

Reforming Some of Japan's Fundamental Civil Laws Toward Solving the Issue of Unclaimed Land

Ministry of Justice, Civil Affairs Bureau, December, 2021

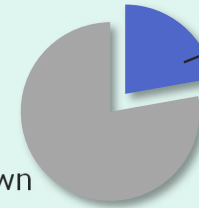
Issue

[Outline of the Act Partially Amending the Civil Code and Other Acts, and of the Act on Vesting Inherited Land in the National Treasury]

The problem of **unclaimed land*** occurs mainly as a result of inheritance registrations not being made.

* *Unclaimed land* means:

- (1) Land whose owner cannot be immediately identified from the real property register
- (2) Land whose owner cannot be contacted because their whereabouts are unknown



Percentage of land that is unclaimed (2017)

Ministry of Land, Infrastructure, Transport and Tourism Survey)

22 %

Causes

Non-completion of inheritance registrations 66%

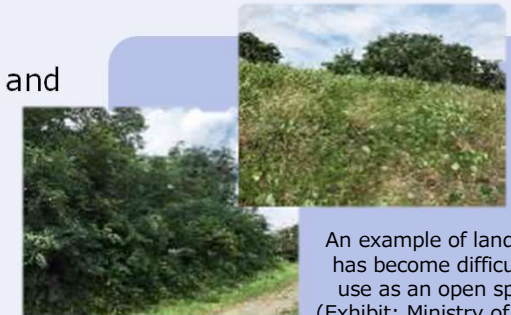
Non-completion of registrations reflecting a change of address 34%

Background

- **Inheritance registration is not compulsory**, and there are few disadvantages to heirs if they leave it uncompleted.
- As people move to urban areas and the population progressively decreases and ages, people's awareness that they are land owners and land use needs are decreasing, mainly in rural areas.
- If property keeps being inherited without being included when estates are divided, **the number of co-owners grows exponentially**.

Problems

- **Searching for owners requires a great deal of time and expense** (things like collecting family registers and resident records and making site visits are significant burdens).
 - If the whereabouts of the owner are unknown, land is often left unmanaged and abandoned.
 - If there are numerous co-owners or if some of their whereabouts are unknown, it is difficult to make the joint decisions needed for managing and using the land.
- ⇒ This causes **public works and restoration and reconstruction projects** not to proceed smoothly, **private transactions** to be blocked, and **other hindrances to the use of the land**.
- ⇒ Land comes to be mismanaged, and **this negatively affects the neighborhood**.



An example of land that has become difficult to use as an open space (Exhibit: Ministry of Land, Infrastructure, Transport and Tourism)

➡ The increasing number of deaths associated with a progressively aging population will likely cause the situation to deteriorate.

➡ **Solving the problem of unclaimed land is an urgent issue.**

Government Policy

- Basic Policy on the Promotion of Measures for Owner-Unknown Land (Ministerial Group Decision)
"Going forward, we will move ahead with an even more concrete consideration of **important issues such as reforming some of Japan's fundamental civil laws**, and by taking actions such as **submitting the necessary bills as quickly as possible within the current fiscal year (by March of 2021)**, we will steadily advance countermeasures under established timelines."
- Basic Policy on Economic and Fiscal Management and Reform 2020
"We will **advance countermeasures** for unclaimed land, **based on things such as the Basic Policy on the Promotion of Measures for Owner-Unknown Land**."

Outlines of Both Acts

- **The Act Partially Amending the Civil Code and Other Acts (Partial Civil Code Amendment Act)**
- **The Act on the Vesting of Land Ownership Acquired Through Inheritance in the National Treasury (Act on Vesting Inherited Land in the National Treasury)**

Through a dual-sided approach that **prevents** the problem of unclaimed land from occurring and **facilitates the use** of existing unclaimed land, these Acts comprehensively reform some of Japan's fundamental civil laws.

