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APAC News

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Congratulations to Ben, Melissa and Samantha!

Warmest congratulations to members of our Adelaide based firm! Recently, Lee Green has appointed Ben Spiers to the position of Director. Ben has been an Associate Director with the firm since 2018, his recent focus being the development of financial reporting models for Cooperative Research Centres and other diverse industry groups. Melissa Probert and Samantha Hughes, who have both been instrumental in the firm's recent growth in Indigenous Business consulting, will become Associate Directors. Principal Tom Green is confident in the trio's capabilities *"Ben, Melissa and Samantha have provided exceptional support to our staff and clients during the disruptive period of lockdowns and work from home. They have proved that they are ready to take the next step and we look forward to seeing them develop further in their new roles."*

Technical updates /news in the region: This edition of newsletter has articles covering: Director Identification Numbers and cryptocurrency (Australia section), amendment to CPA law (China section), passive income on the EU's watchlist (Hong Kong section), government withdrawal of retrospective taxation (India section), offshore gaming operations (Philippines section), 2022 government budget (Malaysia section), and stamp duty updates on acquisition of residential properties (Singapore section).

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AUSTRALIA

DIRECTOR ID NUMBERS

LEE·GREEN
STRATEGIC ACCOUNTANTS

What is a Director Identification Number?

A Director Identification Number (Director ID) is a unique 15-digit number used to identify directors. You will need a Director ID if you're a director of a company, registered Australian body, registered foreign company or Aboriginal and Torres Strait Islander corporation. You only need to apply once for a Director ID, you will keep the same Director ID if you stop being a director, become a director of another company, or multiple companies, change name, or move interstate or overseas.

The introduction of Director IDs is part of the government's Modernising Business Registers (MBR) program. The MBR program includes the establishment of Australian Business Registry Services (ABRS) which is intended to streamline how you register, view and maintain your business information with government.

Why are Director IDs being introduced?

There are many reasons behind the introduction of Director IDs:

- To deter illegal phoenix activity (where a new company is set up in order to avoid paying outstanding debts of an existing company)
- To prevent the appointment of fictitious directors or the appointment of directors to companies without their knowledge or consent
- To increase traceability and transparency of the relationship between directors and their companies
- To improve data integrity and security

"To increase traceability and transparency of the relationship between directors and their companies... "

Who needs a Director ID?

Individuals will be required to have a Director ID if they are a Director (or act as an Alternate Director) of a:

- Company, registered Australian body or registered foreign company under the *Corporations Act 2001* (Corporations Act), or
- Corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

Individuals who intend to become a Director within 12 months may also apply for a Director ID but If the Director ID is not linked to a company within 12 months, the Director ID will be cancelled and the director will need to apply to reactivate it.

You do NOT need a Director ID if you are:

- A company secretary
- running a business as a sole trader or partnership
- referred to as a 'director' in your job title but have not been appointed as a director under the Corporations Act or the CATSI Act
- an officer of an unincorporated association, cooperative or incorporated association established under state or territory legislation, unless the organisation is also a registered Australian body.

When do I need to apply?

When a director needs to apply depends on when they became or intend to become a director:

Existing directors appointed before 31 October 2021	New directors appointed between 1 November 2021 & 4 April 2022	New directors appointed after 5 April 2022	CATSI Act directors appointed before 31 Oct 2022	Intending Directors
By 30 November 2022	Within 28 days after appointment	Before being appointed as a director	By 30 November 2023	Can apply up to 12 months prior to appointment

How do I apply for a Director ID?

Directors must apply for their Director ID number themselves. It cannot be completed by an ASIC Agent or Tax agent but agents can assist directors to understand the requirements and if and when they need to apply.

To receive a director ID, individuals must verify their identity with a myGovID or identity documents and complete an application.

There are 3 ways to verify a director's identity & apply for a Director ID:

1. Online application - using the myGovID app. This is the fastest way to receive your Director ID
2. Phone application - if you have an Australian TFN
3. Paper application - if you are unable to get a myGovID, can't apply online or over the phone or live overseas.

Note: myGovID is different from myGov

- ***myGovID is an app. You download the myGovID app to your smart device. It lets you prove who you are and log in to a range of government online services.***
- ***myGov is an account. Your myGov account lets you link to and access online services provided by the Australian Taxation Office (ATO), Centrelink, Medicare and other government agencies.***

If you don't have a myGovID, you find out how to set one up here:

https://www.mygovid.gov.au/set-up

You can find more information on the Director ID application process here:

https://www.abrs.gov.au/director-identification-number/apply-director-identification-number

"Directors must apply for their Director ID number themselves."

