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Highlights

Autumn twist

In this Fall edition of our Asia-Pacific newsletter, we report new twist in the political and accounting world.

In Australia, the Conservative Coalition won the election and some tax cuts and new measures are expected.

In China, the CICPA recently released the CPA firm ranking and, surprisingly, a domestic firm has taken the top third spot displacing EY and

KPMG.

Hong Kong has an article on BEPS (Base Erosion & Profit Shifting) concerning action plan by the OECD to improve global cooperation to counteract tax avoidance in the international frontier.

Meanwhile, to attract investment in the region, the Indonesian Government has introduced a one-stop service system for capital investments.

A taxation guideline on e-commerce was recently released by the Malaysian Inland Revenue Board, addressing, amongst other

things, double taxation treaty situations.

In Singapore, after the initial launch in 2007, XBRL will become mandatory for filing of financial statements with the Accounting and Corporate Regulatory Authority commencing from October 2013. Rather than twist, this should enable filing on uniform format and data be readily comparable amongst companies.

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A change of government - What will be the impact on business?

After six years of Labour rule, a conservative Coalition led by Tony Abbot has formed a new Australian government. While the 7 September election provided the Coalition with a resounding majority in the House of Representatives, the Senate (the House of Review) looks less certain which may mean that proposed legislation may not find a straightforward passage into law.

But what changes can we expect to see for business? Based on previously made announcements, we expect a range of initiatives and changes to occur as outlined below. These changes will affect businesses both large and small. However, of course these changes require appropriate legislation to be passed.

Company taxes

The Coalition has the intention of cutting the company tax rate by 1.5% to 28.5% from 1 July 2015. However, the tax cut will be offset by companies with revenue of more than \$5 million with a 1.5% levy. This levy is intended to pay for the

Paid Parental Leave scheme. The new Paid Parental Leave scheme, when implemented, is designed to provide a full replacement wage for 26 weeks.

Other Taxes

Other measures in the pipeline are expected to include:

- The Carbon Tax and Minerals Resource Rent Tax will be removed.
- Small business tax concessions
- The Coalition is expected to abolish the new \$6,500 instant asset write off and the \$5,000 immediate motor vehicle write-off for small business entities.
- The \$1 million tax loss carry back measure is expected to be abolished.

The Coalition has also promised to review many of the current superannuation arrangements, including concessional contribution caps, penalties for breaches of caps and will remove the low income earner superannuation contribution.

"...intention of cutting the company tax rate..."

The "Big Four" No Longer Biggest in China



In July 2013, the Chinese Institute of CPAs (CICPA) released their annual (2012) rankings of the Top 100 CPA firms in China. This is the eleventh release since the CICPA started the ranking in 2003. The ranking is based on four factors: revenue, number

of CPAs, score of other comprehensive evaluation index, and score deducted due to disciplinary punishment. The big surprise in this year's ranking is that KPMG is no longer in the Big Four in China. Ruihua Certified Public

Accountants is now the third largest firm in China, ahead of Ernst & Young. KPMG has dropped to fifth.



Top Ten CPA firms in China for 2012:

Ranking	English Name	Chinese Name	Revenue (RMB millions)
1	PwC	普华永道中天会计师事务所	3,226
2	Deloitte	德勤华永会计师事务所	3,045
3	Ruihua	瑞华会计师事务所	2,437
4	E&Y	安永华明会计师事务所	2,236
5	KPMG	毕马威华振会计师事务所	2,136
6	BDO Shu Lun Pan	立新会计师事务所	1,774
7	Daxin	大信会计师事务所	1,366
8	Pan China	天健会计师事务所	1,105
9	Shinewing	信永中和会计师事务所	1,041
10	Dahua	大华会计师事务所	1,008

Source: CICPA

The dark horse Ruihua was formed by the merger of Guofu Haohua (Crowe Horwath, ranked 9th in 2011) and Zhongrui Yuehua (RSM, ranked 6th in 2011)),

which did not take place until April 30th of this year, the deadline for the CICPA information filing for 2012. The CICPA apparently decided to make it immediately

effective for their list as of 2012.

The merger was reported to be guided directly by the Ministry of Finance and the CICPA, in an

".. formed by the merger...which did not take place until April 30th..."

