewpoints of business type, business form, and business size. Data and information are recognized as important to achieve proper and fair taxation, so we have in place a structure to efficiently collect information which is very effective for examinations.

### ~Additional income identified per tax examination amounting to ¥8.79 million for self-assessment income tax and ¥10.07 million for corporation tax~

Tax examinations aim to check the content of tax returns based on taxpayers' records, and if mistakes are discovered, to ask taxpayers to correct them. We place great importance on the examination of malicious taxpayers using a sufficient number of days for the procedures.

The field examinations in operation year 2010 found ¥8.79 million<sup>1</sup> of undeclared income per case for self-assessed income tax, and ¥10.07 million for corporation tax.

#### ● Undeclared income amount of self-assessed income tax and corporation tax found in field examinations, per case



Active promotion of initiatives for effective examination

<sup>1</sup> Amount related to special and general field examinations.

## (1) Priority matters addressed in the tax examinations

### ~ Examination keeping in mind of increasingly diverse and international asset management ~

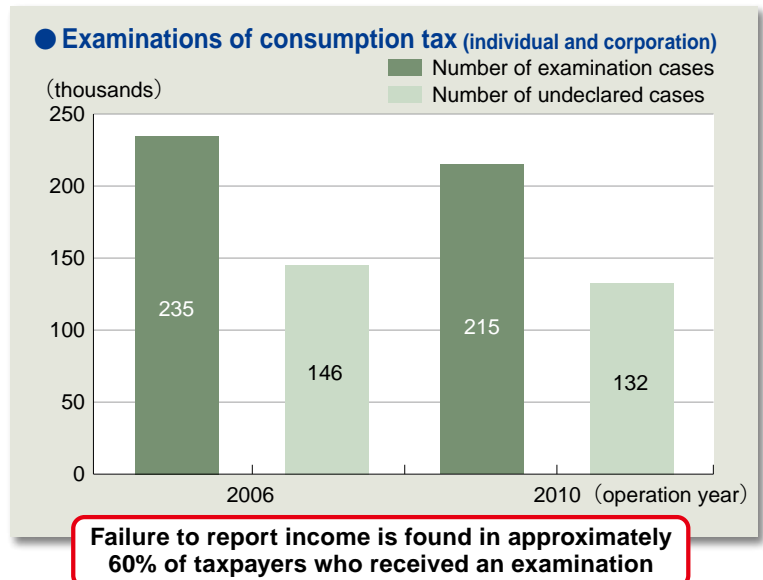
For taxpayers who expect a high income but who filed a low income or did not file, we are addressing tax examinations keeping in mind diversification and globalization of asset management.

#### ◎ Cases in which the NTA identified overseas assets not reported for Japanese tax purposes

- An executive of a Japanese corporation retained remunerations received outside Japan at an overseas financial institution, which generated a large investment income. However, this Japanese taxpayer has excluded this investment income from the book.
- Overseas bank deposits not reported in the inheritance tax return were identified as a result of information exchange (see page 40 for information exchange) with foreign tax authorities.

### ~ Prevent fraudulent consumption tax refunds by means of sufficient examination, etc. ~

Consumption tax is one of the main taxes, and is similar to a deposit, which is why it attracts the strong attention of the public. Therefore, proper tax administration is especially necessary. In particular, as there are cases where fraudulent consumption tax refunds were claimed through the filing of false returns, we work to prevent the filing of fraudulent refunds by instituting sufficient examinations of the facts. As a result, if the reasons for a tax refund are not clear, we make contact through tax examinations, etc.



#### ◎ Examples of malicious fraud in the consumption tax

- Consumption tax refunds were illicitly received by the trick of falsifying books etc., to disguise domestic sales as tax exempt export sales.
- Personnel costs paid by a business are not tax deductible transactions, but by pretending that the costs were outsourcing costs for affiliated companies (temp agencies, etc.) which are deductible transactions, fraudulent consumption tax refunds were received.
- Consumption tax refunds were illicitly received through the trick of falsifying books etc., by disguising a lease (rental) transaction as a purchase and recording the leased asset as own fixed asset.

### ~ Accurate understanding of claims made by taxpayers and proper tax administration ~

To build faith in the tax administration, it is important that taxation is applied with the proper interpretation of laws and regulations upon correct fact finding.

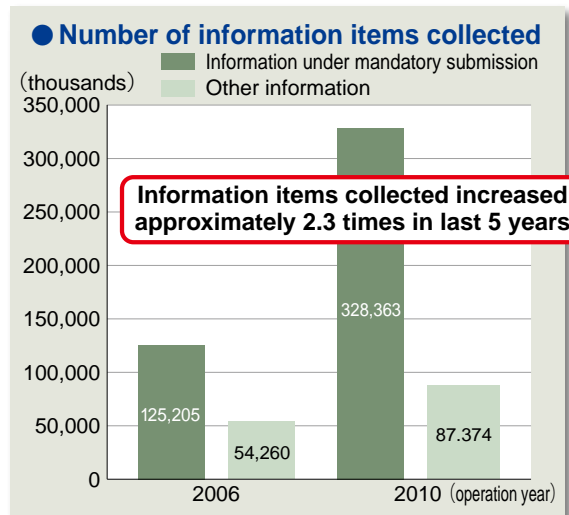
To this end, we always try to properly process taxation after correctly interpreting the assertions made by taxpayers and studying the laws and regulations based on accurate fact finding. On this occasion, we are thoroughly adhering to the procedures and processes to ascertain whether all legal requirements are properly met.

## (2) Information collection

### ~Collect data and information through every opportunity to use such information for accurate guidance as well as tax examinations~

The NTA collects a variety of information on off-the-books and fake transactions found in the course of tax examinations, in addition to the withholding records of employment income, payment records of interest etc., which are required to submit pursuant to the provisions of the tax laws, and uses such information for accurate guidance as well as tax examinations.

The NTA constantly focuses on changes in illicit forms and the increasing globalization, computerization, complexity and geographic scope of business transactions in recent years. We actively collect information on new asset investment techniques and transaction forms, and collect information on overseas investments, information on transactions with overseas companies, electronic commerce transactions using the internet, etc.



## (3) Criminal investigation

### ~Pursues criminal responsibility for malicious tax evaders~

The tax criminal investigation system pursues criminal responsibility for malicious tax evaders, and uses the effect of punishing one to serve as a warning to all, with the aim of contributing to the achievement of proper and fair taxation and to maintaining the self-assessment system. In order to achieve this goal, the NTA examines taxpayers who deliberately evaded taxes by falsehood and other illegal acts, exercising compulsory authority equivalent to normal criminal investigation differently from general tax examination, and files the accusation to prosecutor seeking for prosecution, in addition to imposing the correct taxation on them.

As business transactions became broader and globalized, the means of tax evasion are becoming more complex and sophisticated. Tax investigators take all efforts to expose malicious tax evaders, appropriately responding to the change in the environment surrounding economies and societies.

### ~Tax evasion cases for FY2011 amounting to ¥19.2 billion in total, of which prosecuted cases accounted for ¥15.7 billion~

In fiscal 2011, the NTA commenced 195 criminal investigations, processing 189 cases, including those carried over from the previous fiscal year, of which it accused 117 cases that were forwarded to public prosecutors. The total amount of tax evasion cases was ¥19.2 billion, with the average amount of tax evasion at ¥134 million per case.

Illegally excluding sales from the book was commonly seen as a tax evasion technique. There were also cases which used international transactions, such as disguised foreign transaction where the real transaction is conducted by the taxpayer in Japan. Funds obtained by tax evasion were stored as cash, deposits or securities in some cases, or were spent on real estate properties or personal entertainment in other cases.

