

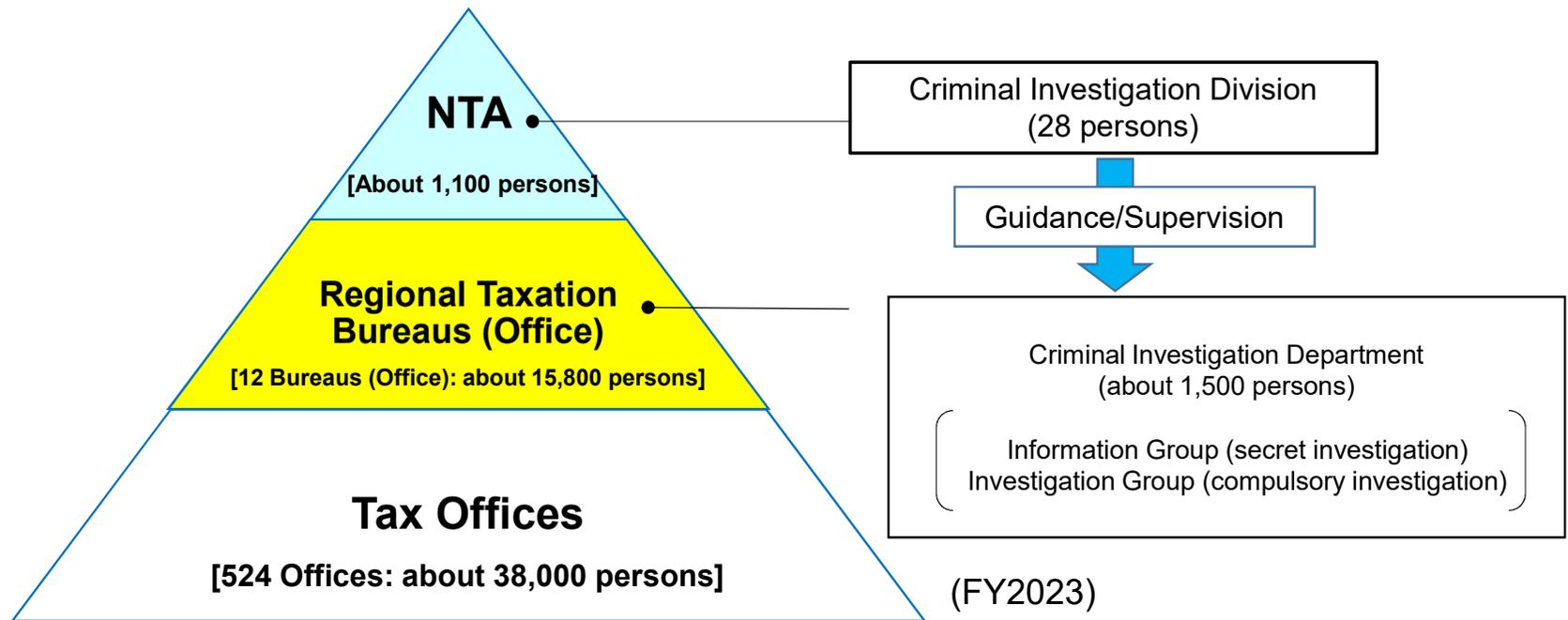
Tax criminal investigation in Japan

Tokyo Regional Taxation Bureau
Criminal Investigation Department

Tax evasion control

1. Organization of Criminal Investigation
2. Type of tax criminal & Punishments in Japan
3. Relation between Tax examination and Tax criminal investigation
4. Why are we involved with the crime control?
5. Tax evasion, what?
6. Proof of tax evasion
7. Status of tax evasion control in Japan

1. Organization of Criminal Investigation



- Regarding Criminal Investigation Group, about 1,500 investigators of 56,000 tax officials (in total) are allocated to 12 Regional Taxation Bureaus (Office) throughout Japan.
- The investigators are almost halved into the “Information Group” in charge of secret investigation etc. and the “Investigation Group” in charge of main investigation such as compulsory investigation.

2. Type of tax criminal & Punishments in Japan

Type of tax criminal		Punishment	Statute limitation
1	Tax evasion by deception or other wrongful acts (including intentional non-filer)	Imprisonment up to 10 years /fined up to ¥10,000,000/ subjected both	7 years
2	Fraudulent refund by deception or other wrongful acts In the case of Consumption tax , attempt of the crime may be punished.	Imprisonment up to 10 years /fined up to ¥10,000,000/ subjected both	7 years
3	Tax evasion by no filing returns without other wrongful acts	Imprisonment up to 5 years /fined up to ¥5,000,000/ subjected both	5 years
4	Only filing no returns (without intention about Tax evasion)	Imprisonment up to 1 years /fined up to ¥500,000/ subjected both	3 years

3. Relation between Tax examination and Tax criminal investigation

Item	Tax examination	Tax criminal investigation
Authority of Investigating	Discretionary examination	<ul style="list-style-type: none">▪ Discretionary examination▪ Compulsory investigation
Character	Administrative procedure based on Act on General Rules for National Taxes	Quasi-criminal procedure based on Act on General Rules for National Taxes
Target	Taxpayer and those who involved	Criminal suspect and Conspirator, etc.

