

Revision of Consumption Taxation on Cross-border Supplies of Services

National Tax Agency, May 2015
(Revised in December 2016)

In accordance with the Act for Partial Revision of the Income Tax Act and Other Acts (Act No. 9 of 2015), the Consumption Tax Act was partially amended with the revision of consumption taxation on cross-border supplies of services such as digital content distribution.

The key changes in this reform are as follows:

Key changes in the reform

I. Revision of a criterion for determining either domestic or foreign transactions with regard to provision of electronic services

We regard services provided via electronic and telecommunication networks (e.g., internet) such as the provision of e-books, music, and advertisements as “provision of electronic services.” A criterion for determining whether the place of supply in a transaction is conducted in Japan, whereby consumption tax is to be imposed (criterion for determining either domestic or foreign transactions) has been revised, in principle, from the location of the office of the service provider associated with providing such services to “address of the service recipients.”

II. Revision of taxation scheme (introduction of a “reverse charge mechanism”)

Provision of electronic services became classified as either “provision of B2B (business-to-business) electronic services” or others.

Under Consumption Tax Act, when a business transfers or leases taxable assets and provides services (“transfers taxable assets etc”), the business is responsible for filing and paying tax on the transaction. However, as for provision of B2B electronic services among all electronic services, what is called a “reverse charge mechanism” has been introduced, where a Japanese business files and pays tax who receives electronic services from a foreign business.

III. Eligibility for purchase tax credit associated with B2C electronic services provided by foreign businesses

As for provision of any electronic services other than provision of B2B electronic services (to be called “provision of B2C (business-to-consumer) electronic services” for convenience in this brochure) a service provider is responsible for filing and paying tax. However, when a Japanese business receives the B2C electronic services provided by foreign businesses, the Japanese business will not, for the time being, be eligible for purchase tax credit associated with the services provided.

○ Start date of application

The reform in I to III above will be applied to on or after October 1, 2015.

IV. Establishment of a system for registered foreign businesses

As stated in III, the Japanese businesses receiving B2C electronic services provided by foreign businesses will not be eligible for purchase tax credit associated with the services provided. However, if foreign businesses are registered with the Commissioner of National Tax Agency (NTA) and provide B2C electronic services, a purchase tax credit can be claimed.

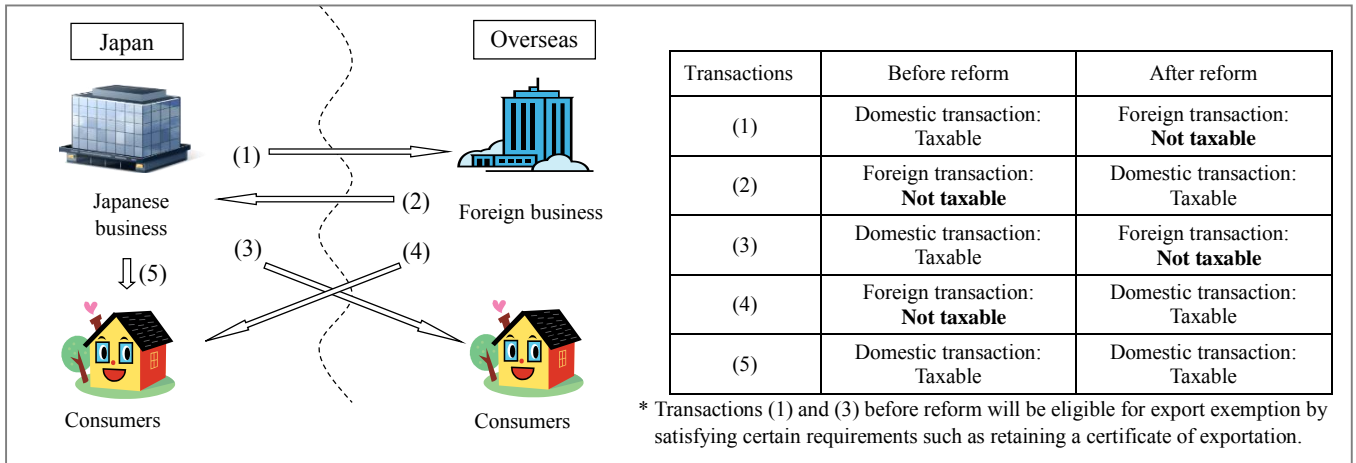
○ Start date of application

Foreign businesses will be able to apply for registration starting from July 1, 2015.

