



# Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 20 October 2016



## Asia Pacific Tax Developments

### Australia

#### **Australia: Australian outbound investments: eligibility for dividend exemption**

The Australian Taxation Office (ATO) recently issued draft ruling TR 2016/D2 addressing an interpretive issue that goes to the heart of whether a taxpayer can get an exemption for a dividend it receives from a foreign company.

[More details](#)

#### **Australia: Country by Country Reporting: time to involve Human Resources**

Country by Country (CbC) reporting is not just about corporate income tax and transfer pricing. The Organisation for Economic Co-operation and Development (OECD) Base Erosion Profit Shifting (BEPS) Action 13 focuses on the global value chain of an organisation and requires reporting of the number of employees in each country.

Accordingly, Human Resources and mobility professionals need to be brought into discussions on CbC reporting. The decisions made regarding employee reporting may have knock on effects for years to come.

[More details](#)

#### **Australia: Emerging industry issue for super funds: FITO claims**

The ATO has decided to expand its review to a more general review of what superannuation funds are doing in relation to foreign tax paid and their foreign income tax offset (FITO) claim more generally; and extend this review beyond the six large superannuation funds.

KPMG explains why the ATO has recently been focusing on FITO claims.

[More details](#)

## Australia: Ideas for Igniting the Indigenous Economy

KPMG Australia on 12 October released a document titled *Igniting the Indigenous Economy*. It brings together prominent Indigenous leaders and KPMG experts and makes more than 20 tangible recommendations in the areas of innovation, superannuation, education, land and estate management and, of course, taxation. It is not intended to be a grand plan, but a contribution to a vital discussion.

[More details](#)

## Australia: Time for CFC reform

Australian investors in search of offshore investment often encounter difficulties at the outset as a result of investment vehicles which are either unknown in Australia or which are not catered for by Australian tax legislation.

KPMG Australia calls for a new look at Australia's controlled foreign company rules, to support outbound investment.

[More details](#)

## China

### China: Tax Weekly Update - Issue 39

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

- Further implementation rules for foreign investment
- FTA negotiations between China and Georgia
- MOF and SAT: clarification of the income tax treatment of administrative compromise settlement (Cai Shui [2016] No. 100)
- SAFE facilitates cargo trade (Hui Fa [2016] No. 25)
- Q&A on forex administration on cross-border equity transfer by SAFE
- Case sharing: Tax authorities use big data in actual cases

[More details](#)

### China: Customs Policy Update, September 2016

KPMG China provides various customs policy updates such as:

- General Administration of Customs (GAC) announced the Implementation of Customs Inspection Regulations
- GAC announced a revised directory of 2017 Harmonized System
- Cross-strait customs to implement a pilot scheme for authorized economic operator (AEO)
- Tax rate for certain import of information technology goods of most favoured nations lowered for its first time
- Management system of place of origin for regions under GAC's special supervision to go live
- GAC governed the filing of declaration form of import and export goods under preferential trade agreement

- General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and GAC revised the Catalogue of Import and Export Commodities for Inspection and Quarantine
- GAC introduced the Special Bill for Delayed Payment of Import Commodities

[More details](#)

#### **China: New APA administrative guidelines, effective December 2016**

The State Administration of Taxation (SAT) published an announcement reflecting enhanced administration of advance pricing arrangements (APAs). The new guidance replaces the current rules on APA administration, issued in 2009, and will be effective 1 December 2016.

[More details](#)

#### **China: New PRC tax rules to impact on private equity funds**

KPMG China has released a report highlighting some recent tax-related developments – particularly in respect to a pending PRC implementation early 2017 of the OECD's Common Reporting Standard (CRS) – set to affect Chinese private equity funds and their managers in the PRC

[More details](#)

## **India**

#### **India: CBDT final rules with respect to buy-back of shares**

Final rules about the tax treatment of the buy-back of shares have an effective date of 1 June 2016.

[More details](#)

#### **India: Depreciation of goodwill**

The Bangalore Bench of the Income-tax Tribunal held that the taxpayer cannot claim depreciation on assets acquired through an amalgamation, including goodwill, more than the depreciation that would be allowable to the amalgamating company.

