



# JTAX | GUIDE TO SETTING UP A GODO KAISHA (“GK”) IN JAPAN

**YOUR TRUSTED PARTNER  
in Japan**

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A black and white photograph of a skyscraper, likely the Empire State Building, viewed from a low angle looking up. The building's top section is prominent, showing its distinctive Art Deco architectural details. The sky is filled with soft, white clouds. The overall tone is professional and modern.

PART I

# INTRODUCTION

**“JTAX Understands Your  
Requirements...”**



## ABOUT JTAX

JTAX is a member of the Accounting Asia Group, a leader in Asia focused professional services.

Tracing its roots to 2001, JTAX's team of Japanese and foreign professionals has assisted hundreds of foreign clients to establish and run their businesses in Japan. Our management is drawn from the Big 4 and has extensive experience responding to the requirements of clients ranging in size from listed multinationals to start-ups.

JTAX recognizes the practical difficulties associated with operating a business in Japan and our aim is to provide clients with one-stop assistance. Our team therefore provides a comprehensive range of services including tax advisory, tax compliance, incorporation, accounting, cash management / expense payment, payroll / HR, Japan resident nominee directors, and work visas. In addition to the convenience of dealing with a single service provider, JTAX ensures that its services are handled in a coordinated manner. For example, Japan work visas may be dependent on having a properly incorporated company and an appropriate tax structure, etc.

In addition to working directly with clients, JTAX is also able to assist foreign law firms and accounting firms whose clients require assistance in Japan.

Please **Contact Us** for more information about any of our services.



## **JTAX MANAGEMENT**

### **Dean Page – Administrative Partner**

Dean Page is JTAX’s administrative partner. He is a leading expert on Japanese and international tax and on doing business in Japan.

Dean worked for seven years in the Big 4, most recently as a partner at Ernst & Young (E&Y). At E&Y he served as the inbound account leader in which role he had responsibility for overseeing the delivery of services to E&Y Japan’s foreign clients.

At PricewaterhouseCoopers (“PwC”) Dean headed the Pathfinder Group, a team that specializes in assisting foreign clients to establish operations in Japan.

Since 2001, Dean has co-headed the International Tax Education Program (ITEP) and acted as an Adjunct Professor at the Beasley School of Law, Temple University, Japan Campus. He is the author of numerous articles related to Japanese and international tax.

Dean is admitted as both an attorney (England / Wales) and as a CPA (USA, California).





## JTAX SERVICES

JTAX recognizes the practical difficulties associated with operating a business in Japan and our aim is to provide clients with *one-stop assistance*. JTAX key services include

- Tax Consulting and Compliance
- Tax Services
- Accounting & Bookkeeping
- Bank Account Management & Expense Payment
- Payroll & HR
- Japan Work Visas
- Japan Incorporations
- Japan Nominee Directors
- Japan Registered Address & Virtual Office Solutions
- Due Diligence & Deal Integration Services
- Outsourcing Solutions including Finance, Tax, Accounting, and Payroll & HR
- Real Estate Advisory Services

Please **Contact Us** for more information about any of our services.



PART II

**JTAX JAPAN**

**INCORPORATION SERVICE**

**“JTAX Understands Your  
Requirements...”**



# 1. Introduction to JTAX Japan Incorporation Service

## a. Overview

JTAX can assist its clients in the establishment of a wide range of entities in Japan.

Our main work in this area is helping clients establish:

- Incorporated Entities / Subsidiaries
  - Kabushiki Kaisha (“KK”).
  - Godo Kaisha (“GK”).
- Japan Branches of Foreign Companies in Japan.
- Japan Representative Office of Foreign Company / Japan Liaison Office of Foreign Companies.

The focus of this brochure is to provide clients with information regarding setting up a Godo Kaisha (“GK”) in Japan.

Please **Contact Us** if you would like more information about other types of entity including Kabushiki Kaisha (“KK”), Japan Branches of Foreign Companies, or Japan Representative Offices of a Foreign Company / Japan Liaison Office of a Foreign Companies.

