

# Outline of “Designated Tax Representative” Tax Reform in FY2021

National Tax Agency

In addition to the conventional “tax representative” system, a new “**designated tax representative**” system has been established by the tax reform in 2021. Under the designated tax representative system, when a taxpayer who has not spontaneously filed a notification of a tax representative meets certain requirements such as failure to submit a notification of tax representative even after receiving requests from the jurisdictional tax authority to appoint a tax representative and submit a notification, the tax authority is entitled to designate a certain person who has a domicile or residence in Japan (“**domestic facilitator**”) as a tax representative of that taxpayer. The provision concerning the designated tax representative becomes effective from January 1, 2022.

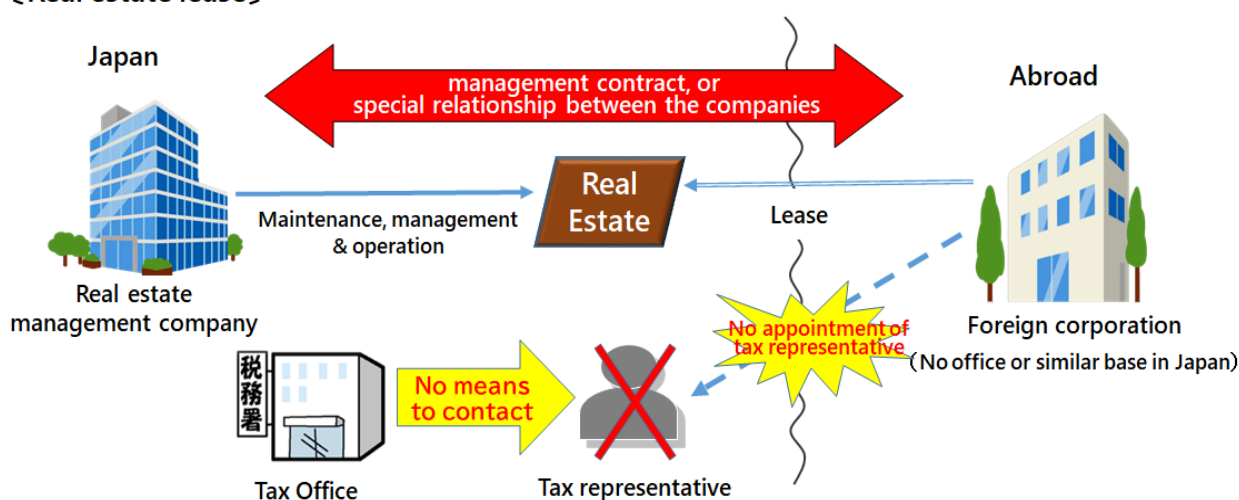
This brochure introduces the outline of the “**designated tax representative**” system based on the laws and regulations as of January 2022.

## 1. Background of tax reform of “designated tax representative” system

In recent years, cross-boarder economic activities by non-residents or foreign corporations have become increasingly active, such as sales of real estate in Japan, a transaction carried out through a domestic local corporation of a foreign corporation, and sales of digital contents (such as an online game and music) through the Internet. As a result, there is an increase in the number of situations where taxation issues arise for non-residents and foreign taxpayers that do not have any physical bases in Japan.

The tax examination for these taxpayers has been implemented indirectly by contacting them through tax representatives residing in Japan. However, if these taxpayers do not fulfill their obligation to appoint such tax representatives despite the need for tax authorities to contact them for sending a notice of tax examination, inquiry, or service of other documents, it is difficult to conduct examinations of these taxpayers because there are no further legally available measures that can be taken by tax authorities regarding the appointment of a tax representative.

