



KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | 19 December 2023



Asia Pacific Tax Developments

Australia

[Industry consultations on reforming emergency services levy \(New South Wales\)](#)

The New South Wales government issued a release announcing industry consultations on reforming the “emergency services levy”.

[Transition from stamp duty to property tax on commercial, industrial property \(Victoria\)](#)

The Victorian government finalized reform that will progressively terminate stamp duty on commercial and industrial property and replace it with a commercial and industrial property tax.

[Consultation on new legislation concerning franking credits](#)

The Australian Taxation Office (ATO) released a consultation paper on priority areas for future ATO public advice and guidance related to the new legislation concerning franking credits for distributions funded by capital raisings.

[Introduction of new fee structure for foreign property investors](#)

The federal government announced that it will adjust the foreign investment framework by raising fees for the purchase of establish homes, increase penalties on vacant properties, and cut application fees for build-to-rent projects.

[Judgment on embedded royalties and application of Diverted Profits Tax publicly released \(Federal Court decision\)](#)

The Federal Court in December 2023 publicly released its judgment in *PepsiCo, Inc v. Commissioner* in which it held that the taxpayer was liable for withholding tax on embedded royalties and opined that if the taxpayer were not liable for royalty withholding tax, the diverted profits tax would apply.



Hong Kong (SAR), China

Court holds that upfront payment and royalties from a sub-licensing arrangement are taxable

The Court of First Instance held in a case that the upfront one-off lump sum and annual royalties derived by a company in the Hong Kong (SAR), China under a licensing and sub-licensing arrangement of trademarks are taxable as they are revenue in nature.

Salaries Tax – Compensation for loss of rest days and statutory holiday days

The Court of Final Appeal handed down its decision on the case of Dr. Leung Ka-Lau v Commissioner of Inland Revenue.

Upfront lump sum and annual royalties received from United Kingdom (UK) company taxable in Hong Kong (SAR), China

The Court of First Instance held that the upfront lump sum and annual royalties derived by a Hong Kong company under a licensing and sub-licensing arrangement of trademarks with a UK company were taxable in Hong Kong (SAR), China.

India

Income from offshore supply of equipment and services is not taxable in India

The Delhi Bench of Income-Tax Appellate Tribunal in the case of DSD Noell GMBH held that income from offshore supply of equipment and services was not taxable in India since plant and equipment supplied to the Indian Company were designed and manufactured outside India.

The Indian subsidiary of a Korean company is not an ‘assessee-in-default’ for non-deduction of tax at source

The Delhi Bench of Income-Tax Appellate Tribunal in the case of LG Electronics India Ltd observed the assessing officer’s attribution of profit relating to transactions of LG India and its Korean holding company was on a notional basis and not based on any actual payments.

Philippines

Special InTAX: December 2023

In December 2023, the “Internet Transactions Act of 2023” was signed into law by the President.

The Power of Closure: Enforcing Tax Compliance

In the intricate relationship between economic growth and fiscal responsibility, the Bureau of Internal Revenue serves as the guardian of fiscal regulations, ensuring that businesses adhere to the Tax Code, as well as to the relevant tax rules and regulations.

Thailand

Required reporting by digital platform operators

Pursuant to the Royal Decree on the Operation of Digital Platform Service Businesses that are Subject to Prior Notification, operators of digital platforms providing service to users in Thailand must report certain information to the Electronic Transactions Development Agency.



Significant International Tax Developments

Exchange of information on tax rulings under Base Erosion Profit Shifting Action 5

The Organisation for Economic Co-operation and Development Inclusive Framework on base erosion and profit shifting released the latest peer review assessments for 131 jurisdictions in relation to the compulsory spontaneous exchange of information on tax rulings.



Beyond Asia Pacific

Belgium: Draft law proposes new stricter Controlled Foreign Company rules (CFC)

The government submitted new stricter rules to Parliament on the taxation of the undistributed income of a CFC that shift from model B (targeting tax avoidance arrangements) to model A (focusing on taxation of passive income of low-taxed entities) in the EU Anti-Tax Avoidance Directive.

United Kingdom : FATCA, Common Reporting Standard guidance on voluntary disclosure of unpaid tax on cryptoassets

HM Revenue & Customs in November 2023 issued guidance regarding voluntary disclosure of unpaid tax on income or gains from crypto assets.



TaxNewsFlash by region

Africa

Americas

Europe

United
States



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