#### ● Status of criminal investigations

	Number of cases conducted	Number of cases closed	Number of cases with accusation filed to the prosecutor	Total amount of tax evasion cases (portion with accusation filed to the prosecutor)	Amount of tax evasion per case (portion with accusation filed to the prosecutor)
	Cases	Cases	Cases	¥million	¥million
FY2010	196	216	156	24,819 (21,315)	115 (137)
FY2011	195	189	117	19,221 (15,686)	102 (134)

\* Figures of tax evasion include additional tax.

**~In FY2011, all cases were convicted in court in the first instance, including 9 cases in which prison sentences without probation were issued~**

In fiscal 2011, 150 cases were all convicted at the court of first instance, with an average prison sentence of 15.3 months and average fines of ¥23 million. Nine persons were sentenced to prison without probation. Prison sentences without probation have been handed down every year since 1980.

**●Ruling status of criminal investigation cases**

	Number of rulings ①	Number of convictions②	Percentage of cases convicted ②/①	Number of convictions with prison sentences without probation ③	Amount of tax evaded per case ④	Term of prison sentence per person ⑤	Amount of fines per person (company) ⑥
	Cases	Cases	%	Persons	¥million	Months	¥million
FY2010	152	152	100.0	6	80	13.8	20
FY2011	150	150	100.0	9	120	15.3	23

\* ③ to ⑥ exclude those combined with non-tax crimes.

**Past cases where hidden properties were found in criminal investigations**

Large amounts of cash were found in a safe located under the floor of an individual residence.



## III Proper Tax Examination and Collection

### Column Revision of Act on General Rules for National Tax relating for better tax payment environment

In FY2011 tax reform, the Act on General Rules for National Tax was revised relating to the tax payment environment by the “Law for the Partial Revision of Income Tax Law et al. to Develop Taxation System in Response to Structural Changes of Economies and Societies” (Act No. 114 of 2011) (enacted on November 30, 2011, promulgated on December 2, 2011)

#### 1 Tax examination procedures

Tax examination procedures such as advance notice and close of examination were conducted in accordance with directives, however, the below six items have been legislated based on the following purposes:

- To enhance the clearness of examination procedures and predictability for taxpayers.
- To strengthen accountability to taxpayers.
  - ① Advance notice
  - ② Written notice where it is determined that no assessment will be made
  - ③ Explanation of examination result
  - ④ Recommendation to file amended returns or returns after due date
  - ⑤ Re-examination
  - ⑥ Retention of items submitted by taxpayers, etc.

#### 2 Request for correction to the tax return

“Request for correction to the tax return” to request reduction of taxes or additional tax refunds in case returns already filed contains mistakes and there are excessive tax payments or refund shortages, such request period used to be limited to one year from the statutory filing due date in principle. However, for the purpose of establishing remedies to taxpayers, balanced taxation and simplified system, the period for request for correction to the tax return was extended to 5 years from the statutory filing due date in principle.

Also, the period in which tax authorities can make additional correction (currently 3 years) was extended to 5 years.

#### 3 Reasons to be stated

Stating reasons for dispositions in relation to national taxes has not been generally required except for cases in which such reasons are required to be stated by individual laws such as the income tax act. However, in order to ensure the properness of correction and predictability of taxpayers, stating reasons will be required to all dispositions (denial against applications in article 2 of Administrative Procedure Act and adverse disposition in article 3 of the said act).

However, for corrections to individuals who file white returns, etc., statement of reasons will be required together with the expansion of duties to maintain books and accounting records(to be enforced on January 1, 2014).

(Note) After January 2014, the maintenance of books and accounting records will be also required for all individuals who file white returns and conduct business generating business, real estate or timber income (including individuals who do not need to file tax returns), which previously was only required if such income is over ¥3 million in prior year or the year prior to the first preceding year.

As the extension of the period of request for correction to the tax return has come into force on December 2, 2011 at the time of promulgation of the law, specific details of revisions and procedures after revisions are published on the NTA website.

Tax examination procedures and statement of reasons will come into force on or after January 1, 2013 (However, statement of reasons for individuals who file white returns will be applied on the dispositions made on or after January 1, 2014, except for specific individuals such as those imposed with duties to maintain books and accounting records as of the year 2013.). Based on such purpose of the revision of the law, the NTA will work on appropriate and smooth tax administration.



## Strict control of information

The NTA has a variety of information such as on personal income. If that information is easily leaked, taxpayers cannot be expected to cooperate with the NTA, which would hinder smooth examinations.

This is why tax officials who have leaked confidential information obtained through tax examinations are subject to a criminal penalty (up to two years in prison or up to a ¥1 million fine) under the tax law, which is heavier than the penalty (up to one year in prison or up to a ¥500,000 fine) under the National Public Service Act. The NTA conducts regular training of tax officials to thoroughly inform them of such penalty provisions. When interviewing taxpayers, tax officials consider taxpayers' privacy and refrain from interviewing them in their storefronts or in front of their homes.

Based on the purpose of the "Act on the Protection of Personal Information Held by Administrative Organs," the NTA is also striving to conduct strict control of taxpayer information by making a periodic inspection of the status of control of administrative documents.

## Treatment and exemption from additional tax and delinquent tax

To encourage taxpayers to properly file tax returns and pay taxes, delinquent tax may be imposed in addition to self-assessed income tax, corporation tax, etc., if tax returns are not properly filed or taxes are not paid by the due date. There are also cases where an additional tax for a deficient return, or for no return, or an additional tax for fraud are imposed.

Delinquent Tax	Up to two months from the day after the due date for tax payment	Annual rate of 4.3% (in 2012)*
	Starting on the date two months from the day after the due date for tax payment	Annual rate of 14.6%

\* May change each year due to financial conditions.

Additional Tax		Regular Case	Fraudulent Concealment Case
	Returns are filed by the due date, but tax amount is understated.	Additional tax for deficient returns (10% or 15%)	Additional tax for fraud case (35%)
	Returns are not filed by the due date	Additional tax for no return (15% or 20%)	Additional tax for fraud case (40%)

Where legitimate reasons are recognized with no causes attributable to taxpayers, additional tax for deficient return or additional tax for no return will not be imposed.

Also, where certain requirements are met, namely, taxpayers have been granted postponement of tax payments due to disaster or have failed to file returns or pay taxes due to erroneous guidance by the NTA officials, taxpayers may be exempted from all or part of a delinquent tax. The NTA has set up rules for when no additional tax is imposed, and has published the rules on the NTA website.

## 2 Reliable tax payment

### (1) Establishment of voluntary tax payment

#### ~ Approximately ¥44 trillion taxes paid into the national treasury within the fiscal year (98.1% paid within the fiscal year) ~

Self-assessed national tax becomes revenue when paid into the national treasury. In FY2010, about ¥45.1 trillion of taxation (amount determined for collection) was self-assessed in Tax Offices, etc. Of this, about ¥44.2 trillion of tax (collected amount) was paid into the national treasury within the fiscal year, for a 98.1% collection ratio.

#### ~ Enhanced taxpayer services by offering various payment methods ~

Under the self-assessment system, national tax is in principle assessed by taxpayers themselves, who themselves pay that tax amount by the due date. Therefore, the NTA works on publicity so taxpayers do not forget the due date and make a late payment.

Moreover, to enhance taxpayer services, diverse payment means such as online payment using internet banking, payment at convenience stores, and direct payment, have been introduced in stages for taxpayers to be able to choose the payment method of national tax, instead of paying at the counters of financial institutions and tax offices in cash with tax payment slips.

