

# Countering tax avoidance and evasion by the wealthy

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Asian Countries in Tokyo**

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# OECD Forum on Tax Administration (FTA)

## 1. FTA member countries

- 34 OECD member countries and 11 non-OECD countries

## 2. Overview

The Forum on Tax Administration (FTA) has developed into a unique means of co-operation between tax administrations of OECD member countries and non-OECD countries at commissioner-level since its establishment in 2002.

Working collectively and through the sub-groups and networks they have created, they are able to identify, discuss, and influence relevant global trends and develop new ideas to enhance tax administration globally.

## 3. Recent development

At the eighth meeting of the FTA held in Moscow, Russia on May 16-17, 2013, the main topics were curbs on offshore non-compliance, addressing “Base Erosion and Profit Shifting” issues, improvement of business tax compliance, and other matters. The next meeting will be held in Dublin, Ireland on October 23-24, 2014.

# The FTA's Work

## Work Program

### Including....

- **Working Smarter in Tax Debt Management** (Sharing best practice in tax debt management with focusing on key topics including strategies and tools, organization or IT )
- **Measures of Tax Compliance Outcomes** (Measuring the impact of upstream compliance activity including improvement corporate governance and tax education on compliance)

## Network

- **Offshore Compliance NW** (Building multilateral collaboration to improve the ability of tax administrations to deter, detect and deal with offshore tax evasion.)
- **Large Business NW** (Sharing knowledge on key issues in large business sector such as co-operative compliance initiative.)
- **High Net Worth Individuals NW** (Identifying practical means and best practice to deal with HNWIs effectively, and facilitating greater multilateral co-operation between tax administrations.)

## Sub-Groups, etc.

- **SME Compliance SG**(Sharing experiences and knowledge of contemporary approaches to the management of compliance in the SME sector.)
- **Taxpayer Services SG**(Sharing experiences and knowledge of approaches to taxpayers service delivery, in particular through the use of modern technology.)
- **Mutual Agreement Procedures (MAP) Forum** (Meeting of competent authorities with the aim of fostering trusting relationships between countries and improving procedures to increase the effectiveness of mutual agreements)

# Risks of Tax Avoidance and Evasion by High Net Worth Individuals (HNWIs) (1)

OECD, May 2009

“Engaging with High Net Worth Individuals on Tax Compliance”

“Fair and equal treatment of tax payers is a fundamental principle of tax administration. Nevertheless the limited resources available often have to be focused on the high net worth individual (HNWI) segment.”

- Complexity
- Revenue contribution
- Opportunity
- Integrity



# Risks of Tax Avoidance and Evasion by High Net Worth Individuals (HNWIs)(2)

- **Complexity**

“The affairs of HNWIs are likely to be substantially more complex than the affairs of other taxpayers. The affairs of internationally mobile HNWIs may raise questions of tax residence, the application of treaties and the classification of foreign entities and arrangements to name just a few of the issues.”

- **Revenue contribution**

“HNWIs pay a large proportion of total income tax collected. In the United Kingdom, for example, the top 0.5% of taxpayers pay 17% of total income tax. In Germany the top 0.1% of taxpayers pay 8% of total income tax<sup>1</sup> and in the United States, the top 1% pay about 40% of total federal income tax.”

- **Opportunity**

“Individuals within a higher income or wealth bracket are often more adept at tax planning. . . . these individuals are more likely to receive advice from a financial expert.”

