

PRISM

Tax Newsletter

4th Quarter 2019

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Clearance Certificate

A clearance certificate provides certainty to purchasers of their withholding obligations. It confirms the withholding tax is not applicable to the transaction of buying an Australian real property.

The purchaser must withhold 12.5% of the purchase price in transactions involving taxable Australian real property, or an indirect Australian real property interest that provides company title interests, with a market value of \$750,000 or more, unless the vendor shows the purchaser a clearance certificate

The Australian Taxation Office process applications in order of date of receipt. To avoid possible delays in any property settlement, must apply online for a clearance certificate at least 28 days before it is required.

免预扣税证明

免预扣税证明可确保买家履行缴纳预扣所得税之义务，并确定预扣税在购买澳大利亚不动产交易时不适用。

以市场价值75万澳元或以上价格购买应税澳大利亚房地产或提供公司产权权益的澳大利亚间接房地产权益的买方必须扣留购买价格的12.5%，在卖方能向买方出示免预扣税证明时除外。澳大利亚税务局(ATO)将按照收到免预扣税证明申请之日期顺序处理申请。为避免任何有可能的资产结算延迟，买方必须至少在需要日期的28天前在网上申请免预扣税证明。

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Bangladesh

First time appointment of VAT agent for non-resident companies in Bangladesh

The National Board of Revenue has appointed VAT agent for non-resident companies in Bangladesh. Now a non-resident company is able to pay VAT and submit VAT return through VAT agent. Our Bangladesh correspondent firm Pinaki & Company's ITP member has attained VAT Agent Certificate from National Board of Revenue by qualifying written examination and VIVA conducted by the Customs, Excise & VAT Training Academy held on 15th October 2019. Now Pinaki & Company is ready to provide indirect tax service to non-resident clients who have no physical presence in Bangladesh.

孟加拉国家税务局已委任非居民公司的增值税代理人。因此，非居民公司可通过增值税税务师缴付增值税并提交增值税申报表。孟加拉联系所Pinaki & Company事务所的国际税务组成员在出席由海关、关税及增值税培训机构在2019年10月15日举行的笔试与口试后，获得了国家税务局发出的增值税税务师证书。Pinaki & Company事务所现已做好准备为非身处于孟加拉的非孟加拉居民提供间接缴付增值税的服务。

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Cambodia

The Encouraging Policy to Promote Small-Medium Enterprises (“SMEs”) in Cambodia

In the attempt to promote the expansion of SMEs, favorable incentives have been set out by the Cambodian government including various encouragements on Customs Duties given to SMEs with the promulgation of Prakas No. 580 MoEF.BrK dated 27 June 2019; and, the Incentives on Profit Tax and the exceptional rates of Deductible Expense offered to SMEs under Priority Sectors under Sub-Decree No. 124 ANK.BK. dated 02 October 2018.

为了鼓励中小企业的发展，柬埔寨王国政府出台了一系列优惠政策包括在2019年06月27日颁布的关于各种关税优惠政策的第580 MoEF.BrK号公告、2018年10月02日颁布的免除在政府规定优先领域里的中小企业所得税及可对部分费用认列较实际费用高的第124 ANK.BK号总理令。

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China

New Administrative Measures of Non-residents Claiming for Treatment under DTAs to be implemented on January 1 2020

On October 14, 2019, the State Taxation Administration of the People's Republic of China issued the Administrative Measures of Non-residents Claiming for Treatment under DTAs (hereinafter referred to as the “Measures”), which will come into effect on January 1, 2020.

国家税务总局2019年10月14日颁布了《非居民纳税人享受协定待遇管理办法》，自2020年1月1日起施行。

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Cyprus

Cyprus signs off a Double Taxation Avoidance Agreement (DTAA) with Kazakhstan – May 2019

On 15 May 2019 Cyprus and Kazakhstan have concluded and signed their first Double Taxation Avoidance Agreement (DTTA) and was published in the official Gazette on 24 May 2019. The treaty will be applicable from the 1st of January following the year in which the DTTA has been ratified by both states.

2019年5月15日，塞浦路斯和哈萨克斯坦首次签署避免双重征税协定，且该协定于2019年5月24日在官方公报公告。协定将于双方批准之后年度的1月1日起适用。[Click to read more](#)

Greece

Lifting of capital controls

After four years, the capital controls in Greece have finally been lifted.

