



# KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | 14 January 2021



## Asia Pacific Tax Developments

### Australia

#### [2020-21 mid-year economic and fiscal outlook](#)

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KPMG provides commentary on the mid-year Economic and Fiscal outlook given by treasurer.

#### [Electronic invoicing: Leveraging data to transform tax and procurement](#)

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The private sector should now be considering how it can become an early adopter of the technology to create a competitive advantage.

#### [Transfer pricing recordkeeping options](#)

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The Australian Taxation Office released updated practical compliance guidelines regarding transfer pricing recordkeeping options.

## Cambodia

### [Cessation of E-VAT Refund System](#)

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The General Department of Taxation has issued Notification to inform all taxpayers that E-VAT Refund System as per previous instruction no. 001 MEF dated 9 January 2019 shall cease to function starting from 1 January 2021.

### [Labour- Extension of Deadline to Request for Foreign Manpower Quota \(FMQ\) for the Year 2021](#)

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Minister of Labour and Vocational Training (MLVT) – Notification No. 041/20 dated 9 December 2020 on Extension of the Deadline to request for FMQ for the year 2021

## China

### [First "zero-tariff" product list for Hainan Free Trade Port](#)

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Chinese government authorities recently released the first “zero-tariff” product list for the Hainan Free Trade Port. This announces that, prior to the treatment of the entire Hainan island as a customs bonded area, raw and auxiliary materials imported by independent legal person enterprises registered in Hainan FTP can be exempted from import duty, import value-added tax and consumption tax. This requires the imported materials to be used in the importers’ own manufacturing activities and processed for sale to overseas markets.

### [Rectification Filing due to Resident Status Change in year 2020](#)

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Time for making year-end adjustments to the amount of tax withheld during the year is fast approaching. If an employee has changed resident status during the year, and this has not already been reflected in the monthly withholding from the date of that change of status, a rectification filing might be required. The deadline for such corrections is 15 January 2021.

## Hong Kong(SAR), China

### [Proposal for tax treatment of carried interest includes 0% tax rate](#)

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A discussion paper on a proposed concessional tax treatment of carried interest for funds includes a 0% tax rate for eligible carried interest” distributions.

## [Proposed changes to tax treatment of amalgamations and filing of returns](#)

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The Legislative Council Panel on Financial Affairs released its discussion paper on the proposed amendments to the taxation of amalgamation of companies and filing of electronic tax returns.

## [The IRD issues guidance on ship leasing tax concessions](#)

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The IRD has released Departmental Interpretation and Practice Note 62, setting out its views on the implementation of the ship leasing and ship leasing management concessions introduced in the Inland Revenue Ordinance 2020, which was enacted in June of this year.

## [Updated AEOI guidance](#)

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The Inland Revenue Department issued updated guidance on the automatic exchange of information (AEOI) regime.

# India

## [Consultancy services are not taxable as FTS in view of MFN clause under the India Sweden tax treaty](#)

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The Mumbai Bench of the Income-tax Appellate Tribunal held that in view of the Most Favoured Nation clause under the India Sweden tax treaty, the restricted scope i.e. 'make available' clause provided under Article 12(4) of the India- Portuguese tax treaty would apply to the India Sweden tax treaty. Therefore, the consultancy services provided by the taxpayer to an Indian entity are not taxable as Fees for Technical Services in India.

## [GST Notification update | Amendment to the Central Goods and Services Tax Act and Rules](#)

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With an aim to curb the menace of fake invoices and fraudulent claim of input tax credits ,Central Board of Indirect Taxes and Customs have issued notification to amend the CGST Rules and to give effect to certain amendments made to the CGST Act vide the Finance Act, 2020.

## [India tax connect - December 2020](#)

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This publication talks about the direct and indirect tax schemes in India.

## [Notice pay recovery liable to GST at 18% – Gujarat AAR](#)

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The Authority for Advance Ruling of Gujarat has held that notice pay is a sum mutually agreed between the employer and the employee for breach of contract. It can be regarded as a consideration to the employer for 'tolerating the act' of the employee to not serve the notice period which was the employee's agreed contractual obligation."

