AGN AP Taxpresso

Quarterly Tax Publication – 1st Issue, 2018

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INTRODUCTION

This is our first edition of our quarterly AGN AP Taxpresso publication. We intend to keep in touch with you on interesting insights from our Asia Pacific region. We are providing you with nuggets of information on the latest tax developments that impacts our Asia Pacific region and its economies.

In this article, you can read about the Australia tax law changes arising from Significant Global Entities as well as pit falls to watch out for by non-residents investing in properties in New Zealand. It is rounded off with an insight on why Singapore is such an attractive place to do business.

Please feel free to express your thoughts and give us your feedback so that we can make this useful to you.

I would like to express my sincere appreciation to the current and all future contributors who make our quarterly AGN AP Taxpresso a success.

N Vimala Devi
Chairman AGN Asia Pacific Tax Committee

"The publication has been prepared for quick information sharing only. Its contents should not be used for advice or formulating decisions under any circumstances."

AUSTRALIA

Significant Global Entities (SGE)
How Times Have Changed

The recent attention afforded to Significant Global Entities (SGE) has resulted in legislative changes introduced into Australian tax law in December 2015 which has produced increased reporting obligations for predominantly privately-owned companies and their tax advisors.

The new measures have come into effect for income years commencing on or after 1 July 2016. The changes require SGE to provide General Purpose Financial Statements (GPFS) prepared to Australian Accounting Standards to the Australian Taxation Office by the tax return lodgement due date.

The ATO identifies a SGE to be either:

'Global parent entity' whose 'annual global income' is A$1 billion or more; or

Members of a group of entities consolidated (for accounting purposes) where the global parent entity has an annual global income of A$1 billion or more.

The above include both Australian-headquartered entities (with or without foreign operations) and local operation of foreign-headquartered multinationals with an Australian 'Permanent Establishment'.

Entities most notably affected by the new regulations are companies that currently only prepare and lodge Special Purpose Financial Statements (SPFS) with the Australian Securities and Investments Commission (ASIC). Additionally, small companies that have previously relied on class order relief from lodging financial statements with ASIC and those entities taxed as Companies which are not companies in accordance with the Australian Corporations Act will face changes under the new provisions.

The ATO has recognised that a SGE and their tax advisors may face practical difficulties in preparing GPFS in time, as well as unexpected additional costs as some SGEs will require changes to their internal practices and systems to facilitate compliance. The ATO acknowledged this may leave some SGEs at risk of administrative penalties for non-compliance and accordingly issued a transitional administrative approach for complying with the new requirements.

The transitional rules have provided SGEs with a lodgement concession for both the GPFS and income tax returns to 4 April 2018 (extended from 15 January 2018). Furthermore, the ATO has allowed for the GPFS in the first income year to not adhere to Australian Accounting Standards, provided that they are prepared 'consistently with another country's commercially accepted accounting principles'.

SGEs are also required to comply with The Organisation for Economic Co-operation and Development's (OECD) Country-by-Country (CbC) Reporting principles. These measures are aimed at combating the diversion of profits offshore by requiring certain entities to lodge CbC reports detailing international related party dealings, revenues, profits, and taxes paid by jurisdiction.

As part of Australia's recent focus on SGEs, we have seen the introduction of Multinational Anti-Avoidance Laws (MAAL), increased administrative penalties for non-compliance (increased to range from $105,000 to $525,000) as well as a 40% Diverted Profits Tax (DPT) effective from 1 July 2017.

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NEW ZEALAND

Tax Changes Continue to Catch-Out Non-Residents

For many years, the NZ property market has been an attractive investment opportunity for foreign buyers, predominantly due to the fact that NZ does not have a capital gains tax regime. Consequently, a residential rental property, could be acquired by the non-resident, rented for a number of years, and sold for a gain upon which no NZ income taxes were payable.

While the NZ income tax legislation does contain a taxing provision, that applies where a person has acquired land with a purpose or intent of resale, this relies on ascertaining the subjective intent or purpose of the non-resident when they acquired the investment property. Not an easy job for Inland Revenue, even though the onus of proof lay with the taxpayer to prove their acquisition intention.

From 1st October 2015, Inland Revenue's life became a little easier via the introduction of the bright-line test, which was a supplement to the existing intention or purpose of resale rules. Post 1st October 2015, basically any gain arising on a disposal of residential land which was acquired and resold within two years, was taxable. The only real exemption to the new rules, was where the land had been occupied as the main home of the owner – near impossible for a non-resident owner to claim.