- **Integrity**

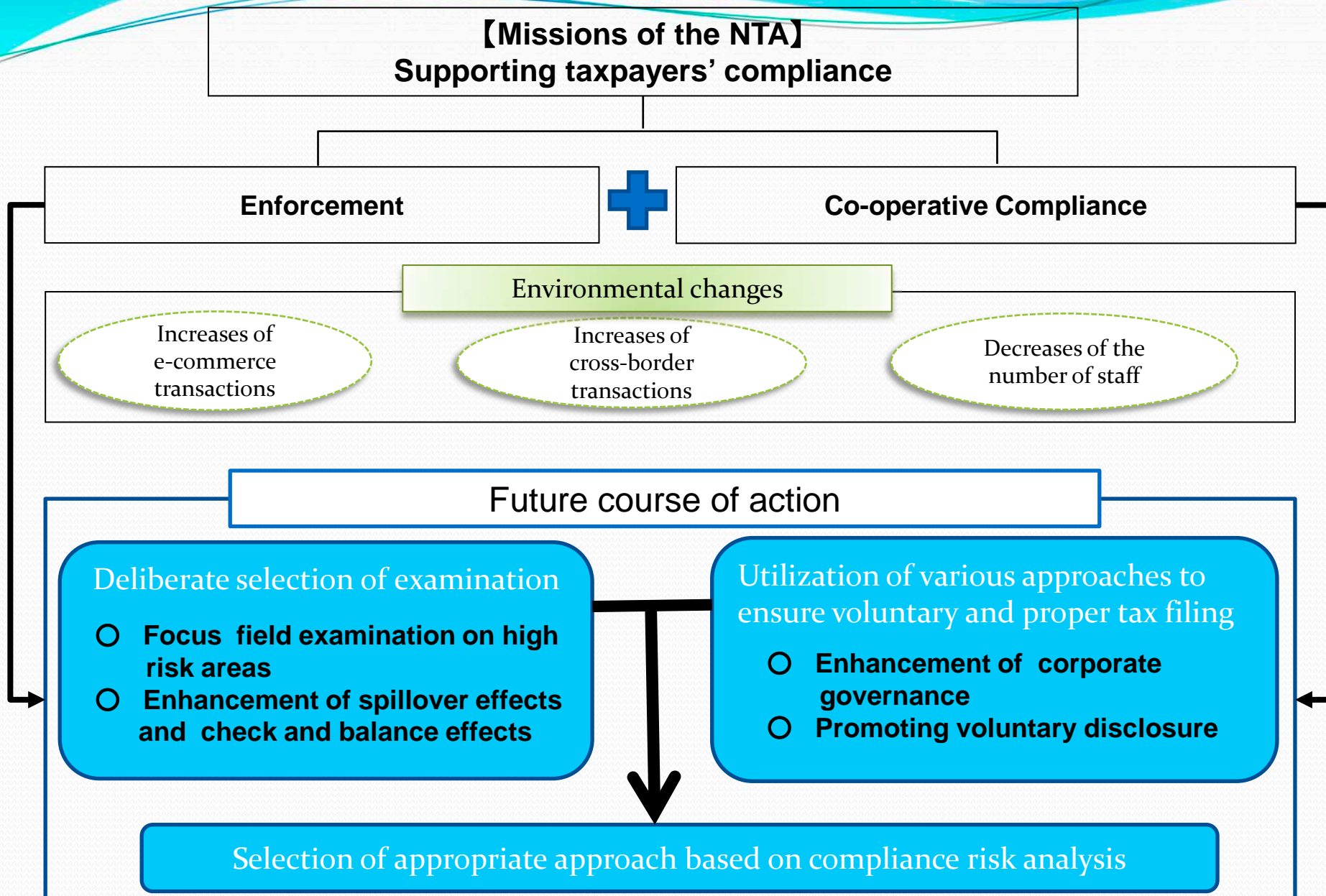
“HNWIs attract media and public attention more than other individuals often because of their high standing in industry and business or their celebrity status. Any tax offences are also likely to attract far more attention.”

