



# International Asia Pacific and MENASA March 2016

This e-newsletter gives you an overview of international tax developments being reported globally by KPMG firms in the Asia Pacific & MENASA regions between **1 March and 31 March 2016**.

|                           |                           |                             |                          |
|---------------------------|---------------------------|-----------------------------|--------------------------|
| <a href="#">Australia</a> | <a href="#">India</a>     | <a href="#">Myanmar</a>     | <a href="#">Thailand</a> |
| <a href="#">Cambodia</a>  | <a href="#">Indonesia</a> | <a href="#">New Zealand</a> | <a href="#">Vietnam</a>  |
| <a href="#">China</a>     | <a href="#">Japan</a>     | <a href="#">Singapore</a>   |                          |

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To contact the International Tax Team email [internationaltax@kpmg.com](mailto:internationaltax@kpmg.com).

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|                      | Tax area concerned | Relevant date/Case reference | Description of measures and publication link<br>( <i>Considerations in italic where necessary</i> )   |
|----------------------|--------------------|------------------------------|---|
| <b>Australia</b>     |                    |                              |   |
| Proposed legislation | GST                | February 2016                | Legislation tabled in would amend the application of the goods and services tax (GST) to supplies made by and to non-residents. The proposals would amend the GST law in Australia, and would affect offshore intangible supplies and cross-border transactions.<br><a href="#">Read more</a> |
| Other                | WHT                | 1 July 2016                  | From 1 July 2016 new laws will take effect, impacting the sale and purchase of taxable Australian property. The original focus of these provisions was aimed at non-resident vendors, but has now been expanded.<br><a href="#">Read more</a>   |

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**Cambodia**

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| Tax legislation adopted and regulatory update | Tax compliance | January 2016 | Cambodia's tax department issued guidance concerning the use and issuance of invoices for registered "real regime" taxpayers. The guidance clarifies existing requirements and establishes certain conditions.<br><a href="#">Read more</a> |
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| China  |                   |               |  |
|--|-------------------|---------------|--|
| Tax legislation adopted and regulatory update  | Customs duties    | 23 March 2016 | China's customs authority has issued guidance to lessen restrictions on direct filing of customs clearances.<br><a href="#">Read more</a>  |
|  | Various tax areas | 2016          | KPMG in China has prepared reports on the tax, trade and customs developments covering the period January 2016 – March 2016.<br><a href="#">Read more here</a> and <a href="#">here</a>  |
|  | VAT               | 24 March 2016 | China's tax authorities issued guidance concerning the expanded VAT regime for certain industry sectors.<br><a href="#">Read more</a>  |
|  |                   |               | China's tax authorities issued guidance that sets forth the VAT rates and rules for the financial services and insurance sector as this industry sector transitions from the business tax regime to the VAT system, effective 1 May 2016.<br><a href="#">Read more</a>   |
| China's tax authorities issued guidance on the transition from the business tax regime to the VAT system for various industry sectors, including the "lifestyle services" sector.<br><a href="#">Read more</a> |                   |               |  |
|  |                   | 1 May 2016    | China's tax authorities issued guidance issued guidance that concerns the transition of the real estate and construction sector from the business tax regime to the VAT system.<br><a href="#">Read more</a>   |
|  |                   | 1 May 2016    | The scope of application of VAT in China is being expanded to apply to several sectors that were previously subject to business tax. Among the sectors that will be subject to VAT—beginning 1 May 2016—will be: <ul style="list-style-type: none"> <li>— real estate and construction</li> <li>— financial services and insurance</li> <li>— "lifestyle services" (including hospitality, food and beverage, healthcare, and entertainment).</li> </ul> |