4. Why are we involved with tax evasion investigation?

✓ The specialty of tax evasion)

– Evidence

There is the considerable difference between
the general criminal case and tax evasion

– Collection of evidence, and evaluation of evidence

The special experience and knowledge are required
for criminal investigation



5. Tax evasion, what?

- Tax evasion, what?
- Typical methods
- Characteristics



➤ Tax evasion, what?

General definition:

Illegal action where a taxpayer intentionally reduces his/her/its tax liability with tricks

Tax revenue decrease

unfairness among people

Distrust of a state

Tax evasion :
One of crucial threats to your state

➤ Typical methods

- ✓ Tax return based on fabricated accounting
 - Intentionally underreporting sales or other profits when filing
 - Intentionally exaggerating expenses when filing
 - Claiming substantial deductions to which he/she/it not entitled

- ✓ Intentional no tax-return-filing



➤ Characteristic

- ✓ Conventional tax evasion [concerning legal income]
 - This form of tax evasion is especially apparent among SMEs and wealthy individuals
- ✓ Tax evasion [concerning illegal income]
 - Criminal organization ... Difficulty in inspection and investigation
 - Money laundering [**Japanese National Tax Agency does not have investigatory power**]
- ✓ Recent trend
 - Abuse of international transactions ... No investigatory power on foreign territories
 - Fraudulent refund of Consumption tax...Malicious act classified fraud of treasury money

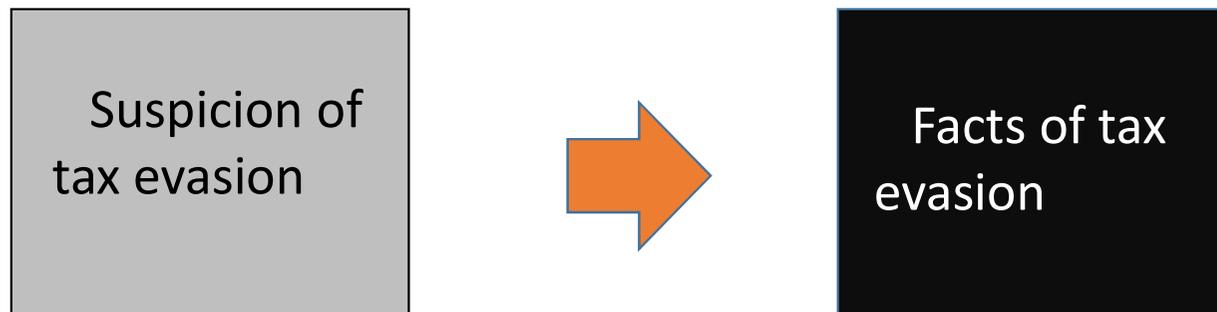
6. Proof of tax evasion

- Proof burden
- Structural elements of the crime
- Typical defense by tax evaders
- Approach



➤ Proof burden

In criminal cases in Japan, the prosecution must prove elements of crime to sustain a conviction.

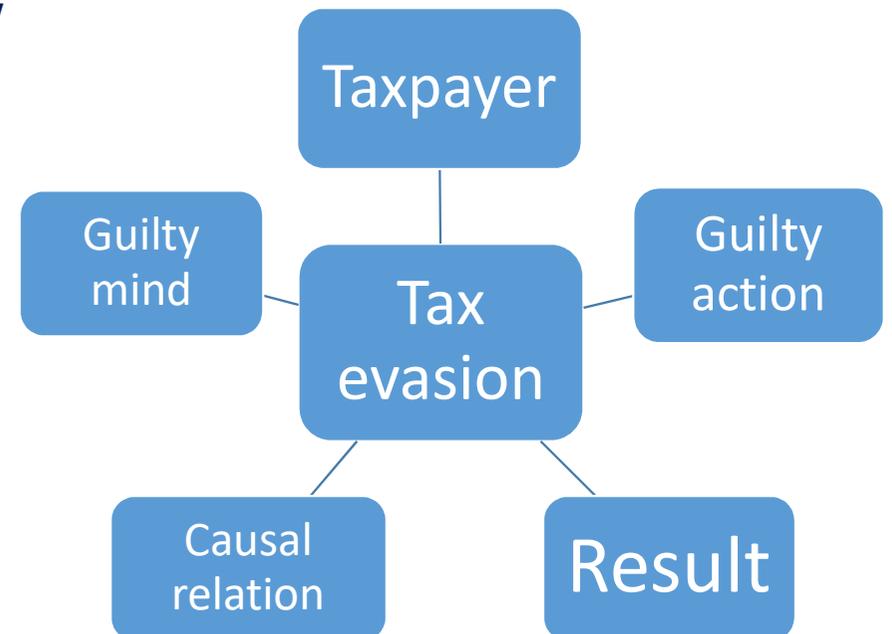


Prosecutor and investigators must submit reasonable evidence to prove tax evasion in a criminal suit.

➤ Structural elements of the crime

- To demonstrate tax evasion, certain necessary conditions (structural elements that constitute the crime) must be proven as specified in the law.