Taxpayers can also use transfer tax payments from a deposit account for self-assessed income tax and sole proprietors' consumption tax.

#### ~ Measures to prevent delinquencies ~

A written notice is sent in advance to taxpayers who paid after the due date the previous time. After the due date has passed, a phone call is placed to taxpayers before the payment demand letter is sent. The NTA is thus taking measures to prevent delinquencies.

### Direct payment (direct type online payment of national tax)

Direct payment is a procedure that enables taxpayers to pay tax by a simple operation after filing tax returns digitally by e-Tax, by submitting an application indicating bank account information.

Direct payment can only be used at bank accounts held at financial institution used by the taxpayer is compatible with direct payment. This is why the NTA is working to expand the number of financial institutions in which direct payment can be used, by requesting that non-compatible financial institutions become compatible, etc. As of the end of March 2012, it was usable in 328 financial institutions.

### National tax payment at convenience stores

For the payment of national taxes, taxpayers are able to make tax payments at night or on holidays at convenience stores when financial institutions or the Tax Offices are closed. Tax payments were made at convenience stores in about 1.14 million cases in FY2010

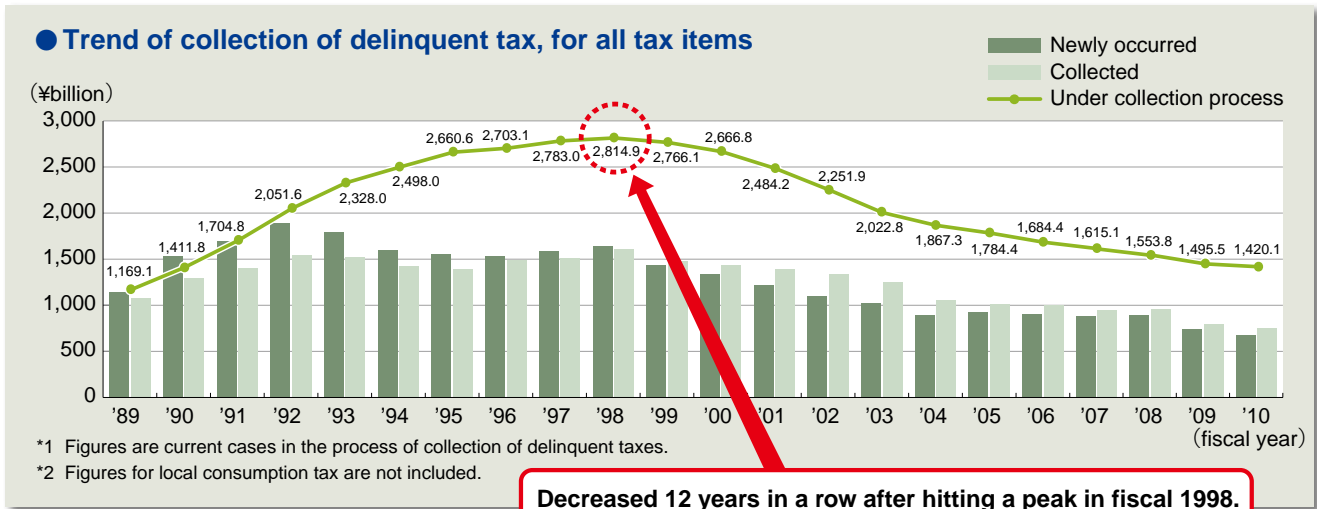
When making a convenience store tax payment, a tax payment slip with bar code is needed, with the amount limited to ¥300,000 or less. The bar-coded vouchers are issued by the Regional Taxation Bureaus and Tax Offices with jurisdiction, in the following cases:

- ① If the determined tax amount is notified before the due date (estimated income tax prepayment, etc.)
- ② If the tax payment is demanded by letter or telephone (for all tax items)
- ③ If the tax payment is under the official assessment system (for various additional taxes)
- ④ If the taxpayer requested the issuance of tax payment slips for the determined tax amount (for all tax items)

## (2) Reduction of tax delinquency

### ~Amounts under collection process reduced to 50.4% of that of the peak time~

Delinquency signifies that the national tax was not paid by the due date and a payment demand letter was sent. At the end of FY2010, the tax delinquency amount was about ¥1,420.1 billion.



Amounts under collection process remains high at approximately ¥1.4 trillion  
→ Continue to work on preventing and reducing delinquencies

The NTA considers it important to first of all avoid delinquency. In order to work for certain collection of national tax, the entire national tax organization is working to prevent delinquency and for early collection.

Therefore, for delinquent national taxes, from the viewpoint of fairness with the great majority of taxpayers who pay within the due date, the NTA is working for early start and early completion, and works to resolve delinquencies under the following basic policy.

### ~Appropriate action is taken in collection of delinquent tax while considering the individual situation of each delinquent taxpayer~

Executing disposition for delinquent tax greatly impacts taxpayer rights and interests. Therefore, in collection of delinquent tax, appropriate action is taken based on laws and regulations, while considering the actual situation of each delinquent taxpayer, based on an accurate understanding of the facts. Seizure or auction or other disposition for delinquent tax can be done. On the other hand, tax payment relief measures can be provided, such as postponement of tax payment, or suspension of conversion into cash.

### ~Strict and resolute handling of large and malicious delinquent cases~

When collecting delinquent tax in a large and malicious delinquency case, strict and resolute action is taken, such as executing strict and accurate disposition for delinquent tax by search, seizure, auction, etc.

Particularly strict action is taken in especially malicious cases with an attempt to hide assets or otherwise evade execution of disposition for delinquent tax. This crime of evading disposition for delinquent tax<sup>1</sup> is aggressively referred to the prosecutor.

<sup>1</sup> If actions such as hiding of assets are done to evade seizure or other disposition for delinquent tax, up to 3 years in prison or up to a ¥2.5 million fine can be imposed.



