KPMG ASIA PACIFIC TAX CENTRE

# ASEAN Tax Guide

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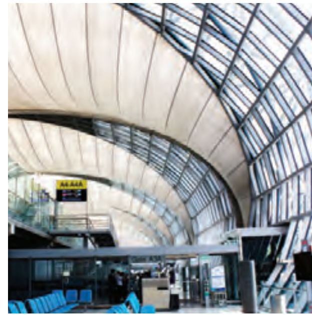
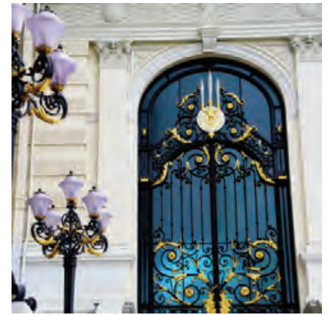
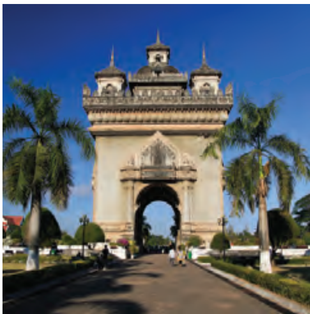
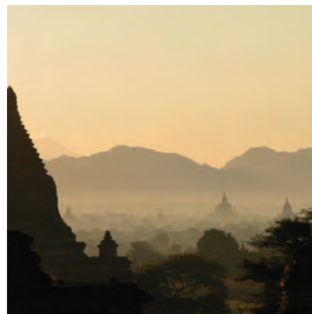
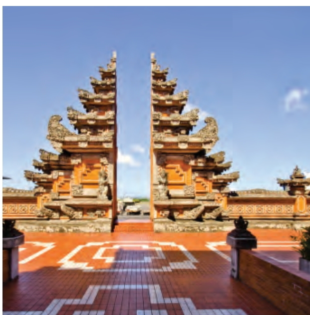
# The ASEAN Economic Community











In 2007, the 10 states comprising The Association of South East Asian Nations (ASEAN) signed the ASEAN Economic Community (AEC) Blueprint (the Blueprint), agreeing to form an economic community, which will transform ASEAN into a single market and production base with free movement of goods, services, investment, skilled labour, and freer flow of capital, with a population of over 600 million people.[1]

[1] Association of Southeast Asian Nations (2013). ASEAN Economic Community. [online] Retrieved from: http://www.asean.org [Accessed: 21 Oct 2013].



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Other key characteristics of AEC include:

- A competitive economic region
- A region of equitable economic development
- A region fully integrated into the global economy

AEC is scheduled for establishment by December 2015 (a recent shift from January 2015), although commentators and experts agree that a fully integrated economic community in the region will not exist for some time – 2015 is just the beginning.

AEC presents an opportunity for ASEAN member states to create a competitive regional environment, and it holds the potential to transform ASEAN into the world's next economic powerhouse.

Intra-ASEAN trade and investment is expected to increase significantly, and it is widely anticipated that global companies currently operating in the Asia Pacific region will begin to shift certain functions into ASEAN, in order to capitalize on AEC's various benefits. It is crucial that businesses begin to consider ASEAN in their strategic planning; both as a potential market, and for the opportunity to create efficiencies in Asian operations.

ASEAN governments must also plan for expected changes. Governments face extensive to-do lists in anticipation of AEC 2015 – the Blueprint outlines many legislative and policy changes expected of ASEAN member states before the region can fully integrate. The Blueprint is fairly quiet from a taxation point of view, with tax only mentioned directly twice:

- Enhance the withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance (Item 31, Action iv, AEC Blueprint)
- ASEAN member countries should complete the network of bilateral agreements on avoidance among all member countries by 2010 (Item 58, AEC Blueprint).

Despite this, there are a number of other changes expected where we can infer amendments to tax policies, including:

- The recognisation of intellectual property as a major determinant of local value added and external competitiveness (Item 44)
- A call to harmonise the policy and legal infrastructure for e-commerce (Item 59)
- An objective to realize a more comprehensive investment agreement which would increase investor confidence in ASEAN (Item 26) and provide enhanced protection to all investors and investments (Item 27).

So while the Blueprint does not call for any large transformative tax reforms in the region, there are a number of changes that we can expect or are already seeing. Let us explore a few of these.

## Corporate tax

Put simply, harmonisation of taxation is when member states in a region agree to adopt the same tax treatment, eliminating the incentive for taxpayers to shift from one high-tax jurisdiction to a low-tax jurisdiction. Harmonisation is heralded as a model for regional integration, but typically its downfall is that it limits member states' sovereignty by restricting the ability to decide their own tax rates as a matter of national policy.

Many commentators have discussed the implementation of harmonisation in AEC, but its success requires paradigm shifts in the way member states determine their national policies. The same issue has arisen in the context of the European Union (EU), and despite significant debate, harmonisation of taxation has not been implemented to date in the EU. Given that the EU has still not come to adopt the model, we anticipate it to be a long way off in AEC.

Absent the harmonisation of taxes, tax becomes a point of differentiation between member states who

continue to compete against each other for foreign direct investment. ASEAN nations have, and will continue to, respond to prospective investment with the manipulation of tax rates to compete with their neighbours.

A look at the trends in corporate tax rates in ASEAN shows an overall decrease in rates over the last fifteen years, with an obvious fall in rates in 2007 on the signing of the AEC Blueprint. Most of the ASEAN nations impose general corporate tax rates that are all within a few percentage points of the 23.1 percent average, but the 30 percent rate in the Philippines is nearly double the 17 percent rate of Singapore.

Trends show a possible convergence of corporate tax rates at 20 percent, with the exception of Singapore which is already lower. Whether 20 percent is the 'magic number' at which rates will begin to level out remains to be determined.

Of course, it's not all about tax. There are a host of other considerations a corporate takes into account before investing, and these are pertinent considerations in the context of ASEAN: predictability of the tax system; bureaucracy; processing times; corruption; protection of intellectual property; and transparency in guidelines, to name a few.

What is clear is that since the signing of the AEC Blueprint, many of the member nations have reduced their corporate tax rates. In addition, a number of states offer corporate tax incentives, such as exemptions from or reductions in corporate tax for certain periods. Whether this is simply part of a global trend in decreasing corporate rates, or a method of competition intra-ASEAN, one can only surmise.

# Indirect tax

## VAT / GST

The flip side of a decrease in corporate tax rates is that governments become more reliant on indirect taxes for revenue. As corporate tax rates have tumbled worldwide, indirect tax rates have increased globally by 0.17 percent to a 15.5 percent average since January 2012.[2] In Asia, the average rates moved up by 0.4 percent to 12.24 percent.[3]

AEC will open up a market of over 600 million people in countries where the average GDP growth is 5.4 percent.[4] Disposable incomes across all of South East Asia are expected to increase, and this will push consumer expenditure in the region to a predicted USD 1.5 trillion by 2020.[5]

Further driving spending is the increasing prevalence of a middle class segment and growing affluence of upper-middle class, particularly in Malaysia and Singapore, which drives demand for high value products and services.[6]

In brief, greater expenditure in the region provides incentives for governments to focus efforts on indirect tax regimes and legislation. We expect that indirect tax will become an important revenue gathering tool; this will be achieved with the introduction of comprehensive VAT or GST systems, increases in headline rates, and perhaps simultaneously by base expansion.

## Customs

The requirement for freedom of trade, by its very nature, requires a reduction, and ultimately cessation, of customs tariffs and duties. This is recognized by the Blueprint, which called for the elimination of all import duties (except for those on the Sensitive and Highly Sensitive Lists) by 2010 for ASEAN-6 (comprising Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand), and by 2015 for CLMV (Cambodia, Laos, Myanmar, and Vietnam), as set out in the Common Effective Preferential Tariffs for ASEAN Free Trade Area (CEPT AFTA) Agreement.

The Sensitive List and Highly Sensitive List are country specific lists of unprocessed agricultural products which are offered a longer time for the implementation of tariff elimination.

[2] KPMG International. January 2013. Corporate and Indirect Tax Survey 2012, 2.
[3] Ibid.
[4] Worldbank (2013). Data extracted from GDP growth (annual %). [online] Retrieved from: http://data.worldbank.org [Accessed: 5 August 2013].
[5] Asia Research Online (2011). SE Asia – opportunities across a diverse range of consumer groups. [online] Retrieved from: http://asia-research.net [Accessed: 19 September 2013].
[6] Association of Southeast Asian Nations (n.d). Trade and Facilitation, 1. [online] Retrieved from: http://www.asean.org [Accessed: 16 September 2013].

| ASEAN Double Taxation Treaty Coverage | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Brunei | Cambodia | Indonesia | Laos | Malaysia | Myanmar | Philippines | Singapore | Thailand | Vietnam |
| Brunei | x | | 0 | 0 | 0 | | | 0 | | 0 |
| Cambodia | | x | | | | | | | | |
| Indonesia | 0 | | x | (NF) | 0 | (NF) | 0 | 0 | 0 | 0 |
| Laos | 0 | | (NF) | x | 0 | 0 | | | 0 | 0 |
| Malaysia | 0 | | 0 | 0 | x | 0 | 0 | 0 | 0 | 0 |
| Myanmar | | | (NF) | 0 | 0 | x | | 0 | 0 | 0 |
| Philippines | | | 0 | | 0 | | x | 0 | 0 | 0 |
| Singapore | 0 | | 0 | | 0 | 0 | 0 | x | 0 | 0 |
| Thailand | | | 0 | 0 | 0 | 0 | 0 | 0 | x | 0 |
| Vietnam | 0 | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | x |

KEY O = In force (NF) = Not in force
Source: International Bureau of Fiscal Dcoumentation (IBFD), 2013

As it stands, tariffs are down to zero on 99.65 percent of traded lines for the ASEAN-6, and are between zero to five percent on 98.86 percent of lines for CMLV.[7] This significantly lowers the import value of commodities for businesses, but marks a significant revenue loss for governments. By way of explanation, CEPT-AFTA required the elimination of tariffs on 7,881 tariff lines for ASEAN-6. The 2008 import value of commodities traded in these 7,881 tariff lines was US$22.66 billion.[8] The average tariff rate was reduced from 0.79 percent in 2009 to 0.05 percent in 2010.[9] All things equal, this represents a drop in revenue of approximately US$168 million in one year. It begs the question – will the increased trade and spending compensate for the governments' revenue, or will the revenue have to be gathered from elsewhere?

## Withholding tax & Double Tax Treaties

One of only two direct mentions of tax in the AEC Blueprint was to encourage the completion of the network of double tax treaties among member countries by 2010.

Since the Blueprint was signed, we've witnessed member countries hurrying to negotiate new treaty terms and conclude treaties. But despite the 2010 deadline having passed, there remain gaps in treaty coverage in the region, as the table above shows.[10] Cambodia, for example, has to date no treaties in force, although it is anticipated that this will change before AEC's 2015 target.

Free flow of trade and capital requires the elimination of withholding taxes. This was recognised in the Blueprint, which also calls for enhancement of the withholding tax structure to promote the broadening of the investor base in ASEAN debt issuance.

The network, as it currently stands, somewhat discourages trade between ASEAN member states, and instead promotes the movement of monies offshore to countries where bilateral agreements are in place. Further, withholding taxes within the region are higher than withholding taxes in bilateral agreements with parties outside the region; again promoting trade external to the region.

7 Uy, V. (2013). Zero tariffs for Asean-6 starting January 1. Inquirer, [online] 31 December 2009. Retrieved from: http://globalnation.inquirer.net [Accessed: 16 September 2013].
8 Association of Southeast Asian Nations (n.d). Trade and Facilitation, 1. [online] Retrieved from: http://www.asean.org [Accessed: 16 September 2013].
9 IBFD (2013). Data extracted from Tax Research Platform. [online] Retrieved from: http://online.ibfd.org [Accessed 5 August 2013].
10 Plummer, M. (2009). The ASEAN Economic Community and the European Experience. Asian Development Bank. [online] Retrieved from: http://www.adb.org [Accessed: 6 Aug 2013].

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The existence of more favourable treaty terms for external trade over intra-ASEAN trade was not always without basis. Historically intra-ASEAN trade was only 25 percent of the total trade in ASEAN.[11] By necessity, ASEAN had to retain an outward focus. These days, intra-ASEAN trade is two thirds of total ASEAN trade[12], with the single market in 2015 expected to unlock additional regional trading opportunities. Regional trade incentives should now be a priority.

The most effective means of achieving regional integration is a multi-lateral treaty among member countries, but there has been little talk of implementing this. We anticipate that the region will support intra-ASEAN trade through continuing to close gaps in the ASEAN treaty network, and negotiating more favourable treaty terms. As is the case in much of ASEAN's tax environment, the situation is evolving, and requires a careful eye to keep abreast of the changes.

## Anti avoidance legislation

Easier movement of profits and capital enhances the ability for taxpayers to structure investments to best take advantage of favourable tax rates and regulations. Without specific anti-avoidance measures in place, member states might find themselves a victim of abuse of the tax regimes.

With the exception of Malaysia and Singapore, ASEAN countries historically have lacked anti-avoidance legislation. Certain states are beginning to introduce transfer pricing regimes, controlled foreign corporation rules, and thin capitalization rules, but, on the whole, there remains scarce protection in specific anti avoidance measures. Malaysia and Singapore are the only two ASEAN countries with general anti-avoidance rules in place.

Many smaller states simply lack the resources or ability to introduce complex tax laws, but with the current spotlight on attracting investment in ASEAN, and the external global focus on tax morality and good corporate behaviour, one would anticipate anti-avoidance rules to be on political agendas around the region.

## Adjusting local legislation for AEC

Aside from the required regional measures, ASEAN countries will need to consider adjusting their local tax laws to suit the new market conditions of AEC 2015.

There are numerous examples of incompatibilities between local laws and the concept of AEC. Thailand, for example, still taxes a Thai individual working overseas where income is paid locally in Thailand, leading to the taxation of that income amount twice. Given that AEC 2015 will allow freer movement of skilled labour, this law is somewhat conflicting with the aims of AEC 2015.

Governments should also reflect on the availability of tax as a public behavior determinant under AEC. Freedom of trade means there is more availability of certain products and with this comes a reduction in a government's control over those products.

Take, for example, tobacco. There is little point in one member country applying tobacco taxes to deter consumption if consumers can simply get it in a neighbouring country for less. The usability of taxes as a public deterrent tool is less effective when a consumer can simply purchase the product elsewhere.
These are just a couple of considerations facing governments who are readying themselves for AEC 2015. Over time, inconsistencies between local laws and the objectives of AEC will be ironed out. National legislation and policies will be under review, and we can expect some local changes to comply or fit with the expected environment post 2015.

## Intellectual Property

As companies shift or expand operations into ASEAN, a major consideration for many will be the protection and development of Intellectual Property (IP). AEC has recognized the need for a cohesive set of IP laws in the region, and has sought to craft an approach to IP that takes into account the diverse needs and varying levels of capacity of its member states.[13]

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[11] International Monetary and Financial Committee (2013). Minutes of the Twenty-seventh meeting. 20 April 2013. [online] Retrieved from: http://www.imf.org [Accessed: 6 August 2013].

[12] IBFD (2013). Data extracted from Tax Research Platform. [online] Retrieved from: http://online.ibfd.org [Accessed 5 August 2013].

[13] Association of Southeast Asian Nations (2007). ASEAN Economic Community Blueprint. [online] Retrieved from: http://www.asean.org/ [Accessed: 16 September 2013]. Item 44.

However, the concepts of IP are only just being tackled in ASEAN's developing states, and are still evolving in many of the more developed nations. As the Blueprint points out, IP policy can influence the volume and quality of external trade and investment.[14] Investors are likely to focus on countries where IP is adequately protected. Singapore, for example, has concentrated on positioning itself as an IP hub in Asia for a number of years. Significant thought has gone into the development of laws and regulations for the protection of IP, as well as incentives for IP and Research and Development activities. Singapore's strength in this area brings a distinct advantage, and, as pointed out in the Blueprint, is a major determinant of external competitiveness.[15]

From a tax perspective, IP is one of the major determinants of value. The location of IP can substantially alter a company's tax position. This should be carefully considered, with regard had to IP incentives offered by certain countries, as well as effective tax rates. However, the reality for a company with significant IP is that, regardless of tax driven incentives, strong IP protection is a crucial determinative factor in a choice of location.

## E-commerce

The Blueprint to AEC discusses the adoption of a common framework of standards and regulations for e-commerce.[16] In 2001, ASEAN adopted the e-ASEAN Reference Framework for Electronic Commerce Legal Infrastructure, which assisted countries with the drafting of their e-commerce laws. The Blueprint is a further commitment by member states to harmonise e-commerce laws around electronic contracting and dispute resolution by 2015.

What is not mentioned by the Blueprint is a standard framework for taxation of e-commerce. Asia Pacific e-commerce business grew 23 percent in the last year and Indonesia was leading the region with growth of 71 percent.[17] Internet penetration in ASEAN is currently about 33.5 percent,[18] and is escalating, with growth of 9.2 percent between 2009 and 2012.[19] With a population of over 600 million, e-commerce is rising as a significant business space in ASEAN.

The taxation of e-commerce is a concept that is being grappled with throughout the world. The concepts are muddy and the legal position changes depending on very specific fact scenarios. Add to this mix the relative infancy of e-commerce in many of ASEAN's developing nations, and it makes for complications. Given its rising prominence, e-commerce is an area where we expect significant taxation changes in the forthcoming years.

## Investment Protection

The AEC Blueprint makes numerous references to efforts to achieve free and open investment. Further, it called for a review of the two existing investment agreements, in order to realize a more comprehensive investment agreement that would increase investor confidence in ASEAN. The new agreement is the ASEAN Comprehensive Investment Agreement (ACIA), signed in 2009, brought into effect in 2012, which is based on international best practices.

While the ACIA focuses on promoting foreign direct investment, an important feature is the protection given to intra-ASEAN investment with non-discrimination provisions. In particular, national treatment offers an ASEAN investor the same ability to invest as a local investor in other ASEAN member states. Further, the ACIA maintains most favoured nation provisions, where preferential treatment granted by any member state must be extended to all other member states.

The ACIA is a step forward in promoting intra-ASEAN investment and an important indication of the region's commitment to AEC. Viewed in light of other, less supportive, barriers to intra-regional investment, ACIA is a positive sign that the required steps to achieving an integrated region are underway.

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[14] Ibid.

[15] Ibid., Item 59, Action 5.

[16] Emarketer.com<http://Emarketer.com> (2013). B2C Ecommerce Climbs Worldwide, as Emerging Markets Drive Sales Higher. [online] Retrieved from: http://www.emarketer.com [Accessed: 19 Sep 2013].

[17] Worldbank (2013). Data extracted from Internet users (per 100 people). [online] Retrieved from: http://data.worldbank.org/ [Accessed: 5 August 2013].

[18] Ibid.

[19] Data from World Bank.

## Lessons from the EU

The European Union (EU) acts somewhat as a comparison for AEC. Not forgetting the historical and economic differences between the two regions, a lot can be learned or predicted from the experiences in Europe, providing insight into what we might expect to occur in the AEC context.

The comparison already starts at the founding principles of creating a regional block and internal market by introducing the fundamental freedoms for goods, capital, services and people. These freedoms have made the EU experience a significant success in economic growth of the region for many decades, even when the EU members were at different stages of economic development.

The current EU challenges relating to the monetary union and the single currency also provide valuable lessons on the economic market integration and whether or not monetary policy for regional blocks should be included.

## Looking ahead

As it stands, ASEAN is heading down the path of achieving a fully integrated regional economy. There have been significant inroads made into certain directives from the Blueprint – such as the reduction of customs tariffs and enhancing the network of bi-lateral agreements - but there remains a way to go.

From a tax point of view, harmonisation of tax laws and multi-lateral treaties are unlikely before 2015, which leaves it open for member states to use tax as a competitive factor in attracting investment against their neighbouring countries. We are likely to see reducing corporate tax rates, as well as incentives to attract foreign investment.

In addition, considerable amendments to local tax legislation and the implementation of new or updated double tax treaties are to be expected as member states prepare for the new environment post 2015.

Aside from tax, ASEAN governments will need to ensure that legislation, infrastructure, and the general commercial environment is compatible with the expected influx of trade and investment. There are likely to be teething problems, and it very much is a 'watch this space' environment for now.

