Asia Pacific Financial Services Tax Highlights

September – October 2023

Welcome to our September / October 2023 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:

- AWM Asset & Wealth Management
- BCM Banking & Capital Markets
- INS Insurance
- FS All

Australia FS AW

- Treasury has released for public consultation proposed amendments to Treasury Laws Amendment (Making Multinationals Pay Their Fair Share - Integrity and Transparency) Bill 2023 (the Bill), which is currently before the Senate and contains the Government's reforms to Australia's thin capitalisation rules.

  The amendments are largely welcome as they address many of the issues raised by stakeholders during the recent Senate Economics Legislation Committee inquiry into the Bill. Of particular note is the ability for certain trusts to utilise excess downstream tax EBITDA in the calculation of their fixed ratio earnings limit, changes to the third party debt test to broaden the arrangements that are able to benefit from this test, and new exemptions and a transitional rule in relation to the debt deduction creation rules.

  Please refer to our Tax Alerts for more information.

- The OECD two-pillar approach to address the digitalisation of the economy will significantly impact tax functions of multinational entities. These historic changes will affect effective tax rates, significantly increase compliance obligations, impact legal structures, change deal values, and force multinational enterprises (MNEs) to source data that might be difficult to obtain.

  With financial statement disclosure obligations already in effect, and the need to develop and implement new processes to meet extensive Pillar Two compliance obligations in coming years, it is critical that action plans are being set into motion as soon as possible to address the implementation of Pillar Two in Australia.

  The key implementation focus areas and current action items will vary depending on whether the Ultimate Parent Entity of the MNE group is located either in Australia or overseas with an Australian inbound investment. Further information on how to prepare for the implementation of Pillar Two and manage related financial reporting disclosure and compliance obligations for both of these scenarios is available here.

Other latest monthly tax updates are also available here.

Mainland China FS

- In its 20 years of development, Qualified Foreign Institutional Investors has played a prominent role in the market. As China's economy growth continues and its capital market keeps developing, there is an increased need to invest into China from foreign institutional investors. To support the further opening of China's capital market, the "Provisions on Fund Administration of Domestic Securities and Futures Investment by Foreign Institutional Investors" was introduced on 7 May 2020 by the People's Bank of China and the State Administration of Foreign Exchange, removing the limitation on Foreign Institutional Investor's (FII's) investment quota. By the end of June 2023, 772 institutions were approved and granted FII licenses. The number of foreign institutions planning to apply for FII licenses continue to increase steadily.

  As the leading service provider of FII audit and tax services in China, we have received many queries about FIIs – how they are set up, operated, among other issues.

  In this Brochure, we share some insights with you – on FII regulatory developments and related hot topics including accounting, auditing and tax. We hope it will be a valuable reference for you.

Hong Kong FS

- As foreshadowed in the 2023-24 Budget announced in February 2023, a patent box tax incentive will be introduced to provide tax concessions for profits sourced in Hong Kong and derived from eligible intellectual property assets generated through research and development activities.

  For more details, please refer to our News Flash.

- Following extensive consultations with stakeholders, the Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains) Bill 2023 (the Bill), which seeks to refine the existing foreign-sourced income exemption (FSIE) regime under the Inland Revenue Ordinance by expanding the scope of assets in relation to foreign-sourced disposal gains to cover assets other than equity interests, was gazetted on 13 October 2023.

  While the European Union has rejected the Government's proposals to (i) confine the scope of assets subject to the refined FSIE regime and (ii) allow the rebasing of the cost of an asset to its fair market value prior to the effective date of the refined FSIE regime (or an alternative taper relief), it has agreed to (i) the exclusion of disposal gains derived by traders of assets other than intellectual property (IP) and (ii) the introduction of an intra-group transfer relief.

  Furthermore, the Government has adopted several recommendations made by stakeholders (including PwC) to mitigate the impacts of the refinements on covered taxpayers.

  This News Flash outlines the refinements to the existing FSIE regime as proposed under the Bill and its major differences from prior proposals, followed by our take on the refined FSIE regime.

- Following on from our previous news flashes, the highly anticipated tax certainty enhancement scheme (Enhancement Scheme) has taken a further step towards implementation, with the Inland Revenue (Amendment) (Disposal Gain by Holder of Qualifying Equity Interests) Bill 2023 (the Bill) gazetted on 20 October 2023. The Bill proposes to amend the Inland Revenue Ordinance (IRO) by adding a new section 40AX and Schedule 17K to the IRO to provide for the tax treatment in relation to gains covered by the Enhancement Scheme.

  Read our News Flash for more insights.

More publications and news relating to the financial services industry are available here.

