



# Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 07 December 2017



## Asia Pacific Tax Developments

### Australia

#### **Australia: ATO on Life Sciences: 'One size does not fit all'**

The Australian Taxation Office (ATO) is currently examining 21 pharmaceutical companies through Advance Pricing Arrangements, risk reviews or audits and will also focus on 200+ Life Sciences and medical devices companies. The ATO is considering a full spectrum of tax risk across the industry, including transfer pricing, research and development, withholding tax, tax risk management and governance and, in certain instances, anti-avoidance.

[More details](#)

#### **Australia: Don't let the FBT Grinch steal your Christmas**

KPMG Australia highlights some important Fringe Benefits Tax (FBT) considerations this festive season.

[More details](#)

#### **Australia: Next phase of taxing the digital economy**

The pressure to tax profits of the digital economy where 'value is created' has been gradually mounting. There has been some work done in the European Union and the United Kingdom in this space, which is likely to be a big change for social media companies and online marketplaces.

KPMG Australia discusses the gaps and difficulties of taxing new digital business models in digital economy.

[More details](#)

#### **Australia: US tax reform – can two Bills become one?**

KPMG Australia discusses the status of US tax reform and whether a reconciled Bill can be agreed by the Senate and the House of Representatives. The article also discusses how the change will impact Australia.

[More details](#)

#### **Australia: Updated guidance on automatic exchange of information, FATCA, CRS**

The ATO updated the guidance on the automatic exchange of information relating to FATCA and common reporting standard (CRS) regimes.

[More details](#)

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## China

### China: Prospect of US tax reform by 2017 year-end rises after Senate passes bill

Following are the highlights from both the bills:

- The participation exemption moves the US towards a tax territorial system.
- Conversely, however, the CFC rule expansion also moves the US towards a 'true' worldwide system. The 80% tax credit for foreign tax means that US tax arises where the foreign effective tax rate falls beneath 12.5%.
- The House bill outbound payments rule introduces 'destination based' taxing rights, and may impact the Organisation for Economic Cooperation and Development (OECD) digital economy tax work at global level. Both House and Senate base erosion rules may raise treaty and WTO issues.
- The Senate bill IP income incentive may not be in line with global tax standards on IP boxes, and may raise WTO issues.

[More details](#)

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## India

### India: Advance deposit of central excise duty in the personal ledger account amounts to actual payment of duty under Section 43B of the Income-tax Act and hence eligible for deduction

Recently, the Supreme Court held that the advance deposit of central excise duty in the Personal Ledger Account amounts to actual payment of duty within the meaning of Section 43B of the Income-tax Act, 1961. Therefore, the taxpayer is entitled to the benefit of deduction of the said amount.

[More details](#)

### India: CBDT Circular/Instruction specifying monetary limit for filing appeal is applicable even to pending appeals/matters subject to certain conditions

Recently, the Supreme Court held that Circular/Instruction<sup>2</sup> issued by the Central Board of Direct Taxes (CBDT) specifying monetary limit for filing appeal before the Appellate Tribunal, High Courts and Supreme Court is applicable even to pending matters subject to certain conditions.

[More details](#)

### India: India's reservations on 2017 update to the OECD Model Tax Convention and Commentary

Recently, the OECD Council approved the contents of the 2017 Update to the OECD Model Tax Convention. The 2017 Update contains amendments agreed as a part of the Base Erosion and Profit Shifting (BEPS) project. Additionally, certain other amendments were also incorporated on the basis of OECD draft 2017 which was released for public comments on 11 July 2017. India has provided reservations on the following:-

- Permanent Establishment

- Mutual Agreement Procedure
- Entitlement to benefits
- Persons covered
- Definitions – Recognised provident fund
- Tie-breaker rule for persons other than individuals

[More details](#)

### **India: Payment for intranet charges and SAP software is royalty under the Income-tax Act as well as under the India-Germany tax treaty**

The Delhi Bench of the Income-tax Appellate Tribunal held that payment made by the taxpayer to a non-resident company for software is covered under the term 'scientific equipment' and therefore taxable as royalty.

[More details](#)

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## **Korea**

### **Korea: Korean Tax Brief – Issue 103, November 2017**

The following matters are covered in this issue:

- Initiation of deliberation on 2017 Tax Revision Bill that includes the proposed increase of income tax and corporate tax rates
- Foreign fund is not considered to have a permanent establishment in Korea since the subject activities are preliminary, preparatory, or auxiliary in nature in light of the main purpose of establishment and the business of the Korean subsidiaries
- If the salary paid to a representative director is in substance the same as the disposition of the company's income, it is non-deductible for corporate income tax purposes
- Expense incurred from a collusion with other companies should be treated as non-deductible according to the Corporate Income Tax Act
- Taxation of the clergy

[More details](#)

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## **Myanmar**

### **Myanmar: Clarification on rule for hiring foreign experts**

The Myanmar Investment Commission issued a clarification to its earlier announcement that investors would need to seek approval before hiring foreign "experts."

[More details](#)

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## **Singapore**

### **Singapore: UK Budget - Non-resident capital gain proposals**

The UK Autumn Budget signals a major change to the tax treatment of UK property investment, with the announcement that the capital gains tax exemption for non-residents to be abolished from April 2019.

[More details](#)

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## Thailand

### Thailand: Proposed Amendments to Company Law - Shares in Limited Companies

The Thai Cabinet endorsed the draft Act for Amendment to the Civil and Commercial Code proposed by the Ministry of Commerce to amend the provisions related to shares in limited companies registered in Thailand and also apply necessary provisions under Securities and Exchange law for implementation.

[More details](#)

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## Significant International Tax Developments



### OECD: BEPS Action 5 minimum standard, spontaneous exchange on tax rulings

The OECD announced the release of the first analysis of participating countries' progress in exchanging information on tax rulings under a new minimum standard—one that provides for the spontaneous exchange of information about certain tax rulings between relevant tax administrations in a timely manner (in accordance with Action 5 of the BEPS project).

[More details](#)

### OECD: Updated guidance on country-by-country reporting (BEPS Action 13)

The OECD announced that the “Inclusive Framework” on BEPS released more guidance for tax administrations and multinational entity groups on the implementation of country-by-country (CbC) reporting under BEPS Action 13.

[More details](#)

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## Beyond Asia Pacific

### EU: “Non-cooperative tax jurisdictions” identified, 17 jurisdictions

The European Commission announced that the Finance Ministers of the EU Member States have agreed to a list of non-cooperative tax jurisdictions which includes among others: Korea (Republic of), Macao SAR, Mongolia and United Arab Emirates.

[More details](#)

### US: Senate Tax Reform Bill – Initial Observations on Senate Passed Bill

The U.S. Senate on December 2, 2017, approved its version of tax reform legislation (the “Tax Cuts and Jobs Act”) by a vote of 51 to 49.

[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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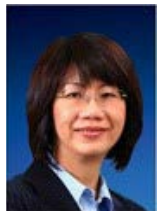
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