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| India                       |                   |                  |  |
|-----------------------------|-------------------|------------------|--|
| Proposed legislation        | Various tax areas | 29 February 2016 | <p>The Finance Minister presented the Union Budget 2016. Among the tax measures included in the budget are measures to:</p> <ul style="list-style-type: none"><li>— repeal of certain corporate incentives that currently have the effect of reducing the corporate tax rate</li><li>— implement under the OECD's BEPS project a three-tiered transfer pricing documentation requirement for corporate taxpayers satisfying a threshold amount of turnover</li><li>— impose a new income declaration program, whereby taxpayers must disclose and legitimize assets and income and pay tax on previously undisclosed amounts</li><li>— provide for equalization of the taxation of digital or e-commerce transactions that currently escape India's tax reach</li><li>— impose an additional 10 percent surcharge tax on taxpayers earning more than INR (Indian rupee) 1 million from dividends and a higher surtax for individuals earning more than INR 10 million from dividends</li><li>— continue towards the long-awaited goods and services tax regime.</li></ul> <p><a href="#">Read more</a></p> |
| Administrative and case law | PE                | March 2016       | <p>The Mumbai Bench of the Income-tax Appellate Tribunal held that income arising from container services cannot be treated as income arising from a shipping business because the taxpayer did not own, charter or lease any vessel or ship.</p> <p><a href="#">Read more</a></p>   |
|                             | Various tax areas | March 2016       | <p>KPMG in India has prepared reports describing the following developments:</p> <ul style="list-style-type: none"><li>— CBDT clarifies taxability of consortium</li><li>— India-UK tax treaty benefits.</li></ul> <p><a href="#">Read more</a></p> <p>KPMG in India has prepared reports describing the following developments:</p> <ul style="list-style-type: none"><li>— revised guidelines for "stay of demand" when case is before Commissioner of Income-tax (Appeal)</li><li>— tax withheld at source, payments by broadcasters and television channels to production houses,</li></ul>  |



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|  |  | <p>television channels, publishing houses, advertisement companies</p> <ul style="list-style-type: none"><li>— Central Board of Direct Taxes clarifies taxability of surplus on sale of shares and securities</li><li>— when tax treaty benefits apply, the 20 percent tax withheld at source does not apply. The case is: <i>Wipro Ltd.</i></li></ul> <p><a href="#">Read more</a></p>   |
|  |  | <p>KPMG in India has prepared reports describing the following developments:</p> <ul style="list-style-type: none"><li>— foreign company engaged in outsourcing services has business connection under the Income-tax Act, but not a PE under the India-UK tax treaty. The case is: <i>Vertex Customer Management Ltd.</i></li><li>— tax treatment of government subsidies relating to the manufacture or sale of taxpayer's products. The case is: <i>Meghalaya Steels Ltd.</i></li><li>— guidelines for application of the safe harbor provisions for offshore funds.</li></ul> <p><a href="#">Read more</a></p>  |
|  |  | <p>KPMG in India has prepared reports describing the following developments:</p> <ul style="list-style-type: none"><li>— binding precedent. The case is: <i>HDFC Bank Ltd.</i></li><li>— buyback of shares</li><li>— consultancy services for exploration, mining, and extraction do not constitute PE under treaty with Germany. The case is: <i>Rheinbraun Engineering Und Wasser GmbH.</i></li><li>— proposal to tax provident fund and superannuation is withdrawn.</li></ul> <p><a href="#">Read more</a></p>  |
|  |  | <p>KPMG in India has prepared reports describing the following developments:</p> <ul style="list-style-type: none"><li>— stock exchange services, provided with respect to share transactions, are not "fees for technical services". The case is: <i>Kotak Securities Ltd.</i></li><li>— guidelines for foreign direct investment in e-commerce: India's government issued guidelines on foreign investment in e-commerce</li><li>— payment of inter-connection usage charges by an Indian telecom service provider to a foreign telecom operator is not "fees for technical services" or a royalty. The case is: <i>Bharti Airtel Ltd.</i></li></ul> <p><a href="#">Read more</a></p> |

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| Indonesia                                     |     |            |  |
|---|-----|------------|--|
| Tax legislation adopted and regulatory update | VAT | March 2016 | The government of Indonesia issued regulations to implement its revised policy concerning the import and/or delivery of certain taxable goods classified as “strategic goods” that are exempt from VAT.<br><a href="#">Read more</a> |

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| Japan   |                   |               |  |
|---|-------------------|---------------|--|
| Tax legislation adopted and regulatory update | Various tax areas | 29 March 2016 | The 2016 tax reform bills were passed. They include, among other: <ul style="list-style-type: none"><li>— a reduction in the effective rate of corporate tax for certain corporations</li><li>— changes to the limits on deductible tax losses</li><li>— amendments to the depreciation methods</li><li>— changes to the rules for deductible directors’ compensation</li><li>— the introduction of a corporate version of “hometown taxes”</li><li>— changes to the transfer pricing documentation rules</li><li>— amendments to the anti-tax haven (CFC) rules</li><li>— introduction of a reduced consumption tax rate for certain transaction</li><li>— introduction of an invoicing system for the consumption tax.</li></ul> <a href="#">Read more</a> |