# Risks of Tax Avoidance and Evasion by High Net Worth Individuals (HNWIs)(3)

## Key recommendations of HNWI Report

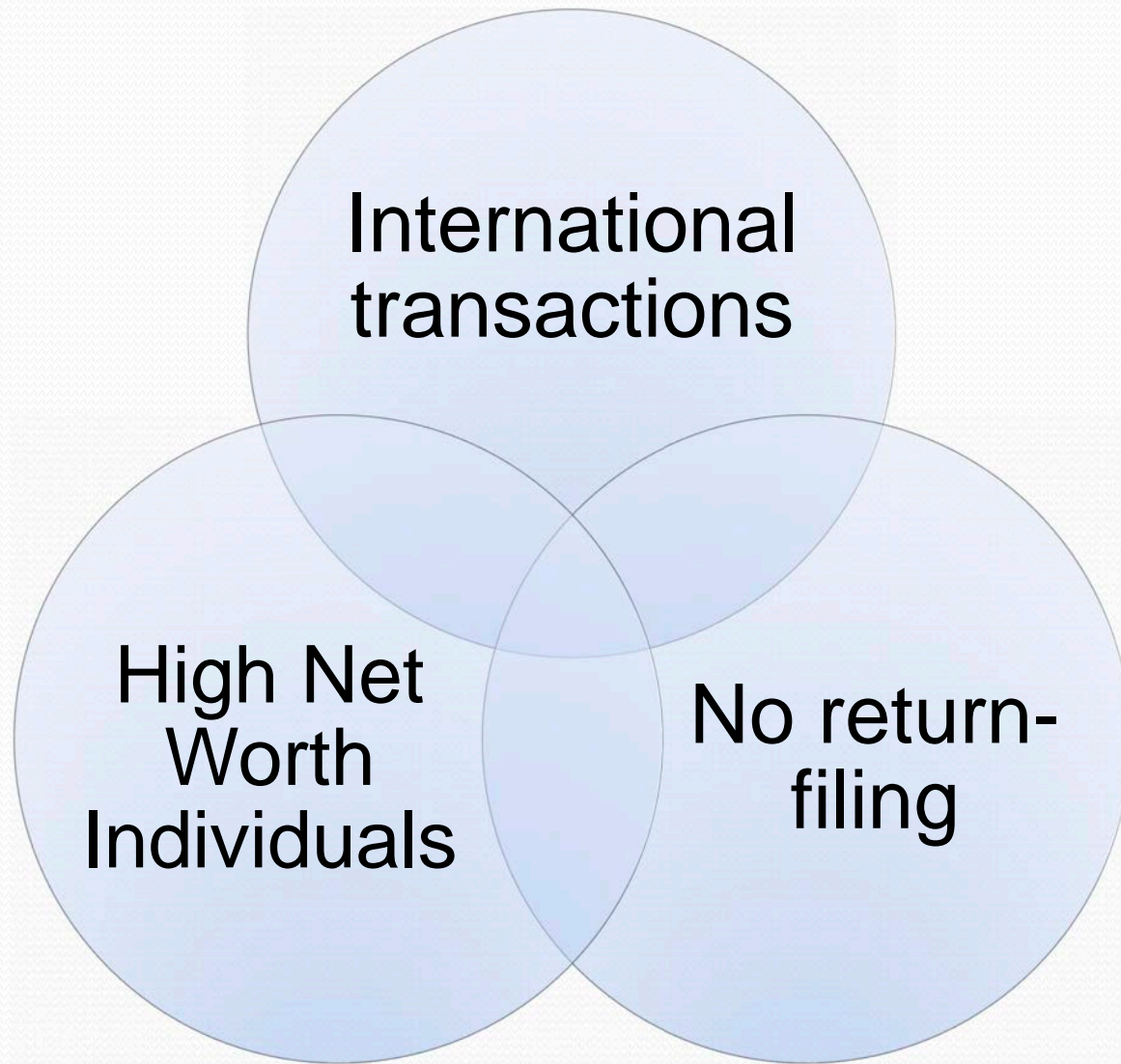
- Gaining a greater understanding of the risks posed by HNWI
- Building an effective capability to manage tax risk by establishing an appropriate structure in tax administrations to deal with HNWI
- Improving international co-operation at both a strategic and an operational level, including the use of regular meetings between heads of HNWI units and other specialists within tax administrations
- Creating an appropriate legislative framework targeted at specific aggressive tax planning risks by taking a holistic approach to focus our strategy
- Exploring how the concept of co-operative compliance could be applied to the HNWI segment

