

PRISM

Tax Newsletter

1st Quarter 2013

- Australia : Tax residency - Part I
General introduction to tax residency concept
- China : New regulations of Administrative Measures
for Collection of Income Tax on Enterprises
- Cyprus : Immigration services -
Effort to attract foreign investments
- Macau : An overview of tax system in Macau



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INTERNATIONAL

In this issue:

Australia

Tax residency – Part I: General introduction to tax residency concept

It is a common mistake to mix up residency standing of a person between his/her immigration residency status and tax residency status. Whilst the immigration residency status of a person or a family may affect the determination of his/her tax residency status, it is untrue that a migrant of a country will automatically become a tax resident of that country. **Why is it so important to determine the taxation residency status of a person or an entity in any country?**

The tax liability of a tax resident is vastly different from that of a non-resident, this difference becomes more important for countries that are taxing its residents on worldwide income. Tax residency topic is very wide. This will take up a three (3) part series in the Reanda International Tax Newsletter:

- General Introduction to Tax Residency Concept
- Tax Residency – from technical perspective
- Application of Tax Residency and how to avoid pitfalls

很多人常错把住在国居民与税务居民的身份混为一谈。虽然个人或家庭的住在国居民身份可能会影响他/她的税务居民身份，但相关国家的住在国居民不会自动成为该国的税务居民。为何确定税务居民身份在任何国家皆如此重要？

税务居民与非税务居民的纳税义务差异极大，尤其是那些税务居民其来自世界各国的所得与收入，都必须纳税的国家，这种差异变得越来越重要。由于税务居民的议题非常广阔，全文分为3部分，并将在利安达税务季刊中分3期连载：

- 简介税务居民的概念
- 税务居民-从技术角度探讨
- 税务居民之申请，以及如何避免犯下错误

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China

New regulations of Administrative Measures for Collection of Income Tax on Enterprises

The Administrative Measures for Collection of Income Tax on Enterprises Operating in Different Regions and Paying Tax Collectively (refer to 'the measure') is to solve effectively the problems of new enterprise income tax law, the tax resources transferring problems of cross provinces or cities under the corporate tax system; and the disputes arising from the unbalanced distribution of tax resources in different regions or even problems in intervening the enterprise operations and etc. In addition, the measure is to mitigate the problems caused by different cities implementing the same policies such as Guo Sui Fa [2008] No.28 and etc, which causes inconsistencies and hiccups during the period of implementation, and has better resolved the problems of uneven distribution of benefits amongst the different regions.

《跨地区经营汇总纳税企业所得税征收管理办法》是为了更加有效解决新企业所得税法，法人税制下跨省市税源转移问题，解决各地因税源不平衡产生的相互扯皮，甚至干预企业经营等问题，是对国税发〔2008〕28号等文在实际执行中出现的各地步调不一致、政策执行不畅通的完善，更加妥善处理地区间利益分配不均的问题。

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Cyprus

Immigration services - Effort to attract foreign investments

The Cyprus government, in its continuous effort to attract foreign investments, has adopted a range of policies that allow third country/ non-EU individuals to obtain an (E.U.) Cyprus Passport. In addition to that, the Ministry of Interior has decided to simplify the procedures for granting Immigration Permit to non-EU applicants, provided that they fulfill the criteria stated below.

塞浦路斯政府持续致力于吸引外国投资，已经制定系列政策允许第三国家（非欧盟）公民获得塞浦路斯（欧盟）护照。此外，对于满足下列标准的非欧盟国家公民提出塞浦路斯永久居留许可申请的，内政部已决定简化程序颁发此类许可。

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Hong Kong

Hong Kong adds Canada as the 26th jurisdiction to its tax treaty network

Hong Kong signed a double taxation agreement ("DTA") with Canada on 11 November 2012. It is the 26th addition to the rapidly expanding tax treaty network of Hong Kong. Those who have business, investments and family in Canada and Hong Kong should immediately review their present tax positions and investment plans in both jurisdictions and consult experts for necessary changes before the DTA comes into effect.

香港与加拿大于2012年11月11日签署避免双重课税协定，在香港税务协定网络的迅速发展下，该协定已是香港签订的第26份避免双重征税协定。在香港和加拿大拥有商业业务、投资及家庭的人，需立刻重新探讨他们在两地的现行税务状况和投资计划，亦应于协定生效前，咨询专家意见，以作出必要的更改。

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Japan

Japan payroll news 2013

Japan's taxation and social security system are quite complicated. Moreover, as it often undergoes reforms, it is required to update frequently such information. For the year 2013, it is necessary to update the following information that applies to the payments of salaries starting from January 2013.