<p>1 The real property registration system is revised so that the relevant land registrations will be made.</p> <ul style="list-style-type: none"> • Under the revised system, applying for inheritance and change-of-address registrations is compulsory. • The new system simplifies and rationalizes the procedures for inheritance and change-of-address registrations. <p style="text-align: center;">Prevention</p>	<p>2 A system is created for landowners to transfer inherited land to the National Treasury (the System of Vesting Inherited Land in the National Treasury).</p> <ul style="list-style-type: none"> • A system is created that allows landowners who have acquired land through inheritance or bequest to vest the land in the National Treasury with the approval of the Minister of Justice. <p style="text-align: center;">Prevention</p>	<p>3 Civil Code rules related to land use are revised.</p> <ul style="list-style-type: none"> • A specialized property administration system for managing unclaimed land is created. • The revision enables smooth utilization of jointly owned land if some of the co-owners are unidentified or unreachable. • The revision introduces new rules for long-overdue estate divisions. <p style="text-align: center;">Facilitation of Land Use</p>
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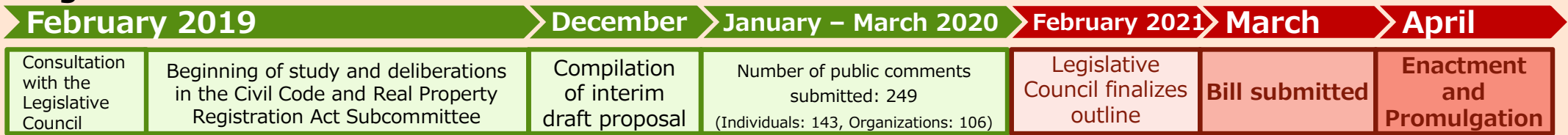
Effective Date

13 Partial Civil Code Amendment Act: in principle, the effective date is the day established by Cabinet Order that falls within 2 years after the April 28th, 2021, promulgation date. (Cabinet Order has established **April 1st, 2023**, as the effective date.)

* The effective date for the part of the amendments covered under section **1** above that are for making inheritance registration mandatory is the day established by Cabinet Order that falls within 3 years after the date of promulgation (Cabinet Order has established **April 1st, 2024**, as the effective date for this); the effective date for the part of the amendments covered under that section that are for making change-of-address registrations mandatory is the day established by Cabinet Order that falls within 5 years after the date of promulgation (this Cabinet Order has not yet been enacted).

2 Act on Vesting Inherited Land in the National Treasury: the effective date is the day established by Cabinet Order that falls within 2 years after the April 28th, 2021, promulgation date. (Cabinet Order has established **April 27th, 2023**, as the effective date.)

【Progress of consideration】



Measures to help keep information on inheritances in real property registrations up-to-date

【Background】

The registered owner of land is sometimes different from the actual owner. It has been pointed out that in such cases:

- ① searching for the owner costs time and money, and things like public-use land purchases are obstructed because the heirs of the registered owner are unknown.
- ② land for commercial development can be selected in a smooth manner even if the only thing known about the registered owner is whether or not they have passed away.

① It will become mandatory for heirs to apply to register their inheritance.

- It will be made mandatory for heirs who have acquired real property to apply to register their inheritance **within 3 years after learning of the acquisition** (A civil fine can be imposed for failure to apply without a legitimate reason).
- The following types of measures for concurrent arrangements will be introduced to ensure the viability of the obligation for heirs to apply to register their inheritance.

② Public notice will be given of facts such as the death of the registered owner.

- The registrar will acquire information on deaths and other events from other public institutions (from places such as the Basic Resident Registration Network System), and will record this information on the relevant registration (as a code) on the registrar's own authority.
⇒ **This will make it possible to use real property registrations to confirm whether the registered owner has died.**

Reduction of the procedural burdens of registering (such as collection of documents)

Establishment of a new "declaration-by-the-heir" registration

An heir will be able to make a filing indicating that they are the legal heir of the registered owner. This will be one way for the heir to perform their duty to apply to register a transfer of title due to inheritance.

(Heirs will be able to file individually. Accompanying documentation will be reduced, and the registration and license tax will not be imposed.)

⇒ **This will make it easy for an heir to perform their duty to apply to register their inheritance.**

※ The registrar will register the filer's name and address on the registrar's own authority (as an informational registration showing no registered ownership interest).

