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## Deferred Bonus

Quite a few companies have introduced some kind of deferred bonus scheme under which a part of incentive bonuses is set aside for their subsequent payment as a part of retirement allowances. In other words, those companies defer some portion of “the bonus amount payable to the employees” until the employees leave the company.

The purpose of this deferred bonus scheme is to reduce the tax burden from the employees and maximize the after-tax receipt, by taking advantage of the beneficial tax treatment applicable to retirement allowances.

The National Tax Authority (*Kokuzeityou*, hereinafter "NTA"), however, started to cast doubts on the legality of this scheme and have investigated several companies so far since a couple of years ago. It has been reported that there are some employees of companies who have been required by NTA to pay additional withholding tax and penalty.

Further, we have to emphasize that it is also probable that this treatment may infringe the Aggregate Salary Amount Payment Rule stipulated in the Employment Standards Act (*Roudou-Kijun-Hou*).

It is advisable, therefore, to check if your company has adopted some kind of deferred bonus scheme, and, if so, consider whether such scheme is sustainable when the NTA investigates such scheme.

賞与の一部を支払わず、退職時に退職金として払う取扱が、外資系の企業で見られます。この取扱の理由は、退職金にかかる税金が賞与にかかる税金よりも、現行法上 安いところにあります。

このような取扱について、国税庁が疑問を呈し、いくつかの外資系の企業に調査に入っています。またそもそも、かかる支払方法は、労働基準法上の賃金全額支払の原則に抵触する可能性があります。

このような制度を採用しているかどうか、そしてもし採用している場合には、国税当局の調査があった場合に維持できるものなのか、再度御確認されるようお奨めします。

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Should you wish to receive further information as to the above-mentioned, and/or how your company is in compliance with labor/employment law, please contact your regular attorney or Koji Fujita (tel: 81-3-6888-1041, e-mail: [koji.fujita@andersonmori.com](mailto:koji.fujita@andersonmori.com)) or Hideki Thurgood Kano (tel: 81-3-6888-1061, e-mail: [hidekithurgood.kano@andersonmori.com](mailto:hidekithurgood.kano@andersonmori.com))