India FS

- The Delhi bench of the Income-tax Appellate Tribunal (Tribunal) has, in a welcome ruling pertaining to the taxation of gains arising out of the sale of shares, provided relief to the taxpayer by upholding the following principles in the context of the Double Taxation Avoidance Agreement (DTAA) access:

  - DTAA access cannot be denied to the taxpayer by invoking the doctrine of substance over form by completely disregarding the availability of the Tax Residency Certificate and other corroborative evidence and satisfaction of the limitation of benefit clause; and

  - If the subject transaction is specifically exempt from the purview of General Anti-Avoidance Regulations, the Tax Officer cannot involve the doctrine of substance over form to deny DTAA access.

  Click here to read more.

Other tax updates and insights in India are available here.

Korea FS

- The government is considering the creation of special opportunities zones where investors in these zones may benefit from corporate income tax and acquisition tax incentives, etc. The primary goal of creating these opportunities zones is to stimulate economic development and job creation in relatively underdeveloped local regions. This initiative involves providing more than 10 types of incentives which are distinct from those currently available in existing economic zones, as outlined by the Presidential Council on New Initiative for Regional Development.

  Read more in the latest monthly tax updates.

Malaysia FS

- The Prime Minister tabled the mid-term review of the Twelfth Malaysia Plan (12MP) at the Dewan Rakyat on 11 September 2023, with the theme Malaysia MADANI: Sustainable, Prosperous, High-Income.

  A total of 17 Big Bold measures are introduced covering important strategies and initiatives that will serve as the main catalyst in accelerating the efforts to reform the socioeconomic development of the nation in line with the Malaysia MADANI aspiration. Among the Big Bold measures include developing high growth high value industries, enhancing fiscal sustainability, retargeting subsidies, accelerating energy transition, advancing digitalisation and technology through government technology as well as empowering micro, small and medium enterprises.

  For more information, please click here.

- Our TaXavvy Budget Edition highlights the key tax proposals of Budget 2024 based on the Budget speech as announced by the Prime Minister and Finance Minister, YAB Dato' Seri Anwar bin Ibrahim on 13 October 2023:

  - Following the announcement in the retabled Budget 2023 to introduce tax on capital gains from the disposal of unlisted shares, the Government has now provided further details.

  - The Government announced in Budget 2024 the expected timeline for multinational enterprises operating in Malaysia to prepare for changes in relation to the Global Minimum Tax (GMT).

- On 12 October 2023, the Inland Revenue Department (IRD) has launched a new webpage on GMT providing general information on GMT. The IRD has stated that Malaysia intends to implement the Multinational Top-up Tax based on Global Anti-Base Erosion Model Rules (Model GloBE Rules) and the Qualified Domestic Top-up Tax as outlined in Article 10 of the Model GloBE Rules.

Other Malaysian tax updates are available here.

New Zealand FS

- July 2023 marked the launch of Inland Revenue's (IR's) third instalment of the 'Tax Governance in Practice' campaign, with letters issued to more than 900 'significant enterprises' across New Zealand. This campaign confirms that tax governance should be a priority for all significant enterprises (taxpayers with a turnover of $30 million or more) across New Zealand.

  IR has also been clear that both high wealth individuals and larger compliance managed businesses will also be subject to increased scrutiny around their tax risk management practices.

  Read our Tax Tips to know more.

International FS

- On 3 October 2023, the OECD Inclusive Framework announced the conclusion of negotiations on a multilateral instrument (MLI) to implement the Pillar Two Subject to Tax Rule (STTR). The text of the STTR MLI, along with an explanatory statement, high-level summary, and frequently asked questions can be found on the OECD website. As of 2 October 2023, the MLI is open for signature by all states without reservations. The STTR allows countries to increase taxes on certain cross-border payments (not including dividends) among associated entities under a bilateral tax treaty where the nominal rate in the recipient country is below 9% (adjusted for tax base reductions such as tax exemptions and tax credits).

  For more information, please see our PwC Tax Policy Alert.

- The OECD on 11 October 2023 released a package of guidance in relation to Amount A of Pillar One: the text of a consensus-based Multilateral Convention and accompanying explanatory statement, an Understanding on the Application of Certainty for Amount A of Pillar One, and an update to the economic impact assessment of Pillar One. Notably absent from the package is any further guidance on Amount B (i.e., transfer pricing for routine distribution and marketing transactions), which the Inclusive Framework continues to work on, post-consultation, to provide final guidance by the early part of 2024. Despite running to approximately 850 pages, the release does not open the MLC to countries for signing at this point, because there are still issues to be resolved.

  Read our Tax Bulletin for the key takeaways of such release.

For other international tax developments, updated on a monthly basis, please click here.

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