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RSM Tax Advisory (Hong Kong) Limited
羅 申 美 稅 務 諮 詢 有 限 公 司

Welcome to Tax Flash – RSM Tax Advisory (Hong Kong) Limited's Newsletter Covering Technical Development in Taxation

ASIA AND THE PACIFIC... TAX DEVELOPMENTS AT A GLANCE

Tax authorities around the globe are busy dealing with the international tax initiatives such as Base Erosion and Profit Shifting (BEPS) Action Plans, Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) implementation. On the other hand, governments of many jurisdictions have also been considering incentives to attract/retain investments in light of the sluggish global economy. In this Tax Flash, we aim to provide you with highlights on recent tax developments in some of the jurisdictions in the Asia Pacific region.

I. Australia

- Australia in its 2016/17 Budget announced that the company tax rate for all companies will decrease from 30% to 25% over the next 10 years beginning with the year 2016-17.

Year	Turnover Threshold Less Than (AUD)	Tax Rate
2016/17	$10 million	27.5%
2017/18	$25 million	27.5%
2018/19	$50 million	27.5%
2019/20	$100 million	27.5%
2020/21	$250 million	27.5%
2021/22	$500 million	27.5%
2022/23	$1 billion	27.5%
2023/24	None	27.5%
2024/25	None	27%
2025/26	None	26%
2026/27	None	25%

- Asset-backed financing will be given the same tax treatment as conventional financing from 1 July 2018 to enable Australian businesses to more easily access investment, generating growth and job creation. The Asset backed financing is similar to conventional financing but relies on the trading of assets, sharing of profits or leasing to finance an investment, rather than interest repayments, providing an alternative route for large and long term projects.

- Changes to the tax and regulatory rules will be made to create two new forms of investment vehicles, a *corporate collective investment vehicle* from 1 July 2018 and a *limited partnership collective investment vehicle* from 1 July 2018. Creation of these investment vehicles are to encourage the export of funds management services from Australia.

- Tougher laws and stronger compliance measures will be introduced to prevent multinational profit shifting and to improve corporate tax transparency. Apart from significantly enhancing the Australian Tax Office enforcement capabilities by establishing a new Tax Avoidance Taskforce, the 2016/17 Budget announces a *Diverted Profits Tax ("DPT")*, which impose a 40% penalty rate of tax on large multinationals (annual global turnover exceeding $1 billion) that attempt to shift their Australian profits offshore to avoid paying tax commencing on 1 July 2017. The DPT together with the Multinational Anti Avoidance Law that was introduced in the 2015/16 Budget are expected to raise around $650 million over four years from large multinationals.

- Australian transfer pricing rules will be amended in line with OECD Transfer Pricing guidance. The new guidance will make clearer how intellectual property and other intangibles should be priced amongst businesses operating in different jurisdictions, emphasizing that pricing should be determined by reference to the substance of the transaction rather than contractual form.

- Hybrid mismatch rules (measures that have been agreed by the OECD) will come into effect by around 1 January 2018 to close loopholes that allow multinational corporations to exploit the differences between tax treatment of entities and instruments across different countries, enabling them to obtain unfair tax advantages over domestic companies.

II. China

- With all remaining sectors (real estate and construction, financial service, hospitality, food & beverage, healthcare, education, cultural & entertainment services, etc.) transitioning from Business Tax ("BT") to Value Added Tax ("VAT") nationwide with effect from 1 May 2016, VAT has now completely replaced BT in China. China's VAT system uses multiple VAT rates and the commonly used rates are 3%, 6%, 11%, 13% and 17%. The VAT reform aimed to promote development of the service sector.

- To fulfill the commitment of the G20 countries to help developing countries improve their ability in taxation collection and management and deepen cooperation, China on 14 March 2016 opened an OECD-SAT multilateral tax centre in Yangzhou, China. This centre, first of its kind in a country outside OECD members, is designed to provide training to tax officials in China and those coming from other developing countries and to provide country officials with the opportunity to further understand the OECD's current initiatives. It is intended to benefit all participating countries. China is increasing its involvement in the international tax landscape by providing assistance to developing countries' tax administration upgrades, helping them to shape their tax administration, particularly those along the Belt and Road.

These initiatives may be a step taken for China to have a greater influence in the global tax policy and administration in the future.

III. Hong Kong

- In June 2016, a Tax Bill has been passed to attract multinational and mainland enterprises to establish Corporate Treasury Centres ("CTCs") in Hong Kong. This will involve the amendment of the Inland Revenue Ordinance ("IRO") by providing the following tax concessions:

  (1) Concessionary profits tax rate for qualifying CTCs (i.e. 50% of prevailing profits rate for corporations = 8.25%); and

  (2) Interest expenditure incurred for intra-group financing business will be deducted, subject to compliance with the specified conditions.

  These above will apply retrospectively from 1 April 2016.

