

【Seminar Material】

Real Estate Investment in Japan

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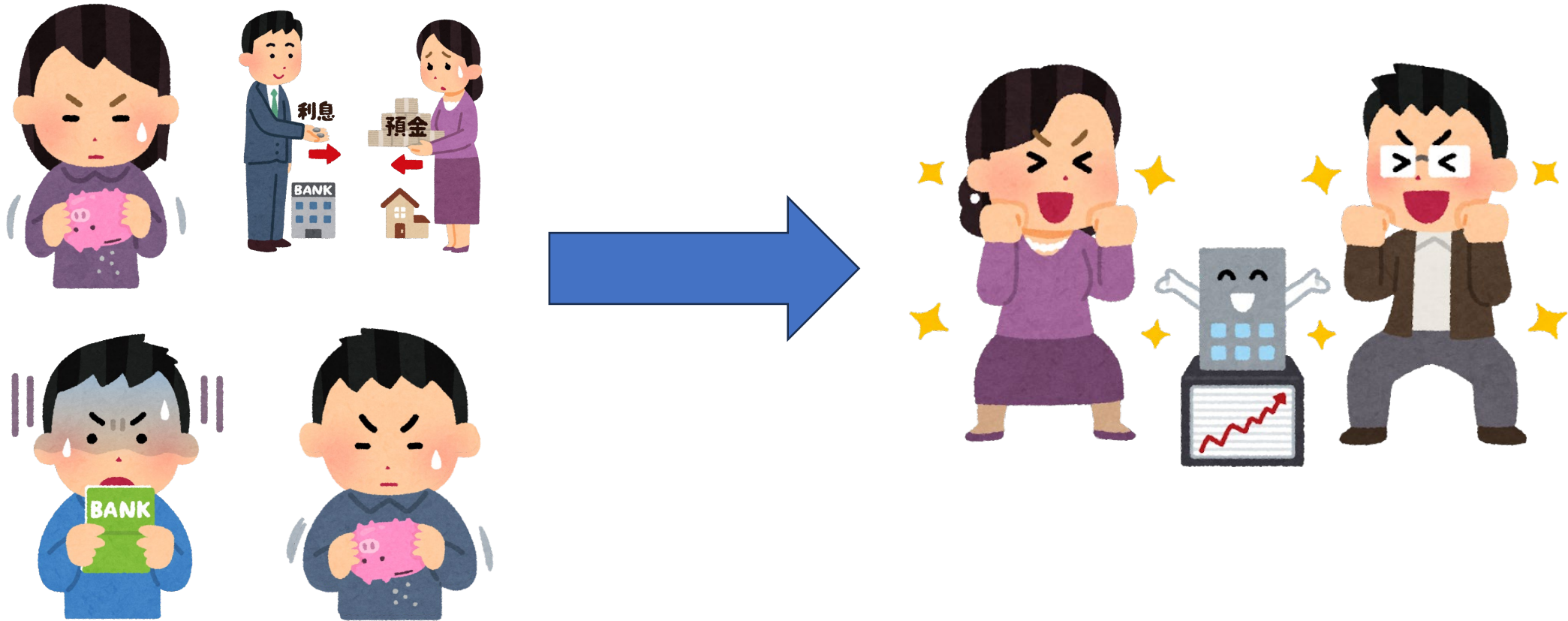
- This document summarizes my personal opinions regarding the current use and future prospects of real estate investment in Japan (hereinafter referred to as “**this matter**”) in accordance with the current laws and regulations and notices in Japan and overseas. Please note that the current laws, regulations, and notices on which this report is based may be revised in the future, in which case the legal treatment described herein may change. This is only my personal opinion does not represent the views of the entire group to which I belong.
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Q1 : : Why real estate investment?

- A global shift from “Savings” to “Investment” is underway.



- In “**Investment**”, “**Return**” is obtained in exchange for “**Risk**”. It is important to balance “Risk” and “Return” in a way that aligns with investors’ level of experience.
 - In “**Low-Risk, Low-Return**” investments, the risk of losing the principal is low, but the potential return is limited. A typical example of a “low-risk, low-return” investment is a **bank savings account**.
 - “**High-Risk, High-Return**” investments offer the potential for high returns, but also come with a higher risk of losing the principal. A typical example of a “high-risk, high-return” investment is **stock investment**.
 - In “**Middle-Risk, Middle-Return**” investments, (i) from the perspective of return, returns tend to be higher than those of savings accounts, although not as high as those of stock investments. (ii) From the perspective of risk, the likelihood of losing principal is greater than with savings accounts, but lower than with stock investments.