Coupled with the introduction of the bright-line test from 1st October 2015, and where things really started to get tricky for the non-resident investor, were new information collection requirements. Where any disposal of residential land occurred post 1st October 2015, even if originally acquired well before this date (and therefore not subject to the new bright-line rules), both parties to the transaction had to provide a NZ IRD number before the transfer of the land title was permitted to proceed.

We saw a number of cases, and still do, where this requirement to provide a NZ IRD number caught-out the non-resident investor. Considering that the majority of these properties were being acquired for residential rental purposes, you would think there should have been minimal impact by the new rules, since the rental income was NZ sourced and consequently subject to NZ taxation which would mean the non-resident already had a NZ IRD number for filing their NZ tax returns.

Unfortunately not the case. We had a couple of cases where the non-resident told us that the NZ agent had told them the rental income was not subject to NZ tax because they were a non-resident. Hmm – wrong sorry. What made the situation worse, was new requirements by Inland Revenue that anyone applying for a NZ IRD number provided details of an active NZ bank account. Not good news for the non-resident, when new AML/CFT legislation in NZ often meant a NZ bank would not open a new bank account without the account opener appearing in person at a NZ branch. As a result, in one example, the non-resident had to fly from Singapore to NZ, essentially just to open a NZ bank account, so they could apply for a NZ IRD number so they could settle the sale of their apartment.

So if you are aware of any clients that may have NZ investment properties, it is timely to remind them of their NZ tax filing obligations if they are obtaining rent from the property, and at the very least, that they have a NZ IRD number to avoid unnecessary delays and cost exposures when they go to sell.

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SINGAPORE

Singapore - An Attractive Place for Startups and Growing Your Business

Singapore offers many attractive benefits to set up businesses and operations in its shores. It has one of the lowest corporate tax rates in the region at 17%. It offers many tax incentives and cash grants in particular to small and medium sized businesses. One of its incentives is the Start Up Tax Exemption Scheme.

Start Up Tax Exemption scheme for newly set up companies

To enable local businesses and startups to grow and establish a base in Singapore, the Start Up Tax Exemption Scheme ("SUTES") was introduced in year of assessment 2005.

Under SUTES, a newly incorporated company that meets qualifying conditions enjoys the following tax exemptions during the first three years of assessment.

<u>YA 2020 onwards</u>

- 75% tax exemption on the first S$100,000 chargeable income that is subject to prevailing corporate tax rate
- 50% further tax exemption on the next S$100,000 chargeable income that is subject to prevailing corporate tax rate

This provides a maximum tax exemption amounting to S$125,000 in each of the first three years of assessments.

<u>YA 2019 and before</u>

- 100% tax exemption on the first S$100,000 chargeable income that is subject to prevailing corporate tax rate
- 50% further tax exemption on the next S$200,000 chargeable income that is subject to prevailing corporate tax rate

This provides a maximum tax exemption amounting to S$200,000 in each of the first three years of assessments.

SUTES is applicable to all startup companies in Singapore. However, SUTES will not be applicable to companies whose principal activities comprise investment holding or that of developing properties for sale, investment or both. The SUTES is not applicable to such companies on the basis that investment holding companies derive passive income and property investment companies are specifically set up for property businesses.

Furthermore, to be eligible the company must be:

- incorporated in Singapore,
- tax resident for that year of assessment in Singapore, and
- the number of shareholders of the company must not exceed 20 in that year of assessment where:
- all the shareholders are individuals or at least 10% of the ordinary shares are held by an individual.

The intent of SUTES is to promote the spirit of entrepreneurship so that the local businesses can move to the next level. The government wants to give a leg up to new startups by reducing their cost of operations by providing the tax exemption in setting up as a company.

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Even after the first three years of assessments, the following partial tax exemption will be applicable.

From YA 2020

- 75% tax exemption on the first S$10,000 chargeable income
- 50% further tax exemption on the next S$190,000 chargeable income

This will provide a maximum tax exemption amounting to S$102,500 on the first $200,000 chargeable income.

YA 2019 and before

- 75% tax exemption on the first S$10,000 chargeable income
- 50% further tax exemption on the next S$290,000 chargeable income

This will provide a maximum tax exemption amounting to S$152,500 on the first $300,000 chargeable income.