Reduction of the burden of costs in the registration process

Plans to request things such as the introduction of measures to reduce the burden of the registration and license tax

(Reference)
In the 2022 Tax System Revision Outline, it was decided:

(1) to extend and expand tax exemptions for the registration of transfers of title due to inheritance, and (2) to introduce a tax exemption for registrations made on the registrar's own authority (such as declaration-by-the-heir registrations and change-of-name or change-of-address registrations), a category newly created based on the amended Real Property Registration Act.

Prevention of Unintended Non-Registration

Establishment of a system for certifying the registered real property a person owns

• Allows for the issuance of a certificate listing the real property a specified person owns

⇒ **This will make it easy to see which pieces of real property need to have a registration made showing a transfer of title due to inheritance.**

※ This can also be used as a way for people to verify what real property they own, in general.

Coordination with Local Governments

Requests for local governments to make known or raise awareness of the need to register a transfer of title due to inheritance among people filing death registrations.

※ Requests to add "applying to register your inheritance" to local governments' checklists of procedures that people need to follow at the time of inheritance

Dealing with the Non-Registration of Changes of Address

【Current Situation】

- ▶ Currently, it is not mandatory for a real property owner to register a change of address.
- ▶ For both natural persons and corporations, registering every time they change names or addresses or relocate their main stores is perceived to be a burden, and there is a tendency to neglect it.
- ※ There are also survey results that show this to be the primary cause for the existence of unclaimed land in urban areas.



- It will be made mandatory for the registered owner of real property to apply for a change of address registration within 2 years from the date of the change of name or address (A civil fine can be imposed for failure to apply without an appropriate reason).
- New measures will be introduced through which the registrar, on their own authority, can make a change of address registration based on information acquired from other public institutions.
⇒ These measures will allow a change of name or address that accompanies something such as moving houses or relocation of main stores to be reflected in a registration through a simple procedure.

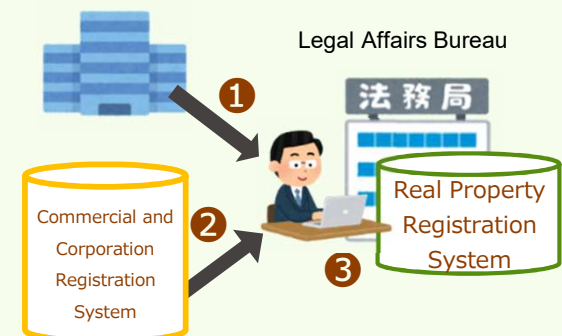
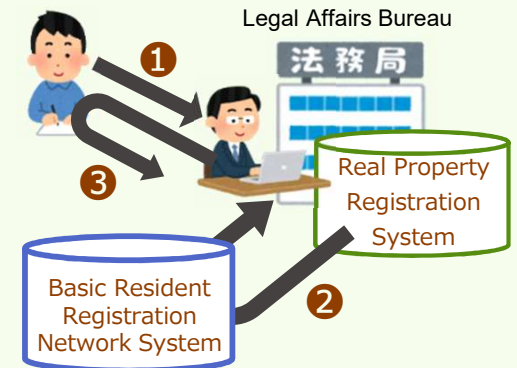
Structure of the New Method

For Natural Persons

- ① When applying for a real property registration, a natural person provides "searchable information" such as their date of birth, in addition to a name and address.
- ② The registrar can make inquiries in the Basic Resident Registration Network System using a person's searchable information and other data, and can acquire the information on changes in things such as the name and address of the registered owner.
- ③ Based on the information acquired, the registrar confirms the change in the address or other information with the registered owner, and then registers the change (registration and license tax will not be imposed).

For Corporations

- ① A corporation adds its corporate registration number to the registered information for a piece of real property of which it is the registered owner.
- ② The Commercial and Corporation Registration System notifies the Real Property Registration System with information on corporations that have changed their names and addresses.
- ③ Based on the information acquired, the registrar registers the changes (registration and license tax will not be imposed).