- ① Taxpayer
 - Entity or person as taxpayer regulated in tax law
- ② Guilty action
 - Evaders' actions done to evade tax
- ③ Result
 - Actual tax amount evaded
- ④ Cause & result relation
 - Linkage between causal action and result
- ⑤ Guilty mind
 - Willfulness, intentional violation of a known legal duty



➤ Typical defense by tax evaders

Case1. Denial by claiming other fund sources

Case2. Denial by claiming other causes of loss

Case3. Denial by claiming no intention

⇒ You have to confirm whether the claims are true or not through investigation! Pile the facts with evidence.

Case4. Obstructing investigation

⇒ In case such obstruction are expected , surprise interrogations play crucial role to collect evidence.

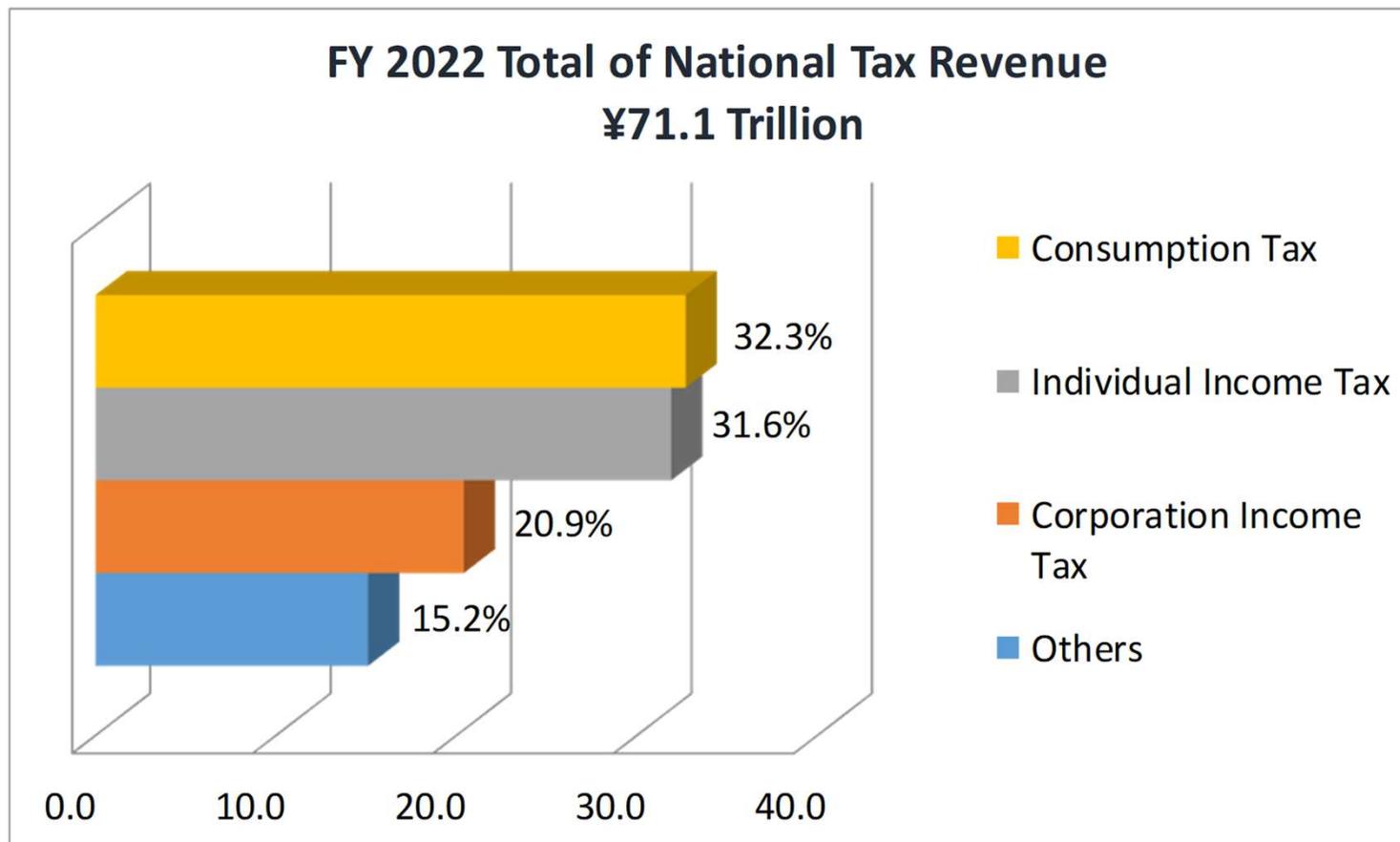
➤ Approach

- ✓ Thorough Legal review)
 - Study of judicial precedents
 - Idea exchange with public prosecutors
- ✓ Carrying out the simultaneous investigation effectively
 - Thorough secret investigation
 - Exhaustive preparation
 - Strategic operation
- ✓ Cooperation with other law enforcement agencies
 - Legal consultation
 - Information / idea exchange
 - Joint investigation



7. Status of tax evasion control in Japan

✓ Portion of national tax revenue



7. Status of tax evasion control in Japan

Table 1. No. of our criminal tax cases

	2020	2021	2022
No. of Cases Handled	111	116	145
No. of Cases Disposed	113	103	139
No. of Cases Accused	83	75	103
Accusation Ratio	73.5%	72.8%	74.1%
Total Amount of Tax Evaded, etc. (million Yen)	9,050	10,212	12,760
Total Amount Accused	6,926	6,074	10,019

