



KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 10 August 2018



Asia Pacific Tax Developments

Australia

[Australia: Capital raising – The crowd has arrived](#)

KPMG Australia explore Australia's Crowd Sourced Equity Funding Regime ('CSEF') for companies to raise vital capital. The legislative development of the CSEF regime is continuing at a steady pace, with the Corporations Amendment (Crowd-sourced Funding for Proprietary Companies) Bill 2017 (Bill) clearing the House of Representatives in February.

[More details](#)

[Australia: Domestic violence leave now available to Australian employees](#)

As of 1 August 2018, over 2.3 million Australian employees who are covered by modern awards are now entitled to five days of unpaid family and domestic violence leave each year. The leave is intended to enable employees to be absent from work when they need to do something to deal with the impact of family and domestic violence.

[More details](#)

[Australia: Technology boom for car parking and FBT](#)

The identification and calculation of car parking fringe benefits can be one of the most tiresome features of the fringe benefits tax ('FBT') compliance process for employers. KPMG Australia explore the car parking technology that supports Fringe Benefit Calculations.

[More details](#)

[Australia: The business judgment rule – risk versus reward](#)

KPMG Australia discuss the balance of risk versus reward in business. In this current environment that is leaning towards a 'compliance-focused' leadership, the appetite and scope for directors to in fact take risks is in question. However, effective leadership must involve a degree of reasonable risk taking in order to encourage entrepreneurial decision-making.

[More details](#)

[Australia: Think the Black Economy measures won't affect you? Think again](#)

KPMG Australia investigate a proposal to screen the tax record of potential bidders on Commonwealth government contracts. From 1 July 2019, businesses may be required to produce a Statement of Tax Record ('STR') from the Australian Tax Office ('ATO') as a condition to tender for those contracts valued over \$4 million. Emanating from the Black Economy Taskforce findings, STRs are aimed at preventing suppliers that have saved costs by not complying with their tax obligations from outbidding other suppliers

[More details](#)

China

[China: Additional customs tariffs proposed for U.S. imports](#)

The Ministry of Finance announced additional customs duty tariffs of up to 25% would be imposed on numerous products imported into China from the United States.

[More details](#)

[China: Customs tariffs, reaction to second round of U.S. additional tariffs](#)

The Tariff Commission of State Council issued Circular 7 (8 August 2018) to announce the imposition of new customs tariffs on certain U.S. products that are imported into China.

[More details](#)

[China: Tax Weekly Update – Issue 29](#)

The following matters are covered in this issue :

- Cross-border e-commerce zones for 22 more cities
- State Council cuts red tape to foster business
- Tax preferences for small enterprises clarified
- Global toolkit on offshore transfers – public consultation
- Others - SAT's announcement on release of tax filing forms for tobacco tax

[More details](#)

India

[India: Discounts offered to be predetermined and agreed upon in the agreement](#)

The Authority for Advance Ruling Maharashtra ('AAR') in case of UltraTech Cement Ltd ruled that, for purposes of determining the GST liability, discounts offered after goods are sold must be established based the terms of the agreement or before the supply is made. The discount must be based on certain criteria agreed to by the supplier and the customer and must be set forth in the agreement.

[More details](#)

[India: Exemption notification is to be interpreted strictly and therefore benefit of ambiguity in exemption notification cannot be claimed by the taxpayer – Supreme Court](#)

Constitutional Bench (five-judge bench) of the Supreme Court held that: (1) exemption from tax guidance is to be interpreted strictly and the burden to prove its applicability is on the taxpayer;

(2) any ambiguity in the exemption guidance must be interpreted in favour of the tax department; and (3) prior decisions to the contrary are overturned. [More details](#)

[India: Foreknowledge of the tax liability – an important factor in determining the applicability of the penalty](#)

The High Court of Delhi in case of N & N Chopra Consultants Pvt Ltd dismissed an appeal on the simultaneous levy of penalties, with the court observing that advance knowledge of the tax liability was a factor to consider in determining the penalty liability.

[More details](#)

[India: GST Notifications - Extension of exemption notification on supplies received from unregistered supplier and special procedure for completing GST migration](#)

The Central Board of Indirect Taxes and Customs issued GST guidance concerning: (1) supplies received from an unregistered supplier; and (2) a special procedure for completing GST migration.