A typical example of a “middle-risk, middle-return” investment is **real estate investment**.

- For investors with limited investment experience, “**Middle-Risk, Middle-Return**” real estate investment is often recommended.

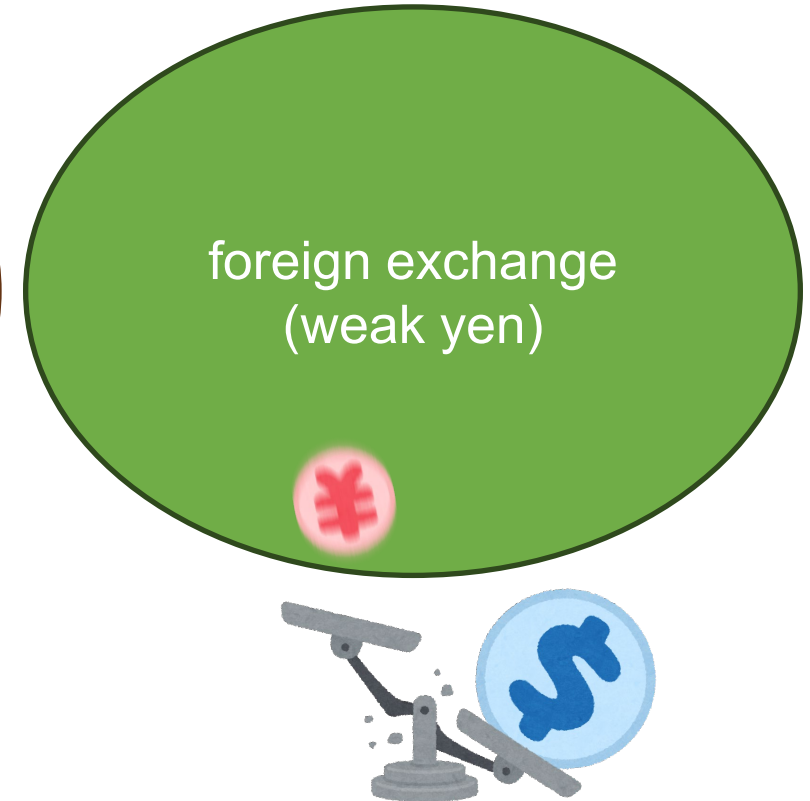


- Note: In any type of investment, investment fund is necessary. It is only real estate investment where investors may borrow **loans** to obtain investment fund.

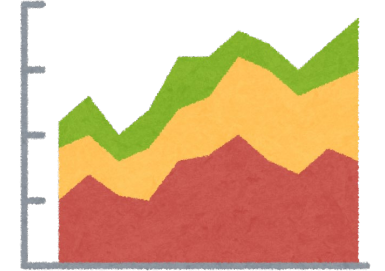


Q2 : Why investment in Japanese real estates?

- The surge in foreign investment in Japanese real estate is driven by
(i) **price of Japanese real estate**, (ii) **low interest loans** and (ii) **foreign exchange (weak yen)**.



- First, (i) **prices of Japanese real estate** still remain **relatively undervalued** by global standards, though they have shown a strong upward trend in recent years due to increased foreign investment .
- Second, (ii) **interest rates on loans** provided by Japanese banks for real estate investment are around **2–3% per annum**, and many mortgage loans are still below 1%.



In contrast, interest rates offered by foreign banks are typically around 6–8% per annum.

Therefore, obtaining a loan from a Japanese bank can result in a more efficient real estate investment.

- Finally, (iii) the recent **depreciation of the yen** has created a favorable investment environment for foreign investors.



- In summary, it is an excellent opportunity for foreign investors to invest in Japanese real estate.

