

Asia Pacific Financial Services

Tax Highlights



October 2022

Welcome to our October 2022 edition of Asia Pacific Financial Services Tax Highlights, where we draw your attention to the latest developments and hottest issues facing the industry in the region.

We encourage you to get in touch with any one of our contacts listed, or your usual PwC contact, should you wish to discuss anything further.

Legend:

This development is relevant to the following:

-  Asset & Wealth Management
-  Banking & Capital Markets
-  Insurance
-  All

Australia

The latest monthly tax updates include:

- The Treasury has released [exposure draft legislation](#) which seeks to give effect to the former Government's announcement to prevent the distribution of franking credits where a distribution to shareholders is funded by particular capital raising activities. Specifically, this is the first time we have seen the detail of how this integrity measure applies since it was first announced in the Mid-Year Economic and Fiscal Outlook 2016-17.
- The Australian Taxation Office (ATO) has raised concerns with some entities with transitional managed investment trust (MIT) cross staple arrangements not correctly reporting income. From 1 July 2019, the MIT withholding rates on fund payments attributable to non-concessional MIT income (NCMI) is 30% (including MIT cross staple arrangement income). An exception is allowed for stapled groups which have made a valid choice to apply the transitional provisions. However, the ATO still expects these entities to disclose the trust's MIT status and full details of the trust's NCMI at Items 32 and 57 of the trust income tax return, including excluded amounts.
- The Treasury has released [exposure draft law](#) to give effect to the Government's announcement to exclude crypto assets from treatment as foreign currency for Australian income tax purposes.

- In *Minerva Financial Group Pty Ltd v Commissioner of Taxation [2002] FCA 1092*, the single judge of the Federal Court held that a taxpayer (a member of a group of companies and trusts known as 'Liberty') which carried on a financial services business entered into two schemes for the dominant purpose of obtaining a tax benefit which were subject to the general anti-avoidance provisions in Part IVA of the Income Tax Assessment Act 1936. The fact that the Australian group was a beneficiary (i.e. as well as the non-resident unitholders) was ultimately very important to the decision. For further details regarding this case, see our [Tax Alert](#).

Mainland China

On 2 September 2022, the Qianhai Authority and the Financial Services and the Treasury Bureau of the HKSAR jointly promulgated the '18 Measures to Support the Joint Development of Shenzhen and Hong Kong Venture Capital Investments in Qianhai' (or the '18 Measures'). The 18 Measures came into force on 2 September and are effective for three years. The aim of 18 Measures is to promote the joint development of venture capital investments in Shenzhen and the HKSAR, and foster the growth of the Guangdong-Hong Kong-Macao Greater Bay Area as an international innovation and technology hub. Click [here](#) for a summary of the 18 Measures and the policy highlights.

Hong Kong FS

In July 2022, the District Court (DC) held in *John Wiley & Sons UK2 LLP and another v. The Collector of Stamp Revenue* that the membership interest in a UK LLP is 'issued share capital' within the meaning of section 45 of the Stamp Duty Ordinance, and the appellants were 'associated bodies corporate' within the meaning thereof and entitled to the stamp duty relief.

In August 2022, the Collector of Stamp Revenue (Collector) applying for leave to appeal against the DC's judgment to the Court of Appeal (COA), the DC dismissed the Collector's application on 30 September 2022. The DC considered that the four proposed grounds of appeal raised by the Collector do not have any reasonable prospect of success. Furthermore, the DC was not sufficiently convinced that the appeal would be to the public advantage, and took the view that whether leave ought to be given in this context should be better decided by the COA.

It remains to be seen whether the Collector will further apply to the COA for leave to appeal.

India FS

The Delhi bench of the Income-tax Appellate Tribunal has held that a beneficial tax rate of 5% prescribed under section 194LD read with section 115(A)(1)(a)(iiab) of the Income-tax Act, 1961 shall be available on interest income earned from investments made in rupee denominated non-convertible debentures. Click [here](#) for more information.

Other tax updates and insights in India are available [here](#).

Malaysia FS

The [latest updates](#) include:

- Key tax proposals of Budget 2023 was announced by the Finance Minister in the Budget speech on 7 October 2022. Tax incentives – extension and changes including extension of Principal Hub 3.0 incentive, extension of Global Trading Centre incentive, expansion of scope for Equity Crowdfunding, etc. were announced.
- OECD Pillar 2 establishes a minimum tax system with a minimum effective tax rate (ETR) of 15% at the jurisdictional level. In line with the global developments, it is announced that Malaysia will introduce the global minimum ETR as recommended under Pillar 2, targeted for 2024. Detailed analysis will also be done to consider the introduction of qualified domestic minimum top-up tax.
- Following the gazette of the Income Tax (Exemption) (No. 5) Order 2022 and Income Tax (Exemption) (No. 6) Order 2022 in relation to tax exemption on specified foreign-sourced income, the Inland Revenue Board has issued the Guidelines on Tax Treatment of Income Received from outside of Malaysia. Click [here](#) for more details.

South Korea FS

This month's tax updates include:

- The National Tax Service's audit direction for the second half of 2022
- Foreign financial account reporting marks a record high since 2018
- Rulings update

Click [here](#) for more details.

Taiwan FS

The latest tax updates include:

- As Taiwan Controlled Foreign Company (CFC) rules are expected to come into force in 2023, the Ministry of Finance updated Frequently Asked Questions on the CFC rules to provide additional clarification and address queries raised by the general public. Read this [Tax Update](#) to know more.

Vietnam FS

On 13 September 2022, the OECD published 'Making Dispute Resolution More Effective – MAP Peer Review Report, Vietnam (Stage 2)'. The Report details what actions Vietnam has taken and will take to improve its mutual agreement procedure so that it meets the requirements of Action 14 of the OECD's Base Erosion and Profit Shifting (BEPS) initiative. Read our [publication](#) which summarises the findings of the Report and what this may entail for Vietnam's tax treaties.

International updates FS

The OECD on 10 October 2022 published a much-anticipated two-part document – the Crypto-Asset Reporting Framework (CARF) and Amendments to the Common Reporting Standard (CRS), setting forth a global tax transparency compliance framework with model rules for the automatic reporting and exchange of taxpayer information relating to financial accounts and crypto-assets. Click [here](#) to read more.

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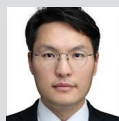
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