## b. JTAX's Godo Kaisha ("GK") Incorporation Service

JTAX's key Godo Kaisha ("GK") incorporation capabilities include:

- Initial consulting to assist clients to ensure that a Godo Kaisha ("GK") is appropriate to their needs.
- Provision of Japan nominee directors / executive managers for the new Godo Kaisha ("GK") to ensure a smooth incorporation, improve internal control in Japan, and limit director compensation deductibility issues.
- Provision of a legal registered address for the Godo Kaisha ("GK") in Japan.
- Assistance with serviced offices and virtual offices.
- Registration of a new Godo Kaisha ("GK").
- Assistance with post incorporation issues including initial tax filings.
- Outsourcing services to handle ongoing key functions in Japan including tax, accounting, payroll, etc.

## 2. Why Should We Incorporate In Japan?

Common reasons to incorporate in Japan include:

- Japan is the world's third largest economy. Incorporating a company in Japan will help you to take advantage of an unparalleled market opportunity.
- Japan is a difficult market to exploit without a solid presence on the ground. Potential Japanese customers and partners will have more confidence in your ability to deliver if you operate via a Japanese company.
- In order to employ top quality people, it is vital to have a local Japanese entity. If you do not have a local entity, potential Japanese employees will perceive that you lack commitment to the market. It is generally not possible to offer regular employee benefits if there is no Japan entity.

A black and white photograph of a skyscraper, likely the Empire State Building, viewed from a low angle looking up. The building's top section is prominent, showing a large, dark, rectangular opening with a decorative structure inside. The sky is filled with soft, white clouds. The overall tone is professional and architectural.

**PART III**  
**ABOUT**  
**GODO KAISHA (“GK”)**

**“JTAX Understands Your  
Requirements...”**

# 1. Introduction

Godo Kaisha (“GK”) is a type of business corporation defined under Japanese law. Unlike the Kabushiki Kaisha which enjoys a long history dating back to 1873, the Godo Kaisha (“GK”) is a relatively new type entity having been first allowed by the Companies Act of 2005 (with effect from 1 May 2006.) Godo Kaisha (“GK”) were put in place as a replacement for Yugen Kaisha (“YK”), which was a business structure utilized mainly by small / local businesses.

## Godo Kaisha (“GK”) Compared to a US LLC

In principle, the Godo Kaisha (“GK”) is modeled after the American limited liability company (“LLC”). However, there are a number of fundamental differences between US LLC’s and Japanese Godo Kaisha (“GK”).

These differences may include:

- Taxation. Godo Kaisha (“GK”) are subject to Japanese tax at the corporate level. This contrasts to US LLCs in which profits may *flow through* to investors without being subject to tax at the level of the LLC.
- Capacity to act. A Godo Kaisha (“GK”) lacks legal capacity to act on its own. Rather it acts through its Members (shareholders.) This makes a Godo Kaisha (“GK”) similar to a Japanese partnership (which acts through its partners.) A US LLC typically does have legal capacity to act.
- Godo Kaisha (“GK”) do not have boards. Similar to the governance concepts applicable to Japanese partnerships, there is no separation between the investors and management in Godo Kaisha (“GK”) (i.e., the investors are the management.) Thus, while a US LLC may have governance institutions that are separate from the investors (such as a board of directors or LLC managers) a Godo Kaisha (“GK”) acts only through its (Executive) Members.

## 2. Corporate Designator

### a. In Japanese

Godo Kaisha is most commonly used as a post-nominal (e.g., “JTAX Godo Kaisha”). It is also possible to use Godo Kaisha as a pre-nominal (e.g., “Godo Kaisha JTAX”) but this is not common.

Godo Kaisha is frequently abbreviated as “GK”.

### b. English Translation

Godo Kaisha [“GK”] is typically translated to English as “LLC” or “Limited Liability Company”.

So, for example, JTAX Godo Kaisha would be JTAX LLC or JTAX Limited Liability Company.