Measures to Prevent the Problem of Unclaimed Land from Occurring

Act on Vesting Inherited Land in the National Treasury

Creation of a system to vest land acquired by inheritance or through a bequest to an heir in the National Treasury

Background

- ① A decrease in land use needs and other such circumstances are causing an increase in the number of people who have inherited land but wish to relinquish it.
- ② Increasingly, people are feeling the burden of unwittingly acquiring land when they come into an inheritance, and this tends to cause mismanagement.

- This Act creates a system that allows land that has been acquired by inheritance or through a bequest to an heir to be relinquished and vested in the National Treasury.
- However, in light of the risk that this could allow heirs to abdicate their responsibilities and pass off the costs of management to the state or neglect to manage their land, certain requirements have been established (the details will be prescribed by Cabinet Order and Ministerial Ordinance) and requirements assessments will be implemented by the Minister of Justice.

⇒ Looking toward the future, this system will make it possible to prevent land from coming to be unclaimed or mismanaged.

Requirements

The land in question must not constitute land such as that described below whose regular management or disposition would require excessive cost or labor:

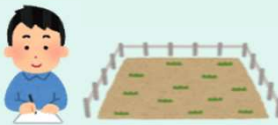
- (1) land with a building on it, or with a structure or other object on it that hinders its regular management or disposition;
- (2) land with polluted soil or with buried objects on it; (3) land on which there is a cliff; (4) land involved in a dispute;
- (5) land subject to a security right or a right to use or receive a profit from it; or (6) a thoroughfare or other such land that is used by other people.

- In addition to the assessment fee, a fee will be collected in an amount equivalent to 10 years' worth of land management costs, calculated in consideration of the standard management costs for that type of land (measures are to be taken based on the land category, size, and the actual circumstances of things such as the surrounding environment; the details will be prescribed by Cabinet Order).

(Reference) Currently, 10 years' worth of standard management costs for public land amounts to 200,000 yen for a field whose management can be largely left to nature and 800,000 yen for 200m² of urban residential land.

Illustration of the procedure

① Application for Approval



【Eligible Applicants】

People that have acquired land by inheritance or through a bequest to an heir
※In the case of co-owned land, all co-owners must apply for approval.

② Requirements Assessment and Approval by the Ministry of Justice (Legal Affairs Bureau)



- The Bureau has the authority to conduct on-site investigations.
- The Bureau can request the cooperation of organizations such as the departments and agencies in charge of managing national government assets.
- During this process, the Bureau shares the information that an approval application has been received with the national and local governments to ensure opportunities for land to be donated to the relevant organizations and used effectively in the region.

③ Applicant Pays Fee Equal to 10 Years' of Land Management Expenses



④ Land Vests in National Treasury

Measures to Help Facilitate the Use of Unclaimed Land

Creation of an Administration System for Land and Buildings

- ▶ Under the current system, administrators of absentees' property and administrators of inherited property have to manage all of the property of an individual owner as a unit, which leads to inefficiency.
- ▶ Even if the owner has been identified, their poor management sometimes results in dangerous situations.



- **Creation of an Administration System for Unclaimed Land and Buildings**
 - The amendment creates a new property administration system specifically for the management of individual pieces of unclaimed land and individual unclaimed buildings.
 - ※ The court issues a property administration order and appoints a property administrator (with the permission of the court, sale is also an option).
 - ⇒ This improves efficiency and rationalizes the management of unclaimed land and buildings.
- **Creation of an Administration System for Mismanaged Land and Buildings**
 - The amendment creates a system that allows for the appointment of a property administrator when there is a concern that another person's rights will be breached due to a piece of land or building being left unmanaged and abandoned.
 - ⇒ This will make it possible to properly manage land and buildings that have come to be mismanaged.

Property Administration System Reforms

Addressing Situations in Which There Are Unidentified or Unreachable Co-owners

- ▶ If some co-owners are unidentified or unreachable, it is difficult to make joint decisions on land use and consolidate co-ownership interests.



