

Tax updates for the period  
7 March 2018 to  
6 April 2018

# Tax Newsbites

PwC Singapore | Tax Services

## Singapore updates

### Transfer Pricing

The Income Tax (Transfer Pricing Documentation) Rules 2018 (2018 Rules) and the circular on Transfer Pricing Guidelines (Fifth edition) were issued on 23 February 2018. The 2018 Rules codify transfer pricing (TP) requirements for the preparation of TP documentation (TPD) from Year of Assessment (YA) 2019 (financial year 2018). The circular provides practical guidance on how these rules are to be applied. Additionally, new penalties and fines for non-compliance were introduced as part of the new legislation package.

[Click here](#) for PwC's commentary on the recent developments.

### Research and Development

To provide upfront certainty for research and development (R&D) claims to more taxpayers, the threshold for the Pre-claim Evaluation Scheme has been lowered from \$20 million to \$15 million of estimated R&D costs.

[Click here](#) for details.

The Inland Revenue Authority of Singapore (IRAS) issued a revised circular entitled "Pharmaceutical Manufacturing Industry: Tax Treatment of Research & Development and Intellectual Property-Related Expenditure (Third edition)" on 20 March 2018. The main amendments include:

- incorporating enhancements relating to the tax treatment for payment made under R&D cost sharing agreements with effect from YA 2018;
- updating the type of qualifying expenditure for S14D(1) deduction;
- updating the change in percentage of tax deduction under section 14DA(1) for qualifying R&D expenditure on qualifying R&D undertaken in Singapore with effect from YA 2019; and
- updating the circular on the phasing out of PIC with effect from YA 2019.

[Click here](#) for details.

### Carryback relief system

The IRAS issued a revised circular on the "Carryback Relief System (Third Edition)". The revised circular incorporates certain changes due to the expiry of the Enhanced Carry-Back Relief System, revisions to administrative requirements for companies, and updating of the examples and Annexes.

[Click here](#) for details.

## ***Goods and Services Tax***

The IRAS issued the following circulars:

- [GST: Assisted Compliance Assurance Programme \(ACAP\) \(Ninth edition\)](#)
- [GST: Guide for Property Developers \(Third edition\)](#)

## ***Base Erosion and Profit Shifting***

The Organisation for Economic Cooperation and Development (OECD) has released a report on “Additional Guidance on the Attribution of Profits to Permanent Establishments (PEs)”. The report contains guidance resulting from the changes to Article 5 of the OECD Model Tax Convention following the Report on the Base Erosion and Profit Shifting (BEPS) Action 7.

[Click here](#) for details.

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) will enter into force on 1 July 2018, following the deposit of the fifth instrument of ratification by Slovenia on 22 March 2018. This marks a significant step in international efforts to update the existing network of bilateral tax treaties to address tax avoidance.

[Click here](#) for PwC's commentary on the significance of the ratification.

## ***Nigeria – Singapore Tax Treaty***

Following approval by the Federal Executive Council, Nigerian President Muhammadu Buhari signed an instrument ratifying the pending income and capital gains tax treaty with Singapore on 26 March 2018. The treaty was signed 2 August 2017 in Nigeria. It stipulates that dividends, interest and royalties are taxable at a maximum rate of 7.5%. Both countries generally apply the credit method to eliminate double taxation.

[Click here](#) for the treaty.

## ***Tax cases***

### ***BRE v Comptroller of Income Tax [2018] SGHC 77***

The Appellant, an Australian citizen, was served with notices to pay tax on his income derived by him from services rendered in Singapore for an Australian company, between 2012 and 2016. The payments were all paid into a Singapore company. The Appellant disputed the notices because he claimed he was never an employee of the Australian company. At all material times, the appellant held an employment pass which recorded the Singapore company as the employer. The High Court found that documents show plainly and unequivocally that the Australian company was employing the appellant as its project manager in Singapore, although he did not have an employment pass with the Australian company. The appeal was dismissed.

### ***BQY v Comptroller of Income Tax [2018] SGHC 75***

The taxpayers bought and sold three residential properties within a year of purchase, and made a total of \$16 million. The Comptroller took the view that the gains from the resale of the properties are taxable. The Board of Review dismissed the appellant's appeal against the Comptroller on the basis that it found the intention of the appellants was to purchase those properties for resale with a view to realise profits. The Appellants claimed that that was not their intention, that they had bought the properties with a view of making each of them their family home, but had then disposed of the properties because they were unsuitable. Based on the findings that the three properties were turned over in about nine, ten and three months respectively, and the fact that the appellants never moved into any of the properties, the High Court agreed (with the Board) and dismissed the appeal.

# Overseas updates

## Hong Kong

The following revenue legislation were published by the Hong Kong government:

- Inland Revenue (Amendment) (No. 2) Ordinance 2018, which extends a profits tax exemption to privately offered open-ended fund companies resident in Hong Kong. Click here for PwC's commentary. [Click here](#) for PwC's commentary.
- Inland Revenue (Amendment) (No. 3) Ordinance 2018, which implements a two-tiered profits tax regime designed to reduce the tax burden on small and medium-sized enterprises. [Click here](#) for PwC's commentary.
- Inland Revenue (Amendment) (No. 2) Bill 2018, which expands the scope of profits tax deductions for capital expenditure incurred for the purchase of intellectual property rights. The Bill will be introduced in the Legislative Council on 11 April 2018.

## Europe

The European Commission published its EU digital tax package on the taxation of the digital economy on 21 March 2018. The package contains two new draft EU Directives.

The first draft Directive on the corporate taxation of a significant digital presence represents a long-term, comprehensive solution within Member States' corporate tax systems. It provides rules for establishing a taxable nexus for a non-physical commercial presence of a digital business ('a significant digital presence').