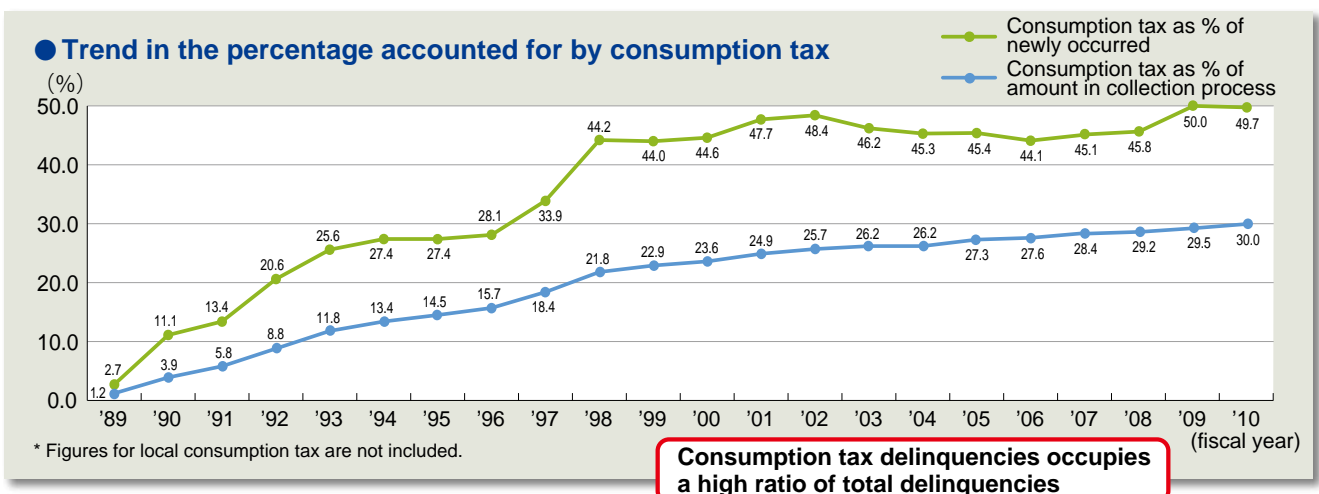
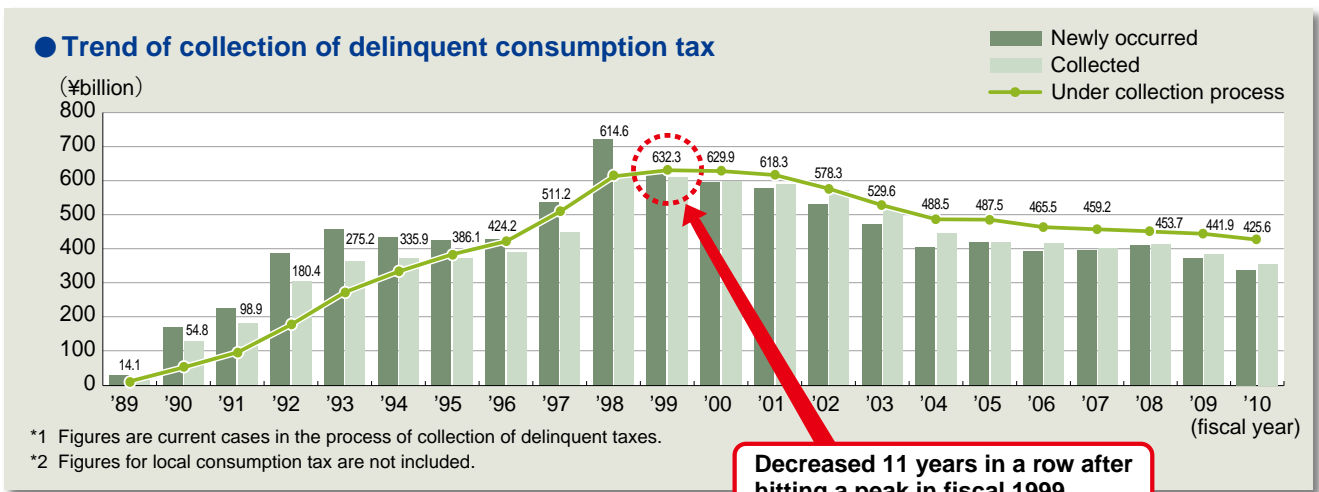
# III Proper Tax Examination and Collection

## ~Priority handling of difficult to handle cases~

For difficult to handle cases, for example those needing large amounts of office work to develop procedures for a party subject to examination with a broad scope of assets, there is a need for large amounts of office work and use of advanced collection techniques to develop the procedures. Therefore, the NTA takes organizational action such as disposition for delinquent tax by management over a wide geographic area, with timely project team formation. The NTA can also take legal action, such as a lawsuit to demand the rescission of a fraudulent act<sup>1</sup>. The NTA thus actively uses legal means to collect delinquent taxes.

## ~Certain handling of consumption tax delinquency cases~

The public is strongly aware of delinquent consumption tax, and delinquent consumption tax is an increasingly large percentage of all delinquencies each year. Therefore, certain handling is executed through Regional Taxation Bureaus and Tax Offices in order to conclude delinquency cases containing delinquent consumption taxes. The NTA is working to reduce the balance of delinquent consumption taxes.



## (3) Office of Tax Collections Call Center

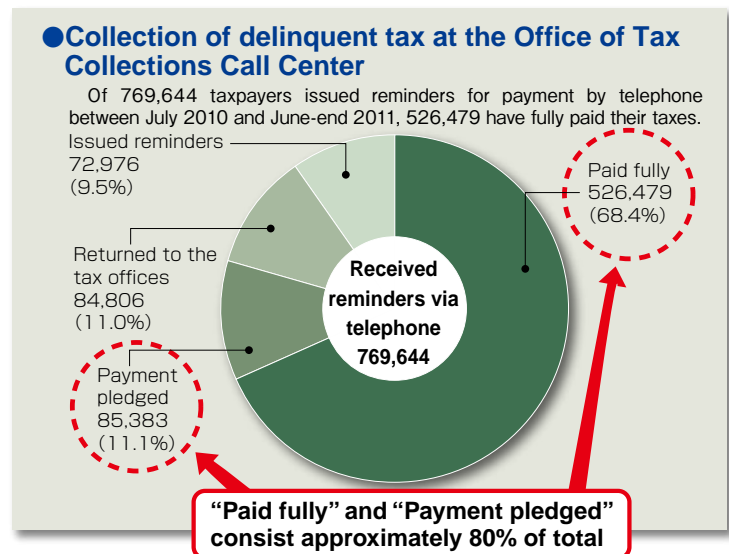
### ~Conduct effective and efficient phone notices~

The Office of Tax Collections Call Center is broadly in charge of new delinquency cases. This office provides phone notification reminders using a centralized phone notice system, for effective and efficient collection of delinquent tax.

<sup>1</sup> A lawsuit to demand the rescission of fraudulent act is a lawsuit to negate the validity of a legal act (fraudulent act) between the delinquent person and third party, where such act harms the claimant (country). The lawsuit aims to take back from the third party that asset separated from the delinquent taxpayer, and return it to the delinquent taxpayer (refer to Act on General Rules for National Tax, Article 42, and the Civil Code, Article 424).

Over the year from July 2010 to June 2011, this office provided notifications to about 770,000 people, of which about 530,000 people (68.4%) fully paid, and 90,000 people (11.1%) pledged payment.

\* At the Office of Tax Collections Call Center, the computer system automatically phones delinquent taxpayers, and staff refer to delinquent taxpayer information shown on the terminal screen, to provide effective and efficient payment reminders.



## (4) Auction by Internet

~Sold approximately 300 items by internet auctions~

The NTA has conducted internet auctions using a private-sector auction website, since June 2007.

Internet auctions are very convenient in such ways as the participants do not need to visit a real auction site and can apply for the purchase 24 hours during the auction period on the internet, and can attract more auction participants. It is among the effective means to sell the assets or goods of high value that have been seized.

Three internet auctions were held in FY2011. As a result, a total of about 4,000 people participated, and about 300 items such as paintings, precious metals, automobiles, real estate, etc. were sold, for a total sales value of about 300 million yen.

## (5) Accurate and efficient management of claims and liabilities

~Proper and prompt process realized by full use of systems~

Tax filings and refund filings create a huge volume of work to manage national tax claims and liabilities. Tax Offices use the KSK System so that these claims and liabilities are managed accurately and efficiently.

There are about 40 million tax payments each year, focused on income tax. To efficiently process this huge volume of payments, the NTA is working on more efficient processing operations. There is optical character recognition (OCR)<sup>1</sup> processing of tax payment slips by the Bank of Japan, and income tax and sole proprietors' consumption tax payment by transfer account.<sup>2</sup> Online tax payment using internet banking etc. began in 2004, and direct online tax payment without passing through internet banking began in 2009. Transfer procedures to pay refunds used to be performed through written documents from Tax Offices, but the NTA centralized transfer processing in 2001 and developed paperless procedures for refund transfer by magnetic tapes, then adopted online transfer procedures in September 2006. In these ways, we are pursuing efficient and speedy payment processing.