I. Revision of a criterion for determining either domestic or foreign transactions with regard to provision of electronic services

We regard services provided via electronic and telecommunication networks (e.g., internet) such as the provision of e-books, music, and advertisements as “provision of electronic services.” A criterion for determining whether the place of supply in a transaction is conducted in Japan, whereby consumption tax is to be imposed (criterion for determining either domestic or foreign transactions), has been revised from “the location of the office of the service provider associated with providing such services” to “address of the service recipients (address or domicile for individuals and location of a head office or a principal office for corporations).”

The taxation scheme for provision of electronic services before and after reform by service providers and recipients is as follows:



On or after January 1, 2017, among B2B electronic services received by a foreign business at its “permanent establishment”*, if the services are required for the transfers of assets conducted in Japan, they are regarded as domestic transactions. (subject to a “Reverse charge mechanism”)

On or after this date, among B2B electronic services received by a domestic business at its “place of business or the like outside Japan”*, if the services are required only for the transfers of assets conducted outside of Japan, they are regarded as foreign transactions. (not subject to a “Reverse charge mechanism”)

* These refer to “permanent establishments” or “the places of business or the like outside Japan” under Income Tax Act or Corporate Tax Act.

Key points

- Whether transactions are domestic or foreign is determined if the address of the electronic service recipient is in Japan.
- Whether the address is in Japan shall be determined based on objective and reasonable criteria, for instance by comparing the location of the address presented by a customer via internet with “country of issue” information in a credit card by which a customer settles payment. As such, the location of address is determined by reasonable and objective methods in accordance with the nature of each transaction.

○ What is the “provision of electronic services”?

The “provision of electronic services” covers advertising on the internet and providing cloud services as well as consulting business via telephone and email in addition to provision of e-books, music, and software via telecommunication networks.

Electronic services do not include the provision of services that mediates other people’s telecommunications using telephone, telegraph, and other telecommunication equipment—in other words, use of telecommunication networks such as telephone, FAX, and access to the internet.

Electronic services also exclude services notifying the results of transfer assets via telecommunication networks when the notification is ancillary to the transfer of other assets

⇒Examples of the provision of electronic services are available on the next page.

Examples of transactions covered by the “provision of electronic services”

The provision of electronic services covers for instance the following transactions when these transactions involve payment for services:

- Provision of e-books, digital newspapers, music, videos, and software (including various applications such as games) via internet
- Services that allow customers to use software and databases in the cloud
- Services that provide customers with storage space to save their electronic data in the cloud
- Distribution of advertisements via internet
- Services that allow customers to access shopping and auction sites on the internet (e.g., charges on posting goods for sale etc)
- Services that allow customers to access the place to sell game software and other products on the internet
- Provision via internet reservation website for accommodation and restaurants (those who charge on posting for the website from the businesses that operate accommodation and restaurants)
- English lessons provided via internet

Examples of transactions that do not fall under the “provision of electronic services”