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| Myanmar                                       |                   |              |  |
|---|-------------------|--------------|--|
| Tax legislation adopted and regulatory update | Various tax areas | 1 April 2016 | The Myanmar parliament passed the tax law applicable for the fiscal year beginning 2016, including the following: <ul style="list-style-type: none"><li>— there are no changes to the income tax rates for individuals and corporations</li><li>— there are new tax rates in relation to certain income of a new business or an expanded business</li><li>— there is no change to the general capital gains tax rate of 10 percent, but the capital gains tax rate for</li></ul> |

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|  |  |  | oil and gas-related companies increases to 50 percent (up from 40 percent).<br><a href="#">Read more</a> |
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| New Zealand                 |               |            |  |
|-----------------------------|---------------|------------|--|
| Proposed legislation        | GST / WHT     | March 2016 | Two 2015 tax bills have been reported back from the Finance and Expenditure Select Committee of Parliament with a number of changes. The first bill concerns (GST with respect to non-resident supplies of “remote services” (e.g. digital content) to New Zealand consumers and a residential land withholding tax on the sale of land within two years by “offshore persons.” The second bill introduced a framework for information sharing and taxpayer communication under Inland Revenue’s business transformation proposals and new rules for deducting tax on employee share plan or scheme benefits.<br><a href="#">Read more</a> |
| Administrative and case law | Tax residence | March 2016 | A decision of the Court of Appeal of New Zealand may affect individuals in New Zealand looking to move overseas, current expatriates, and those persons looking to invest or spend time in New Zealand. The case is: <i>Diamond v. CIR</i> .<br><a href="#">Read more</a>  |

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| Singapore            |                   |            |  |
|----------------------|-------------------|------------|--|
| Proposed legislation | Various tax areas | 2016       | Among the tax provisions in Singapore’s 2016 budget are:<br>— measures for an increase in amount of the corporate tax rebate that largely benefits SMEs that are actually paying tax<br>— measures for an extension of the non-taxation of gain from equity investment, and provide a certain degree of flexibility to claim writing-down allowances on the acquisition cost of intellectual property over a longer period of time.<br><a href="#">Read more</a> |
| Other                | R&D               | March 2016 | The current “production and innovation credit” regime was designed with an objective of spurring productivity growth and promoting innovation. Some believe that this goal has not been met, and it has been suggested that the credit would benefit from being “more  |

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|  |  |  | calibrated” to address different needs that businesses have.<br><a href="#">Read more</a> |
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| Thailand                                      |                   |               |  |
|---|-------------------|---------------|--|
| Tax legislation adopted and regulatory update | Regulatory issues | February 2016 | Thailand’s Ministry of Commerce issued a regulation providing that foreign companies conducting certain banking and insurance services are no longer required to obtain a “foreign business license” from the government.<br><a href="#">Read more</a> |
|   | Tax audits        | March 2016    | The tax authorities in Thailand have clarified and expanded on the “tax audit exemption program” announced in early 2016 for small and medium size entities (SMEs).<br><a href="#">Read more</a>   |

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| Vietnam                                       |                      |            |  |
|---|----------------------|------------|--|
| Tax legislation adopted and regulatory update | Corporate income tax | March 2016 | KPMG in Vietnam has prepared reports describing the following developments: <ul style="list-style-type: none"> <li>— guidance on the use of losses incurred by an acquired company prior to the acquisition date</li> <li>— an official letter concerning the determination of the amount of deductible management service fees for management services of foreign investment companies for certain sectors including hotel management and apartment rental</li> <li>— an official letter concluding that a company is not allowed to make provision for impairment of investments in “unlisted securities” when the market value of the securities cannot be determined.</li> </ul> <a href="#">Read more</a> |
|   |                      |            | KPMG in Vietnam has prepared reports describing the following developments: <ul style="list-style-type: none"> <li>— guidance providing that when a company possesses fixed assets that are used to serve its employees, the expenses associated with the repair and maintenance of such fixed assets are treated as deductible expenses</li> <li>— an official letter provides that when a company acquires a factory from another company, the</li> </ul>  |

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|  |  |  | company is not allowed to “inherit” the tax incentives related to the factory.<br><a href="#">Read more</a> |
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