日本的税务以及社会保险的结构非常复杂。此外，关联法案也频繁地改革，因此，纳税人需要经常掌握最新的信息。而2013年，纳税人必须留意从2013年1月起支付工资的最新信息。

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Macau

An overview of tax system in Macau

The tax system of Macau has an attractive characteristic of its simplicity and the lowest tax rates as compared to those of other Asian regions. The main reason of such low tax rates system is that direct and indirect taxes are not the principle components of total public revenue. The major source of public revenue comes from revenues from gambling franchises granted, which are actually the rent, the complementary tax and other revenues collected from the gaming industry. Macau government believes that low tax rates are essentials for attracting foreign investments. With the gaming industry supporting most of Macau's operating expenditure, the investors in Macau can be benefited from a low tax burden and simple tax reporting system.

比起其它亚洲国家，澳门的税制更为简单，税率也较低。澳门的税制之所以如此吸引，源于当地政府收入的主要来源是授予博彩业特许经营权的收入，即租金、所得补充税和源自博彩业的其他收入，而并非直接税和间接税。澳门政府相信低税率是吸引外国投资的关键。由于澳门的博彩业支撑着大部分的政府营运开支，令澳门的投资者受益于较轻的税务负担和简单的税务申报系统。

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Malaysia

The economic and tax outlook of Malaysia in 2013

Amidst the China's economy is slowing down, Euro is in trouble, US recovery is fading, the 2013 economic outlook of Asian region overall does not appear bright, although it does not appear as bleak as the European and American ones.

The Malaysian economy is overall optimistic and is expecting a moderate growth between 4.5% and 5.5% in 2013. Even though oil export revenue is projected to decrease this year and hence by extension, the government's revenue; the government which is keeping a tight rein on its expenditure, expects fiscal deficit to be reduced to 4% of GDP in 2013 from 4.5% in 2012.

正当中国经济正在放缓，欧盟经济的衰退以及美国经济复苏逐渐消退，致使2013年整个亚洲区域的经济前景，虽不比欧盟及美国黯淡，也无法露出曙光。无论如何，虽然今年的石油出口收入可能减少，并间接影响政府的财政收入。但随着政府将紧缩开支，并希望在2013年将财政赤字从2012年的4.5%，减少至4%，马来西亚2013年的经济整体趋向乐观，并预计可获得4.5%至5.5%的成长。

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Tax residency – Part I: General introduction to tax residency concept

It is a common mistake to confuse the residency standing of a person between his/her immigration residency status and tax residency status.

Whilst the immigration residency status of a person or a family may affect the determination of his/her tax residency status, it is untrue that a migrant of a country will automatically become a tax resident of that country.

Why is it so important to determine the taxation residency status of a person or an entity in any country?

The tax liability of a tax resident is vastly different from that of a non-resident; this difference becomes more important for those countries that tax their residents on all their worldwide income.

The determination of tax residency status is one of the main ingredients that will affect the tax liability of a person or an entity. Whilst the concept of tax residency arises from the laws and regulations of the country in question, essentially it works on the same concept as in a “household budget” where the household may welcome guests to their house, although, when the guests continuously draw down on the resources of that household, the guests will be requested to make the necessary contributions to that household budget.

The primary tax residency definition in Australia is based on whether the individual is ordinarily residing in Australia. There are many legal cases to determine when that individual is ordinarily residing in Australia. However the basic concept is similar to that we have explained above in the household budget example.

When the individual is ordinarily residing in Australia, that person will be expected to draw on the facilities and services provided by the various State and Commonwealth Australian governments. The provision of these facilities and services has to be fully funded by revenue collected by the State and Commonwealth Australian governments.

In the modern society of Australia, the revenue collected by the Australian governments does not rely solely on taxes, however the main source of their revenue come from taxation.

After setting the scene in the reasoning of why it is

necessary to distinguish the individual tax residency status for taxation purposes, we will now embark on the definition of tax residency for an individual and non-individuals.

The basic tests of tax residency for an individual in Australia are¹:

Test	When to apply	More information
Resides	Primary test - if you reside in Australia according to the ordinary meaning of the word, you don't need to apply any of the other three tests.	Australian Taxation Office publication on “the Residency test”
Domicile	Statutory tests - if you don't satisfy the ‘resides test’ (the primary test), you may still be considered an Australian resident if you satisfy one of the three statutory tests.	• Residency - the domicile test
183 day rule		• Residency - the 183 day test
Superannuation		• Residency - the superannuation test

The definition of tax resident of a non-individual² can be summarised below:

Companies

A company is a resident of Australia if:

- it is incorporated in Australia, or
- although not incorporated in Australia it carries on business in Australia and has either:
 - its central management and control in Australia, or
 - its voting power controlled by shareholders who are residents of Australia.