# Future Course of Tax Administrative Action in Japan





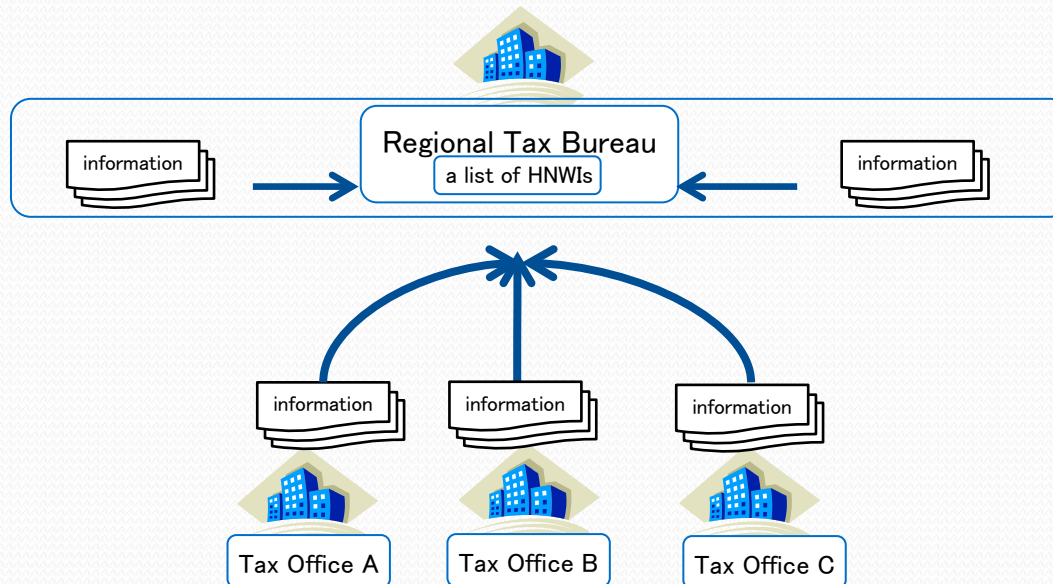
## ~ High Risk Areas ~



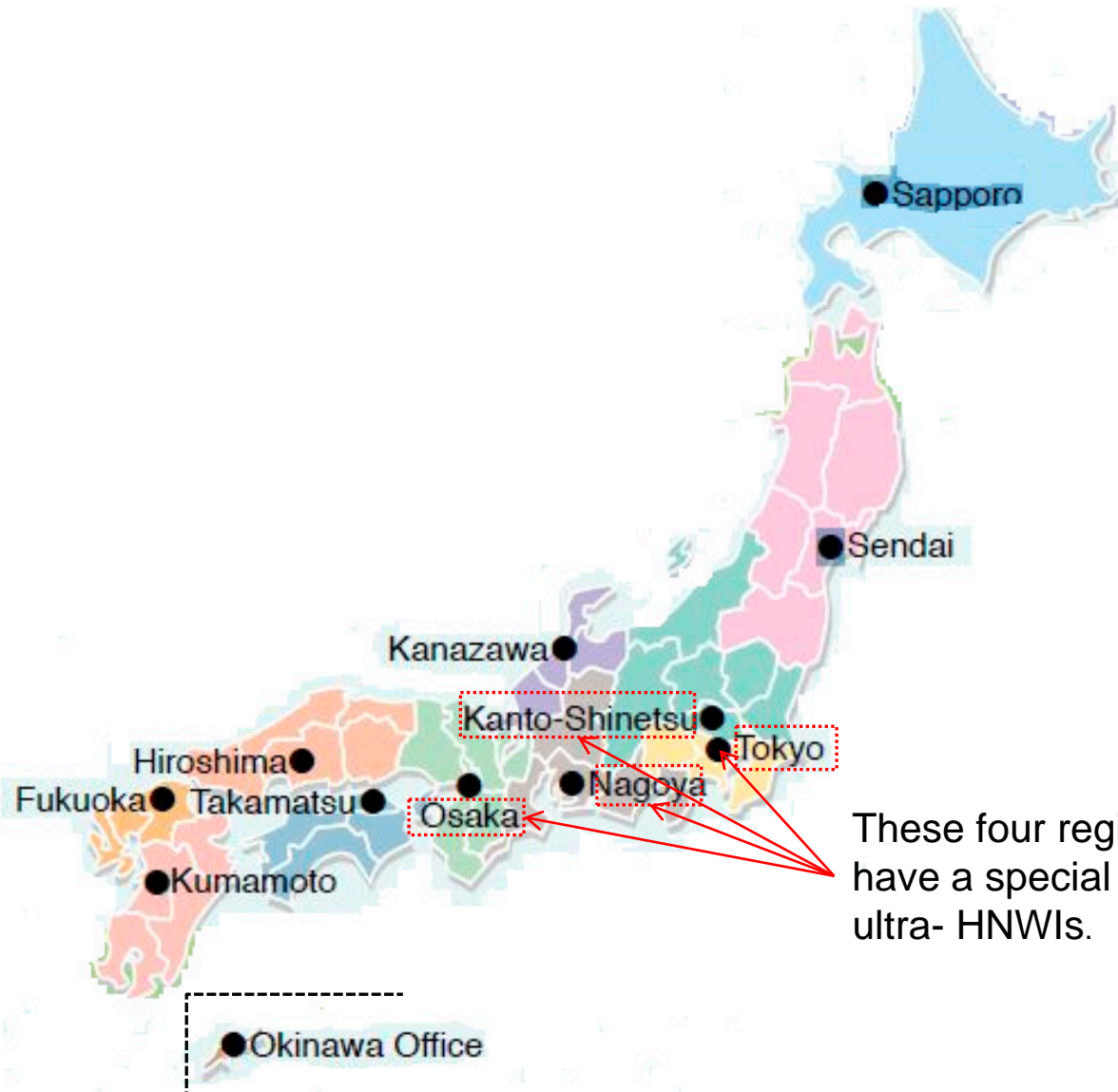


# Management of HNWI(1)

- Special management system targeting ultra-HNWIs (taxpayers holding a large amount of assets including overseas financial assets) and their related entities and relatives
- Cross-sectional management (Individual Income Tax, Corporate Income Tax, Inheritance Tax, etc) centralized by a regional tax bureau
- Keeping and updating a list of HNWI and collecting and analyzing information centrally



## Management of HNWI(2)



These four regional tax bureaus have a special team watching ultra- HNWIs.

