



Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 18 August 2016



Asia Pacific Tax Developments

Australia

Australia: ATO reads between the lines on foreign hybrid rules

The Australian Taxation Office (ATO) has released a new draft guidance on the foreign hybrid rules.

The issue in Taxation Determination 2016/D2 is simple. Do you need to be an Australian resident to make an election to treat a (foreign) limited partnership as a foreign hybrid? This has implications for tax attributes such as Australian withholding taxes and capital gains.

[More details](#)

Australia: Do you need to provide a GPFS to the ATO?

The ATO has released a consultation paper seeking to provide more guidance on the new requirement that significant global entities i.e. entities with annual global income of \$1 billion or more, provide the Commissioner a general purpose financial report (GPFR) if they do not already lodge one with the Australian Securities and Investments Commission (ASIC).

KPMG Australia takes a quick look at the consultation paper.

[More details](#)

Australia: Foreign resident withholding tax – vendor considerations

KPMG Australia discusses the recently introduced requirement to withhold tax on the purchase price of real property and indirect real property interests.

Purchasers, either resident or non-resident, will be required to withhold 10 percent of the purchase price of relevant Australian assets (namely taxable Australian real property (TARP) assets and indirect Australian real property interests) purchased from a non-resident vendor.

[More details](#)

Australia: MAAL and the Indirect Tax Zone

Some taxpayers have restructured their arrangements to simplify compliance in the post Multinational Anti-Avoidance Law (MAAL) environment. These restructures have surfaced potentially unintended consequences in relation to the application of Australian goods and services tax (GST).

KPMG Australia examines some unexpected interactions between MAAL and indirect tax compliance, and what the ATO intends to do about them.

[More details](#)

Australia: Reliable residency is closer than ever

KPMG Australia discusses the Public Discussion Draft (the DD) released by the Organisation for Economic Co-operation and Development (OECD) and what this means for Australia super funds.

The DD proposes to alter the OECD Model Tax Convention and the supporting commentary to redefine residency to include pension funds, and thereby facilitate ASFs access to treaty rates of withholding tax.

[More details](#)

China

China: China Tax weekly update – Issue 31

KPMG China has issued a newsletter that provides various tax updates on:

- Jiangsu tax bureau to further push forward the development of international tax (Su Guo Shui Fa [2016] No. 125)
- Selective tariff policy on domestic sales expanded (Cai Guan Shui [2016] No. 40)
- NDRC plans to expand accelerated depreciation policy to all emerging industries
- Further VAT implementation rules
- BLTB further clarifies the facilitation of tax handling for Beijing taxpayers (BLTB Announcement[2016] No. 10)
- BSTB to take leading role in international tax administration
- MOF solicits opinions on the revised Accounting Standards for Business Enterprises

[More details](#)

Hong Kong SAR

Hong Kong: Management fee, head office recharge arrangements under scrutiny

Hong Kong's Inland Revenue Department continues to challenge transfer pricing arrangements with regards to management fee or head office recharges, and there are reports that the tax authorities are requesting sophisticated information on such cost-recharge arrangements.

KPMG in Hong Kong highlights some common issues observed for companies with intercompany service and cost recharge arrangements and factors these companies should take into consideration when setting the transfer pricing policy.

[More details](#)

India

India: Application of Berry ratio, transfer pricing methodology

The Delhi High Court held that the “Berry ratio” can be applied when the value of the goods is not directly linked to the quantum of profits, and the profits are mainly dependent on expenses incurred.

The High Court thus explained that the Berry ratio can effectively be applied only in certain cases, such as in those involving “stripped-down distributors” because they have no financial exposure and risk in respect of the goods distributed by them.

[More details](#)

India: Book profits

The Central Board of Direct Taxes announced changes or suggestions for a framework with respect to the computation of book profits for minimum alternative tax of certain companies.

[More details](#)

India: Corporate restructuring legislation

The lower house passed a bill, the Taxation Laws (Amendment) Bill, 2016, that includes changes to the terms of “demerger” and amends the rules for deductions by certain taxpayers.

[More details](#)

India: Intellectual property

The Kolkata Bench of the Income-tax Appellate Tribunal held that the intellectual property that is “know-how” does not have to be registered with the government authority for the taxpayer to claim depreciation on the intellectual property.

[More details](#)

India: Penalty for delayed filing of annual information return

The Kolkata Bench of Income Tax Appellate Tribunal held that non-compliance with information return filing rules is only technical breach, and that this breach could have occurred because of “bona fide ignorance” of the taxpayer. Thus, the Tribunal found no reason to invoke penalty proceedings.

[More details](#)

India: Rental income treated as business income

The Supreme Court of India held that the rental income earned from a leased property is to be treated as business income, given the taxpayer solely was in the business of leasing of its property and earning rent.

[More details](#)

India: Revisions to the Framework proposed by the MAT-Ind AS Committee

The Central Board of Direct Taxes issued a press release on 5 August 2016, announcing certain modified recommendations/suggestions on select matters submitted by the Minimum Alternate Tax (MAT) – Indian Accounting Standards (Ind AS) Committee (the Committee) in its report dated 23 July 2016 (the report).

[More details](#)

Malaysia

Malaysia: Amendment to the GST-03 Return

KPMG in Malaysia discusses guidance under Regulation 69 of the GST Regulations and further clarification provided on the Royal Malaysian Customs Department's website concerning amendment to the GST-03 Return.

[More details](#)

New Zealand

New Zealand: AEOI implementation impact, options

The Inland Revenue of New Zealand published a Regulatory Impact Statement for the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill providing an analysis of AEOI implementation options.

[More details](#)

Calendar of Events

Date	Event	Location
31 August 2016	Doing business in India - Recent tax game changers More details	InterContinental Hotel, Singapore
15 -16 September 2016	KPMG Goods and Services Tax (GST) Seminar 2016 More details	Orchard Hotel, Singapore
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: Multinationals to repay "grandfathered" upstream loans by 19 August

Under the foreign affiliate (FA) rules enacted in 2013, qualifying debts that existed on 19 August 2011 ("grandfathered loans") and that were still outstanding on 19 August 2014 must be repaid by 19 August 2016, or else an income inclusion under subsection 90(6) is required.

[More details](#)

South Africa: Voluntary disclosure processes

Voluntary disclosure in the South African context often involves two processes that go hand-in-hand, namely 1) the voluntary disclosure of tax defaults; and 2) the regularization of Exchange Control ("Excon") contraventions.

[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

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



kpmg.com/app



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 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.