

Japan Tax Bulletin

Penalty taxes

May 2017

Penalty taxes in Japan can be complicated, with the amounts and types imposed depending on a variety of factors. They consist of penalty tax for under-reporting/non-filing etc as an administrative penalty and delinquency tax as interest.

1. Summary

Penalty taxes consist of:

- Penalty for under-reporting (A)
- Penalty for non-filing (B)
- Penalty for failure to make withholding tax payments (C)
- Heavy penalty tax (D)

These penalties apply together or instead of each other depending on how the tax was paid and whether fraud was suspected, as shown below:

Payment method	Basic penalty	Penalty in fraud cases
Self assessment(*)	(A) and (B)	(D) instead of (A) and (B)
Withholding	(C)	(D) instead of (C)

* Penalties for under-reporting, non-filing, and heavy penalty tax have to be paid within 1 month from the day following the issuance of an assessment notice from the tax office.

Delinquency tax:

- 14.6% (7.3% for the first 2 months after the payment due date)

Interest tax:

- 7.3% for the extension period after the filing deadline as granted by the tax office.

2. Penalty for under-reporting

Under-reporting penalties arise when an amended tax return is filed or a tax audit results in additional tax being due. The penalty is 10% of the additional tax due as a result of the audit or amended return, if the original tax return was filed on or before the filing deadline. 15% is applied instead of 10% for the excess over the greater of a) the tax liability in the original tax return or b) JPY500,000.

If an amended tax return is filed after receiving advance notice of a tax audit, but before expecting to receive a correction notice from the audit, 5% penalty tax for under-reporting (10% for the amount in excess of JPY500,000) is imposed with respect to the tax where the statutory payment date is after January 1, 2017.

This penalty does not apply if an amended tax return is filed before expecting to receive a correction notice from the audit and before receiving advance notice of a tax audit.

Any additional tax needs to be paid by the filing due date of the amended tax return. In addition, delinquency tax needs to be paid for the period from original tax payment due date to the payment date of the additional tax.

3. Penalty for non-filing

When taxpayer files a tax return after the due date, a non-filing penalty is levied in addition to other penalty taxes.

The rate is 15% (20% for the excess over JPY500,000) of the tax determined by the tax office or set out in a final or amended return when the original final return was not filed on or before the due date.

If an amended tax return is filed after receiving advance notice of a tax audit, but before expecting to receive a correction notice from the audit, 10% penalty tax for non-filing (15% for the amount in excess of JPY500,000) is imposed with respect to the tax whose statutory payment date is after January 1, 2017.

If the taxpayer files a final tax return after the due date or an amended tax return voluntarily before expecting to receive a correction notice from the audit and before receiving advance notice of a tax audit, the penalty for non-filing is reduced to 5%.

A penalty for under-reporting is not imposed if the conditions below are met:

- The tax return is filed voluntarily within 1 month after the filing deadline; and
- Both the following are met:
 - (1) Tax is paid by the statutory payment date; and
 - (2) Tax penalties for non-filing or heavy tax have not been imposed during the 5 years prior to filing the return and the penalty for non-filing was waived because the taxpayer intended to file the return on time.

When a tax return is filed after the statutory deadline, the tax needs to be paid with the return. In addition, delinquency tax needs to be paid for the period from the statutory payment date to the actual payment date.

4. Penalty for failure to make withholding tax payments

The penalty for failing to pay withholding tax payments is 10% of the withholding tax that is either paid late or as determined by the tax office. The penalty can be waived if there is reasonable cause shown for the failure to pay. The penalty is reduced to 5% if the payment is made before the taxpayer becomes aware of a notice to pay the tax and before expecting to be informed a correction notice.

However, if the taxpayer intended to pay withholding tax by the due date and the payment was made within 1 month from the legal due date, the penalty for failure to make withholding tax payments is not imposed.

5. Heavy penalty tax

In fraud cases, heavy penalty tax applies instead of the usual penalties. The rates are 35% of the additional tax for under-reporting, 40% of the tax determined for non-filing and 35% of the tax determined for failure to make withholding tax payments.



If the penalty for non-filing or heavy penalty tax has been imposed during the 5 years prior to filing an amended tax return, a 10% increase in the penalty for non-filing or heavy penalty tax is additionally imposed with respect to national tax whose statutory payment due is after January 1, 2017.

Penalty imposed within past 5 years	No	Yes
Penalty for non-filing	15% (20%)	25% (30%)
Heavy penalty tax instead of penalty for under-reporting or failure to make withholding tax payment	35%	45%
Heavy penalty tax instead of penalty for non-filing	40%	50%

(%) is for the amount in excess of JPY500,000.

6. Delinquency tax and interest tax

Delinquency tax is imposed when:

- tax is paid after the due date
- tax arises due to late filing of a tax return or an amended tax return
- tax arises due to a tax office correction
- tax arises due to a notification of tax payment
- interim tax is not paid by the statutory payment date
- withholding tax is not paid by the statutory payment date

Interest tax is similar to delinquency tax, but is assessed on balances due by taxpayers who have received permission from the tax office to defer payment of tax.

Both taxes are calculated based on the period from the day after the statutory payment date to the actual payment date and imposed on the additional tax amount, not on other penalties.

Delinquency tax is charged at an annual rate of 7.3% for the first two months, and 14.6% thereafter.

However, from 1 January 2000 to 31 December 2013, the 7.3% rate for the first two months of delinquency tax and interest tax is reduced to 4% plus the Bank of Japan “Basic Discount Rate”.

Since 1 January 2014, the “Special Basic Rate” (Tokurei kijun wariai) which is the short-term bank lending rate as announced on 15 December of the prior year by the Ministry of Finance plus 1% is applied, and the tax rates below have actually been applied for the first 2 months:

From	To	Rate
1/1/2017	31/12/2017	2.7%
1/1/2015	31/12/2016	2.8%
1/1/2014	31/12/2014	2.9%
1/1/2010	31/12/2013	4.3%

After 2 months the following rates apply:

From	To	Rate
1/1/2017	31/12/2017	9.0%
1/1/2015	31/12/2016	9.1%
1/1/2014	31/12/2014	9.2%

Interest tax is applied to the extension period if the corporation has been granted a filing or tax payment extension for income tax, inheritance tax, and gift tax. The annual “Special Basic Rate” below is charged instead of delinquency tax.

From	To	Rate
1/1/2017	31/12/2017	1.7%
1/1/2015	31/12/2016	1.8%
1/1/2014	31/12/2014	1.9%

There is a cap on the amount of delinquency tax in special circumstances (apart from for cases of fraud).

For example, if the original tax return was filed on or before the due date and an amended tax return was filed or a correction notice was received after 1 year from the statutory filing due date, the delinquency tax is capped at 1 year.

7. Calculation rule

The calculation rules for penalty taxes are as follows:

- 1) Taxable base amount for penalties and interest on tax refunds
 - Amounts less than JPY10,000 are discarded.
 - If the total tax amount is less than JPY100,000, the taxable base is treated as zero.
- 2) The amount of delinquency tax, interest tax, and interest on tax refund
 - Amounts less than JPY100 are discarded.
 - If the total tax amount is less than JPY1,000, the tax amount is treated as zero.
- 3) The amount of penalties for under-reporting, non-filing, and failure to make withholding tax payments
 - Amounts less than JPY100 are discarded.
 - If the total amount is less than JPY 5,000, the tax amount is treated as zero.



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