KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 25 January 2018

Asia Pacific Tax Developments

Australia

Australia: An Audit of the Auditor – ATO Settlement Review Outcome

In December, the Australian National Audit Office (ANAO) published its findings following its review of Australian Taxation Office (ATO) settlement practices. Overall, the ATO received a clean bill of health following the audit. Importantly, the ANAO concluded that the ATO's settlement practices were effective and that settlements were entered into and negotiated in line with the principles of its guiding material such as the ATO's Code of Settlement.

More details

Australia: A pragmatic approach? ATO conducting reviews following Tech Mahindra case

KPMG Australia discusses the ATO's approach to review taxpayers in light of the Federal Court's decision in Tech Mahindra. Those in the line of the ATO's sights have received a letter foreshadowing audit or review activity of past returns to identify if technical services supplied by those taxpayers fall within the scope of 'royalties', as it did in Tech Mahindra, under Article 12(3)(g) of the Indian Double Tax Agreement.

More details

Australia: Beware the Matrix… ATO compliance approach to cross-border transactions

The ATO has released guidance on their compliance approach to taxation issues associated with cross-border transactions, with modifications on its colour-coded tax risk spectrum (White, Green, Blue, Yellow, Amber & Red-zone). The relevant factors that the ATO are relying on to score taxpayers remain unchanged. However, the risk rating is now derived from the intersection of the taxpayer's scores on two axes of a matrix, being 'Pricing' and 'Motivational', rather than from a one-dimensional aggregate points score.

More details

Australia: Crowd Sourced Funding ready to go following ASIC Licensing

Recently, the Australian Securities and Investments Commission (ASIC) has a media release advising that it had licensed the first Intermediaries under the new Crowd Sourced Equity Funding (CSEF) regime. With Intermediaries now licensed by ASIC, all of the requirements are in place to allow companies to utilise the CSEF regime.

More details

India

India: Capital gains arising from indirect transfer of shares of an Indian company on sale of shares of German company are not taxable in India

Recently, the Authority for Advance Rulings (AAR) in the case of GEA Refrigeration Technologies GmbH, held that capital gains arising from indirect transfer of shares of an Indian company on sale of shares of German company shall not be taxable in India. It was noted that the German company has derived is value substantially from its other companies. In addition, since the transfer is effected in Germany, and the payments have also been made in Germany, the gain arising from the alienation of shares can only be brought to tax in Germany.

More details

India: Interest on inter-corporate deposits which have become NPA is not taxable under the Income-tax Act – Supreme Court

Recently, the Supreme Court in the case of Vasisth Chay Vyapar Ltd., while upholding the Delhi High Court's decision held that interest on Inter-corporate Deposits (ICDs) which had become Non-performing Asset (NPA) in terms of Reserve Bank of India (RBI) Prudential Norms, is not taxable in the hands of a Non-banking Financial Company. The High Court had observed that the taxpayer did not receive any interest on the said ICDs for many years and even the recovery of principal amount was doubtful. Thus, perusing provisions of RBI Act, it could not be treated to have been accrued in favour of the taxpayer

More details

India: Payment for offshore supply of an equipment is not taxable in India, whereas, supervisory services for installation of such equipment are taxable in India

Recently, the AAR in the case of Michelin Tamil Nadu Tyres Pvt Ltd, held that the payment for offshore supply of an equipment to a French company under the umbrella agreement is not taxable in India. However, supervision services provided by the French company in India at the factory site where the plant has been set up are chargeable to tax in India, as the income arising thereof can be said to have arisen or accrued in India.

More details

India: Reporting of U.S. TINs for pre-existing accounts under FATCA

India’s Central Board of Direct Taxes has issued a press release addressing the reporting of U.S. taxpayer identification numbers for pre-existing accounts (as of 30 June 2014) in annual FATCA returns filed by financial institutions in India, pursuant to an IRS notice.

More details

India: Space provided by an organiser to a foreign entity for rendering services relating to an event constitutes a PE in India

Recently, the AAR in the case of Production Resource Group held that the space provided by an organiser to a foreign service provider for rendering services relating to an event, i.e., lighting, sound, video, etc., constitutes a Permanent Establishment in India since the space is available at its disposal with exclusive right of access, controlled by it and used for its business.

More details

Korea

Korea: Eight countries removed from EU "blacklist" of non-cooperative jurisdictions

On January 23, 2018, the Economic and Financial Affairs Council of the EU (ECOFIN) agreed to remove Barbados, Grenada, South-Korea, Macao SAR, Mongolia, Panama, Tunisia and the United Arab Emirates from the EU blacklist of non-cooperative jurisdictions , and move them to the “grey list” of countries subject to close monitoring.