### [Real estate lease]



[Online sales of digital contents by non-residents]

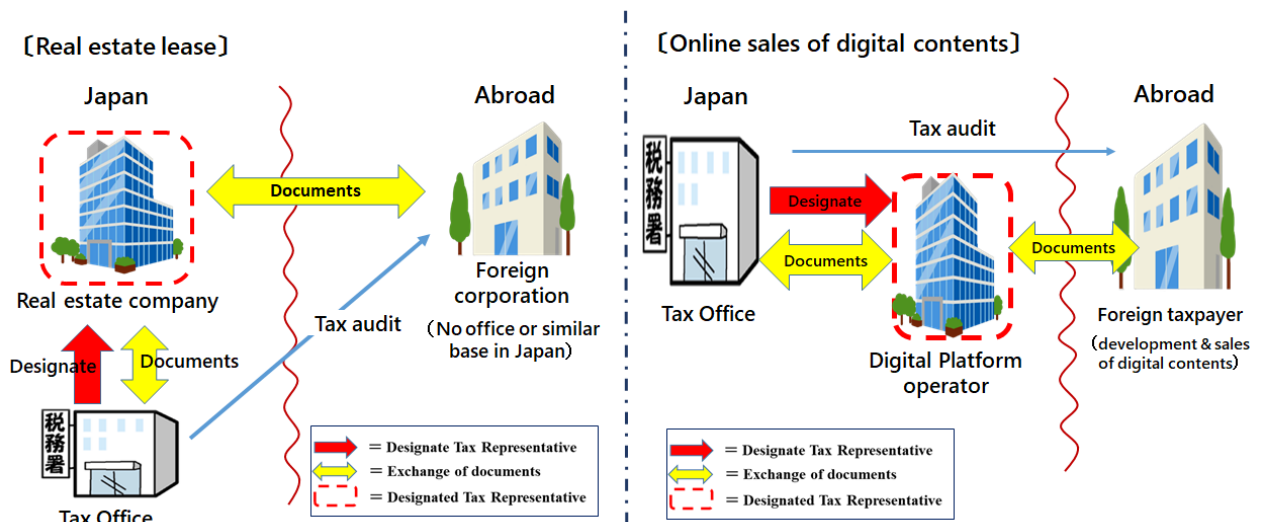


In order to tackle such a problem and carry out a proper and fair taxation, the “designated tax representative” system has been established by the tax reform in 2021 by which the tax authority is allowed, under certain conditions, to designate a tax representative as follows.

[Examples of “designated tax representative”]

Taxpayer	Scope of designated tax representative
Foreign corporation	① A corporation having "special relations" as defined in the transfer pricing legislation with the taxpayer ② An officer of the taxpayer or a spouse in the same household as the officer or another relative who reaches the age of majority.
Non-resident individual	③ A relative who has reached the age of majority residing in Japan, and living in the same household as the non-resident individual taxpayer.
Applicable to both of the above	④ A person having close relations with the taxpayer due to a contract executed with him/her concerning the fact to be included in the basis of calculation of national tax base or tax amount pertaining to the taxpayer. ⑤ A business person providing a place of transactions (e.g. digital platforms) where the taxpayer conducts electronic transactions or other transactions continuously and repeatedly

In the examples above, the real estate company and the digital platform operator located in Japan respectively fall under the category of “designated tax representative”.



## 2. Outline of “designated tax representative” system

Further details of the “designated tax representative” system are elaborated below.

### (1) Requirement for a taxpayer to submit a notification of a tax representative

Where a taxpayer who is required to appoint a tax representative fails to submit a notification of a tax representative, the jurisdictional District Director or the Regional Commissioner is entitled to request the taxpayer in writing to submit a notification of a tax representative while specifying matters that are related to the national tax and necessary to be processed by a tax representative (hereinafter referred to as the “**specified matters**”) by the date designated considering the days usually required to prepare for the matters within the time period **not exceeding 60 days** (hereinafter referred to as the “**designated date**”) (Act on General Rules for National Taxes 117, [3]).

#### [Terminology]

Terms	Meaning
“the jurisdictional District Director or Regional Commissioner,”	The “jurisdictional District Director or Regional Commissioner” means either the District Director of the Tax Office or Regional Commissioner of the Regional Taxation Bureau having jurisdiction over the place of payment of the national taxes.
“specified matters”	The “specified matters” refers to the following matters and other matters similar to them (Regulation for Enforcement of the Act on General Rules for National Taxes 12-2). [1] To receive documents to be sent to a taxpayer from the jurisdictional District Director or Regional Commissioner or its relevant employees (referred to as the “Regional Commissioner or other personnel” below ), and to send them to the taxpayer in the examination pertaining to national tax; and [2] To receive documents to be submitted to the Regional Commissioner or other personnel from a taxpayer, and submit them to the Regional Commissioner or other personnel in the examination pertaining to national tax.