The period after the lifting of capital controls will be accompanied in the medium term by more capital inflows than by outflows, market players predict, arguing that both the country's lower risk and the negative interest rates in most Eurozone countries attest to that.

经过四年后，希腊的资本管制终于解除。就希腊之低风险及大多数欧元区国家实施之负利率，市场参与者预测取消资本管制后的中期比起资金流出，将会有更多资金流入希腊。[Click to read more](#)

Hong Kong

Fifth Protocol to Arrangement for Avoidance of Double Taxation and the Prevention of Fiscal Evasion between Mainland and Hong Kong

The Fifth Protocol to the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion between the Mainland of China and the Hong Kong Special Administrative Region was signed in July 2019. The Fifth Protocol will come into force after the completion of ratification procedures and notification by both sides.

二零一九年七月内地与香港签订《内地和香港特别行政区关于对所得避免双重征税和防止偷漏税的安排》第五议定书。第五议定书会待双方完成有关批准程序及经通知后生效。[Click to read more](#)

Malaysia

National Budget 2020

The 2020 National Budget with the theme "Driving Growth and Equitable Outcomes Towards Shared Prosperity" was delivered on 11 October 2019 by our Minister of Finance, YB Lim Guan Eng. The Budget is based on four main thrusts:

- Driving Economic Growth in the New Economy and Digital Era
- Investing in Malaysians: Levelling Up Human Capital
- Creating a United, Inclusive and Equitable Society
- Revitalisation of Public Institutions and Finances

马来西亚财政部长林冠英阁下，于2019年10月11日公布2020年国家财政预算案。是项预算案的主题为“驱动发展，公平成果，共享繁荣”，并确立4大主轴：

- 在新经济和数码时代驱动经济成长
- 投资在人民身上：提升人文资本
- 建立团结、包容与公平的社会
- 提振公共机构与财政

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UK

Reporting requirements for non-resident landlord companies

Discussion on recent changes brought in by the UK government over the last five years affecting non-resident UK companies with income deriving from a UK property business and non-resident UK companies who are disposing of UK land and property.

讨论英国政府在过去五年带来的改变如何影响那些经营英国房地产业务以及批售英国土地和房地产的非英国居民公司。

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Australia



Capital Gains Withholding: Impacts on Australian and Foreign Residents

Asset types

- Taxable Australian real property **market value** \$750,000 or more
 - vacant land, buildings, residential, commercial property
 - mining, quarrying, prospecting rights in Australia
 - a lease over real property in Australia if lease premium paid
 - **indirect Australian real property interests** Australian entities (with membership interest 10% or more, where underlying value is principally in Australian real property) – includes shares in a company with a company title interest in real property
 - options or rights to acquire any of the above asset types

Market value

Purchase price negotiated between vendor and purchaser, acting arm's length, ATO will accept the purchase price as proxy for market value.

Where market value is different to stated purchase price, ATO **will not accept** purchase price as proxy for market value, purchaser will need to **seek a separate expert evaluation**.

Note: Proxy for market value, is the purchase price before adjustment for any disbursements at settlement.

Excluded assets

- taxable Australian real property market value less than \$750,000
- an indirect Australian real property interest providing a company title interest with market value of less than \$750,000
- transactions on approved stock exchanges
- transactions using broker-operated crossing system
- transactions subject to another withholding obligation
- securities lending arrangements, with no (CGT) liability and no payment obligation
- transactions with vendor in external administration, bankrupt estate, scheme

of arrangement, debt agreement, personal insolvency, agreement, or same circumstances under foreign law. 🇺🇸

Reference

ATO Website – Capital Gains Withholding: Impacts on Australian and Foreign Residents

Bangladesh



First time appointment of VAT agent for non-resident companies in Bangladesh

The new Value Added Tax (VAT) and Supplementary Duty (SD) 2012 was effective from 01 July 2019. According to the section no 19 of the act, VAT agent has to be appointed by the non-resident companies who are doing business (economic activity) in Bangladesh but have no physical office.

The National Board of Revenue has given public notice for appearing in the written examination from the tax practitioners. After duly verifying the applications of the examinees, the Customs, Excise & VAT Training Academy conducted written examination and viva on 15th October 2019. Finally twenty one candidates have qualified in the first time VAT Agent examination in Bangladesh.