## Management of HNWIs(3)

It is highly important:

- to conduct continuous information analysis  
(e.g. analyzing changes in B/S of related entities over years)
- to give priority to higher-risk HNWIs in the list  
(HNWIs with higher risks have some specific features)
- to cooperate with auditing teams  
(asking auditing teams to collect information/ feeding them back analytical outcomes)



# Information Sources

- Domestic transactions/Domestic assets
  - Tax returns
  - Information reporting (e.g. dividends, Payments to obtain or to rent real estate property)
    - Information obtained from related field examination
  - Other information from general sources
- International transactions/Foreign assets
  - Information reporting on cross-border remittances and receipts
    - Financial institutions are required to submit records over 1M.
  - Information reporting on foreign assets
    - Exchange of information with foreign tax authorities based on EOI Network

# Scope of Information Reporting

Type of Income/Property		Domestic source income / Domestic Property	Transfer between Japan and foreign countries	Foreign source income / Foreign Property
<b>Income</b>				
Employment/Pension income		Yes	No	Partially
Financial income		Partially*1		
Capital gains		Partially*2		
Business income (Income from real estate)	Remuneration Consideration	Yes		
	Others	No		
<b>Property</b>				
Real estate		Partially*3	No	Partially*5
Financial Asset			Partially*4	
Movable property			No	

- \*1: Interest payments to individuals are out of scope
- \*2: Only for real estates and gold ingot are within the scope
- \*3: Only high income individuals are required to report information.
- \*4: Information reporting on cross-border remittances and receipts
- \*5: Information reporting on foreign assets

Information from  
EOI Partners  
based on EOI Network

# Information reporting on foreign assets

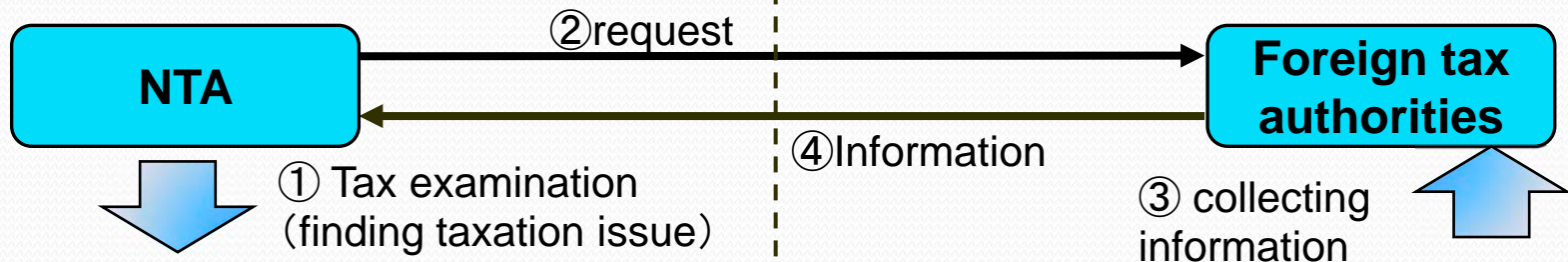
- ◆ Individuals who have assets in foreign countries worth more than 50M\ at the end of the year (starting from 2013) are required to report information including the type, quantity, price, and location of the assets by mid-March of the following year.
- ◆ Measures to facilitate reporting
  - ◆ **In cases where income from certain foreign assets is not declared,**
    - ✓ **When such foreign assets are described in the submitted records , the additional tax for deficient returns(10-15%) or additional tax due to failure to declare(15-20%) is reduced by 5%.**
    - ✓ **When records are not submitted by the submission deadline, or when such foreign assets are not described in the submitted records of foreign assets, the additional tax for deficient returns or additional tax due to failure to declare is increased by 5%.**
  - ◆ When information is not reported or falsely reported, a penalty (up to one year in prison or a fine of up to 500<sup>th</sup>) shall be imposed.

The “reduction of additional tax” is used as an incentive to encourage reporting of appropriate information on foreign assets.

