



# Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 01 September 2016



## Asia Pacific Tax Developments

### Australia

#### **Australia: ATO provides guidance on negative interest rates**

The Australian Taxation Office (ATO) has recently provided guidance to the Australian Financial Markets Association (AFMA) and its affected members on the application of Part IIIB of the *Income Tax Assessment Act 1936* (ITAA 1936) when the London Interbank Offered Rate (LIBOR) is negative.

KPMG Australia considers some questions provoked by the ATO's recent guidance.

[More details](#)

#### **Australia: A disclosure when there is nothing to disclose?**

The Department of Immigration and Border Protection recently implemented and published procedural changes in relation to the imported goods voluntary disclosure process. The changes include the following requirement in relation to transfer pricing adjustments “*Written advice of the transfer pricing is still required to be submitted even where there are no adjustments to report for a reporting period.*”

KPMG Australia takes a closer look at the recent change.

[More details](#)

#### **Australia: Angel Investor Tax Break – expense capitalisation for accounting purposes**

The new angel investor tax break provides qualifying investors with a 20 percent tax rebate and capital gains tax (CGT) exemption (for the first 10 years) when they invest in a company that qualifies as an early stage innovation company (ESIC).

KPMG Australia highlights some potential issues for taxpayers seeking to use the new angel investor tax break.

[More details](#)

## Australia: Will the Commissioner ultimately draw a Blank?

KPMG Australia looks at the facts in the Blank v Commissioner of Taxation case, currently before the High Court.

The case concerns the treatment of a profit share arrangement put in place by the parent company of the taxpayer's employer. This case is relevant for the tax position of a wide variety of profit share arrangements currently adopted by employers. Where an employee acquires contingent rights from his or her employer to receive future payments from the employer group, when is the appropriate time to recognise the income or benefit that arises from the employment?

[More details](#)

---

## China

### China: China Tax weekly update – Issue 33

KPMG China has issued a newsletter that provides various tax updates on:

- OECD – public comments on discussion draft of branch mismatch structures under BEPS Action 2
- New measures to reduce corporate costs (Guo Fa [2016] No. 48)
- Continuance of existing tax incentives for science and technology enterprise incubators (Cai Shui [2016] No. 89)
- Tax refund policy for goods exported via finance leasing further clarified (Cai Shui [2016] No. 87)
- SAT to classify & grade taxpayers (Shui Zong Fa [2016] No. 99)
- Sanctions on manufacturing operation breaching standards/rules in environmental protection (Fa Gai Cai Jin [2016] No. 1580)
- SAT standardizes the local taxes/fees collected by state tax authorities (Shui Zong Fa [2016] No. 127)
- Further VAT implementation rules from MOF and SAT Shenzhen-Hong Kong Stock Connect approved
- Beijing tax authorities no longer request tax-related assurance reports for CIT annual filing (BSTB & BLTB Announcement [2016] No. 29)

[More details](#)

---

## India

### India: Extended time for FATCA self-certifications, due diligence requirements

The Central Board of Direct Taxes issued a release announcing that financial institutions are not required to close bank accounts by 31 August 2016 if account holders' self-certifications have not been obtained under an alternative procedure with respect to the FATCA regime.

[More details](#)

### **India: Royalty income, not effectively connected with branch office in India, is taxable on a gross basis under tax treaty with Italy**

The Delhi Bench of the Income-tax Appellate Tribunal held that to determine whether royalty income is effectively connected with a permanent establishment (PE), the “asset test” must be evaluated. To determine whether “fees for technical services” are effectively connect with the PE, the “activity test” or “function test” must be evaluated. Because these tests were not satisfied, the royalty income received by the taxpayer was not effectively connected with its branch office in India.

Therefore, the royalty income was taxable at a rate of 20% on a gross basis under provisions of the India-Italy income tax treaty. The tribunal also found that because employees of the Indian branch office of the non-resident company were neither capable nor engaged in the performance of the contract, the activities of the contract were not effectively connected with branch office.

[More details](#)

### **India: Salary received by non-resident in India for services rendered outside India, not eligible for exemption under tax treaty**

The Chennai Bench of the Income-tax Appellate Tribunal held that a non-resident individual is not eligible to claim any benefit under an income tax treaty.