Table 2. Status of the judgements in the first instance

Classification		year 2020	year 2021	year 2022
(1) Judgments		87	117	cases 61
(2) Conviction cases		86	117	cases 61
Convicted persons without suspension of punishment		6	5	person 3
Rate of conviction (%) [(2) / (1)]		98.9	100.0	% 100.0
Per case	Amount of purposely evaded tax	57	64	million yen 47
Criminal sanctions (average)	Penal servitude	14.1	15.7	months 13.6
	Amount of fine	13	15	million yen 12

Some cases of
hidden assets concealed
by tax evaders

Case (1) – 1

A closet in a house

①



②



Case (1) - 2

③



④



Case (2) – 1

A storage under the stairs in a house

①



②



③



See next page

Case (2) – 2

④



Case (3)

A dressing room in a house

①



②



③



④



Case (4)

A living room
in a house

①



②



④



⑥



③



⑤



⑦



Case (5) – 1

- A bedroom in a house

①



②



③



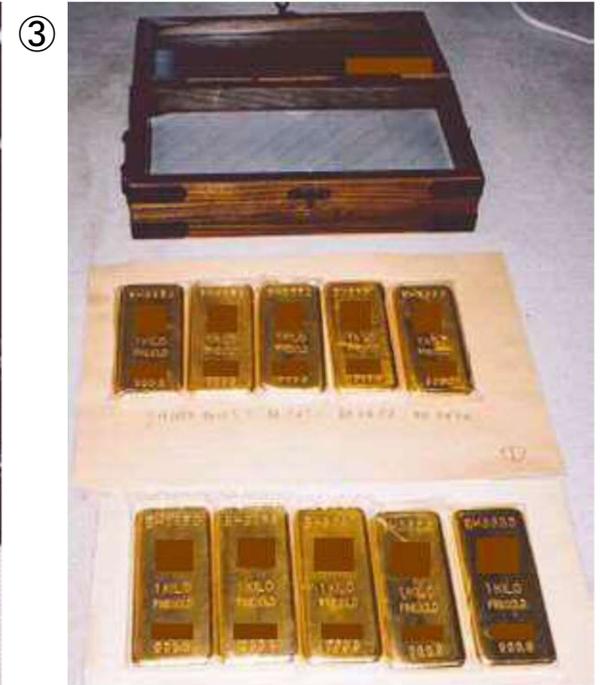
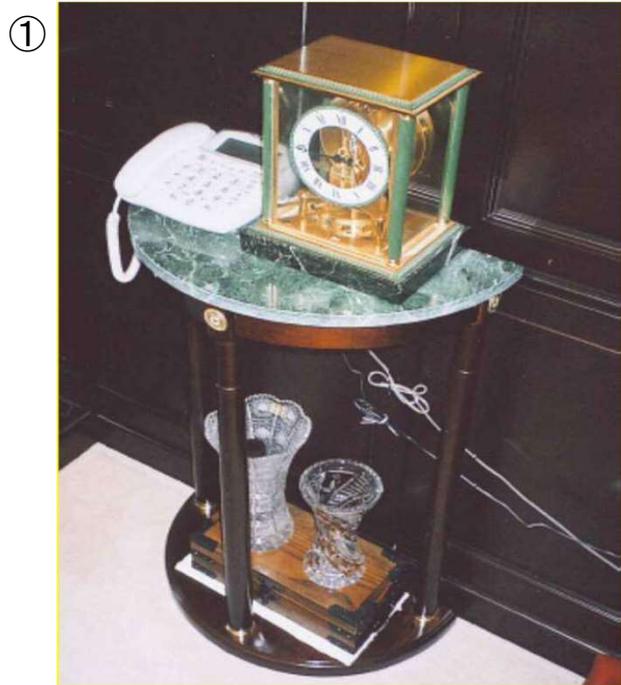
Case (5) - 2

③



Case (6)

A chest under a telephone stand



Case (7)

In the ground in suspect's field

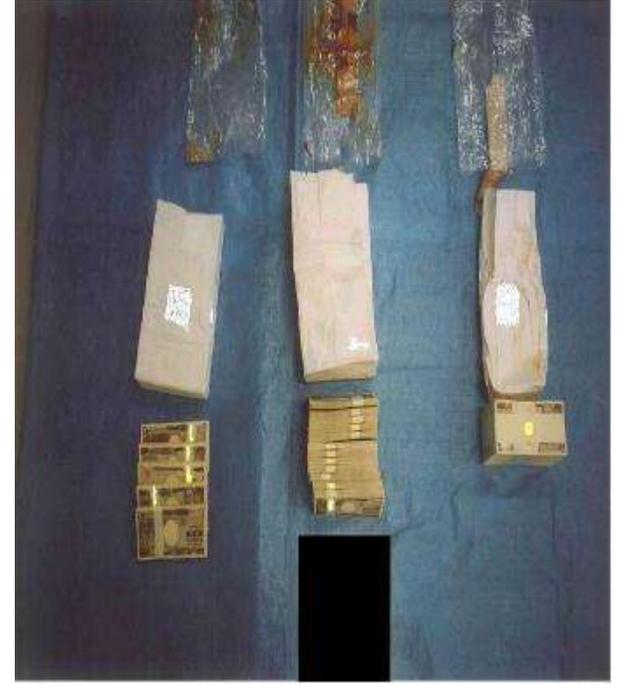
①



②



③



Case (8)

In the mechanical device of the elevator in the suspect's house

①



②



③



Case (9) — 1

Under the floor of the suspect's warehouse

①



②



③



Case (9) - 2

④



⑤



⑥



Case (10)

A loft in a house

①



②



④



③



⑤



At the end . . .