## [Payments for grant of distribution rights of channels are not taxable as royalty or FTS under the India-USA tax treaty](#)

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Mumbai Bench of the Income-tax Appellate Tribunal in the case of NGC Network Asia LLC held that the distribution rights granted by the taxpayer to the Indian entity is only a commercial right/broadcast reproduction right and not a copyright and consequently consideration for the same cannot be treated as royalty or Fees for Included Services of India-USA tax treaty. The Tribunal observed that the technical explanation provided in the tax treaty was issued by the tax authorities of USA and the same is not the official protocol or clarification which has been mutually agreed upon between the two countries.

## [Provisions of Section 56\(2\)\(vii\) of the Income-tax Act are not applicable on receipt of bonus shares](#)

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The Karnataka High Court in the case of Dr. Ranjan Pai held that issuance of bonus shares does not involve any inflow of funds or increase in the capital structure of the company. It merely involves capitalization of existing reserves. Further, bonus shares do not enrich the shareholder and profit derived on account of receipt of bonus shares is adjusted by depreciation in value of equity shares held by him. Therefore provisions of Section 56(2)(vii) are not applicable on receipt of bonus shares by tax payer.

## ["Tax is not required to be deducted if annual interest on CCD is not accrued and claimed during the year"](#)

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The Bangalore Bench of the Income-tax Appellate Tribunal in the case of Coffeeday Enterprises Ltd held that tax is not required to be deducted at source under Section 195 of the Income-tax Act, 1962 if annual interest on Compulsorily Convertible Debentures is not accrued and claimed during the year. The taxpayer did not pay any interest because eventually it was waived off.

## ["TDS provisions are not applicable on the 'provisions for expenditure' since the payee is not identifiable and liability is not ascertained "](#)

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The Mumbai Bench of the Income-tax Appellate Tribunal in the case of Sonata Information Technology Ltd held that TDS provisions are not applicable on the 'provisions for expenditure' since the taxpayer had not credited the amount to any specific account. The taxpayer does not know the payee and the liability was not ascertained. As per the regular practice, taxpayer identifies the payee in the subsequent Assessment Year and deducts the relevant tax at source.

# Japan

## [Tax reform proposals for 2021](#)

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The ruling coalition (the Liberal Democratic Party and Komeito) on 10 December 2020 agreed to an outline of tax reform proposals for 2021.

## [Updated FAQ under CRS regime, AEOI reporting system](#)

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Japan's tax agency updated a set of "frequently asked questions" (FAQs) under the common reporting standard (CRS) regime that address the AEOI reporting system.

## [Updated FAQs and relief regarding tax returns and tax payments \(COVID-19\)](#)

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Japan's national tax agency updated information and a set of "frequently asked questions" (FAQS) regarding tax-related relief in response to the COVID-19 pandemic.

# Malaysia

## [Directors' remuneration: The tax reflex](#)

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Governance & Sustainability at KPMG in Malaysia explore some considerations relating to the remuneration composition of Non-Executive Directors in view of changes in the relevant sales and service tax pronouncements.

## [Indirect tax bills presented to Parliament](#)

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Indirect tax bills were tabled for first reading in the Malaysian Parliament on 10 December 2020.

## [Indirect tax measures, Finance Act 2020](#)

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The Finance Act 2020, published in the official gazette, does not reflect material differences from the Finance Bill 2020 and has an effective date of 1 January 2021.

## [Latest Developments Relating to Labuan Tax Regime](#)

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The Labuan Business Activity Tax 2018 Regulations 2020 have been gazette, to revise the substantial activity requirements for Labuan entities listed in the Labuan Business Activity Tax 2018 . The Amendment Regulations are deemed to have come into operation on 1 January 2019.

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## [Transfer pricing FAQs](#)

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The KPMG member firm in Malaysia has prepared a report of “frequently asked questions” (FAQs) for Malaysian taxpayers that are engaged in related-party transactions or controlled transactions.