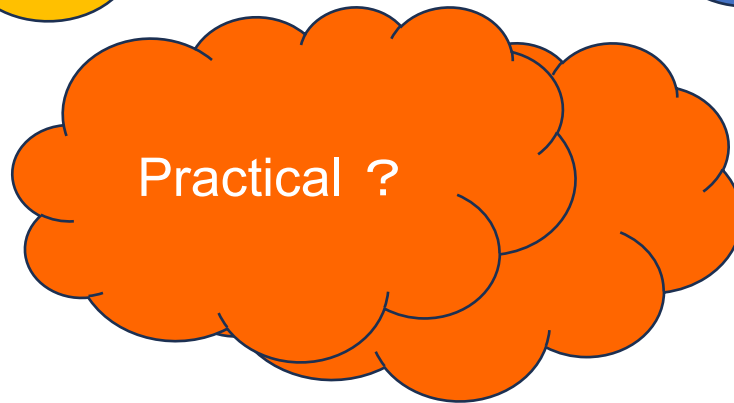
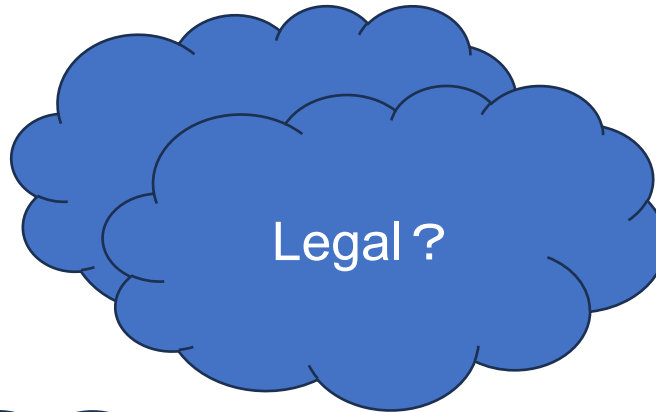


- Note: The new real estate investment scheme, **SBIST** (【Q8】), generally offers greater tax benefits to foreign investors than the traditional **GK-TK scheme** (【Q7】).

Tax Benefits: SBIST scheme > GK-TK scheme

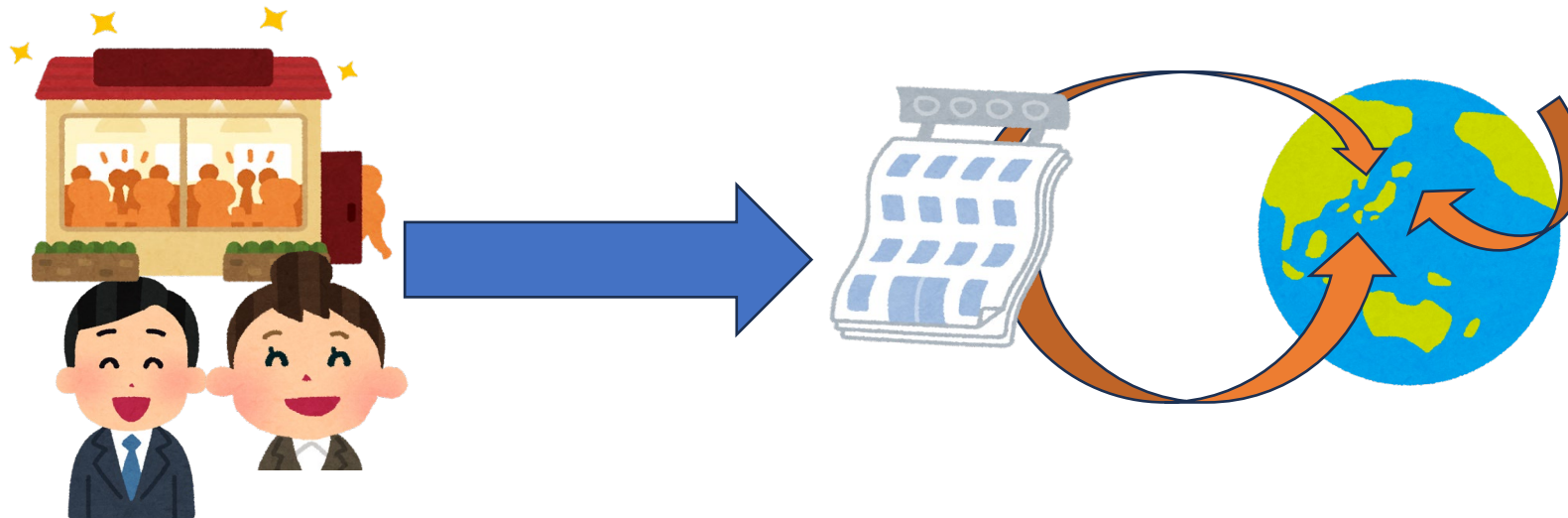
Q3 : What are the problems investing in foreign real estate?