### (2) Request for a domestic facilitator to become a tax representative

Where a taxpayer who is required to appoint a tax representative fails to submit a notification of a tax representative, the jurisdictional District Director or the Regional Commissioner is entitled to request a person in writing who has a domicile or residence (including an office and a business premise) in Japan and is appropriate and convenient person for the processing of the specified matters (hereinafter referred to as the “**domestic facilitator**”) to become a tax representative of the taxpayer (Act on General Rules for National Taxes 117 [4]).

In such cases, when the taxpayer appoints the domestic facilitator as a tax representative by responding to the request, the taxpayer is supposed to notify the District Director or the Regional Commissioner having jurisdiction over the place of payment of the national tax pertaining to the tax representative of the tax representative through an ordinary procedure provided for in 117, [1]/[2] of the Act on General Rules for National Taxes.

### (3) Designation of a designated tax representative by the tax authority

When a taxpayer in (1) above (hereinafter referred to as “**specified taxpayer**”) fails to submit a notification of a tax representative by the designated date, the jurisdictional District Director of the Tax Office or the Regional Commissioner is entitled to designate a domestic facilitator as a tax representative from among those requested to become a tax representative pursuant to (2) above and enumerated below to process the specified matters (hereinafter referred to as the “**designated tax representative**”) (Act on General Rules for National Taxes 117, [5]). In such cases, the jurisdictional District Director of the Tax Office or the Regional Commissioner shall notify in writing both the designated tax representative and the specified taxpayer of the designation of the tax representative (Act on General Rules for National Taxes 117, [7]).

**[1] In cases where the specified taxpayer is an individual**

- a. A spouse or other relative who reaches the age of majority living in the same household as the specified taxpayer;
- b. A person having close relations with the specified taxpayer due to a contract executed with him/her concerning the fact to be included in the basis of calculation of national tax base or tax amount pertaining to the specified taxpayer;
- c. A business person providing a place of transactions (e.g. digital platforms) where the specified taxpayer conducts electronic transactions or other transactions continuously and repeatedly.

**[2] In cases where the specified taxpayer is a corporation**

- a. A corporation having special relations with the specified taxpayer;
- b. The officer of the specified taxpayer, or a spouse or another relative who reaches the age of majority living in the same household as the officer;
- c. A person of b. or c. in [1] above.

**[Examples of “designated tax representative”]**

Classification of designated tax representative	Examples of the designated tax representative
A person having close relations with the specified taxpayer due to a contract executed with him/her concerning the fact to be included in the basis of calculation of national tax base or tax amount pertaining to the specified taxpayer ([1] b)	The person provided for in b. in [1] above refers to the one that currently has close relations with the specified taxpayer due to a contract with him/her concerning assets, business or transaction which caused the taxation, and the “person having close relations” is considered to include the following personnel.
	A person who executed a contract concerning a transaction which caused taxation in the past and whose contract is currently executed <b>(e.g, a real estate company, etc. subleasing a real property owned by the specified taxpayer)</b>
	A person who executed a contract concerning a business which caused taxation in the past and whose contract is currently executed <b>(e.g, a partner, etc. of a business of the specified taxpayer)</b>
	A person who executed a contract concerning a transaction or business which caused taxation in the past and still in close contact with the taxpayer although the contract is currently not executed <b>(e.g, a real estate broker, etc. which is in regular contact with the specified taxpayer)</b>
A business person providing a place of transactions (e.g. digital platforms) where the specified taxpayer conducts electronic transactions or other transactions continuously and repeatedly ([1] c)	The classic example of the person provided for in c. in [1] above is assumed to be so-called a platform business operator, but it does not include a person such as a platform business operator serving as a broker of only one transaction of the specified taxpayer and having little to do with him/her, since a platform business operator who can be designated as a specified tax representative must be “a business person continuously or repeatedly providing a platform where the specified taxpayer conducts transactions.”
A corporation with special relations with the specified taxpayer ([2] a)	the “ <b>special relation</b> ” is the same as the one defined in the transfer pricing legislation. Please refer to “5. Terminology” for more details.