Bangladesh correspondent firm Pinaki & Company's partner: Mr. Krishnendu Deb Roy, FCA participated in the examination and accordingly, obtained the VAT Agent Certificate. Now Pinaki & Company is ready to provide indirect tax service to non-resident clients who have no physical presence in Bangladesh.

However, recently, National Board of Revenue (NBR) has given the opportunity to take for VAT Agent Certificate without examination to Chartered Accountants, Cost and Management Accountants and others VAT advisers subject fulfilling few conditions. 🇬🇧

Reference

Section number 19 of the VAT & SD Act 2012, Rule number: 16 and 17 of VAT & SD Rules 2016

Cambodia



The Encouraging Policy to Promote Small-Medium Enterprises ("SMEs") in Cambodia

Small and Medium-sized Enterprises ("SMEs") has constituted a vital part in the competitiveness of

Cambodia's economy. To embrace the industry and make it more vibrant, various initiatives have been taken by the government. Two of the incentives are the promulgation of Prakas No. 580 MoEF.BrK dated 27 June 2019 on Customs Incentives for SMEs and Sub-Decree No. 124 ANK.BK. dated 02 October 2018 on Tax Incentives for SMEs under Priority Sectors.

For the policy purpose, the Ministry of Economic and Finance ("MoEF") defines SMEs as enterprises with annual turnover ranging from USD 62,500 to USD 1 million or employing fewer than 100 staff.

I. Prakas on Custom Incentive for SMEs

Under this Prakas, the domestic-sales SMEs and enterprises located in SME Cluster Zones are exempted from Customs Duties for the import of production equipment and construction materials. While the Water Supply SMEs, Export-oriented SMEs and supporting SMEs (for the portion which directly serves export) are entitled to additional exemption on the import of raw materials. Apart from that, the importation of equipment to set up and serve the R&D purpose of innovative IT is as well exempted from Customs Duties.

II. Sub Decree on Tax Incentives for SMEs under Priority Sectors

The Priority Sectors featured are categorized into agricultural or agro-agricultural products; food manufacturing and processing; local consumable goods manufacturers; waste recycling and production of goods for the tourism sector; manufacturing of finished products, spare parts or assembling parts to supply other manufacturers; R&D associated with IT or the supply of IT-based services; and enterprises located in SME Cluster Zones as well as enterprises developing the Cluster Zone.

The tax incentives offered to SMEs include the following:

1. Profit Tax incentives

Three years Income Tax exemption is granted to newly registered enterprises or existing enterprises commencing from the date of tax registration update. The exemption period will be extended to five years if the enterprise fulfills one the following criteria: a) incorporating domestic-sourced raw materials in 60% of production; b) expanding employment size by 20%; or c) having the enterprise located in the SME Cluster Zone, the Income Tax exemption period shall increase to five years. During the given exemption period, qualified SMEs are further entitled to a waiver of monthly 1%

Prepayment of Income Tax and annual Minimum Tax.

2. Incentives on Deductible Expense for Profit Tax Calculation

In Profit Tax calculation, SMEs are allowed to deduct 200% of the expenses for the usage of IT based accounting software and training, or other employees training fee from profit tax calculation base; and, up to 150% of the investment on innovative machinery and equipment which result in the improvement of productivity.

The relief of tax and customs duties would be an encouraging factor for SMEs which will to promote new entrance to the industry. This, would in turn foster this particular area of Cambodia's economy and thus, heighten its competitiveness in the global market. 🇰🇲

Reference

- Ministry of Economic and Finance.(2018, October 2). Tax Incentive for SME in Priority Industry. Cambodia.
- Ministry of Economic and Finance. (2019, June 27). Implementation of Custom Duties Incentive for Small Medium Enterprise. Cambodia.

China



New Administrative Measures of Non-residents Claiming for Treatment under DTAs to be implemented on January 1 2020

On October 14, 2019, the State Taxation Administration of the People's Republic of China issued the Administrative Measures of Non-residents Claiming for Treatment under DTAs (hereinafter referred to as the "Measures"), which will come into effect on January 1 2020.

The new Measures is a revised version of the Administrative Measures of Non-residents Claiming for Treatment under DTAs issued in 2015. Main revisions include:

- I. The revised definition of non-resident taxpayers is more precise. The original measures stipulates that: "Non-resident taxpayers refer to taxpayers (including non-resident enterprises and non-resident individuals) who are not Chinese tax residents according to domestic tax laws or tax treaties." The new measures stipulates that: "Non-resident taxpayers refer to taxpayers who are tax residents of the other contracting party in accordance with the resident provisions of the tax agreement."