[More details](#)

### **India: Taxability of “free of cost” supplies for GST purposes**

For purposes of valuing works contracts under the model goods and services tax (GST) law, there can be issues regarding the taxability of “free of cost” supplies.

[More details](#)

---

## **Taiwan**

### **Taiwan: Expected VAT changes, foreign e-commerce businesses**

Taiwan's Ministry of Finance announced its intentions to amend the value added tax (VAT) regulations regarding foreign e-commerce providers and to bring them into the "VAT net." Under the proposed changes, foreign e-commerce enterprises outside Taiwan and that sells online to Taiwan individuals would be required to register and pay VAT in Taiwan.

[More details](#)

---

## **Vietnam**

### **Vietnam: Corporate income tax incentives, VAT guidance**

The tax authorities in Vietnam issued guidance which concerns the Corporate Income Tax, Value Added Tax and Tax Registration.

[More details](#)

---

## Calendar of Events

Date	Event	Location
15 -16 September 2016	KPMG Goods and Services Tax (GST) Seminar 2016 <a href="#">More details</a>	Orchard Hotel, Singapore
23 September 2016	US Real Estate Tax Seminar <a href="#">More details</a>	InterContinental Hotel, 80 Middle Road, Singapore 188966
21 October 2016	2017 Budget Announcement Contact person: <a href="#">Karen Lee</a>	Parliament House, Kuala Lumpur, Malaysia
26 October 2016	KPMG in Malaysia Tax Summit 2016 Contact person: <a href="#">Karen Lee</a>	One World Hotel, Petaling Jaya, Malaysia

## Significant International Tax Developments



### OECD: Initial analysis of discussion draft, branch mismatch structures

The Organisation for Economic Cooperation and Development (OECD) this week released for public discussion a draft report that identifies and analyzes mismatches in tax outcomes that can arise through the use of branch structures.

[More details](#)

### OECD: More countries agree to mutual tax matters assistance

The OECD announced that representatives of the governments of Burkina Faso, Malaysia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, and Samoa signed an agreement (convention) for mutual administrative assistance in tax matters.

[More details](#)

### OECD: Public comments, group ratio rule under BEPS Action 4

The OECD released comments received on a discussion draft concerning elements of the design and operation of the group ratio rule under Action 4 (Interest deductions and other financial payments) of the base erosion and profit shifting (BEPS) project.

[More details](#)

## Beyond Asia Pacific

### **Ireland: EC state aid investigation, “illegal tax benefits” to multinational company of €13 billion**

The European Commission announced that it has concluded that Ireland granted undue tax benefits of up to €13 billion to a U.S.-based multinational corporation and that this action was “illegal” under EU state aid rules because it allowed the taxpayer company to pay substantially less tax than other businesses. The EC concluded that Ireland must now recover the illegal aid.

[More details](#)

### **Nigeria: Restricted withholding tax credit note carryforwards**

Nigeria’s tax agency, the Federal Inland Revenue Service (FIRS), is placing restrictions on taxpayers’ use of withholding tax credit notes to settle a company’s income tax liability, by limiting the ability to carry forward withholding credit notes to those liabilities relating to the basis period for the relevant tax year.

[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



**Warrick Cleine**  
Partner & CEO, KPMG in Vietnam  
T : +84 8 3821 9266  
E : [warrickcleine@kpmg.com.vn](mailto:warrickcleine@kpmg.com.vn)

## Asia Pacific Tax Centre Leader, Regional Tax Partner



**Brahma Sharma – KPMG Asia Pacific Limited**  
Asia Pacific Tax Centre Leader,  
Regional Tax Partner  
T : +65 8186 7369  
E : [brahmasharma@kpmg.com.sg](mailto:brahmasharma@kpmg.com.sg)

## Service Line Specialists

### Transfer Pricing Services



**Tony Gorgas – KPMG in Australia**  
Asia Pacific Regional Leader,  
Transfer Pricing Services  
T : +61 2 9335 8851  
E : [tgorgas@kpmg.com.au](mailto:tgorgas@kpmg.com.au)

### Financial Services Transfer Pricing



**John Kondos – KPMG in China**  
Asia Pacific Regional Leader,  
Transfer Pricing Services in  
the Financial Services Sector  
T : +852 2685 7457  
E : [john.kondos@kpmg.com](mailto:john.kondos@kpmg.com)