CHINA

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"... when the Chinese accounting firms can become "strong"..."

effort to make a flagship local accounting firm. Crowe Horwath and RSM themselves were results of a serial of mergers during the last several years, in response of the CICPA's call for local firms "to get bigger and stronger".

According to insiders, local firms can have chance of winning in fight against the "Big Four" only they are big enough. However, a number of previous mergers indicated that if a merger was only in name without integration of partners, personnel, finance, and quality control system, the result would be the same as "piecing sampans".

Now, the form of the "big" has been done, perhaps more people are concerned about when

the Chinese accounting firms can become "strong."

The Ruihua's breakthrough is also a result of the Big Four's slowdown in China. "The Big Four peaked in their dominance of China's accounting markets in 2007, when they had 55 percent of the market. They are down to 34 percent," said Paul Gillis, a professor at Peking University.

The Big Four have been growing slower than the economy since 2008. "Unless the Big Four find a way to be competitive on local stock listings, they will continue to lose market share. They will continue to dominate the multinational market, but that is not going to grow much faster than the economy," Gillis said.

The traditional lion's shares of the Big Four's Chinese clients are big multinational companies with overseas exposure. But relying heavily on these clients risks alienating small and medium-sized companies that are expanding rapidly, especially in a fast-growing economy such as China. The biggest obstacle is the considerably high fees charged by the Big Four, compared with their local competitors. Moreover, the Big Four tend to be more cautious in selecting clients in Chinese's complex stock market.

HONG KONG



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Base Erosion and Profit Shifting ("BEPS")

In July 2013, the OECD published its report on Action Plan on BEPS to address the important issue of global cooperation to modernize the international tax system.

BEPS schemes are often extremely complicated, but the basic idea is simple: shift profits across borders to a jurisdiction where the tax rate is lower than the country where the profit is made. The common

BEPS mechanisms include: hybrid mismatches, special purpose entities ("SPE"), and transfer pricing.

Hybrids try to have a cross-border transaction treated differently (as debt or equity for instance) in

HONG KONG

(Continued)

different countries to avoid a mirror effect so that, for example, an outflow is deductible on one side whilst the corresponding inflow is non-taxable in the hand of the recipient.

A SPE is an entity with no or few employees, little or no physical presence and is held out to be based in a low tax jurisdiction. The core business of a SPE generally consists of group financing or investment holding activities. Profit from these intra-group activities are captured by the SPE upon which little or no tax is paid..

Transfer prices are concerned with prices for supplies of goods or services for intra-group activities. Through transfer prices, profits are allocated among business units of a group in different countries. Profits can be artificially shifted to a low tax jurisdiction through controlled pricing without reference to market prices.

Tax treaties and international tax rules are aimed to ensure that companies are not subject to double taxation. BEPS takes advantage of gaps

in the international rules to avoid paying tax completely, so-called "double non-taxation".

The OECD Action Plan highlights the fundamental changes that are needed to counteract BEPS. The Plan recognizes that greater transparency and improved data are needed to evaluate and stop the growing disconnect between where profits are made and where tax are reported. It will, for example, oblige taxpayers to report aggressive tax planning arrangements.

Action points will broadly cover taxation of digital economy, disparities between domestic tax systems, abuse of bilateral treaties, transfer pricing rules etc. The actions outlined in the Plan will be delivered over the next 18 to 24 months by the joint OECD/G20 BEPS Project, regrouping all OECD members and G20 countries on an equal footing.

In the past Hong Kong has often been viewed as a tax haven. However, with the closing in of the gap in tax rates between Hong Kong and other

developing economies (particularly those offering tax incentives to attract investments), Hong Kong is probably no longer a haven.

For many multinationals, Hong Kong is now a financial or regional operation center serving as a regional hub for group functions and activities. The attractiveness of Hong Kong lies not only on its tax rate, but more on the infrastructure that the city can offer to support business in the region.

Nonetheless, it is expected that the measures eventually developed through the Action Plan will impact all cross-border intra-group activities one way or another. Accordingly, despite the commercial substance and purpose of the operations in Hong Kong (and elsewhere where the tax rate is considered as low), management should not lose sight in reviewing their business operating model, the transfer prices and profit allocation methods, and arrange suitable changes to reduce the impact of new measures counteracting BEPS.

"...disconnect between where profits are made and where tax is reported..."