The second proposed Directive represents a targeted, short-term solution. It introduces, at the EU level, a Digital Services Tax at a rate of 3% on gross revenue (net of VAT and other similar taxes) derived in the European Union from the certain identified activities.

[Click here](#) for details.

The first bilateral advance pricing agreement (BAPA) between Belgium and Indonesia was signed in January 2018. This is the first BAPA between both countries, and is also one of the very few Competent Authority cases (including Mutual Agreement Procedures) between an EU jurisdiction and the Government of the Indonesian Republic.

The BAPA concerns the arm's-length remuneration for the use and exploitation of intangibles by an Indonesian operational company, and licensed by a Belgian company.

[Click here](#) for details.

# International Tax News

## Analysis of tax developments worldwide – March 2018 edition

International Tax News is designed to help multinational organisations keep up with the constant flow of tax developments. Among the topics featured in the March 2018 edition are:

- Chilean tax authorities issue guidelines on anti-abuse rules;
- China issues clearer guidance on beneficial ownership;
- US IRS Rev. Proc 2018-17 limits changes to accounting periods under the "toll tax"; and
- French anti-abuse provisions may deny tax treaty benefits.

[Click here](#) for details.

## *Global VAT Online – a summary of updates*

PwC's Global VAT Online provides up-to-date business critical information on VAT/GST rates, rules and requirements around the world to help you maintain control, mitigate risk and improve the overall effectiveness of your VAT/GST function. It is a subscription service for all of your indirect tax needs in a digital world.

[Click here](#) for details.

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# Contacts

If you would like to discuss any of the issues raised, please get in touch with your usual PwC contact or any of the individuals listed below:

## Tax Leader

**Chris Woo**  
chris.woo@sg.pwc.com  
+65 9118 0811

## Indirect Tax (Goods and Services Tax)

**Koh Soo How**  
soo.how.koh@sg.pwc.com  
+65 9623 6091

## International Assignment Services

**Sakaya Johns Rani**  
sakaya.johns.rani@sg.pwc.com  
+65 9088 8347

**Margaret Duong**  
margaret.duong@sg.pwc.com  
+65 9723 8238

## Worldtrade Management Services (Customs and International Trade)

**Frank Debets**  
frank.debets@sg.pwc.com  
+65 9750 7745

## Legal Services

Legal services are provided by Camford Law Corporation. Camford Law Corporation is part of the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

**Natarajan**  
natarajan.s@camfordlaw.com  
+65 6597 3339

**Joanna Teng**  
joanna.teng@camfordlaw.com  
+65 6597 3331

## Corporate Tax

**Sunil Agarwal**  
Technology, Media & Telecommunication  
sunil.agarwal@sg.pwc.com  
+65 8218 8320

**Allison Cheung**  
International Tax  
allison.cheung@sg.pwc.com  
+65 8218 8350

**Paul Cornelius**  
Energy, Utilities & Mining  
paul.cornelius@sg.pwc.com  
+65 9633 5834

**Brendan Egan**  
Insurance  
brendan.m.egan@sg.pwc.com  
+65 9627 4720

**Andrew Fairfoull**  
Transfer Pricing  
andrew.fairfoull@sg.pwc.com  
+65 9620 7417

**Abhijit Ghosh**  
Healthcare & Pharmaceutical,  
India Desk  
abhijit.ghosh@sg.pwc.com  
+65 8223 0698

**Anuj Kagalwala**  
Financial Services,  
Asset & Wealth Management  
anuj.kagalwala@sg.pwc.com  
+65 9671 0613

**Paul Lau**  
Financial Services  
paul.st.lau@sg.pwc.com  
+65 6236 3733

**Peter Le Huray**  
International Tax Services  
peter.g.le.huray@sg.pwc.com  
+65 9787 7782

**Jun Igarashi**  
Transfer Pricing  
jun.igarashi@sg.pwc.com  
+65 9627 3842

**Lennon Lee**  
Treasury, Consumer & Retail,  
China Desk  
lennon.kl.lee@sg.pwc.com  
+65 9800 0848

**Lim Hwee Seng**  
Mergers & Acquisitions  
hwee.seng.lim@sg.pwc.com  
+65 9758 7049

**Lim Maan Huey**  
Financial Services, Treasury  
maan.huey.lim@sg.pwc.com  
+65 9734 0718

**Florence Loh**  
Consumer & Retail  
florence.ch.loh@sg.pwc.com  
+65 9815 9327

**Ketan Madia**  
International Tax  
ketan.madia@sg.pwc.com  
+65 9725 8453

**Elaine Ng**  
Transport & Logistics  
elaine.ng@sg.pwc.com  
+65 8223 1126

**Rose Sim**  
Financial Services  
rose.sim@sg.pwc.com  
+65 9623 9817

**Tan Ching Ne**  
Technology, Media & Telecommunication,  
Research & Development,  
Digital Tax Leader  
ching.ne.tan@sg.pwc.com  
+65 9622 9826

**Tan Hui Cheng**  
Financial Services  
hui.cheng.tan@sg.pwc.com  
+65 8338 5182

**Tan Tay Lek**  
Conglomerates & Industrial Products  
tay.lek.tan@sg.pwc.com  
+65 9179 2725

**Teo Wee Hwee**  
Real Estate & Hospitality  
wee.hwee.teo@sg.pwc.com  
+65 6236 7618

**Falgun Thakkar**  
Transfer Pricing  
falgun.d.thakkar@sg.pwc.com  
+65 9634 7984

**Sarah Wong**  
Mergers & Acquisitions  
sarah.wc.wong@sg.pwc.com  
+65 9817 6501



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