But while there will be challenges, they are offset with enormous potential.

Tax wise, AEC has been a catalyst in decreasing in corporate tax rates, withholding tax rates, and customs tariffs; reducing tax costs and the costs of inputs for taxpayers.

The arrival of new legislation provides possible opportunities for corporates to influence the shape of new legislation, by getting involved in consultation in the policy making process.

Most significantly, AEC provides an opportunity to streamline business operations and structures to best take advantage of the new market. With investment protection afforded under ACIA, in addition to various other benefits presented by AEC, strategic consideration should be given to ASEAN as a potential base for Asia Pacific operations, a possible market, or part of the supply chain.

What is clear is that the landscape in ASEAN will be evolving over the next few years. New laws around anti-avoidance, IP, and e-commerce are expected; existing laws will be tailored to fit with AEC's aims; and as mentioned, treaty rates and base line tax rates are expected to change.

In response, companies need to be tracking changes in the business environment, and be well positioned to adapt and respond quickly to new opportunities. A strategic focus on planning for possible business restructure or seeking opportunities to expand with new markets or trading partners is a proactive approach to winning in ASEAN.

Warrick Cleine
Asia Pacific Regional Leader, Tax
CEO, KPMG in Vietnam

Brahma Sharma
KPMG Asia Pacific Tax Centre Leader

# OVERVIEW

| | Standard corporate income tax rate | Top personal income tax rate | Non-resident withholding tax rates | | | Indirect Tax (i.e. VAT / GST) Standard Rate | Capital gains |
|---|---|---|---|---|---|---|---|
| | | | Dividends | Royalties | Interest | | |
| Brunei | 20 percent | No personal tax on individuals | None | 10 percent | 15 percent | No VAT or consumption based tax system | No capital gains tax |
| Cambodia | 20 percent | 20 percent | 14 percent | 14 percent | 14 percent | 10 percent | No separate capital gains tax. Capital gains are treated as taxable income and subject to 20 percent profit tax. |
| Indonesia | 25 percent | 30 percent | 20 percent | 20 percent | 20 percent | 10 percent | Subject to tax |
| Laos | 24 percent | 24 percent | 10 percent | 5 percent | 10 percent | 10 percent | No capital gains tax |
| Malaysia | 25 percent. Reduces to 24 percent from YA 2016. | 26 percent. Reduces to 25 percent from YA 2015. | None (assuming single tier dividend) | 10 percent | 15 percent | Service tax: 6 percent. Sales tax: Generally 5 percent or 10 percent.<br>GST of 6 percent will be introduced from 1 April 2015. | No capital gains tax other than on the disposal of interests in Malaysian real property or shares in a Real Property Company. |
| Myanmar | 25 percent – company<br>35 percent – branch | 20 percent – employment income<br>30 percent – other income<br>35 percent – non resident foreigners | None | 20 percent | 15 percent | No standard rate. 5 percent for services. Between 3 percent and 100 percent for goods | Subject to tax at 10 percent for resident taxpayers and 40 percent for non-resident taxpayers |
| Philippines | 30 percent | 32 percent | 30 percent | 30 percent | 30 percent | 12 percent | Capital gains on the disposal, sale, or exchange of shares, and land and buildings are subject to tax |
| Singapore | 17 percent | 20 percent | None | 10 percent | 15 percent | 7 percent | No capital gains tax |
| Thailand | 20 percent (for two accounting periods beginning on or after 1 January 2013). | 37 percent. This is expected to be reduced to 35 percent from the 2013 tax year. | 10 percent | 15 percent | 15 percent | 10 percent, although a reduced 7 percent rate applies to 30 September 2014 | No separate capital gains tax. Capital gains are treated as taxable income. |
| Vietnam | 25 percent. This is to be reduced to 22 percent from 1 January 2014, and 20 percent from 1 January 2016. | 35 percent | None for corporate investors. Five percent for individual investors. | 10 percent | 5 percent | 10 percent | Capital gains tax is applied to both corporate and individual investors. |

| | Tax Losses | R&D Incentives | Other incentives | Transfer Pricing regime | Thin Capitalisation regime |
|---|---|---|---|---|---|
| Brunei | Can be carried forward for six years and back one year | R&D activities may be classified as qualifying activities for pioneer service companies, which are provided certain tax exemptions. Certain approved R&D expenditure is allowed as deductible expenditure. | Pioneer industry tax exemption; Tax relief for capital expenditure in excess of BND 1 million; Withholding tax exemptions for interest on certain loans from non-residents. | Yes | None |
| Cambodia | Can be carried forward for five years subject to continuity of ownership provisions. Cannot be carried back. | None | Tax on Profits exemption; Accelerated depreciation on manufacturing assets; Import duty exemption on production equipment, raw materials and inputs to manufacturing; Right to employ foreign labour. | None. However, it is generally accepted that cross-border transactions must be arm's length. | None. However, interest expenditure allowable as a deduction is limited to an amount equal to the total interest income plus 50 percent of net non-interest profit earned for the year. |
| Indonesia | Can generally be carried forward for five years (not subject to continuity of ownership). Cannot be carried back | R&D expenditure undertaken in Indonesia is deductible expenditure. | Incentives are available for certain entities in specific industries. | Yes | The law allows the tax authority to issue a decree defining the maximum ratio of debt to equity in determining deductible interest. However, such a decree has not yet been finalised. |
| Laos | Can be carried forward for three years. Cannot be carried back | Tax incentives under the Law on Investment Promotion (see right) may apply to scientific research and development expenditure. | The Law on Investment Programme provides tax incentives for certain investors. | None | None |
| Malaysia | Can be carried forward indefinetly, provided the company is not dormant (in which case the continuity of ownership test must be met). Cannot be carried back. | R&D tax incentive scheme includes tax exemptions and double deductions for certain R&D expenditure incurred in Malaysia. | Tax incentives are available for a wide range of companies and industries, as well as specific activities promoted by the Malaysian Government. | Yes | Malaysia has thin capitalisation legislation, but implementation of the regime has been deferred. |
| Myanmar | Can be carried forward for three years, but cannot be carried back. Losses from capital assets cannot be carried forward or offset against gains on other assets. | None | Companies registered under the Myanmar Foreign Investment Law can be granted a wide range of tax incentives. Incentives are also available to foreign investors carrying out business in a Special Economic Zone. | None | None. However, the deductibility of interest is limited. |
| Philippines | Can be carried forward for three years, subject to continuity of ownership. Cannot be carried back. | A multinational company may establish a Regional Operating Headquarters (ROHQ) to render R&D services and product development to affiliates, branches or subsidiaries. | Incentives are available for enterprises engaged in preferred areas of investment and registered with the Board of Investments (BOI) or the Philippine Economic Zone Authority (PEZA). Further, tax incentives are available for regional headquarters, enterprises operating in developing regions and special economic zones. | Yes | None. However, guidelines which identify thin capitalisation and earning stripping have been issued. |
| Singapore | Losses can be carried forward indefinitely, subject to the continuity of ownership test. Limited losses can be carried back one year. | An R&D tax incentive regime provides for enhanced R&D deductions. | Intellectual property incentives available for acquisition or licensing costs, or costs for protection of intellectual propery. Tax incentives for activities that enhance economic or technological development are available. In addition, international and regional headquarter tax incentives are available. | Yes | None |
| Thailand | Can be carried forward for five years. Cannot be carried back. | Tax exemptions on license fees under the Board of Investment, and a double deduction for qualified R&D expenses. | Tax-related relief and other incentives are granted to Thai and foreign companies investing in Board of Investment promoted projects. | Yes | None. However, if a tax incentive has been granted by the Board Of Investment, the thin capitalisation ratio cannot exceed 3:1. |
| Vietnam | Can be carried forward continuously and entirely for five years. Cannot be carried back. | Corporate taxpayers incorporated under Vietnamese laws can set aside a fund of up to 10 percent of its annual taxable income for R&D purposes and deduct the same amount from its taxable income. | Intellectual property incentives are available for certain high technology projects; scientific research; technology development projects; and software production projects. Other preferential tax treatments are limited to encouraged sectors and encouraged special economic zones, or areas with difficult socio-economic conditions. | Yes | None. However, certain restrictions to the same effect can be found in the regulations on foreign loans and corporate income tax. |

# BRUNEI DARUSSALAM

## Corporate Income Tax

| | |
|---|---|
| Corporate income tax | Income tax |
| Tax rate | The tax rate for resident and non-resident companies is 20 percent. |
| Residence | A company, whether incorporated locally or abroad, is considered to be resident in Brunei Darussalam for tax purposes if the control and management of its business are exercised in Brunei Darussalam. The control and management of a company are vested in its directors and a company is normally regarded as resident in Brunei Darussalam if, among other things, its directors' meetings are held in Brunei Darussalam.<br><br>A resident company is taxed on its worldwide income, whereas a non-resident company is taxed solely on income that has a source in Brunei Darussalam or on profits from business(es) in Brunei operated through a branch or permanent establishment. |
| Compliance requirements | From the 2012 year of assessment, the assessment system is self assessment.<br><br>All filing is required to be done online under a system introduced by the Revenue Division of the Ministry of Finance known as The System for Tax Administration and Revenue Services (STARS). STARS was introduced in 2012.<br><br>Filing due date: 30 June of the year of assessment. |
| International withholding tax rates | Dividends are not subject to withholding tax in Brunei Darussalam.<br><br>Royalties paid to a non-resident are subject to withholding tax at a rate of 10 percent. This may be reduced under a tax treaty.<br><br>Interest payments made to a non-resident are subject to withholding tax at a rate of 15 percent. This may be reduced under a tax treaty.<br><br>Other withholding tax rates on payments to non-residents include technical assistance and service fees (20 percent), management fees (20 percent), rent of movable property (10 percent) and director's remuneration (20 percent). |

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| Holding rules | Dividends accruing in, derived from, or received in Brunei Darussalam by a corporation are included in its taxable income, with the exception of dividends received from a corporation taxable in Brunei Darussalam. No tax is deducted at source on dividends paid by a Brunei Darussalam corporation (i.e. Brunei Darussalam does not impose any withholding tax on dividends).<br><br>There are currently no dividend stripping rules or participation exemption rules in Brunei Darussalam.<br><br>There is no capital gains tax in Brunei Darussalam. However, where it can be established by the tax authority that the gains form part of the normal trading activities of the business, the gains become taxable as revenue gains. |
| Tax losses | Tax losses can be carried forward for six years and the loss offset is not restricted to the same trade.<br><br>Unabsorbed capital allowances can be carried forward indefinitely, but must be offset against income from the same trade. There is no requirement regarding continuity of ownership of the company.<br><br>Foreign tax losses incurred by a locally incorporated company can be offset against the local profit, or carried forward and offset against future profits for up to six years.<br><br>Tax losses can be carried back one year. |
| Tax consolidation / group relief | There are no provisions in the existing tax legislation for the filing of group tax returns or group relief. |
| Transfer of shares | Stamp duty is required to be paid for share transfers in accordance with the Stamp Act. This is ad-valorem and is payable at 10 cents for every BND100 or part thereof when the name of the transferee is filled in prior to execution of the transfer; or 30 cents for every BND100 or part thereof when the name of the transferee is not filled in prior to execution of the transfer. |
| Transfer of assets | Stamp duly is applicable for transfer of property. The rate of stamp duty varies depends on the nature of the asset. |
| CFC rules | There is no CFC regime in Brunei Darussalam. |
| Transfer pricing | Transactions involving related resident and non-resident entities must be conducted on an arm's length basis. |
| Thin capitalisation | There is no thin capitalisation regime in Brunei Darussalam. |

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| General anti-avoidance | There is currently no legislation on general anti-avoidance in Brunei Darussalam.<br><br>Since there is no personal income tax in Brunei Darussalam, there are obvious advantages for directors, who are also shareholders, to receive generous salaries and benefits. However, the tax authority will attempt to disallow payments which it considers excessive, as being not wholly and exclusively incurred in producing income. |
| Anti-treaty shopping | There is no legislation regarding anti-treaty shopping in Brunei Darussalam. |
| Other specific anti-avoidance rules | None. |
| Rulings | There are no formal or published rulings in Brunei Darussalam. |
| Intellectual property incentives | There are currently no intellectual property incentives available in Brunei Darussalam |
| R&D incentives | The Investment Incentive Order, 2001 has a provision for R&D activities to be classified as qualifying activities for pioneer service companies (see below). Under the Income Tax Act, approved R&D expenditure (subject to certain conditions), is allowed as a deduction in deriving chargeable income. |
| Other incentives | Pioneer status is an incentive allowing tax holidays to be granted for between five and 20 years, dependant on certain criteria being met. |
| | Brunei tax law also provides the following tax incentives:<br>● Pioneer industry tax exemption<br>● Tax relief for capital expenditure in excess of BND 1 million<br>● Withholding tax exemptions for interest on certain loans from non-residents |
| Hybrid instruments | There is no legislation regarding hybrid instruments in Brunei Darussalam. |
| Hybrid entities | There is no legislation regarding hybrid entities in Brunei Darussalam. |
| Special tax regimes for specific industries or sectors | Special legislation exists in respect of income from petroleum operations, which is taxable under the Income Tax (Petroleum) Act 1963. This legislation follows the general pattern of most Middle East oil-producing countries.<br><br>The petroleum tax rate is a fixed rate of 55 percent.<br><br>Insurance companies (other than life companies), are taxed on a different basis, under the Income Tax Act. |

## Income Tax Treaties for the Avoidance of Double Taxation

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| In Force | Bahrain | Japan | Malaysia | Singapore |
| | China | Laos | Oman | United Kingdom |
| | Hong Kong | Kuwait | Pakistan | Vietnam |
| | Indonesia | | | |
| Negotiated, not yet in force at time of publication | A treaty with The Republic of Tajikistan and The State of Qatar was signed on was signed on 3 April 2010 and 17 January 2012 respectively but at the time of writing is not yet in force.<br>Source: Revenue Division, Ministry of Finance, Brunei Darussalam | | | |

## Indirect Tax (i.e. VAT/GST)

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| Indirect tax | There is currently no VAT or equivalent consumption based tax in Brunei Darussalam. |
| Further information | For more detailed indirect tax information, refer to:<br>KPMG's VAT/GST Essentials |

## Personal Taxation

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| Income tax | There is no personal tax on individuals in Brunei Darussalam (residents and non-residents). |
| Social security | There are no social security taxes in Brunei Darussalam. However, all citizens and permanent residents of Brunei Darussalam must contribute 5 percent of their salary to a State managed provident fund (Tabung Amanah Perkerja (TAP)). The employer will have to also contribute the same amount for its employees to the provident fund.<br>In addition to the above, all citizens and permanent residents of Brunei Darussalam must also contribute 3.5 percent of their salary to a Supplemental Contributory Pension Scheme (SCP). The employer will have to also contribute the same amount for its employees to the Scheme. However, both the employer's and employee's monthly contributions are capped up to a salary of $2,800 per month. |
| Further information | For more information regarding the personal tax regimes relevant to various countries around the world, see<br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Customs duty | Import duties vary depending on the nature of the goods. In general, basic foodstuffs and goods for industrial use are exempt from import duties. Cigarettes and manufactured tobacco are dutiable items and, importers will have to pay more than 200 percent duty for these items.<br><br>Brunei has no export duty. |
| Excise duty | The Excise Act covers retail sale of liquor. However, as Brunei Darussalam prohibits the sale of any form of alcohol, there are no excise duties. |
| Stamp duty | Stamp duties are levied on a variety of documents. Certain types of documents attract an ad valorem duty, whereas with other documents, the duty varies with the nature of the documents. |
| Property taxes | Properties under commercial use are subject to property tax based on the estimated value of the property. The rate is decided by the local municipal board. |
| Estate duty | Estate duties range from 1 percent on an estate worth between BND3,000 and BND5,000 up to a maximum of 20 percent for an estate of over BND10 million. Estate duty is levied on all immovable property in Brunei and movable property (wherever situated) for persons domiciled in Brunei Darussalam at time of death; and on all property situated in Brunei Darussalam for persons not domiciled in Brunei Darussalam at time of death.<br><br>However, with effect from 1 January 2013, estate duties have been abolished. |

## Free Trade Agreements

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| In force | ASEAN Free Trade Agreements<br><br>Brunei-Japan Economic Coorperation Partnership Agreement (BJEPA)<br><br>ASEAN-Japan Comprehensive Economic Partnership (AJCEP)<br><br>ASEAN-China Free Trade Area (ACFTA)<br><br>ASEAN-Korea Free Trade Area (AKFTA)<br><br>ASEAN-India Free Trade Area (AIFTA)<br><br>ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)<br><br>Trans-Pacific Strategic Economic Partnership Agreement (TPSEP/P4)<br><br>Source: Ministry of Foreign Affairs and Trade, Brunei Darussalam |

# Tax Authority

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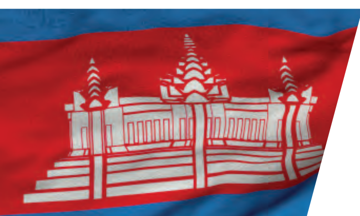
| Tax authorities | Collector of Income Tax, Ministry of Finance<br>Ministry of Finance |
| Tax audit activity | The tax authority can audit every company annually. It is the current practice of the Collector of Income Tax to request information and clarification without commencing a formal audit process. It is often the case that such enquiries can be resolved or addressed without the need for a formal audit process. KPMG in Brunei Darussalam is not aware of any company being subject to a formal tax audit. |
| Appeals | All appeals can be made to the Collector of Income Tax. If no agreement can been reached, further appeals can be made at the High Courts of Brunei Darussalam. |
| Tax governance | The Collector of Income Tax expects all companies to pay their share of tax from their business operations in Brunei Darussalam as good corporate citizens. |



# CAMBODIA

## Corporate Income Tax

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| Corporate income tax | Corporate Income Tax (CIT) / Tax on Profit (ToP) |
| Tax rate | The CIT/ToP tax rate is 20 percent, with the exception of:<br>• 30 percent for the profit realised under an oil or natural gas production sharing contract and the exploitation of natural resources including timber, ore, gold and precious stones<br>• 0 percent for the profit of QIP during the tax exemption period as determined by CDC<br>• 5 percent on gross premiums received in Cambodia for insurance companies engaged in the insurance or reinsurance of life, property or other risks and 20 percent on non-insurance income |
| Minimum Tax | Minimum tax is a separate and distinct tax to ToP, and is payable by taxpayers (with certain exceptions) regardless of whether they are in a profit or loss situation. Minimum tax is calculated at 1 percent of annual turnover inclusive of all taxes, except VAT.<br>If the ToP liability exceeds the minimum tax liability, the minimum tax will not be applicable. In contrast, if the minimum tax liability exceeds the ToP liability, the minimum tax will be payable. |
| Residence | A resident taxpayer is primarily an enterprise that is organised and managed in Cambodia or its principal place of business is Cambodia.<br>A non-resident taxpayer is an enterprise that derives Cambodia sourced income, but does not have a place of management in Cambodia. A non-resident taxpayer will be deemed to be a Cambodian resident for tax purposes if it is found to have a permanent establishment in Cambodia.<br>A resident taxpayer is subject to CIT/ToP on income derived from both Cambodian and foreign sources, whereas, a non-resident taxpayer is subject to CIT/ ToP in respect of its Cambodian sourced income only. |
| Compliance requirements | Cambodia has a self assessment system for the filing of CIT/ToP returns.<br>CIT/ToP returns are filed annually, and are due on 31 March of the year following the income tax year. |
| International withholding tax rates | Dividends, royalties (including rent and other payments connected with the use of property) and interest paid to a non-resident are subject to withholding tax of 14 percent.<br>Other non-resident payments include compensation for management or technical services, and are also subject to withholding tax of 14 percent.<br>Cambodia is not a party to any double tax agreements. Accordingly, no tax treaty relief from withholding tax is available. |

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| Holding rules | Dividends received from resident companies are not subject to income tax. Dividends received from non-resident companies are subject to income tax in Cambodia. However, a credit for tax paid overseas on foreign source income, is generally allowed.<br><br>Additional Profit Tax on Dividend Distribution (APTDD) is applicable on the distribution of retained earnings/annual profit after tax that were subject to the following rates: |

| Tax on Profit Rate | Additional Profit Tax on Dividend Distribution |
|---|---|
| 0% | 20% |
| 9%* | 12%* |
| 20% – 30% | 0% |

Dividend distributions to Cambodian resident taxpayers, after payment of the APTDD are exempt income in the hands of the Cambodian resident taxpayer.