Corporate limited partnerships

A corporate limited partnership will be considered a resident of Australia if:

- the partnership was formed in Australia, or
- the partnership either carries on business in Australia, or has its central management and control in Australia.

Trusts

Trusts fall into three basic categories for the purpose of establishing residency.

Trusts other than unit trusts will be considered Australian residents in any given income year if:

- a trustee of the trust estate was a resident at any time during the year, or
- the central management and control of the trust estate was in Australia at any time during the year.

Unit trusts (other than corporate unit trusts or public trading trusts) will be considered Australian residents in any given year if:

- a trustee of the trust estate was a resident at any time during the year, or
- the central management and control of the trust estate was in Australia at any time during the year,

and if they also meet one of the requirements in the first column and one of the requirements in the second column of the following table:

One of these requirements is satisfied	And also one of these
Any property of the trust is situated in Australia.	The central management and control of the trust is in Australia.
The trust carries on a business in Australia.	Australian residents held more than 50% of the beneficial interests in the income or property of the trust

Corporate unit trusts and public trading trusts will be considered residents if they can be considered resident unit trusts under the criteria outlined in the table above- whichever is relevant³.

Tax residency is a large topic, this is Part I of the three part series. Part II of this article is about *Tax Residency – from technical perspective*. [R](#)

¹ Meaning of a Resident or a Resident of Australia for taxation purposes is defined in section 6 of the Australian *Income Tax and Assessment Act* ("ITAA") 1936

² The meaning is also included in section 6 of ITAA 1936

³ See sections 102H and 102Q of ITAA 1936

China



New regulations of Administrative Measures for Collection of Income Tax on Enterprises

1. Background

The Administrative Measures for Collection of Income Tax on Enterprises Operating in Different Regions and Paying Tax Collectively (refer to 'the measure') published by the State Administration of Taxation on 27 December 2012, is to solve effectively the problems of new enterprise income tax law, the tax resources transferring problems of cross provinces or cities under the corporate tax system; and the disputes arising from the unbalanced distribution of the tax resources in different regions or even problems in intervening the enterprises operations and etc. In addition, the measure is to mitigate the problems caused by different cities implementing the same policies such as Guo Sui Fa [2008] No.28 published by the State Administration of Taxation and etc, thus causing inconsistencies and hiccups

during the period of implementations, and has better resolved the problems of uneven distribution of benefits amongst the different regions. The measure will be effective from 1 January 2013.

The enterprise paying tax collectively must comply with the provisions of 'unified calculation, classified management, tax prepayment locally, tax clearance collectively and ministry of finance adjustment' for the administrative measure of enterprises income tax. The enterprise income tax is to be allocated and paid locally by the head office and its branches.

2. Clarifications

Unified calculation

The head office shall calculate all taxable income and tax payable of which even including those of the branches which do not qualify as legal entities.

Classified management

In respect of the head office or its branches, the local tax authorities shall be responsible for the enterprise income tax management of those enterprises, and the head office and its branches shall be in charged by local tax authorities respectively.

Tax prepayment locally

Under the provisions of the measure, the head office and its branches shall declare and pay the enterprise income tax to the local tax authorities in a monthly or quarterly basis respectively.

Tax clearance collectively

The head office shall calculate the total annual taxable income and tax payable collectively at the end of each year; and deduct the tax prepayment of which the head office and its branches paid locally for the current year. It will be refundable if the amount paid were excessive; on other hand any shortfall between the tax payable and the tax prepayment will have to be made good.

Ministry of Finance Adjustment

The enterprise income tax received from corporations by the National Treasury, shall be allocated and transferred by The Ministry of Finance to the Local Treasuries at approved rates.

Branches


Refer to the enterprise which has paid tax collectively and is set up and approved to achieve the business license of the non-corporate organization (Registration Certificate), and the branches of the head office which it has directly unified calculated and managed its finances, business activities and employees etc.

3. Highlights of New Regulations

- 3.1 In respect of the pre-paid tax and the payable and refundable tax settled and paid, 50 percent shall be apportioned among all local branch offices, and their apportioned tax payments shall locally be handed over by all the local branch

offices to the treasury or refunded from the treasury. The other 50 percent shall be apportioned to the head offices, among which 25 percent shall be handed over to or refunded from the treasury locally and 25 percent shall be handed over to or refunded from the national treasury in full amount.

