

Tax criminal investigation in Japan

Tokyo Regional Taxation Bureau
Criminal Investigation Department

Tax evasion control

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1. 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

2. 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.

3. 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



4. 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 [evasion concerning legal income
 - This form of tax evasion is especially apparent among SMEs and wealthy individuals
- ✓ Tax evasion concerning illegal income
 - Affiliation with criminal organization... Difficulty in inspection and investigation
 - Handling 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)

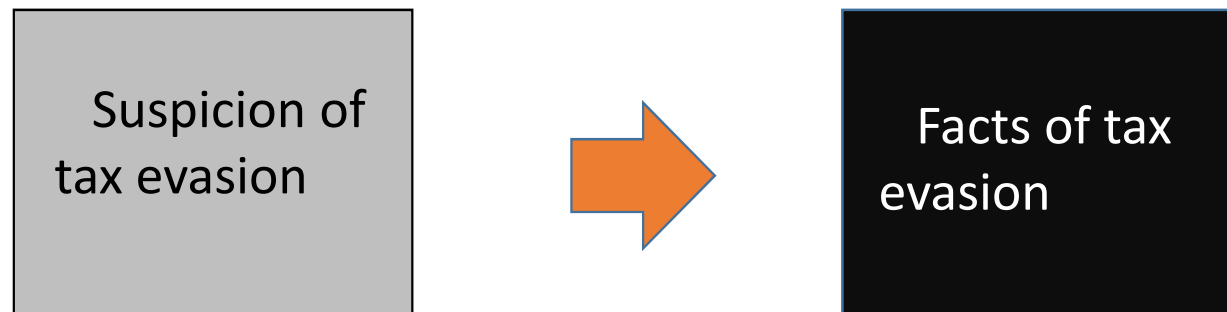
5. Proof of tax evasion

- 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.

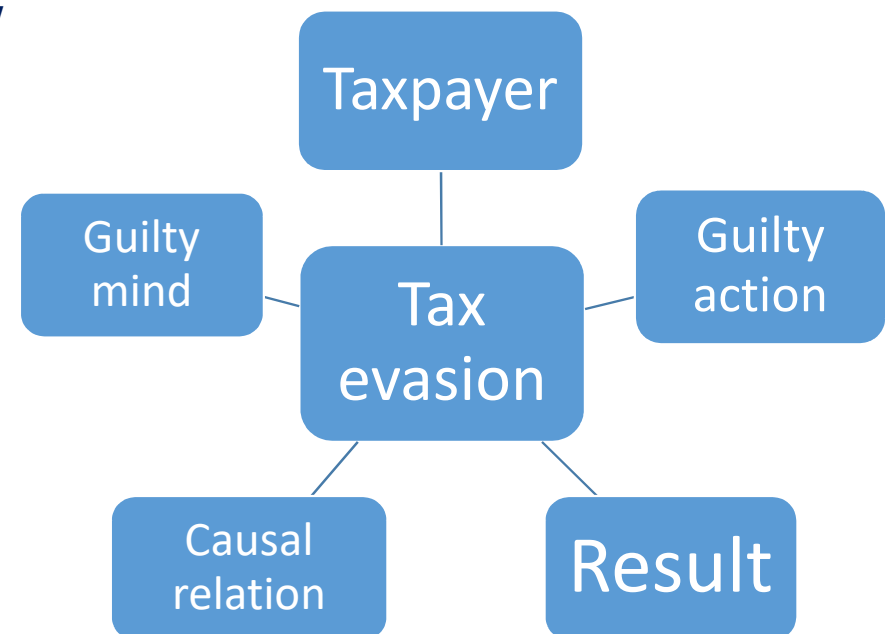


Prosecution and investigators must submit reasonable evidence to prove tax evasion in a criminal suit.

➤ 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 cases, expected such obstructions, surprise interrogations will play crucial role to collect evidence.

