



## Asia Pacific Tax Developments

### Australia

#### **Australia: Choose your own adventure – software tax treatment**

Expenditure on software can be substantial so it is worth identifying the correct tax treatment from commencement of the project.

KPMG Australia gives a spirited insight into the considerations of the appropriate software tax treatment.

[More details](#)

#### **Australia: Deemed dividends and tax consolidated groups**

Several views have been previously expressed regarding whether Division 7A continues to operate in certain circumstances for private subsidiaries of tax consolidated groups.

The Commissioner has now confirmed in Tax Determination TD 2015/18 that Division 7A continues to operate to deem a dividend to be paid by a private company that is part of a tax consolidated group.

[More details](#)

#### **Australia: Has there ever been a more exciting time to innovate?**

KPMG Australia provides insight into the future of innovation policy and is hopeful that in the coming months a new blueprint for innovation policy in Australia will emerge for analysis and discussion amongst all relevant parties.

[More details](#)

#### **Australia: Is Australia ready for the Asia Region Funds Passport?**

KPMG Australia discusses upcoming gateways to a more exportable Australian funds management industry.

The long awaited pilot of the Asia Region Funds Passport, a gateway to a more exportable Australian funds management industry, will commence on 1 January 2016.

The second (and equally as important) gateway will be the introduction of a comprehensive Australian collective investment vehicle regime which offers a suite of investment structures with global recognition.

[More details](#)

#### **Australia: NSW OSR reduces timeframe for retrospective jobs action plan claims**

The NSW Office of State Revenue (OSR) has released a ruling indicating that the current practice of allowing employers to retrospectively register roles under the NSW Jobs Action Plan will change with effect from 23 November 2015.

[More details](#)

### India

#### **India: Corporate social responsibility rules**

There is a legal requirement for companies to comply with "corporate social responsibility" rules in India. Companies that satisfy a net worth threshold or a net profit threshold must spend 2% of the average net profit of the immediately preceding three years on corporate social responsibility activities. The Financial Year 2014-15 was the first year for the companies to comply with these rules.

[More details](#)

#### **India: The limitation of relief clause under the India-Singapore tax treaty**

The Rajkot Bench of the Income-tax Appellate Tribunal held that the benefit of the India-Singapore tax treaty is not to be denied to the taxpayer by applying provisions of the Limitation of Benefit (LOB) clause since such income has already been offered to tax on an accrual basis in Singapore. Such LOB provisions can only be triggered when two conditions are satisfied:

- Low or no taxability in the source jurisdiction is fulfilled.
- Taxability on a receipt basis in the residence jurisdiction is fulfilled.

[More details](#)

**India: Services in connection with procurement of goods are taxable as FTS under the India-China tax treaty**

The Authority for Advance Rulings issued a ruling concluding that service fees received from the Indian company for providing consultancy services in connection with the procurement of goods are taxable as “fees for technical services” (FTS) under the India-China income tax treaty.

[More details](#)

**India: Computation of presumptive income in connection with the business of exploration of mineral oils under Section 44BB of the Act**

The Delhi High Court held that the amount of service tax collected on account of rendering of services in connection with the business of exploration of mineral oils shall not be included in the gross receipt while computing presumptive income under Section 44BB of the Income-tax Act, 1961. The service tax collected by the taxpayer does not have any element of income and therefore cannot form part of the gross receipt.

[More details](#)

**India: CBDT cannot impose additional conditions on industrial park**

The Hyderabad Bench of the Income-tax Appellate Tribunal held that the Ministry of Commerce and Industry is the government authority that alone can approve an industrial park under the Income Tax Rules, 1962, or withdraw tax benefit for the industrial park.

[More details](#)

**India: The Transfer Pricing Officer is bound to refer the valuation report to Departmental Valuation Officer**

The Mumbai Bench of the Income-tax Appellate Tribunal held that the Transfer Pricing Officer is required to determine the arm’s length price by applying any one of the methods prescribed under section 92C of the Income-tax Act, 1961. Accordingly, the tribunal concluded that: (1) when the taxpayer has submitted a report from an “approved valuer” indicating the fair market value of purchased machinery; (2) before rejecting this valuation report, the Transfer Pricing Officer must refer the issue of the machinery valuation to the Departmental Valuation Officer (as per the procedure set forth in the statute).

[More details](#)

**India: Final rules for “range” concept and multiple year data prescribed under Transfer Pricing regulations**

On 21 May 2015, the Central Board of Direct Taxes (CBDT) issued the draft scheme of the proposed rules for computation of the arm’s length price of international transactions or specified domestic

transactions undertaken on or after 1 April 2014. The proposed rules were relating to the availability of range and use of multiple year versus single year data.