The Improvement of One-Stop Service System for Capital Investments in Indonesia



Russell Bedford Indomitra
Management & Legal Consulting

"...standardized procedure for license processing with anticipatable time..."

The government of Indonesia, through Indonesia Investment Coordinating Board (locally abbreviated as BKPM), has enacted a new regulation providing the guidelines and procedures for the licensing and non-licensing of capital investment, as a strategy for attracting investments to the nation.

Replacing its predecessor Perka BKPM No. 12 of 2009, this regulation was enacted in the form of the Regulation of the Chairman of BKPM (Perka BKPM) No. 5 of 2013, which is expected to provide simpler norm, standard, procedure and criteria for capital investment licenses, so that there will be a standardized procedure for license processing with anticipatable time for completion as well as simple, fast, accurate, transparent and accountable investment permit processing.

The regulation administers the licenses for both full and partial foreign investments – the investments under joint ownership with local entities. The foreign investment licensing in Indonesia has been processed under a one

stop-service system, i.e. the licensing and non-licensing process which has been delegated or authorized by the institutions holding the authority of licensing and non-licensing to get the entire process, from proposal to document issuance, to be conducted in one place.

The authority for capital investment matters in Indonesia is basically held by the central government, provincial government, and the district / city governments. However, pursuant to Perka No. 5/2013, the authority, in the forms of licensing and non-licensing duties, responsibilities, rights and obligations (including the signing), has been delegated to the one-stop service providers for investments.

Three of the one-stop service providers receiving the authority are: 1) the Chairman of BKPM (who received the delegation from the central government); 2) The Chairman of Provincial Agencies in the Capital Investment sector (who received the delegation from the governor), and 3) The Chairman of District

Agencies in the Capital Investment sector (who received the delegation from the regent / mayor).

Meanwhile, the government's authority for the matters related to the investments of foreign capital and the investments of the capital of foreign governments based on the agreements made with foreign governments, has been delegated to BKPM's one-stop service. The investments of foreign capital and the investments of the capital of foreign governments include the investments made by: a) foreign governments, b) foreign citizens or business entities, and c) the foreign capital of the government of other countries.

The licenses processed by the one-stop service of BKPM include 1) the principle licenses of investment, 2) business licenses of various sectors, 3) licenses for investment expansion, 4) licenses for the mergers of investment corporate entities, 5) licenses for foreign companies' representative offices, and 6) business licenses of the representatives of foreign trading companies (SIUP3A).

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All investment licenses start with principle license. According to Perka BKPM No. 5/2013, principle licenses are issued no longer than 3 (three) days after the proposals are submitted completely and properly.

The proposals for the investment licenses and non-licenses to the one-stop services providers can be submitted manually (hardcopy) or electronically (online) through the Electronic Investment Information and Licensing System (SPIPISE). Investors may propose for a number of non-related licensed and non-licensed investments by submitting only one set of proposal through SPIPISE.

The services are available for all business sectors, except the sectors declared as “closed” or “opened with special conditions”, in which the conditions are stipulated by the laws and regulations applicable in Indonesia. Only limited liability corporations established under the law of and domiciled in Indonesia are allowed to make foreign investments, unless it is determined otherwise by the applicable laws. The limited liability corporations, unless determined otherwise by

the applicable laws, must fulfill the following requirements:

- a. Having a total investment exceeding Rp10 billion or its USD equivalent, excluding land and building;
- b. Having the subscribed capital that equals to the paid-up capital of minimum Rp2.5 billion or its USD equivalent;
- c. Having minimum Rp10 million or its USD equivalent investment participation in the corporation by each shareholder in which the percentage of share ownership is calculated by the par value of the shares; and

Unlike the application of the previously applicable regulation, under Perka BKPM No 5/2013, investors can propose for the principle license without first registering the investment. The period for project completion under principle licenses is maximum 3 (three) years from the date of the associated principle license. Exception applies to certain business sectors that require longer completion period.

Foreign investors

operating under the principle license must have had a business license at the time they start the production / operations. The business license is valid as long as the company conducts its business activities. The proposal for business licenses must be made to one-stop service of BKPM and will be issued no longer than 7 (seven) business days after the proposal is submitted completely and properly.

“...can propose for the principle license without first registering the investment...”

Guidelines on Taxation of E-commerce

The Malaysian Inland Revenue Board released the Guidelines on Taxation of Electronic Commerce (“Guidelines”) dated 1 January 2013 on 11 March 2013. The Guidelines provide guidance on circumstances under which income from e-commerce transactions would be deemed derived from Malaysia.