Applying from outside Australia

If you live overseas and need to apply for a Director ID, you can apply using a downloadable form available on the ABRS website. In addition to the form, you will need to supply certified (and translated – if applicable) copies of two identification documents from the following list, one being a primary document. The form and certified copies of identity documents must then be posted to the ABRS.

Primary proof of identity documents:

- Foreign birth certificate
- Foreign passport
- Australian birth certificate
- Australian passport

Secondary proof of identity documents:

- National photo identification card
- Foreign government identification
- Marriage Certificate
- Driver Licence

If you are unsure if you need to apply for a Director ID number or need some assistance with understanding the process, please contact us and we will be happy to step you through it.

This information is current at the time of publication and further updates may have occurred since that date. Please contact us for the latest information.

CRYPTOCURRENCY AND TAX

SAWARD DAWSON

Cryptocurrency is becoming more and more mainstream, with now approximately 1 in 5 Australian adults owning cryptocurrency. It is important to realise that acquiring cryptocurrency has tax implications. The Australian Taxation Office treats the purchase and sale of cryptocurrency similarly to other investments. If you are generating income from the investments, you will be taxed on that income.

As cryptocurrency is a relatively new asset class, the tax return process can appear to be difficult to navigate. This is especially the case with cryptocurrency where the individual is making many transactions, often from the convenience of their phone. It is therefore important to be organised and to carefully document your transactions. Often the help of online tracking software is needed to keep the necessary records, where you are making many transactions.

Cryptocurrency Investors

Those with cryptocurrency fall under three broad categories for tax purposes – as an investor, as a trader, or those using cryptocurrency for a personal use asset. The Taxation Office provide guidelines on these three classifications.

The majority of those acquiring cryptocurrency will fall under the investor category, whereby they hold the asset with the hope of future growth in the asset. If there is an intention to grow wealth and make gains, the Taxation Office will consider them to be an investor.

Cryptocurrency investors are taxed under Capital Gains Tax regime. Whereby they pay tax when the asset is sold. Investors are entitled to the 50% Capital Gains Tax discount if the cryptocurrency sold was held for more 12 months. Cryptocurrency investors who make a loss are restricted to applying that loss only against future capital gains.

Selling Cryptocurrency

A common misconception with cryptocurrency is that it is only taxed when a coin is sold for AUD (or other Government backed currency). However, a capital gain is also made where one cryptocurrency is sold for another cryptocurrency, selling Coin A for Coin B. Even though there has been no sale back to Australian dollars, the sale will still be taxed. Furthermore, in the same way that gifts of shares are taxable when gifted, the same applies with gifting cryptocurrency – they are taxed when gifted.

"...if the individual retains the cryptocurrency because they believe it will increase in value, then they will be treated as an investor. "

Cryptocurrency Traders

Cryptocurrency traders are those who apply a commercial approach to the buying and selling of cryptocurrency, which represents a form of income rather than as a capital gain. Someone will be considered a cryptocurrency trader if their activities are commercial in character, and they are undertaking the trading of cryptocurrency in a businesslike manner.

As a cryptocurrency trader, all the profit is treated as income (without the ability to apply the Capital Gains Tax 50% discount) and losses can be applied against their other income if certain conditions are met.

Personal Use Asset

The third category are those that use cryptocurrency as a personal use asset. This essentially means the user is using cryptocurrency to buy goods and services where it is not as convenient, or not available via Australian dollars. Under this category the cryptocurrency is just treated as cash and not taxed. However, if crypto currency is held for any length of time, or if the individual retains the cryptocurrency because they believe it will increase in value, then they will be treated as an investor. They will switch from

someone who is using cryptocurrency for personal use to someone who is investing and will be taxed on their gains.

AUSTRALIA

(Continued)

Documentary Evidence

Whether you are a cryptocurrency investor or trader, it is necessary that proper documentation is held to keep track of cryptocurrency transactions. While many cryptocurrency platforms do not include cryptocurrency tax reports within them, some can be purchased within the platform for a fee. There are also other third-party platforms online that can collate your cryptocurrency transactions to prepare tax reports. These reports are then used to prepare their income tax returns. Whatever the format, it is important to keep track of the cryptocurrency transactions throughout the year to ensure the correct tax treatment can be determined and included in your income tax returns.