## New Zealand

### [An “unprecedented”\\* year – 2020 in review](#)

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As a result of COVID-19 there were three big ticket tax policy responses:

- Commercial building tax depreciation deductions are now allowed;
- A temporary tax loss carry back rule was implemented (to be followed shortly by a permanent rule); and
- A business continuity rule for tax losses was announced.

## Taiwan

### [Considerations to reduce withholding tax on cross-border service fees](#)

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Remunerations paid to foreign company for providing cross-border services to a Taiwan domestic company generally are subject to withholding tax.

### [Updated CRS guidance](#)

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The tax authority in Taiwan released guides and other documents related to the common reporting standard regime.

## Thailand

### [2021-thailand-tax-calendar](#)

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This Tax Calendar is designed to assist you and your staff to keep track of and meet the filing requirements of tax returns and payments.

## [Proposed single shareholder company regime](#)

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The concept of single shareholder company has been in many discussions for quite some time in Thailand. Single shareholder company is not new in many countries. The single shareholder company allows flexibility to many entrepreneurs or sole proprietors who want to start their own businesses. According to the Thai Civil and Commercial Code (“CCC”), it requires at least 3 shareholders to form a limited company.

## Vietnam

### [Alert on immigration](#)

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The Government officially issued the long-awaited Decree No.152/2020/ND-CP providing guidance on implementation of some articles of the Labor Code No. 45/2019/ QH14 with regard to foreign workers working in Vietnam and recruitment and management of Vietnamese laborers working for foreign organisations or individuals in Vietnam. Decree 152 will take effect from 15 February 2021.

### [Circular 105 on tax registration](#)

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the Ministry of Finance issued Circular 105/2020/TT-BTC providing guidance on the tax registration in accordance with the Law on Tax Administration 2019. Circular 105 takes effect from 17 January 2021 and replaces Circular 95/2016/TT-BTC.



# Significant International Tax Developments

## [OECD: Compendium of comments on “Blueprints” concerning tax challenges from digitalisation of the economy](#)

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The Organisation for Economic Cooperation and Development (OECD) released comments received on reports described as “Blueprints” concerning solutions to the tax challenges arising from digitalisation of the economy.

## [OECD: Compendium of comments on 2020 review of BEPS Action 14](#)

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The OECD released the comments received on the 2020 review of BEPS Action 14, “Making dispute resolution mechanisms more effective.”

## [OECD: Consultation meeting on Pillar One and Pillar Two “Blueprints” scheduled for 14-15 January 2021](#)

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The OECD announced it will conduct a public consultation meeting regarding the Pillar One and Pillar Two “Blueprints” for solutions to the tax challenges from digitalisation of the economy.

## [OECD: Guidance on transfer pricing implications of COVID-19 pandemic](#)

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The OECD released guidance that is intended to clarify and illustrate the practical application of the arm's length principle to unique fact patterns and specific challenges resulting from the COVID-19 pandemic.



## Calendar of events

| Date              | Event  | Location |
|-------------------|--|----------|
| 26 January 2021   | <a href="#"><u>Interest Deductibility, Earning Stripping Rules and Cross-Border Transactions</u></a> | Webinar  |
| 2-4 February 2021 | <a href="#"><u>2021 KPMG Virtual Tax &amp; Legal Summit – Asia Pacific region</u></a>                | Webinar  |
|                   | Contact: <a href="#"><u>Phoebe Tsang</u></a>   |          |





## Beyond Asia Pacific

### [Kenya: Tax rates reduced in response to pandemic to be reinstated \(COVID-19\)](#)

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The Tax Laws (Amendment) (No.2) Bill 2020—reflects the government’s intention to reinstate (or return to) tax rates that had been reduced as relief measures to mitigate the economic effects of the COVID-19 pandemic.

### [Poland: Subsidies for electric vehicle charging stations, hydrogen refueling infrastructure](#)

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The Minister of Climate and Environment on 18 December 2020 issued a draft decree providing details concerning government aid and support for the development of electric vehicle charging infrastructure and hydrogen refueling infrastructure.



## TaxNewsFlash by region

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)



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