## 3. Corporate Governance in A Godo Kaisha [“GK”]

The following are some key concepts associated with Godo Kaisha [“GK”] governance:

### a. Executive Managers [“Directors”]

A Godo Kaisha [“GK”] does not have directors. The individuals who occupy the position equivalent to the directors of a Kabushiki Kaisha [“KK”] are referred to as “Managers”. A Godo Kaisha [“GK”] Executive Members (shareholders) are responsible for executing the Godo Kaisha [“GK”] business and they may appoint Executive Managers to act on their behalf.

An Executive Manager must be a natural person.

### **b. Special Note: Residence Requirement for the Executive Manager**

Technically, there is no longer a legal requirement that an Executive Manager be resident in Japan.

However, from a practical viewpoint, a Japan resident Executive Manager is likely to be a necessity since, in the absence of a Japan resident individual, it will not be possible to open bank accounts, enter leases, etc.

It should be noted that there are adverse individual and / or corporate tax consequences associated with an individual acting as a director of a Japanese company.

As a result, most clients will appoint a Japan resident Nominee Executive Manager.

**A decision to have no Japan resident Executive Manager should be carefully considered since it may render business difficult (if not impossible).**

JTAX may be able to provide individuals to fill the Executive Manager position via its Japan Nominee Director Service.

### **c. Members (“Shareholders”)**

The owners of a Godo Kaisha [“GK”] (the equivalent of a Kabushiki Kaisha [“KK”] shareholders) are known as “Members”.

Executive Members are those Members who are responsible for executing the management / operation of a Godo Kaisha [“GK”] business on behalf of the Members.

A Godo Kaisha [“GK”] requires at least one “Executive Member”.

If the Executive Member is a corporation, it must appoint a natural person to act as an Executive Manager on its behalf.

### **d. Supervision of Executive Managers**

Where a Godo Kaisha [“GK”] has multiple Members, the Executive Members can agree to form a Board of Executive Managers. This Board would then be responsible for making decisions regarding the Godo Kaisha [“GK”] business.

However, note that the Board is an institution of the Executive Members rather than an institution of the Godo Kaisha [“GK”] (recall a Godo Kaisha [“GK”] acts through its Executive Members).

## 4. Taxation of Godo Kaisha (“Gk”)

The taxation of a Godo Kaisha (“GK”) may need to be considered from two perspectives – a Japanese domestic perspective and (where relevant) a United States perspective.

### a. Taxation from a Japanese Domestic Perspective

From a Japanese domestic perspective, a Godo Kaisha (“GK”) is treated a *per se* corporation and is subject to Japanese corporate tax on its worldwide profits. As a result, a Godo Kaisha (“GK”) is subject to double taxation (i.e., profits are first taxed at the corporate level and dividends are then taxed in the hands of shareholders.)

Thus, from a Japanese domestic perspective, the Japanese tax treatment of a Godo Kaisha (“GK”) and a Kabushiki Kaisha (“KK”) are essentially the same.

It can be noted that this treatment is different to the default domestic treatment applicable to LLC’s in the United States where profits may flow through to the owners without being taxed at the LLC level.

### b. Taxation from a United States Perspective

Where the Godo Kaisha (“GK”) investors are United States persons, it may be possible for those investors to utilize the Internal Revenue Services (“IRS”) “check-the-box” rules. This may effectively allow the US investor to treat the Godo Kaisha (“GK”) as a branch (from a US tax perspective). US investors should consult with their US tax advisors prior to establishing any entity in Japan.

### c. Other Tax Considerations

It should be borne in mind that methods other than (after tax) dividends may be available to distribute Godo Kaisha (“GK”) income to foreign investors. This may include dividends, royalties, interest (via interco loans), and intercompany service agreements.

Regardless of the manner in which income is distributed, the role of double taxation agreements (“DTA”) needs to be considered. DTA’s may reduce the amount of withholding tax that is payable when cross border payments of interest, dividends, or royalty are made. The availability of DTA relief will often depend on the residence of the Godo Kaisha (“GK”) investors.