* The 12 percent rate is applicable to only a Company which had its profit taxed at 9 percent ToP. The 9 percent rate expired in 2010.

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| Tax losses | Losses can be carried forward for a maximum of five years. Tax losses may be forfeited upon a change in ownership of the business or if there is a change in business activity. Tax losses will also be forfeited in the event a taxpayer is subject to a unilateral tax assessment.<br><br>There is no restriction on the amount of taxable income that can be offset by tax losses – all of the tax losses available can be used to offset against the taxable income of one year.<br><br>Losses cannot be carried back to prior periods. |
| Tax consolidation / group relief | There are no grouping provisions in Cambodia. |
| Transfer of shares | All realized gains (including capital gains) are treated as income. Registration tax (stamp duty) of 0.1 percent applies to the value of shares transferred. |
| Transfer of assets | Cambodia does not impose a separate tax on capital gains. Gains arising from the disposal of real property and other assets are treated as ordinary income and are therefore subject to tax at the prevailing CIT/ToP rate.<br><br>In addition, there is a 4 percent property transfer tax on the transfer of title of certain assets, such as land, buildings and vehicles. The 4 percent tax is imposed on the transferred value and payable by the party acquiring the asset (within three months from the date of execution of the agreement to transfer the title). |
| CFC rules | There is no CFC regime in Cambodia. |

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| Transfer pricing | There is no specific Transfer Pricing legislation in Cambodia.<br><br>However, the related party provision gives wide power to the tax authority to re-determine related party transactions. The tax authority may re-determine related party transactions. This provision is generally applied to impose pricing that "arm's length" parties would have contracted for in the transaction.<br><br>A related party relationship is one where the entities have commonality of shareholding of 20 percent.<br><br>Cambodia has no APA or MAP regime. |
| Thin capitalisation | Cambodia has no specific thin capitalization legislation.<br><br>However, interest expenditure allowable as a deduction is limited to an amount equal to the total interest income plus 50 percent of net non-interest profit earned for the year. Net non-interest profit is the gross income, other than interest income, less allowable non-interest expenses. The excess interest expense can be carried forward to future years. |
| General anti-avoidance | There is no general anti-avoidance provision contained in Cambodian tax law. |
| Anti-treaty shopping | Cambodia is not a party to any double tax agreements. |
| Rulings | There is no formal or binding ruling system in Cambodia.<br><br>A taxpayer can submit a letter seeking a ruling, but the Tax Office is usually reluctant to respond, or does not respond at all. Obtaining a ruling request from the Tax Office is likely to be a time consuming process.<br><br>Likewise, the tax authority is reluctant to give an informal opinion or ruling.<br><br>There is no public ruling system in Cambodia. |
| Intellectual property incentives | There are no intellectual property incentives available in Cambodia. |
| R&D incentives | There are no R&D incentives available in Cambodia. |
| Other incentives | Cambodia provides a number of investment incentives. These incentives are available to all sectors, except those that are included on the "negative list" and generally include:<br><br>• ToP exemption for up to nine years (specific conditions apply)<br>• Accelerated depreciation on manufacturing assets<br>• Import duty exemption on production equipment, raw materials and inputs to manufacturing<br>• Right to employ foreign labour |
| Hybrid instruments | There are no special rules applicable to hybrid instruments. |

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| Hybrid entities | There are no special rules applicable to hybrid entities. |
| Special tax regimes for specific industries or sectors | There are currently no special tax regimes for specific industries or sectors.<br><br>Petroleum and mining tax laws are currently being drafted, however further delays are expected. |

## Income Tax Treaties for the Avoidance of Double Taxation

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| In Force | Cambodia does not have any bilateral or multilateral international double tax treaties currently in force at the time of writing. |
| Negotiated, not yet in force at time of publication | Treaty negotiations are anticipated between Cambodia and a number of the other Association of South-East Asian Nations (ASEAN) countries, including Thailand, ahead of the planned economic area in 2015.<br><br>Source: IBFD |

## Indirect Tax (i.e. VAT/GST)

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| Indirect tax | Value Added Tax (VAT) |
| Standard rate | The standard rate of VAT is 10 percent.<br><br>Zero rated supplies include exports of goods, and certain charges in relation to international transportation of people and goods. In addition, certain items are exempt from VAT. |
| Further information | For more detailed indirect tax information across various countries, refer to:<br><br>KPMG's VAT/GST Essentials |

## Personal Taxation

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| Income tax | Personal tax / tax on salary |
| Top rate | 20 percent (residents and non-residents) |
| Social security | National Social Security Fund (NSSF)<br>Every month, an employer (with eight or more staff) shall report the number of workers they employ, and pay the contribution of 0.8 percent of the average monthly wage of workers to the NSSF, by the 15th of the following month.<br>An employee is not required to make contributions to the NSSF. |
| International social security agreements | Cambodia has no such agreements. |
| Further information | For more detailed personal taxation information across various countries, refer to:<br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Resident withholding tax | A resident taxpayer is required to withholding tax from certain payments of Cambodian source income to a resident entity, including:<br>• Payment for services to a physical person (15 percent)<br>• Payments of royalties for intangible assets and interests in minerals, oil, or natural gas (15 percent)`*<br>• Interest payments (various rates depending on the recipient)<br>• Income from rental or moveable or immovable property (10 percent)<br>* Interest paid to domestic banks or saving institutions is exempt from withholding tax. |
| Patent tax | Patent tax is an annual business registration tax which all enterprises carrying on business activities in Cambodia are required to pay by 31 March. A "patent tax certificate" will be issued by the Tax Office upon registration.<br>If an enterprise carries out different types of businesses, a separate patent tax certificate is required for each distinct business activity. Likewise, if a taxpayer carries out business in different cities or provinces, a separate patent tax certificate is required for each location. The standard patent tax payment is KHR1,140,000 (approximately USD285). |

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| Customs duty | Customs duty is levied on certain goods entering Cambodia. The rates vary depending on the type of goods.<br><br>Currently, the duty rates are 0 percent, 7 percent, 15 percent, and 35 percent. Exemptions can also be obtained as part of the tax incentives offered in Cambodia.<br><br>As a member of ASEAN, Cambodia also implements the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT for AFTA). |
| Specific tax regime | Specific tax on certain merchandises and services (STCMS) is a form of "excise tax" that applies to the importation or domestic production and supply of certain goods and services, including:<br>● Domestic and international telephone services (3 percent)<br>● Domestic and international air ticket (10 percent)<br>● Entertainment services (10 percent)<br>● Cigarettes (10 percent)<br>● Cigars (25 percent)<br>● Beers (25 percent)<br><br>Payment of STCMS is due on the 15th day of the following month. |
| Registration tax | Registration tax (stamp duty) of 0.1percent applies to a transfer of shares. 0.1% registration tax also applies on the government contract value related to the supply of goods/services that are used under the state budget.<br><br>Registration tax applies to the following legal documents at a flat rate of KHR1,000,000 (approximately USD250):<br>● Company formation<br>● Company merger<br>● Dissolution of a "Company" |
| Tax on unused land | A tax is levied on unused land and the registered owner of the land is responsible for the payment of the tax. Tax on unused land is based on 2 percent of the market price per square meter as determined by the Committee for the Valuation<br><br>Tax on unused land and is due to be paid annually by 30 September. |
| Tax on immovable property (TIP) | TIP was created in the 2010 Law on Financial Management (LFM) and is imposed on certain immovable properties. The term "immovable property" is defined as land, houses, buildings and constructions that are built on the land.<br><br>TIP will be collected annually at the rate of 0.1 percent on the value of immovable property that is more than the threshold of KHR100,000,000 (approximately USD25,000). The value of the immovable property is assessed by the Assessment Committee, which is set up by the Ministry of Economy and Finance.<br><br>The deadline for paying the TIP is on 30 September each year. |

## Free Trade Agreements

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| In force | Cambodia is a member of the ASEAN Free Trade Area Trade Agreement | | |
| | Member countries: | | |
| | Brunei | Malaysia | Singapore |
| | Cambodia | Myanmar | Thailand |
| | Indonesia | Philippines | Vietnam |
| | Laos | | |
| | Cambodia is party to bilateral agreements with the following jurisdictions: | | |
| | China | Laos | Switzerland |
| | Germany | Malaysia | Thailand |
| | Indonesia | Singapore | Vietnam |
| | Japan | Korea (Republic of) | |
| | Source: WTO International Centre | | |

## Tax Authority

**Tax authority**

General Department of Taxation

General Department of Taxation

**Tax audit activity**

A tax audit can be conducted within three years of the date a tax declaration was required to be submitted, or within 10 years of the date the tax declaration was required to be submitted if there is evidence of the "obstruction" of the implementation of tax provisions. The Tax Office defines "obstruction" very broadly, and the practical reality is that a 10 year time frame for tax audit activity is enforced.

The majority of companies can expect to be audited by the tax authority every two or three years of business operations.

There are three types of tax audits; desk audit, limited audit, and comprehensive / final tax audit.

Desk and limited tax audits

The desk and limited audits should be conducted on limited certain items of a particular tax year. However, this may not be the case in practice as what is audited by the desk and limited audits is often out of the scope of what is supposed to be audited.

In our experience, if a desk audit is conducted on particular tax year, the limited audit will not be conducted in that tax year and vice versa. The tax year which has already been audited by the desk or limited audit is still subject to be audited by a comprehensive tax audit.

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| Tax audit activity (cont'd) | Comprehensive / final tax audit<br><br>The final audit is conducted to review the detail of the Company's transactions and would "close off" the tax year. A comprehensive or final audit can include two or three years of prior returns in one audit. In our experience, the Tax Office predominantly adopts a risk based approach, and the size of the Company's operations is a criterion on which the Tax Office determines whether to conduct a tax audit.<br><br>A tax year which has been audited by the comprehensive/ final tax audit is considered as "closed".<br><br>Audit process<br><br>A typical audit commences with a notification to conduct the tax audit from the Tax Office, together with the list of the required documents. Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any audit related correspondence is received from the tax authority. There will be an audit visit at the taxpayers' office to discuss and obtain documents in relation to the tax audit. Thereafter, there will be a discussion or clarification from the taxpayers to the tax authority either at the Company's office or Tax Office after the review of the documents. Each audit can take up to one or two years.<br><br>Key focus areas for the tax authority in tax audits conducted in recent years have included:<br><br>• Related party transactions<br>• Withholding tax obligations – particularly on cross border payments for management and technical services<br>• Income recognition per accounts and tax declaration purposes |
| Appeals | There is an objection process, but there is no independent tax court or tribunal. Appeals are finally decided by the Tax Office. |

# INDONESIA

## Corporate Income Tax

| Corporate Income Tax | Income tax |
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| Tax Rate | The corporate tax rate is 25 percent.<br><br>Listed companies which meet certain conditions are eligible for a five percent reduction in the corporate tax rate.<br><br>A company with gross turnover of less than IDR 50 billion (approximately USD 5.5 million) is eligible for a 50 percent reduction in the corporate tax rate on the proportion of taxable income which results when IDR 4.8 billion is divided by the gross annual turnover. Where gross turnover is below IDR 4.8 billion, the reduction applies on all taxable income. |
| Residence | A company will be resident in Indonesia if it is incorporated in Indonesia.<br><br>Non-resident companies are those which are incorporated overseas, but receive or accrue income from Indonesia. Non-residents are obliged to register for tax purposes if they have a permanent establishment ("PE") in Indonesia.<br><br>Representative Offices of foreign companies are also required to register as taxpayers, even though they may not be a PE. This is necessary as the Representative Office will have to withhold tax on payments to employees and third parties and lodge relevant tax returns. |
| Compliance requirements | Companies are required to self-assess and lodge annual corporate income tax returns. The annual corporate tax returns must be lodged with the relevant Tax Office within four months after the end of the calendar year or tax year, and this deadline may be extended for two months by notifying the Director General of Taxation. |
| International Withholding Tax Rates | Withholding tax is imposed at 20 percent on various amounts payable to non-residents (e.g. dividends, interest and royalties), unless the non-resident has a permanent establishment in Indonesia, whereby the rates applicable to payments to residents apply.<br><br>The withholding tax rate may be reduced where the foreign resident is exempt or eligible for a reduced rate by virtue of a tax treaty. In order to qualify for any relief under a relevant tax treaty, non-residents must provide a certificate from the tax authority in their country of residence (Form DGT1 for most taxpayers). In most cases, the withholding liability arises when the expense is incurred, not when the payment is made.<br><br>Permanent Establishment's of foreign enterprises are also subject to an additional 20 percent Branch Profits tax on their after-tax income, unless eligible for a reduced rate by virtue of a tax treaty. |

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| Holding rules | Dividends paid from an Indonesian resident subsidiary to a non-resident parent will be subject to 20 percent withholding tax or a reduced rate if the non-resident parent resides in a tax treaty country and can meet the requirements to utilize the tax treaty provisions.<br><br>Capital gains, regardless of the reason for the disposal of the asset, are taxable.<br><br>Certain tax treaties provide exemption on capital gains on sale of unlisted shares by the non-resident shareholders, provided that Form DGT-1 is available. In the case that no exemption is available, the sale of unlisted shares is subject to five percent withholding tax on the total transaction value (gross proceeds) and in this case, an independent appraisal report is required to demonstrate that the transaction value is an arms-length price. |
| Tax Losses | Losses can be carried forward for a period of five years. However, in certain circumstances this may be extended to 10 years under special facilities available for certain regions and/or industries.<br><br>Changes in shareholders do not affect the validity of the carried forward losses. Capital losses are treated the same as operating losses provided that the losses are reasonable based on sound market practice. No foreign losses can be included in the tax computation.<br><br>There are no loss carry back provisions in Indonesian tax law. |
| Tax Consolidation / Group relief | No provision exists for grouping or consolidation under Indonesian law. |
| Transfer of listed shares | Transfers of shares listed on the Indonesian stock exchange are subject to a final transfer tax of 0.1 percent. Founder shares are subject to an additional final tax of 0.5 percent on listing. |
| Transfer of assets | On the transfer of title of land and buildings, five percent income tax (final) and five percent title transfer tax will apply. |
| CFC rules | Indonesia has a CFC regime.<br><br>A CFC is defined as a foreign unlisted corporation in which Indonesian resident individual or corporate shareholders, either individually or as a group, hold 50 percent or more of the total paid in capital. Listed corporations are not CFCs. The Indonesian shareholders shall be deemed to receive dividends within four months after filing the tax return; or seven months after the end of the fiscal year where there is no obligation to file an annual tax return, or there is no specific deadline of filing in the country of residence of the CFC. |

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| Transfer Pricing | Indonesia has transfer pricing provisions.<br><br>Where the tax authority considers that transactions have not been conducted at arm's length due to the existence of a "special relationship" between the parties, the consideration paid may be adjusted. The tax authority's power extends to all domestic and cross border transactions.<br><br>The limited regulations/guidelines which have been issued with regard to transfer pricing are now largely in line with the 2010 OECD Transfer Pricing Guidelines, although guidance to auditors and the rules prior to November 2011 suggest that a hierarchical approach should be taken to the selection of methodology, and the limited nature of the OECD Guidelines allows for broad interpretations.<br><br>The Indonesian Tax Office (ITO) may enter into Advance Pricing Agreements (APA) on prices with companies and other tax jurisdictions. The ITO has issued a regulation covering the policies and procedures to be followed in establishing such APAs.<br><br>Mutual Agreement Procedure (MAP) applications can be processed simultaneously with a taxpayer's submission of an objection, appeal, or application for the reduction or cancellation of a tax assessment notice. |
| Thin Capitalisation | Where a "special relationship" exists between parties, interest may be disallowed as a deduction where such charges are considered excessive, such as interest rates in excess of commercial rates. Interest-free loans from shareholders may, in certain cases, create a risk of deemed interest being imposed, giving rise to withholding tax obligations for the borrower.<br><br>The law allows the tax authority to issue a decree defining the maximum ratio of debt to equity in determining deductible interest. However, such a decree has not yet been finalised (the draft proposal was for a 5:1 ratio). Special rules on tax deductibility of interest apply in the mining, and oil and gas sectors. |
| General Anti-avoidance | No general anti-avoidance rules apply. |
| Anti-treaty shopping | For utilizing the tax treaty provisions, the non-resident must confirm in Form DGT-1 that the transaction has economic substance and is not solely designed to take advantage of tax treaty benefits. |
| Other specific anti-avoidance rules | No other specific anti-avoidance regimes rules apply. |
| Rulings | Indonesia has a ruling system in place. However, tax rulings are not generally published, and are only applicable to the relevant tax payer that requested such ruling. |
| Intellectual Property Incentives | None |
| R&D Incentives | Research and development undertaken in Indonesia is deductible expenditure. |

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| Other incentives | Other tax incentives are available for certain entities in specific industries, including:<br>• Tax holidays<br>• Tax exemptions for certain transactions, e.g. merger and spin-off, and newly established foreign owned company<br>• Income tax relief on investment in certain business and/or certain regions in the form of additional deductions, accelerated tax depreciation, and extended loss carry forward periods. |
| Hybrid Instruments | The treatment of hybrid instruments for tax purposes will generally follow the accounting treatment, and the related tax obligations will be determined based on such accounting treatment. |
| Hybrid entities | There are no specific rules that apply to hybrid entities in Indonesia. |
| Special tax regimes for specific industries or sectors | Income tax relief is available for investments in 25 selected sectors (52 sub-sectors) and/or 15 selected locations (77 sub-locations). The selected business sectors are economic sectors that have high priority on a national scale, particularly in respect of boosting exports. The selected regions are remote regions, which are economically potentially worthy of development, but whose economic infrastructure is generally inadequate, and where access by public transport is difficult. This includes maritime waters with a depth of over 50 meters where the seabed has mineral reserves, including natural gas. |

## International Treaties for the Avoidance of Double Taxation

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| In Force | Algeria | Hungary | New Zealand | Sweden |
| | Australia | India | Norway | Switzerland |
| | Austria | Iran | Pakistan | Syria |
| | Bangladesh | Italy | Philippines | Taiwan |
| | Belgium | Japan | Poland | Thailand |
| | Brunei | Jordan | Portugal | Tunisia |
| | Bulgaria | Korea (Democratic People's Republic) | Qatar | Turkey |
| | Canada | Korea (Republic of) | Romania | Ukraine |
| | China | Kuwait | Russia | United Arab Emirates |
| | Czech Republic | Luxembourg | Seychelles | United Kingdom |
| | Denmark | Malaysia | Singapore | United States |
| | Egypt | Mexico | Slovak Republic | Uzbekistan |
| | Finland | Mongolia | South Africa | Venezuela |
| | France | Morocco | Spain | Vietnam |
| | Germany | Netherlands | Sri Lanka | |
| | Hong Kong | | Sudan | |

Source: http://www.pajak.go.id/

## Indirect Tax (i.e. VAT/GST)

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|---|---|
| Indirect Tax | Value Added Tax (VAT) |
| Standard Rate | The standard rate of VAT in Indonesia is 10 percent and applies to goods, services and imports in Indonesia.<br>Exports of goods are subject to zero percent VAT, however and only certain exports of services are entitled to zero percent VAT. |
| Further information | KPMG's VAT/GST essentials |

## Personal taxation

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| Income Tax | Personal tax |
| Top Rate | The top marginal personal tax rate is 30 percent and applies to taxable income exceeding IDR 500 million. |
| Social Security | Social security insurance<br>Employers contribute to the following social security insurance funds:<br>• Worker's old age compensation: 3.7 percent<br>• Worker's death compensation: 0.3 percent<br>• Worker's health insurance (optional): Three percent for a single or six percent for a couple<br>• Worker's accident insurance: 0.24 percent – 1.74 percent<br>Employers contribution to workers' health compensation is payable only where the employer does not provide equivalent or better health provisions.<br>Employees are required to contribute to worker's old age compensation fund at two percent. |
| Further information | KPMG's Thinking Beyond Borders |