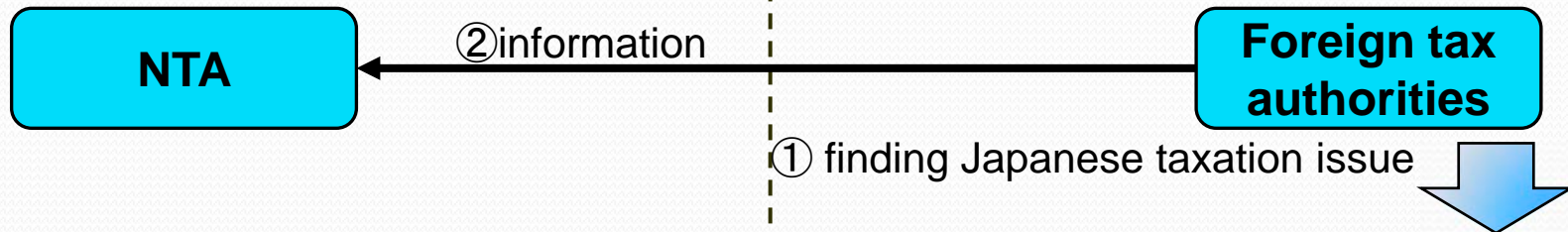


# Three types of exchange of information

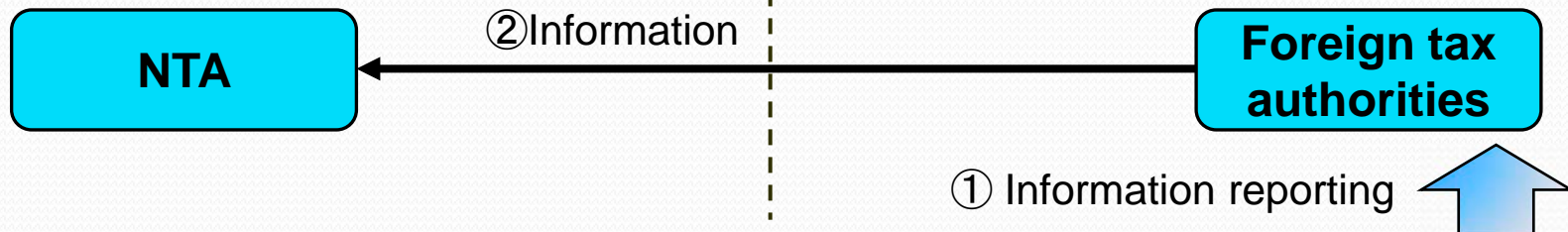
## 1 Exchange of information on request



## 2 Spontaneous exchange of information



## 3 Automatic exchange information



## —Recent Development of EOI(1)—

NTA press release on May 31, 2013 (abstract)

- The National Tax Agency (NTA) received information from the Australian Taxation Office (ATO) that is part of a substantial amount of data on entities (e.g., corporations and trusts) located offshore (i.e., in tax havens) that may relate to Japanese taxpayers.
- ...The NTA has already started analyzing the information received from the ATO and hopes to use it as a trigger to discover international tax dodging and identify those who must submit an overseas assets report, submission of which will be obligatory from next year (2014).



The NTA has made clear its stance on firmly fighting offshore tax evasion and tax avoidance via multilateral collaboration.

\* The NTA expects taxpayers to perform voluntary revisions when they identify tax issues with their filings, etc.

## —Recent Development of EOI(2)—

NTA and ATO joint press release on October 30, 2013

- “Recent information sharing between the ATO and the National Tax Agency Japan identified cases where Australian residents had not properly declared income from the sale of property at ski resort areas in the Niseko district, Hokkaido.”
- “Our increasing cooperation is making it is harder for people to avoid their tax obligations if they are selling and buying assets or making an income in Japan and other countries.”
- “Other information routinely exchanged with jurisdictions includes bank interest, dividends and other types of income. It is expected that G20 countries will shortly expand and formalize automatic exchange of information, making the flow of information even easier.”