## 5. Audit Requirements

There is no general requirement that a Godo Kaisha (“GK”) be subject to an annual Commercial Code audit by an external Certified Public Accountant (“CPA”).

A Godo Kaisha (“GK”) may be subject to an external Commercial Code audit requirement if it has capital of over JPY500 million and / or liabilities in excess of JPY2 billion. In such cases an audit by a Japanese CPA would be required.

## 6. Miscellaneous Considerations

Because Godo Kaisha (“GK”) are a relatively new form of business, a range of technical questions have been raised (mainly by academics.) Such issues include:

### a. Permanent Establishment (“PE”)

Questions have been raised with respect to whether an Executive Manager may represent a permanent establishment (“PE”) of a foreign owner of a Godo Kaisha (“GK”).

This issue flows from the fact that a Japan resident Executive Manager is deemed to be acting (for example in the negotiation of sales contracts) for the (foreign) Executive Member and not the Godo Kaisha (“GK”).

We are not aware of any instances where this point has been raised in practice.

### b. Possible Imperfect Limited Liability

In principle, Members of a Godo Kaisha have limited liability that is similar to the shareholders of a Kabushiki Kaisha (“KK”). This means that each Member's liability is limited to the amount which they have invested. However, in some situations it is possible that Godo Kaisha (“GK”) do not provide a complete liability shield for the Members.

- **Direct Liability of Executive Members for Acts of the Executive Member**

It seems technically possible that the Godo Kaisha (“GK”) Executive Member may be held jointly and severally liable for damages caused to a third party that result from any act of gross negligence or willful misconduct by the Executive Member in the course of her conduct of the Godo Kaisha (“GK”) business.

- **Vicarious Liability of Members for Acts of Executive Manager**

As noted above, a Godo Kaisha (“GK”) can only act through its Members and the Members act via their appointed Executive Managers.

As a result, Executive Members may be held vicariously liable for damages caused to a third party that result from acts of gross negligence or willful misconduct by their appointed Executive Manager.

This could be an issue if an Executive Manager committed fraud in the course of conducting the Godo Kaisha (“GK”) business and thereby caused damage to a third party. This contrasts to frauds committed by mere employees of the Godo Kaisha (“GK”) which would generally not result in vicarious liability [since the employee acts on behalf of the Godo Kaisha (“GK”) and not the Executive Member.]

**The implications of the above are that internal control should be carefully considered. Many foreign companies will choose to appoint an independent Japan Resident Nominee Executive Manager.**

A black and white photograph of a skyscraper, likely the Empire State Building, viewed from a low angle looking up. The building's facade is detailed with windows and architectural elements. The sky is filled with soft, white clouds. The overall tone is professional and modern.

PART IV

**KEY DECISIONS BEFORE  
INCORPORATING A GODO  
KAISHA (“GK”)**

**“JTAX Understands Your  
Requirements...”**

There are four important issues that need to be decided prior to a Godo Kaisha (“GK”) incorporation moving forward:

## 1. Executive Managers (“Directors”)

As has already been noted, a Godo Kaisha (“GK”) does not have directors. The individuals who occupy the position equivalent to the directors of a Kabushiki Kaisha (“KK”) are referred to as “Managers”.

A Godo Kaisha (“GK”) requires at least one Manager.

It is no longer a requirement that a Manager to be resident in Japan.

That said, most foreign investors will still appoint a Japan resident Manager for a Godo Kaisha (“GK”). Having a Japan resident Manager will facilitate the establishment of a Japan bank account and also make it easier to enter agreements such as office leases.

**A decision to have no Japan resident Manager should be carefully considered since it may render business difficult (if not impossible).**

It should be noted that there are adverse individual and / or corporate tax consequences associated with an individual acting as a Manager of a Japanese company.

JTAX may be able to provide a qualified individual to fill the Godo Kaisha (“GK”) Japan resident Manager position via its **Japan Nominee Director Service**.

## 2. Members (“Shareholders”)

The owners of a Godo Kaisha (“GK”) (the equivalent of a Kabushiki Kaisha (“KK”) shareholders) are referred to as “Members”. A Godo Kaisha (“GK”) needs at least one Member. A Member can be either an individual or an incorporated entity.