# Other Taxes

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| Customs duty | Customs duties are imposed on items imported into Indonesia, generally on an ad valorem basis.<br>Duties are payable based on the Harmonized System (HS) classification. Duties are based on the cost, insurance and freight (CIF) value of the imported item and, in general, are imposed at rates of zero percent to 20 percent for most goods, 25 percent to 80 percent for cars, and 170 percent for alcoholic drinks. The Indonesian customs procedures are based upon General Agreement on Tariffs and Trade (GATT) principles. |
| Excise duty | Excise duties are levied on specific products whose consumption is restricted or controlled, namely alcoholic beverages and tobacco products. |
| Stamp duty | A stamp duty tax of either IDR 3,000 or IDR 6,000 is charged on certain documents such as receipts, agreements, powers of attorney and other legal documents. |
| Tax on land and buildings | This is a tax levied on the holding of land or buildings within Indonesia. The tax authority, or in practice – delegated regional authorities, will initially determine who the taxpayer is and issue a 'report on the tax object' to that property. Normally, the owner is responsible for paying the tax due.<br>Tax is currently imposed at 20 percent or 40 percent of the full statutory rate, which is 0.5 percent of the sales value of the tax object. Thus, the actual tax rate is 0.1 percent or 0.2 percent. The sales value is the actual transaction price or, in the absence of a transaction, the price of a similar object can be used. The law provides that the sales value is to be fixed every three years, except for certain areas where it is fixed annually. |
| Property title transfer tax | A transfer tax is payable on every transfer of title of land, or land and buildings. The taxpayer is the recipient of the rights. The tax is five percent of the transfer price and there is a non-taxable amount of IDR 60 million. The amount to be taxed is the acquisition cost. If the deemed sale value determined for land and buildings tax purposes is higher, that amount will be used as the basis for the transfer tax.<br>Certain reductions and exemptions apply. |
| Regional and local taxes | Regional and local taxes include; entertainment tax, advertisement tax, motor vehicle taxes, hotel and restaurant tax, street lighting tax, and tax on the use of underground and surface water. |

## Free Trade Agreements

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| In force | • The ASEAN Trade in Goods Agreement (ATIGA)<br>• ASEAN – China Free Trade Agreement<br>• ASEAN – Korea Free Trade Agreement<br>• Indonesian – Japan Free Trade Agreement / Indonesia – Japan Economic Partnership Agreement (IJEPA)<br>• ASEAN – India Free Trade Agreement<br>• ASEAN – Australia New Zealand Free Trade Agreement<br>• Indonesia – Pakistan Free Trade Agreement |

## Tax Authority

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| Tax Authority | Direktorat Jenderal Pajak<br>Direktorat Jenderal Pajak |
| Tax audit activity | The tax authority predominantly adopts a risk based approach to the selection of returns for audit, and can also select candidates for audit by random selection. Refunds of tax will usually result in a tax audit being opened. Most listed companies are subject to an annual tax audit.<br>A typical tax audit commences with a site visit followed by submitting all the required information. The tax auditor will also ask questions and require additional documents for the taxpayer response, including reconciliations between the tax returns and the financial statements. Audits into any given return generally last 12 months.<br>The tax authority's approach to tax audits is largely a manual approach, including detailed consideration of invoices and key documents.<br>Key focus areas for the tax authority in tax audits conducted in recent years have included:<br>• Transfer pricing<br>• Deductibility of expenses and taxability of income<br>• Compliance with withholding tax obligation<br>• Compliance with VAT obligation |
| Appeals | If there is any dispute with the tax assessments, a taxpayer is allowed to file an objection. A taxpayer can then submit an appeal to the Tax Court on the disputed tax audit results. Each process will take 12 months to complete, but an appeals process can be extended further. |

# LAOS

## Corporate Income Tax

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| Corporate income tax | Profit tax, and (for SMEs) lump-sum tax. |
| Tax rate | The 24 percent profit tax rate applies to both domestic and foreign businesses, except for companies registered in the Lao Stock Exchange, which benefit from a five percent reduction of the normal rate for a period of four years from the date of registration in the Stock Exchange. After this period, the normal profit tax rate applies.<br><br>A 26 percent profit tax rate applies to companies whose business is to produce, import, and supply tobacco products. Two percent of the tax paid by tobacco companies shall contribute to the Cigarette Control Fund (Article 46 of the Law on Tobacco Control).<br><br>Minimum tax was abolished by the implementation of the revised Tax Law 2011.<br><br>Small and medium enterprises pay lump-sum tax at progressive rates between three percent and seven percent, depending on the nature of the business and its revenue. A tax exemption is provided where the annual revenue is less than LAK 12million. |
| Residence | There is no definition of residence for tax purposes in Laos. All companies (i.e. all forms of legal entity) that are registered under Lao law, or that are incorporated under foreign law and carrying on business in Laos, are subject to Lao profit tax. |
| Compliance requirements | Profit tax payments shall be made on a quarterly basis as follows:<br>– 1st Quarter: on or before 10 April – based on self-assessment by the entity submitted to tax authority<br>– 2nd Quarter: on or before 10 July – based on self-assessment by the entity submitted to tax authority<br>– 3rd Quarter: on or before 10 October – based on self-assessment by the entity submitted to tax authority<br>– 4th Quarter: on or before 10 March of the following year – based on self-assessment (tax return) by the entity submitted to tax authority or assessment by tax authority<br><br>The quarterly liability for profit tax is calculated based on one of the following:<br>– The profit tax paid during the previous year<br>– The actual profit during the current year<br>– The profit of a project as stated in the tax payment plan.<br><br>If the profit tax paid within the year is not calculated based on the actual current year profit, and exceeds the actual annual profit tax payable, the excess profit tax shall be offset against profit tax payable in the following year. If the amount paid during the year is less than the actual amount due, the extra will be added to the year-end assessment. |

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| International withholding tax rates | Dividends paid to non-residents are subject to withholding tax at the rate of 10 percent.<br>Royalties paid to non-residents are subject to withholding tax at the rate of five percent.<br>Interest paid to non-residents is subject to withholding tax at the rate of 10 percent.<br>These withholding tax rates may be reduced under an applicable tax treaty. As there is limited outward investment from Laos, the tax treaty provisions for relief tend to follow the approach taken by the other country that is a party to the tax treaty. |
| Holding rules | Dividends for residents and non-residents are subject to income tax at the rate of 10 percent of the gross dividend received.<br>There is no separate capital gains tax in Laos. Capital gains are taxed in the same manner as other operating profits. |
| Tax losses | Losses (which are agreed to by the National Audit Authority or an independent audit company, with acknowledgment of the tax authorities) may be carried forward for three years.<br>Losses cannot be carried back. |
| Tax consolidation / group relief | There are no grouping provisions in Laos. |
| Transfer of shares | Share sale and purchase agreements are subject to stamp duty at a rate ranging from LAK 15,000 to LAK 100,000 depending on the purchase value.<br>Income from sale of shares is subject to income tax at the rate of 10 percent. |
| Transfer of assets | Agreements for the transfer of assets are subject to stamp duty. The rates vary depending on the asset type and the purchase value.<br>Income from the transfer of land and buildings is subject to income tax at the rate of five percent. |
| CFC rules | There are no CFC rules in Laos. |
| Transfer pricing | There are no transfer pricing rules in Laos. |
| Thin capitalisation | Laos does not have a thin capitalisation regime.<br>All interest payments must be supported by relevant documentation showing that the payments are commercially reasonable; otherwise, the tax authorities may seek to disallow an element of the interest expense. |
| General anti-avoidance | There are no general anti-avoidance provisions under Lao tax law. |

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| Anti-treaty shopping | There is no anti-treaty shopping provision in Laos. |
| Other specific anti-avoidance rules | There are no other specific anti-avoidance rules in Laos. |
| Rulings | There is no formal ruling system in Laos.<br><br>A taxpayer who seeks clarification regarding tax payments or tax law may submit a proposal letter for clarification to the tax authority. A clarification letter from the tax authority may be given on a case by case basis. A clarification letter is not binding, but the letter can be used in future negotiations with the authority.<br><br>Clarification letters from the tax authority, given to a particular taxpayer, are not made publicly available. |
| Intellectual property incentives | There are no intellectual property incentives available in Laos. |
| R&D incentives | Tax incentives under the Law on Investment Promotion (discussed in the 'Other Incentives' section below) may apply to scientific research and development expenditure. |
| Other incentives | The Law on Investment Programme provides special tax incentives for investors in Laos. These incentives are summarized below:<br><br>• Reduced tax rates for a company that has an investment agreement with the Government of Laos<br><br>• Certain investment incentives may be made available to investors where the relevant project relates to encouraging specific sectors or is located in certain regions<br><br>• If a foreign enterprise is granted an initial tax exemption period of two to four years and suffers losses in that period, it may be permitted to carry the losses forward. The losses may then be deducted from taxes levied on profits in the following year, or carried forward up to three years.<br><br>• Raw materials and intermediate components that are imported in order to achieve import substitution are eligible for special duty reductions. |
| Hybrid instruments | There is no concept of hybrid instruments in Laos. |
| Hybrid entities | There is no concept of hybrid entities in Laos. |
| Special tax regimes for specific industries or sectors | There are no special tax regimes which apply to specific industries or sectors. |

## Income Tax Treaties for the Avoidance of Double Taxation

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|---|---|---|---|---|
| In Force | Brunei | Korea (Republic of) | Myanmar | Vietnam |
| | China | Malaysia | Thailand | |
| Negotiated, not yet in force at time of publication | Treaties with Indonesia, Luxemburg, Kuwait, and Russia have been negotiated but are not in force at the time of writing.<br>Source: IBFD | | | |

## Indirect Tax (i.e. VAT/GST)

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| Indirect tax | Value Added Tax (VAT) |
| Standard rate | The standard rate of VAT is 10 percent.<br>VAT applies to a wide range of products, including electricity, water, fuel, and all imported products, unless they receive an exemption from the Government of Laos. |
| Further information | For more detailed indirect tax information on various countries, refer to:<br>KPMG's VAT/GST Essentials |

## Personal Taxation

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| Income tax | Income tax |
| Top rate | The top rate of income tax is 24 percent.<br>Employees whose employer has a contract signed with the Government of Laos (e.g. investors with concession agreements) before Presidential Decree No. 001/PS of 1 March 2011, will be subject to personal income tax at a flat rate of 10 percent until the contract expires or is renewed / extended. |
| Social security | The Social Security Decree applies to all of the following:<br>• Employees of state-owned enterprises, private enterprises and joint enterprises<br>• Enterprises that employ 10 or more employees<br>• An enterprise that has less than 10 employees, but is a branch of a larger enterprise. |

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| Social security (cont'd) | The decree requires a deduction from gross salary as follows:<br>● 5 percent to be paid by the employer<br>● 4.5 percent to be paid by the employee.<br>Any salary monies over LAK 2,000,000 per month are not taken into account when calculating Social Security payments (this was increased from LAK 1.5million on 1 January 2013). As a result, the maximum monthly social security payment will be LAK 100,000 per month for employers and LAK 90,000 per month for employees. |
| International social security agreements | Laos has no international social security agreements. |
| Further information | For more detailed personal taxation information for various countries, refer to:<br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Customs duty | Duties are levied on all types of imported and exported commodities at varying rates from five percent to 40 percent. Administrative fees are levied at five percent ad valorem on equipment and materials. |
| Excise duty | Excise tax is collected on certain types of goods, including fuel (five percent to 25 percent), alcohol (50 percent to 70 percent), carbonated drinks and invigorating drinks (five percent to 10 percent), tobacco products (60 percent) and cosmetics (20 percent).<br>Imports of equipment, means of production, spare parts, and other materials used in the operation of foreign investors' projects or in their productive enterprises are taxed at a uniform flat rate of one percent of the imported value. Raw materials and intermediate components, imported for the purpose of processing and then exported, are exempt from such import duties. |
| Stamp duty | Stamp duty rates vary depending on the type of instrument. |
| Property tax | Land taxes vary depending on the location and the type of the land. The calculation of land tax is based on both the location and the size of the land and is levied at annual rates per square meter. Land tax is payable in the first quarter of the relevant calendar year. |
| Inheritance tax | There is no inheritance tax in Laos. |

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| Prize or lottery | Prizes or lottery wins in Laos exceeding LAK 1million are subject to income tax at the rate of 10 percent. |
| Tax on natural resources | Natural resources tax applies to the oil and gas industry and businesses involved in the exploitation of rare and precious resources, including oil shale/petroleum and natural gas, metallic/non-metallic minerals, construction materials, peat, anthracite, hydro-electric power and land concessions. Tobacco, coffee, tea, and flower seeds are also subject to natural resources tax.<br>The applicable rates vary from five percent to 25 percent of the sale or export price or are based on a tax per cubic meter. For wood, the taxes vary depending upon the type of wood. |
| Environment Tax | Applies to individuals, legal entities, and organisations licensed to conduct activities deemed to be damaging to the environment, ecology, or people's health. Details are to be announced. |

## Free Trade Agreements

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|---|---|---|---|---|
| In force | ASEAN – | | | |
| | Brunei Darussalam | Laos | Philippines | Thailand |
| | Cambodia | Malaysia | Singapore | Vietnam |
| | Indonesia | Myanmar | | |
| | ASEAN – China | | | |
| | ASEAN – India | | | |
| | ASEAN – Japan | | | |
| | ASEAN – South Korea | | | |
| | ASEAN – Australia – New Zealand | | | |
| Negotiated, not yet in force at time of publication | Luxembourg | | | |
| In negotiation | ASEAN – Japan – S. Korea – China, | | | |
| | ASEAN – Japan – S. Korea – China – Australia – New Zealand – India. | | | |

# Tax Authority

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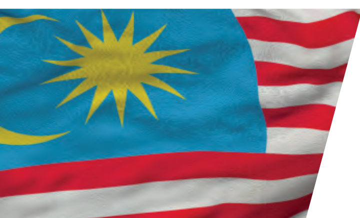
| Tax authority | Ministry of Finance – Tax Department, Tax Division of Vientiane Capital and Tax District<br><br>Ministry of Finance – Tax Department Website |
| Tax audit activity | The tax authority predominantly adopts a risk based approach to the selection of returns for audit. As a matter of practice, larger entities are generally audited annually.<br><br>A tax audit may be opened into any tax return filed. In our experience, the majority of companies can expect to be audited by the tax authority each year.<br><br>A typical tax audit commences with an official letter requesting provision of supplementary analysis or information. The audit will include a site visit to inspect records, including the abovementioned supplementary information, and to enquire about any unclear issues or possible disagreements.<br><br>Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any correspondence is received from the tax authority. Audits into any given return generally last 10 days but it can take longer to reach a resolution in more complex cases.<br><br>Key focus areas for the tax authority in tax audits conducted in recent years have included:<br><br>● Revenue and expenses per tax calculation<br>● Tax deductible and non deductible expenses<br>● VAT for construction, import-export goods and services<br>● All Income and benefits of outsourced labour.<br><br>The tax authority's approach to tax audits is largely manual, including detailed consideration of invoices and key documents. |
| Appeals | There is no formal tax appeal process in Laos. However, a taxpayer who does not agree with the tax audit by the officer may submit a proposal letter to the tax authority for reinvestigation. |
| Tax governance | There are no specific schemes or incentives offered which encourage taxpayers to adopt best practices in terms of tax governance or controls. |



# MALAYSIA

## Corporate Income Tax

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| Income Tax | Corporate income tax |
| Tax Rate | Corporate tax rates for companies resident in Malaysia:<br>• 25 percent (24 percent from YA 2016)<br>Special tax rates for companies resident in Malaysia with ordinary paid-up share capital of MYR 2.5 million and below at the beginning of the basis period for a year of assessment (provided not more than 50 percent of the ordinary paid-up share capital of the company is directly or indirectly owned by (or linked to) a related company which has an ordinary paid-up share capital of more than MYR 2.5 million at the beginning of the basis period for a year of assessment):<br>• 20 percent on the first MYR 500,000 (19 percent from YA 2016)<br>• 25 percent on every ringgit exceeding MYR 500,000 (24 percent from YA 2016) |
| Residence | A company will be a Malaysian tax resident if at any time during the basis year, the management and control of the company's business or any one of its businesses are exercised in Malaysia. |
| Compliance requirements | Assessment system – Self assessment<br>Estimate of tax payable must be made 1 month before the commencement of a year of assessment<br>Monthly instalments must be paid based on the estimate of tax payable<br>Filing due date – 7 months from the date following the close of the accounting period |
| International Withholding Tax Rates | Dividends paid to non-residents are not subject to withholding tax.<br>Royalties paid/credited to non-residents are subject to withholding tax at 10 percent. The rate may be lowered by the relevant Double Taxation Agreement (DTA).<br>Interest paid/credited to non-residents is subject to withholding tax at 15 percent. The rate may be lowered by the relevant DTA. |

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| Holding rules | There are currently transitional rules in place prior to the full implementation of the 'single tier dividend system', which is to have full effect from January 1, 2014. The transitional rules affect franked dividends paid by a resident company to its shareholders. The dividends will be regarded as franked dividends provided:<br>● They are paid in cash on ordinary shares; and<br>● The ordinary shares have been held continuously for 90 days or more (this condition does not apply to dividends paid by publicly listed companies). |
| Holding rules | There is no capital gains tax in Malaysia. However, there is real property gains tax (RPGT). RPGT is levied on the disposal of real property situated in Malaysia as well as the disposal of shares in a Real Property Company (RPC). An RPC is a controlled company which owns real property or shares or both in another RPC, which have a defined value of not less than 75 percent of the value of its total tangible assets. |
| Tax Losses | Current period offset – business losses may be set off against income from other sources for that year. Tax losses may be carried forward indefinitely to set off against future business income only, unless the company is dormant and does not satisfy the continuity of ownership test.<br>Losses cannot be carried back, although a limited form of carry back was allowed in certain circumstances in the 2009 and 2010 years of assessment. |
| Tax Consolidation / Group relief | There are no consolidation provisions in Malaysia. However, resident companies within a 70 percent owned group can surrender up to 70 percent of their current year's adjusted business losses to other related resident companies, provided certain conditions are met. |
| Transfer of shares | Stamp duty of 0.3 percent (of the price or value of the shares, whichever is higher) is payable on the transfer of shares. |
| Transfer of assets | On the transfer of land and buildings, ad valorem stamp duty at rates from 1 to 3 percent on the transfer consideration or the market value of the property, whichever is higher, is payable.<br>Stamp duty relief is available in certain circumstances such as transfers within 90 percent groups provided certain conditions are met. |
| CFC rules | There is no CFC regime in Malaysia. |

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| Transfer Pricing | Malaysia's transfer pricing regime is largely based on OECD guidelines. Documents pertaining to transfer pricing do not need to be submitted with a taxpayer's annual income tax return, but they should be made available to the tax authority upon request.<br><br>Advance pricing agreements (APA) are governed by the Income Tax (Advance Pricing Agreement) Rules 2012. The Rules establish the process and expected timeline for the application of unilateral, bilateral and multilateral APAs. |
| Thin Capitalisation | Malaysia has thin capitalisation legislation. However, the implementation of the regime has been deferred to the end of December 2015. |
| General Anti-avoidance | There are general anti-avoidance rules in Malaysia which allow the tax authority to disregard, vary or make any adjustment deemed fit, if there is reason to believe that any transaction has the effect of evading, avoiding or altering the incidence of tax. |
| Anti-treaty shopping | There are no specific anti-treaty shopping provisions. However, the general anti-avoidance provisions can be used. |
| Other specific anti-avoidance rules | There are specific transfer pricing provisions. |
| Rulings | Private rulings can be obtained from the Malaysian tax authority. |
| R&D Incentives | Malaysia's R&D tax incentive scheme includes tax exemptions and double deductions for certain R&D expenditure incurred in Malaysia. |
| Other incentives | Tax incentives are available for a wide range of companies in Malaysia, such as Operational Headquarters, International Procurement Centres, Regional Distribution Centres and Treasury Management Centres operating in Malaysia.<br><br>Additionally, incentives are available in Malaysia for investments in promoted products and activities in the manufacturing, agricultural, hotel and tourism industries as well as training activities and specific business activities promoted by the Malaysian Government. Generally, the incentives provide for partial or total relief from income tax or an incentive based on capital expenditure, for a duration of five or ten years. |
| Special tax regimes for specific industries or sectors | Foreign-sourced income received in Malaysia by a resident company (other than a resident company carrying on the business of banking, insurance, shipping, or air transport) is exempt from tax. |

# Income Tax Treaties for the Avoidance of Double Taxation

**In Force**

Albania
Argentina
Australia
Austria
Bahrain
Bangladesh
Belgium
Brunei
Canada
Chile
China
Croatia
Czech Republic
Denmark
Egypt
Fiji
Finland
France
Germany
Hong Kong
Hungary
India
Indonesia
Iran
Ireland
Italy
Japan
Jordan
Kazakhstan
Korea, Republic
Kuwait
Kyrgyzstan
Laos
Lebanon
Luxembourg
Malta
Mauritius
Mongolia
Morocco
Myanmar
Namibia
Netherlands
New Zealand
Norway
Pakistan
Papua New Guinea
Philippines
Poland
Qatar
Romania
Russia
San Marino
Saudi Arabia
Seychelles
Singapore
South Africa
Spain
Sri Lanka
Sudan
Sweden
Switzerland
Syria
Taiwan
Thailand
Turkey
Turkmenistan
United Arab Emirates
United Kingdom
United States of America
Uzbekistan
Venezuela
Vietnam
Zimbabwe

**Negotiated, not yet in force at time of publication**

Double tax agreements with Bosnia & Herzegovina and Senegal have been gazetted but at the time of writing are not yet in force.