※ Any reference to “a person” always includes “legal person” unless the context requires otherwise.

**(4) Dismissal of a designated tax representative by the tax authority**

Where the designated tax representative has been appointed pursuant to (3) above by the jurisdictional District Director or the Regional Commissioner, and if it is no longer necessary to have the designated tax representative process the specified matters, the jurisdictional District Director or the Regional Commissioner shall dismiss the designated tax representative (Act on General Rules for National Taxes 117, [6]). In such cases, the jurisdictional District Director or the Regional Commissioner shall notify in writing both the designated tax representative and the specified taxpayer of the dismissal of the designated tax representative (Act on General Rules for National Taxes 117, [7]).

**[Example of cases to dismiss “designated tax representative”]**

Examples of cases in which designated tax representatives are discharged from its obligation
[1] where the tax authority no longer needs to contact the specified taxpayer following the completion of the tax examination, etc
[2] where a specified taxpayer submits a notification of a tax representative through a usual procedure provided for in the Act on General Rules for National Taxes 117, [1]/[2].

### 3. Important caveats

#### (1) Obligations of designated tax representatives

The matters to be processed by designated tax representatives are limited to “**specified matters**”, which are to receive documents sent from the tax authority, and send them to the specified taxpayer, to receive documents from the specified taxpayer which he/she intends to submit to the tax authority, and then send the received documents to the tax authority, and to do other things similar to these matters. Therefore, the designated tax representative is NOT liable to undertake obligations to submit a tax return or to pay tax on behalf of a specified taxpayer as a designated tax representative’s own obligation.

#### (2) Filing a complaint concerning the designation of a designated tax representative

The designation of a designated tax representative by the tax authority falls under the “disposition carried out pursuant to the national tax laws,” and if the specified taxpayer or designated tax representative has a complaint for the designation, he/she is entitled to file a complaint such as [1] the request of re-examination to the competent District Director of the Tax Office or the Regional Commissioner, or [2] the request of administrative review to the Director-General of the National Tax Tribunal (Act on General Rules for National Taxes 75, [1]). In addition, after filing such complaints, he/she is entitled to file a lawsuit pursuant to the Administrative Litigation Law, etc. (Act on General Rules for National Taxes 114, 115 [1])

### 4. Effective date of the designated tax representative system

The “**designated tax representative**” system was established by the tax reform in FY2021. The provision becomes effective from January 1, 2022, and applies to the request of a taxpayer’s submitting a notification of a tax representative, the request that a domestic facilitator becomes a tax representative of a taxpayer, or the tax authority’s designation of a designated tax representative after these requests to be made on that day and later.

### 5. Terminology

- ◎ “**tax representative**” . . . A person who is appointed by a taxpayer from those who has a domicile or address or office in Japan and is suitable tax related affairs of a taxpayer, where the taxpayer needs to submit tax returns or handle tax affairs related to the national tax. (Act on General Rules for National Taxes 117[1]/[2])
- ◎ “**designated tax representative**” . . . A tax representative who is designated by the jurisdictional District Director of the Tax Office or Regional Commissioner from among domestic facilitators after requesting to appoint a tax representative by himself/herself in order to process the specified matters when a taxpayer fails to fulfill the obligation to appoint a tax representative by the designated date. (Act on General Rules for National Taxes 117[5])
- ◎ “**specified matters**” . . . The following matters and other matters similar to them (Regulation for Enforcement of the Act on General Rules for National Taxes 12-2).
  - [1] To receive documents to be sent to a taxpayer from the Regional Commissioner or the District Director of the Tax Office, or relevant employees of the Regional Taxation Bureau or Tax Office (hereinafter referred to as the “Regional Commissioner or other personnel”) and sent them to the taxpayer during the examination pertaining to national tax; and

[2] To receive documents to be submitted to the Regional Commissioner or other personnel from a taxpayer and submit them to the Regional Commissioner or other personnel in the examination pertaining to national tax.

\* "other matters similar to them" includes receiving, sending and submitting documents related to procedure for collecting delinquent taxes such as an asset seizure pursuant to National Tax Collection Act.