CHINA TO AMEND CPA LAW

CHINA

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According to the legislative plan, the Ministry of finance has accelerated the revision of the Law of the People's Republic of China on Certified Public Accountants (the CPA Law) and formed the revised draft of the law (the revised draft). At present, it has finished seeking public comments and it is expected that the law will be passed by the National People's Congress and take effect sometime in 2022. The CPA Law was initially adopted and promulgated in October 1993 and came into force in January 1994. In August 2014, the Law was partially amended. The main amendments in 2021 are highlighted as follows:

- **Partnership accounting firm**

"An accounting firm shall adopt the organisational form of general partnership or special general partnership." The revised draft provides that no more accounting firms in form of limited liability company will be allowed. Existing firms will be converted into partnership in two years after the law becomes effective. A firm of general partnership can be formed by at least 2 CPAs as partners, while a firm of special general partnership can be formed by at least 15 CPAs as partners with 60 and more CPAs.

"...no more accounting firms in form of limited liability company will be allowed. "

A partnership accounting firm no longer needs to register with the Market Supervision and Administration and the business license will be no longer needed to start practice. It only needs to apply for practice license (certificate) from local finance authority. Currently both business license and practice license are needed.

- **Specific entity audit**

Specific entities include enterprises that publicly issue stocks, bonds, depositary receipts and other securities, as well as unlisted central financial institutions and other central enterprises. The revised draft stipulates that auditors of a specific entity shall be filed with the Ministry of Finance, which formulates the filing standards and requirements for accounting firms to engage in specific entity audit. Such accounting firms shall publicly disclose the legal structure, internal governance, supervision and inspection, client list, income distribution basis, business income and other information every year, and accept public supervision.

- **Cross border practice and supervision**

When an overseas accounting firm issues an audit report for an overseas institution or company issuing stocks, bonds, depositary receipts or other securities within the territory of China, it shall follow the Chinese practice standards or equivalents and seek approval of

CHINA

(Continued)

the Ministry of Finance. An overseas accounting firm shall seek approval from the provincial financial authority when it is engaged in:

1) the audit of overseas listing of Chinese domestic enterprises,
2) temporary audit services on relevant institutions in China, or
3) other businesses involving the issuance of overseas audit reports.

Where other countries or regions have restrictive provisions on Chinese residents, Chinese CPAs and accounting firms in the field of accounting and auditing, China may take equivalent management measures.

HONG KONG

HONG KONG – PASSIVE INCOME ON WATCHLIST

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On 5 October 2021, the European Union (EU) announced the inclusion of Hong Kong in its watchlist (the so called "greylist") on tax co-operation as it considered that the non-taxation of certain foreign sourced passive income in Hong Kong might lead to situations of "double non-taxation".

Apart from Hong Kong, other jurisdictions in the greylist include Anguilla, Costa Rica, Dominica, Malaysia, North Macedonia, Qatar, Seychelles and Uruguay. These jurisdictions have until 31 December 2022 to make necessary changes to their tax legislation in order to avoid being moved to the blacklist.

The HKSAR Government has responded to media enquiries regarding her greylist inclusion as follows: "*As an international financial centre, Hong Kong has all along been actively participating in and supportive of international tax co-operation. Over the years, Hong Kong has adopted the territorial source principle of taxation, whereby offshore profits are generally not subject to profits tax in Hong Kong,*"

The EU's concern on double non-taxation is due to corporates with no substantial economic activity in Hong Kong are not subject to tax in respect of certain offshore passive income (such as interest and royalties). Under the premise of supporting the combating of cross-border tax evasion, the HKSAR Government agrees to co-operate with and has committed to the EU to amend the Inland Revenue Ordinance.

"… "economic substance" test would appear to be the cure for double-non-taxation, the test does not fit compatibly with the Hong Kong territorial source principle of taxation..."

Back in 2019 the EU has published guidance on the foreign sourced income exemption regime and commenced corresponding assessment on the tax arrangements of a number of tax jurisdictions (including Hong Kong). The focus of the assessment is to address situations where offshore shell companies obtain tax benefits through double non-taxation.

Whilst the introduction of "economic substance" test would appear to be the cure for double-non-taxation, the test does not fit compatibly with the Hong Kong territorial source principle of taxation under the current tax legislation. According to the HKSAR Government spokesperson on legislative amendments to address this issue, *"The proposed legislative amendments will merely target corporations, particularly those with no substantial economic activity in Hong Kong, that make use of passive income to evade tax across a border. Individual taxpayers will not be affected. As to financial institutions, their offshore interest income is already subject to profits tax under the Inland Revenue Ordinance at present, and hence the legislative amendments will not increase their tax burden*."