### Indirect Tax Services



**Lachlan Wolfers – KPMG in China**  
Asia Pacific Regional Leader,  
Indirect Tax Services  
T : +85 22 685 7791  
E : [lachlan.wolfers@kpmg.com](mailto:lachlan.wolfers@kpmg.com)

### Trade & Customs



**Angelia Chew – KPMG in Singapore**  
Asia Pacific Regional Leader,  
Trade & Customs Services  
T : +65 6213 3768  
E : [angeliachew@kpmg.com.sg](mailto:angeliachew@kpmg.com.sg)

### Global Compliance Management Services



**Oi Leng Mak – KPMG in Singapore**  
Asia Pacific Regional Leader,  
Global Compliance Management  
Services  
T : +65 6213 7319  
E : [omak@kpmg.com.sg](mailto:omak@kpmg.com.sg)

### Global Mobility Services



**Andy Hutt – KPMG in Australia**  
Asia Pacific Regional Leader,  
Global Mobility Services  
T : +61 2 9335 8655  
E : [ahutt@kpmg.com.au](mailto:ahutt@kpmg.com.au)

## International Tax



### **Christopher Xing – KPMG in China**

**Asia Pacific Regional Leader,  
International Tax**

**T** : +852 2978 8965

**E** : [christopher.xing@kpmg.com](mailto:christopher.xing@kpmg.com)

## Deal Advisory M&A Tax



### **Angus Wilson – KPMG in Australia**

**Asia Pacific Regional Leader,  
Deal Advisory M&A Tax**

**T** : +61 2 9335 8288

**E** : [arwilson@kpmg.com.au](mailto:arwilson@kpmg.com.au)

## Research & Development (R&D) Tax Incentives



### **Alan Garcia – KPMG in China**

**Asia Pacific Regional Leader,  
R&D Tax Incentives**

**T** : +86 21 2212 3509

**E** : [alan.garcia@kpmg.com](mailto:alan.garcia@kpmg.com)

## Dispute Resolution and Controversy



### **Angela Wood – KPMG in Australia**

**Asia Pacific Regional Leader,  
Dispute Resolution and  
Controversy**

**T** : +61 3 9288 6408

**E** : [angelawood@kpmg.com.au](mailto:angelawood@kpmg.com.au)

## Legal Services



### **David Morris – KPMG in Australia**

**Asia Pacific Regional Leader,  
Legal Services**

**T** : +61 2 9455 9999

**E** : [davidpmorris@kpmg.com.au](mailto:davidpmorris@kpmg.com.au)

## Market Sector Specialists

### Financial Services



### **Christopher Abbiss – KPMG in China**

**Asia Pacific Regional Tax  
Leader,  
Financial Services and Banking  
Sector**

**T** : +852 2826 7226

**E** : [chris.abbiss@kpmg.com](mailto: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](mailto:simonclark1@kpmg.com.sg)

### Sovereign Wealth and Pension Funds



### **Angus Wilson – KPMG in Australia**

**Asia Pacific Regional Leader,  
Sovereign Wealth and Pension  
Funds Sector**

**T** : +61 2 9335 8288

**E** : [arwilson@kpmg.com.au](mailto:arwilson@kpmg.com.au)

### Energy & Natural Resources



### **Carlo Franchina – KPMG in Australia**

**Asia Pacific Regional Tax  
Leader,  
Energy & Natural Resources  
Sector**

**T** : +61 8 9263 7239

**E** : [cfranchina@kpmg.com.au](mailto:cfranchina@kpmg.com.au)

## Insurance



**John Salvaris – KPMG in  
Australia**

**Asia Pacific Regional Leader,  
Insurance Sector**

**T : +61 3 9288 5744**

**E : [jsalvaris@kpmg.com.au](mailto:jsalvaris@kpmg.com.au)**

<https://home.kpmg.com/xx/en/home/services/tax/regional-tax-centers/asia-pacific-tax-centre.html>

[www.kpmg.com/tax](http://www.kpmg.com/tax)

---

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



[kpmg.com/app](http://kpmg.com/app)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2016 KPMG International Cooperative (“KPMG International”), a Swiss entity. Member firms of the KPMG network of independent firms are affiliated with KPMG International. KPMG International provides no client services. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International, a Swiss entity.