



Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 10 March 2016



Asia Pacific Tax Developments

Australia

Australia: Country by Country Reporting – is non-compliance a strategy?

Australia introduced new Country by Country (CbyC) reporting requirements. However, some entities (particularly Australian subsidiaries of overseas headquartered multinationals) may be unwilling or unable to gather and lodge the required information.

KPMG in Australia discusses the cost of non-compliance with country by country reporting obligations which is likely to be unacceptably high.

[More details](#)

Australia: Foreign Investment in Australia: are the sands shifting?

The Federal Treasurer, the Hon. Scott Morrison, issued a press release announcing new foreign investment approvals will require that applicants comply with a number of conditions as they relate to Australian tax.

KPMG in Australia examines the government's new foreign investment approvals process, aimed at ensuring foreign investors pay the right amount of Australian tax.

[More details](#)

Australia: OECD releases discussion draft on treaty residence of pension funds

KPMG in Australia provides insight into the recently released OECD discussion draft that includes proposals for changes to the OECD Model Tax Convention concerning the treaty residence of pension funds.

[More details](#)

Australia: The widely drafted MAAL – penalty mitigation doorway closing

There is an important deadline on 31 March 2016 in relation to the new multinational anti-avoidance law (MAAL).

KPMG in Australia talks about some important considerations for multinational enterprises ahead of the 31 March 2016 deadline for engagement with the ATO on MAAL.

[More details](#)

China

China: VAT expansion, effective 1 May 2016

Premier Li Keqiang announced at the opening of the National People's Congress on 5 March 2016 that the real estate and construction, financial services and insurance, and lifestyle services industries will all be subject to VAT with effect from 1 May 2016.

KPMG in China examines the implications of this significant policy announcement.

[More details](#)

China: Foreign investment law, access for foreign investors

Foreign direct investment into China reached a new high in 2015. Yet, mergers and acquisitions (M&A) represented a relatively small proportion of total foreign direct investment activity.

A number of factors, such as restrictions on foreign participation in some sectors, lack of suitable investment targets, and challenges in deal process, contributed to a perception that many foreign investors are cool to the prospect of new M&A activity in China. Signals from leadership and policy initiatives have had implications on practical investment matters.

[More details](#)

China: VAT and the digital economy in China

KPMG in China has released a special publication examining the short-and long-term changes that they anticipate may occur in China's indirect tax system as a result of the digital economy.

These changes will likely arise as a result of technological developments, in the ways in which goods and services are delivered and consumed, and in the modernization of China's indirect tax system which was conceived in a pre-internet era.

[More details](#)

India

India: Amendments to Foreign Direct Investment Guidelines in FEMA

The Department of Industrial Policy and Promotion (DIPP) made few changes to the Foreign Direct Investment (FDI) policy through Press Note 7 issued on 3 June 2015 and Press Note 12 issued on 24 November 2015.

To bring these changes into effect, the Reserve Bank of India made necessary amendments to the FEMA 20. These Notifications are effective 15 February 2016.

KPMG in India summarises key amendments made vide these Notifications.

[More details](#)

India: CBDT clarifies taxability of consortium

The Central Board of Direct Taxes (CBDT) issued guidance that sets out factors for use in determining when a consortium of contractors formed for executing engineering, procurement, and construction projects and “turnkey” contracts will not be treated as an “association of persons” for tax purposes.

[More details](#)

India: New notifications to increase thresholds for merger and acquisition transactions and extend target-based exemption

The Ministry of Corporate Affairs (MCA) issued three new notifications on 4 March 2016 in relation to the Competition Act, 2002 (the Act) in continuity to the previously-issued notifications dated 4 March 2011.

The new notifications provide (i) revised threshold limits for turnovers and value for assets for determining transactions which would be covered under Section 5 of the Act and for entities availing the target-based exemption; (ii) extended applicability of the previously issued notifications concerning the target-based exemption.

[More details](#)

India: Government withdraws proposed taxation of provident fund and superannuation

The Finance Minister proposed to withdraw paragraphs 138 and 139 of the Budget speech concerning proposed taxation of provident fund and superannuation.

KPMG in India discusses the proposed withdrawal.

[More details](#)

India: Brand-promotion expenses not “international transaction” for arm’s length standard

The Bangalore Bench of the Income-tax Appellate Tribunal held that advertising, marketing, and sales promotion expenses to promote brand value were incurred only for increasing the taxpayer’s sales, and not those of the foreign related party.

Accordingly, even when these expenses were greater than those of comparable companies, without an agreement between the taxpayer and the foreign related party, these expenses were not an “international transaction” and, as such, the arm’s length price standard does not arise.

[More details](#)

India: India-UK tax treaty benefits

The CBDT clarified that under the income tax treaty with the UK, the treaty provisions apply to a partnership that is a resident of either India or the UK, provided that the income derived by the partnership, estate or trust is subject to tax (either at the partnership or partner level) in the country where the partnership is situated.

[More details](#)

India: Operative Guidelines under M-SIPS

The Department of Electronics and Information Technology (DeitY), Government of India had, vide notification dated 3 August 2015 (the Notification), revised the Modified Special Incentive Package Scheme (M-SIPS or the Scheme) and extended the time frame by five years i.e. 26 July 2020.