Protocols which amend limited articles of the treaties with Belgium, China, Kuwait, Seychelles, and Turkey have been gazetted but at the time of writing are not yet in force.

# Indirect Tax (i.e. VAT/GST)

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| Indirect Taxes | Service tax is chargeable on the value of taxable services provided by a taxable person. Examples of taxable services include; operators of hotels, operators of restaurants, bars and coffee houses, insurance companies, telecommunication companies, consultants and professional firms. There is a limited exemption for services provided within a group.<br><br>Sales tax is a form of consumption tax levied on taxable goods manufactured in Malaysia or imported into Malaysia for local consumption. Exports are exempt. |
| Standard Rate | Service Tax: 6 percent<br><br>Sales Tax: Generally 5 percent or 10 percent |
| GST Reforms | A goods and services tax (GST) is to be introduced in Malaysia from 1 April 2015, and will replace the existing sales tax and service tax.<br><br>The standard rate of GST will be 6 percent, although some supplies will be zero-rated or exempt.<br><br>Businesses with an annual taxable sales value of MYR 500,000 and above will be required to register for GST purposes. Businesses below the threshold may register on a voluntary basis. |
| Further Information | For more detailed indirect tax information across various countries, refer to:<br><br>KPMG's VAT/GST Essentials |

## Personal Taxation

| Income Tax | Personal income tax |
|---|---|
| Top Rate | The top rate of personal income tax in Malaysia is 26 percent and applies to income greater than MYR 100,000. From YA 2015, the maximum income tax rate will reduce to 25 percent, and the maximum rate will apply to an adjustedchargeable income threshold of MYR 400,000 or greater.<br><br>Non-residents are taxed at a flat rate of 26 percent (pending issuance of the Finance Bill) on gross income from all sources. |
| Social Security | There is no general social security framework in Malaysia. However, mandatory contributions are made monthly by both the employer and the employee to the Employees' Provident Fund which serves as a compulsory savings and retirement plan. In addition, where an employee earns less than MYR 3,000 per month, both the employer and the employee must make monthly contributions to the Social Security Organization which serves to provide certain benefits to employees in cases of employment injury. |
| Further information | For more detailed personal taxation information, refer to:<br><br>KPMG's Thinking Beyond Borders |

## Other Taxes

| Property taxes | Local councils may impose a levy rate (commonly known as 'land tax') on residents in respect of services provided by the local council. The amount varies from council to council and is dependent on the value of the property.<br><br>Quit rent is a form of tax imposed by the State Government. It is imposed on owners of landed property (as opposed to units in high-rise building). The amount of quit rent imposed varies from state to state and will depend on the locality and category of land use. |
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| Import Duty | Import duty is generally payable on imported goods at the time of clearance from Customs' control. The rates of import duty generally ranges from 0 percent to 60 percent depending on the category of goods imported.<br><br>Malaysia is committed to ASEAN and as such, import duties imposed on most manufactured goods of ASEAN origin have been reduced to a range of 0 percent to 5 percent. |
| Export Duty | Export duty is generally imposed on depletable resources to discourage export of such commodities. |
| Excise duty | Excise duty is a domestic tax imposed on a limited range of locally manufactured goods or goods imported into Malaysia. The rate of tax to be levied varies and would depend on the nature of the goods manufactured or imported. Excise duty is generally levied on alcoholic beverages, tobacco products and motor vehicles. |
| Inheritance / gift tax | There is no inheritance or gift tax in Malaysia. |

## Free Trade Agreements

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|---|---|---|
| In force | • Bilateral agreements:<br>• Australia<br>• Chile<br>• India<br>• Japan<br>• New Zealand<br>• Pakistan | • Multilateral agreements:<br>• ASEAN-Australia and New Zealand<br>• ASEAN-China<br>• ASEAN-India<br>• ASEAN-Japan<br>• ASEAN-Korea |
| In negotiation | • Malaysia-Turkey<br>• Malaysia-European Union Free Trade Agreement (MEUFTA)<br>• Trans-Pacific Partnership Agreement (TPP)<br>• Trade Preferential System-Organisation of Islamic Conference (TPS-OIC)<br>• Developing Eight (D-8) Preferential Tariff Agreement (PTA) | |

Source: Malaysian Ministry of Trade and Industry (MITI)

# Tax Authorities

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| Tax Authorities | Inland Revenue Board of Malaysia (IRBM) and Royal Malaysian Customs<br>Inland Revenue Board Malaysia<br>Royal Malaysian Customs |
| Tax audit activity | Audit cases can be selected based on a number of factors, such as:<br>● Risk analysis criteria<br>● Information received from a third party<br>● Industry Type<br>● A specific issue concerning a certain group of taxpayers<br>● Location<br>There are two types of audit – a desk audit which is carried out at the IRBM's office, and a field audit which is carried out at the taxpayer's business premise.<br>A typical tax audit commences with a letter of notification of an audit, which will indicate the records that should be made available for audit, the years of assessment to be audited and the names of the relevant audit officers. This is followed by an examination of the relevant documents. The IRBM will then issue an audit findings report, which will contain details of any proposed tax adjustments and the rationale for those adjustments. If the taxpayer disagrees with the adjustments, an official objection must be submitted. If there are no objections to the adjustments made, the IRBM will issue a notice of additional assessment.<br>The timeframe for settlement of a tax audit should be 3 months from the commencement of the audit, but can take longer to reach a resolution in more complex cases.<br>Key focus areas for the IRBM in tax audits conducted in recent years have included:<br>● Transfer pricing |
| Appeals | A taxpayer can appeal against an assessment as a result of a tax audit. The appeal must be made within 30 days after the service of the notice of additional assessment. |

# MYANMAR

## Corporate Income Tax

| Corporate Income Tax | Corporate income tax |
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| Tax Rate | An enterprise established under the Myanmar Companies Act, an entity established under the Myanmar Foreign Investment Law (MFIL), and a registered Myanmar branch of a foreign entity that enjoys incentives under the MFIL are subject to income tax at 25 percent.<br><br>A registered Myanmar branch of a foreign entity that does not enjoy incentives under the MFIL, and other non-resident entities, are subject to income tax at 35 percent. |
| Residence | The residence status of a company is determined by the place of its incorporation. Companies incorporated in Myanmar are treated as residents of Myanmar for tax purposes. Companies incorporated outside Myanmar are treated as non-residents of Myanmar for tax purposes.<br><br>Companies resident in Myanmar are subject to income tax on their worldwide income. However, companies established under the MFIL and non-resident companies are taxed only on income accrued or derived in Myanmar. |
| Compliance requirements | The tax year follows the fiscal year, starting 1 April and ending 31 March. The annual tax return must be filed with the Internal Revenue Department by 30 June of the following income year. If a business is dissolved, an income tax return must be filed within one month from the time the business was discontinued.<br><br>Tax returns for capital gains under the income tax law are to be submitted within one month after the capital asset was disposed of.<br><br>In addition tax payers are required to file tax returns for withholding tax, commercial tax and individual income tax on a monthly or quarterly basis. |
| Withholding Tax Rates for Payments made to Non-residents | Dividends are not subject to withholding tax, regardless of the residence status of the recipient.<br><br>Interest paid to a non-resident of Myanmar is subject to withholding tax of 15 percent.<br><br>Royalties paid to a non-resident of Myanmar are subject to withholding tax of 20 percent.<br><br>The withholding tax rates on interest and royalty payments made to non-residents of Myanmar may be reduced by an applicable income tax treaty. |

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| Holding rules | Under Myanmar Income Tax Law, dividends received are not subject to income tax.<br><br>Capital gains tax is levied on gains from the sale, exchange or transfer of capital assets. Capital gains are taxable at 10 percent for resident tax payers and 40 percent for non-resident taxpayers. Capital gains for taxpayers in the oil and gas industry are subject to capital gains tax at between 40 percent and 50 percent. The rights for Myanmar to impose capital gains tax on non-resident investors are limited in several of Myanmar's income tax treaties.<br><br>The taxable capital gain is calculated based on the difference between the sales proceeds and the cost of the asset, less the accumulated tax depreciation allowed under the Myanmar Income Tax Law. |
| Tax Losses | Losses, which are not capital losses, can be set off against other income in the same income year. Any unabsorbed tax losses can be carried forward for a maximum of three years.<br><br>Capital losses cannot be carried forward and cannot be offset against other sources of income.<br><br>Tax losses cannot be carried back. |
| Tax Consolidation / Group relief | There is no tax consolidation or grouping provisions in Myanmar. |
| Transfer of shares | Gains from the transfer of shares will be subject to capital gains tax. Stamp duty is also applicable at 0.3 percent of the value of shares sold or transferred.<br><br>Gains on the sale, exchange or transfer of bonds and other similar instruments will also be subject to capital gains tax. |
| Transfer of assets | All assets that meet the definition of a capital asset, including land, buildings, vehicles and any other capital assets of an enterprise will be subject to income tax on capital gains derived from the sale, exchange, or transfer of these assets. Intangible assets may also be seen as a capital asset for tax purposes.<br><br>Stamp duty is applicable on a number of transactions. The sale of immovable property can be subject to 5 or 7 percent tax on the value of the property, depending on the location of the land and/or building.<br><br>Due to the restrictions on foreign ownership of land, these taxes are usually not a direct issue for foreign investors. |
| CFC rules | There is no CFC regime in Myanmar. |
| Transfer Pricing | Myanmar has no formal transfer pricing regulations. |

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| Thin Capitalisation | There is no specific thin capitalisation regime in Myanmar, although capitalization of a company might be covered in the licences granted to the company. However, there are restrictions to the deductibility of interest.<br><br>Interest on foreign-sourced loans that is approved by the Myanmar Investment Commission and the Central Bank of Myanmar is deductible for income tax purposes. For locally-sourced loans, the Central Bank of Myanmar determines a maximum interest rate, currently set at 13 percent. This maximum rate is used to limit interest deductions for tax purposes. |
| General Anti-avoidance | There is no general anti-avoidance rule in Myanmar. |
| Anti-treaty shopping | There are no specific anti-treaty shopping rules. Please refer to section 2 comments on the application of income tax treaties. |
| Other specific anti-avoidance rules | There are no other specific anti-avoidance rules in Myanmar. |
| Rulings | There are no specific legal grounds to request an advanced ruling from the tax authorities. Still, it is possible to request such rulings, which is not legally binding, but will be followed in practice.  These unbinding rulings are not published. |
| Intellectual Property Incentives | There are currently no intellectual property incentives in Myanmar. |
| R&D Incentives | There are currently no specific R&D incentives in Myanmar except deductions for certain R&D expenditure under the Myanmar Foreign Investment Law (see 'Other incentives' below). |
| Other incentives | Companies registered under the Myanmar Foreign Investment Law can be granted a wide range of tax incentives,  including all of the following:<br>• Tax holiday from corporate income tax of five years or more for enterprises engaged in the production of goods or services<br>• Tax exemption for profits maintained in a reserve fund and reinvested within one year<br>• Accelerated depreciation on certain assets<br>• Customs duty relief and/or exemption for certain imports<br>• Deductions for certain research and development expenditure<br>• Relief from income-tax up to 50 percent on the profits for goods produced and exported<br><br>Further incentives may be available for foreign investors carrying out business in one of the Special Economic Zones. |
| Hybrid Instruments | In general the Myanmar tax laws provide little guidance on taxation of hybrid instruments. Such instruments are not widely used in Myanmar. |

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| Hybrid entities | N/A |
| Special tax regimes for specific industries or sectors | Entities in the oil and gas sector will be subject to an increased level of capital gains, with rates ranging from 40 percent to 50 percent. |

## Income Tax Treaties for the Avoidance of Double Taxation

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| In Force | India | Singapore | United Kingdom |
| | Laos | South Korea | Vietnam |
| | Malaysia | Thailand | |
| | In general it is advisable to confer with the Myanmar tax authority before arranging structures which may rely on income tax treaty application. | | |
| Negotiated, not yet in force at time of publication | Indonesia, Bangladesh | | |

## Indirect Tax (i.e. VAT/GST)

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| Indirect Tax | Commercial Tax is a turnover tax levied on goods and services. |
| Standard Rate | No standard rate applies.<br>Commercial tax for specified services is applied at 5 percent of gross sales.<br>For goods, products are split into various schedules, there is no standard rate. Rates can vary from 3 to 100 percent.<br>Certain exemptions apply. |
| More information | For more information on Commercial Tax in Myanmar, refer to:<br>KPMG Asia Pacific Indirect Tax Country Guide |

## Personal taxation

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| Income Tax | Individual income tax. |
| Top Rate | Myanmar has a progressive tax system with the top personal tax rate of 20 percent (employment income) and 30 percent (income other than employment income) for resident citizens and resident foreigners of Myanmar. Non-resident foreigners are subject to tax at a flat rate of 35 percent (this may be reduced under an applicable income tax treaty).<br><br>Employers are required to withhold income tax from employees' salaries, with the tax being payable to the tax authority in monthly or quarterly instalments. |
| Social Security | Employers with five employees or more are required to provide social security benefits to employees, such as general benefit insurance and insurance against employment-related injuries.<br><br>Employees are required to contribute 1.5 percent of their salary or wages, with the employer's contribution of 2.5 percent of the employee's salary or wages. The maximum contribution is currently US$8 per employee per month. |
| International Social Security Agreements | None |

## Other Taxes

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| Customs duty | Most imported goods, with a few exceptions, are subject to customs duties on importation and are required to be declared to the Myanmar Customs Department accordingly.<br><br>Currently, the customs duties levied on the import of machinery, spare parts, and inputs generally range from nil to 40 percent of the value of the goods imported.<br><br>For exports of goods, export duty is levied on commodities. |
| Property tax | Immovable property situated in Yangon is subject to property taxes, covering general tax, lighting tax, water tax, and conservancy tax.<br><br>Due to the restrictions on foreign ownership of land, these taxes are usually not a direct issue for foreign investors. |

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| Stamp duty | Stamp duty applies to a number of transactions. Some of the most relevant stamp duties are as follows:<br>● Sale or transfer of immovable property (outside Yangon) – 5 percent of the value.<br>● Sale or transfer of immovable property (inside Yangon) – 7 percent of the value.<br>● Rental of immovable property (contract for between one year and three years) – 1.5 percent of the value.<br>● Rental of immovable property (contract for more than three years) – 5 percent of the value.<br>● Sale or transfer of shares – 0.3 percent of the value. |

## Tax Authority

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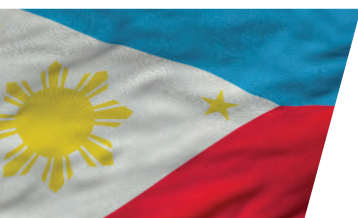
| Tax Authority | Internal Revenue Department (IRD)<br>Myanmar Internal Revenue Department |
| Tax audit activity | In recent years there have been limited tax audits in Myanmar. This is in part due to the Authority's practice to determine tax payable based on a certain discretionary power.<br>Increased focus on increasing tax revenues by the tax authority, coupled with Myanmar's strong focus on transparency, means this practice is expected to change significantly going forward. |
| Appeals | There have been few tax controversies before the Myanmar courts. In theory, the steps of the appeal process are as follows:<br>If the tax payer is not satisfied with the tax settlement as determined by the Township Revenue Officer, they might appeal to the Division, State, or Company Circular office.<br>If the tax payer is not satisfied after appealing to the Division, State, or Company Circular office they can appeal to the Tax Appealing Tribunal.<br>If the tax payer is not satisfied after the Tax Appealing Tribunal, they can appeal to the Supreme Court. |



# PHILIPPINES

## Corporate Income Tax

| Corporate income tax | Corporate income tax |
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| Tax rate | Resident corporations are subject to a 30 percent regular corporate income tax rate based on net income, or to a 2 percent minimum corporate income tax rate based on gross income, whichever is higher.<br><br>Non-resident companies are subject to a 30 percent corporate income tax rate based on gross income (except for certain items of passive income which may be taxable at a different rate). |
| Residence | An entity is regarded as a resident of the Philippines if it is carrying on business in the Philippines. This includes any entity that is incorporated in the Philippines or a foreign resident corporation that is licensed to do business in the Philippines. Generally, the tax authorities rely on the incorporation or registration as an indication of Philippine tax residence.<br><br>A domestic corporation is taxable on its worldwide income. However, a foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on Philippine-sourced income. Income is considered to be sourced in the Philippines if the income is derived from property or activities within the Philippines. |
| Compliance requirements | Payment of corporate income tax is made through a self-assessment system where the taxpayer files a tax return reflecting the revenues, deductions and the tax due.<br><br>The annual income tax return is due on the fifteenth day of the fourth month following the close of the calendar or fiscal year. |
| International withholding tax rates | The following items are subject to withholding tax at 30 percent:<br>● Interest<br>● Rent<br>● Royalties<br>● Salaries<br>● Dividends<br>● Premiums (except reinsurance premiums)<br>● Annuities<br>● Emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains on sale of shares stock |

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| International withholding tax rates (cont'd) | The exceptions to this are:<br>● Interest on foreign loans – subject to withholding tax at 20 percent<br>● Income of a non-resident cinematographic film owner, lessor or distributor – subject to withholding tax at 25 percent<br>● Income of a non-resident owner or lessor of vehicles – subject to withholding tax at 4.5 percent<br>● Income of a non-resident owner or lessor of aircraft, machinery and other equipment – subject to withholding tax at 7.5 percent.<br>These rates may be reduced if a relevant tax treaty applies.<br>The withholding tax on dividends paid to a non-resident foreign corporation may be reduced to a lower rate if the country in which the corporation is domiciled allows a credit for taxes deemed paid in the Philippines (tax sparing). |
| Holding rules | Dividends received by a domestic corporation or a resident foreign corporation from another domestic corporation are not taxable. Cash and/or property distributions paid by a domestic corporation to non-resident corporate shareholders are subject to 30 percent income tax, except where the recipient is a resident of a country that either has entered into a tax treaty with the Philippines or allows a credit for taxes paid in the Philippines.<br>Profits of a Philippine branch remitted to its parent company are subject to 15 percent branch profits remittance tax. A lower rate may be provided under the applicable tax treaty. Philippine branches whose activities are registered with the Philippine Economic Zone Authority (PEZA) are not subject to branch profit remittance tax.<br>Net capital gains realized during the taxable year from the sale, exchange or other disposition of shares of stock in any domestic corporation (not sold through the stock exchange) are taxed at the following rates:<br>● First PHP100,000 – taxed at five percent<br>● In excess of PHP100,001 – taxed at ten percent<br>Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges.<br>A final tax of six percent (on the higher of the gross selling price or fair market value) is imposed on the gain of a domestic corporation presumed to have been realized on its sale, exchange or disposition of land and/or buildings that are not actually used in business and are treated as capital assets.<br>Income from the sale of capital assets other than shares of stocks, land and buildings not used in the course of business are treated as an ordinary income and subject to the normal corporate income tax. |

