



International Tax Asia Pacific and MENASA November 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 November and 30 November 2016**.

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| Australia | Malaysia | Sri Lanka |
| China | Myanmar | Thailand |
| India | New Zealand | UAE |
| Japan | Papua New Guinea | Vietnam |

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To contact the International Tax Team email internationaltax@kpmg.com.

To register for the International Tax webcasts, click [here](#).

| | Tax area concerned | Relevant date | Description of measures and publication link |
|-----------------------------|--------------------|---------------|--|
| Australia | | | |
| Proposed legislation | DPT | 29 Nov 2016 | Australian Treasury released Exposure Draft (ED) legislation and an accompanying Explanatory Memorandum (EM) in relation to the proposed Australian Diverted Profits Tax (DPT). Read more |
| Proposed legislation | WHT | 7 Nov 2016 | The current rate and complexity of withholding tax applied to distributions made by Australian funds has a significant impact on the ability of Australian funds to compete internationally. The government released a much anticipated consultation paper seeking industry views on policy options for withholding tax reform. Read more |
| Administrative and case law | Transfer pricing | 21 Nov 2016 | The new Attribution Managed Investment Trust (MIT) regime has effectively resulted in a domestic transfer |

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| | | | pricing regime with respect to income derived by MITs. The pricing of transactions between stapled entities can be difficult, especially in an infrastructure context. Read more |
| KPMG publication | Capital gains/rollover relief | 16 Nov 2016 | This article discusses the government's inconsistent super fund policy settings in regards to capital gains tax rollover relief. Read more |
| KPMG publication | WHT | 14 Nov 2016 | This article highlights the importance of knowing what constitutes an 'associate' for the purpose of determining a Section 128F interest withholding tax exemption. Read more |

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| China | | | |
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| Administrative and case law | Employment permits | 17 Nov 2016 | China's State Administration of Foreign Expert Affairs launched a pilot program to simplify the application of foreigners for an employment permit in the PRC. Read more |
| Administrative and case law | AEOI | 15 Nov 2016 | China's tax authorities issued draft guidance measures setting forth the principles and procedures for Chinese financial institutions to apply in identifying and collecting the financial accounts of non-residents for purposes of the automatic exchange of financial information in tax matters (AEOI) standard. Read more |
| Administrative and case law | Self-declarations | 7 Nov 2016 | China's customs authority issued guidance that amends the existing customs clearance procedure for imported goods, and that will allow for customs self-declarations and tax and customs duty payments. Read more |
| Treaties | BEPS | 28 Nov 2016 | OECD published a 'multilateral instrument' to be used to implement tax treaty-related measures set out under the BEPS project. For purposes of China's network of income tax treaties, the changes that will be made are expected to profoundly affect the tax treatment of businesses operating and investing cross-border into and out of China. Read more |
| KPMG publications | Various tax areas | 16 Nov 2016 | China issued a market update that includes a discussion of: China's commitment to the Common Reporting Standard; preferential import tax policy for fracking equipment; and, raises in the export tax |

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| | | | refund rate for certain electromechanical products and petroleum products. Read more |
| KPMG publications | Various | 8 Nov 2016 | China issued a market update that includes a discussion of: Market access in certain internet relevant sectors for foreign investors in China; customs duty administrative modernization advances as well as new customs inspection regulations; and, exchange of notes for the China-Malaysia tax treaty. Read more |

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| India | | | |
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| Administrative and case law | Offshore accounts | 29 Nov 2016 | The Central Board of Direct Taxes issued guidance (a notification) amending the rules concerning the business connection of offshore funds. Read more |
| Administrative and case law | Capital gains | 29 Nov 2016 | 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. Read more |
| Administrative and case law | Customs | 16 Nov 2016 | India's Central Board of Excise and Customs (CBEC) issued guidelines and procedures for the deferred payment of customs duty. The deferral rules will be effective 16 November 2016 and will apply to importers registered as an Authorized Economic Operator (Tier 2 or 3). Read more |
| Administrative and case law | Transfer pricing | 18 Nov 2016 | The Delhi High Court held that the transfer of computer software by the Indian branch to the foreign head office could be considered to be a 'sale' to a party located outside India; therefore, the taxpayer can claim application of the tax benefit under section 10A of India's tax law. Read more |
| Administrative and case law | Permanent establishment | 11 Nov 2016 | The Chennai Bench of the Income-tax Appellate Tribunal found that because the taxpayer's subsidiary in India, as represented by its managing director, constituted a fixed place of business and thus a permanent establishment in India, the amount received by the taxpayer for a project was taxable in India. Read more |

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| Treaties | Taxable services | 1 Nov 2016 | The Kolkata Bench of the Income Tax Appellate Tribunal held that no technology, know-how, or skills were made available by the taxpayer while rendering management support and other services to enable the Indian group company to function on its own without the taxpayer. Therefore, such services were not taxable as 'fees for technical services' under a provision of the India-Finland income tax treaty. Read more |
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| Japan | | | |
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| Administrative and case law | Customs | 15 Nov 2016 | The Customs and Tariff Bureau of the Ministry of Finance of Japan has issued guidance regarding certain regulatory changes resulting from the 2016 Tax Reform Act, and setting forth increases in penalties that may be imposed on importers for deficient customs declarations or for non-declarations. The measures in the 2016 Tax Reform Act are effective 1 January 2017. Read more |
| Other | Tax agreement | 30 Nov 2016 | Japan's national tax agency released guidance on its tax agreement with Taiwan with respect to withholding taxes and forms for application of the mutual exemption provisions for income of foreign residents. Read more |

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| Malaysia | | | |
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| Tax legislation adopted and regulatory update | GST | 1 Nov 2016 | There was no change to the goods and services tax (GST) rate proposed in the budget for 2017. The government, instead, will be relying on the collection of GST to cope with expenses and to reduce the dependence on revenue from the oil and gas industry. Thus, there will be no reduction in GST in the short-term. Read more |

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| Myanmar | | | |
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| Administrative and case law | WHT | 29 Nov 2016 | The 'large taxpayer office' of Myanmar's tax authority launched a newsletter in order to provide updates on |

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| | | | 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. Read more |
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| New Zealand | | | |
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| Proposed legislation | Disclosure and AEOI | 29 Nov 2016 | The Finance and Expenditure Select Committee has reported back a tax bill with changes related to foreign trust disclosure requirements and automatic exchange of information. Read more |
| Proposed legislation | Closely held companies | 29 Nov 2016 | Pending legislation in New Zealand would revise certain tax rules concerning closely held companies including revisions to related party debt rules and intention tests for back-to-back loans. Read more |
| Administrative and case law | International tax compliance | 18 Nov 2016 | The Inland Revenue Department formally launched its 2015/16 Multinational Enterprises Compliance Focus guide. The guide includes the Commissioner's view on international tax compliance, tax governance and responses to BEPS developments. Read more |

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| Papua New Guinea | | | |
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| Proposed legislation | Various tax areas | 3 Nov 2016 | The Papua New Guinea (PNG) Minister for Treasury handed down the budget for 2017. Among the tax measures are items concerning Country-by-Country reporting, interest withholding tax exemption for non-resident lenders and foreign contractor WHT rates. Read more |

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| Sri Lanka | | | |
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| Tax legislation adopted and regulatory update | VAT | 28 Nov 2016 | 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. Read more |

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| Thailand | | | |
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| Administrative and case law | Sharing taxpayer databases between authorities | 17 Nov 2016 | The Thai Customs Department (Customs) and Revenue Department (RD) can now access the other's database in order to obtain taxpayers' tax and duty payments records, primarily for use in tax audits. Read more |

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| UAE | | | |
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| Tax legislation adopted and regulatory update | New tax authority | 2 Nov 2016 | New law establishes a new tax authority in the United Arab Emirates to govern taxes (including value added tax (VAT)) in the UAE. This reflects the intention to implement a VAT system in the UAE by January 2018 and to align UAE laws with international tax developments such as tax treaties, tax information exchange agreements, and global tax information exchange programs (such as FATCA and CRS). Read more |

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| Vietnam | | | |
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| Administrative and case law | Customs | 29 Nov 2016 | Because of a 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. Read more |
| Administrative and case law | Various tax areas | 18 Nov 2016 | The Ministry of Finance issued an 'official letter' providing that the transfer of a right to use a trademark is subject to value added tax (VAT) and reaffirming the 'foreign contractor tax' rates that apply to a transfer of a right to use a trademark. Read more |
| Administrative and case law | Various tax areas | 1 Nov 2016 | Corporate income tax guidance issued by the tax authorities cover several international tax topics including: taxation of branch offices, permanent establishments; customs duty updates. Read more |

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