



## JAPAN LEGAL UPDATE

### Labor

#### Amendment to Immigration Control Act Introduces New Visa Categories

As of April 1, 2019, most provisions of the "Immigration Control and Refugee Recognition Act," which was amended in part on December 8, 2018, will take effect. The act introduced two new visa categories: "Specified Skills (*tokutei-ginou*) 1" and "Specified Skills 2."

According to the amended act and the basic policy approved by the Cabinet, the new visa categories are intended for foreign workers in 14 industrial sectors, including automobile maintenance, foods and drink manufacturing, food and banqueting, nursing, and hospitality. An operation policy has been established for each industrial sector. The Specified Skills 1 category applies to workers "with a considerable degree of knowledge or experience" in specified areas, while the Specified Skills 2 category is for those with "seasoned skills" in these sectors.

Specified Skills 1 workers will be granted a total stay of up to five years in Japan and will generally not be allowed to bring their spouse or children, while Specified Skills 2 workers may renew their period of stay without restrictions and may bring their spouse and children as long as they satisfy certain legal requirements.

While this may provide additional labor options for the applicable industrial sectors, it will require further attention to the potential new obligations of hiring foreign workers under the new visa categories.

### Tax

#### Cabinet Approves Japan's 2019 Tax Reform Proposal

On December 21, 2018, the Japanese Cabinet approved the 2019 Tax Reform Proposal, which includes the following two amendments in line with the OECD/G20 base erosion and profit-shifting ("BEPS") project proposals. These amendments will take effect from April 1, 2020.

The earnings stripping rules currently state that if the amount of net interest payable by a company to its affiliates exceeds 50 percent of certain adjusted income and is not subject to Japanese tax, the excess amount is not deductible for Japanese tax purposes. Following the amendment, the net interest subject to the rules will not be limited to the amount payable to affiliates, and the nondeductible amount will be increased to the excess of net interest over 20 percent of adjusted income.

The transfer-pricing rules will be amended such that the discounted cash flow method will be authorized as a transfer-pricing method. Also, with respect to certain hard-to-value intangibles, if there are differences

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between the *ex ante* projections used in evaluating the intangibles and the *ex post* results, the Japanese tax authorities will be authorized to reevaluate the price and correct the tax amount accordingly, taking into account such *ex post* results unless the reevaluated price does not differ from the original price by more than 20 percent.

These developments should be considered carefully and may warrant reconsideration of your financing strategy and inter-group transactions.

## Energy

### Agency Publishes Results of Public Comment and Plan of Additional Revision of Japanese Renewable Energy Act

On December 5, 2018, the Agency for Natural Resources and Energy published the results of its public comment process regarding the Draft Ministerial Order on Partial Revision of Ordinance for Enforcement of Act on Special Measures Concerning Procurement of Electricity from Renewable Energy Sources by Electricity Utilities ("Proposal") (See the [November 2018 issue](#) of this newsletter). In addition, it published its plan for revising the Proposal ("Revision Plan"). Due to the overwhelming number of objections to the initial Proposal, the Revision Plan proposes granting grace periods to certain projects depending on their size and complexity of development (e.g., granting a six-month grace period for projects of not less than 2 MW, and a one-year grace period for projects subject to a statutory environment impact assessment). We expect that the Proposal will be finalized in the near future and recommend that interested parties continue to follow the situation closely.

## Privacy & Cybersecurity

### Government Issues Governmental Agreement on Procurement of IT Products

On December 10, 2018, the Japanese government disclosed a Governmental Agreement on Policy and Measures regarding Governmental Procurement of IT Products and Services ("Agreement"), which will take effect on or after April 1, 2019. According to the Agreement, in order to enhance cybersecurity, the Japanese government will take certain measures with respect to its procurement of IT products and services. While the Japanese government did not mention any specific companies or products as targets of the Agreement, it was published shortly after the U.S. government proposed a new regulation targeting specific Chinese companies' products, and it has been reported that the same Chinese companies' products will be restricted under the Agreement.

## International Trade

### TPP 11 and TPP Relevant Arrangement Act Come into Force

On December 30, 2018, the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership ("TPP 11") (see the [May 2018 issue](#) of this newsletter) and the Act on Arrangement of Relevant Acts Incidental to Conclusion of the Trans-Pacific Partnership ("TPP Relevant Arrangement Act"), which provides for the relevant domestic acts to implement the TPP 11, came into force.

## International Trade

### Diet Approves Japan-EU EPA

On December 8, 2018, the Diet approved the Economic Partnership Agreement between Japan and the European Union ("Japan-EU EPA"; for details, please see [August 2018 issue](#) of this newsletter). As the European Parliament has also completed the ratification procedures, the Japan-EU EPA will come into force on February 1, 2019.

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