

PRISM

Tax Newsletter

4th Quarter 2016

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China

Brief introductions about replacement of the business tax with value added tax (VAT)

Since 2012, China announced its Tax reform program, "replacement of the business tax with value-added tax". However, construction, real estate, finance and life service industry have not been included in the reform. Until 1 May, 2016, these four major industries have been included in the scope of the reform, which boosted the implementation of reform in China. Since then, the business tax completed its historical mission, VAT with brand-new appearance has boarded the stage of China's tax system, China will become one of the country which owns the most advanced VAT system in the world.

中国自2012年以来, 就着手推进“营改增”, 但建筑业、房地产业、金融业和生活服务业一直没有纳入营改增范围。直到2016年5月1日, 这四大行业纳入营改增范围, 中国全面推开营改增改革。自此, 营业税完成了历史使命, 增值税以全新的面貌登上了中国税制的舞台, 中国将成为世界上拥有最先进增值税制度的国家之一。

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Cyprus

Cyprus & India signed a revised Double Taxation Avoidance Agreement (DTAA)

The revised DTAA between Cyprus and India, as announced on November 18, was published in Cyprus' Gazette on 25 November 2016 and will replace the existing treaty which was concluded back in 1994.

No changes have been observed on the withholding tax rates on dividends and interest, which remain at 10% (some exemptions apply). It is worth noting that neither country withholds any tax on outbound dividends. The withholding tax on royalties has been reduced to 10% (previously 15%) to align with India's local taxation on royalties.

2016年11月25日, 经修改的塞浦路斯印度避免双重征税协定在塞浦路斯公报上发布, 经修改的协定将取代两国1994年签订的协定。

对于股利和利息需支付的预提税率而言没有变化, 仍然保持在10% (一些豁免适用)。值得注意的是两个国家对于对外支付的股利都不征收预提税。特许使用费的预提税降至10% (以前是15%), 和印度当地税务政策一致。

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Germany

New Income Tax Treaty between Japan and Germany

The amended Japan-Germany Tax Treaty was signed on 17 December 2015. For the enforcement of the new Tax Treaty (DTA), mutual notifications were completed on 28 September 2016. The new DTA is applicable since January 2017 and replaces the previous Tax Treaty from 1966.

The new DTA especially entails changes in the fields of dividend payments, regulation for double tax residence, Interest and royalty payments and especially tremendous changes for Capital Gains of Real Estate Corporations.

But as the new DTA agrees to the OECD Model tax Convention in many points, it should lead to more legal certainty.

2016年9月28日修订版的日德双边税收协定 (签署日2015年12月17日) 生效所必须的相互通知程序得以完成。新的税收双边协定 (DTA) 自2017年1月起施行, 从而取代1966年版的双边协定。

新税收双边协定的主要变化体现在股利支付、双重税务居民规则、利息和特许权使用费等领域。其中, 房地产公司财产转让所得方面的变化尤为显著。

但由于新的税收双边协定在许多方面与经合组织双重征税示范公约相一致, 它将更加具有法律确定性。

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Malaysia

Budget 2017 - Ensuring Unity and Economic Growth, Inclusive Prudent Spending, Wellbeing of the People

On 21 October 2016, the Prime Minister and Minister of Finance, YAB Dato' Seri Mohd Najib Tun Razak delivered his eighth National Budget speech themed "Ensuring Unity and Economic Growth, Inclusive Prudent Spending, Wellbeing of the People".

Amongst others, the Budget outlined the reduction of corporate tax rate, introduction of new individual tax reliefs and exemption of stamp duty.

我国首相兼财政部长拿督斯里纳吉在2016年10月21日公布2017年财政预算案。财政预算案主题为“加速增长、谨慎理财、提升人民福祉”。其中对税务方面宣布的新政策包括, 降低企业税率、推出更多的个人税务减免以及豁免印花税等。

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China



Brief introductions about replacement of the business tax with value added tax (VAT)

The meaning of the reform

The positive meanings of the reform are as follows:

- 1) Realize a complete coverage of the VAT for goods and services, basic to eliminate double taxation.
- 2) Bring the real estate into the deduction, to achieve a consumption-based value-added tax system.
- 3) In a further reduction of the tax burden on enterprises.
- 4) Create a more fairly and neutral tax environment.

The scope of the reform

- 1) Sales services
Transportation services, postal services, telecommunication services, construction services, financial services, modern services and life services.
- 2) Sales of intangible assets
Technology, goodwill, trademark, copyright, the right to use natural resources, and other rights and interests of intangible assets.
- 3) Sales of real estate
Buildings and structures.