[More details](#)

[India: MAT credit is allowed inclusive of surcharge and education cess](#)

The Delhi Bench of the Income-tax Appellate Tribunal ('the Tribunal') in case of Consolidated Securities Ltd held that the minimum alternate tax ('MAT') credit is allowed inclusive of surcharge and education "cess" (the surcharge levy imposed for various governmental functions including education). The amount of tax includes both components of tax and surcharge.

[More details](#)

[India: No disallowance on year end provision of expenses for non-deduction of tax at source – Gujarat High Court](#)

The Gujarat High Court in case of Sanghi Infrastructure Ltd held that year end provisions for expenses are not to be disallowed on account of non-deduction of tax at source since such provisions are contingent in nature.

[More details](#)

[India: Retaliatory tariffs on U.S. imports, delayed application](#)

India's government issued Notification No. 56/2018-Customs and thereby, as expected, delayed imposing retaliatory import duties for certain U.S. products until 18 September 2018.

[More details](#)

[India: The taxpayer does not constitute an installation PE under the India-Cyprus tax treaty](#)

The Delhi Bench of the Tribunal held that the taxpayer did not constitute an installation permanent establishment ('PE') under Article 5(2)(g) of the India-Cyprus income tax treaty given the 12-month threshold period was not met. The tribunal observed that preparatory work before entering into a contract cannot be counted while calculating the threshold period.

[More details](#)

[India: The tax officer has been directed to enquire into the applicability of deemed dividend provisions to buy-back of shares prior to the introduction of buy-back related specific provisions](#)

The Karnataka High Court in case of Fidelity Business Services India Pvt Ltd held that even though the buy-back of shares at an abnormally high price was not subject to Dividend Distribution Tax or specific buy-back related provisions or provisions dealing with deemed dividend, the Tribunal was justified in directing an enquiry by the Assessing Officer into the aspects of Fair Market Value of shares bought back by the taxpayer from its holding company vis-a-vis applicability of 'deemed dividend' provisions. [More details](#)

Japan

Japan: EU Mandatory Disclosure Rules

On 25 May 2018, the Council of the European Union formally adopted new mandatory disclosure rules (MDRs). EU intermediaries or, in some cases, relevant taxpayers, will be required to disclose to their tax authorities information on reportable cross-border arrangements under the EU MDRs.

[More details](#)

Malaysia

Malaysia: Sales and service tax regime, proposed effective September 2018

A sales and service tax regime in Malaysia has a proposed effective date of 1 September 2018. With enactment of the new sales and service tax regime, the existing GST system would be repealed. There would also be changes to the customs rules because of the new sales and service tax regime.

[More details](#)

Singapore

Singapore: Employer-provided accommodation, proposed tax treatment change

A proposed change to the tax treatment of employer-provided accommodation would require an employer to use the actual amount of rent paid as the default basis for reporting the taxable value (instead of the “annual value” of the property). The annual value is the estimated rent that a property may yield.

[More details](#)

Thailand

Thailand - New regulation governing private car and motorcycle hire-purchase contracts

A new Notification of the Committee on Contracts re: Prescribing Hire-Purchase for Car and Motorcycle Business as Contract-Controlled Business Notification has been issued and become effective from 1 July 2018. The new Notification aims to control private car and motorcycle hire-purchase contracts for consumer protection purpose. All the hire-purchase contracts made under the previous notifications would still be valid and enforceable.

[More details](#)

Vietnam

Vietnam: U.S. countervailing duty investigation; laminated woven sacks from Vietnam

The U.S. Department of Commerce on 7 August 2018 announced that Vietnamese exporters received countervailable subsidies of 3.24% to 6.15%, and that because of this, U.S. Customs

and Border Protection has been directed to collect cash deposits from the importers of Vietnamese laminated woven sacks, based on these percentages.

[More details](#)

Significant International Tax Developments

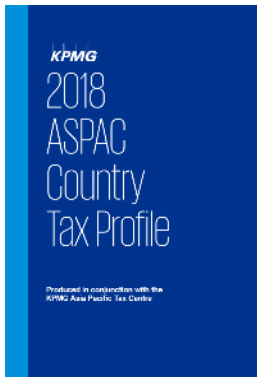


OECD: Does the OECD discussion draft on transfer pricing of financial transactions pose more questions than it answers?