- II. The revised procedures of non-resident taxpayers claiming treatment under DTAs are “judging by taxpayers themselves, claiming for treatment, and retaining relevant materials for reference”, while the original one requires submission of materials when claiming.
- III. The number of forms to be filled for non-resident taxpayers is significantly reduced to only one form, with less and easier content. Non-resident taxpayers only need to fill in the basic information such as name and contact information, and make a statement. The statement includes the following four aspects:
 1. Tax resident status, that is, the tax resident of the other contracting party according to the laws and regulations of the contracting party and the resident provisions of the tax treaty;
 2. The main purpose of the relevant arrangements and transactions is not to obtain treatment under DTAs;
 3. Make judgement by taxpayers themselves, who shall assume the corresponding legal responsibility;
 4. The relevant materials shall be collected and retained for reference according to the regulations, and be subject to the follow-up management by tax authorities.
 5. The responsibilities of non-resident taxpayers and withholding agents are clarified. 🇧🇷

Cyprus



Cyprus signs off a Double Taxation Avoidance Agreement (DTAA) with Kazakhstan – May 2019

On 15 May 2019 Cyprus and Kazakhstan have concluded and signed their first Double Taxation Avoidance Agreement (DTTA) and was published in the official Gazette on 24 May 2019. The treaty will be applicable from the 1st of January following the year in which the DTTA has been ratified by both states.

The treaty is based on the OECD Model Tax Convention.

Dividends

The withholding tax rate on dividends is set at 5%, as long as the recipient is a company which holds directly at least 10% of the capital of the paying company. In any other case the withholding tax rate on dividends is set at 15%.

Interest

The withholding tax rate on interest is set at 10%, as long as the recipient of the interest is the beneficial owner of the income. In cases where the beneficial owner is the Government of the other state or any other authority owned by the Government of the other state, the withholding tax is Nil.

Royalties

The withholding tax rate on royalties is set at 10%, as long as the recipient of the royalties is the beneficial owner of the income.

Capital gains

The general rule is that gains derived by a resident of a contracting state from the alienation of immovable property may be taxed in the state where the property is located.

Gains derived from the alienation of shares in capital of a company which more than 50% of its value derives directly or indirectly from immovable property located in the other contracting state, maybe taxed in that other state, with the exception of any shares that are listed on a recognised stock exchange. 🇧🇷

Greece



Lifting of capital controls

It is worth noting that in the first seven months of 2019, bank deposits have increased by slightly over EUR 4 billion.

Beyond that, the yield of the ten-year Greek government bonds fell from 4% - 4.5% to below 2%, and in this climate it is expected that the removal of capital controls will be a positive psychological factor. As such, some Greek savers abroad might be persuaded to bring their savings back to Greek banks.

Similar behavior is expected to be shown by private savers and businesses, which have since the beginning of the year uploaded their deposits to Greek banks. In fact, this trend is much higher than it appears on numbers and papers. In particular, during the first half of the decade, large companies rushed to use the ceiling on their credit lines, borrowing large sums, which were then deposited abroad. In this way, they not only had assured liquidity in the event that banks stopped new lending, but could at the same time continue their operations smoothly in the event of capital controls. 🇧🇷

Hong Kong



Fifth Protocol to Arrangement for Avoidance of Double Taxation and the Prevention of Fiscal Evasion between Mainland and Hong Kong

The Fifth Protocol to the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion between the Mainland of China and the Hong Kong Special Administrative Region was signed in July 2019. The Fifth Protocol will come into force after the completion of ratification procedures and notification by both sides.

The new article is going to provide tax relief to qualified Hong Kong and Mainland teachers and researchers working on the other side. A qualified teacher or researcher, who is employed in Hong Kong or the Mainland and engages in teaching and research activities on the other side, shall be exempt from taxation on that other side for a period of three years, provided that the relevant income has been subject to tax on the side where the person concerned is employed.