On 19 October 2015, the CBDT published a notification releasing the final rules for the use of range and multiple year data.

[More details](#)

**India: Revised and updated guidance for selection and referral of transfer pricing cases for assessments**

The CBDT issued Instruction No. 15/2015 on 16 October 2015, replacing Instruction No. 3 dated 20 May 2003, providing guidance to the Assessing Officers and Transfer Pricing Officers regarding administration of transfer pricing assessments.

The guidelines specify that cases for TP assessments should not be selected for scrutiny based on the value of international transactions reported by the taxpayers, but should be based on risk parameters.

[More details](#)

## Indonesia

**Indonesia: Protocol to tax treaty with Netherlands**

A new Protocol to the income tax treaty between Indonesia and the Netherlands was signed on 30 July 2015 and will be effective 31 days after formal approval and ratification by both governments. Among the measures contained in the Protocol are revisions to the withholding tax rates on dividend payments.

The Protocol also confirms that no mutual agreement is required between the Competent Authorities on the mode of application of the tax treaty articles regarding dividends, interest, and royalties.

[More details](#)

## New Zealand

**New Zealand: Bright-line property tax rule nears enactment**

The Finance and Expenditure Committee of Parliament has reported back on the Taxation (Bright-line Test for Residential Land) Bill. The Bill is now awaiting enactment.

The Finance and Expenditure Committee has left the core proposal largely unchanged.

While the Finance and Expenditure Committee has recommended some useful clarifications, unwelcome features, such as the ring fencing of losses, have made it through unscathed. The Committee did not reach consensus however. The Labour, Green and NZ First members have raised a number of concerns with the Bill.

[More details](#)

# Calendar of Events

Date	Event	Location
26-28 October 2015	2015 KPMG EMA Tax Summit <a href="#">More details</a>	Lisbon, Portugal
28 October 2015	KPMG Malaysia Tax Summit 2015 For more details email <a href="#">Karen Lee</a>	Malaysia
12 November 2015	KPMG Banking Risk & Regulations Conference 2015 <a href="#">More details</a>	Singapore
24 November 2015	KPMG Goods and Services Tax (GST) Seminar: Zero-rating of Services and Difference Between Reimbursement and Disbursement <a href="#">More details</a>	Singapore
9 December 2015	Managing Employer's Tax Obligations For more details email <a href="#">Carmen Yong</a>	Petaling Jaya, Malaysia

## Beyond Asia Pacific

### Czech Republic: Electronic reporting of sales postponed indefinitely

The electronic reporting of sales was originally scheduled to be effective beginning in 2016. The effective date, however, was postponed to February 2016, and then again postponed to April 2016. The electronic reporting of sales has now been postponed indefinitely.

[More details](#)

### Gibraltar: All registered companies must file tax returns

There is a change to the tax rules in Gibraltar effective for accounting periods beginning in 2016. This change requires that all companies registered in Gibraltar must submit a tax return—not just those companies with assessable income.

[More details](#)

### Luxembourg: Draft legislative proposals to implement BEPS measures

The Luxembourg government submitted draft legislative proposals to Parliament—legislation that, if enacted, would both implement certain provisions of the OECD's base erosion and profit shifting (BEPS) actions and provide for certain EU-compliant measures.

[More details](#)

## TaxNewsFlash by Region

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

[Africa](#)

[Americas](#)

[Europe](#)

[United States](#)

# KPMG Asia Pacific Tax Centre Contacts

## Asia Pacific Regional Leader, Tax



**Warrick Cleine**  
**Partner & CEO, KPMG in Vietnam**  
T: +84 8 3821 9266  
E: [warrickcleine@kpmg.com.vn](mailto:warrickcleine@kpmg.com.vn)

## Asia Pacific Tax Centre Leader, Regional Tax Partner



**Brahma Sharma - KPMG Asia Pacific Limited**  
**Asia Pacific Tax Centre Leader, Regional Tax Partner**  
T: +65 8186 7369  
E: [brahmasharma@kpmg.com.sg](mailto:brahmasharma@kpmg.com.sg)

## Asia Pacific Regional Client Service Team

### Regional Client Partner



**Rick Asquini - KPMG in Singapore**  
**Regional Client Partner**  
T: +65 6213 3300  
E: [rickasquini@kpmg.com.sg](mailto:rickasquini@kpmg.com.sg)

## Asia Pacific Indirect Tax Compliance Centre of Excellence



**Adrienne Mcstocker - KPMG in Singapore**  
**Regional Leader, Asia Pacific Indirect Tax Compliance**  
T: +65 6597 5810  
E: [amcstocker1@kpmg.com.sg](mailto:amcstocker1@kpmg.com.sg)