- To comply with the international standard for automatic exchange of financial account information ("AEOI") regarding tax matters, Inland Revenue (Amendment) Bill was introduced in January 2016 to amend the Inland Revenue Ordinance for public consultation and legislative process. In brief, under the AEOI standard, a financial institution (FI) is required to identify financial accounts held by tax residents of reportable jurisdictions (i.e. tax residents who are liable to tax by reason of residence in the jurisdictions with which Hong Kong has entered into an AEOI arrangement). FIs are required to collect the reportable information of these financial accounts, and furnish such information to the Inland Revenue Department (IRD). The IRD will exchange the information with the tax authorities of AEOI partner jurisdictions on an annual basis.

IV. India

- The Union Budget 2016 introduced a special 'royalty tax' which the tax rate on income earned from patents is 10% (vs. 30% after deducting expenses). The objective is to encourage domestic research and development with an aim to make India an innovation hub. The benefit will be available across knowledge-based sectors, including automotive, electronics and pharmaceuticals.

- Resident shareholders, whether individuals or companies, who earn dividend income of more than Rs 10 lakh (approximately USD 15,000) a year, will now have to pay tax on such income at a flat rate of 10%. Foreign investors who are non-tax resident of India are not subject to this newly introduced tax.

- An amnesty program, Income Declaration Scheme, is offered from 1 June 2016 to 30 September 2016 for domestic taxpayers to rectify their past non-compliance of undisclosed income. There will be no questions being asked, no scrutiny and no prosecution to those who come forward to clear up past non-compliance by paying tax at 30%, a surcharge at 7.5% and a penalty at 7.5%, totalling 45% of undisclosed income.

- In line with the recommendations contained in the OECD BEPS report on Action 13, India will adopt the three-tiered transfer pricing documentation structure consisting of (1) a master file containing standardized information relevant for all MNE group member; (2) a local file referring specifically to material transactions of the local taxpayer; and (3) a country-by-country ("CbC") report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group. The CbC will enter into force from1 April 2017 and apply to MNE with consolidated group turnover of more than EURO 750 million (or equivalent local currency).

V. Japan

- With the passage of the 2016 tax reform bills on 29 March 2016, the effective corporate tax rates for a company which is liable to size-based business taxes (generally speaking, company with stated capital of over JPY 100M) will be reduced.

	Former tax rate	New tax rate	
Fiscal year	**1 April 2015 to 31 March 2016**	**1 April 2016 to 31 March 2018**	**1 April 2018 & onwards**
Standard tax rates	32.11%	29.97%	29.74%

- In line with recommendations contained in the OECD BEPS report on Action 13, Japan will follow the three-tiered transfer pricing documentation rules:

  (1) for tax years beginning on or after 1 April 2016 a country-by-country report must be filed by Japanese MNE group with global revenue of not less than JPY100 billion for the year immediately preceding the reporting year. It is due within one year after the reporting fiscal year-end. The reporting language is English.

  (2) for tax years beginning after 1 April 2016 a master file must be filed by Japan-based companies that are members of a MNE group with revenue of not less than JPY100 billion for the year immediately preceding the reporting year. It is due within one year after the reporting fiscal year-end. The reporting language is Japanese or English.

  (3) for taxable years beginning after 1 April 2017 a local file must be filed by Japanese companies and Japanese permanent establishments which have at least JPY5 billion of related-party transactions or JPY300 million of related-party intangible property transactions in the previous fiscal year (the current fiscal year if the previous year does not exit). It is due by the filing due date of the Japanese income tax return.

- Reporting requirement for Japanese subsidiary or Japan branch of a foreign company who pays stock-based compensation is expanded to include not only Japanese resident who is a former director or employee of a Japanese subsidiary or Japan branch of a foreign company; but also a non-resident who is or a former director or employee of a Japanese subsidiary or a Japan branch of a foreign company.

VI. Singapore

- On 8 April 2016, the Manpower Minister of Singapore announced in the Parliament that new criterion will be introduced in approving work pass applications aiming at strengthening the competitiveness of the Singapore workforce. In particular, areas which will be looked at include (1) the proportion of foreign employees in a company, (2) whether a company tried to recruit Singaporeans for the job, and (3) the extent of a company's contribution to the Singapore economy and society. Companies deemed weak in all three areas may face difficulties in renewing the employment passes of existing foreign employees and obtaining new ones for new expatriate hires.

- The Mergers & Acquisitions Scheme which was introduced in 2010 is further enhanced. For qualifying M&A deals made from 1 April 2016 to 31 March 2020, the M&A tax allowance will equal to 25% of consideration paid per year for up to S$50 million (up from S$20 million). Stamp duty relief will be granted for up to S$40 million of the consideration paid for qualifying M&A deals per year.

- The Finance and Treasury Centre ("FTC") Scheme is extended for another 5 years to 31 March 2021. The concessionary tax rate has been further reduced to 8% on income from qualifying activities and services. In addition, withholding tax exemption is extended to interest payments on deposits placed with the FTC by non-resident approved offices and associated companies.

- Tax incentive for trustee companies that originally scheduled to lapse after 31 March 2016 has been extended with further details to be released by June 2016 from the Monetary Authority of Singapore. Scope of qualifying activities will be expanded to align with trustee activities covered under the Financial Sector Incentive Standard Tier Scheme. Concessionary tax rate of 12% will be offered to new incentive recipients while existing award holders continue to enjoy the 10% concessionary rate until expiry of their current awards.