- 3.2 Clearly states the treatment of unpaid tax payable of head offices and which portion must be paid locally which helps to solve the bottleneck of the policies of monitoring and controlling locally.
- 3.3 The Adjustment of the branches' revenue, salary and total asset, has changed into unified recognition as the amounts are recognized collectively and not separately recognized as in the preceding year or the previous years.
- 3.4 Clearly states that the day for the revocation of branches not to apportion the tax payable shall be the day when the branches have cancelled the tax registration instead of the following year.
- 3.5 Uses the illustrations and new method of accounting standards, changes the 'three factors' which includes changing the revenue factor of 'Jing Ying Shou Ru' into 'Ying Ye Shou Ru', the salary factor of 'Zhi Gong Gong Zi' into 'Zhi Gong Xin Chou' and the illustrations of total asset factor of 'Zi Chan Zong E', has included the intangible assets.
- 3.6 Clearly states that if the data of 'three factors' of the branches used by head offices for apportioning tax payable is different from the data confirmed by Chinese CPA, it shall not be adjusted.
- 3.7 In respect of branches which have been investigated of their un-paid tax payable, 50% of those un-paid tax payable has to be apportioned to head office which head office local tax account and national treasury tax account shall be allocated 20% respectively; 50% shall be apportioned to the participated branches. The branches which have not participated the investigation shall not be apportioned for the un-paid tax payable.
- 3.8 Adjustment for non applicable range, the number of the enterprises which the enterprise income tax shall pay to national treasury was 14 and has now changed into 15.

Since 1 January 2013, when the enterprise paying tax collectively is processing the final tax settlement of enterprise income tax of 2012, it is only able to apply the documentations of Cai Yu [2008] No.10 published by the Ministry of Finance, the State Administration of Taxation and the People's Bank of China and No.28 published by the State Administration of Taxation. 

Cyprus



Immigration services - Effort to attract foreign investments

The Cyprus government, in its continuous effort to attract foreign investments, has adopted a range of policies that allow third country/ non - EU individuals to obtain an (E.U.) Cyprus Passport. In addition to that, the Ministry of Interior has decided to simplify the procedures for granting Immigration Permit to non-EU applicants, provided that they fulfill the criteria stated below.

1. Cyprus (E.U.) Passport/Nationality - Obtaining a Passport by Investing in Cyprus

An individual from a non-EU country can obtain a Cyprus passport through a procedure called naturalization, based on his/her financial affairs and investments in Cyprus. The investment thresholds set for obtaining a Cyprus passport are as follows (either one option):

- Direct investment in Cyprus of €10 million (e.g. immovable property, factories, land, business, shares, financial assets).
- The applicant must set up a Cyprus company/ group of companies with an annual turnover of at least €10 million, for the last 3 years preceding the year of application, and at least 1/3 of the applicant's employees are citizens of the Republic of Cyprus.
- The applicant is introducing new innovative technological projects within Cyprus, including research centers, subject to conditions.
- The applicant has personal deposits with Cypriot Banks (or cash deposits of a company which he controls or a Trust) for an amount of €15 million, spanning a five year fixed period.
- A combination of direct investment, business operations and bank deposits. In such a case the applicant must prove an investment value of €15 million in total.
- The applicant should have established a Cyprus company/group of companies that contributed to the Cyprus economy, through taxes and/or professional fees (legal, accounting, audit) the amount of €500,000 in the last 3 years preceding the year of the application.

Other considerations relating to Cyprus passports:

- The applicant must be over 30 years of age with a clear criminal record.
- A permanent resident or a person, who lives legally in Cyprus for 7 years, may apply for a Cyprus passport.

- A person married to a Cypriot after 3 years of stay in Cyprus.
- The applicant is required to have a permanent privately-owned residence in the Republic of Cyprus, valued at €500,000 at least.

Cyprus adopts faster procedures for granting Immigration Permits in order to further promote foreign investments into the island.

2. Permanent Resident Permit (PRP)


Simplified criteria that must be fulfilled before applying for PRP:

- The applicant must prove that he has at his disposal a secured minimum annual income of €30,000 from sources other than employment in Cyprus. The required income of €30,000 could derive from salaries of employment abroad and not in Cyprus, pensions, stock shares, rents, etc. The necessary minimum annual income is increased by €5,000 for each dependent person.
- The applicant must submit the application form accompanied with a Title of ownership or contract of sale, of a property in Cyprus, a house, apartment or other building, of a minimum market value of €300,000 and proof of payment for at least €200,000. The contract of sale should already have been submitted to the Department of Lands and Surveys.
- The applicant must submit a confirmation letter from a Cypriot Bank stating that he has deposited a minimum capital of €30,000 in an account, which will be pledged at least for a three year period.