We never live in the world
where honesty doesn't pay.

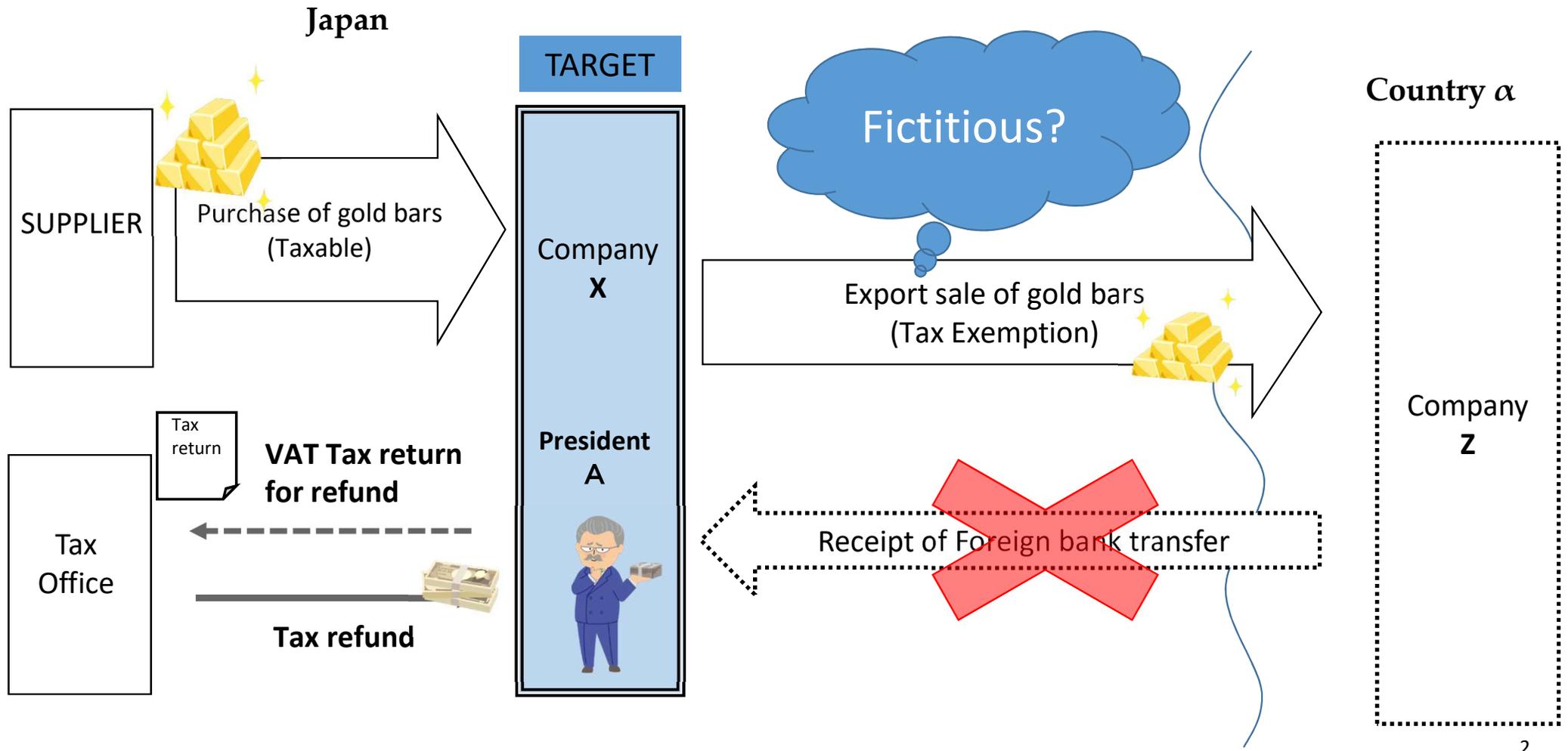
Thank you for your attention

V A T F R A U D C A S E I N J A P A N

○ Overview of the Investigation

- ✓ Company **X** is a family company, which conducts import and export business, purchasing and selling gold bars in Japan.
- ✓ In our covered examination, we assumed that Company **X** recorded a fictitious export sale to company **Z** in country α and illegally received VAT refunds from Japanese tax office.