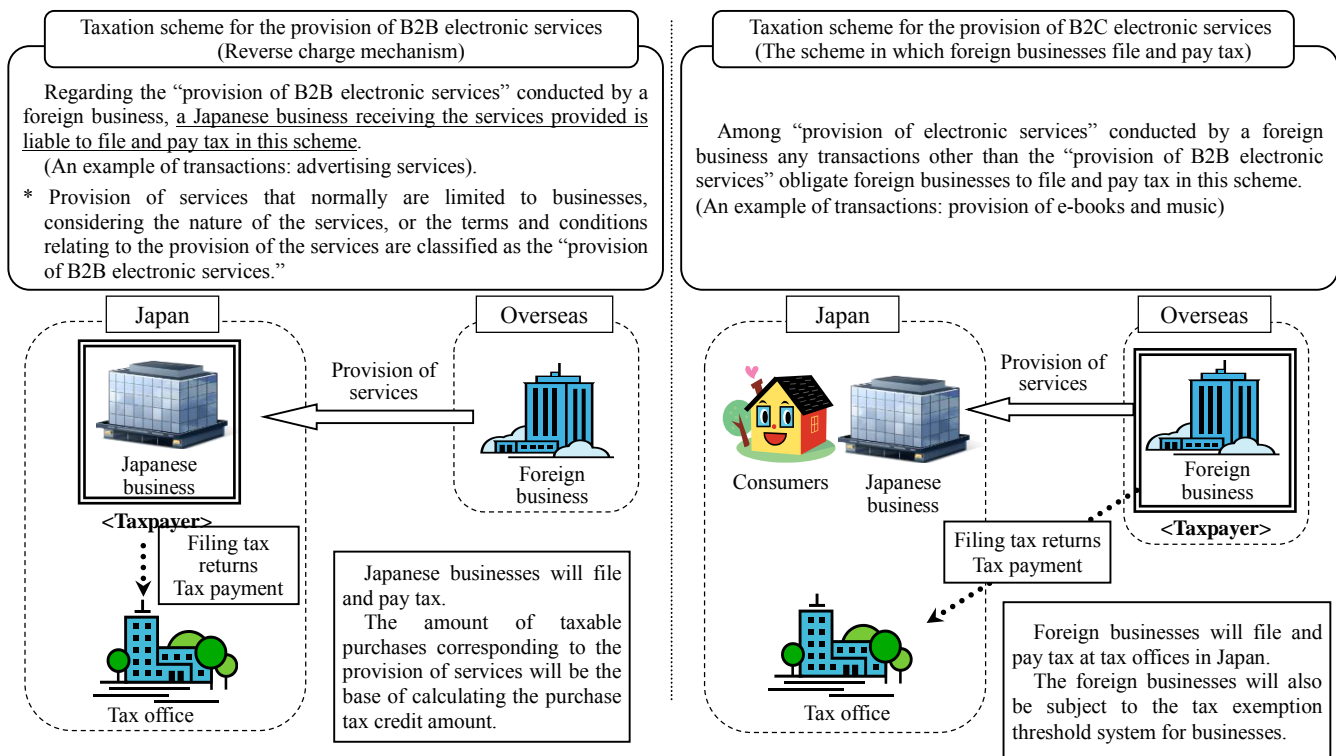
Use of telecommunication networks and transactions where services via the telecommunication networks are ancillary to the transfer of other assets do not fall under the provision of electronic services. Examples are as follows:

- Services merely mediate information transmission among subscribers (so called telecommunication) ,such as telephone, FAX, telegraph, data transmission, and access to the internet
- Software development, etc.
 - * One may request a foreign business to create a copyrighted work and then give instructions during the development process or receive the final products via internet. The use of the internet, in this case, is ancillary to a copyrighted work; therefore, this transaction does not fall under the provision of electronic services.
- Administrating and managing assets outside Japan (including Internet banking services)
 - * Even if the internet is used to give instructions regarding asset management or fund transfer, and to report on its status or results, the use of the internet, in this case, is ancillary to the administration and management of assets; therefore, this transaction does not fall under the provision of electronic services. However, if one receives, for example, a charge for the use of asset management software in the cloud, this service comes under the provision of electronic services.
- Requesting foreign businesses to collect and analyze information, etc.
 - * Even when information is collected and analyzed by a service provider, and the result would be reported via internet, the use of the internet, in this case, is ancillary to collecting and analyzing information; therefore, this transaction does not fall under the provision of electronic services.

However, if one collects and analyzes any information without being requested to do so by other businesses and he/she makes publicly available or provides it via internet with fees being charged for the services, this transaction comes under the provision of electronic services.
- Foreign legal professionals pursuing litigation outside Japan
 - * Even if the internet is used to report status or to instruct on litigation, the use of the internet, in this case, is ancillary to pursuit of litigation outside Japan; therefore, this transaction does not fall under the provision of electronic services.

