



# Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 01 December 2016



## Significant International Tax Developments



### **New OECD convention affects thousands of tax treaties**

Pascal Saint-Amans on 24 November issued a media release saying that more than 100 jurisdictions known as the ad hoc group had concluded negotiations for a Multilateral Instrument pursuant to Action 15 of the BEPS Action Plan. A signing ceremony will be held in June 2017 in Paris.

KPMG Australia analyses the OECD's new Multilateral Instrument, which could modify thousands of international tax treaties.

[More details](#)

KPMG China alerts businesses to the potential changes that would profoundly affect the tax treatment of businesses operating and investing cross-border into and out of China.

[More details](#)

### **OECD: Macau, Mauritius and Ukraine join BEPS inclusive framework**

The OECD announced that Macau (China), Mauritius, and Ukraine have joined the "inclusive framework" on base erosion and profit shifting (BEPS).

[More details](#)

# Asia Pacific Tax Developments

## Australia

### **Australia: AusIndustry Specific Issue Guidance – Farming R&D**

KPMG Australia discusses the new specific issue guidance for farming R&D released by AusIndustry.

Overall the guidance focuses on the importance of robust experimental design with clearly defined parameters and a testable hypothesis as a way to reduce the number of unnecessarily large trials.

[More details](#)

### **Australia: Diverted Profits Tax moving forward**

On 29 November 2016, the Australian Treasury released Exposure Draft (ED) legislation and an accompanying Explanatory Memorandum (EM) in relation to the proposed Australian Diverted Profits Tax (DPT).

In summary, the DPT is intended to provide the Australian Taxation Office (ATO) with additional powers, within the general anti-avoidance regime framework, to deal with global groups who have “diverted” profits from Australia to offshore associates, using arrangements that have a “principal purpose” of avoiding Australian income or withholding tax.

[More details](#)

### **Australia: Pricing of cross staple transactions – what's the new norm?**

The new Attribution Managed Investment Trust (AMIT) regime has effectively resulted in a domestic transfer pricing regime with respect to income derived by MITs.

KPMG Australia examines how the new AMIT regime affects the pricing of transactions between stapled entities.

[More details](#)

### **Australia: Taxing of low value goods imported into Australia**

The Federal Government is currently consulting on exposure draft legislation that will amend the goods and services tax (GST) law to give effect to the 2016-17 Budget decision to apply GST to low value goods imported by consumers.

[More details](#)

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## India

### **India: Business connection of offshore funds**

The Central Board of Direct Taxes issued guidance (a notification) amending the rules concerning the business connection of offshore funds.

[More details](#)

## India: Legislation aimed at addressing “black money” in tax law changes

As a step forward to curb “black money,” bank notes of existing series of denomination of the value of Rs.500 and Rs.1000 were recently withdrawn from circulation by the Reserve Bank of India. There have been concerns also that certain existing provisions of the Income-tax Act, 1961 can possibly be used for concealing black money. India’s government introduced a bill in Parliament that would amend tax law provisions to determine that “defaulting taxpayers” are subjected to tax at a higher rate and that stringent penalty provision would apply.

[More details](#)

## India: No capital gains on transfers in a demerger

The Mumbai Income-Tax Appellate Tribunal held that no capital gain tax is to be levied (absent any consideration received / accrued to the taxpayer) for transfers of undertakings under a plan of demerger. The tribunal observed that absent a connection between the transfer of the undertaking and the revaluation of the investment, neither can be considered as arising on account of the demerger, nor considered to be the full value of the consideration.

[More details](#)

## India: Taxpayer’s contractual obligation to make payment cannot ipso facto absolve such payment or taxpayer from primary duty of demonstrating the arm’s length behaviour

The Delhi High Court, in the case of Magneti Marelli Powertrain India Pvt. Ltd. (taxpayer), held that taxpayer’s contractual obligation to make a payment as per business and commercial requirements and arrangements cannot ipso facto be the end of the enquiry.

Arm’s length price determination in respect of each international transaction is required to be carried out irrespective of taxpayer’s obligation to make payment arising out of agreement (s) between the transacting parties.

[More details](#)

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## Japan

### Japan: Guidance, application forms relating to tax agreement with Taiwan

Japan’s national tax agency released guidance and forms relating to Japan’s tax agreement with Taiwan.

[More details](#)

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## Myanmar

### Myanmar: Withholding tax update for large taxpayers

The “large taxpayer office” of Myanmar’s tax authority on 28 November 2016 issued a newsletter providing updates on Myanmar-related tax matters. In this first newsletter, the large taxpayer office clarified a few points with a special focus on withholding taxes and their application in Myanmar.

[More details](#)

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## New Zealand

### **New Zealand: Business tax legislation update**

The Finance and Expenditure Select Committee (“FEC”) has reported back the August 2016 Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill with a number of changes in relation to:

- Foreign trust disclosure requirements
- Automatic exchange of information (AEOI) rules
- Business tax
- Regulation-making authority

[More details](#)

### **New Zealand: Tax compliance focus 2016/17**

The New Zealand Inland Revenue’s (IR’s) new multinational compliance focus guide highlights the key risk areas businesses need to focus on.

IR’s ‘Basic Compliance Package’ – which requires business taxpayers to provide additional information for IR’s risk assessment purposes – has been extended to all foreign owned groups with NZ turnover of NZ\$30m+.

[More details](#)

### **New Zealand: Update on tax legislation, closely held companies**

The FEC has reported back the May 2016 Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Bill (the “Bill”). The FEC’s recommendations include:

- Leave the “approved issuer levy” eligibility requirements unchanged
- Propose to allow an “approved issuer levy” only if the New Zealand borrower or foreign lender are financial institutions or widely held companies and if interest payable to non-residents satisfied a threshold amount
- Include an intention test for back-to-back loans
- Revise the related-party debt remission rules

[More details](#)

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## Sri Lanka

### **Sri Lanka: Revised “nation building tax” threshold; no rate change**

Legislation in Sri Lanka continues the “nation building tax” rate of 2%, but retroactively reduces the threshold amount of profit or turnover that is subject to the tax, effective from 1 April 2016.

[More details](#)

### **Sri Lanka: VAT legislative changes**

Legislation concerning the value added tax (VAT) in Sri Lanka includes provisions establishing, among other measures, the VAT rate for supplies of goods and services.

[More details](#)

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## Vietnam

### Vietnam: More post-customs clearance audits expected in remainder of 2016

Due to the downturn in the government's collection of revenue in the third quarter of 2016, the General Department of Customs has taken certain actions to increase the collection of customs revenue.

[More details](#)

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## Calendar of Events

Date	Event	Location
10 January 2017	Forms IR8A/IR21 remuneration reporting workshop Contact person: <a href="#">Surani Hanna</a> <a href="#">More details</a>	Singapore

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## Beyond Asia Pacific

### Canada: Guide to oil and gas taxation in Canada

An overview of the Canadian legislation and tax principles for the oil and gas industry.

[More details](#)

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### TaxNewsFlash by Region

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

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

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# KPMG Asia Pacific Tax Centre Contacts

## Asia Pacific Regional Leader, Tax



**Khoon Ming Ho**  
**Head of Tax, KPMG in China**  
T : +8610 8508 7082  
E : [khoonming.ho@kpmg.com](mailto:khoonming.ho@kpmg.com)

## 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)**

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