We expect that the amended legislation will impact IP licensing operations which currently benefit from sub-licensing of IP from offshore head-licensors to offshore sub-licensees. Businesses that provide offshore financing which currently benefit from claim of offshore interest income under the provision of credit test would also be impacted.

TAXATION AMENDMENT LAWS 2021 – WITHDRAWAL OF RETROSPECTIVE TAXATION

Sharp & Tannan

Chartered Accountants

The Finance Bill 2012 had brought in a retrospective clarification in the Income-tax Act, 1961 (the Act) that any indirect transfer of shares or any interest in a company would be taxable as capital gains if the assets of such company are located in India. This clarification took retrospective effect from 1 April 1962. Hence the Vodafone case, which was settled by the Honourable Supreme Court (in favour of assessee) in early 2012, was again sought for re-assessment. Similarly, retrospective taxation was sought to tax Cairn Energy Plc and many other assesses in 2020.

Both the assesses, (i.e., Vodafone and Cairn) approached the international arbitration tribunal, which held that the retrospective taxation was against the India-Netherlands investment treaty agreement (Vodafone case) and was inconsistent with the UK-India bilateral treaty (Cairn Energy Plc case.) The tribunal ordered the Government of India (GOI) to pay damages to the assessees on this account.

The amendment for withdrawal of retrospective levy:

Subsequent to the orders of international tribunals, the GOI (vide Taxation Amendment Laws (TLA) 2021) has amended the chargeability of such retrospective transactions. Accordingly, the Income Tax Department of India, on 28 August 2021, released the much-awaited draft rules for the legislation on the withdrawal of retrospective amendment in taxation concerning entities including Cairn Energy and Vodafone in lieu of irrevocable withdrawal of all legal cases against the GOI. The draft rules released by the tax department call for a declaration by the companies to “irrevocably withdraw, discontinue and not pursue” any legal proceedings. These include proceedings before the appellate forum, proceedings for arbitration, conciliation, or mediation, and for enforcing or pursuing attachments in respect of any award, order, or judgement.

“…to bring tax certainty and ensure that once specified conditions are fulfilled, the pending income-tax proceedings shall be withdrawn, demand, if any, raised shall be nullified, and amount, if any, collected shall be refunded to the taxpayer without any interest.”

The main aim of the amendment made by the 2021 Act is to bring tax certainty and ensure that once specified conditions are fulfilled, the pending income-tax proceedings shall be withdrawn, demand, if any, raised shall be nullified, and amount, if any, collected shall be refunded to the taxpayer without any interest. To implement the amendment made by the 2021 Act, draft rules have been prepared to amend the Income-tax Rules, 1962, which specify the conditions to be fulfilled and the process to be followed to give effect to the amendment made by the 2021 Act, it added.

The GOI has collected approximately INR 8,000 crore (USD 1 bn) from three of the 17 companies — INR 7,900 crore from Cairn Energy, INR 44.7 crore from Vodafone, and INR 48 crore from WNS Capital — which it has proposed to refund under the new legislation if these companies fulfil certain conditions. (1 crore = 10 million)

These include withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc., would be filed. The amount paid/collected in these cases shall be refunded, without any interest, on fulfilment of the said conditions. The amendment made by the 2021 Act provides that the demand raised for offshore indirect transfer of Indian assets made before 28 May 2012 (including the validation of demand made under section 119 of the Finance Act 2012) shall be nullified on fulfilment of the specified conditions.

The assessees will be given reliefs for such assessments or, refunds, if due, will be paid back once the assesses meet the following conditions.

1. Withdraws (or agrees to withdraw) the appeal pending before any Court of law in India.
2. Withdraws (or agrees to withdraw) any litigation before any international forum/courts or under any treaty between India and another country.