Management of national tax claims and liabilities is a cornerstone of taxation and tax collection. We are working to improve services by conducting procedures speedily and accurately through the advanced application of ICT systems, delivering refunds to taxpayers as quickly as possible.

<sup>1</sup> OCR processing (optical character recognition processing) converts the characters written on a tax payment slip into electronic data. This electronic data is communicated between the Bank of Japan and the NTA, providing more efficient information transfer and paperless processing.

<sup>2</sup> Tax payment by transfer account is a method of tax payment whereby the Tax Offices send tax payment slips to financial institutions designated in advance by taxpayers, and debit the amount of tax payment from their deposits and savings accounts. If it is necessary to send tax payment slips to financial institutions in large quantities, the Tax Offices send magnetic tapes containing data for an account transfer to the financial institutions in order to perform the work of account transfer efficiently. After the financial institutions process the data, they record the processing results on the magnetic tapes and return the tapes to the Tax Offices.

## ③ Addressing international transactions

### ~Strengthening examination system and cooperation with foreign tax authorities~

Cross-border economic activities by companies and individuals are becoming more complex and diverse. These changes have brought international tax avoidance, in which revenues received overseas are not declared, or which use complex international transactions to avoid paying tax to any country on earnings gained. On the other hand, there is the large problem of double taxation, in which more than one country have different views and impose taxes on the same income. In response to these problems, the NTA is working on internal improvements such as in its examination system, and is also building stronger cooperative relations by sharing information and experience with the tax authorities of foreign countries. The NTA is also in discussions with the authorities to resolve double taxation.

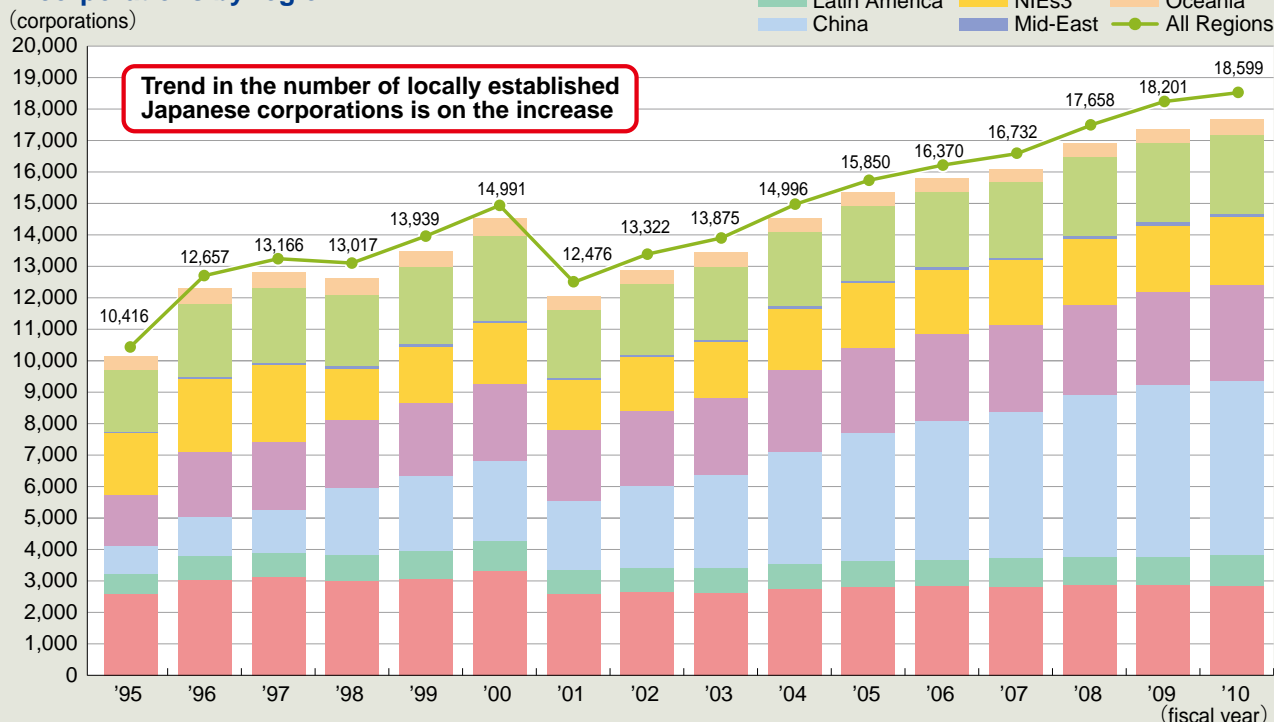
### (1) Changes in the environment surrounding international taxation

#### ~Cross-border business and investment activities expand along with the progress in globalization of economic transactions~

##### ① Status of overseas establishments by Japanese corporations

The following is the status of overseas establishments by Japanese corporations. The number of overseas locally organized corporations increased from 10,416 in FY1995 to 18,599 in FY2010, about an 80% increase, with a particularly rapid growth of establishments in China.

##### ● Trend in the number of locally established Japanese corporations by region



\*1 "ASEAN4" signifies Malaysia, Thailand, Indonesia and the Philippines.

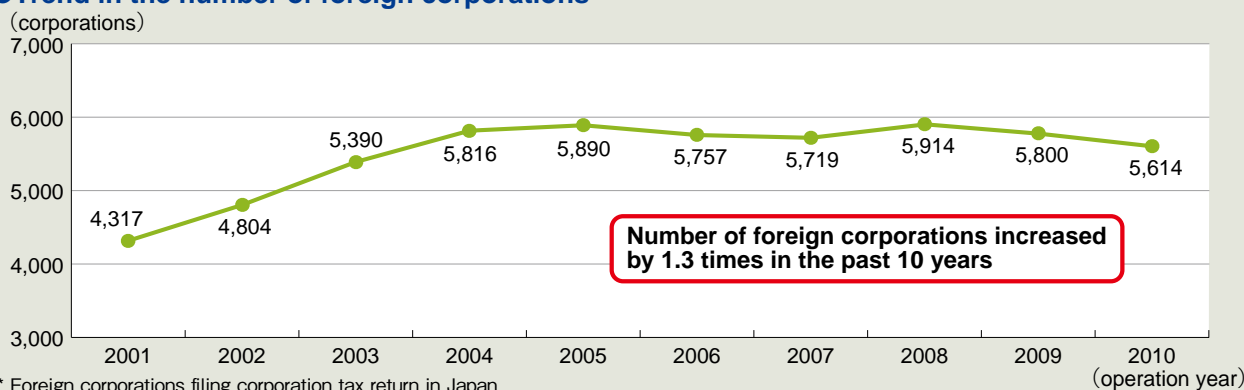
\*2 "NIEs3" signifies Singapore, Taiwan and South Korea.

(Source: "Basic Research on Overseas Business Activities," by the Ministry of Economy, Trade and Industry)

##### ② Trend in the number of foreign corporations

The trend in the number of foreign corporations carrying out business activities in Japan is shown on the following page. There were 5,614 corporations in the 2010 operation year, which was 186 less than the previous year. The growth rate reversed, but this is still about 30% more than in the 2001 operation year.