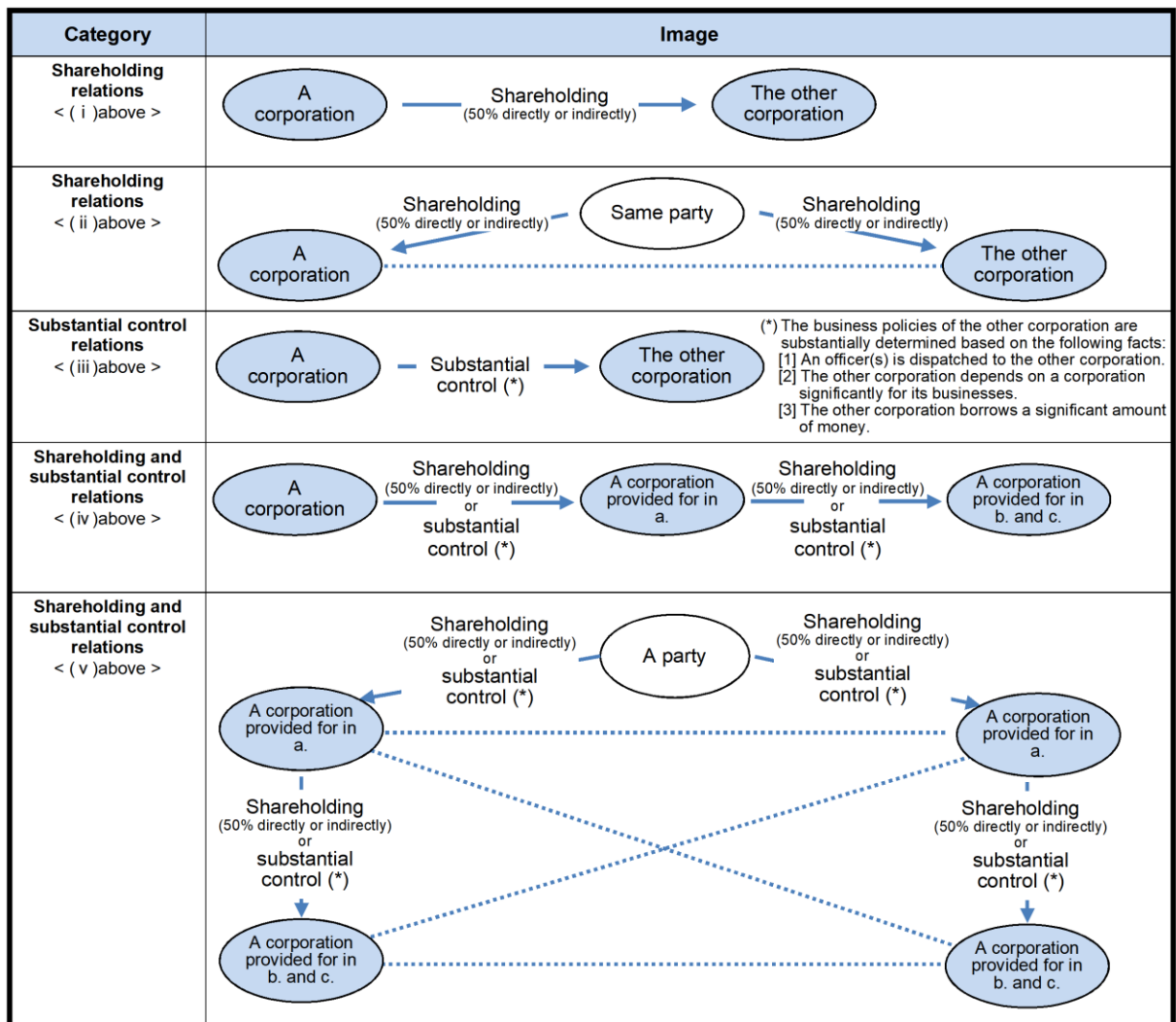
◎ "special relationship" . . . The "special relation" has the same meaning as the one defined in the transfer pricing legislation (Act on Special Measures Concerning Taxation 66-4 ) and specifically referred to as the following relationship (Order for Enforcement of the Act on General Rules for National Taxes39-2[1]) ;