○ Overview of the case



○ Assumptions in our secret investigation stage

【Facts】

- ① The numbers of gold bars purchased by Company **X** and those of gold bars exported to company Z are just the same.
- ② There are no foreign bank transfer from Company **Z** in country α to Company **X** in Japan
- ③ President **A** of Company **X** left Japan for country α just after Company **X** purchased a gold bars from gold bar dealers in Japan and exported them to country α .
- ④ Just after President **A** came back from short stay in country α , gold bars were sold to gold bar dealers in Japan in the name of President **A** or Company **X**'s related Japanese company.



【Our assumptions】

Although Company **X** reported exports sales to Japanese tax office, those transactions are fictitious and President **A** secretly brought back the exported gold bars to Japan without declaring Japanese Customs and then sells them to gold bars dealers in Japan.

○ President A's statement (1st day of our investigation)

President A denied the tax evasion !



- ① The exports of gold bars to Company Z in country α are legitimate, so Company X's consumption tax returns are right.
- ② The gold bars sold to gold bar dealers in Japan are just what I bought privately. Therefore, gold bars sold in Japan are different from what Company X exported to country α .



President A

○ Progress (revealed facts)

① Statement of purchase that company X bought a gold bar from a gold bar dealer in JAPAN

ご購入 ご計算書

嫌疑法人 御中 仕入先

品目	バーNo.	数量	重量	単価	代金
金地金	XXXXX1	1	2,000	5,600	5,600

② Commercial invoice issued from Company X to Company Z in country α

COMMERCIAL INVOICE

SIPPER		CONSIGNEE		
嫌疑法人		X社		
COUNTRY ORIGIN	NO of Package	DESCRIPTION OF GOODS	WEIGHT	TOTAL VALUE
JAPAN	1	AU REFINING999.9 XXXXX1	1kg	

Serial numbers

All serial numbers are same!

XXXX1

The serial number of a gold bar which are purchased in Japan and exported to country α and that of a gold bar which Company X's related company sold to a gold bar dealer in Japan are

③ Statement of purchase that a gold bar dealer purchased a gold bar from Company X's related company

計算書

嫌疑法人関連会社 御中 金地金取扱業者

品目	数量	重量	単価	代金
金地金	1	1,000	5,650	5,650
バーNo.	XXXXX1			

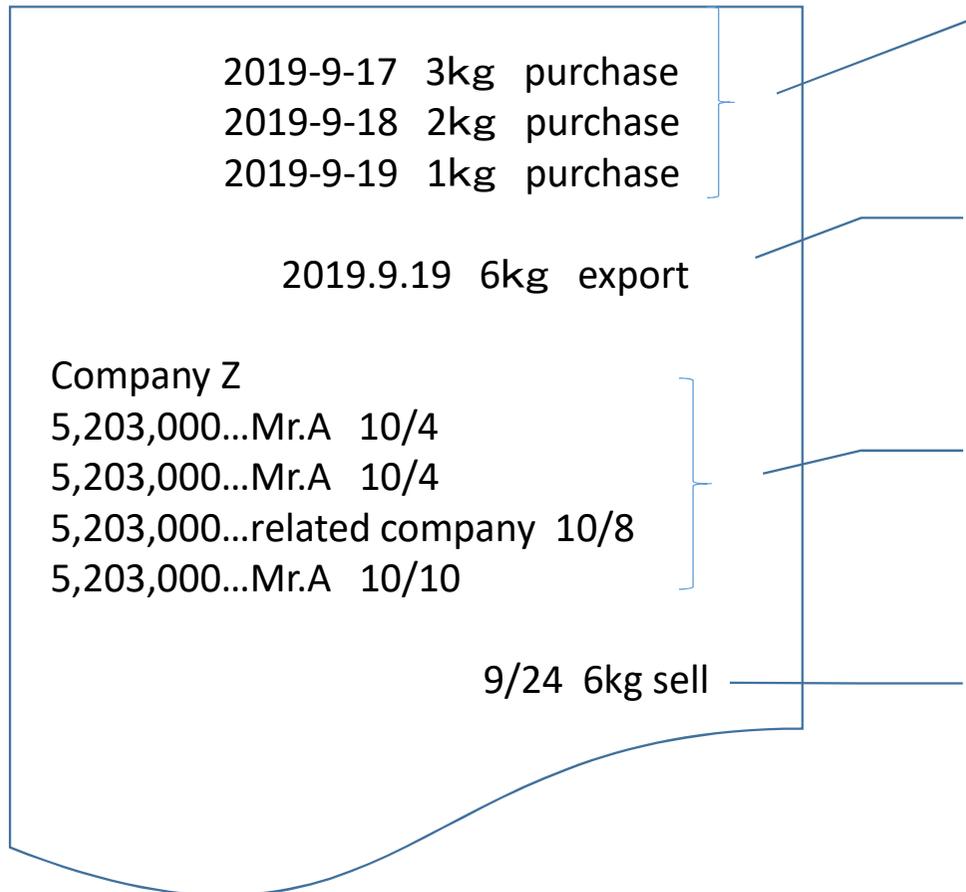
same !



One of the evidences that President A brought back the exported gold bar to Japan and then he sold it to gold bar dealer in Japan !