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| Tax losses | Operating losses incurred in a tax year may be carried over as a deduction from gross income for three consecutive years immediately following the year of such loss, provided that there is no substantial change in the ownership of the business or enterprise. Such losses shall not be allowed as a deduction in a taxable year in which the taxpayer was exempt from income tax.<br><br>For mines, other than oil and gas wells, the net operating loss without the benefit of incentives incurred in any of the first ten years of operation may be carried over as a deduction from taxable income for the next five years immediately following the year of such loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four years. |
| Tax consolidation / group relief | There are no group relief provisions for losses in the Philippines. Each company within a corporate group is taxed as a separate entity. |
| Transfer of shares | Transfer of shares not listed and traded in the local stock exchange shall be subject to capital gains tax at the rate of five percent for the first PHP100,000 and ten percent in excess thereof.<br><br>Stamp duty will also apply at a rate of PHP0.75 on each PHP200, or fractional part thereof, of the par value of such stock.<br><br>Transfer of shares through the local stock exchange is subject to stock transaction tax at the rate of 0.5 percent. |
| Transfer of assets | Sale of real property is subject to capital gains tax at the rate of six percent (on the higher of the gross selling price or fair market value).<br><br>Stamp duty of PHP15 for every PHP1,000 will apply to the transfer of real property. |
| CFC rules | No CFC regime exists in the Philippines. |
| Transfer pricing | The tax authority has the power to allocate income and expenses between or among related parties, in order to prevent the evasion of taxes or to clearly reflect the income among related parties. The "arm's length" test is used to evaluate transactions between related taxpayers and the guidelines follow OECD guidelines.<br><br>Transfer pricing guidelines were issued by the Philippine tax authorities early in 2013. To date, however, the implementing rules for the guidelines have not been issued. |
| Thin capitalisation | The Philippines has no formal thin capitalization laws or regulations. However, the tax authority has issued guidelines which identify thin capitalization and earning stripping as among the tax avoidance schemes between related companies.<br><br>The 'tax arbitrage rule' reduces the allowable deduction for interest expenses by 33 percent of the interest income subjected to final tax. |

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| General anti-avoidance | The Philippines does not have a general anti-avoidance clause within its tax code. However, any person who wilfully attempts in any manner to evade or defeat any tax imposed under the Tax Code shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than PHP30,000 but not more than PHP100,000 and suffer imprisonment of not less than two years but not more than four years (Sec. 254, Tax Code). |
| Anti-treaty shopping | None |
| Other specific anti-avoidance rules | None |
| Rulings | Taxpayers may seek clarification with the tax authority by submitting a letter-request for ruling containing full disclosure of all material facts, including the documents needed for substantiation. Once issued, this ruling is applicable to all future transactions referred to in the ruling. Rulings may only be relied upon by the taxpayer to whom they are issued.<br><br>Taxpayers may also approach the BIR to clarify proper tax treatment, especially uncertain provisions of tax laws and regulations. This is done on an informal and "no-name" basis. This type of clarification is non-binding and is only based on facts and circumstances represented during the inquiry. |
| Intellectual property incentives | None |
| R&D incentives | A multinational company may establish a Regional Operating Headquarters (ROHQ) to render R&D services and product development to affiliates, branches or subsidiaries. The ROHQ shall be subject to a 10 percent preferential tax rate on taxable income, and shall be exempted from all kinds of local taxes, fees and charges imposed by the local government. Gross income received by alien individual employed by ROHQ established in the Philippines shall be subject to a tax of 15 percent of such gross income.<br><br>R&D expenses are deductible if they are paid or incurred during the taxable year as ordinary and necessary expenses of the business, and not charged to capital account. At the taxpayer's election, research and development expenses may be treated as a deferred expense, in lieu of a tax deduction, provided that it shall be amortized over a period not less than 60 months. |
| Other incentives | A number of other tax incentives are available in the Philippines for enterprises engaged in preferred areas of investment and registered with the Board of Investments (BOI) or the Philippine Economic Zone Authority (PEZA), including tax holidays/exemptions, tax credits, additional tax deductions and simplification of customs procedures.<br><br>Further, tax incentives are available for regional headquarters, enterprises operating in developing regions and special economic zones. |

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| Hybrid instruments | None |
| Hybrid entities | None |
| Special tax regimes for specific industries or sectors | BOI/PEZA-registered activities with pioneer status – six years income tax holiday<br>BOI/PEZA-registered activities with non-pioneer status – four years income tax holiday<br>PEZA-registered activities after the lapse of income tax holiday – five percent gross income tax regime<br>Regional Operating Headquarters – ten percent preferential rate on taxable income |

## Income Tax Treaties for the Avoidance of Double Taxation

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| In Force | Australia | Finland | Malaysia | Sweden |
| | Austria | France | Netherlands | Switzerland |
| | Bahrain | Germany | New Zealand | Thailand |
| | Bangladesh | Hungary | Norway | United Arab Emirates |
| | Belgium | India | Pakistan | United Kingdom |
| | Brazil | Indonesia | Poland | United States |
| | Canada | Israel | Romania | Vietnam |
| | China | Italy | Russia | |
| | Czech Republic | Japan | Singapore | |
| | Denmark | Korea (Republic of) | Spain | |
| Negotiated, not yet in force at time of publication | New treaties and protocols have been negotiated with Iran, Myanmar, Papua New Guinea, Oman, Syria and Tunisia but at the time of writing are not yet in force. | | | |

Source: BIR – International Tax Affairs Division

# Indirect Tax (i.e. VAT/GST)

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| Indirect tax | Value Added Tax (VAT) |
| Standard rate | The standard rate of VAT is 12 percent which is imposed on the sale, in the course of trade/business, of goods, services and property in the Philippines as well as the importation of goods to the Philippines.<br>Certain sales or services are subject to zero percent VAT. |
| Further information | For more detailed indirect tax information, refer to:<br>KPMG's VAT/GST Essentials |

# Personal Taxation

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| Income tax | Individual income tax |
| Top rate | Individuals, depending on the tax status, are subject to progressive tax rates. The maximum rate is 32 percent. |
| Social security | Every employer is required to deduct an amount from the salary of each employee premium contributions remitable to a social security fund and medicare system to finance the retirement, sickness, disability, health and other social security benefits of the employee.<br>The employer is also required to remit a counterpart contribution for the employee. The amount of premium contributions by the employer and employee depends on the salary bracket of each employee, based on a pre-calculated table of contributions. |
| International social security agreements | Austria; Belgium; Canada; France; Greece & Israel (under negotiation); Korea; Netherlands; Portugal (for ratification); Quebec; Spain; Switzerland; United Kingdom & Northern Ireland |
| Further information | For more detailed personal taxation information, refer to:<br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Customs duty | Generally, customs duties are levied on all articles imported into the Philippines. The rates vary depending on the classification and country of origin of the imported goods. If it originates from a country which is a member of the GATT or ASEAN, the goods may be subject to preferential tariff treatment under the Generalized System of Preference or the ASEAN Common Effective Preferential Tariff.<br><br>Customs duties are payable at the time of release or withdrawal of the goods from the customs house or bonded warehouse. |
| Excise duty | Excise tax is levied on certain goods locally manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition, and on certain goods imported to the Philippines (in addition to VAT and customs duties).<br><br>Generally, the excise tax is payable before products are removed from the place of production. For imported items, the tax is payable before the release of articles from customs warehouse.<br><br>Items subject to excise tax include (amongst others); alcohol, tobacco products, petroleum, mineral products and miscellaneous articles such as fireworks, certain cinematographic films, certain non-essential goods and motor vehicles. |
| Stamp duty | The 'documentary stamp duty' is an excise tax and is imposed on documents, instruments, loan agreements and acceptances, assignments, sales or transfers of obligations, rights or property and other business instruments. The rate of tax depends on the nature of the document and transaction.<br><br>Documentary stamp duty applies to transactions effected and consummated outside the Philippines and documents signed abroad where the obligation or right arises from Philippine sources or the property is located within the Philippines. |
| Property taxes | Property taxes imposed by the local government units include:<br><br>• Transfer tax on real property ownership; and<br><br>• Real property taxes are levied on the assessed value of the property and improvements. Each local unit may provide for the rate of tax to be imposed, but shall not exceed two percent of the assessed value of the property if located in a city or municipality within Metro Manila, or one percent if located in a province or municipality outside of Metro Manila. In addition to the basic tax, a levy of one percent based on the assessed value of the property is also imposed to accrue to the Special Education Fund. |
| Inheritance tax | Estate tax is imposed upon the transfer of the net estate of every decedent. The tax is computed on the graduated rates from 5 percent to 20 percent. The first PHP200,000 of the net estate is exempt from tax and the maximum rate is applicable to the net estate in excess of PHP10 million. |

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| Gift tax | Gift tax is levied on the transfer by any person (resident or non-resident) of property by donation and is imposed even if the transfer is in trust or otherwise (direct or indirect), and the property is real or personal, tangible or intangible.<br><br>The rates of tax are progressive from 2 percent to 15 percent based on the net gifts. The first PHP100,000 of the net gifts is exempt from tax and the maximum rate is applicable on the net gifts in excess of PHP10 million. When the donee is a stranger, the tax payable by the donor is 30 percent of the net gifts. The 30 percent gift duty rate also applies to corporations.<br><br>Certain gifts are exempt from tax. |
| Percentage tax | Percentage tax is a business tax that is based on gross sales or receipts of the taxpayer. The tax rate depends on the type of establishment or business. A person who is exempt from VAT and is not a VAT-registered person or entity is subject to percentage tax of 3 percent. However, the person may apply for optional registration as a VAT- registered person and shall be liable to the VAT. This includes persons whose annual sales or receipts do not exceed PHP1,919,500 and have not elected to register for VAT. |
| Stock transaction tax | A stock transaction tax of 0.5 percent on gross selling price is imposed on the sale, barter, exchange or other disposition of shares through the stock exchange. A tax is also imposed on the sale, barter, exchange, or other disposition of shares of stock in closely held corporations through IPO. |
| Other taxes | Home Development Mutual Fund; National Health Insurance; Local taxes. |

## Free Trade Agreements

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| In force | ASEAN Free Trade Agreement<br><br>ASEAN-China Free Trade Area<br><br>Japan-Philippines Economic Partnership Agreement<br><br>ASEAN-Korea Free Trade Agreement<br><br>ASEAN-Australia/New Zealand Free Trade Agreement |
| Concluded / signed (pending domestic ratification) | None |
| In negotiation | ASEAN-India Free Trade Agreement<br><br>ASEAN-European Union Free Trade Agreement |

# Tax Authority

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| Tax authority | Bureau of Internal Revenue (BIR)<br><br>Bureau of Internal Revenue |
| Tax audit activity | Under the law, the tax authority has three years from the last day prescribed by law for the filing of a return, or the date the return is filed, whichever is later, to examine a company's books and issue deficiency tax assessment. No proceeding in court without assessment for the collection of such taxes shall begin after the expiration of the three-year period.<br><br>In the case of a false or fraudulent return with intent to evade payment of tax or of failure to file a return, the tax may be assessed, or proceeding in court for the collection of such tax may be filed without assessment at any time within ten years from the discovery of the falsity, fraud, or omission.<br><br>The tax bureau has implemented a benchmarking system whereby taxpayers are classified based on tax returns filed. Those classified as high or medium risk taxpayers shall be prioritized in audit. The tax authority uses information generated by the Reconciliation of Listings for Enforcement (RELIEF) as well as third party information in order to enhance the targeting and focus of their tax audit activity.<br><br>The tax audit starts with the service of a Letter of Authority duly signed by the Commissioner or his duly authorized representative to the taxpayer. The approach to tax audits is largely a manual approach including detailed consideration of invoices and key documents.<br><br>While the BIR's audit activity can generally be seen to target all areas of taxation in the Philippines, we have seen in recent years an increasing focus by the BIR on:<br><br>• Tax evasion by individuals engaged in the practice of their professions<br>• Cross-border transactions<br>• Tax reporting and compliance<br>• The Withholding tax system. |
| Appeals | If a Final Assessment Notice is not acceptable to a taxpayer, a protest must be filed within 30 days from the date of receipt of the assessment notice, otherwise the assessment becomes final, executory and demandable.<br><br>Within 60 days from filing of the protest, all relevant supporting documents should be submitted; otherwise, the assessment shall become final.<br><br>If the protest to the FAN is denied in whole or in part, the taxpayer must then appeal to the Court of Tax Appeals within 30 days from receipt of the said decision, otherwise the decision becomes final, executory and demandable. |

| Tax governance | KPMG advocates strict compliance with tax laws and regulations. Proper documentation is likewise necessary for the purposes of substantiation of any tax position filed.<br><br>The BIR does not currently offer any specific incentives or schemes to encourage good tax governance by taxpayers. However all businesses are advised to establish policies and controls in relation to their various tax compliance obligations, as appropriate to their business size and complexity. |
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# SINGAPORE

## Corporate Income Tax

| Corporate Income Tax | Corporate income tax |
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| Tax Rate | The tax rate is 17 percent.<br><br>From the Year of Assessment (YA) 2013 to 2015, companies will receive a 30 percent corporate income tax rebate capped at SGD 30,000 per YA. There is a partial exemption of 75 percent on the first SGD 10,000 and 50 percent on the next SGD 290,000 of the company's income. Start-up tax exemption can be granted on the regular income of a qualifying company up to SGD 100,000, for any of its first three consecutive years of assessment. A 50 percent partial tax exemption applies to the next SGD 200,000. |
| Residence | A company, whether incorporated in Singapore or otherwise, is considered a resident of Singapore for tax purposes if the place of control and management of its business is exercised in Singapore. Generally, a company is treated as a resident of Singapore if, among other things, its directors' meetings are held in Singapore. |
| Compliance requirements | In Singapore, income is generally subject to tax on a territorial and remittance basis. Any company is required to file an income tax return on income derived from, accrued in, or received in Singapore, although certain qualifying foreign-sourced income is exempt from income tax.<br><br>Income chargeable to Singapore tax is assessed on a preceding year basis and the due date for companies for filing the income tax return is 30 November of the Year of Assessment (YA). As an example, income derived by a company in its accounting year ended on 30 June 2012 would be assessed in YA 2013. The deadline to file its income tax return for that assessment year is on 30 November 2013. |
| International Withholding Tax Rates | Dividends are not subject to withholding tax whether paid to a resident or non-resident.<br><br>Withholding tax, at the appropriate rate, is payable if the following payments are made to non-residents:<br><br>• Royalties or other payments for the use or right to use any movable property, scientific, industrial or commercial knowledge or information – 10 percent. This is the case if not derived by a non-resident through operations carried out in Singapore.<br><br>• Interest, commissions, fees or any other payments in connection with or relating to any loan or indebtedness or with any arrangement, management, guarantee or service relating to any loan or indebtedness, where such arrangements, management, guarantees or services are rendered in Singapore – 15 percent. This is the case if not derived by a non-resident through operations carried out in Singapore.<br><br>• Any payment for assistance or services rendered in Singapore in connection with the application or use of scientific, industrial or commercial knowledge or information – subject to withholding tax at the prevailing corporate tax rate. |



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| International Withholding Tax Rates (cont'd) | • Any payment for the management or assistance in the management of any trade, business or profession where the services are rendered in Singapore – subject to withholding tax at the prevailing corporate tax rate.<br>• Rent or other payments under any agreement or arrangement for the use of any movable property – 15 percent on the gross payment, if not derived by a non-resident through operations carried out in Singapore.<br>• Director's remuneration – 20 percent.<br>• Any payment for services rendered in Singapore by non-resident professionals – 15 percent on gross income, or 20 percent on net income, depending on which option is exercised.<br>• Payment to a non-resident public entertainer for services performed in Singapore – 10 percent for income due and payable during the period from 22 February 2010 to 31 March 2015.<br>• Consideration from sale of real property transactions by a non-resident – 15 percent.<br>• The rate of withholding tax on the above mentioned payments may be reduced in accordance with the provisions of the respective tax treaties. |
| Holding rules | Singapore has a one-tier corporate tax system whereby tax at the corporate level (i.e. any underlying tax) is the final tax. Accordingly, dividends paid by Singapore resident companies are exempt from further Singaporean tax in the hands of shareholders, irrespective of whether underlying tax has been suffered on the profits out of which the dividends are paid.<br><br>Generally, foreign dividends received in Singapore by a Singapore holding company would be taxable in Singapore upon remittance into Singapore at the prevailing corporate income tax rate (with credit given for the withholding tax suffered, but capped at the amount of tax payable in Singapore), or may be tax-exempt in Singapore provided certain conditions are met.<br><br>There is no capital gains tax in Singapore. However, where a gain is considered to be revenue in nature, such gain could be subject to tax if it is sourced in Singapore.<br><br>Notwithstanding the above, gains derived from equity investments disposed of by a company during the period 1 June 2012 to 31 May 2017 would not be taxed, provided certain conditions are met. |

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| Tax Losses | 'Trade losses' can be carried forward indefinitely to offset against the income of the person, provided that the "continuity of ownership" test is met.<br><br>Any capital allowances in excess of the income from all sources of a person (i.e. unutilized capital allowances) for any year of assessment can be carried forward to offset against income of that person for subsequent years of assessment, subject to both the continuity of ownership and the same business tests.<br><br>Businesses (including sole-proprietors) can also elect to carry back their current year unutilized trade losses and capital allowances of up to SGD 100,000 to the immediate year of assessment preceding the current year of assessment. Any unutilized capital allowances and trade losses in excess of the SGD 100,000 limit would continue to be available for carry-forward under normal rules. |
| Tax Consolidation / Group relief | Currently, group relief is available in Singapore, but not tax consolidation. Under the group relief system, a loss making company within a group is, subject to satisfaction of certain conditions, allowed to transfer its current year unutilised losses, capital allowances, and donations to offset the taxable profits of other companies in the same group.<br><br>A group means a Singapore incorporated company and all of its Singapore subsidiaries. Two Singapore companies would only be members of a group if one is at least 75 percent owned by the other or if both are at least 75 percent owned by another Singapore company. |
| Transfer of shares | Ad valorem stamp duty is payable at the rate of 0.2 percent on the value of the shares or the consideration, whichever is the higher. |
| Transfer of assets | A buyer's ad valorem stamp duty (BSD) is payable at the graduated rates of 1 percent to 3 percent on the value of the real property or the consideration, whichever is higher. Additional buyer's stamp duty (ABSD) of up to 15 percent may apply to residential properties acquired by foreigners, companies, and Singapore permanent residents, as well as Singapore citizens. In addition, seller's stamp duty of up to 16 percent may be imposed where residential properties are sold within 4 years of purchase. Seller's stamp duty up to 15 percent also applies to industrial properties sold within 3 years of purchase. |
| CFC rules | There is no CFC regime in Singapore. |

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| Transfer Pricing | Generally, Singapore's transfer pricing guidance, as set out in the 'transfer pricing guidelines circular', issued by the tax authority, has strong parallels to the OECD transfer pricing principles. The tax authority endorses the arm's-length principle, and this principle is supported by tax law (i.e. addresses transactions that are not at arm's-length).<br><br>The Inland Revenue Authority of Singapore (IRAS) is of the opinion that taxpayers should exert reasonable effort to undertake sound transfer pricing analysis to ascertain an arm's-length price, as well as demonstrate that such analysis has been performed. Comprehensive contemporaneous documentation will go towards demonstrating a reasonable compliance effort. Scant documentation, especially for complex or significant transactions, may lead to scrutiny and challenges.<br><br>The IRAS has issued circulars to provide administrative guidance on APAs and related party loans and services. |
| Thin Capitalisation | There is no thin capitalisation regime in Singapore. |
| General Anti-avoidance | The IRAS may disregard or vary an arrangement and make adjustments (including the computation or re-computation of gains or profits or imposition of liability to tax) to counteract any tax advantage obtained or obtainable by a person, where the tax authority is satisfied that the purpose or effect of any arrangement is to directly or indirectly:<br><br>• alter the incidence of any tax that is payable or would otherwise have been payable by any person<br><br>• relieve any person from any liability to pay tax or to make a return under the Singapore Income Tax Act<br><br>• reduce or avoid any tax liability imposed or that would otherwise have been imposed on any person by the Singapore Income Tax Act.<br><br>The above does not apply to any arrangement carried out for bona fide commercial reasons and that does not have tax avoidance or reduction as one of its main purposes. |
| Anti-treaty shopping | The IRAS can attack any attempts to take advantage of beneficial withholding tax rates under any relevant tax treaty provisions by applying the general anti-avoidance provision as explained above. |
| Other specific anti-avoidance rules | Other specific anti-avoidance provisions have been enacted to deal with specific situations such as sale of assets between related parties at below market value or where transactions between related parties are not at arm's length. |
| Rulings | Taxpayers can obtain advance rulings from the IRAS. Such rulings are private and confidential. |