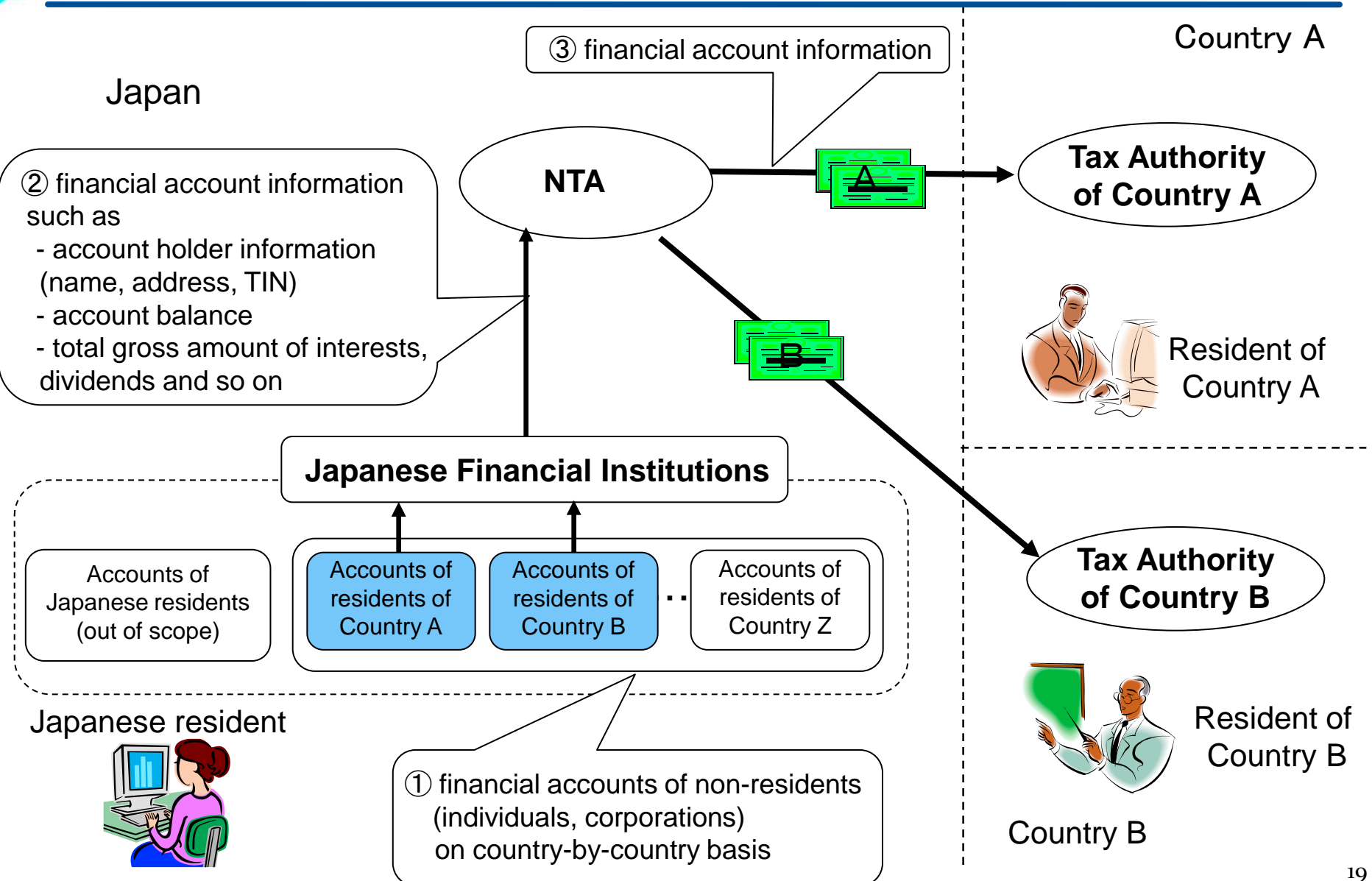


# Emerging Global Model for Automatic Exchange of Information

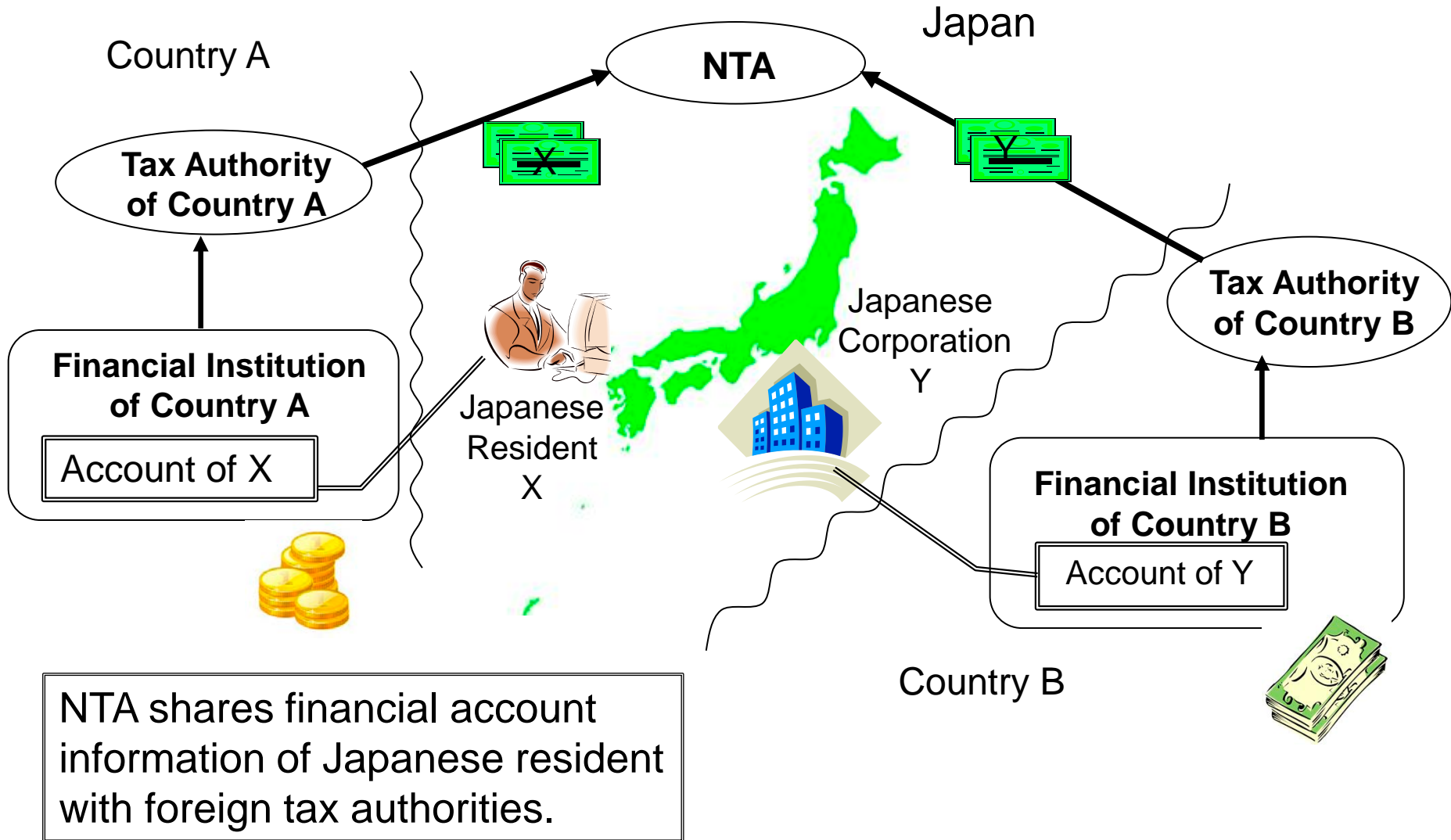
**G20 Meeting of Finance Ministers and Central Bank Governors  
(Sydney, 22-23 February 2014)**