[More details](#)

India: Revised guidelines for “stay of demand” when case is before CIT(A)

To streamline the process for granting a stay and to standardise the lump-sum payment required of a taxpayer as a pre-condition for the “stay of demand” in matters disputed before Commissioner of Income-tax (Appeal) [CIT(A)], the CBDT issued revised guidelines concerning the “stay of demand” at the CIT(A) stage.

[More details](#)

India: Tax withheld at source, payments by broadcasters and television channels to production houses, television channels, publishing houses, advertisement companies

CBDT issued guidance clarifying that when content is produced pursuant to specifications provided by a broadcaster / telecaster and the copyright of the content program is also transferred to the broadcaster / telecaster, the contract is covered within the definition of “work” under section 194C of the Income-tax Act, 1961. Thus, this is subject to tax withholding (deduction) at source.

A second guidance from CBDT clarifies that the withholding of tax at source is not required on payments made by television channels / newspaper companies to an advertising agency for booking or procuring of or canvassing for advertisements.

[More details](#)

India: Notification on coverage of Banks under Employees’ Provident Funds and Miscellaneous Provisions Act, 1952

The Ministry of Labour and Employment, Government of India has issued a Notification with regard to the applicability of Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act) on banks.

The government notified that the EPF Act shall apply to all banks, employing twenty or more number of persons as a class of establishment, for those employees who are not entitled to the benefit of contributory provident fund or old age pension under any scheme or rules framed by central government, state government or respective banks established under the Banking Regulations Act, 1949.

[More details](#)

Myanmar

Myanmar: Tax law 2016 passed by parliament

The Myanmar parliament passed the Union Tax Law 2016 ahead of schedule, thereby providing taxpayers with more time to take into account any changes prior to the effective date at the start of the next fiscal year on 1 April 2016.

[More details](#)

New Zealand

New Zealand: A Diamond in the rough: taxpayer wins residence case

The Diamond case confirms that mere availability of a NZ property is not sufficient to create a continuing taxable connection to NZ. It is how that property is used, or intended to be used, that is important.

[More details](#)

Singapore

Singapore: Stronger links between Australian Taxation Office and Foreign Investment Review Board announced

The Treasurer of the Commonwealth of Australia announced that new requirements will be imposed on foreign investment applications to ensure compliance with Australian tax laws. This follows the overhaul of the foreign investment laws implemented at the end of last year. The Treasurer stated that the new requirements will add to the 'already strengthened' framework.

[More details](#)

Singapore: The PATH Act and FIRPTA Tax

President Obama signed the Protecting Americans from Tax Hikes Act of 2015 (the "PATH Act") into law. Among others, these provisions make it easier for real estate investment trusts (REITs) to comply with certain REIT qualification requirements and limit the application of the Foreign Investment in Real Property Tax Act (FIRPTA) to non-US investors.

The Act also provides non-US investors with more opportunities to invest in US real estate without being subject to US tax and withholding.

[More details](#)

Thailand

Thailand: Foreign business license no longer required, banking and insurance

Thailand's Ministry of Commerce in February 2016 issued a regulation providing that foreign companies conducting certain banking and insurance services are no longer required to obtain a "foreign business license" from the government.

[More details](#)

Thailand: Clarifying aspects of tax audit protection program for SMEs

The tax authorities in Thailand have clarified and expanded on the "tax audit exemption program" announced in early 2016 for small and medium size entities (SMEs).

The program basically aims to provide incentives for SME taxpayers to regularize their tax affairs on a forward-looking basis, by providing protection from tax audits.

[More details](#)

Vietnam

Vietnam: Vietnam State Budget and Tax actions in 2016

The Ministry of Finance disclosed that the 2016 State Budget is based on an assumption that crude oil price will remain at \$60 per barrel, however, in early 2016 crude oil price collapsed to below \$35 per barrel. Besides, the reduction of tariffs due to international commitments will also adversely affect to the 2016 State Budget.

Among a number of scenarios to address the 2016 State Budget concerns, the Ministry of Finance set a target to increase domestic revenue by at least 7% to 8%. It is believed that tax audits and inspections will increase in frequency and intensity in 2016.

[More details](#)

Calendar of Events

Date	Event	Location
16 March 2016	Understanding the fundamental principles of Malaysian GST and latest developments More details Contact person: Ms Pershen Kaur	Petaling Jaya, Malaysia
18 March 2016	Asia Pacific Alternative Finance Industry Report Launch More details	Beijing
9 – 12 May 2016	2016 KPMG Asia Pacific Tax Summit More details	Beijing
21 October 2016	2017 Budget Announcement Contact person: Karen Lee	Parliament House, Kuala Lumpur, Malaysia
26 October 2016	KPMG in Malaysia Tax Summit 2016 Contact person: Karen Lee	One World Hotel, Petaling Jaya, Malaysia

Beyond Asia Pacific

Canada: Tax measures expected in federal budget, on 22 March

The recently elected Liberal government is set to deliver the federal budget on 22 March 2016, and it is expected that the budget will unveil significant changes that could affect both individuals and businesses across the country.