- In general, there are three main issues: (i) **legal**, (ii) **tax**, and (iii) **practical**.



■ (i) Legal Issues

- Many countries prohibit or restrict foreign individuals or corporations from **directly investing** in their domestic real estate.
- To ensure **limited liability** and **tax efficiency**, it is necessary to establish **a company** when investing in Japanese real estate through a corporate structure.
- To ensure **limited liability** and **tax efficiency**, it is necessary to establish or set up **a fund** when using a real estate fund structure.
- **Real estate funds** are also subject to various **regulations** for **investor protection.**



■ (ii) Tax Issues

- Direct investment in Japanese real estate by foreign individuals or corporations is subject to **Japanese tax law**.
- If a company is established in Japan and used to invest in real estate, **Japanese corporate tax** applies to that company.
- Investing through a real estate fund for **tax-saving** purposes requires knowledge of complex **fund taxation**.
- Distributions to foreign investors (e.g., dividends) involve complex **international tax considerations**.



■ (iii) **Practical Issues**

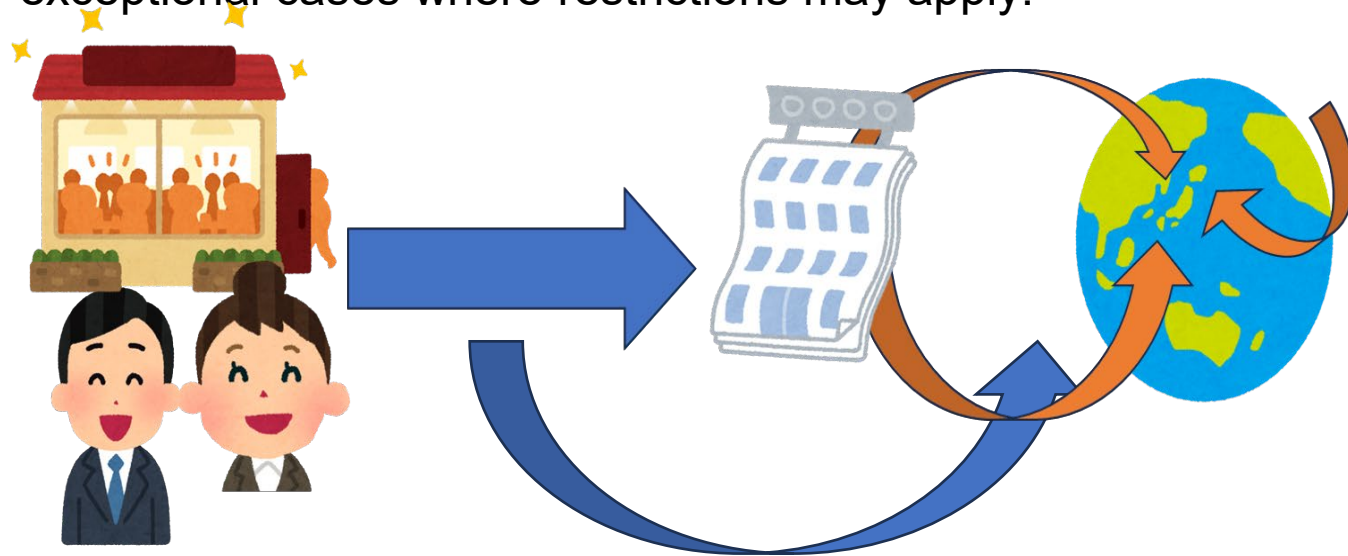
- When establishing a company in Japan (including a corporate-type real estate fund), one issue is whether a Japanese resident is required to serve as a company director.
- When establishing a company in Japan (including a corporate-type real estate fund), another issue is, to open a bank account or obtain a loan from a Japanese bank, whether a Japanese resident director is necessary in that company.



Q4 : Real estate investment from foreign countries to Japan (Issue 1): What are the legal issues?