○ Progress (revealed facts)

【Envelope】



① The date and quantity of purchases of gold bars

② The date and quantity of export of gold bars

④ The date, amount and name of the remittance disguised as Company Z's

③ The date and quantity of sales of gold bars

○ Progress (seized evidences)

Field investigation

Seized evidences (Agreement between Company X and Company Z in company α)



【Seized evidence】

Transaction agreement between Company X and Company Z was concluded (1st November xxx1) before Company Z was established (14th June, xxx2)!

→It's impossible !

○ Progress (revealed facts)

Field investigation

Bank account of Company X's related company

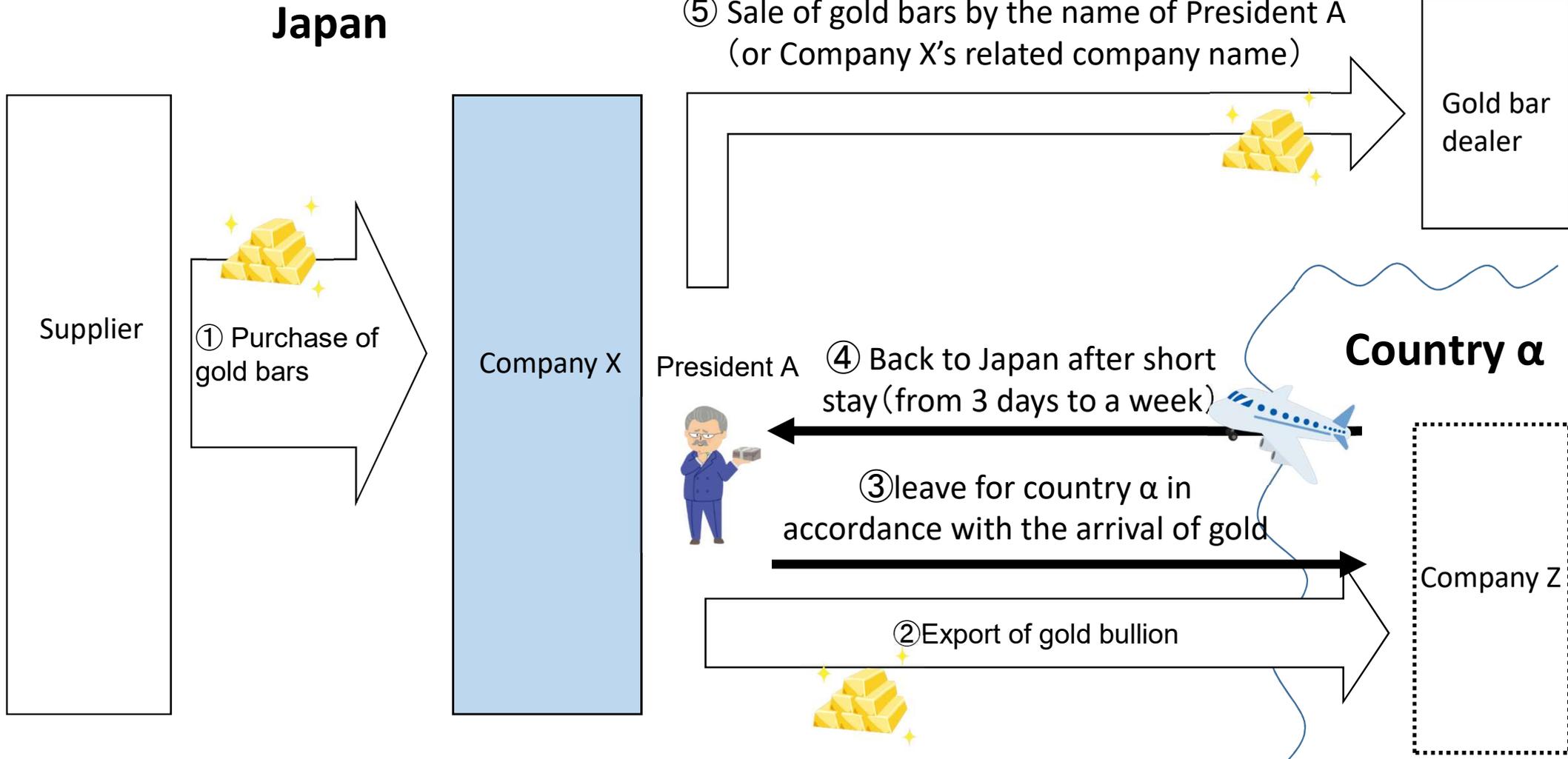
Y	M	D	Description	Transfer Destination	Remitter's name	Debit	Credit	Balance
X3	9	4	Check		-		18,505	18,517
			Bank Transfer	Company X	Company Z	4,972		13,545
			Bank Transfer	Company X	Other HK Company	5,010		8,535
		5	ATM (3 times)	-	-		4,428	12,963
			Transfer	Company X	Company Z (HK)	5,810		7,153

① The sales money of gold bars are by a check issued by gold bar dealers, and it is cashed in the bank account of Company X's related company and the money is transferred to company X's bank account in the same day.

② When the transfer was done, the remitter's name was changed from company X's related company to company Z (and other company name in country α) ⇒ **Disguised as if foreign transfer are done!**

○ Illegal Scheme

Field investigation



○ Progress (revealed facts)



Investigator

The serial number of exported gold bars and that of gold bars you sold to gold bar dealers in Japan are just same. Please explain the reason why such situation occurred.

