



# Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 24 March 2016



## Asia Pacific Tax Developments

### Australia

#### **Australia: ADR and the ATO: How the 0.0007% is achieved**

The Commissioner's address to the Tax Institute 31<sup>st</sup> National Convention noted that of all returns lodged last year there were only 26,000 disputes between taxpayers and the ATO (0.0007 percent of total lodgments). Of those 0.0007 percent disputes only 150 proceeded through to judgment by a Court.

This indicates two things:

- The ATO's focus on early engagement with taxpayers has resulted in a reduction in the number of disputes and in cases proceeding to judicial decision; and
- Alternative dispute resolution (ADR) is playing an increasing role in the ATO's approach to managing disputes between taxpayers and the Commissioner.

[More details](#)

#### **Australia: Can Australia catch the innovation wave without R&D tax incentives?**

The review of the R&D tax incentive program presents an interesting dilemma. The government wants to catch the innovation wave but needs to avoid 'cutting in' on innovative entrepreneurs who have subsidised their R&D through the R&D tax incentive.

[More details](#)

#### **Australia: Celebrate your ICT innovation with an iAward**

KPMG in Australia encourages applications for the iAwards, a national awards program, proudly sponsored by KPMG, that has been recognising Australian information and communications technology innovation for over two decades. [More details](#)

## Australia: GST law changes: Impact for Australian residents

While the proposed legislative changes in Tax and Superannuation Laws Amendment (2016 Measures No. 1) Bill 2016 are clearly targeted at non-residents, the proposed changes to the goods and services tax (GST) free provisions also affect Australian resident suppliers.

KPMG in Australia analyses the potential impact of the proposed changes in GST-free supply rules.

[More details](#)

## Australia: Selling Australian property? New WHT rules

From 1 July 2016 new laws will take effect, impacting the sale and purchase of taxable Australian property (TAP). The original focus of these provisions was aimed at non-resident vendors, but has now been expanded.

Regardless of whether the vendor is an Australian resident, a Clearance Certificate must be obtained from the Commissioner to certify that the vendor is not nor will be a foreign resident. Without it, they will be subject to 10 percent withholding tax on the purchase price.

KPMG in Australia discusses the new withholding tax (WHT) rules.

[More details](#)

## Australia: The difficulty in discharging the onus of proof in tax disputes

KPMG in Australia looks at a recent decision of the Full Federal Court highlighting the importance of maintaining contemporaneous records to support tax positions, as the failure to produce such evidence can ultimately be fatal.

[More details](#)

## Australia: The promise of China's digital economy

The surging growth of China's digital economy is spawning innovative new business models and leading to exciting developments in the patterns of Chinese inbound and outbound trade and investment. Tax law and practice needs to catch up with these business developments and anticipated forthcoming tax regulatory changes.

KPMG in Australia discusses the Rapid Chinese B2C market growth and cross border e-commerce opportunities.

[More details](#)

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## China

### China: Summary of tax, customs developments

KPMG in China has released a report discussing various tax developments.

[More details](#)

## **China: Guidance aims for customs clearance efficiency, trade facilitation**

China's General Administration of Customs released GAC Order [2016] No.16 to address a nationwide restriction on direct filing from the company side to the customs authority side. This is the latest action by China's customs authority to foster steady growth of foreign trade and to improve customs clearance efficiency for enterprises.

In order to improve customs clearance efficiency and reduce cost, China's customs authority expressed its intentions to promote reform and innovation using information technologies.

[More details](#)

## **India**

### **India: Tax treatment of income arising from container services**

The Mumbai Bench of the Income-tax Appellate Tribunal in the case of a taxpayer held that income arising from container services cannot be treated as income arising from shipping business since the taxpayer did not own or charter or take on lease any vessel or ship. The taxpayer was only providing container services to various clients and hence the provisions of Section 44B of the Income-tax Act, 1961 were not applicable.

[More details](#)

### **India: Foreign company engaged in outsourcing services has business connection under the Income-tax Act, but not a PE under the India-UK tax treaty**

The Delhi Bench of the Income-tax Appellate Tribunal held that a taxpayer engaged in outsourcing services had a "business connection" in India under the Income-tax Act, but did not have a permanent establishment (PE) under the India-UK income tax treaty.