Executive Members are those Members who are responsible for executing the management / operation of a Godo Kaisha (“GK”) business on behalf of the Members.

A Godo Kaisha (“GK”) requires at least one “Executive Member”.

If the Executive Member is a corporation, it must appoint a natural person to act as an Executive Manager on its behalf.

The residence of the Member/s can have important implications for such issues as withholding taxes on interest, dividends, and royalties paid from Japan.

### 3. Address in Japan

Three important issues need to be considered with respect to the Godo Kaisha (“GK”) address in Japan:

- **Legal registration issues**

A Godo Kaisha (“GK”) requires a legal registered address in Japan. Care should be taken in choosing this address since changes can be both costly (often several thousand USD) and time consuming (a month or more.)

- **Business address to receive phone calls, mail, etc.**

Separate to the legal registered address, a business address is often required. This function can be handled by the new Godo Kaisha (“GK”) “real” office. An alternative may be a virtual office service that is able to provide phone answering, mail collection, etc.

- **Visa issues**

Where visas for foreign employees may be required, a functioning business office will generally be needed. Virtual offices are usually not acceptable for visa purposes but a serviced office may be a workable solution.

JTAX is able to advise and help clients implement Japan office solutions via its **Japan Registered Address and Japan Virtual Office Services**. Our services will meet all of the above address requirements in a cost-effective manner. JTAX office solutions are provided via an office that we own in central Tokyo.

## 4. Paid in Capital

Paid in Capital represents the amount of cash (and sometimes other assets) that the owners contribute to a Godo Kaisha (“GK”) as equity.

Paid in capital can be used as working capital in the business after the incorporation has been completed.

In addition to working capital requirements, there are four additional issues that are relevant when considering paid in capital:

- **Japanese VAT (‘consumption tax’)**

New Godo Kaisha (“GK”) with JPY10 million or more in paid in capital are generally automatically required to file a Japanese consumption tax (VAT) return.

Paid in capital of less than JPY10 million may give rise to consumption tax planning opportunities.

- **Commercial image**

The amount of paid in capital is available in the public record. Japanese customers and potential business partners may be reluctant to do business with a Japan entity that has low paid in capital. In addition, low paid in capital may cause difficulties when negotiating with landlords to enter an office lease.

- **Tax based on paid in capital**

One component (though typically small) of calculating a Godo Kaisha (“GK”) tax liability is the level of paid in capital.

- **Visa issues**

Where there are plans that the Godo Kaisha (“GK”) will sponsor Japan work visas for foreign employees, the paid in capital must be high enough to demonstrate that the Japan operation is a viable business.

The following table provides additional guidance that may help you choose a level of paid in capital that best matches your requirements.

Amount of Paid in Capital	Comment
JPY1	Technically permissible but likely to create a poor commercial image. In particular, it may be difficult to lease an office and it may be difficult to find potential business partners.
JPY1 million	Often a reasonable compromise for companies that do not wish to contribute a high amount of paid in capital.
JPY5 million	Considered the lowest acceptable amount if the company will need to sponsor Japan work visas.
JPY10 million	This is the traditional minimum amount and is likely to be viewed favorably by potential business partners in Japan.

A black and white photograph of a skyscraper, likely the Empire State Building, viewed from a low angle looking up. The building's facade is detailed with windows and architectural elements. The sky is filled with soft, white clouds. The overall tone is professional and modern.