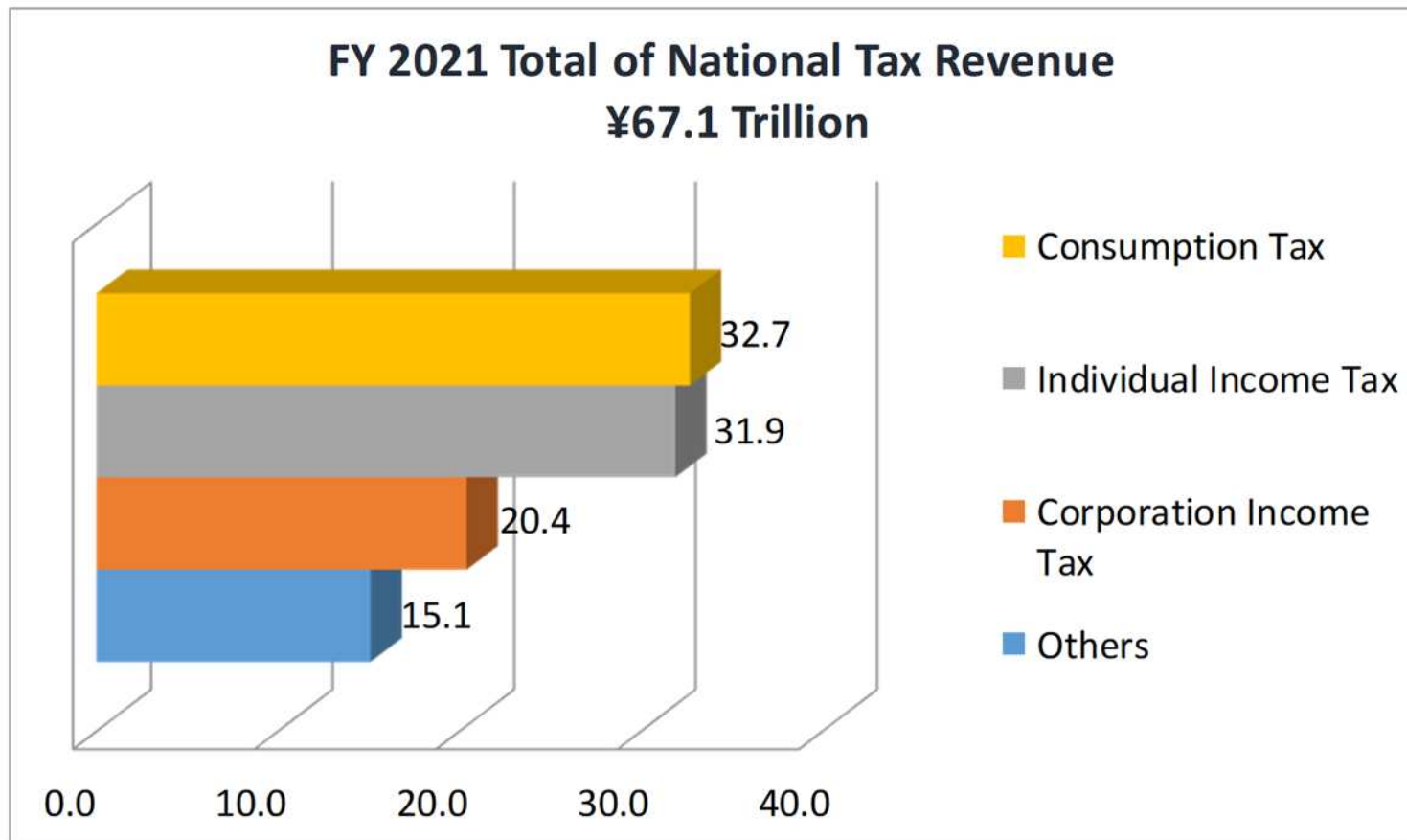
➤ Approach

- ✓ 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



6. Status of tax evasion control in Japan

✓ Portion of national tax revenue



6. Status of tax evasion control in Japan

Table 1. No. of our criminal tax cases

	2019	2020	2021
No. of Cases Handled	150	111	116
No. of Cases Disposed	165	113	103
No. of Cases Accused	116	83	75
Accusation Ratio	70.3%	73.5%	72.8%
Total Amount of Tax Evaded, etc. (million Yen)	11,985	9,050	10,212
Total Amount Accused	9,276	6,926	6,074

Table 2. Status of the judgements in the first instance

Classification		year 2019	year 2020	year 2021
(1)	Judgments	124	87	cases 117
(2)	Conviction cases	124	86	cases 117
Convicted persons without suspension of punishment		5	6	person 5
Rate of conviction (%) [(2) / (1)]		100.0	98.9	% 100.0
Per case	Amount of purposely evaded tax	47	57	million yen 64
Criminal sanctions (average)	Penal servitude	15.5	14.1	months 15.7
	Amount of fine	12	13	million yen 15