I don't know why these serial numbers are matched. I think that someone made me purchase such forged gold bars. I was trapped!



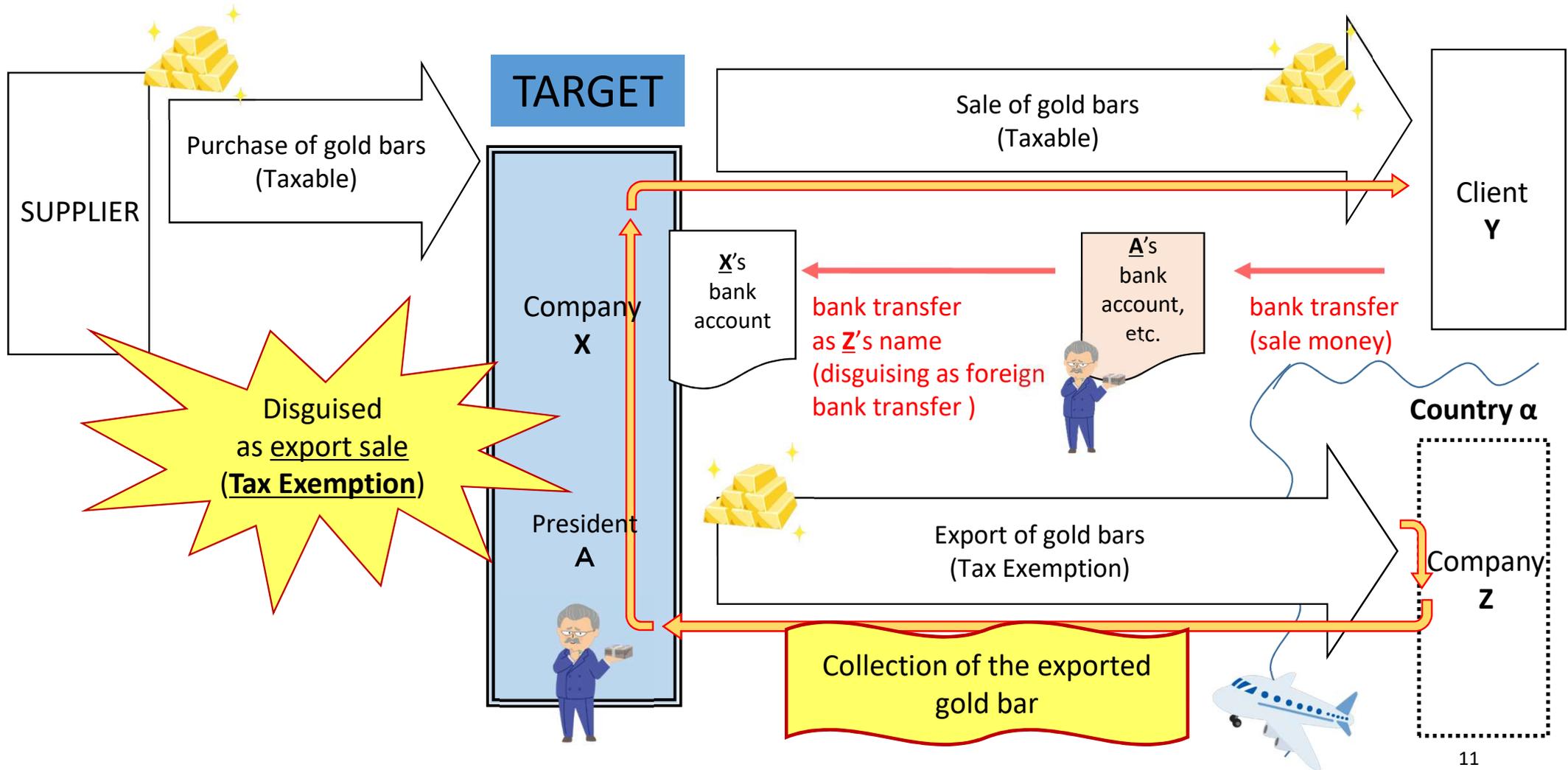
President A



It is almost impossible to elaborately forge a international branded gold bars. Therefore, contradictions existed in the President A's statement.

○ Overview of the case (final)

Field investigation



○ Progress (revealed facts)

- ✓ Translation and analysis of evidences (written in multilanguage)
 - Translation of messages stored in electric devices
- Messages in smartphone between President **A** and **X**'s employees



- Translation of invoices

○ Progress (REOI)

✓ Request on Exchange of Information based on tax treaties, etc.

- **Country α**

- ① Company **Z**'s financial statements and tax returns
- ② President **A**'s Custom Declarations
- ③ bank account information
- ④ Company **Z**'s beneficial ownership information

- **Country β**

Data recovery of the communication history in Message appli. between President **A** and Company **X**' employee

○ The results of our investigation

- ✓ **X** had recorded fictitious export sales to **Z**, which are insubstantial.
- ✓ By this, **X** had illegally received VAT tax refunds from Japanese tax offices

→ We charged **X** with violation of Japanese Consumption tax and local consumption tax laws at Tokyo District Public Prosecutors Office and then **X** was prosecuted.