### ●Trend in the number of foreign corporations

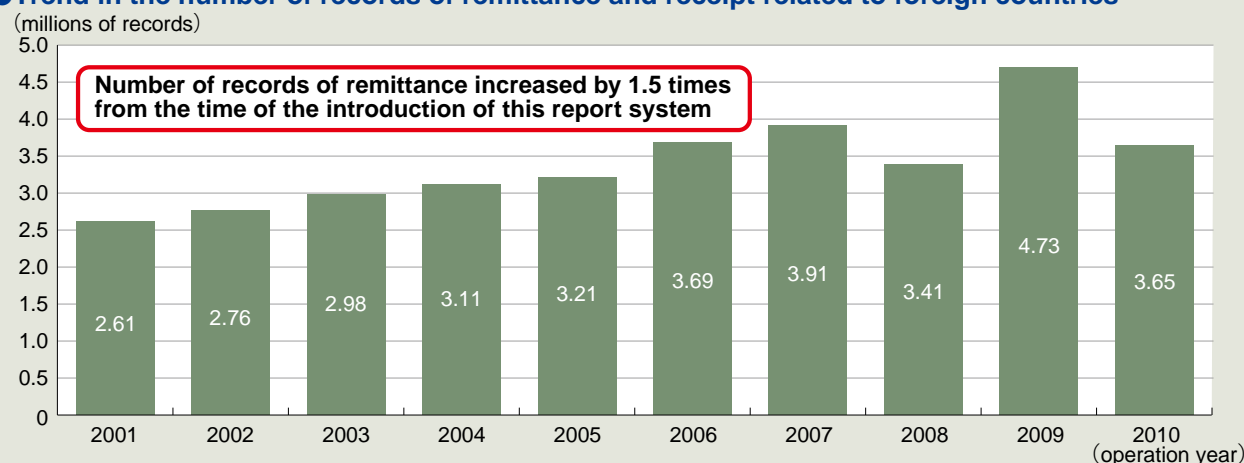


### ③ Trend in the number of records of remittances and receipts related to foreign countries

A record of remittance and receipt related to foreign countries<sup>1</sup> is submitted when a large remittance is sent to a foreign country. The figure below shows the number of these submitted.

Number of records of remittance in the 2010 operation year was 3.65 million, which was 1.08 million less than the previous year, however, it is approximately 1.5 times increase compared to 2.44 million in the 1998 operation year, when this system was introduced.

### ●Trend in the number of records of remittance and receipt related to foreign countries



## (2) Addressing international taxation

### ~Examination of international taxation cases~

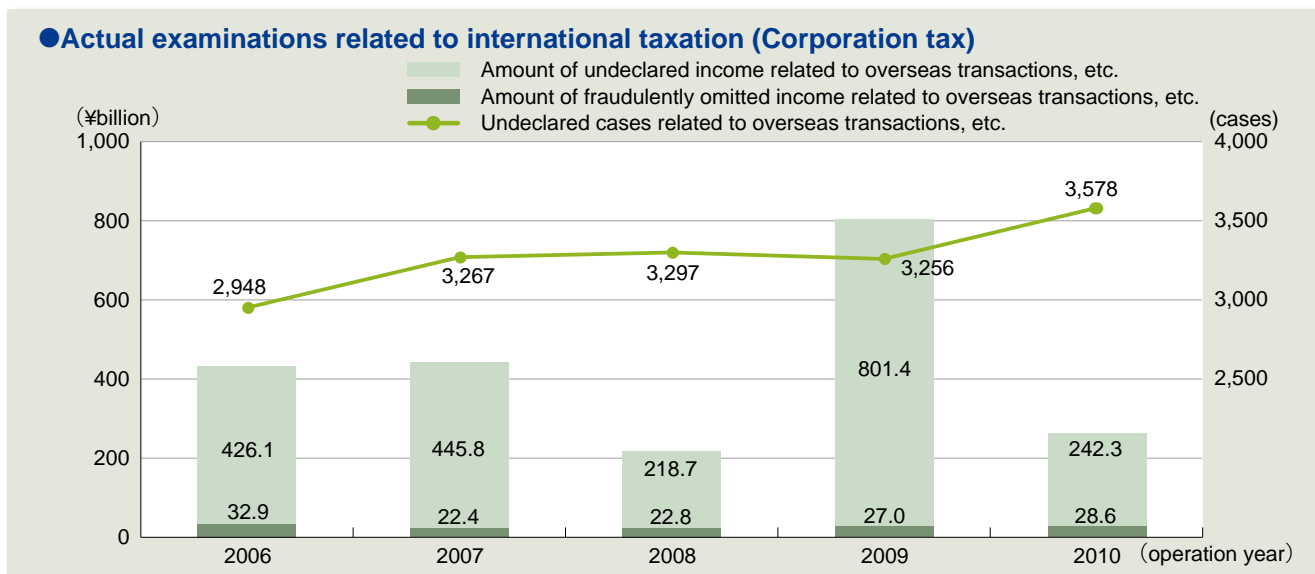
As cross-border business and investment activities have been expanded, the NTA has focused on examining taxpayers who conduct transactions with foreign companies or hold assets in foreign countries. The NTA is performing deep examinations which effectively use the records of remittances and receipts related to foreign countries, and information exchange systems based on tax treaties and tax information exchange agreements.

### ~Enhancement of examination system~

The NTA is increasing the number of its Senior Examiners (International Taxation) who are dedicated to work on international taxation. We also established a department for specialized handling of international tax avoidance cases. These are parts of our efforts to enhance and strengthen our examination system. The National Tax College is a training institution for staff, which provides training on international tax related laws and regulations, tax treaties, financial transactions, language study, etc. This works to enhance staff abilities for examinations concerning international taxation. The NTA also recruits lawyers and financial specialists to handle complex tax problems.

<sup>1</sup> The record of remittance and receipt related to foreign countries is a report legally required to be submitted to the Tax Offices by financial institutions. These indicate the amount remitted to or received from overseas nations, if exceeding ¥2 million (the amount was decreased from more than ¥2 million to more than ¥1 million, starting April 2009).

### III Proper Tax Examination and Collection



#### (3) International tax avoidance

##### ~International tax avoidance, one of the most problematic issues in international taxation~

International tax avoidance problems are arising, as revenues gained overseas are hidden, and as people cleverly use differences between each country's tax system and tax treaties to avoid paying taxes to any country, despite gaining earnings.

International tax avoidance, often involved by financial, legal and tax specialists, often uses complex transactions which combine shell companies or cooperatives, derivatives (derivative financial instruments), etc., which makes it difficult to clarify the whole picture of the transactions. Recently, such problems are not only found among large companies, as it has also spread to small and medium companies and wealthy individuals.

##### ~Addressing international tax avoidance~

Chief Examiners established in the Tokyo, Osaka, Nagoya and Kanto-Shinetsu Regional Taxation Bureaus and the International Examination of Large Enterprise Division etc. play central roles in collecting and analyzing information, planning examinations and clarifying facts on international tax avoidance conduct.

Furthermore, aiming to clarify international tax avoidance, Japan, the USA, the U.K., Canada, Australia, South Korea, China, France and Germany participate in the Joint International Tax Shelter Information Centre (JITSIC). JITSIC works to exchange information relating to international tax avoidance conduct and wealthy individuals and to share knowledge on examination methodologies, etc. through tax officials dispatched from member countries.

#### (4) Transfer pricing issues

##### ~Enhancing predictability for taxpayers corresponding to the change in the environment surrounding transfer pricing~

Transfer pricing taxation was introduced in the FY1986 tax reform. From the perspective of working to achieve proper international taxation, this prevents transferring income overseas through transactions with foreign affiliated companies.

Specifically, if a Japanese company does a transaction with a foreign affiliated company, and that transaction price differs from the transaction price between third parties (this price is called an "arm's length price"), resulting in lower taxable income for the Japanese company, then that transaction is deemed to have been done at an arm's length price, and income is recalculated under this system.