More details

Malaysia

Malaysia: Which firms paid the most in taxes

Focus Malaysia recently compiled its list of Bursa Malaysia-listed companies that paid the most taxes in their latest financial years and it was found that the top 50 contributed a total of RM19.76bil.

In Malaysia, companies are required to pay a standard tax rate of 24% on their locally-derived income. The bulk of the top-five taxpayers paid less than the standard 24% tax rate despite having paid-up capital way above RM2.5mil. Twenty two of the top 50 companies paid less than the standard rate.

More details

Singapore

Singapore: Digital innovation, technology and manpower (ITM) needed for Singapore to stay relevant

In the last two years' Budgets, we saw a new Government strategy for Industry Transformation Maps, or ITM for short. For this Budget, KPMG in Singapore proposes its version of a Digital ITM as the key ingredients in accelerating the thrust of the Government's Industry Transformation Maps.

More details

Singapore: Singapore needs to remain competitive

As global competition is intensifying and countries in the Asia-Pacific are enhancing their own competitiveness, how can Singapore keep pace? In this issue, KPMG in Singapore highlights a few tax wishlists in this year's Budget proposal.

More details

Singapore: Updated FAQs on FATCA

The Inland Revenue Authority of Singapore has issued an updated version of FATCA “frequently asked questions” to reflect revised guidance related to obtaining and reporting U.S. taxpayer identification numbers and dates of birth by financial institutions, pursuant to an IRS notice.

More details

Thailand

Thailand: Proposed e-commerce law – second draft released

The Thai Revenue Department (TRD) has issued a second draft of the proposed tax legislative amendments that will impact foreign e-commerce operators available to the Thai market. Public hearing process is currently open until 9 February 2018.

In the second draft, the TRD has removed the originally proposed corporate income taxation and withholding taxation, and focused on bringing e-commerce transactions with non-VAT registered persons into the scope of VAT. It is proposed to effect the new law by amending the current VAT provisions in the Revenue Code.

More details

Thailand: Tax treaty with Cambodia enters into force

An income tax treaty between Thailand and Cambodia, signed in September 2017, has entered into force and is effective as of 1 January 2018.

The new treaty provides for the following rates of withholding tax:

- 10% on dividends
- 10% on interest paid to a financial institution or insurance company, and 15% on interest paid to all other recipients (with the exception of the government)
- 10% on royalties (a royalty specifically includes the use of, or the right to use, industrial, commercial or scientific equipment)
- 10% on fees for technical services. The new treaty includes a specific article (Article 13) that applies to fees for technical services—treatment that is not commonly seen in the network of Thailand's income tax treaties.

More details

Significant International Tax Developments

OECD: Disclosure of CRS avoidance arrangements and offshore structures

The Organisation for Economic Cooperation and Development (OECD) released comments received concerning a discussion draft on model rules intended to focus on promoters and service providers, with a material involvement in the design, marketing or implementation of common reporting standard (CRS) avoidance arrangements or offshore structures.

More details

Calendar of Events

Date	Event	Location
28 February 2018	Commitment to change: Get on the TRAIN More details	Dusit Thani Manila The Philippines

Beyond Asia Pacific

Brazil: Tax law changes, incentives for oil and gas industry

Tax law measures offering incentives for taxpayers in the oil and gas industry were enacted with the publication of Law 13,586 in the official gazette in late December 2017. The federal tax authority of Brazil in January 2018 issued "Normative Instructions" (Instrução Normativa) as guidance for implementing the new tax law.

More details

UK: Finance Bill 2018 update

The Bill has completed Committee Stage and will now proceed to Report Stage and Third Reading.

More details

TaxNewsFlash by Region

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

Africa Americas Europe United States

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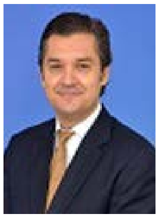

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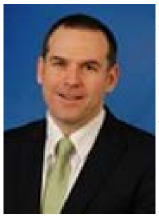
Research & Development (R&D) Tax Incentives



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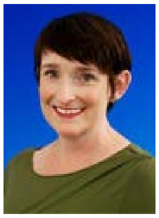
Dispute Resolution and Controversy



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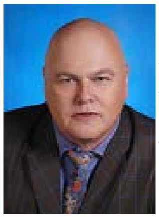
Alternative Investments & Private Equity



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Sovereign Wealth and Pension Funds

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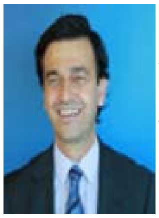
Energy & Natural Resources



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