- **Development of a framework that will help facilitate the use of property in co-ownership**
 - The amendment creates a system through which, after public notice has been issued to any unidentified or unreachable co-owner, a court decision may be issued to enable the remaining co-owners to decide together to change or manage the property in co-ownership.
 - The amendment creates a framework through which a court decision may be issued to enable the remaining co-owners to acquire any unidentified or unreachable co-owner's interests and dissolve a co-ownership involving real property after depositing an amount equivalent to the value of their interests with an official depository.
 - ⇒ This will facilitate the use or disposition of property held in co-ownership even if there are unidentified or unreachable co-owners.

Co-ownership System Reforms

Addressing the Issue of Long-Unfinished Estate Divisions

- ▶ Dividing estates long after the fact tends to be difficult due to the loss of evidence concerning the heirs' specific shares in the estate, and this makes it hard to dissolve co-ownership.



- **New rules for long-overdue estate divisions**
 - The amendment creates a framework for extinguishing interests in an estate division that arise from the heirs' specific shares of an estate, which vary from case to case, and for dividing the estate concisely based on a standardized statutory share, 10 years after the opening of the succession.
 - ⇒ This will help resolve the issue of long-unfinished estate divisions.

Inheritance System Reforms

Facilitating the Use and Management of Neighboring Land

- ▶ There are no statutory grounds for laying down piping and installing other equipment that delivers critical infrastructure on neighboring land, and this hinders the use of land.



- **Development of rules on things like the right to install critical-infrastructure equipment**
 - This amendment makes it clear that people have a right to lay down piping and install other such equipment on neighboring land for the purpose of bringing critical infrastructure onto their own land, and establishes a framework for addressing this even if the owner of the neighboring land is unidentified or unreachable.
 - ⇒ This facilitates both the introduction of critical infrastructure and the use of land.

Revision of the Provisions on Neighboring Relationships

所有者不明土地の解消に向けた民事基本法制の見直し

【民法等一部改正法・相続土地国庫帰属法の概要】

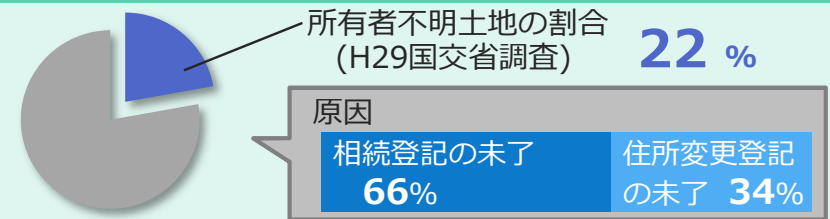
法務省民事局
令和3年12月

課題

相続登記がされないこと等により、**所有者不明土地**（※）が発生

※ 所有者不明土地とは・・・

- ①不動産登記簿により所有者が直ちに判明しない土地
- ②所有者が判明しても、その所在が不明で連絡が付かない土地



背景

- **相続登記の申請は義務ではなく**、申請しなくても不利益を被ることは少ない
- 都市部への人口移動や人口減少・高齢化の進展等により、地方を中心に、土地の所有意識が希薄化・土地を利用したいというニーズも低下
- 遺産分割をしないまま相続が繰り返されると、**土地共有者がねずみ算式に増加**

問題点

- **所有者の探索に多大な時間と費用が必要**（戸籍・住民票の収集、現地訪問等の負担が大きい）
- 所有者の所在等が不明な場合には、土地が管理されず放置されることが多い
- 共有者が多数の場合や一部所在不明の場合、土地の管理・利用のために必要な合意形成が困難
 - ⇒ **公共事業や復旧・復興事業が円滑に進まず、民間取引が阻害されるなど、土地の利活用を阻害**
 - ⇒ 土地が管理不全化し、**隣接する土地への悪影響が発生** など



➡ 高齢化の進展による死亡者数の増加等により、今後ますます深刻化するおそれ

所有者不明土地問題の解決は、喫緊の課題

政府方針

- 所有者不明土地等対策の推進に関する基本方針（関係閣僚会議決定）
「民事基本法制の見直し等の重要課題については、今後、さらに具体的な検討を進め、**今年度（令和2年度）中できるだけ速やかに必要となる法案を提出**するなど、期限を区切って着実に対策を推進する。」
- 骨太の方針2020 「所有者不明土地等について、**基本方針等に基づき対策を推進**する。」