II. Revision of taxation scheme (introducing what is called a “reverse charge mechanism”)

When electronic services are provided by a foreign business, after the reform, a taxation scheme is decided depending on the service provided either being the “provision of B2B electronic services” or the “provision of B2C electronic services” as follows:



Key points

A foreign business providing B2B electronic services for a Japanese business is required to indicate beforehand that the service recipient will be liable to file and pay consumption tax (that the transaction is subject to tax filing under the reverse charge mechanism) when providing the services.

For the “provision of B2C electronic services,” the foreign business providing the services is required to file and pay tax.

○ What is “provision of B2B electronic services”?

Among provision of electronic services conducted by foreign businesses, “provision of services that normally are limited to businesses, considering the nature of the services, or the terms and conditions relating to the provision of the services” are classified as the provision of B2B electronic services.

Services classified as the “provision of B2B electronic services” considering the nature of the services are, for instance, the distribution of advertisements on the internet and the provision of market-places to sell application software including games at the websites on the internet.

Services classified as the “provision of B2B electronic services” considering the terms and conditions are, for instance, among provision of electronic services such as cloud services that are individually negotiated between parties involved in the transaction, whereby a particular contract is concluded between the parties, and are on the contract obviously intended for business use by the business receiving the services.

On the other hand, for example, if cloud services which a service provider accepts applications from a customer at the websites on the internet, state with notice that “this service is for business use”, but if the service provider cannot effectively restrict these applications from consumers and others those who are not in businesses, such services do not fall under the “provision of services that normally are limited to businesses” from their terms and conditions.

Accordingly, such transactions are classified as the provision of B2C electronic services, obligating foreign businesses providing the services to file and pay tax.

Note:**• Notification duty of a foreign business providing B2B electronic services**

A Foreign business providing B2B electronic services is required to notify the service recipient beforehand that the transaction is subject to a “reverse charge mechanism” (that the business receiving services is liable to pay consumption tax on “specific taxable purchase”) when providing B2B electronic services.

A foreign business that conducts such transactions needs to post a notice in a manner that is easily recognizable for the service recipient, such as in the location where their transaction details are introduced on the internet, or in the notification document prepared when the details of a transaction are individually negotiated.

○ What is “provision of B2C electronic services”?

The provision of B2C electronic services covers those such as the following transactions:

- Provision of e-books, music, and videos that is generally provided for consumers;
- Services that state on a website that they are intended for business use, but that cannot effectively restrict applications from consumers and others those who are not in businesses.

* The “provision of B2C electronic services” is not limited to services that only consumers receive but also include services received by businesses.

Information for B2C electronic services provided by a foreign business for a Japanese business is available in “III. Eligibility for purchase tax credit associated with B2C electronic services provided by foreign businesses” and “IV. Establishment of a system for registered foreign businesses.”

○ Tax return prepared by a business “providing B2C electronic services”

When a foreign business provides B2C electronic services, the foreign service provider is liable to file and pay tax.

<Reference>**Exemption threshold for businesses**

In principle, a business with taxable sales not exceeding 10 million yen in the base period for the taxable period is exempt from consumption tax obligation.

For example, if a foreign business provides electronic services only, its taxable sales would be the sales amount associated with B2C electronic services for provided within Japan.

The taxable sales do not include sales associated with the provision of B2B electronic services.

Designation of a Tax Agent

A sole proprietor without an address or domicile in Japan and a corporation without a head office or an office in Japan are required to designate a Tax Agent to deal with submission of tax returns and notification documents, and tax payment.

III. Eligibility for purchase tax credit associated with B2C electronic services provided by foreign businesses

For B2C electronic services provided by a foreign business, the Japanese business receiving the services will not, for the time being, be eligible for a purchase tax credit in accordance with a transitional measure.

However, if the foreign service provider is a registered foreign business described in IV, a purchase tax credit can be claimed.

IV. Establishment of a system for registered foreign businesses

As stated in III, the Japanese business receiving B2C electronic services provided by a foreign business will not be eligible for purchase tax credit. However, if the Japanese business receives these services from a registered foreign business, a purchase tax credit can be claimed.

Therefore, a foreign service provider is required to be a registered foreign business for a Japanese business to claim a purchase tax credit.

The procedure to become a registered foreign business is as follows.

Foreign businesses may submit an application on or after July 1, 2015.