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| Intellectual Property Incentives | For the YA 2011 to 2015, companies can claim enhanced tax allowances / deductions for acquisition or licensing costs (from YA 2013), or costs for protection of intellectual property as follows:<br>• 400 percent tax allowance / deduction for the first SGD 400,000 of qualifying expenditure incurred per YA<br>• 100 percent tax allowance / deduction for the balance of expenditure. |
| R&D Incentives | Singapore has an R&D tax incentive regime which provides for enhanced R&D deductions. The R&D incentive regime applies to all industry sectors and businesses of all sizes (regardless of ownership) provided that they can demonstrate projects meeting the definition of 'R&D' for tax purposes.<br>For the YA 2011 to 2015, companies can claim enhanced tax allowance / deduction for qualifying expenditure on R&D as follows:<br>• 400 percent tax deduction for the first SGD 400,000 of qualifying expenditure incurred per YA<br>• 150 percent tax deduction for the balance of expenditure. |
| Other incentives | Singapore grants tax incentives for activities that enhance its economic or technological development. The incentives are available to a wide spectrum of industries and cover the main areas of manufacturing and services, shipping, trading, investment and financial services. The incentives are usually in the form of an exemption from tax or a reduction in the rate of tax applicable.<br>In addition, Singapore offers international and regional headquarter tax incentives. |
| Hybrid Instruments | There is no specific guidance on the taxation of hybrid instruments. Generally, the tax treatment of a hybrid instrument is determined by examination of the characteristics of the instrument. |
| Hybrid entities | There are no special rules applicable to hybrid entities. |
| Special tax regimes for specific industries or sectors | Singapore has special tax regimes to provide tax exemptions or reduced tax rates for some industries or sectors including:<br>• Banking<br>• Fund Management<br>• Shipping<br>• Leasing |

## Income Tax Treaties for the Avoidance of Double Taxation

| | | | | |
|---|---|---|---|---|
| In Force | Albania | Georgia | Malaysia | Russia |
| | Australia | Germany | Malta | Saudi Arabia |
| | Austria | Hungary | Mauritius | Slovak Republic |
| | Bahrain | India | Mexico | Slovenia |
| | Bangladesh | Indonesia | Mongolia | South Africa |
| | Belgium | Ireland | Myanmar | Spain |
| | Brunei | Isle of Man | Netherlands | Sri Lanka |
| | Bulgaria | Israel | New Zealand | Sweden |
| | Canada | Italy | Norway | Switzerland |
| | China | Japan | Oman | Taiwan |
| | Cyprus | Jersey | Pakistan | Thailand |
| | Czech Republic | Kazakhstan | Panama | Turkey |
| | Denmark | Korea (Republic of) | Papua New Guinea | Ukraine |
| | Egypt | Kuwait | Philippines | United Arab Emirates |
| | Estonia | Latvia | Poland | United Kingdom |
| | Fiji | Libya | Portugal | Uzbekistan |
| | Finland | Lithuania | Qatar | Vietnam |
| | France | Luxembourg | Romania | |
| Negotiated, not yet in force at time of publication | New treaties and protocols have been negotiated and signed with Austria, Barbados, Belarus, Czech Republic, Ecuador, Guernsey, Kazakhstan, Liechtenstein, Luxembourg, Morocco, Poland and Portugal but are not in force at the time of writing.<br>Source: IRAS | | | |

## Indirect Tax (i.e. VAT/GST)

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| Indirect Tax | Goods and Services Tax (GST) |
| Standard Rate | 7 percent.<br>Certain goods and services are zero-rated or exempt from GST. |
| Further information | For more detailed information regarding Singapore's GST, refer to:<br>KPMG's VAT/GST Essentials |

## Personal Taxation

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| Income Tax | Personal income tax |
| Top Rate | A resident is taxed on chargeable income (assessable income less personal relief) at graduated rates ranging from zero percent to 20 percent.<br><br>Employment income of a non-resident is taxed at a flat rate of 15 percent or at resident tax rates, whichever is higher. Other income of a non-resident individual is generally taxed at 20 percent unless specifically exempt or subject to a reduced treaty rate. |
| Social Security | There is no social security tax in Singapore. |
| Central Provident Fund (CPF) | The CPF was introduced as a compulsory retirement benefit scheme for employees in Singapore, but it has since been extended to enable members to use the scheme to purchase residential and commercial properties, gold and shares in approved companies, and to pay for certain medical and educational fees.<br><br>Only Singapore citizens and Singapore permanent resident employees are required, along with their employers, to contribute to the CPF. The tax advantages of the CPF include deductions for statutory contributions. |
| Further information | For more detailed personal taxation information, refer to:<br><br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Customs / excise duty | Singapore is effectively a duty-free port with import duties only on a limited number of items, being petroleum products, motor vehicles, tobacco products, and liquor. The rates of duties are either specific or ad valorem. No duties are imposed on exports from Singapore. |
| Stamp duty | Stamp duty is payable on documents relating to immoveable properties and shares, as described in the Stamp Duties Act. The rate of ad valorem duty imposed depends on the nature of the documents.<br><br>For residential properties, buyer's stamp duty applies at 1 to 3 percent, and additional buyer's stamp duty of 15 percent may also apply to buyers of residential properties with effect from 12 January 2013.<br><br>Seller's stamp duty applies to the following type of immoveable property:<br><br>Residential properties purchased on or after 14 January 2011 and disposed of within one (16 percent), two (12 percent), three (8 percent), or four (4 percent) years of purchase<br><br>Industrial properties purchased on or after 12 January 2013 and disposed of within one (15 percent), two (10 percent) or three (5 percent) years of purchase. |

## Property tax

Property tax is assessed on immovable property and is payable by the owner.

It is computed as a percentage of the annual value of all houses, land, buildings and tenements. The current rate of property tax is 10 percent.

From 1 January 2014 and 2015, the following progressive tax rates apply to residential properties (excluding residential land and owner-occupied residential properties):

| Annual Value (SGD) | Effective 1 Jan 2014 | Effective 1 Jan 2015 |
|---|---|---|
| First 30,000 | 10% | 10% |
| Next 15,000 | 11% | 12% |
| Next 15,000 | 13% | 14% |
| Next 15,000 | 15% | 16% |
| Next 15,000 | 17% | 18% |
| In excess of 90,000 | 19% | 20% |

For owner-occupied residential properties, the following progressive tax rates apply until 31 December 2013:

| Annual Value (SGD) | Tax Rate |
|---|---|
| First 6,000 | 0% |
| Next 59,000 | 4% |
| In excess of 65,000 | 6% |

From 1 January 2014 and 2015, the following progressive tax rates apply for owner-occupied homes:

| Annual Value (SGD) | Effective 1 Jan 2014 | Effective 1 Jan 2015 |
|---|---|---|
| First 8,000 | 0% | 0% |
| Next 47,000 | 4% | 4% |
| Next 5,000 | 5% | 6% |
| Next 10,000 | 6% | 6% |
| Next 15,000 | 7% | 8% |
| Next 15,000 | 9% | 10% |
| Next 15,000 | 11% | 12% |
| Next 15,000 | 13% | 14% |
| In excess of 130,000 | 15% | 16% |

## Inheritance / gift tax

There is no inheritance or gift tax in Singapore.

## Free Trade Agreements (FTA)

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|---|---|
| In force | Australia, India, Liechtenstein (ESFTA), Peru<br>China, Japan, New Zealand, Switzerland (ESFTA)<br>Costa Rica, Jordan, Norway (ESFTA), United States<br>Iceland, Korea (Republic of), Panama<br>Trans-Pacific SEP – Brunei, Chile, New Zealand<br>Gulf Co-operation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates)<br>ASEAN – Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand, Vietnam<br>ASEAN – Australia – New Zealand<br>ASEAN - China<br>ASEAN – India<br>ASEAN – Japan<br>ASEAN – Korea |
| In negotiation | Canada<br>Mexico<br>Pakistan<br>Ukraine<br>ASEAN – India (Services and Investment)<br>ASEAN – Japan (Services and Investment)<br>Trans-Pacific Partnership – Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Vietnam |

Source: International Enterprise Singapore

## Tax Authority

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|---|---|
| Tax Authority | Inland Revenue Authority of Singapore (IRAS)<br><br>Inland Revenue Authority of Singapore |
| Tax audit activity | The IRAS adopts a risk-based approach to the selection of returns for audit. The focus of the IRAS is on improving the compliant behaviour of taxpayers the IRAS selects companies that pose higher risk of non-compliance. The IRAS has a systematic method of selecting companies for audit.<br><br>A typical tax audit process starts with the tax authority contacting the taxpayer by telephone or correspondence to inform that the taxpayer has been selected for an audit. This is followed by an interview for the tax authority to get a better understanding of the taxpayer's business operations and accounting systems. Examination of books and records is done either at the taxpayer's premises or the tax authority's office. The scope of the audit is usually on the current year of assessment but may be extended to cover earlier years.<br><br>Upon completion of the audit, the taxpayer will be informed of any adjustments to be made to the tax assessments and the respective notices of assessment, if any will be issued to the taxpayer. The taxpayer will also be advised on the areas which need improvement so as to better comply with the tax laws.<br><br>Depending on the seriousness of errors or omissions discovered during tax audit, the IRAS can impose penalties of two or three times of the tax amount undercharged. In the case of serious fraudulent tax evasion, penalties of four times of the tax undercharged can be imposed. Taxpayers can also be prosecuted for fraudulent tax evasion with imprisonment terms of up to five years. |
| Appeals | Currently, a taxpayer has up to 30 days from the date of service of the Notice of Assessment to file a Notice of Objection. With effect from 1 January 2014, the deadline to file a Notice of Objection will extended to two months from the date of service of the Notice of Assessment. |
| Tax governance | The IRAS has ongoing education campaigns and enforcement programmes to help taxpayers comply with tax obligations. One such programme is the GST Assisted Compliance Assurance Programme (ACAP), a compliance initiative for businesses to set up a robust GST Control Framework as part of good corporate governance. To encourage businesses to improve their record keeping standards, the IRAS provides subsidised accounting software.<br><br>The IRAS also has a Voluntary Disclosure Programme that is aimed at encouraging taxpayers that have made errors in their tax returns to voluntarily disclose their errors and rectify those errors at reduced penalties. |

# THAILAND

## Corporate Income Tax

| Corporate Income Tax | Corporate Income Tax |
|---|---|
| Tax Rate | 23 percent – For accounting periods beginning 1 January 2012 to 31 December 2012<br><br>20 percent – For two accounting periods beginning on or after 1 January 2013 |
| Residence | All companies, including other forms of legal entities, that are registered under Thai law, or that are incorporated under foreign law and carry on business in Thailand, are subject to corporate income tax.<br><br>All income of companies registered under Thai law is subject to corporate income tax. Companies registered under foreign law and carrying on business in Thailand are taxed on their net profits arising from their business activities in Thailand. |
| Compliance requirements | Thailand operates a self-assessment system for filing income tax returns, with significant penalties for non-compliance.<br><br>Corporate income tax is payable in two instalments each year. Half-year corporate income tax returns must be filed by the end of the eighth month of the accounting year. Annual corporate income tax returns must be filed within 150 days of the end of accounting year. |
| International Withholding Tax Rates | Dividends paid to non-residents will be subject to withholding tax at 10 percent.<br><br>Royalties paid to non-residents will be subject to withholding tax at 15 percent if paid to a company not carrying on a business in Thailand. However, this rate may be reduced by an applicable tax treaty.<br><br>Interest paid to non-residents is subject to withholding tax at 15 percent. This rate may be reduced to 10 percent if the interest payment is made to a financial institution and a tax treaty is applied.<br><br>Non-residents are liable to 15 percent tax on capital gains realized on the disposal of Thai shares if acquired by a Thai resident. This tax may be reduced or eliminated by an applicable tax treaty. |
| Holding rules | Generally, dividends are fully taxable.<br><br>Dividends received from a Thai subsidiary by a Thai company which is not listed on the Security Exchange of Thailand (SET) are subject to a 50 percent exemption. The exemption is increased to 100 percent if the recipient of the dividend is a Thai company which is listed on the SET; or owns at least 25 percent of the issued shares of the Thai subsidiary with no cross-shareholding (i.e. the company paying the dividend must not hold shares in the recipient company). A Thai company shall be eligible for these 50 percent and 100 percent tax exemptions only if it holds shares in the Thai subsidiary that pays the dividend for three months prior to the dividend being paid and for three months after. |



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| Holding rules (cont'd) | Dividends received from non-Thai subsidiaries are fully exempt if at least 25 percent of the voting rights in the subsidiary have been held for six months prior to the dividend being paid, and the dividend is paid from a net profit which has been subject to income tax or profit tax at the rate of 15 percent or more.<br><br>Thailand does not impose a separate tax on corporate capital gains. Any gains arising from the disposition of assets, regardless of the purpose for which the assets were acquired, are treated as ordinary income subject to corporate income tax. |
| Tax Losses | Current period offset – there is no limitation to the amount of losses able to be offset. Tax losses may be carried forward for five years.<br><br>No carry-back of tax losses is permitted in Thailand. |
| Tax Consolidation / Group relief | There is no tax consolidation regime in Thailand, nor is there provision for corporate group relief of losses. |
| Transfer of shares | The transfer of shares is subject to stamp duty of 0.1 percent. |
| Transfer of assets | Stamp duty of 0.5 percent applies on the transfer of land and buildings. However, the transfer may be subject to Special Business Tax at 3.3 percent and a land transfer government fee of 2 percent. Where a transfer is subject to Special Business Tax, no stamp duty applies.<br><br>Other transfers of tangible assets and intangible assets are subject to normal tax implications (i.e. VAT at seven percent and corporate income tax on the gain of the transfer of the assets). |
| CFC rules | There is no CFC regime in Thailand. |
| Transfer Pricing | Thailand's transfer pricing regime is consistent with the OECD model (i.e. arm's length basis).<br><br>Thai businesses are required to ensure that the pricing of transactions with related parties is based on one of the accepted methodologies and that the process of establishing transfer prices is appropriately documented.<br><br>The Thai Revenue Department accepts both APAs and MAPs. |
| Thin Capitalisation | Thailand has no thin capitalisation regime. However, if a tax incentive has been granted by the Board of Investment (BOI), the thin capitalisation ratio cannot exceed 3:1. |
| General Anti-avoidance | Thailand does not have general anti-avoidance provisions. |
| Anti-treaty shopping | Thailand does not have specific provisions related to anti-treaty shopping. |
| Other specific anti-avoidance rules | Thailand does not have any other specific anti-avoidance provisions. |

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| Rulings | Rulings may be requested from the Thai tax authority. Most of the rulings are published on the Revenue Department's website. |
| Intellectual Property Incentives | Thailand has no specific intellectual property (IP) incentives, but IP is tied to R&D incentives (see below). |
| R&D Incentives | There are tax exemptions on license fees, and a double deduction for qualified R&D expenses. |
| Other incentives | Tax-related relief and other incentives are granted to Thai and foreign companies investing in BOI promoted projects. However, the BOI does not grant promotional incentives to a branch office of a foreign company. Activities eligible for promotion are specified in guidelines issued by the BOI. Activities not specifically listed in the BOI guidelines may nevertheless still be eligible for promotion if considered to be of benefit to the Thai economy and are in accordance with national development objectives.<br>Examples of BOI tax incentives include:<br>• Import duty exemptions<br>• Tax holidays<br>• Tax rate reductions<br>• Enhanced deductions<br>• Tax-exempt dividends<br>In addition, Thailand offers a regional operating headquarters tax incentive, provided certain conditions are met. These incentives include a reduced corporate tax rate, reduced tax rate on interest and royalties and an exemption on dividends. |
| Hybrid Instruments | There are no specific rules applicable to hybrid instruments, and generally, the tax treatment follows the contractual arrangement and accounting treatment. |
| Hybrid entities | There are no specific rules applicable to hybrid entities, and generally, the tax treatment follows the legal classification under the Thai Revenue Code and the accounting treatment. |
| Special tax regimes for specific industries or sectors | • Petroleum industry (oil and gas exploration/exploitation companies): a 50 percent petroleum income tax is imposed on profits earned from petroleum sales.<br>• SME (company with no more than THB 5million of paid up capital and turnover from sales or services of not more than THB 30million): progressive CIT rate starting with a zero percent tax bracket scaling up to a highest bracket of 20 percent.<br>• Foreign juristic corporations carrying on the business of international transportation: 3 percent tax on their gross incomes before deduction of expenses.<br>• Banking companies are generally subject to 3.3 percent Specific Business Tax in lieu of 7 percent VAT. |

## International Treaties for the Avoidance of Double Taxation

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|---|---|---|---|---|
| In Force | Armenia | France | Mauritius | Slovenia |
| | Australia | Germany | Myanmar | South Africa |
| | Austria | Hong Kong | Nepal | Spain |
| | Bahrain | Hungary | Netherlands | Sri Lanka |
| | Bangladesh | India | New Zealand | Sweden |
| | Belgium | Indonesia | Norway | Switzerland |
| | Bulgaria | Israel | Oman | Taiwan |
| | Canada | Italy | Pakistan | Turkey |
| | Chile | Japan | Philippines | Ukraine |
| | China | Korea (Republic of) | Poland | United Arab Emirates |
| | Cyprus | Kuwait | Romania | United Kingdom |
| | Czech Republic | Laos | Russia | Unites States |
| | Denmark | Luxembourg | Seychelles | Uzbekistan |
| | Finland | Malaysia | Singapore | Vietnam |
| Negotiated, not yet in force at time of publication | Treaties with Belarus, Egypt, Estonia, Ireland, Kenya, and Mongolia have been negotiated but are not in force at the time of writing. | | | |

## Indirect Tax (i.e. VAT/GST)

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| Indirect Tax | Value Added Tax (VAT) |
| Standard Rate | The VAT rate at the time of writing is a reduced rate of 7 percent (standard rate is 10 percent).<br>Certain goods and services are zero-rated or exempt from VAT. |
| Further information | For more detailed indirect tax information on various countries, refer to:<br>KPMG's VAT/GST Essentials |

## Personal Taxation

| | |
|---|---|
| Income Tax | Personal income tax |
| Top Rate | Net taxable income is taxed at progressive rates up to 37 percent. The maximum current tax rate applies to income exceeding THB 4million in the case of both residents and non-residents. |
| Social Security | Resident and non-resident employees are required to make contributions to Thailand's social security fund. Contributions to the social security fund are made by employers and employees in equal proportions. The current rate of contribution by each party is a reduced rate of 4 percent of the employee's income, up to a maximum amount of THB 600 per month (standard rate is 5 percent, up to maximum amount of THB 750) |
| International Social Security Agreements | There is a treaty between the Netherlands and Thailand on the transfer of social security benefits. |
| Further information | For more detailed personal taxation information, refer to:<br>KPMG's Thinking Beyond Borders |

## Other Taxes

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| Specific business tax (SBT) | Certain Thai businesses are excluded from the VAT system and are, instead, subject to SBT. SBT is calculated as a percentage of gross receipts and the rate varies between 2.75 percent and 3.3 percent. SBT applies to the following businesses:<br>• Banking and similar<br>• Finance, security and credit<br>• Factoring<br>• Life insurance<br>• Pawnshop brokerage<br>• Sale of securities in stock market (although these are currently exempt from SBT)<br>• Trading in immovable property |
| Customs duty | Customs duty is levied on both imports and some categories of exports. Import duties are levied on a specific, ad valorem or compound basis. The compound basis is a combination of the specific and ad valorem basis (whichever is higher). The duty rates generally range between one percent and 20 percent, except for some luxury products (e.g. cigarettes, liquor and vehicles) which may be as high as 60 percent.<br>Export duties are generally imposed on only two groups of commodities, comprising rawhide and wood. |

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| Excise duty | Excise duty is imposed on commodities based on a specific, ad valorem or compound basis. The compound basis is a combination of the specific and ad valorem basis (whichever is higher). The excise tax is applied to a range of products whether manufactured locally or imported. The tax liability arises on locally manufactured goods when the products are shipped from the factory. On imported goods, excise tax is imposed on importation.<br><br>In addition to excise duty, interior tax at the rate of 10 percent is imposed on the excise duty amount for all the above products, except tobacco and cards. |
| Stamp duty | A number of documents and transactions are subject to stamp duty. Rates depend upon the class of instrument, but in general are between 0.1 percent and 1 percent, although for certain instruments the stamp duty is capped (e.g. for loan documents stamp duty is capped at THB 10,000). |
| Property taxes | A house and land tax is levied at the rate of 12.5 percent of the assessed rental value of the property. It is levied on the owner of the building, but does not apply to owner-occupied residences. |
| Inheritance tax | There is no inheritance tax in Thailand. |
| Gift tax | There is no gift tax in Thailand. |