In addition, the Fifth Protocol incorporated the measure to prevent tax treaty abuse from the Base Erosion and Profit Shifting package promulgated by the Organisation for Economic Co-operation and Development in October 2015, including the amendment of preamble and certain articles, such as Article 4 Resident; Article 5 Permanent Establishment; Article 13 Capital Gain and etc. 🇨🇰

Reference

Arrangement for Avoidance of Double Taxation and the Prevention of Fiscal Evasion between Mainland and Hong Kong (Chinese version only), please visit the website: https://www.ird.gov.hk/chi/pdf/dta_china_new_arrangement_tc.pdf

Details of the Fifth Protocol (Chinese version only), please visit the website: www.ird.gov.hk/chi/pdf/Fifth_Protocol_Mainland_HongKong.pdf

The above information was extracted from the press release of Hong Kong Inland Revenue Department. For more information, please visit the website: <https://www.ird.gov.hk/eng/ppr/archives/19071901.htm>

Malaysia



National Budget 2020

The 2020 National Budget with the theme "Driving

Growth and Equitable Outcomes Towards Shared Prosperity" was delivered on 11 October 2019 by our Minister of Finance, YB Lim Guan Eng. The Budget is based on four main thrusts:

- Driving Economic Growth in the New Economy and Digital Era
- Investing in Malaysians: Levelling Up Human Capital
- Creating a United, Inclusive and Equitable Society
- Revitalisation of Public Institutions and Finances

Our Government is committed to bringing stability to the Government's finances and achieving the goal of Vision 2020 with a new growth trajectory under foundation of "Shared Prosperity Vision 2030". The 15 key strategies are:

1. Making Malaysia the Preferred Destination for Investment
2. Accelerating the Digital Economy
3. Strengthening Access to Financing for Businesses
4. Strengthening Economic Diversity
5. Enhancing job opportunities for Malaysians
6. Modernising the Labour Market
7. Investing in Education and Talent
8. Inclusive Development – RM10.9 billion Allocated for rural development
9. Towards Better Health Services
10. Enhancing the Transportation Ecosystem
11. Promoting Access to Housing
12. Unity through Sports
13. Promoting Environmental Sustainability
14. Commitment to Fiscal Consolidation
15. Strengthening Institutions: Governance & Integrity

Some of the important announcement concerning taxation affecting companies are summarised below:

- Corporate Income Tax Treatment for Small and Medium Enterprises ("SME")

It is proposed that:

- (a) the first chargeable income which is subject to the concessionary income tax rate of 17% be increased from RM500,000 to RM600,000; and
- (b) the above concessionary tax rate be given only to a company having gross business income for the relevant year of assessment of not more than RM50 million, in addition to the ordinary share capital requirement. 🇲🇾



Reporting requirements for non-resident landlord companies

The UK property tax landscape has changed dramatically in the last few years, particularly for non-resident landlord companies.

Previously, rental income received, net of costs was charged to income tax and capital gains were excluded from the charge. However, this position was changed in 2015 so that any gains on such properties were now chargeable to UK tax under the Capital Gains Tax legislation.

At the same time, the Government implemented a new rule which made it a requirement to notify HMRC of any sale within 30 days of the conveyance.

Subsequently, in April 2019, capital gains made by non-resident landlord companies are now subject to Corporation Tax rather than Capital Gains Tax. This move by the Government acted to treat offshore companies selling property the same way as UK resident companies.

In its continued attempts to recover any gains made on UK properties by overseas investors and streamline the tax treatment, the Government has amended legislation so that, from 6 April 2020, non-UK resident companies that carry on a UK property business, or have other UK property income, will be charged to Corporation Tax, rather than being charged to Income Tax as at present.


This will mean that profits from UK property income will become chargeable to Corporation Tax and will be calculated under ordinary Corporation Tax principles as set out in CTA 2009 and Corporation Tax Act 2010 (CTA 2010).

This move will affect non-UK resident companies that carry on a UK property business either directly, or indirectly through a tax transparent collective investment vehicle.

The Government has also confirmed a transitional provision in respect of existing UK property businesses carried on by a non-UK resident company so that the change from Income Tax to Corporation Tax will not constitute a disposal event under the Capital Allowances Act 2001.

Income will, therefore, neither be taxed twice nor fall out of account. Furthermore, it will ensure that an expense is only relieved once.

This will allow for the grandfathering of existing Income Tax losses so that it will be possible to carry them forward to the Corporation Tax regime.

The UK Government believes that this will deliver more equal tax treatment for UK and non-UK resident companies in receipt of similar income, as well as preventing companies and individuals that use this difference to reduce their tax bill on UK property through offshore ownership. 

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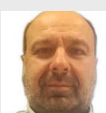
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