## Service Line Specialists

### Transfer Pricing Services



**Tony Gorgas - KPMG in Australia**  
**Asia Pacific Regional Leader, Transfer Pricing Services**  
T: +61 2 9335 8851  
E: [tgorgas@kpmg.com.au](mailto:tgorgas@kpmg.com.au)

### Financial Services Transfer Pricing



**John Kondos - KPMG in China**  
**Asia Pacific Regional Leader, Transfer Pricing Services in the Financial Services Sector**  
T: +852 2685 7457  
E: [john.kondos@kpmg.com](mailto:john.kondos@kpmg.com)

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## Indirect Tax Services



**Lachlan Wolfers - KPMG in China**  
Asia Pacific Regional Leader,  
Indirect Tax Services  
T: +85 22 685 7791  
E: [lachlan.wolfers@kpmg.com](mailto:lachlan.wolfers@kpmg.com)

## Trade & Customs



**Angelia Chew - KPMG in Singapore**  
Asia Pacific Regional Leader,  
Trade & Customs Services  
T: +65 6213 3768  
E: [angeliachew@kpmg.com.sg](mailto:angeliachew@kpmg.com.sg)

## Global Compliance Management Services



**Oi Leng Mak - KPMG in Singapore**  
Asia Pacific Regional Leader,  
Global Compliance Management Services  
T: +65 6213 7319  
E: [omak@kpmg.com.sg](mailto:omak@kpmg.com.sg)

## Global Mobility Services



**Andy Hutt - KPMG in Australia**  
Asia Pacific Regional Leader,  
Global Mobility Services  
T: +61 2 9335 8655  
E: [ahutt@kpmg.com.au](mailto:ahutt@kpmg.com.au)

## International Tax



**Christopher Xing - KPMG in China**  
Asia Pacific Regional Leader,  
International Tax  
T: +852 2978 8965  
E: [christopher.xing@kpmg.com](mailto:christopher.xing@kpmg.com)

## Deal Advisory M&A Tax



**Angus Wilson - KPMG in Australia**  
Asia Pacific Regional Leader,  
Deal Advisory M&A Tax  
T: +61 2 9335 8288  
E: [arwilson@kpmg.com.au](mailto:arwilson@kpmg.com.au)

## Research & Development (R&D) Tax Incentives



**Alan Garcia - KPMG in Australia**  
Asia Pacific Regional Leader,  
R&D Tax Incentives  
T: +61 3 9288 6094  
E: [afgarcia@kpmg.com.au](mailto:afgarcia@kpmg.com.au)

## Dispute Resolution and Controversy



**Angela Wood - KPMG in Australia**  
Asia Pacific Regional Leader,  
Dispute Resolution and Controversy  
T: +61 3 9288 6408  
E: [angelawood@kpmg.com.au](mailto:angelawood@kpmg.com.au)

## Legal Services



**David Morris - KPMG in Australia**  
Asia Pacific Regional Leader,  
Legal Services  
T: +61 2 9455 9999  
E: [davidpmorris@kpmg.com.au](mailto:davidpmorris@kpmg.com.au)

## Market Sector Specialists

### Financial Services



**Christopher Abbiss - KPMG in China**  
Asia Pacific Regional Tax Leader,  
Financial Services and Banking Sector  
T: +852 2826 7226  
E: [chris.abbiss@kpmg.com](mailto:chris.abbiss@kpmg.com)

### Alternative Investments & Private Equity



**Simon Clark - KPMG in Singapore**  
Asia Pacific Regional Tax Leader,  
Alternative Investments and Private  
Equity sector  
T: +65 6213 2152  
E: [simonclark1@kpmg.com.sg](mailto:simonclark1@kpmg.com.sg)

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## Sovereign Wealth and Pension Funds



**Angus Wilson - KPMG in Australia**  
**Asia Pacific Regional Leader,**  
**Sovereign Wealth and Pension Funds**  
**Sector**

**T:** +61 2 9335 8288

**E:** [arwilson@kpmg.com.au](mailto:arwilson@kpmg.com.au)

## Energy & Natural Resources



**Carlo Franchina - KPMG in Australia**  
**Asia Pacific Regional Tax Leader,**  
**Energy & Natural Resources Sector**

**T:** +61 8 9263 7239

**E:** [cfranchina@kpmg.com.au](mailto:cfranchina@kpmg.com.au)

## Insurance



**John Salvaris – KPMG in Australia**  
**Asia Pacific Regional Leader,**  
**Insurance Sector**

**T:** +61 3 9288 5744

**E:** [jsalvaris@kpmg.com.au](mailto:jsalvaris@kpmg.com.au)

<https://home.kpmg.com/xx/en/home/services/tax/regional-tax-centers/asia-pacific-tax-centre.html>  
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