As company activities become increasingly global, more transactions are becoming subject to the transfer pricing system, and transactions are becoming more complex, with growing importance of transactions involving intangible assets. It is necessary to appropriately handle such changes, increase predictability for taxpayers, and achieve proper and fair taxation.



~Initiatives to clarify the administration of transfer pricing taxation~

In order to increase predictability for taxpayers, it is important that the NTA publishes and works to clarify its administration policy for the system's operation, and its application criteria.

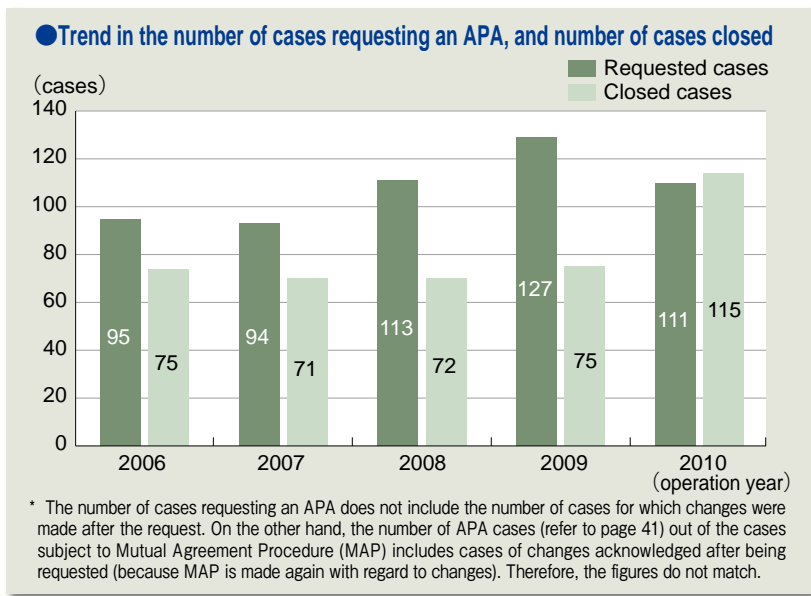
In 2011, the NTA worked on compliance with the recently revised OECD Transfer Pricing Guidelines which plays as the international standard, as well as revised directives for interpretation of laws and its own administrative guidelines to further clarify the administration of the rules.

~Development of an environment in which taxpayers can use the Advance Pricing Agreement (APA) system smoothly~

In an APA on transfer pricing taxation, based on the Japanese taxpayer's request, the tax authority gives advance confirmation of the method for calculating the arm's length price in transactions with a foreign affiliated company. The number of requests for APA has been showing an increasing trend, as a result of the increase in international transactions.

This is why the NTA is working to improve its administration system and quickly process APAs. For example, a division dedicated to APA examinations was established in the Tokyo Regional Taxation Bureau and the Osaka Regional Taxation Bureau, where there are many companies which do international transactions. Also, a contact point is set up in each Regional Taxation Bureau, which handles advance consultations with national tax authorities before requesting an APA. This contributes to our development of an environment enabling taxpayers to smoothly use APAs.

APAs ensure predictability and legal stability for taxpayers. They also contribute to proper and smooth operation of the transfer pricing taxation. This is why the NTA will continue to provide them appropriately.



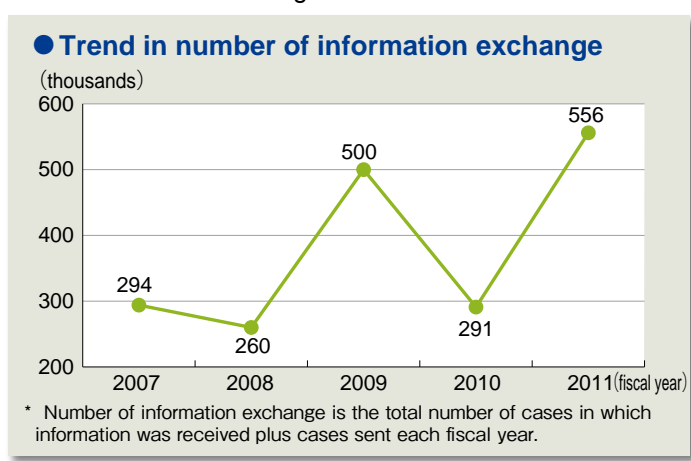
(5) Exchange of information under tax treaty and tax information exchange agreement

~Effective and efficient exchange of information~

There are cases in which the NTA cannot sufficiently clarify international transactions by individuals and corporations only with the information obtained in Japan. In such a case, the exchange of information under a bilateral tax treaty and tax information exchange agreement makes it possible to acquire the necessary information.

The NTA actively involves itself in exchange of information with foreign tax authorities in the context of recent expansion and strengthening of the tax treaty network. Japan now has 53 tax treaties in force, which cover 64 countries or regions and the number of information exchange amounts to some hundred thousand cases per year.

In addition, the NTA is making every effort to implement exchange of information in an effective and efficient manner by holding face to face meetings, when necessary, with tax officials of foreign tax authorities, which would enable us to explain and talk the examination cases in detail and the points to be clarified.



## 4 Mutual Agreement Procedure (MAP)

~MAP cases processed properly and promptly in order to resolve international double taxation issues~

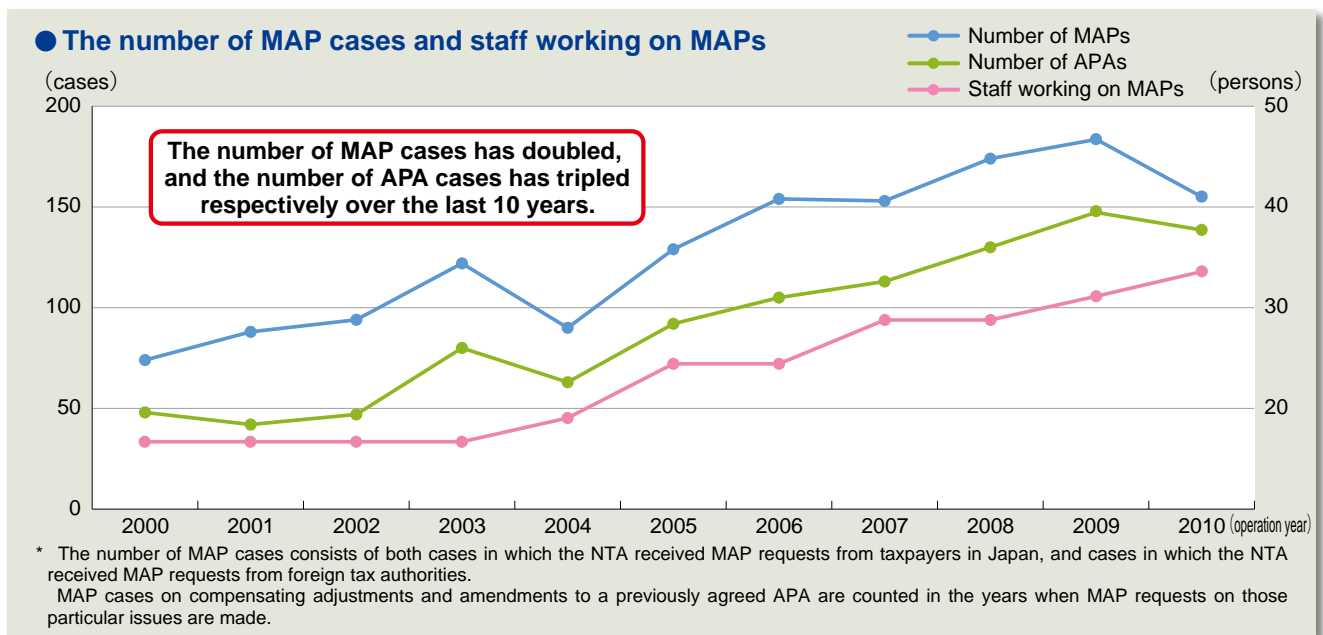
With the globalization of the Japanese economy, where the Japanese taxpayers move in on foreign markets or foreign taxpayers do the same on the Japanese market, they may encounter the international double tax situation, in which both Japan and the foreign country impose tax on the same income.