E-commerce is defined to mean any commercial transactions conducted through electronic networks including the provision of information, promotion, marketing, supply, order or delivery of goods or services although payment and delivery relating to such transactions may be conducted off-line.

Scope of charge

There are no specific provisions under the Income Tax Act 1967 (“ITA”) which address the scope of charge of income from e-commerce transactions. Therefore, the general provisions of the ITA apply. The place of business operations is one of the main determinants of whether the income is taxable in Malaysia.

Factors to be considered to determine the place

where business is carried in the context of e-commerce include, sourcing of content, procurement of goods, promotions, advertisement, selling, updating and maintaining the website, up loading and downloading of contents etc.

The Guidelines also address the issue on treatment of server and website in determining the derivation of e-commerce income. A website is hosted on a server which is located at certain places to facilitate the performance of business activities. However, a server/website does not carry any meaning in determining derivation of income. The “operations test” must be considered in determining the derivation of income.

Servers as Permanent Establishments

In cases where Double Taxation Agreement is applicable, the test to determine whether Malaysia has the taxing rights over the business income is based on the Permanent Establishment (“PE”) concept. Based on the Guidelines, a server constitutes a PE where the functions performed

at the server represent a significant and essential part of the enterprise’s business activity. However, the following activities which are considered as preparatory or auxiliary in nature would not constitute a PE:

- Providing communication link like telephone line between suppliers and customers
- Advertising of goods and services
- Gathering market data
- Supplying information

Withholding tax

The Guidelines also clarify the issue on whether software payments constitute royalties. Based on the Guidelines, payment for the use of, or the right to use copyrights of intangible products such as downloading of a digital product to a customer’s hard disk or similar media and licensing arrangements to reproduce, modify and adapt, the absence of which would constitute an infringement of copyright would constitute royalties. Meanwhile, payment for the purchase of software products would not result in royalty income.

“...activities which are considered as preparatory... would not constitute a PE”

MALAYSIA

(Continued)

The table below shows a summary of positions taken by the authorities under various scenarios:

Scenarios	Location of server	Taxable in Malaysia
A resident person having business operations in Malaysia sets up a website in Malaysia	Malaysia	Yes
A resident person having business operations in Malaysia sets up a website outside Malaysia	Outside Malaysia	Yes
A resident person having business operations in Malaysia sets up a website and branch outside Malaysia	Outside Malaysia	Yes, but those attributable to branch is not taxable in Malaysia
A resident person having business operations outside Malaysia sets up a website in Malaysia	Malaysia	No
A resident person having business operations outside Malaysia sets up a website outside Malaysia	Outside	No

"...sets up a website and branch outside Malaysia.."

Moving from Paper-Based to Electronic Mode of Reporting Financial Statements

In 2007, Extensible Business Reporting Language (XBRL) was first implemented in Singapore for corporate financial reporting to enable a pro-enterprise financial reporting environment for businesses in Singapore by enhancing information

flow to the local and international business community.

Singapore incorporated companies that are required to file their financial statements online were given a choice to file their financial statements in

either partial or full XBRL. Many companies opted to file their financial statements in partial XBRL instead of full XBRL as they felt it was less burdensome and do not see any direct benefit to them.

SINGAPORE

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SINGAPORE

(Continued)

“...able to instantly access and analyse corporate results ...”

From 22 October 2013, Singapore incorporated companies that are required to file their financial statements with the Accounting and Corporate Regulatory Authority of Singapore (ACRA) will no longer have a choice. These companies will now be required to file a **full set** of financial statements in XBRL format, according to a minimum requirement list within the new ACRA Taxonomy 2013.

Benefits of Filing Full Set of Financial Statements in XBRL Format

Going forward, investors, accountants, analysts and government bodies will be able to instantly access and analyse corporate results and compare results of Singapore companies against industry median and across industries. To let companies understand the benefits of XBRL business analytics, ACRA will extend company

officers or directors one free data analysis use each year on four financial indicators – revenue growth, net profit margin, return on assets and total asset turnover. Information users that require more comprehensive analysis will need to look to third party providers. After the full XBRL adoption, investors can potentially expect more analysts coverage on listed companies that are illiquid and thinly traded.



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