- Tax concession for employer-provided home leave passage for expatriate employees, the Approved Investment Company Scheme (introduced to promote the investment management industry in Singapore) and the tax exemption on income derived by non-resident trading in Singapore in specified commodities via consignment arrangements will all be withdrawn from the Year of Assessment 2018.

VII. South Korea

- In line with the recommendations contained in the OECD BEPS report on Action 13, South Korea has adopted new documentation requirements of master file and local file for income years beginning on or after 1 January 2016. Adoption of the country-by-country report will commence at a later stage after the government evaluates the legislation of other countries adopting the CbC requirement. The new master and local files reporting requirement is applicable to all domestic corporations and all foreign corporations with permanent establishments in Korea with:

  (1) annual net sales from the domestic place of business in Korea greater than 100 billion KRW; and

  (2) annual cross-border related-party transactions of a value greater than 50 billion KRW.

  Both the master file and the local file should be submitted to the Korean tax authorities by the corporate tax return filing due date. Filing may be performed electronically or in paper. The master file may be submitted in English on the condition that a Korean translation of the documentation will be filed within one month after the submission of the English version; while the local file is to be submitted in Korean only.

- Further to signing the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information in October 2014 and committed to early adoption of the Common Reporting Standard as Early Adopters Group, Korea has amended its Law for Coordination of International Tax Affairs (LCITA) to provide a legal framework for implementing CRS on 1 January 2016 and participation in the AEOI in 2017. Final guidance on AEOI was issued in December 2015 by the Korea's Financial Services Commission. The guidance requires financial institutions to determine whether they are reportable financial institutions under CRS and those so classified must collect self-certification forms from on-boarding new account holders.

VIII. Vietnam

- With effect from 1 April 2016, the categories of foreign workers which can be exempt from work permit has been expanded. Among those is a category for foreign nationals entering Vietnam for employment as an expert, manager, executive director or technician for a period less than 30 days per entrance and the cumulative period does not exceed 90 days in any one year. Furthermore, the need to obtain work permit exemption certificate from the Department of Labour is waived for this category of foreign workers. This new measure certainly provides greater flexibility for international employers who wish to bring in senior personnel from overseas to provide technical expertise and training for the benefit of the local employees and projects. Although work permits may be exempt provided set conditions are met, foreign workers who derive employment income for services rendered in Vietnam may still have a Vietnamese income tax paying obligation.

- Pursuant to Resolution No. 01/NQ-CP dated 7 January 2016, the Government will proactively develop plans to ensure balance of State budget collection in 2016 amid fluctuations in oil prices. To achieve this goal, one of the plans the Government has is to strengthen tax control and inspection to minimize revenue losses and maximize revenue collection. Transfer pricing is an area specifically mentioned; therefore, taxpayers can expect to see more frequent and comprehensive audits will be conducted during 2016 in the transfer pricing arena. As such, having contemporaneous transfer pricing documentation is something taxpayer should be prepared for in the event of being selected for an audit. Taxpayers may also want to revisit their transfer pricing disclosures to ensure consistency and proactively rectifying errors to minimize questioning from the authorities.

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RSM Tax Advisory (Hong Kong) Limited

RSM Hong Kong's dedicated and experienced tax specialists can:

- Advise on tax efficient holding and operational structures for new cross-border investment, including the formation of Hong Kong and Chinese business entities
- Review existing cross-border investment structures, advise on identified deficiencies, quantify any potential exposure from such deficiencies, and further advise on restructuring approach and procedures
- Assist clients to discuss and clarify matters with tax officials, including transfer pricing and advance rulings
- Act as client representative in tax audits and tax investigations
- Provide transaction support services on mergers and acquisitions, including tax due diligence, deal structure advice, tax health checks, related human resources arrangements and other tax compliance and consultation services
- Advise on human resources and structuring employment arrangements in a tax-efficient manner
- Advise on tax equalization schemes
- Provide tax compliance services for individual and corporate clients in Hong Kong and China

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Mr. Dicky To
T +852 2508 2863
E dickyto@rsmhk.com

Mr. Eric Chen
T +852 2583 1259
E ericchen@rsmhk.com

Ms. Lilian Poon
T +852 2583 1241
E lilianpoon@rsmhk.com

Mr. Samuel Chan
T +852 2583 1242
E samuelchan@rsmhk.com

Mr. Patrick Ho
T +852 2583 1258
E patrickho@rsmhk.com

Mr. Chan Ka Ho
T +852 2583 1249
E khchan@rsmhk.com

Ms. Catherine Tsang
T +852 2583 1256
E catherinetsang@rsmhk.com

RSM Tax Advisory (Hong Kong) Limited
29th Floor, Lee Garden Two
28 Yun Ping Road
Causeway Bay, Hong Kong
T +852 2598 5123
F +852 2598 7230
E tax@rsmhk.com
www.rsmhk.com