It is noted that the amounts mentioned in paragraphs (b) and (c) should be proven to have been transferred to Cyprus from abroad.
- The applicant must submit a Criminal Record Certificate (if the applicant resides abroad), which must be issued by the Authorities in his country of origin, and he should not constitute in general any threat against public order or security in Cyprus.
- The applicant should submit a Statement that he does not intend to work or be engaged in any form of business in Cyprus.
- The applicant should visit Cyprus at least once every two years.

Services provided by HTT Audit Limited for obtaining Passport and/or PRP

HTT Audit Limited has extensive experience in immigration related services and can provide the following services:

- Assistance and guidance during the application preparation and submission
- Liaising with the relevant authorities during the examination process
- Drafting of rental, purchase and other related contracts, if needed
- Planning and cash flow management to limit the amount of actual investment required for passports (e.g. back to back loans arrangements) 

Hong Kong



Hong Kong adds Canada as the 26th jurisdiction to its tax treaty network

Hong Kong signed a double taxation agreement ("DTA") with Canada on 11 November 2012. It is the 26th addition to the rapidly expanding tax treaty network of Hong Kong.

The DTA with Canada is very much based on the Organisation for Economic Co-operation and Development (OECD) model. Pursuant to the DTA, the maximum withholding tax rates for the following types of income (which must not arise through a permanent establishment in the jurisdiction of the payer) are as follows:

Interest	10% (0% if paid between unrelated parties, see below).
Royalties	10%
Dividends	15 % (reduced to 5% if the recipient is a company owning at least 10% of the voting power of the paying company).

Without the treaty relief, the Canadian tax rate is 25% for all of the aforesaid types of income. Hong Kong domestic law charges no withholding tax on dividends and interest, and at 4.5% to 16.5% for royalties in limited circumstances.

There is a substantial population of people in Hong Kong who once migrated to Canada but later returned to become residents of Hong Kong. If they have not liquidated all of their investments in Canadian securities, the DTA could be meaningful to them by virtue of the above reductions in Canadian withholding tax. The DTA also contains provisions to deal with dual residency in the two jurisdictions to render the dual resident to be a resident in either but not both of the jurisdictions. This offers planning opportunities for those who have their family presence in both jurisdictions and/or are travelling between the two jurisdictions frequently.


While most capital gains are generally taxable in the taxpayer's resident jurisdiction only, the DTA contains a provision to reserve Canada's right in taxing capital gains from immovable property which includes real estate. Canada may tax capital gains derived from disposal of shares in any company which is not listed on a designated stock exchange if more than 50% of the fair market value of the shares is derived directly and indirectly from real estate and timber resources properties in Canada as well as Canadian resource properties. The DTA does not specify the point of time for calculating such percentage. According to the Income Tax Act of Canada, such point of time should be any time within the period of 60 months ending on the date of the disposal. A Protocol may be entered by the two jurisdictions to confirm this point later. As Hong Kong currently does not tax capital gains from disposal of real property, the provision is only beneficial to Hong Kong residents investing into the aforesaid assets in Canada but practically of no avail to Canadian residents disposing real property in Hong Kong.

The DTA also restates a provision in the Income Tax Act of Canada exempting interest income from withholding tax. If the payer and the payee of the interest income are dealing with each other at arm's length (which usually means they are unrelated to each other), the domestic tax law of Canada does not charge withholding tax on the amount of the interest income.

The Canadian and Hong Kong governments are obligated under the DTA to proceed with domestic legislation procedures to incorporate the DTA into their respective laws. Upon the date when such procedures are completed by both (the "Date"), the DTA will immediately apply to income from shipping and air transport as well as capital gains. As for the other parts of the DTA, it will be effective from the year of assessment/taxation year starting from 1 April in Hong Kong and 1 January in Canada after the calendar year (ending 31 December) in which the Date falls. At the time of writing (24 December 2012) the Date has not come into place. As the year of 2012 is ending soon, it is likely the majority part of the DTA will come into effect from the year of assessment 2013/14 in Hong Kong and taxation year 2014 in Canada.