- (i) The relationship whereby either one of two corporations holds, directly or indirectly, shares or capital contributions that account for 50 percent or more of the total number or total amount of issued shares of or capital contributions to the other corporation (excluding the shares of or capital contributions to the other corporation held by itself) (Refer to the category of "Shareholding relations" in Reference chart [1].)
- (ii) In the case where shares or capital contributions that account for 50 percent or more of the Issued Shares, etc. of two corporations are held respectively directly or indirectly by the same person (in the case where the person is an individual, the individual and an individual who has a special relationship specified by Cabinet Order as prescribed in Article 2, item (x) of the Corporation Tax Act with the individual; the same applies in the following item), the relationship between those two corporations; (Refer to the category of "Shareholding relations" in Reference chart [1].)
- (iii) The relationship whereby the existence of any of the facts listed in the following or any other fact equivalent thereto (referred to as a "specified fact" in the following items) enables either one of two corporations to determine substantially the whole or part of the other corporation's business policy (Refer to the category of "Substantial control relations" in Reference chart [1].)
  - a. The fact that 50 percent or more of the officers of the relevant other corporation or any officers who have authority to represent the relevant other corporation are persons who concurrently serve as officers or employees of the relevant one of the two corporations or who used to serve as officers or employees of the relevant one of the two corporations;
  - b. The fact that the relevant other corporation depends on transactions with the relevant one of the two corporations for a considerable part of its business activities;
  - c. The fact that the relevant other corporation procures a considerable part of funds necessary for its business activities by receiving loans from the relevant one of the two corporations or by obtaining guarantees from the relevant one of the two corporations;
- (iv) The relationship between one corporation and any of the following corporations: (Refer to the category of "Shareholding and substantial control relations" in Reference chart [1].)
  - a. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by the relevant one corporation or the whole or part of its business policy can be substantially determined by the relevant one corporation due to the existence of a specified fact;
  - b. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by a corporation listed in (a) or (c) or the whole or part of its business policy can be determined substantially by a corporation listed in (a) or (c) due to the existence of a specified fact;
  - c. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by a corporation listed in (b) or the

whole or part of its business policy can be substantially determined by a corporation listed in (b) due to the existence of a specified fact;

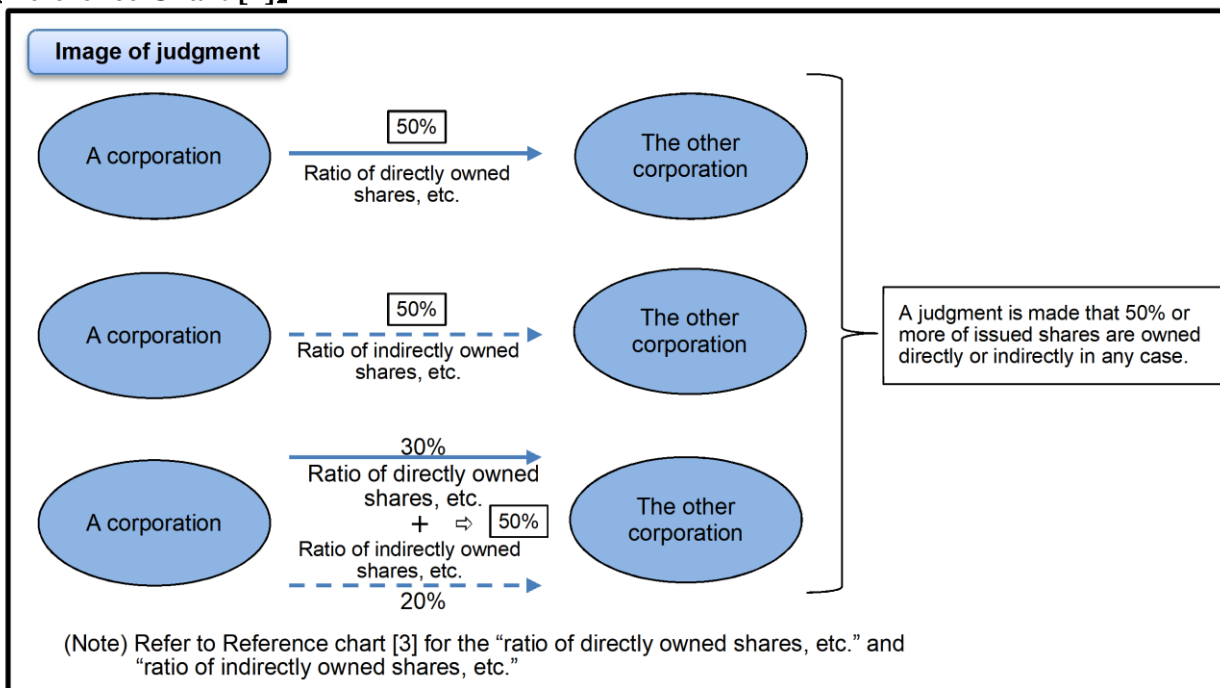
- (v) The relationship between two corporations whereby they fall respectively under any of the categories of corporations listed as follows (limited to the case where the person prescribed in (a) is the same person: (Refer to the category of “Shareholding and substantial control relations” in Reference chart [1]).
- a. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by one person listed in (a) or (c) or the whole or part of its business policy can be substantially determined by one person listed in (a) or (c) due to the existence of a specified fact;
  - b. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by a corporation listed in (a) or (c) or the whole or part of its business policy can be substantially determined by a corporation listed in (a) or(c) due to the existence of a specified fact;
  - c. A corporation in a relationship whereby shares or capital contributions that account for 50 percent or more of its Issued Shares, etc. are held directly or indirectly by a corporation listed in (b) or the whole or part of its business policy can be substantially determined by a corporation listed in (b) due to the existence of a specified fact.