1. Requirements for a registered foreign business

- (1) A business is a taxable person of consumption tax
- (2) A business provides or will provide B2C electronic services
- (3) A business has an office in Japan to provide B2C electronic services
- (4) If a business does not have an office stated in (3), it has designated a Tax Accountant Proxy for consumption tax purposes
- (5) If a corporation does not have an office in Japan or if a sole proprietor does not have an address or domicile in Japan, it has designated a Tax Agent and
- (6) A business has no delinquent national tax liabilities (a business may not be able to register depending on the state of delinquent tax)

2. Registration procedures

A foreign service provider that satisfies the requirements in 1. and intends to register as a registered foreign business is required to enter prescribed items on an “Application for registration as a registered foreign business” form and submit the application to the Commissioner of NTA via the district director of the tax office with jurisdiction over the place for tax payment.

To apply for registration, please peruse the requirements and the necessary attachments on an application form (Annex). The application and other related information is published on the NTA website.

⊙ Attachments

1. Required attachments without exception:

- Materials indicating name, address overseas, and business details (e.g., a copy of the articles of incorporation, a copy of a register, company pamphlet, or company website)
- Materials describing electronic services provided in Japan (e.g., company pamphlet and company website)

2. Required attachments in the case where a foreign business has an office in Japan to provide B2C electronic services:

- Certificate of registered matters or any other documents of the same kind for the office located in Japan (e.g., lease agreement and company pamphlet)

3. Required attachments in the case where a foreign business has no office in Japan to provide B2C electronic services:

- Certificate to evidence the authority of tax accountant proxy

4. Other reference materials

- Company website address and email address

3. Duties of a registered foreign business

(1) When providing a Japanese business with B2C electronic services, please issue an invoice stating (a) the name of the document issuer and its registration number, (b) the date of provision of the services, (c) the content of the services, (d) the payment amount, (e) indication that the registered foreign business is liable for consumption tax, and (f) the name of the business (customer) receiving the invoice.

Issuing an invoice electrically is acceptable.

* A registered foreign business has a duty to issue such invoices upon the service recipient's request.

(2) If there are any changes in a registered foreign business's name, the location of its head office or address, or the location of its office associated with providing electronic services in Japan, a notification has to be submitted to the Commissioner of NTA via the district director of the tax office.

(3) While a business is registered as a registered foreign business, the business is outside the scope of the tax exemption threshold for businesses. Therefore, the business is liable to file and pay tax for the taxable period of being a registered foreign business as a taxable person of consumption tax without exception.

4. Publication of a registered foreign business

When a foreign business is registered, the registered foreign business's information including the name, address or the location of its head office, and its registration number will be notified to the registered foreign business and simultaneously be published on the NTA website.

5. Other

Note that a registration may be revoked if a registered foreign business (1) files tax return after the due date without justifiable reason, (2) submits a consumption tax return without attaching a "Certificate to evidence the authority of tax accountant proxy" while the registered foreign business is required to designate a Tax Accountant Proxy, or (3) is delinquent in paying tax, and it is difficult to collect the tax amount in arrears.

第36号様式
取受用

登録国外事業者の登録申請書

平成 年 月 日	氏名又は名称	日本語記 英表記 【参考】 本国語記	印
	個人又は法人番号	1. 個人番号の記載にあたっては、形態を空欄とし、ここに記載してください。	
	代表者名	日本語記 英表記	印
	納税地	(〒 -) (電話番号 - -)	
税務署長経由 国税庁長官 殿	住所又は所在地	日本語記 英表記	印
この申請書に記載した次の事項(○印欄)は国税庁ホームページで公表されます。			
1 申請者の氏名又は名称(日本語表記及び英語表記)			
2 国内の住所等(英語表記)			
3 国内において行う電気通信利用役務の提供(事業者向け電気通信利用役務の提供を除く。)に係る国内に有する事務所、事業所その他のこれらに準ずるもの(以下「事務所等」といいます。)の所在地			
下記のとおり、登録国外事業者としての登録を受けたいので、所得税法等の一部を改正する法律(平成27年法律第9号)附則第39条第2項の規定により申請します。			
事務所等 の所在地	又は 事務所等 の責任者氏名 又は 事務所等 の責任者氏名等	(〒 -) (電話番号 - -)	
住所 又は 所在地	(〒 -) (電話番号 - -) (フリガナ)		
電気通信利用役務の提供の内容			
事業年度 自 年 月 日 至 年 月 日			
税理士署名押印 (電話番号 - -) 印			