The DTA contains various anti-avoidance provisions. It also contains provisions for exchange of information between the tax authorities, including information held by banks, trustees and agents. Whilst the tax relief is available only to residents of either jurisdiction, the information that may be exchanged is NOT limited to that of residents of Canada and Hong Kong. Literally, Canada may ask Hong Kong to help

gather and supply information of a person who is neither resident in Hong Kong and Canada but has a branch or other forms of permanent establishment in Hong Kong.

Those who have business, investments and family in Canada and Hong Kong should immediately review their present tax positions and investment plans in both jurisdictions and consult experts for necessary changes before the DTA comes into effect. 

Japan



Japan payroll news 2013

Japan's taxation and social security system are quite complicated. Moreover, as it often undergoes reform, it is required to update frequently such information. For the year 2013, it is necessary to update the following information that applies to the payments of salaries starting from January 2013.

1. Withholding income tax rate

Starting from year 2013 and lasting for a period of 25 years, an extra 2.1% is added to the current withholding income tax rate. For example, by adding 2.1%, 10% of applicable withholding income tax rate will be 10.21%, 20% will be 20.42% and so forth. The surtax fund is planned to finance the reconstruction after the Great East Japan Earthquake occurred on 11 March 2011.

2. Deduction for salary income

The deduction for salary income will be capped at JPY2,450,000 for one's salary being paid since year 2013 of which the amount is JPY15,000,000 or above.

3. Resident tax

Resident tax is assessed in June every year based on the individual's prior year's taxable income. Beginning from 2014, an additional JPY1,000 standard amount of per capita tax is being imposed on this resident tax for the period from 2014 to 2023 as a Special Reconstruction Tax. The standard amount of per capita tax levied in a year will therefore be raised from JPY4,000 to JPY5,000, regardless of the amount of income. Employers will withhold taxes from employee salaries and wages and then make year-end adjustments to the amount paid.

4. Pension

Japan's government has decided that the pension-withholding rate will be gradually

increased by 0.354% every year until September 2017 to the target rate 18.3%.

5. Health insurance

In the case of Tokyo, the current health insurance rate is 9.97%. As the same as pension withholding, both the employer and the employee are responsible to pay the health insurance on a fifty-fifty basis. For those whose age ranges from 40 to 64, the nursing insurance rate of 1.55% will be applied.

6. Child upbringing fund

To finance the child upbringing fund, 0.15% is withheld from employee's monthly salary. Only the employer is liable to pay for the child upbringing fund.

Macau



An overview of tax system in Macau

1. Introduction

Macau is one of the two Special Administrative Regions (the SAR) of the People's Republic of China, the other being Hong Kong. Macau lies on the western side of the Pearl River Delta across from Hong Kong to the east.

Being a former Portuguese colony, the tax system of Macau is basically derived from Portugal. The tax system of Macau has an attractive characteristic of its simplicity and the lowest tax rates (for example, highest progressive Complementary Tax rate is only 12%) as compared to those of other Asian regions. The main reason of such low tax rates system is that direct and indirect taxes are not the principle components of total public revenue. The major source of public revenue comes from revenues from franchises granted, which are actually the rent, the complementary tax and other revenues collected from the gaming industry. In fact, Macau government believes that low tax rates are essentials for attracting foreign investments. With the gaming industry supporting most of Macau's operating expenditure, the investors in Macau can be benefited from a low tax burden and simple tax reporting system.

2. Taxation in Macau

Companies incorporated in Macau are regarded as resident companies. They are taxed on their revenue derived worldwide (except for the special type of offshore company mentioned

below). Companies which are not incorporated in Macau are regarded as non-resident and only revenue derived from Macau will be subjected to Macau taxes.

For individuals, the distinction between resident or non-resident is not essential, since only personal revenue derived from work rendered in Macau will be subjected to Professional Tax.

In Macau there are two main types of taxes, namely Direct and Indirect Taxes.

2.1 Direct Taxes

The direct taxes in Macau include Industrial Tax, Complementary (Profit) Tax, Professional (Salary) Tax and Urban Property Tax. The revenue from gambling franchises granted is also considered to be a kind of direct tax revenue that are under special gambling tax law of about 40%.

The following table shows the present complementary tax rates of Macau. In fact, Macau SAR government exempts complementary tax of annual assessable profit of MOP200,000 for years Of 2011 and 2012.

Taxable income	Rate
MOP	%
Up to 32,000	Nil
From 32,001 to 65,000	3
From 65,001 to 100,000	5
From 100,001 to 200,000	7
From 200,001 to 300,000	9
Over 300,000	12

2.2 Indirect Taxes

Indirect taxes in the territory include Tourism Tax, Stamp Duties, Consumption Tax, Land Rent, And Vehicle Tax, etc. Of all, the consumption tax revenue comprises the largest portion of the indirect tax revenue.