On 3 July 2018 the OECD published a discussion draft on the transfer pricing of financial transactions. The draft provides additional transfer pricing guidance on several types of financial transactions and asks numerous questions of commentators.

[More details](#)

Thought Leadership



2018 Asia Pacific Country Tax Profiles

The 2018 edition of Country Tax Profiles - Cambodia, Papua New Guinea and Taiwan have been made available at KPMG Asia Pacific Tax Centre's portal.

These guides are useful to understand the respective country's tax system, including information on Corporate Tax, International Tax, Transfer Pricing, Indirect Tax, Personal Tax, Trade & Customs and Tax Authorities.

In relation to other countries in Asia-Pacific region, their Tax Profiles will be uploaded in the following weeks.

[More details](#)

Calendar of Events

Date	Event	Location
17 August 2018	Zero-rating of International Services and Reverse Charge Mechanism Contacts: Sharon Ting More details	Mandarin Oriental Singapore, 5 Raffles Ave, Singapore
27 August 2018	Transfer Pricing Masterclass on Intra-group Services Contacts: Ms. Sharon Leong Peck Sim More details	Junior Ballroom, One World Hotel, Petaling Jaya, Malaysia

Beyond Asia Pacific

[France: Withholding tax on dividends paid to non-resident loss-making companies, not compatible with EU law \(CJEU Advocate General opinion\)](#)

On August 7, 2018, the Court of Justice of the European Union ('CJEU') rendered an Opinion in the Sofina and Others case (C-575/17). The case concerned the compatibility with EU law of the French withholding tax levied on dividends paid by French companies to non-resident loss-making companies. The AG concluded that the French legislation is contrary to the free movement of capital and to the freedom of establishment.

[More details](#)

[UK: Making Tax Digital for VAT: Bridging Software](#)

For taxpayers using spreadsheets to prepare VAT returns, bridging software may be the easiest solution for MTD's commencement in April 2019.

[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



Khoon Ming Ho
Head of Tax, KPMG Asia Pacific
T : +8610 8508 7082
E : khoonming.ho@kpmg.com

Asia Pacific Tax Centre Leader, Regional Tax Partner



Brahma D Sharma – KPMG Asia Pacific Limited
Global Head of Clients and Markets Tax & Regional Partner
T : +65 8186 7369
E : brahmasharma@kpmg.com.sg

Service Line Specialists

Transfer Pricing Services



Tony Gorgas – KPMG 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 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 China
Asia Pacific Regional Leader,
Indirect Tax Services
T : +852 2685 7791
E : lachlan.wolfers@kpmg.com

Research & Development (R&D) Tax Incentives



Alan Garcia – KPMG Australia
Asia Pacific Regional Leader,
R&D Tax Incentives
T : +61 3 9288 6094
E : afgarcia@kpmg.com.au

Global Compliance Management Services



Jenny Clarke – KPMG Australia
Asia Pacific Regional Leader,
Global Compliance Management
Services
T : +61 2 9335 7213
E : jeclarke@kpmg.com.au

Global Mobility Services



Ben Travers – KPMG Australia
Asia Pacific Regional Leader,
Global Mobility Services
T : +61 3 9288 5279
E : btravers1@kpmg.com.au

International Tax



Christopher Xing – KPMG China
Asia Pacific Regional Leader,
International Tax
T : +8610 8508 7072
E : christopher.xing@kpmg.com

Deal Advisory M&A Tax



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

Dispute Resolution and Controversy



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

Legal Services



Stuart Fuller – KPMG Australia
Asia Pacific Regional Leader,
Legal Services
T: +61 2 9458 1590
E: stuartfuller@kpmg.com.au

Trade & Customs



Leonie Ferretter – KPMG Australia
Asia Pacific Regional Leader,
Trade & Customs Services
T: +61 2 9455 9330
E: lferretter@kpmg.com.au

Market Sector Specialists

Financial Services



Christopher Abbiss – KPMG 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 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 Australia
Asia Pacific Regional Tax Leader,
Energy & Natural Resources Sector
T: +61 8 9263 7239
E: cfranchina@kpmg.com.au

Insurance



John Salvaris – KPMG Australia
Asia Pacific Regional Leader,
Insurance Sector
T : +61 3 9288 5744
E : jsalvaris@kpmg.com.au

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