1 記載要領等に留意の上、記載してください。
2 税務署長経由は、記載しないでください。
3 この申請書を提出するときは、「登録国外事業者の登録申請書(次葉)」を併せて提出してください。

登録国外事業者の登録申請書(次葉)

	氏名又は名称	
登録要件	課税事業者ですか。 国外事業者に該当しますか。 (注) 国外事業者とは、非居住者(所得税法第2条第1項第5号)である個人事業者及び外国法人(法人税法第2条第4号)、ないしは予(消費税法第2条第1項第4号の予)。	<input type="checkbox"/> はい <input type="checkbox"/> いいえ
の	申請者が自国において納税者番号又は課税事業者番号がある場合にはその番号を記載してください。 納税者番号 () 課税事業者番号 ()	
確	次の1又は2のいずれに該当しますか。 1 国内において行う電気通信利用役務の提供(事業者向け電気通信利用役務の提供を除く。)に係る事務所等を国内に有する。 2 消費税に関する税務代理の権限を有する税務代理人がいる。	<input type="checkbox"/> 1に該当する <input type="checkbox"/> 2に該当する
認	納税管理人を定めていますか。 (注) 納税管理人を定めなければならない場合(国税通関法第17条第1項)に限ります。 納税管理人を定めなければならない場合 【個人】 国内に住所及び住所(事務所及び事業所を除く。)を有せず、又は有しないこととなる場合 【法人】 国内に本店又は主たる事務所を有しない法人で、国内にその事務所及び事業所を有せず、又は有しないこととなる場合	<input type="checkbox"/> はい <input type="checkbox"/> いいえ <input type="checkbox"/> 定める必要がない
係	国税の滞納の有無	<input type="checkbox"/> 有 <input type="checkbox"/> 無
付	登録国外事業者の登録を以下の規定により取り消されていますか。 (「はい」の場合は、以下の質問にも答えてください。)	<input type="checkbox"/> はい <input type="checkbox"/> いいえ
す	以下の規定により、取り消されていますか。 (所得税法等の一部を改正する法律(平成27年法律第9号)附則第39条第6項第5号、第6号又は第7号) (「はい」の場合は、以下の質問にも答えてください。)	<input type="checkbox"/> はい <input type="checkbox"/> いいえ
資	その登録の取消の日から1年を経過していますか。	<input type="checkbox"/> はい <input type="checkbox"/> いいえ (登録を取り消された日) (平成 年 月 日)
料	添付する資料の口にレ印を付けてください。 1 【全申請者】 <input type="checkbox"/> 氏名又は名称、国外の住所等、事業内容が確認できる資料 (例 定款の写し、登記簿謄本、会社案内、会社のホームページ等) <input type="checkbox"/> 国内において行う電気通信利用役務の提供の内容が分かる資料 (例 会社案内、会社のホームページ等) 2 【国内において行う電気通信利用役務の提供(事業者向け電気通信利用役務の提供を除く。)に係る事務所等を国内に有する申請者】 <input type="checkbox"/> その事務所等の登記事項証明書又はこれに類する書類 (例 賃貸借契約書、会社案内等) 3 【上記2に該当しない申請者】 <input type="checkbox"/> 税務代理権限証明書 4 【その他参考資料】 <input type="checkbox"/> 会社のホームページアドレス、メールアドレス 口 ()	
参	消費税税務代理人届出書、消費税課税事業者(選択)届出書、消費税の新設法人に該当する旨の届出書、消費税の特設新設法人に該当する旨の届出書を既に税務署に提出している場合は、提出をしている届出書の口にし印を付け、その提出日を記載してください。 <input type="checkbox"/> 消費税税務代理人届出書(提出日 平成 年 月 日) <input type="checkbox"/> 消費税課税事業者(選択)届出書(提出日 平成 年 月 日) <input type="checkbox"/> 消費税の新設法人に該当する旨の届出書(提出日 平成 年 月 日) <input type="checkbox"/> 消費税の特設新設法人に該当する旨の届出書(提出日 平成 年 月 日)	
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項	自 平成 年 月 日 至 平成 年 月 日	円