Since there was no PE in India, the business income was not chargeable to tax in India, and even if there were a PE in India, no profit would be attributed because the PE was compensated at an arm's length price.

[More details](#)

### **India: Guidelines for application of the safe harbour provisions for offshore funds**

The Central Board of Direct Taxes (CBDT) issued guidance concerning the "safe harbour provisions" of section 9A as added to the tax law by the Finance Act, 2015 – that is, the safe harbour that provides an offshore fund will not be construed to have a business connection in India or be considered to be a person residing in India solely on account of an investment manager being situated in India.

[More details](#)

### **India: India's Social Security Agreement with Australia comes into effect**

The Employees' Provident Fund Organisation (EPFO) has issued a circular notifying that the Social Security Agreement (SSA) between India and Australia has come into effect from 1 January 2016. This SSA aims at achieving equality on the principle of reciprocity to benefit employees who are posted in another country, by their employers. The India - Australia SSA is the sixteenth SSA to come into effect.

[More details](#)

## India: No aggregation of transactions for benchmarking in “unusual” circumstances

The Delhi High Court rejected the taxpayer's aggregation or bundling of imports of component parts under the transactional net margin method (TNMM) because the facts in this case demonstrated that the import arrangements, when viewed in their totality, differed from those that would have been made by independent enterprises acting in a commercially rational manner.

The High Court upheld the approach of the Transfer Pricing Officer to benchmark the transactions pertaining to imports of the component parts separately.

[More details](#)

## India: Tax treatment of government subsidies relating to the manufacture or sale of taxpayer's products

The Supreme Court of India held that government subsidies granted to a taxpayer for the transport, interest, insurance, and electric power were revenue receipts, reimbursed to the taxpayer for certain costs relating to its manufacture and sale of products.

The Supreme Court found a direct nexus between profits and gains of the industrial undertaking and the reimbursement of such subsidies. Therefore, the subsidies were to be included in the profits eligible for a deduction claim under sections 80-IB and 80-IC of the Income-tax Act, 1961.

[More details](#)

## New Zealand

### New Zealand: GST on remote services, residential land withholding tax

Two 2015 tax bills have been reported back from the Finance and Expenditure Select Committee of Parliament with a number of changes.

- The first applies GST to non-resident supplies of “remote services” (e.g. digital content) to NZ consumers and a Residential Land Withholding Tax (RLWT) on the sale of NZ land within 2 years by “offshore persons”.
- The second introduces a framework for information sharing and taxpayer communication under Inland Revenue's Business Transformation proposals and new rules for deducting tax on Employee Share Scheme benefits.

[More details](#)

## Significant International Tax Developments



### OECD: Standardized electronic format for exchanging country-by-country reports

The Organisation for Economic Cooperation and Development (OECD) has released a standardized electronic format and a related user guide for the exchange of country-by-country (CbC) reports between jurisdictions.

[More details](#)

## Calendar of Events

Date	Event	Location
13 – 14 April 2016	KPMG Goods and Services Tax (GST) seminar 2016 <a href="#">More details</a>	Orchard Hotel, Singapore
9 – 12 May 2016	2016 KPMG Asia Pacific Tax Summit <a href="#">More details</a>	Beijing
21 October 2016	2017 Budget Announcement Contact person: <a href="#">Karen Lee</a>	Parliament House, Kuala Lumpur, Malaysia
26 October 2016	KPMG in Malaysia Tax Summit 2016 Contact person: <a href="#">Karen Lee</a>	One World Hotel, Petaling Jaya, Malaysia

## Beyond Asia Pacific

### **Canada: Tax provisions in 2016 federal budget**

The Finance Minister has delivered Canada's 2016 federal budget. KPMG in Canada summarises key tax measures.

[More details](#)

### **Netherlands: Insurance claims-handling services, VAT exemption**

The Court of Justice of the European Union (CJEU) issued a judgment concerning application of the value added tax (VAT) exemption for insurance claims-handling services.

[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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