9. ...We endorse the **Common Reporting Standard for automatic exchange of tax information** on a reciprocal basis and will work with all relevant parties, including our financial institutions, to detail our implementation plan at our September meeting. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015. We call for the early adoption of the standard by those jurisdictions that are able to do so. We call on all financial centres to match our commitments....

# Information Flow under CRS (Japan to foreign countries)



# Information Flow under CRS (Foreign countries to Japan)





# Challenges in Exchange of Information

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- Using AEOI on financial accounts
  - Taking legislative measures and developing IT systems
- Using a group request of information related to particular tax schemes
  - Use of a group request of information related to unidentified taxpayers involved in particular tax schemes, based on para 5.2 of commentary of article 26 of OECD Model Tax Convention.
- Using voluntary disclosure to enhance compliance
  - Promoting voluntary disclosure initiatives based on the information collected by EOI

# Outcomes of Examinations of Wealthy Individuals(Personal Income Tax)

- For taxpayers who own a large amount of securities or real estate or have continuous high income, as well as the otherwise wealthy, tax examinations are carried out while keeping in mind the increasingly diverse and global scale of asset management.
- In Business year(BY) 2012, 4,120 examinations (90.1% compared to previous year) were carried out and the amount of additional tax was 10 billion yen.
- The amount of additional tax per case was 2.44 million yen, about 1.7 times larger than the average amount of additional tax(1.42 million \).

Item		BY 2011	BY 2012	[Reference] Total data of Field examination(2012)	
Number of audits	cases	4,572	4,120	46,418	
Number of undeclared cases	cases	3,490	3,201	39,681	
Amount of undeclared income	billion\	39	34	389	
Amount of additional tax	billion\	12	10	66	
Per case	Amount of undeclared income	M\	8.56	8.29	8.39
	Amount of additional tax	M\	2.62	2.44	1.42

# Outcomes of cases related to examinations of overseas properties (Inheritance Tax)

- Utilizing exchange of information under tax treaties/agreements in the examination of property tax in response to increasing international asset management

\*Cases related to examinations of overseas include followings:

- Cases in which properties acquired by inheritance include properties overseas
- Cases in which heir or decedent lives in overseas
- Cases in which there is information of overseas properties
- Cases in which there is a transaction with foreign financial institute

Item / Business Year (BY)		2011	2012	
1	Number of audits	cases	741	721
2	Number of undeclared cases	cases	111	113
3	Number of undeclared cases imposed on additional tax for fraud	cases	20	16
4	Amount of undeclared income	Billion\	7.2	2.6
5	Amount subject to additional tax for fraud in 4	Billion\	1.1	1.1
6	Amount of undeclared income per case	M\	53	23





**Thank you  
for your attention !**