**[Reference Chart [1]]**



- (vi) In the case referred to in item (i) of the preceding paragraph, the determination as to whether one of two corporations holds directly or indirectly shares or capital contributions that account for 50 percent or more of the Issued Shares, etc. of the other corporation is to be made according to the ratio obtained by adding the ownership ratio for the shares, etc. of the relevant other corporation held directly by the relevant one of the two corporations and the ownership ratio for the shares, etc. of the relevant other corporation held indirectly by the relevant one of the two corporations. (Order for Enforcement of the Act on General Rules for National Taxes 39-2 [2]). (Refer to Reference chart [2].)

**【Reference Chart [2]】**



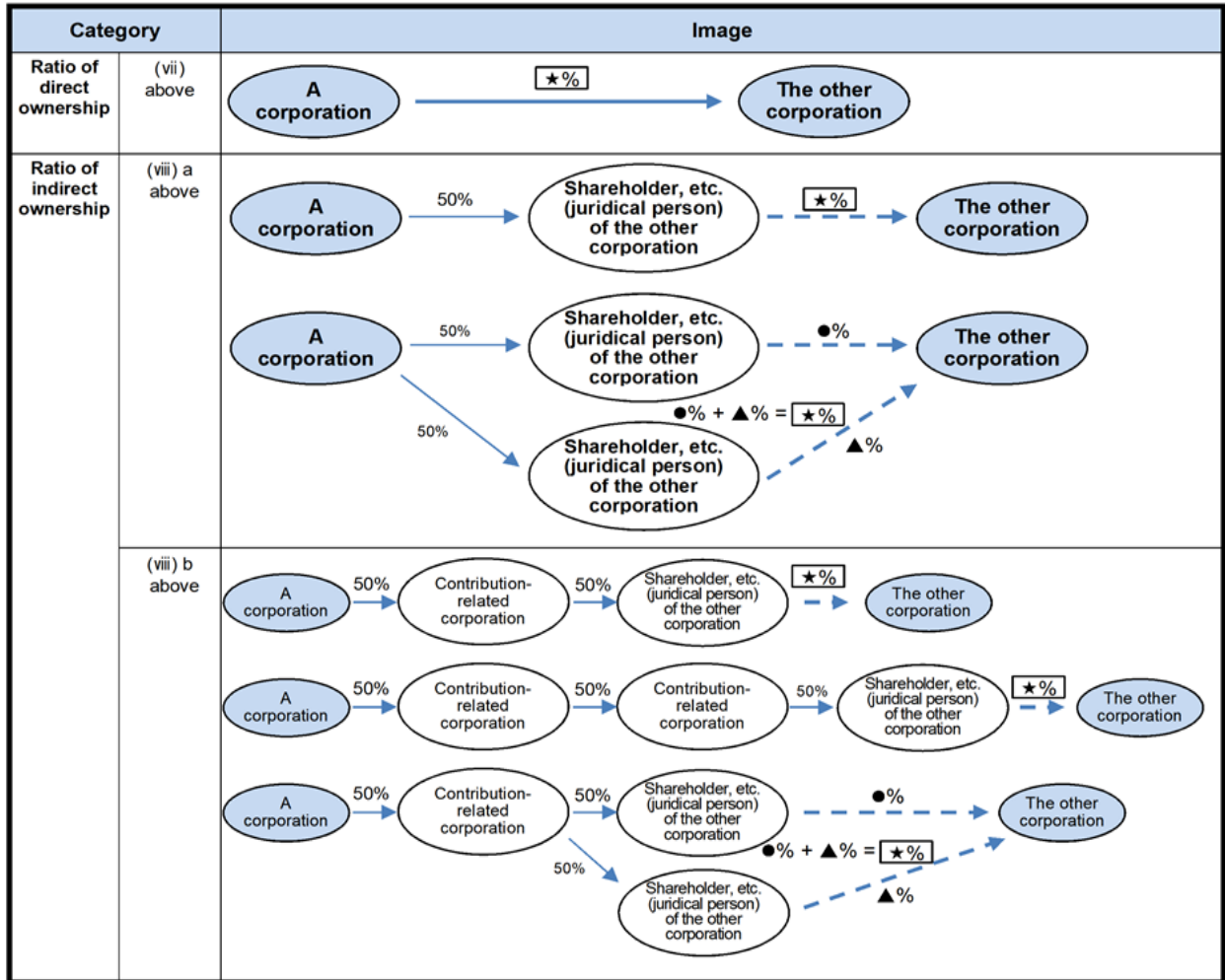
- (vii) The ownership ratio for the shares, etc. of the held directly as prescribed in the (vi) paragraph means the ratio of the number of the amount of the relevant other corporation's shares or capital contributions held by the relevant one of the two corporations out of the total Issued Shares, etc. of the relevant other corporation (Order for Enforcement of the Act on General Rules for National Taxes 39-2 [2]). (Refer to the category of "Ratio of direct ownership" in Reference chart [3].)
- (viii) The ownership ratio for the shares, etc. held indirectly as prescribed in the in the (vi) paragraph means the ratio of issued shares, etc. of the other corporation owned by its shareholder, etc. (juridical person) to all issued shares, etc. or the amount of contribution in relations linking a corporation and such a shareholder due to the ownership of all issued shares, etc. or 50% or more of all the shares or the amount of contribution. It specifically refers to the rates provided for in each category in the following cases (in the case where the ratio falls under both of the following items, the sum of the ratios specified as follows): (Order for Enforcement of the Act on General Rules for National Taxes 39-2 [3]). (Refer to the category of "Ratio of indirect ownership" in Reference chart [3].)