## Free Trade Agreements

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|---|---|
| In force | Australia, Japan, Peru<br>India, New Zealand<br>ASEAN –<br>Brunei Darussalam, Lao, Philippines, Thailand<br>Cambodia, Malaysia, Singapore, Vietnam<br>Indonesia, Myanmar<br><br>ASEAN – China<br>ASEAN – India<br>ASEAN – Japan<br>ASEAN – South Korea<br>ASEAN – Australia – New Zealand |

| | |
|---|---|
| In negotiation | Chile<br>European Union<br>ASEAN – Japan – S. Korea – China,<br>ASEAN – Japan – S. Korea – China – Australia – New Zealand – India.<br>Thailand – BIMSTEC (Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka, Thailand)<br>Thailand – EFTA (Iceland, Liechtenstein, Norway, and Switzerland)<br>Source: FTA Department of Trade Negotiations, Thailand |

## Tax Authority

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|---|---|
| Tax Authority | The Revenue Department<br>The Revenue Department |
| Tax audit activity | The tax authority predominantly adopts a risk based approach to the selection of returns for audit. A tax audit will be performed for every tax refund requested. In the past few years, the tax authority has begun to implement a routine tax review, where an audit may be performed regularly, between one to three years, depending on the taxpayer's size or operating results.<br>A typical tax audit commences with a letter requesting the provision of supplementary analysis or information. Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any correspondence is received from the tax authority.<br>The typical length of an audit period varies on a case by case basis, and the more complex cases may take a substantial length of time before a resolution is reached.<br>Generally, the tax authority focuses on income tax in tax audits; however this can be expanded to cover other taxes including VAT and withholding tax. A transfer pricing audit may be conducted separately by the transfer pricing team in the tax authority. |
| Appeals | If the original assessment is conducted by the District Revenue Offices, the taxpayer must appeal the assessment within 15 days from the date of receipt of the assessment notification.<br>If the original assessment is conducted by other Revenue Offices, the taxpayer must appeal the assessment within 30 days from the date of receipt of the assessment notification.<br>It should be noted that an appeal does not defer payment of taxes and duties. |

# VIETNAM

## Corporate Income Tax

| Corporate income tax | Corporate income tax |
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| Tax rate | The standard corporate tax rate is 25 percent.<br><br>A new standard corporate tax rate of 22 percent will apply from 1 January 2014, reducing to 20 percent from 1 January 2016.<br><br>Preferential tax rates can be obtained for encouraged projects. See 'Other incentives' section for further details.<br><br>Certain industries may have a higher tax rate applied (e.g. oil and gas operations and natural resources industry – 32 percent to 50 percent). |
| Residence | Corporate income tax applies to all domestic and foreign entities that invest in Vietnam – i.e. companies incorporated under Vietnamese laws and those which are incorporated under foreign law and carry on a business in Vietnam. |
| Compliance requirements | Assessment system: Generally self assessment.<br><br>There are four types of filling, as follows:<br><br>● Quarterly return (i.e. the 30th day following the end of each quarter)<br><br>● Annual return (i.e. the 90th day following the end of the calendar year or fiscal year)<br><br>● Ad hoc (transaction based) returns (i.e. the 10th day following the date of incurrence of tax liability)<br><br>● Return for cessation of business, completion of contract, change of ownership or re-organisation (i.e. the 45th day following the event or completion of the transaction) |
| International withholding tax rates | Dividends paid to non-resident corporate investors are not subject to withholding tax.<br><br>Royalties paid to a foreign party for the right to use or license of patents, inventions, industrial property, designs, trademarks, copyright and technical knowhow (broadly referred to as 'transfer of technology') are subject to withholding tax of 10 percent. Where a tax treaty provides for a lower rate and conditions are met, the tax treaty rate should apply.<br><br>Withholding tax of 5 percent is applicable to interest and any other amounts charged by the offshore lender in connection with loan agreement. An offshore loan provided by certain government or a semi-government institution may be eligible for an exemption, where a tax treaty applies.<br><br>Vietnam has a 'foreign contractor tax' regime. The regime covers the taxation of outbound cross-border remittance of contract payments by a resident entity to overseas goods and services providers. Refer to the 'Other Taxes' section for further details. |

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| Holding rules | Distributions repatriated abroad by foreign invested enterprises are not subject to withholding tax. A foreign investor generally may repatriate its after-tax dividends out of Vietnam after fulfilling all tax and financial obligations towards the Vietnamese Government.<br><br>Dividends (after tax) received from a domestic business by another domestic business are also not subject to further tax; however, gross dividends (before tax) received by a domestic business from a foreign business are treated as taxable income of the domestic business. Any foreign tax which is paid on the part of income out of which dividends are paid will be deductible against the corporate tax payable in Vietnam (up to the equivalent of Vietnamese corporate tax payable on that income).<br><br>Vietnam does not have a separate "capital gains tax" regime. Capital gains made by an enterprise in Vietnam will form part of the taxable income of the enterprise and will be taxed at the prevailing standard corporate tax rate. There are specific rules for corporate income tax imposed on the transfer of capital in an enterprise or sale of securities by investors. The purchase price and transfer expenses are generally deducted from the transfer price in order to calculate the taxable capital gain. |
| Tax losses | Tax losses of business establishments may be carried forward fully and consecutively and offset against the profits of subsequent years for a maximum of five years. Carry back of tax losses is not allowed. |
| Tax consolidation / group relief | The current corporate tax provisions do not address the concept of grouping/consolidation. The prevailing regulations do not allow profits and losses to be offset between companies within a group. |
| Transfer of shares | Generally, gains from transfer of shares are taxed at the prevailing standard corporate tax rate.<br><br>Currently there is no registration fee on the transfer of shares. |
| Transfer of assets | Gains from transfer of of assets should be subject to the prevailing standard corporate tax rate.<br><br>Where a registerable asset (such as houses, land, ships, cruisers and boats, automobiles, motorcycles, aircrafts etc.) is transferred, the new owner will be required to pay registration fees. Registration fee rates vary from 0.5 percent to 20 percent depending on the asset transferred. |
| CFC rules | Vietnam does not have specific "CFC" rules. However, a Vietnamese enterprise, which derives income from an investment project in a foreign country must declare and pay corporate tax in respect of the foreign income, including the case where it enjoys tax reduction or exemption under the law of the foreign country. The foreign income will be taxed the prevailing standard corporate tax rate, even if the Vietnamese enterprise enjoys an exemption or a reduced tax rate pursuant to the current law on corporate tax.<br><br>Where foreign income has been subject to any foreign tax, which is "similar" to Vietnamese corporate tax, the Vietnamese enterprise in principle may claim a foreign tax credit up to the equivalent of tax payable under Vietnamese corporate tax law. |

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| Transfer pricing | Transfer pricing has become one of the tax authorities' priorities in relation to tax administration in the current years. Latest regulation places emphasis on the need for taxpayers to adhere to the transfer pricing guidelines and clearly defines (amongst others), related party transactions which are subject to the transfer pricing rules, transfer pricing methods and compliance requirements.<br><br>The tax authorities are given power to make transfer price adjustments with respect to non-arm's length related party transactions and taxpayers' failure to comply with the transfer pricing requirements.<br><br>Taxpayers are required to disclose their related party transactions when filing their annual corporate tax return. In addition, the burden of proof is on taxpayers to demonstrate that related party transactions are carried out on arm's length terms. Therefore, taxpayers are required to prepare and maintain contemporaneous transfer pricing documentation.<br><br>The Government has recently issued guidance on Advanced Pricing Agreements (APAs). |
| Thin capitalisation | Currently, there are no specific tax-driven thin capitalisation rules in Vietnam. However, certain restrictions to that effect can be found in the regulations on foreign loans and corporate income tax (e.g. permitted borrowing capacity and excessive interest rates). |
| General anti-avoidance | There are no specific anti avoidance rules in Vietnam. However, the tax authorities have the power to carry out tax audits of any taxpayer to determine tax obligations. For 2013, a new rule has been passed in the tax administration law limiting the statute of limitations to 10 years. |
| Anti-treaty shopping | Currently, Vietnam does not have any legislation on anti-treaty shopping. |
| Other specific anti-avoidance rules | None. |
| Rulings | Formal rulings are allowed and relatively common in Vietnam. Official letters issued by General Department of Taxation and Tax Departments are apply to all relevant taypayers or specific organization/individual and can be used as reference. |
| Intellectual property incentives | Newly established enterprises involving certain high technology projects; scientific research and technology development projects; and software production projects may be eligible for incentives. |
| R&D incentives | Tax law allows corporate taxpayers incorporated under Vietnamese laws to set aside a fund up to 10 percent of its annual taxable income for research and development (R&D) purposes and deduct the same amount from its taxable income. Taxpayers self-determine the rate to be provided for R&D and are required to report details of their R&D expenditure to the tax authority together with their annual tax return.<br><br>The R&D provision may only be utilised for R&D activities in Vietnam and must be substantiated by proper invoices and supporting documentation. |

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| Other incentives | Preferential tax rates can be obtained for encouraged projects:<br>● A 20 percent rate is applicable to relevant enterprises with total annual revenue not exceeding VND 20 billion.<br>● Incentives rates can decrease to 17 percent from 1 January 2016 if certain conditions are met.<br>● A 10 percent rate is applicable to relevant enterprises implementing projects on investment trading of social housing.<br>Preferential tax treatments such as tax exemption, tax reduction, and preferential rates are limited to:<br>● Encouraged sectors including: healthcare, education, high-tech, infrastructure development, and software;<br>● Encouraged special economic zones or areas with difficult socio-economic conditions.<br>The taxpayer must self-assess the applicable incentives in accordance with the current tax regulations. |
| Hybrid instruments | There are no special rules related specifically to hybrid instruments in Vietnam. |
| Hybrid entities | There are no special rules applicable to hybrid entities in Vietnam. |
| Special tax regimes for specific industries or sectors | There are some specific tax rules that apply to the Oil and Gas, Mining and Real Estate industries. |

## Income Tax Treaties for the Avoidance of Double Taxation

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| In Force | Australia | Hong Kong | Malaysia | Singapore |
| | Austria | Hungary | Mongolia | Slovak Republic |
| | Bangladesh | Iceland | Morocco | Spain |
| | Belarus | India | Myanmar | Sri Lanka |
| | Belgium | Indonesia | Netherlands | Sweden |
| | Brunei | Ireland | Norway | Switzerland |
| | Bulgaria | Israel | Oman | Taiwan |
| | Canada | Italy | Pakistan | Thailand |
| | China | Japan | Philippines | Tunisia |
| | Cuba | Korea (Republic of) | Poland | Ukraine |
| | Czech Republic | Korea (Democratic People's Republic) | Qatar | United Arab Emirates |
| | Denmark | | Romania | United Kingdom |
| | Finland | Kuwait | Russia | Uzbekistan |
| | France | Laos | Saudi Arabia | Venezuela |
| | Germany | Luxembourg | Seychelles | |

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| Negotiated, not yet in force at time of publication | Income Tax Treaties or further treaty protocols with Algeria, Egypt, Kazakhstan, Mozambique, New Zealand, San Marino, and Serbia have been negotiated but are not yet in force at the time of writing.<br>Source: IBFD |

## Indirect Tax (i.e. VAT/GST)

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| Indirect tax | Value Added Tax (VAT) |
| Standard rate | The standard rate of VAT in Vietnam is 10 percent.<br>Exports of goods and services are subject to 0 percent VAT and a concessionary rate of 5 percent applies to specified essential goods. Certain items are exempt from the VAT. |
| Further information | For more detailed indirect tax information, refer to:<br>KPMG's VAT/GST Essentials |

# Personal Taxation

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| Income tax | Personal income tax |
| Top rate | For tax residents, there is a unified progressive tax rates applicable to (worldwide) employment and business income, with a top tax rate of 35 percent. For non-residents, a flat tax rate of 20 percent is applicable to Vietnam-sourced employment income and Vietnam-sourced business income is taxed at 1 percent, 2 percent or 5 percent depending on business activities.<br><br>Other income items e.g. dividends, capital gains etc. are subject to flat rates. |
| Social security | Social, health, and unemployment insurance contributions are compulsory in respect of Vietnamese employees. Health insurance is also applicable to foreigners working in Vietnam under labour contracts. These contributions provide the employees with entitlement to various benefits such as retirement, maternity and healthcare under the public social security and healthcare systems.<br><br>The total contribution rates (i.e. social, health and unemployment insurance) are 21 percent for employers and 9.5 percent for employees, based on gross salary. |
| International social security agreements | Vietnam has not entered into any international social security agreements or treaties. |
| Further information | For more detailed personal taxation information, refer to:<br><br>KPMG's Thinking Beyond Borders |

# Other Taxes

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| Foreign contractor tax (FCT) | FCT is a system of withholding tax applying widely in Vietnam. It is applicable to foreign entities or individuals which carry on business in Vietnam or engage in a transaction with a Vietnamese contracting party but do not have any legal entity in Vietnam in one of the forms prescribed in the Enterprise Law.<br><br>Foreign contractors are taxed through a withholding mechanism. FCT rates vary depending on whether the foreign contractor has a permanent establishment in Vietnam, is registered for Vietnamese Accounting System (VAS) and the length of time the services are provided as well as the nature of supplies. |
| Special sales tax (SST) | SST is a form of excise tax that applies to the production or import of certain goods including cigarettes, cigars, spirits, beer, certain automobiles, assorted types of petrol, air conditioners and the provision of certain services including dance halls, massage parlours, casinos, golf clubs and lotteries.<br><br>SST rates range from 10 percent to 70 percent. Exported goods are not subject to SST. |
| Stamp duty | Stamp duty (formally known in Vietnam as a "Registration Fee") only applies on the required registration of ownership of certain assets, including buildings/land, transportation vehicles and guns.<br><br>Rates vary between 0.5 percent and 20 percent. |
| Inheritance/gift tax | The income from inheritance or gifts in excess of VND10 million is subject to personal income tax at the rate of 10 percent except for inheritances, or gifts of real property between specified family members or next-of-kin. |
| Property taxes | Property tax in Vietnam is levied in the form of three taxes; land-use fee, land rental and non-agricultural land-use tax.<br><br>The land-use fee applies to organisations which are allocated land by the State to develop infrastructure for sales or for lease are subject to the payment of land-use fee. The duration of land usage under this category should be "long term stable use".<br><br>Land rental is the amount an investor may lease (or rent) land in Vietnam. The amount varies depending on a number of factors including location of the land and the value of the land. Payment of the lease can be for a long fixed period of time or annually.<br><br>Non-agricultural land-use tax applies to residential land in rural/urban areas and non-agricultural land used for business purposes. The calculation of tax liability is based on the land area, price of land and tax rate. |

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| Natural resource tax (NRT) | NRT (also known as production royalty tax) is imposed on the exploitation and use of natural resources including metallic or non-metallic minerals, crude oil, natural gas, coal gas, natural forest products, natural marine products, natural water, swallow's nests, and other natural resources. The applicable tax rates vary depending on the specific classification of natural resources and/or production output. |
| Business license tax (BLT) | BLT is imposed on economic organisations in accordance to the registered capital in the business registration license or the investment license, ranging from VND1 million to VND3 million per year.<br><br>Payment of BLT is due upon registration of business for tax purpose and subsequently on an annual basis. |
| Environment protection tax and fee | Vietnam introduced Environment Protection Tax (EPT) in 2012, which is aimed to impose tax on goods, which may cause damage to the environment, such as gasoline, oil and grease, coal and certain chemicals.<br><br>Beside EPT, Vietnam has also introduced Environment Protection Fee (EPF). EPF is aimed at businesses engaging in mining natural resources including crude oil, natural gas, coal gas, and both metallic and non-metallic minerals. Rates vary depending on the type of mineral. |

## Free Trade Agreements

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| In Force | Bilateral agreements:<br>• Canada<br>• Chile<br>• European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)<br>• Israel<br>• Japan<br>• Switzerland<br>• United States of America<br><br>ASEAN agreements:<br>• ASEAN – Australia – New Zealand Free Trade Area (AANZFTA) is a free trade area between ASEAN and ANZCERTA, in effect as of 1 January 2010;<br>• ASEAN–China Free Trade Area (ACFTA), in effect as of 1 January 2010;<br>• ASEAN–India Free Trade Area (AIFTA), in effect as of 1 January 2010;<br>• ASEAN–Japan Comprehensive Economic Partnership (AJCEP), in effect as of 1 December 2008; and<br>• ASEAN–Korea Free Trade Area (AKFTA), in effect as of 1 January 2010. |

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| Being negotiated | • ASEAN-Canada Trade and Investment Framework Agreement: (TIFA)<br>• ASEAN-EU<br>• Vietnam-EU: (EVFTA)<br>• Vietnam – FTA of EU: (EFTA)<br>• Trans-Pacific Partnership: (TTP)<br>• Vietnam-Korea: (AKFTA)<br>Source: WTO International Centre, wtocenter.vn |

## Tax Authority

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| Tax authority | General Department of Taxation, which is directly under the Ministry of Finance.<br>General Department of Taxation |
| Tax audit activity | A tax audit may be opened into any tax return filed. The tax authority generally takes a risk based approach to the selection of returns for tax audit. However, some tax audits are opened based simply on random selection. In our experience, the majority of companies can expect to be audited by the tax authority approximately every 5 years, although some companies are audited every year.<br>The tax authority's approach to tax audits is largely a manual approach including detailed consideration of invoices and key documents. A typical tax audit commences with a site visit, questionnaire, or letter requesting provision of supplementary analysis or information. Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any correspondence is received from the tax authority.<br>Key focus areas for the tax authority in tax audits conducted in recent years have included:<br>• Transfer pricing<br>• Corporate income tax<br>• Value added tax<br>• Personal employment income tax<br>The tax authority sometimes uses data analysis technology in order to enhance the targeting and focus of their tax audit activity. |
| Appeals | Upon the receipt of tax audit report, a company is entitled to appeal against the tax authority. However, in practice, this is a very complicated issue and most companies do not proceed with an appeal. |
| Tax governance | There are some schemes that encourage good governance for customs duties but not for other taxes at present in Vietnam. However, all businesses would be encouraged to periodically review their tax risks, governance and controls across their various relevant national and international tax compliance obligations, as appropriate to their size and complexity. |

# KPMG ASEAN CONTACTS


## Brunei Darussalam
Shazali Sulaiman
Partner
KPMG in Brunei Darussalam
T +67 322 6888
E shazalisulaiman@kpmg.com.sg

## Cambodia
Michael Gordon
Partner
KPMG in Cambodia
T +85 5232 16899
E mgordon@kpmg.com.kh

## Indonesia
Abraham Pierre
Partner, Head of Tax
KPMG in Indonesia
T +62 2157 04888
E abraham.pierre@kpmg.co.id

## Laos
Mark Jerome
Partner
KPMG in Laos
T +85 6219 00344
E mjerome@kpmg.com

## Malaysia
Nicholas Crist
Executive Director
KPMG in Malaysia
T +60 3772 13388
E nicholascrist@kpmg.com.my

## Myanmar
Ola Nicolai Borge
Executive Director
KPMG in Myanmar
T +95 1 527103
E oborge1@kpmg.com

## Philippines
Emmanuel Bonoan
Principal, Head of Tax
KPMG in the Philippines
T +63 2885 7000 ext. 200
E ebonoan@kpmg.com

## Singapore
Tay Hong Beng
Partner, Head of Tax
KPMG in Singapore
T +65 6213 2565
E hongbengtay@kpmg.com.sg

## Thailand
Benjamas Kullakattimas
Partner in charge, Head of Tax
KPMG in Thailand
T +66 2677 2426
E benjamas@kpmg.co.th

## Vietnam
Warrick Cleine
Chief Executive Officer,
Head of Tax
KPMG in Vietnam
T +84 8 3821 9266 ext. 8200
E warrickcleine@kpmg.com.vn

## KPMG Asia Pacific Tax Centre

Brahma D Sharma
KPMG Asia Pacific Tax Centre Leader
and Regional Partner
T +65 8186 7369
E brahmasharma@kpmg.com.sg

Rick Asquini
Regional Partner
KPMG in Singapore
T +65 6213 3300
E rickasquini@kpmg.com.sg

www.kpmg.com/asiapacifictaxcentre

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