両法律の概要

- 民法等の一部を改正する法律（民法等一部改正法）
- 相続等により取得した土地所有権の国庫への帰属に関する法律（相続土地国庫帰属法）

所有者不明土地の**発生予防**と、既に発生している所有者不明土地の**利用の円滑化**の両面から、総合的に民事基本法制を見直し

1 登記がされるようにするための**不動産登記制度の見直し**

- ・ 相続登記・住所変更登記の申請義務化
- ・ 相続登記・住所変更登記の
手続の簡素化・合理化 など

発生予防

2 土地を手放すための制度（**相続土地国庫帰属制度**）の創設

- ・ 相続等により土地の所有権を取得した者が、法務大臣の承認を受けてその土地の所有権を国庫に帰属させることができる制度を創設

発生予防

3 土地利用に関連する**民法の規律の見直し**

- ・ 所有者不明土地管理制度等の創設
- ・ 共有者が不明な場合の共有地の利用の円滑化
- ・ 長期間経過後の遺産分割の見直し など

土地利用の円滑化

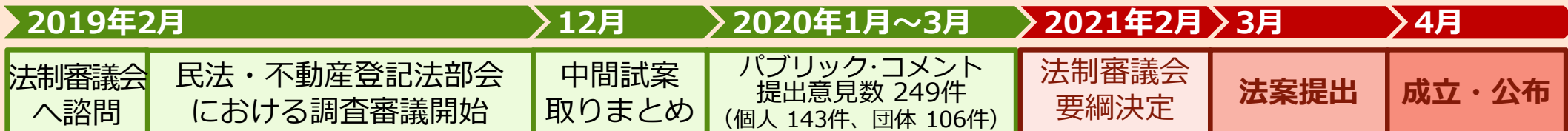
施行日等

1 3 民法等一部改正法：原則として公布（R3.4.28）後2年以内の政令で定める日（**R5.4.1**）

- * **1**のうち、相続登記義務化関係の改正については公布後3年以内の政令で定める日（**R6.4.1**）、住所変更登記義務化関係の改正については公布後5年以内の政令で定める日（政令は未制定）

2 相続土地国庫帰属法：公布（R3.4.28）後2年以内の政令で定める日（**R5.4.27**）

【検討の経過】



相続に関する不動産登記情報の更新を図る方策

【背景】 登記名義人と実際の所有者とが異なることがあるが、そうすると、

- ① 登記名義人の相続人が分からないため、所有者の探索に時間と費用が掛かり用地買収等が妨げられる
- ② 登記名義人が死亡しているかどうかだけでも分かれば、事業用地を円滑に選定することができるとの指摘がある。

①相続登記の申請を義務化

- 不動産を取得した相続人に対し、**その取得を知った日から3年以内**に相続登記の申請をすることを義務付ける（正当な理由のない申請漏れには過料の罰則あり）。
- 相続登記の申請義務の実効性を確保するよう、以下のような環境整備策をパッケージで導入する。

②登記名義人の死亡等の事実の公示

- 登記官が他の公的機関（住基ネットなど）から死亡等の情報を取得し、職権で登記に表示する（符号で表示）。
- ⇒ **登記で登記名義人の死亡の有無の確認が可能になる。**

登記の手続的な負担（資料収集等）を軽減

相続人申告登記の新設

- ・ 相続人が、登記名義人の法定相続人である旨を申し出る。申請義務の履行手段の一つとする。

（単独で申告可・添付書面も簡略化・非課税）

⇒ **相続登記の申請義務を簡易に履行することが可能になる。**

※ 登記官がその者の氏名及び住所等を職権で登記する（持分は登記されない報告的登記）

登記手続の費用負担を軽減

登録免許税の負担軽減策の導入などを要望

（参考）

R 4 年度税制改正の大綱において、①相続登記に対する登録免許税の免税措置の延長・拡充、②改正不登法により創設された職権登記（相続人申告登記、住所等変更登記等）への非課税措置の導入が決定