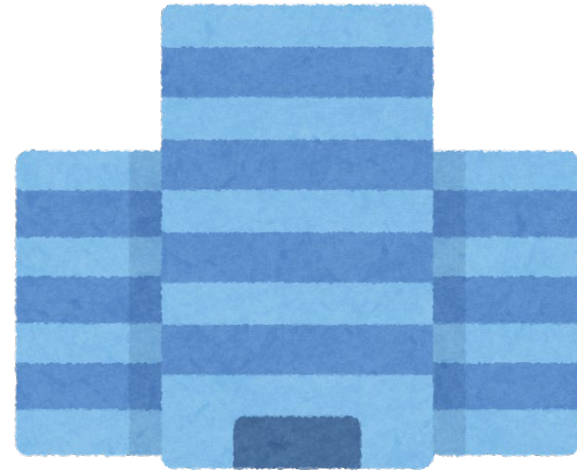
1. Prohibitions and Restrictions on Investment in Japanese Real Estate by Foreign Individuals and Corporations

In Japan, foreign individuals and corporations are generally free to invest in real estate, with only a few exceptional cases where restrictions may apply.



2. Investing in Japanese Real Estate through a Japanese Company: Establishing a Company

- To ensure **limited liability** for foreign investors, a joint-stock company (KK) or a limited liability company (GK) is typically established.
- Establishing a company requires the involvement of **an attorney or a judicial scrivener**.



Stock Company /
Limited Liability Company

3. Using a Real Estate Fund Structure: Fund Establishment and Setup

- If a real estate fund is used, it is necessary to establish or set up the fund.
- Real estate funds in Japan generally take one of the following three forms:
 - (i) **Corporate type** (e.g., **KK**, **GK**)
 - (ii) **Partnership type**
 - (iii) **Trust type**

Note: (i) Corporate-type (GK) and (ii) Partnership-type (TK) structures are often combined as the **GK-TK scheme** (【Q7】).

- For **corporate-type** funds: **an attorney or judicial scrivener** is necessary to incorporate the company.
- For **partnership-type** funds: **an attorney** is necessary to draft and execute the partnership agreement.
- For **trust-type** funds: **a trust company or trust bank**, along with **an attorney**, is necessary to prepare and execute the trust agreement.



4. Using a Real Estate Fund: Investor Protection Regulations

- In general, real estate funds are subject to various **investor protection regulations**.
- The specific regulations vary depending on the fund structure:
 - (i) **Corporate-type**, (ii) **Partnership-type**, or (iii) **Trust-type**.
- It is necessary to obtain legal advice on **real estate fund regulations** from **an attorney** specializing in financial law.



Q5 : Real estate investment from foreign countries to Japan (Issue 2): What are the tax issues?



1. Direct Investment by Foreign Individuals or Corporations: Application of Japanese Tax Law

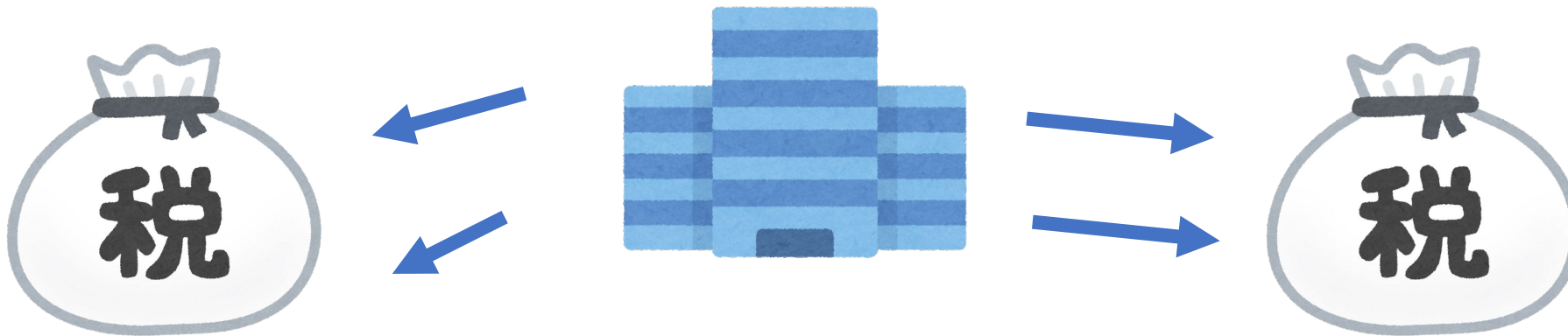
- Foreign individuals (non-residents) and foreign corporations investing directly in Japanese real estate are subject to Japanese Income Tax or Corporate Tax. However, only Domestic Source Income is taxable.
- Rental income and capital gains from Japanese real estate are considered Domestic Source Income.
- Foreign individuals (non-residents) and foreign corporations are required to file tax returns and pay taxes on income from Japanese real estate (**Domestic Source Income**) after withholding taxation.
- The tax treatment may vary depending on (i) whether **a Permanent Establishment (PE)** exists in Japan, and (ii) whether the income is attributable to that PE.
If a foreign individual (non-resident) or foreign corporation has a PE in Japan, local taxes are also imposed on Domestic Source Income.
- There is a possibility to have a **PE** operating a real estate business when there is rental income from Japanese real estate.
- It is necessary to obtain advice on Japanese tax matters **a certified tax accountant in Japan**.