Key transitional measures accompanying the revision

1. A transitional measure pertaining to the tax exemption threshold system for businesses

- (1) In a base period or specified period for a taxable period including October 1, 2015 (limited to the taxable period where the tax exemption threshold system for businesses is applicable based on the volume of taxable sales calculated in accordance with the Act before the reform) and for a taxable period starting on or after the following day of October 1, 2015, taxable sales will be calculated as if the revision of a criterion for determining either domestic or foreign transactions regulated in the reform has already been effective.

For example, before the reform, when a foreign business provides e-books to a consumer in Japan from overseas before October 1, 2015, the sales were not taxable as transactions conducted outside Japan. However, after the reform, if such a transaction occurs in a base period, taxable sales for this base period will be calculated in accordance with the new criterion for determining either domestic or foreign transactions. In other words, sales from such a transaction should be included in taxable sales to calculate whether the volume of taxable sales exceeds 10 million yen.

- (2) For a service provider having provided electronic services, if the first day of a base period or specified period is on or before September 30, 2015, and the service provider has difficulties in calculating taxable sales for the base or specified period (for example, the business did not separately record a sales amount for Japan-based customers), it may refer to the amount of taxable sales it had over the period from April 1, 2015 to June 30, 2015, and multiply it by 4 for a base period and by 2 for a specified period to determine taxable sales.

2. A transitional measure in case where electronic services is continuously provided

When a foreign business provides electronic services commencing before October 1, 2015 and continuing through October 1, 2015 based on a contract concluded by March 31, 2015, Consumption Tax Act before this reform will apply. For example, when a contract for a cloud service provided for data storage is concluded by March 31, 2015 for one year period from April 1, 2015 to March 31, 2016, the criterion for determining either domestic or foreign transactions before this reform will apply. Therefore, as long as the service is provided by a foreign business from overseas, the transaction will be outside the scope of consumption tax until March 31, 2016 being considered as a transaction provided outside Japan. However, the transitional measure will not apply once the contract is amended.

* When a service is provided monthly, or a contract is renewed or deemed to be renewed monthly including automatic renewals, these services are not subject to the transitional measure.

3. A transitional measure pertaining to the reverse charge mechanism

When a Japanese business makes a specific taxable purchase such as receiving B2B electronic services, while being liable to file and pay tax on the specific taxable purchase, the business can claim a purchase tax credit on the same specific taxable purchase. However, the following businesses may, for the time being, disregard the specific taxable purchases on their return: businesses that file a consumption tax return through a general taxation system with a taxable sales ratio of 95% or more; and businesses to which a simplified taxation system applies. Therefore, these businesses do not need to include specific taxable purchases in their consumption tax return for the taxable period even if specific taxable purchases are made.

- * 1. As these businesses are treated as if they had no specific taxable purchase, they have no obligation to file and pay tax in relation to specific taxable purchases. These businesses are not allowed solely to claim purchase tax credit.
2. Consumption tax-exempted businesses are not required to file a consumption tax return even if they make specific taxable purchases.

V. Revision of a consumption taxation scheme for services related to entertainment and sports provided by foreign businesses

When a foreign business provides transaction as a business main content of which is to provide services by film or theater actors/actresses, musicians, and any other entertainers, or professional athletes, and the service is provided by the foreign business to other businesses, the transaction is regarded as a “provision of specific services.”

When the “provision of specific services” is conducted by a foreign business for a Japanese business, the Japanese business receiving the service is liable to file and pay tax on the specific taxable purchases for receiving the specific services (a reverse charge mechanism).

* Details are available in “Revision of a consumption taxation scheme for services related to entertainment and sports provided by foreign businesses” on the NTA website. (Only in Japanese)

- Contact your nearest tax office for any questions or further details.
- Those who would like to consult with a tax officer in person (for cases that require confirmation of actual specific situations with relevant documents) will need to arrange a reservation for an interview by telephone in advance. Your cooperation is appreciated.