



Asia Pacific Tax Developments

Australia

Australia: Capital or Revenue?

The decision of the High Court of Australia highlights that when characterising a payment as either capital or revenue, one must look at the 'practical and business' rationale and the particular circumstances and facts relating to a transaction.

[More details](#)

Australia: Country-by-country reporting update

The Australia government on 6 August 2015 released two exposure drafts in relation to its multinational tax integrity measures, which:

- Introduce new OECD Country by Country reporting requirements
- Adopt the new OECD standard on transfer pricing documentation (i.e. the Master File/Local File approach) and
- Double administrative penalties for multinational entities that are found to have entered into tax avoidance or profit shifting schemes.

These measures are proposed to apply to multinational groups with annual global revenue of AUS \$1 billion or more—whether Australian headquartered or Australian subsidiaries of overseas headquartered groups of this size.

[More details](#)

Australia: GST – the hidden cost of global engagements

As today's businesses become increasingly globally connected, there is an obvious trend to engage at a global level. However, often indirect taxes, such as goods and services tax (GST), may not be given adequate consideration in the decision to engage at a global

level, resulting in GST being blocked and potentially an unrecoverable cost.

[More details](#)

Australia: Love a new gadget? Time to update your tax process

Tax work is, like technology, always changing so quickly. There are now more expectations on a tax professional than ever before. Just recently the Australian Taxation Office (ATO) released its new governance guide. Tax risk management is an area of continued ATO focus and one which is ever changing. Groups cannot rest on the procedures they have in place and say "we are compliant" for too long without doing any updates.

[More details](#)

Australia: Transfer pricing – a renewed focus on arm's length behaviours?

The Australian Taxation Office expressed the following concerns in respect of Australian members of multinational groups:

- Are taxpayers truly acting as low risk entities or as something more?
- Have Australian taxpayers truly acted in their own best interests or in the interests of the multinational groups?
- Would cross border arrangements be structured the same if agreed at arm's length?

Given this evolving focus, taxpayers should consider the robustness of their existing transfer pricing policies and documentation.

[More details](#)

Australia: Voluntary tax transparency code

The public, investors and stakeholders now expect higher standards of tax compliance and more transparency from large businesses on the way they approach taxation.

The Board of Taxation has been asked to develop a new code by May 2016 on greater public disclosure of tax information by businesses, particularly by multinationals and consultation is underway.

[More details](#)

China

China: Consolidated duty collection is being promoted nationwide

The General Administration of Customs announced that from 27 July 2015, consolidated duty filing has been rolled out nationwide, building on the success of an earlier pilot program.

[More details](#) | [Chinese version](#)

China: Relaxation of immigration requirements to attract foreign talent

The Ministry of Public Security and the State Council introduced a series of relaxed policies and simplified procedures to encourage foreigner individuals and residents from Hong Kong, Macau and Taiwan to take up employment, start up new business and reside in mainland China.

[More details](#) | [Chinese version](#)

India

India: Determination of residential status in India

Lucknow Bench of the Income-tax Appellate Tribunal held that while determining the residential status of an individual under Section 6(1)(a) of the Act, a fraction of a day stayed in India cannot be counted as one complete day of stay.

[More details](#)

India: Even if the composite scheme of arrangement is not a 'demerger' under the Income-tax Act, the scheme shall be approved and liable to appropriate tax implications

The Bombay High Court held that if scheme of arrangement, which is otherwise permissible both under the Companies Act, 1956 and

Income-tax Act, 1961 but does not amount to 'demerger' within the meaning of the Act, may have certain tax implications but cannot be prohibited.

[More details](#)

India: FATCA implementation measures

India's Ministry of Finance on 7 August 2015 published on its website a notification that lists the amendments to the Indian Income-tax Rules, 1962, in order to implement under Indian law, the intergovernmental agreement (IGA) signed with the United States on 9 July 2015.

[More details](#)

India: First APA rollback signed; concerns U.S. Company

India signed its first advance pricing agreement (APA) rollback—a unilateral APA rollback with a U.S. multinational company—since the rollback rules were notified by the Central Board of Direct Taxes (CBDT) in March 2015.

[More details](#)

India: Tax withheld under wrong provision, disallowed

The Kerala High Court held that if the tax is deductible under Section 194J of the Income-tax Act but is deducted under Section 194C of the Act, the disallowance under Section 40(a)(ia) of the Act is still applicable.

[More details](#)

India: Payment for e-learning courses and online information resources is taxable as royalty under the India – Ireland tax treaty

The Authority for Advance Rulings held that e-learning course offerings, online information resources, etc are software and computer databases created by the applicant, included within the ambit of 'literary work' and therefore, are taxable under Article 12(3) (a) of the India-Ireland tax treaty.

[More details](#)

India: Status of GST bill

A bill to implement a goods and services tax (GST) regime in India is pending parliamentary approval. The government introduced the bill in the Rajya Sabha (upper house) on 11 August 2015, but the upper house adjourned on 12 August 2015, thus delaying discussions and voting on the GST bill.

[More details](#)

Calendar of Events

Date	Event	Location
17 August 2015	Managing Global Mobility for Outbound Assignment For more details email Carmen Yong	Petaling Jaya, Malaysia
18 August 2015	Corporate Tax, GST and SFA Regulations Updates for REITs, RBTs and SPVs More details	Singapore
27 August 2015	Costly Mistakes To Avoid in Your GST Return (Run 2) More details	Petaling Jaya, Malaysia
9 September 2015	Managing Global Mobility to Malaysia For more details email Carmen Yong	Petaling Jaya, Malaysia
11 September 2015	Shared Services Round Table Discussion More details	Shanghai
17-18 September 2015	Banking Tax Workshop More details	Singapore
22-23 September 2015	AFR Tax Reform Summit – an opportunity to influence the future More details	Sydney
23 October 2015	Malaysian Tax Budget 2016	Malaysia
26-28 October 2015	2015 KPMG EMA Tax Summit More details	Lisbon, Portugal
28 October 2015	KPMG Malaysia Tax Summit 2015 For more details email Karen Lee	Malaysia
9 December 2015	Managing Employer's Tax Obligations For more details email Carmen Yong	Petaling Jaya, Malaysia

Beyond Asia Pacific

Italy: R&D tax credit; final “implementing decree”

An “implementing decree” was published in Italy’s official gazette in late July 2015, and confirms new research and development (R&D) tax credit measures as announced in the budget law for 2015.

[More details](#)

South Africa: Offshore short-term insurance, deductible reserves

Controlled foreign companies (CFCs) that are engaged in offshore short-term insurance will be allowed to deduct reserves related to their “short-term insurance business” conducted outside South Africa, once an amendment to the Insurance Act, 2016 is promulgated.

[More details](#)

US: Future cost-sharing regulations, controlled transactions involving partnerships

The IRS issued Notice 2015-54 announcing that future regulations will be issued under Code section 482, specifically concerning the cost-sharing rules applicable to controlled transactions involving partnerships, so that the appropriate valuation of such transactions is appropriately determined.

[More details](#)

TaxNewsFlash by Region

For the latest tax developments from other regions see the following links:

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

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