2. Investing via a Japanese Company: Application of Japanese Corporate Tax Law

- When a Japanese company is used to invest in Japanese real estate, corporate tax is imposed on that company.

Japan's **effective corporate tax rate is approximately 35%**, which is high by international standards.

- Dividends paid by Japanese companies to foreign investors are subject to **dividend withholding tax** (see **Section 4** for details).
- **A licensed tax accountant in Japan** is necessary to obtain advice on Japanese tax law.





3. Real Estate Fund Structure: Fund Taxation

- Fund taxation rules and conditions vary depending on the fund type, but structures are typically designed to avoid corporate taxation for **tax efficiency**.
- In **corporate-type funds** (KK or GK), corporate tax is minimized by combining the structure with a Tokumei Kumiai (TK) investment, known as **GK-TK scheme** (【Q7】).
- In **trust-type funds**, taxation is highly complex and depends on the type of trust. However, using either **an ordinary trust** or **a Specified Beneficiary Certificate Issuance Trust (SBIST)** (【Q8】) often enables tax-free structuring as to corporation tax.
- For fund taxation advice, it is essential to consult **a certified tax accountant** specializing in fund taxation.

4. Dividends to Foreign Investors: International Taxation

- When dividends or other payments are made to foreign investors, **international tax** issues arise.
- Tax implications must be assessed based on:
 - (i) **Japanese tax law** (as the country where the real estate, owner company, or fund is located),
 - (ii) **The tax law of the foreign investor's country**, and
 - (iii) **A tax treaty** between the two countries mentioned above **(if applicable)**.
- For advice on international taxation, it is essential to consult a **certified tax accountant** specializing in international tax.



Q5-2 : Real estate investment from foreign countries to Japan (Issue 2):

Are there any tax issues specific to real estate investments from the U.S. to Japan?

■ Tax Planning

Generally, tax planning involves creating a matrix that optimizes both U.S. and Japanese tax treatment to determine the most advantageous investment structure.

Common patterns include: (i) For U.S. individuals – investing through a **U.S. corporation**, (ii) For U.S. corporations – using **the GK-TK scheme** (**【Q7】**).

■ GILTI Taxation (Global Intangible Low-Taxed Income)

When U.S. investors invest in Japanese real estate via a Japanese company, **GILTI taxation** applies in the U.S.

GILTI imposes a minimum tax on foreign subsidiary income, payable by U.S. shareholders (both individuals and corporations) of the foreign company.

The GILTI tax rate will increase in 2026 from a maximum of 13.125% to 16.404%.

■ Other Considerations

For wealthy U.S. individuals, **PFIC taxation** and **the Medicare surtax** may apply even at the individual level.

Even if no tax is imposed in Japan, the **PFIC** rules can result in taxation at the highest U.S. tax rate, leading to a significant tax burden.

The Medicare surtax imposes a 3.8% tax on investment income of high-income individuals.

"High income" generally means annual income of \$200,000 or more for individuals, or \$250,000 or more for married couples filing jointly, although the rate and thresholds may change from year to year.

Q6 : Real estate investment from foreign countries to Japan (Issue 3): What are the practical issues?

- When establishing a company in Japan (including a corporate-type real estate fund), one issue is whether a Japanese resident is required to serve as a company director.

Under the Japanese Companies Act, there are no requirements that directors be Japanese or reside in Japan.

Therefore, foreigners, Japanese or foreigners who do not live in Japan, can serve as directors.

- When establishing a company in Japan (including a corporate-type real estate fund), another issue is, to open a bank account or obtain a loan from a Japanese bank, whether a Japanese resident director is necessary in that company.