2.3 Tax Incentives in Macau

In Macau, there are incentives for the tourism, manufacturing industry and specially approved offshore companies.

(a) Tourism industry

To promote tourism in Macau, the tax authority approves special incentives tourism projects. Projects which are awarded these incentives will enjoy the following tax exemptions and reductions:

- Exempted from property tax during the first

- eight operating years in Macau City or ten years in the other Islands;
- Exempted from industrial tax for a period equal to the property tax exemption;
- Eligible for depreciation allowances at rates being double the maximum approved rates for a period equal to the property tax exemption; and
- Reduction of stamp duty on property transfers and all facilities required for the project.

(b) Manufacturing industry

The following investments are entitled to a 50% reduction on complementary tax rates, stamp duty on property transfers and are exempted from property tax and industrial tax:

- Investments which increase the export of non-quota restricted goods.
- Investments which install high technology and new industries.
- Investments which will be located in non-traditional industrial areas.

(c) Macau Company Offshore Institution

Under the Decree-Law No. 58/99/M (Offshore Law) of Macau SAR effective from 1 November 1999, approved investors can operate offshore business in Macau and enjoy tax exemption incentives, provided that their operations are in accordance with the applicable offshore legislative provisions and local statutory requirements. The approved offshore institution is exempted from all the following taxes: complementary tax, industrial tax, and stamp duties. In addition, the offshore institution's management and specialised technicians (non-Macau residents), authorised to reside in Macau, are exempted from professional tax for the first three years of their employment at the offshore institution. All MCO application and registration are strictly controlled and monitored by Offshore department (IPIM).

Basic Criteria for Offshore Services Operations

To operate offshore service business in Macau, the investors must abide by the following rules:

- To use only non-Macau currency in their activities

- To target only non-Macau residents as customers
- To focus only on non-Macau markets

Types of Businesses of MCO

There are two types of businesses of Macau offshore companies, they are:


- Offshore finance business, regulated and supervised by the Macau Monetary Authority for financial and monetary products business.
- Offshore service business, regulated and supervised by the Macau Trade and Investment Promotion Institute ("IPIM"), which is a more common type of MCO. There are more than 500 MCO has been approved and registered. To use only non-Macau currency in their activities

Range of Approved Service Business of MCO

The Macau offshore law currently allows a MCO to operate the following categories of offshore service businesses:

1	Hardware consultant
2	Software consultant
3	Data processing
4	Database related activities
5	Back offices activities
6	Research and development activities
7	Tests and technical analysis activities
8	Management and administration of ships and aircraft

2.4 Double Tax Agreements (DTA)

Investors in Macau currently enjoy DTA with Mainland China and Portugal. 

Malaysia



The economic and tax outlook of Malaysia in 2013

Our Future is Positive

Amidst the China's economy is slowing down, Euro is in trouble, US recovery is fading, the 2013 economic outlook of Asian region overall does not appear bright, although it does not appear as bleak as the European and American ones.

The Malaysian economy is overall optimistic and is expecting a moderate growth between 4.5% and 5.5% in 2013. Even though oil export revenue is projected

to decrease this year and hence by extension, the government's revenue; the government which is keeping a tight rein on its expenditure, expects fiscal deficit to be reduced to 4% of GDP in 2013 from 4.5% in 2012.

Per capita income now stood at RM31,000 (RM3.05 = USD1) but rising household debt may indicate problem blooming. Inflation is manageable at about 1.7% and our banking system is strong. We do have a strong international reserve of RM432.2 billion.

The government is focusing on domestic demand although exports are rebounding. We also look forward to our Economic Transformation Program projects to sustain growth. As long as the Malaysian economy is being kept sustainable and dynamic, 2013 outlook is overall a positive one!

The Arrival of GST

The implementation of Goods & Services Tax (GST) to replace our existing Sales & Services Tax has become stale news since its maiden proposal during the 2005 Budget speech on 10 Sept 2004. Subsequent Budgets came and gone without seeing the affirmative sight of its implementation.

The idea of implementing GST in Malaysia is mooted in order to broaden the tax base and increase the tax revenue. The proposed GST rate is speculated to be at 4% which will be lower than that of the prevailing Sales & Services Tax. The GST Bill was drafted and so were the supporting the Price Control and Anti-Profitteering Bills.

