



# KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | 20 February 2020



## Asia Pacific Tax Developments

### Australia

#### [A win for importer in the High Court of Australia](#)

The High Court delivered its much-awaited judgment following a long-running tariff classification dispute between the Comptroller-General of Customs and taxpayer.

#### [Capital gains tax, property used in course of carrying on business](#)

The Federal Court issued a decision that addressed the meaning of the term “used in the course of carrying on a business” and held that property used for storing business assets was not used in the ordinary course of a taxpayer’s business for the “small business” capital gains tax concessions.

#### [Corporate residency rules; issues arising under sole-incorporation test](#)

The Board of Taxation opened a consultation concerning potential reforms to the corporate tax residency rules.

#### [Finalisation of ATO offshore drilling PCG](#)

The finalised ATO guidance enables taxpayers to self-assess their transfer pricing risk.

#### [New legislation increases accountability of directors](#)

Companies and their directors in Australia need to be aware of new legislative requirements, following passage by Parliament on 5 February 2020 of the Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019. The bill is pending Royal Assent.



## [Updated AEOI guidance, list of excluded accounts](#)

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The Australian Taxation Office in updated guidance on the automatic exchange of financial information (AEOI), removed scholarship plans from the list of excluded accounts.

## Cambodia

### [Basis for application of specific tax on certain merchandise](#)

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The Ministry of Economy and Finance issued guidance - Prakas no. 012 MEF.Prk - to clarify the tax basis for application of the “specific tax on certain merchandise” on certain domestically produced goods.

## China

### [Tax on overseas income received by resident taxpayers](#)

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The Ministry of Finance and the State Taxation Administration in January 2020 jointly issued guidance that sets out the relevant policies regarding income earned overseas by individuals who are residents of China.

## India

### [Based on the Protocol to the India-Switzerland tax treaty, FTS can be taxed on gross basis even though the Swiss company had a Service PE in India](#)

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The Mumbai Bench of the Income-tax Appellate Tribunal (‘the Tribunal’) held that Fees for Technical Services (FTS) is to be taxed on gross basis under the protocol to the India-Switzerland tax treaty even though the taxpayer company had a service PE in India.

### [CBDT notification specifying additional electronic modes of payment in various provisions of the Income-tax Act](#)

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Recently, the CBDT has issued a Notification introducing new Rule 6ABBA in the Rules to prescribe ‘other electronic modes’ for the purpose of payment provisions. The ‘other electronic modes’ specified are credit card, debit card, net banking, IMPS, UPI (Unified Payment Interface), RTGS, NEFT, BHIM and Aadhaar Pay.

### [HS code - Import of goods under 'Others' category](#)

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The Department of Commerce, Government of India, made an observation that importers while filing the bill of entry were not mentioning correct eight-digit HS code, even when the applicable HS codes were available for the imported items. This had resulted in errors in determining the India’s import data.

## [Interest on delayed payment is to be calculated on net tax liability \(cash-component\) – Madras High Court](#)

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Madras High Court has recently held that the levy of interest on delayed payment of GST liability is purely compensatory in nature and accordingly is liable to be charged only on the net cash payment and not on the gross liability (before tax credit).

## [Loss on cancellation of shares pursuant to capital reduction can be treated as long-term capital loss and it can be carried forward to subsequent years](#)

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The Mumbai Tribunal held that loss arising to taxpayer for cancellation of its shares in the Indian subsidiary pursuant to reduction of capital is allowed as long-term capital loss (LTCL) and such loss can be carried forward to subsequent years.

## [Madras High Court ruling on the applicability of Provident Fund contributions on Special allowance](#)

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This is an important ruling subsequent to Supreme Court judgement which may have significant implications for establishments covered under the EPF Act, employing both domestic employees and International Workers.

## [Non-taxable income under a tax treaty cannot be reduced from book profits for the computation of MAT](#)

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The Delhi bench of Income-tax Appellate Tribunal held that the taxpayer is not entitled to claim reduction in respect of non-taxable income under a tax treaty while computing book profits under the provisions of Minimum Alternate Tax.

## [Tax incentives for sovereign wealth fund investments, budget proposals](#)

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The Union Budget 2020, presented 1 February 2020, proposed incentives for sovereign wealth fund investments made by companies involved in infrastructure development.

## [The Direct Tax Vivad se Vishwas Bill, 2020 introduced in the Lok Sabha](#)

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The Finance Minister announced a new Dispute Resolution Scheme (Vivad se Vishwas Scheme) in the Budget 2020 to reduce litigation.

# Japan

## [Consolidated tax return filing system; shift to Japanese group relief system](#)

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Included in the 2020 tax reform proposals of the ruling governing coalition (Liberal Democratic Party and new Komeito) presented in December 2019 are proposed revisions to the consolidated tax return filing system—specifically, proposals to revise the consolidated tax return filing system and to shift to a new “Japanese group relief system.”

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## [CRS registration deadline is 31 March 2020](#)

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The Inland Revenue Authority of Singapore (IRAS) issued a reminder that the common reporting standard (CRS) registration deadline for an entity that became a “reporting Singapore financial institution” between 1 January 2019 and 31 December 2019 (both dates inclusive) is 31 March 2020.

## [Tax measures in budget 2020](#)

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Singapore’s budget for 2020 reveals that a planned increase in the rate of the goods and services tax (GST) to 9% would not take place in 2021.



## Significant International Tax Developments

### [OECD: “BEPS 2.0” and taxation of digitalised economy, in a nutshell](#)

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Over 130 countries are working toward reaching a consensus on reforms to the global tax system in order to deal adequately with the digitalised economy. There is now renewed momentum to achieve a solution by the end of 2020.

### [OECD: Consultation document on review of country-by-country reporting](#)

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The Organisation for Economic Cooperation and Development (‘OECD’) released a public consultation document as part of the ongoing work of the OECD/G20 Inclusive Framework on base erosion and profit shifting (BEPS) project.

### [OECD: Draft reporting rules for platform operators in sharing and gig economy](#)

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The OECD released a public consultation document along with a request for comments on draft model rules for reporting by platform operators regarding sellers in the “sharing and gig economy.”

### [OECD: Transfer pricing guidance on financial transactions](#)

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The OECD released a report providing transfer pricing guidance on financial transactions. It is anticipated that guidance will “contribute to consistency in the interpretation of the arm’s length principle” and will help avoid future transfer pricing disputes as well as double taxation issues.

## [OECD: Webcast on tax challenges of digitalisation; Pillar One and Pillar Two proposals](#)

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The Organisation for Economic Cooperation and Development on 13 February 2020 hosted a webcast concerning the OECD/G20 Inclusive Framework on base erosion and profit shifting (BEPS) relating to the tax challenges arising from the digitalisation of the economy.



## **Beyond Asia Pacific**

### [Canada: Prescribed income tax interest rates unchanged \(second quarter 2020\)](#)

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The Canada Revenue Agency prescribed income tax interest rates for taxable benefits, overpaid taxes, and underpaid taxes will not change for the second quarter of 2020 (1 April 2020 – 30 June 2020).

### [Portugal: Car registration tax referred to CJEU](#)

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The European Commission (EC) announced that it has referred Portugal to the Court of Justice of the European Union (CJEU) for taxing used cars that are imported from other EU Member States more heavily than used cars purchased on the Portuguese market.



## **TaxNewsFlash by region**

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

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

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