One tier tax system

Another benefit of setting up as a company in Singapore is that the after tax profits that are distributed as dividends to the shareholders are tax exempt in the hands of the shareholders regardless whether they are paid to local or foreign shareholders. In other words, the tax is paid only once at the corporate level. The one tier dividend received by the shareholder from the Singapore company is tax exempt in the hands of the shareholders.

Productivity Solutions Grant

For local businesses particularly in the retail, food, logistics, and landscaping industries, the Productivity Solutions Grant ("PSG") will allow sector specific precision engineering, wholesale solutions in terms of digital customer relationship management and human resource management systems, etc. PSG will provide up to 70% funding support. For example, for food or restaurant operators looking to automate their ordering and payment systems, can apply for PSG cash grant to improve their productivity and reliance on manpower through digitalization of their work processes.

With this in mind the Government has set aside $110m as initial funding to cater for PSG to needful businesses.

Expanding overseas

Singapore also encourages companies to expand overseas. With this intent a Singapore company is allowed to claim 200% tax deduction on qualifying expenses incurred on overseas expansion up to a cap of S$100,000. The qualifying expenses include:

- Market surveys and feasibility studies.
- Overseas trade offices.
- Overseas trade fairs.
- Advertising in approved local trade publications.
- Manpower expenses for Singaporeans posted overseas.
- Overseas advertising and promotional campaigns.

The above are some of the benefits that have been highlighted in the article. There are many more. Singapore offers a stable government, great infrastructure and a very efficient and easy to do business environment. We are currently ranked second in 2017 by World Bank in the Ease of Doing Business as well as our Singapore Changi Airport has been ranked number one globally for the past 6 years.

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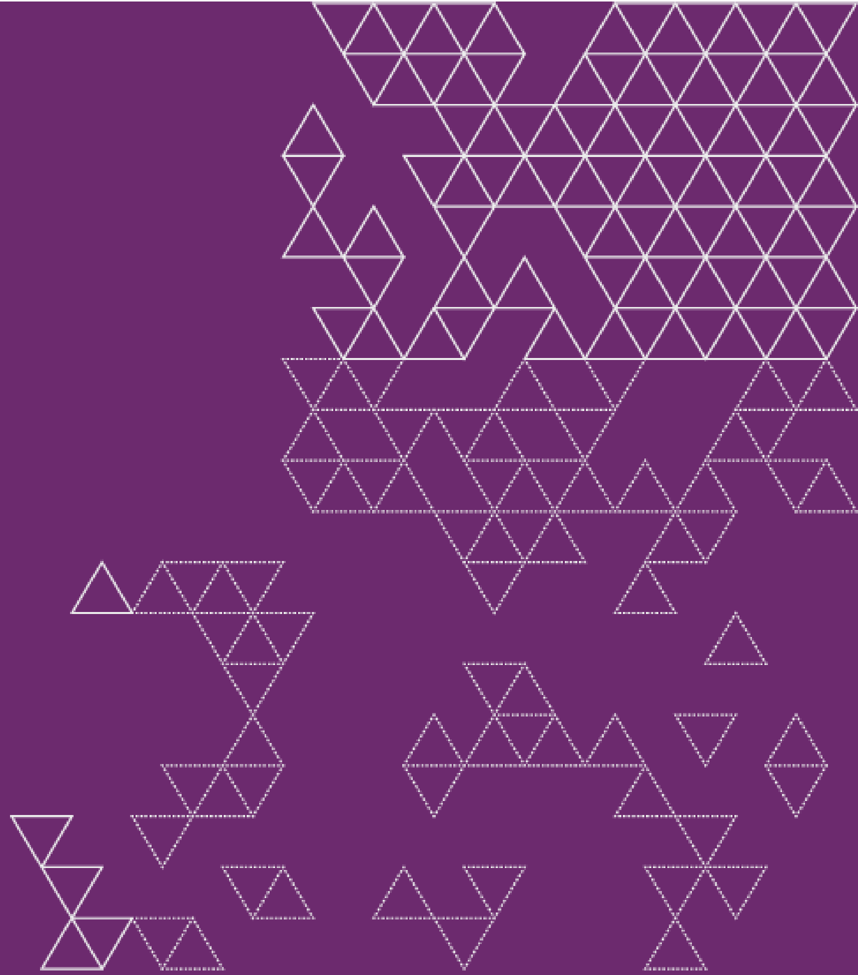

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