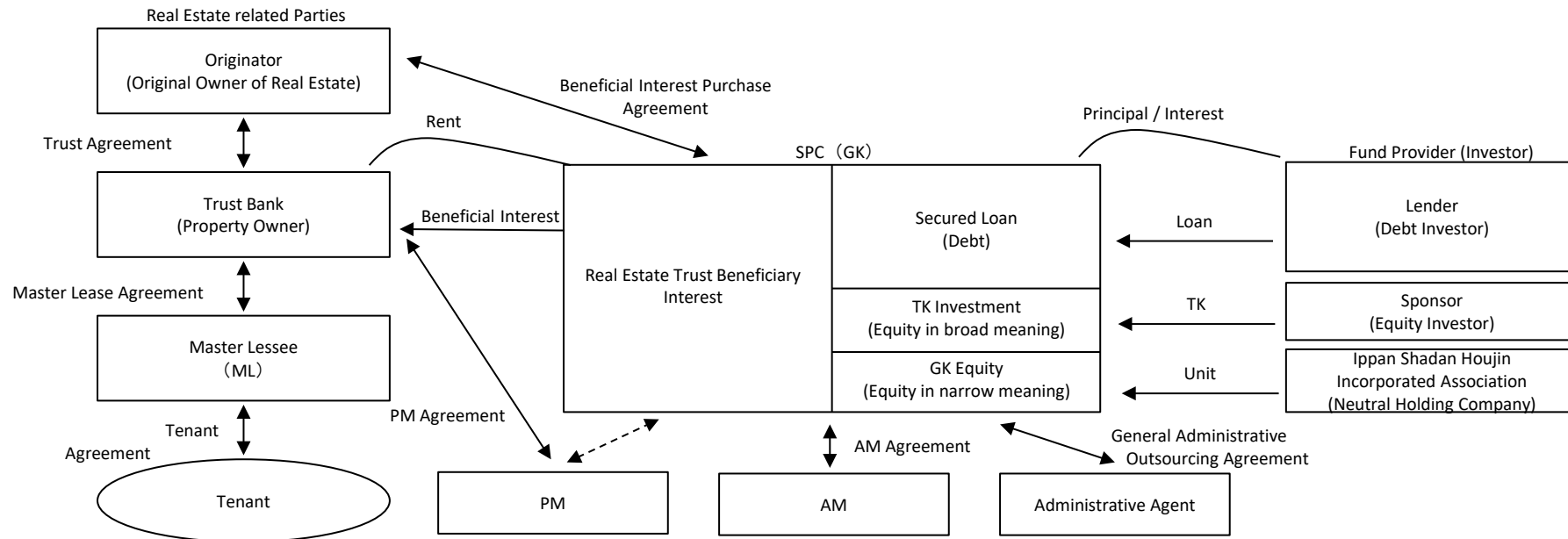
As a matter of Japanese banking practice, and in light of the recent tightening of **anti-money laundering regulations**, it is generally required for the company to have a director who is a Japanese resident.

Q7: What types of real estate fund schemes are available?

- It is common to establish and use a company for real estate investment purpose only (SPC).
- In case of **private placement funds** (with a small number of investors), the two major corporate-type schemes are:
 - (i) **GK-TK Scheme**
A structure combining a limited liability company (**GK**) under the Companies Act and a Tokumei Kumiai partnership (**TK**) under the Commercial Code.
 - (ii) **TMK Scheme**
A structure using a Tokutei Mokuteki Kaisha (**TMK**) under the Asset Securitization Law.
Note: Corporate-type schemes where a large number of investors invest: Public placement funds (e.g., REITs).
- Recently, **trust-type schemes** using a trust for real estate investment, such as the following, have also come into use.
 - (i) **STO Scheme**
 - (ii) **SBIST Scheme**

Q8: What is GK-TK scheme?

- A **GK-TK scheme** is a real estate investment scheme that combines a **Godo Kaisha (GK)** under the Companies Act, and a **Tokumei Kumiai agreement (TK)** under the Commercial Code.
- This combination is primarily used for its tax-saving benefits.
- A typical GK-TK scheme is illustrated as follows:



Q9: What is SBIST scheme?

- **SBIST** is the summary of **Specified Beneficial Interest Securities-Issuing Trust**.
- An **SBIST/Specified Beneficial Interest Securities-Issuing Trust** is a “**Beneficial Interest Securities-Issuing Trust**” as defined under the **Trust Act** that meets certain requirements set forth in the **Corporation Tax Act**.
- An example diagram of an SBIST structure is shown below:

