



# KPMG Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 15 March 2018



## Asia Pacific Tax Developments

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### Australia

#### [Australia: Hybrid Mismatches – further nails in the cross-border financing coffin](#)

On 7 March 2018, the Treasury released Revised Exposure Draft (ED) legislation and an accompanying Explanatory Memorandum, addressing hybrid mismatch arrangements, for public consultation. This revised ED makes various refinements, and also includes two new key measures announced last November. These are as follow:-

- Finance integrity measure
- Limited scope response

[More details](#)

#### [Australia: Impact on SMSFs – Withdrawal of refundability of franking credits](#)

KPMG Australia discusses at the possible impacts on SMSFs and other superannuation funds from the ALP's proposed withdrawal of refundability of franking credits. Given the ageing population and larger proportion of superannuation members moving into pension phase, that policy setting is arguably becoming fiscally unsustainable in the long term.

[More details](#)

#### [Australia: Labour Policy announcement: withdrawal of refundability of franking credits](#)

Following the announcement on change in imputation system, there needs to be a debate about imputation. Refundable imputation fits into a broader context of whether the policy settings is right for the taxation of company profits.

[More details](#)

#### [Australia: Super tax reform: death AND taxes?](#)

KPMG Australia looks at the tax treatment of death benefits under recent superannuation reforms. Major superannuation tax reforms, such as those from the May 2016 budget, create risks

that potentially unintended consequences may arise, some of which are not immediately obvious.  
[More details](#)

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## China

### [China: China clarifies tax treaty application for partnerships, service PE and international transportation](#)

China's State Administration of Taxation issued Announcement 11 to supplement prior guidance on China's income tax treaties—specifically guidance concerning the application of the income tax treaty provisions to foreign partnerships and service permanent establishments (PEs).

Some of the clarifications are as follow:-

- Foreign partnership clarifications
- The older China income tax treaties, whose service PE articles set a six month (rather than 183 day) threshold, should be interpreted as setting a 183 day test.

[More details](#)

### [China: China Tax Weekly Update – Issue 6](#)

The following matters are covered in this issue:-

- Enhanced export tax refund rules
- VAT general taxpayer registration changes
- Implementation rules for customs advance rulings
- OECD: Multilateral risk assessment pilot program

[More details](#)

### [China: Customs Policy Update - for the Period of February 2018](#)

The following matters are covered in this issue:-

- The General Administration of Customs and the National Development and Reform Commission Jointly Issued the Announcement on the Standard for Unit Consumption of Cathode Copper in Processing Trade
- GAC Announcement on the Declaration Requirement for HS Code Involved in the Implementation of Anti-dumping Measures against 3-Phenoxy-benzaldehyde
- GAC Announcement on the Relevant Procedures of Changing Bank Deposit to Customs Affairs Guarantee
- GAC Announcement on Expanding the Pilot Reform of the Entity-based Supervision Model for Processing Trading
- The Ministry of Commerce, the GAC, the Ministry of Industry and Information Technology, the State Administration of Science, Technology and Industry for National Defence, and China Atomic Energy Authority Jointly Issued the Announcement on the Additional List of Dual-Use Items and Technologies Banned from Export to North Korea

[More details](#)

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## India

**India: Carry forward and set off of losses are permissible even when 51 per cent of the voting power is beneficially held by the same persons during the year of loss as well as in the year of set-off**

The Mumbai Bench of the Income-tax Appellate Tribunal held that the taxpayer is entitled to set-off the losses from the current year's income. This refers to beneficial holding with voting power and not direct ownership of shares. The ownership of the shares with the same person is not contemplated for denying the set off of the loss.

[More details](#)

**India: Employees' Provident Fund Organisation makes submission of claims through online mode mandatory if the settlement amount of the provident fund is above INR10 lakhs**

Recently, the Employees' Provident Fund Organisation has issued a circular where they have made it mandatory to submit the withdrawal claims through the online mode mandatory if the accumulations under the Provident Fund is above INR10 lakhs.

[More details](#)

**India: If the POEM of an enterprise is not situated in one of the contracting states but is situated in the third state, the benefit of the shipping and air transport article of the India-Mauritius tax treaty cannot be granted**

The Mumbai Bench of the Income-tax Appellate Tribunal held that if the Place of Effective Management (POEM) of an enterprise is not situated in one of the contracting states but is situated in the third state, benefits of Article 8 (Shipping and air transport) of the India-Mauritius tax treaty cannot be granted to the taxpayer.

[More details](#)

**India: India Tax Konnect**

KPMG in India provides a compilation of tax news for the month March 2018.

[More details](#)

**India: Referral fees are not in the nature of FTS but business income and not taxable in India**

The Mumbai Bench of the Income-tax Appellate Tribunal held that the referral fees paid by the Indian group company to Credit Suisse bank for referring clients in India are not in the nature of Fees for Technical Services (FTS). It is in the nature of business income and since the taxpayer's Permanent Establishment (PE) in India has no role to play in performance of such referral activities, the same are not attributable to such PE in India. Therefore, payment for such services is not taxable in India under India-Switzerland tax treaty.

[More details](#)

**India: Sales of shares to second "step-down" subsidiary is exempt under the provisions of Section 47(iv) of the Income-tax Act**

The Kolkata Bench of the Income-tax Appellate Tribunal held that a sale of shares of a subsidiary to second step-down 100% subsidiary of the taxpayer is not regarded as a transfer.

[More details](#)

## India: Service on taxpayer's authorised representative of the taxpayer is deemed to be served on the taxpayer – Supreme Court

The Supreme Court held that service of a notice to an authorised representative of the taxpayer is deemed to be service on the taxpayer. Accordingly, there is sufficient compliance of the requirement under the provisions of the Income-tax Act.

[More details](#)

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## New Zealand

### New Zealand: Provisional value system for imports, new customs law

A new customs law is expected to be effective in New Zealand beginning 1 October 2018. The new measures generally are viewed as being “business friendly,” but there are some measures that warrant closer attention.

[More details](#)

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## Significant International Tax Developments



### OECD: Improving tax dispute resolution mechanisms under BEPS Action 14

The Organisation for Economic Cooperation and Development (OECD) announced the release of eight additional peer review reports pursuant to the base erosion and profit shifting (BEPS) Action 14 on standards for improving tax dispute resolution mechanisms.

[More details](#)

### OECD: New disclosure rules for advisors, common reporting standard

The OECD announced the release of new model disclosure rules that require lawyers, accountants, financial advisors, banks, and other service providers to inform tax authorities of any schemes they put in place for their clients to avoid reporting under the common reporting standard or prevent the identification of the beneficial owners of entities or trusts.

[More details](#)

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## Beyond Asia Pacific

### EU: Changes to list of “non-cooperative jurisdictions” in tax matters

The European Commission announced changes to the EU's list of “non-cooperative jurisdictions” in tax matters.

[More details](#)

### US: KPMG report: Tax reform implications for R&D activities

Tax reform changed the playing field for taxpayers engaged in research and development (R&D) activities.

[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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