登記漏れの防止

所有不動産記録証明制度の新設

- ・ 特定の者が名義人となっている不動産の一覧を証明書として発行

⇒ **相続登記が必要な不動産の把握が容易になる。**

※ 自己所有不動産の一般的確認方法としても利用可能

地方公共団体との連携

死亡届の提出者に対する相続登記の必要性に関する周知・啓発を要請など

※ 地方公共団体の作成する相続発生時に必要な手続のチェックリストに相続登記の申請を追加するよう要請

住所変更未登記への対応

【現状】

- ▶ 現在は、住所変更登記は義務ではない。
- ▶ 自然人・法人を問わず、転居・本店移転等のたびに登記するには負担を感じ、放置されがちである。

※ 都市部では所有者不明土地の主な原因との調査結果もある。

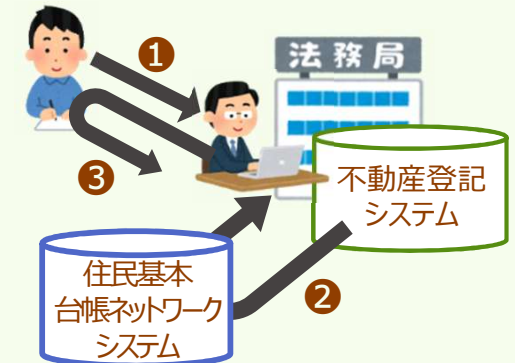
- 所有権の登記名義人に対し、住所等の変更日から2年以内にその変更登記の申請をすることを義務付ける（正当な理由のない申請漏れには過料の罰則あり）。
- 他の公的機関から取得した情報に基づき、登記官が職権的に変更登記をする新たな方策も導入する。

⇒ 転居や本店移転等に伴う住所等の変更が簡便な手続で登記に反映される。

新たな方策の仕組み

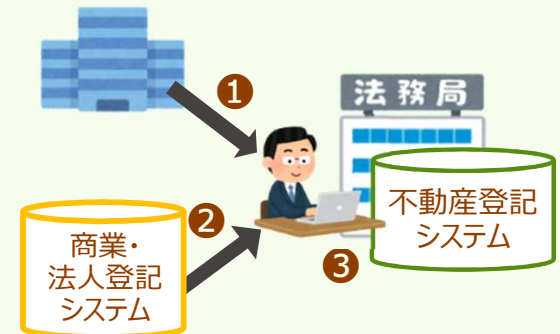
自然人の場合

- ① 登記申請の際には、氏名・住所のほか、生年月日等の「検索性情報」の申出を行う。
- ② 登記官が、検索性情報等を用いて住民基本台帳ネットワークシステムに対して照会し、所有権の登記名義人の氏名・住所等の異動情報を取得する。
- ③ 登記官が、取得した情報に基づき、登記名義人に住所等の変更の登記をすることについて確認をとった上で、変更の登記をする（非課税）。



法人の場合

- ① 法人が所有権の登記名義人となっている不動産について、会社法人等番号を登記事項に追加する。
- ② 商業・法人登記システムから不動産登記システムに対し、名称や住所を変更した法人の情報を通知する。
- ③ 取得した情報に基づき、登記官が変更の登記をする（非課税）。



相続等により取得した土地所有権を国庫に帰属させる制度の創設

背景

- ① 土地利用ニーズの低下等により、土地を相続したものの、土地を手放したいと考える者が増加している。
- ② 相続を契機として、土地を望まず取得した所有者の負担感が増しており、管理の不全化を招いている。

- 相続又は遺贈（相続人に対する遺贈に限る。）により取得した土地を手放して、国庫に帰属させることを可能とする制度を創設する。
- ただし、管理コストの国への転嫁や土地の管理をおろそかにするモラルハザードが発生するおそれを考慮して、一定の要件（詳細は政省令で規定）を設定し、法務大臣が要件を審査する。
⇒ 将来的に土地が所有者不明化し、管理不全化することを予防することが可能になる。