The aforementioned transfer pricing taxation is one of the major areas of the international double taxation. We exert ourselves to resolve such double taxation problems, including transfer pricing, by negotiating with foreign tax authorities through the Mutual Agreement Procedures<sup>1</sup> prescribed in tax treaties.

For the operation year 2010, while the number of MAP requests we have received decreased year on year, it still continues to remain at a high level. Over 90% of such MAP requests relate to transfer pricing. Among those, the percentage of APA cases for the purpose of ensuring predictability of transfer pricing issues is on the increase.

The number of treaty partners with MAP cases, especially the number of Non-OECD treaty partners which do not have sufficient MAP experience, are increasing (increased to 23 countries as of the end of June 2011 from 15 countries 10 years ago).

The NTA has been making every effort to resolve MAP cases as appropriately and promptly as possible by enhancing staffing and making operations more efficient and effective, as well as promoting cooperative relationship with foreign tax authorities.



### ■ Treaty partners with MAP cases (as of June 30 2011)

	Europe	Asia Pacific	North America
OECD Member countries	Belgium * Czech Republic * Denmark France * Germany * Ireland * Italy *	Luxemburg * The Netherlands * Spain Sweden * Switzerland * United Kingdom *	Australia * South Korea *
Non-OECD countries		China * India * Indonesia Malaysia Singapore * Thailand *	Canada * United States *
	13 countries	8 countries	2 countries

(Note) Countries with active MAP cases as of June 30 2011 (23 countries). The symbols "\*" indicate countries with APA cases (18 countries).

<sup>1</sup> "Mutual Agreement Procedure (MAP)" means the negotiation procedure between the tax authorities of countries party to a tax treaty, to relieve taxpayers from taxation that is not in accordance with the provisions of the treaty, where the actions of one or both of the countries result in or will result in taxation that is not in accordance with the provisions of the tax treaty.

## 5 Cooperation and coordination with foreign tax authorities

### (1) Cooperation for developing countries

#### ~ Technical cooperation to developing countries mainly for Asian countries ~

Under the framework of technical cooperation by the Japan International Cooperation Agency (JICA) etc., the NTA is actively providing technical cooperation to developing countries, focused on Asian countries. The aims are to improve tax administration of developing countries, and to foster people who understand Japan's tax administration.



International Seminar on Taxation

#### Overview of technical assistance

##### 1 Dispatch of tax officials to developing countries

Based on the requests of the foreign tax authorities, the NTA dispatches its officials as lecturers in fields such as taxpayer services, international taxation and staff training. In FY2011, officials were dispatched to provide lectures, etc. to China, Indonesia, Malaysia, Vietnam, etc.

With a view to giving continuous advice on tax administration to developing countries, the NTA is dispatching tax officials in the capacity of long-term experts from JICA. In FY2011, our tax officials remain in Indonesia, Malaysia and Vietnam.

##### 2 Lectures and other training in Japan

###### (1) International Seminar on Taxation (ISTAX)

ISTAX is a seminar for tax officials in developing countries on the tax system and tax administration of Japan, providing lectures, etc. It has two courses: the general course for mid-career officials, and the senior course for upper management-level officials. Counting both courses, a total of 32 tax officials participated in FY2011.

###### (2) Country-Focused Training Courses in Tax Administration

The courses are given to tax officials from specified developing countries at their request.

51 tax officials from Cambodia, Indonesia, Kenya, Tanzania, Uganda and Vietnam participated in the courses in FY2011.

###### (3) Training Course of International Taxation for Asian Countries

Training is directed at tax officials in Asian countries on the subject of international taxation. Seven persons from three countries (Malaysia, Philippines and Vietnam) participated in FY2011.

###### (4) NTA Practical Training Course (Practicum)

Training on the Japanese tax system and tax administration is provided for tax officials from developing countries who are studying in master courses at the graduate schools of Japanese universities on a scholarship program from the World Bank, etc. A total of 19 foreign students studying at graduate schools of Keio University, Yokohama National University, National Graduate Institute of Policy Studies, Waseda University and Hitotsubashi University participated in FY2011.

### III Proper Tax Examination and Collection

#### ● Status of training conducted in Japan

(number of countries, people)

		FY2007	FY2008	FY2009	FY2010	FY2011
International Seminar on Taxation (ISTAX) general course	Countries	18	18	19	18	20
	People	19	20	20	18	20
International Seminar on Taxation (ISTAX) senior course	Countries	10	10	11	14	12
	People	10	10	11	14	12
Country-Focused Training Courses in Tax Administration	Countries	6	8	8	4	6
	People	95	108	100	54	51
Training Course of International Taxation for Asian Countries	Countries	6	6	6	4	3
	People	11	12	11	9	7
NTA Practical Training Course (Practicum)	Countries	13	10	9	12	12
	People	18	17	21	20	19

## (2) Participation by tax authorities in international conferences

### ~Active participation in various international conferences~

As globalization and computerization of the economy brings an increase in new forms of transactions, there is the double taxation problem of more than one country imposing taxes on one income, and the taxation loophole problem of tax avoidance in which tax is not imposed in any country. These are becoming issues which should be addressed by each country's tax authorities. In order to solve such problems and to cooperate and share experience among each country's tax authorities, the NTA actively participates in various international conferences. The main conferences are described below: ① OECD Forum on Tax Administration (FTA), ② Study Group on Asian Tax Administration and Research (SGATAR), and ③ OECD Committee on Fiscal Affairs (CFA).

#### ① OECD Forum on Tax Administration (FTA)

The OECD Forum on Tax Administration is a forum for sharing each country's knowledge and experience on a wide range of fields in tax administration, etc.

It was held in Buenos Aires in Argentina in January 2012, with discussions about improvement of tax compliance through enhanced corporate governance of large business, countermeasures against international tax avoidance and evasion conducted by using cross-border transactions, efficiency in tax administration and further development of cooperation among tax authorities.

#### ② Study Group on Asian Tax Administration and Research (SGATAR)

The Study Group on Asian Tax Administration and Research is comprised of tax authorities of 16 countries and regions in Asia. This is a forum for discussions on cooperation and sharing of knowledge in the region.

In November 2011, the 41st meeting was held in Malaysia, with discussions about promotion of international cooperation in the area of tax administration and common problems the countries are facing.

#### ③ OECD Committee on Fiscal Affairs (CFA)

The OECD Committee on Fiscal Affairs is a forum where the Model Tax Convention and Transfer Pricing Guidelines are reviewed, and the tax authorities share their knowledge and experience.

Under the CFA, study groups are formed to discuss individual themes and exchange views. The NTA has been actively participating in such activities of CFA. For further details, please refer to the NTA website "OECD Committee on Fiscal Affairs (CFA)". [www.nta.go.jp/sonota/kokusai/oecd/oecd.htm](http://www.nta.go.jp/sonota/kokusai/oecd/oecd.htm)