PART V

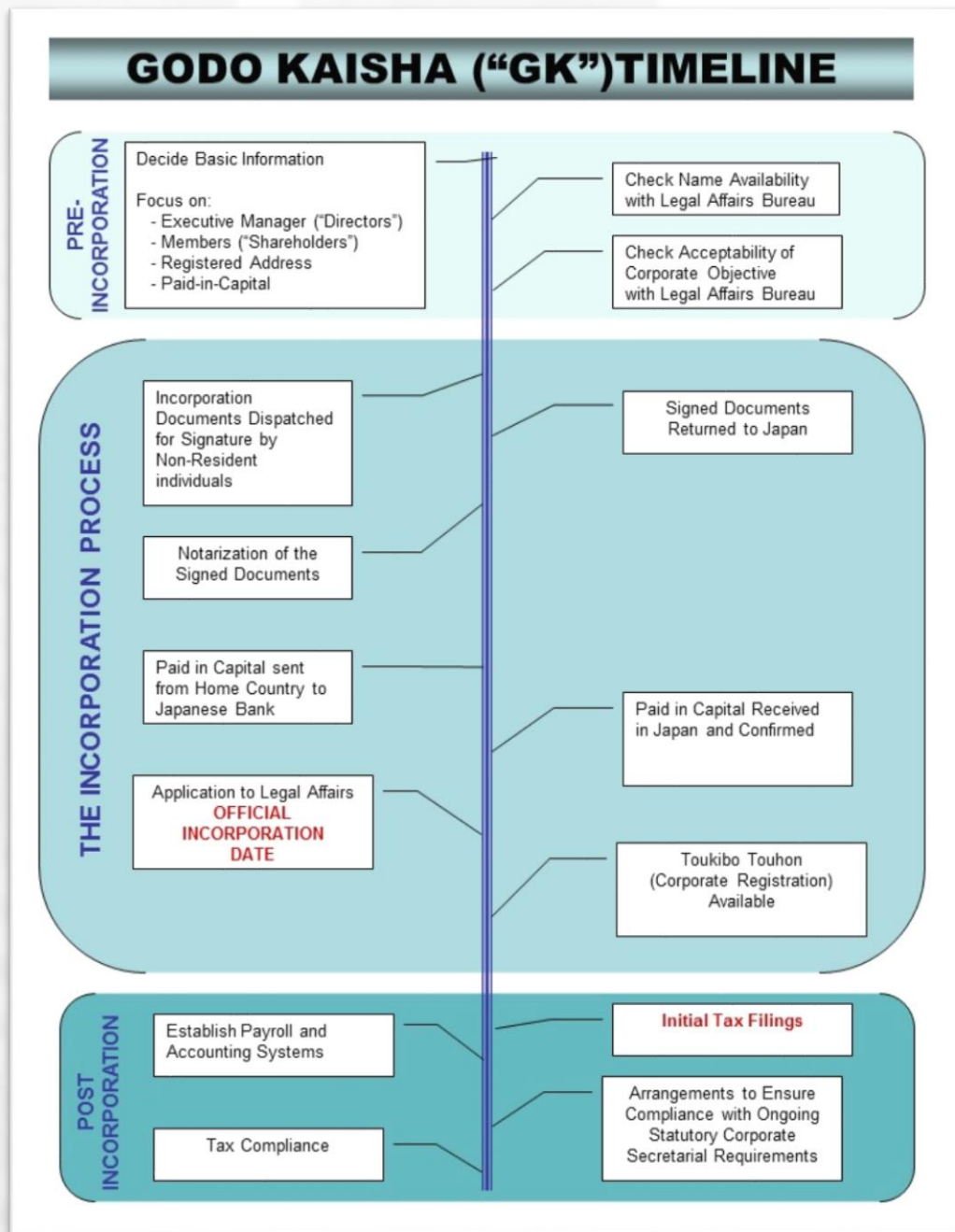
**GODO KAISHA (“GK”)  
INCORPORATION STEPS  
AND TIMING**

**“JTAX Understands Your  
Requirements...”**



# 1. Overview of Steps To Incorporate A Godo Kaisha (“GK”)

The following graphic provides a simplified overview of the practical steps involved in incorporating a Godo Kaisha (“GK”) in Japan.



## 2. Time To Incorporate

Although a faster incorporation may be possible in an emergency, a Godo Kaisha (“GK”) incorporation generally takes between four and six weeks.

# JTAX

JAPAN TAX GROUP

To learn more about how JTAX can help your company succeed in Japan, please contact one of our Japan-based professionals.

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