[More details](#)

South Africa: Commitment to AEOI / CRS regimes

The Minister of Finance in the 2016 budget speech reiterated South Africa's commitment to combating tax evasion on a global level.

[More details](#)

TaxNewsFlash by Region

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

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

KPMG Asia Pacific Tax Centre Contacts

Asia Pacific Regional Leader, Tax



Warrick Cleine
Partner & CEO, KPMG in Vietnam
T: +84 8 3821 9266
E: warrickcleine@kpmg.com.vn

Asia Pacific Tax Centre Leader, Regional Tax Partner



Brahma Sharma - KPMG Asia Pacific Limited
Asia Pacific Tax Centre Leader, Regional Tax Partner
T: +65 8186 7369
E: brahmasharma@kpmg.com.sg

Asia Pacific Regional Client Service Team

Regional Client Partner



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

Asia Pacific Indirect Tax Compliance Centre of Excellence



Adrienne Mcstocker - KPMG in Singapore
Regional Leader, Asia Pacific Indirect Tax Compliance
T: +65 6597 5810
E: amcstocker1@kpmg.com.sg

Service Line Specialists

Transfer Pricing Services



Tony Gorgas - KPMG in Australia
Asia Pacific Regional Leader, Transfer Pricing Services
T: +61 2 9335 8851
E: tgorgas@kpmg.com.au

Financial Services Transfer Pricing



John Kondos - KPMG in China
Asia Pacific Regional Leader, Transfer Pricing Services in the Financial Services Sector
T: +852 2685 7457
E: john.kondos@kpmg.com

Indirect Tax Services



Lachlan Wolfers - KPMG in China
Asia Pacific Regional Leader,
Indirect Tax Services
T: +85 22 685 7791
E: lachlan.wolfers@kpmg.com

Trade & Customs



Angelia Chew - KPMG in Singapore
Asia Pacific Regional Leader,
Trade & Customs Services
T: +65 6213 3768
E: angeliachew@kpmg.com.sg

Global Compliance Management Services



Oi Leng Mak - KPMG in Singapore
Asia Pacific Regional Leader,
Global Compliance Management
Services
T: +65 6213 7319
E: omak@kpmg.com.sg

Global Mobility Services



Andy Hutt - KPMG in Australia
Asia Pacific Regional Leader,
Global Mobility Services
T: +61 2 9335 8655
E: ahutt@kpmg.com.au

International Tax



Christopher Xing - KPMG in China
Asia Pacific Regional Leader,
International Tax
T: +852 2978 8965
E: christopher.xing@kpmg.com

Deal Advisory M&A Tax



Angus Wilson - KPMG in Australia
Asia Pacific Regional Leader,
Deal Advisory M&A Tax
T: +61 2 9335 8288
E: arwilson@kpmg.com.au

Research & Development (R&D) Tax Incentives



Alan Garcia - KPMG in China
Asia Pacific Regional Leader,
R&D Tax Incentives
T: +86 21 2212 3509
E: alan.garcia@kpmg.com

Dispute Resolution and Controversy



Angela Wood - KPMG in Australia
Asia Pacific Regional Leader,
Dispute Resolution and
Controversy
T: +61 3 9288 6408
E: angelawood@kpmg.com.au

Legal Services



David Morris - KPMG in Australia
Asia Pacific Regional Leader,
Legal Services
T: +61 2 9455 9999
E: davidpmorris@kpmg.com.au

Market Sector Specialists

Financial Services



Christopher Abbiss - KPMG in China

**Asia Pacific Regional Tax Leader,
Financial Services and Banking Sector**

T: +852 2826 7226

E: chris.abbiss@kpmg.com

Alternative Investments & Private Equity



Simon Clark - KPMG in Singapore

Asia Pacific Regional Tax Leader, Alternative Investments and Private Equity sector

T: +65 6213 2152

E: simonclark1@kpmg.com.sg

Sovereign Wealth and Pension Funds



Angus Wilson - KPMG in Australia

**Asia Pacific Regional Leader,
Sovereign Wealth and Pension Funds Sector**

T: +61 2 9335 8288

E: arwilson@kpmg.com.au

Energy & Natural Resources



Carlo Franchina - KPMG in Australia

**Asia Pacific Regional Tax Leader,
Energy & Natural Resources Sector**

T: +61 8 9263 7239

E: cfranchina@kpmg.com.au

Insurance



John Salvaris - KPMG in Australia

**Asia Pacific Regional Leader,
Insurance Sector**

T: +61 3 9288 5744

E: jsalvaris@kpmg.com.au

<https://home.kpmg.com/xx/en/home/services/tax/regional-tax-centers/asia-pacific-tax-centre.html>

www.kpmg.com/tax

kpmg.com/socialmedia



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2016 KPMG International Cooperative ("KPMG International"), a Swiss entity. Member firms of the KPMG network of independent firms are affiliated with KPMG



kpmg.com/app



International. KPMG International provides no client services. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International, a Swiss entity.