[More details](#)

#### **India: Implications of APA on pre-rollback transactions**

The Chennai Bench of the Income-tax Appellate Tribunal admitted the taxpayer's advance pricing agreement (APA) as additional evidence about the characterization of international transactions. Thus, the decision reflects possible implications of an APA on the characterization of international transactions in prior years.

[More details](#)

#### **India: Loan guarantee, working capital loans furnished related parties**

The Chennai Bench of the Income-tax Appellate Tribunal issued a taxpayer-favorable decision concerning a corporate loan guarantee furnished by an Indian parent company with respect to a foreign subsidiary company.

Another issue concerned interest on working capital loans made to related parties, with the tribunal finding that the arm's length testing of interest on the loan was to be made by reference to credit ratings and by comparing third-party loan agreements.

[More details](#)

### **India: Lump-sum lease premium or upfront lease charges not “rent”**

The Central Board of Direct Taxes (CBDT) issued guidance to clarify that a lump-sum lease premium or one-time upfront lease charges that are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property, are not “rent,” and thus are not subject to tax withholding (deduction) at source.

[More details](#)

### **India: Retroactive effect of change found to be “curative”**

The Ahmedabad Bench of the Income-tax Appellate Tribunal held that an amendment made to a provision of the tax law concerning the rules for determining the value of consideration for immovable property was “curative” and therefore applies retroactively, effective from 1 April 2003 (the date when the change was introduced).

[More details](#)

### **India: Transfer of land**

The Mumbai Bench of Income Tax Appellate Tribunal held that no transfer of land had taken place when the agreement for the development of the land clearly stipulated that possession of the land was allowed only upon fulfillment of certain conditions.

[More details](#)

### **India: Transfer pricing not applicable to transactions with branch office**

The Delhi Bench of the Income-tax Appellate Tribunal held that transfer pricing provisions cannot apply in respect of transactions between the Indian head office and its overseas branch office in Canada.

[More details](#)

## **Japan**

### **Japan: Customs scrutiny of certificates of origin from exporters, manufacturers**

The Japanese Commerce office in October 2016 published a notice directed towards the Japanese manufacturing and export community, and emphasizing the importance of accurately qualifying products under “economic partnership agreements” and of obtaining certificates of origin.

[More details](#)

### **Japan: New income tax treaty signed with Belgium**

Representatives of the governments of Japan and Belgium on 12 October 2016 signed a new income tax treaty. Once ratified and with its entry into force, the new treaty would replace the existing income tax treaty (1970 and amended in 1990 and 2013).

[More details](#)

## Myanmar

### Myanmar: Effects of removal of U.S. sanctions on investments in Myanmar

Subsequent to Daw Aung San Su Kyi's visit to the US and discussions with Washington, on 7 October 2016, President Obama issued an executive order terminating the national emergency declared in past executive orders in relation to Myanmar and removed financial sanctions on Myanmar.

As such, individuals and entities previously blocked under the sanctions regulations have been removed from the OFAC's Specially Designated Nationals and Blocked Persons list.

[More details](#)

## Singapore

### Singapore: Quarterly Global Tax Disputes Update (September 2016 edition)

KPMG in Singapore provides a Quarterly Global Tax Disputes Update (September 2016 edition) highlighting the latest news in tax controversy around the world.

[More details](#)

## Thailand

### Thailand: Thailand Tax Updates - October 2016

KPMG in Thailand discusses the impacts the new Double Tax Agreement between Thailand and Singapore, effective 1 January 2017, will have on taxpayers' current tax treatment.

[More details](#)

## Calendar of Events

Date	Event	Location
26 October 2016	KPMG in Malaysia Tax Summit 2016 Contact person: <a href="#">Karen Lee</a>	One World Hotel, Petaling Jaya, Malaysia

## Significant International Tax Developments



### OECD: Andorra joins BEPS inclusive framework

The Organisation for Economic Cooperation and Development announced that Andorra has joined the "inclusive framework" of the base erosion and profit shifting project.

[More details](#)

## Beyond Asia Pacific

### **Africa: Annual update of tax, legal and compliance developments across African countries**

KPMG provides latest Africa country updates and developments through individual, bi-annual Country Snapshot publications.

[More details](#)

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### **TaxNewsFlash by Region**

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

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

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