要件

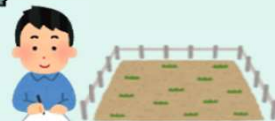
通常の管理又は処分をするに当たり過分の費用又は労力を要する以下のような土地に該当しないこと

ア 建物や通常の管理又は処分を阻害する工作物等がある土地、イ 土壌汚染や埋設物がある土地、ウ 崖がある土地
エ 権利関係に争いがある土地、オ 担保権等が設定されている土地、カ 通路など他人によって使用される土地 など

- 審査手数料のほか、土地の性質に応じた標準的な管理費用を考慮して算出した10年分の土地管理費相当額の負担金を徴収する（地目、面積、周辺環境等の実情に応じて対応すべく、詳細は政令で規定）。
（参考）現状の国有地の標準的な管理費用（10年分）は、粗放的な管理で足りる原野約20万円、市街地の宅地(200㎡)約80万円

手続イメージ

① 承認申請



【申請権者】
相続又は遺贈（相続人に対する遺贈に限る）により土地を取得した者
※共有地の場合は共有者全員で申請する必要あり

② 法務大臣（法務局）による要件審査・承認



- ・ 実地調査権限あり
- ・ 国有財産の管理担当部局等に調査への協力を求めることができる
- ・ 運用において、国や地方公共団体に対して、承認申請があった旨を情報提供し、土地の寄附受けや地域での有効活用機会を確保

③ 申請者が10年分の土地管理費相当額の負担金を納付



④ 国庫帰属

所有者不明土地の利用の円滑化を図る方策

民法の改正

土地・建物の管理制度の創設

- ▶ 現行の不在者財産管理人・相続財産管理人は、人単位で財産全般を管理する必要があり、非効率になりがち
- ▶ 所有者が判明していても、管理されないことによって危険な状態になることもある

○ 所有者不明土地・建物の管理制度の創設

財産管理制度の見直し

- ・ 個々の所有者不明土地・建物の管理に特化した新たな財産管理制度を創設する。
※ 裁判所が管理命令を発令し、管理人を選任（裁判所の許可があれば売却も可）
⇒ 所有者不明土地・建物の管理を効率化・合理化する。
- 管理不全土地・建物の管理制度の創設
- ・ 所有者が土地・建物を管理せずこれを放置していることで他人の権利が侵害されるおそれがある場合に、管理人の選任を可能にする制度を創設する。
⇒ 管理不全化した土地・建物の適切な管理が可能となる。

不明共有者がいる場合への対応

- ▶ 不明共有者がいる場合には、利用に関する共有者間の意思決定や持分の集約が困難

○ 共有物の利用の円滑化を図る仕組みの整備

共有制度の見直し

- ・ 裁判所の関与の下で、不明共有者等に対して公告等をした上で、残りの共有者の同意で、共有物の変更行為や管理行為を可能にする制度を創設する。
- ・ 裁判所の関与の下で、不明共有者の持分の価額に相当する額の金銭の供託により、不明共有者の共有持分を取得して不動産の共有関係を解消する仕組みを創設する。
⇒ 不明共有者がいても、共有物の利用・処分を円滑に進めることが可能になる。

遺産分割長期未了状態への対応

- ▶ 長期間放置された後の遺産分割では、具体的相続分に関する証拠等が散逸し、共有状態の解消が困難

○ 長期間経過後の遺産分割の見直し

相続制度の見直し

- ・ 相続開始から10年を経過したときは、個別案件ごとに異なる具体的相続分による分割の利益を消滅させ、画一的な法定相続分で簡明に遺産分割を行う仕組みを創設する。
⇒ 遺産分割長期未了状態の解消を促進する。

隣地等の利用・管理の円滑化

- ▶ ライフラインの導管等を隣地等に設置することについての根拠規定がなく、土地の利用を阻害

○ ライフラインの設備設置権等の規律の整備

相隣関係規定の見直し

- ・ ライフラインを自己の土地に引き込むための導管等の設備を他人の土地に設置する権利を明確化し、隣地所有者不明状態にも対応できる仕組みも整備する。
⇒ ライフラインの引込みを円滑化し、土地の利用を促進する。