The VAT regulations of Cross-border taxable behavior

- 1) Units and individuals within the territory rendering the following services and selling the intangible assets should be exempt from VAT:

Services:

Overseas construction project services; overseas engineering project supervision services; engineering, survey and exploration of mineral resources in foreign services; the location of convention and exhibition in outside convention and exhibition services; the location of Storage in outside warehouse services; the subject matter in overseas use of tangible personal property leasing services; foreign culture and sports services supporting education, medical services, tourism services; providing outside radio, film and television program (works) of broadcast services.

- i. Postal services, sending and receiving services, insurance services providing for export of goods.

- ii. To provide overseas units completely in consumption abroad of the following services and intangible assets: Telecommunication services; intellectual property services; logistics support services (except for warehousing services, send and receive services); verification and consulting services; professional and technical services; business support services; outside advertising services; and intangible assets. 🇨🇳

Cyprus



Cyprus and India signed a revised Double Taxation Avoidance Agreement (DTAA)

The revised DTAA between Cyprus and India, as announced on November 18, was published in Cyprus' Gazette on 25 November 2016 and will replace the existing treaty which was concluded back in 1994.

No changes have been observed on the withholding tax rates on dividends and interest, which remain at 10% (some exemptions apply). It is worth noting that neither country withholds any tax on outbound dividends. The withholding tax on royalties has been reduced to 10% (previously 15%) to align with India's local taxation on royalties.

The definition of a permanent establishment (PE) is extended. A building site or construction or installation project will constitute a PE, if it lasts more than six months (previously twelve months).

Additionally, the updated DTAA provides for source-based taxation of capital gains arising from the alienation of a company's shares. Investments undertaken before 1 April 2017 will be grandfathered, with taxation rights over gains on the disposal of such shares at any future date remaining solely with the state of residence of the alienator. Thus, the new source-based taxation regime will apply only to gains arising from the alienation of shares acquired on or after April 1, 2017.

The revised agreement also includes provisions regarding the exchange of information between the two countries. Following the DTAA sign off, with a press release of the Ministry of Finance dated 16 December 2016, the Indian government announced that it has removed Cyprus from the list of countries with lack of effective exchange of information. 🇨🇵

Germany



New Income Tax Treaty between Japan and Germany

On 28 September 2016 the mutual notifications necessary for the entry into force of the amended Japan-Germany Tax Treaty signed on 17 December 2015 were completed. The new Tax Treaty is applicable since January 2017 and replaces the previous Tax Treaty from 1966. The structure follows generally the OECD Model Tax Convention.

What is new?

o **Residency of an individual in one of the Contracting States entails the legitimacy of the Tax Treaty**

If a person is tax resident in Japan and in Germany, in the previous DTA the authorities had to come to a mutual agreement. The new DTA follows the OECD Model tax Convention in this point, too. Therefore the residence article provides 'tie-breaker' rules for determining in which of the two states an individual who is dual-resident under the respective domestic laws should be treated as resident for the purposes of the agreement. The rules comprise the following series of tests to be applied successively until residence for the purposes of the agreement is allocated to Japan or Germany:

- permanent home
- centre of vital interests
- habitual abode
- nationality

o **Dividend payment: Reduction of the withholding tax rates**

The withholding taxes on dividend payment were partly lowered. Instead of 15% withholding tax on basis of the past DTA, the withholding tax is reduced to 0% for a minimum shareholding amount of 25%, if the holding time is minimum 18 months. If the minimum shareholding amount is less than 25% but at least 10% and the holding time of the shares is at least six months, the withholding tax is reduced to 5%. In all other cases, the withholding tax is still 15%.

o **Interest and royalties**

Interest and royalties can only be taxed in the country, where the beneficial owner is resident. A withholding tax is no longer provided.

But there is an exemption, if the interest is based

on profit (profit participation). In this case, the source country can tax the interest payment, too. If Germany is the source country an additional prerequisite is that the interest payment is tax deductible for the payer.

As in other DTAs, that are based on the OECD Model Tax Convention, the interest and royalty article is only applicable for the payments that are in accordance with the arm's length principle.

o **Capital gains**

Until the new DTA it was possible to have Real Estate in a corporation and to sell the shares of this Real Estate Corporation and the taxation right of the country where the real estate is situated was totally restricted. With the new DTA, the country, where the real estate is situated can tax the capital gain of the sale of the shares, if the total assets of the corporation are more than 50%.

o **Prevention of double taxation**

If Japan is the residence state, double taxation is prevented by using the tax credit method.

