

Supreme Court of Japan decision regarding double taxation of insurance payments

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Speedread

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A judgment delivered by the Supreme Court of Japan on 6 July 2010 regarding dual taxation on payouts under life insurance policies (where the payout is made in annual instalments rather than in a lump sum), is likely to have a substantial influence on the way insurance companies structure payouts under policies they offer.

In a recent decision of The third branch of the Supreme Court, it was held that taxation of inheritance tax imposed on the lump sum paid under a life insurance policy at the time of the insured person's death and income tax on the annual payments made to the relevant beneficiary under the policy, was double taxation, and therefore in breach of Japanese tax laws. In the relevant case, the plaintiff widow received a life insurance payout in instalments and was taxed inheritance tax at the time of death and income tax on the first instalment payment. The plaintiff asserted that this was in breach of Japanese tax laws which provides that "the nation does not impose income tax on inheritance tax", and the court decided in favour of her.

The decision may have application to other similar types of insurance such as personal pension insurance and educational insurance or any other type on insurance where the payout may be paid by instalments.

In light of the Supreme Court's decision, the Ministry of Finance and the National Tax Agency have started to investigate the need to refund taxpayers for double taxation. It has been estimated that at least 200,000 such cases may exist and that approximately thirty billion yen will need to be refunded. On the other hand, the impact of the decision on other types of insurance is not entirely clear. As such, many insurance companies in Japan are reassessing the way they structure payouts to beneficiaries and the information they need to disclose to policyholders regarding tax risks.

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