The imposition mechanism and scope of GST, assessment and recovery, offences and penalties as well as the transitional provisions etc have been in place; so is the implementation agency, the Royal Customs of Malaysia, which will be incurring some RM222 million on its computerisation and operational costs. However, the Government said they wanted more time to gather public feedback, create more awareness among the public and allow companies more time to get ready.

Will 2013 see the official announcement of the arrival of GST? The majority of the nation thinks so, especially if the ruling political party, Barisan Nasional, were to win the forthcoming election. If this is the case, Malaysian businesses should not expect to be given a longer period of more than 12 months to get themselves ready for the new tax regime since ample warning of its arrival has been given quite some while ago.

Tax Evaders Go to Jail

The Chief Executive Officer (CEO) of the Inland Revenue Board of Malaysia (IRBM), Tan Sri Dr. Mohd

Shukor Mahfar made a pledge last year that the tax dodgers who have been getting away with civil suits and warnings will face criminal charges effective this year.

"Each year, some 20% of the country's individual and companies taxpayers fail to submit their tax returns, thus putting themselves high on the IRBM's suspicion list. Such taxpayers run the risks of being investigated and those found guilty of tax evasion will be facing jail time!" said the CEO, during a press conference at the last year's National Tax Seminar.

Under the local Income Tax Act 1967 (the Act), tax evaders and anyone who assists other to evade tax can face a fine of up to RM20k or an imprisonment of not exceeding 3 years or both, plus a special penalty of treble the amount of tax which has been undercharged.

Although there are these provisions under the Act, the IRBM has hardly enforced them. In so far on the cases investigated by them since 2004, only 69 cases were taken criminal action against them, the rest were taken civil action. However such civil suits do not deter some taxpayers from being repeat offenders. Hence is about time for the IRBM to address tax evasion issues more aggressively in line with many other countries which were already implementing such similar measures. Hopefully such stringent actions will encourage higher rate of tax compliance in our country.

Taxation of E-commerce

E-commerce is electronic commerce, it is the buying and selling of products or services over electronic systems such as the Internet and other computer networks. Thus, e-commerce ignores distance, national boundaries and time differences.

E-commerce presents a major challenge for tax administrations, given the often multi-jurisdictional nature of the transactions and the potential anonymity of the parties. E-commerce makes it easier for enterprises to move their business operations across national boundaries and to shift income to lower tax jurisdictions.

E-commerce directly challenges existing tax principles that were by and large conceived in an era that could not have foreseen the technological advances of the present. Many countries have commissioned studies and stated their positions on the taxation of e-commerce. The Organisation for Economic Development and Co-operation ("OECD") has played an important role in fostering a constructive dialogue among its member countries and between businesses and government. The Technical Advisory Group ("TAG") of the OECD has already released draft

comments on treaty characterisation of digital transactions and on the definition of “permanent establishment”.

There are many problems such as “who”, “what”, “where” and “how” need to be tackled by the local tax authorities in order to have a slice of the taxation cake of these borderless transactions. Taxpayers may disappear in cyberspace, reliable records and books may be difficult to obtain, and taxing points and audit trails may become obscure. Other problems such as characterisation of income nature, “Is it a payment of sale or loyalty? Will it subject to income tax or withholding tax and also Goods & Services Tax?”, “Which country has the jurisdiction right to tax the income?” and etc. The IRBM must be clear in their rights & stance and communicate them clearly to the e-commerce players to ensure effective taxation of this electronic commerce in our country.

With the abovementioned economic outlook and aspiring tax challenges, let us embrace 2013 with the right attitude for a successful and an abundant year! 🇲🇲

International Tax Panel



Malaysia

LL KOONG

Tel: +603 2166 2303

ITP Chairman



China

YAO NING

Tel: +86 10 8589 4393

ITP Vice-Chairman



Hong Kong

CHAN LOK SANG, L.S.

Tel: +852 2541 4188

ITP Vice-Chairman



Japan

NISHIMURA YOICHI

Tel: +81 3 3519 3970



Singapore

IRENE CHAN

Tel: +65 6323 1613



Macau

JACKSON CHAN

Tel: +853 2856 2288



Australia

ADRIAN CALLEIA

Tel: +61 2 9907 1600



Cyprus

ADONIS THEOCHARIDES

Tel: +357 22 670680



Cambodia

NEOH BOON TOE

Tel: +855 17 363 303



Indonesia

HERU PRASETYO

Tel: +6221 2305569



Mauritius

JAMES HO FONG

Tel: +230 210 8588

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