If Germany is the residence state, the exemption method is applicable in most cases.

Totally new is a switch-over-clause. This means Germany switches from the exemption to the tax credit method, in case Japan subsumes the type of income into another DTA article than Germany or if Japan could tax the income on basis of the DTA but effectively does not tax this income.

o **Exchange of information**

The new DTA will lead to an expansion of the information exchange.

Conclusion

As the economic links between Japan and Germany are tight, the new DTA should be a good basis to avoid double taxation scenarios. This might lead to an increase of mutual investments. 🇯🇵🇩🇪

Malaysia



Budget 2017 - Ensuring Unity and Economic Growth, Inclusive Prudent Spending, Wellbeing of the People

On 21 October 2016, the Prime Minister and Minister of Finance, YAB Dato' Seri Mohd Najib Tun Razak delivered his eighth National Budget speech themed "Ensuring Unity and Economic Growth, Inclusive Prudent Spending, Wellbeing of the People".

Small and medium enterprises (SMEs) have contributed significantly to the economy and growth of Malaysia. In recognition of the contributions, the Government has proposed that the tax rate of SMEs be reduced by 1% from 19% to 18% on chargeable income up to RM500,000. Moreover, corporate tax rate reduction of 1 to 4 percentage points are given to companies depending on the amount of increase in taxable income for the Years of Assessment 2017 and 2018.

Keeping abreast with the changes in the way of living, a new tax relief known as lifestyle relief is introduced to combine the existing tax relief for purchase of reading materials, sports equipment, computers and broadband internet subscription. Individual taxpayers can claim a tax relief of up to RM2,500 for the following:

- Purchase of printed daily newspaper;
- Purchase of smart phone and tablet;
- Internet subscription; and
- Gymnasium membership fee.

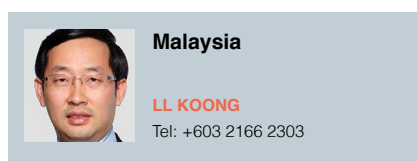
Malaysian Government acknowledged that women have played a very important role in the prosperity of the nation and nurturing the future generation. In appreciation, the Government has proposed the following new tax reliefs:

- Tax relief of up to RM1,000 for purchase of breastfeeding equipment; and
- Tax relief of up to RM1,000 for fees paid to child care centres and kindergartens.

Furthermore, stamp duty exemption is introduced to reduce the burden of the people for purchase of first home. 100% stamp duty exemption be given on instruments of transfer and loan agreements for the purchase of the first home, priced not exceeding RM300,000. Properties which are priced in excess of RM300,000 up to RM500,000 are given 100% stamp duty exemption but limited to the first RM300,000 of the value of the property. The remaining value of the property is subject to the prevailing stamp duty rates.

On an overall view, the Budget 2017 is a caring budget committed to improve the well-being of the people. 🇲🇾

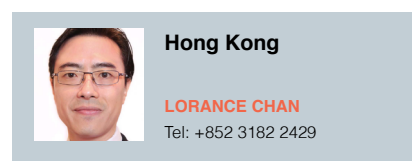
International Tax Panel



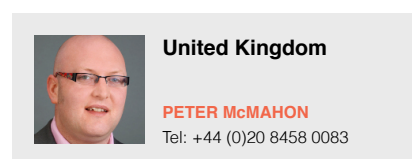
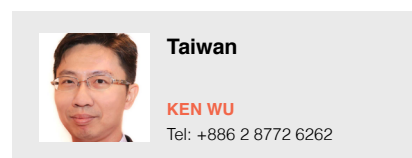
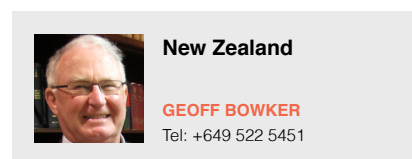
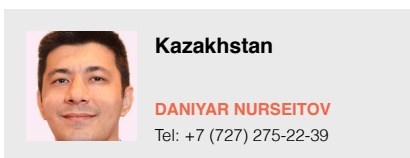
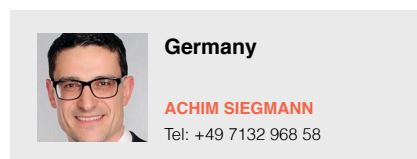
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