- a. Where shares or capital contributions that account for 50 percent or more of the issued shares, etc. of a corporation which is a shareholder, etc. of the other corporation are held by one of the two corporations (parent/sub-shareholder relations) :
- The ratio of the number or amount of shares of or capital contributions to the relevant other corporation held by the relevant corporation which is a shareholder, etc. out of the issued shares, etc. of the relevant other corporation (in the case where there are two or more of those corporations which



are shareholders, etc., the sum of the ratios calculated for each of them);

- b. Where one corporation or two or more corporations intervene between a corporation which is a shareholder, etc. of the other corporation and the relevant one of the two corporations, and have a linkage with them through holding the issued shares, etc. (multi-layered control relations) :  
 The ratio of the number of shares or amount of capital contributions to the relevant other corporation held by the corporation which is a shareholder, etc. out of the issued shares, etc. of the relevant other corporation (in the case where there are two or more of those corporations which are shareholders, etc. the sum of the ratios calculated for each of them).

**【Reference Chart [3]】**



★% = "ratio of directly owned shares, etc." or "ratio of indirectly owned shares, etc."

(Note) A judgment is made that "a corporation" and "the other corporation" have special relations when the total of ★% is 50% or more (Order for Enforcement of the Act on General Rules for National Taxes 39-2 [1] 1/ [2]).