3. Withdraws (agrees to withdraw) any monetary claims for damages or otherwise under bilateral laws of the countries involved.
4. Withdraw proceedings to enforce or pursue attachment in respect of any award against the Republic and/or all Indian affiliates.
5. Shall indemnify, defend and hold harmless the Republic of India and Indian affiliates from and against any and all costs, expenses (including attorneys' fees and court's fees), interest, damages, and liabilities of any nature arising out of or in any way relating to the assertion or, bringing, filing or maintaining of any claim, at any time after the date of furnishing the undertaking.
6. Declarant and all the interested parties shall refrain from facilitating, procuring, encouraging or otherwise assisting any person (including but not limited to any related party or interested party) from bringing any proceeding or claims of any kind related to any relevant order or orders or in relation to any award, order, judgement, or any other relief against the Republic of India or Indian affiliates in connection with any relevant order or orders.
7. The concerned company will also have to issue a public notice or a press release to inform that any claims no longer subsist and indemnity against any claims made.

Timelines:

- Interested companies will have to submit the undertaking in Form 1 within 45 days from the date of commencement of the rules, which is October 1.
- Post that, the tax authority will have 15 days to pass an order and issue a certificate in Form 2. From the date of receipt of this form, the entity concerned will have two months to withdraw the litigation(s) and inform the Department via Form 3.
- Based on that, the jurisdictional Principal Commissioner or Commissioner will issue directions in Form 4 stating that tax demand orders shall be deemed to have never been passed.
- This order will be binding on the Assessing Officer (AO), who will revoke the attachment (if any) and issue the refund within 15 days.

"…the 2012 decision of the government to impose retrospective tax has been a black mark on India's reputation as a predictable investment…"

US-India Strategic and Partnership Forum (USISPF) has applauded the Indian move to withdraw the retrospective law relating to tax on indirect transfers. The CEO of USISPF has said that "the 2012 decision of the government to impose retrospective tax has been a black mark on India's reputation as a predictable investment destination and today we are delighted to see that he has finally decided to nullify it".

Conclusion:

- The present condition of the economy warrants higher foreign investments/inflows to accelerate economic growth.
- Promoting investments in India is of much significance at this crucial stage than turning off the potential investors.
- To make India a destination of investors' choice would certainly demand a prudent move from the GOI, which fosters economic growth.
- Once these conditions are fulfilled, GOI will refund the tax amount paid by the companies. Seventeen tax demands were validated by the retrospective amendment, out of which the Government got tax only in four cases, as mentioned above.

Considering the above factors, the Government's move to withdraw retrospective taxation is apt and most welcome from the Foreign Direct Investment perspective in India and will boost the confidence of overseas investors in making investments in India.

Recover, Rebuild, Reform is the main agenda of the Malaysia's Budget 2022 which was unveiled on 29 October 2021. Budget 2022 is the largest ever budget in Malaysia's history at RM332.1 billion. This expanded budget is aimed at jump starting the economy which was adversely affected by the COVID-19 pandemic. As the economy recovers from the prolonged effects of the pandemic, Malaysia's GDP growth in 2022 is expected to expand between 5.5% to 6.5%, whilst the fiscal deficit is projected at 6% of GDP.

We bring to you some of the salient tax-centric proposals of Budget 2022.

1. Taxation on foreign sourced income

Currently, a person (other than a resident company carrying on the business of banking, insurance, sea or air transport) who derives income from sources outside Malaysia and received in Malaysia (foreign sourced income) is exempted from income tax under Paragraph 28, Schedule 6 of the Income Tax Act 1967.

In response to global developments such as the Global Minimum Tax and the European Union inclusion of Malaysia in its "grey list" of non-cooperative jurisdictions, it is proposed that income tax be charged to resident company and tax resident individuals on income derived from foreign sources and received in Malaysia.
The tax rates for foreign sourced income are as follows:

Date received in Malaysia	Tax rate
1 January 2022 to 30 June 2022	3%
1 July 2022 onwards	Prevailing income tax rates

Effective date: 1 January 2022

2. Imposition of one-off "Prosperity Tax"

Non-small and medium enterprises having chargeable income exceeding RM100 million for the Year of Assessment ("YA") 2022 shall be subject to tax at the following rates:

(i) 24% on the first RM100 million chargeable income;

(ii) 33% on the remaining chargeable income exceeding RM100 million

Effective date: YA 2022

3. Review of tax treatment on unabsorbed business losses

The unabsorbed business losses that can be carried forward from YA 2019 onwards be extended from a maximum period of 7 consecutive years to 10 consecutive years.

The unabsorbed business losses up to the YA 2018 can be carried forward until YA 2028.

Effective date: YA 2019

"…it is proposed that income tax be charged to resident company and tax resident individuals on income derived from foreign sources and received in Malaysia."

4. Tax incentive for Digital Ecosystem Acceleration Scheme

To promote the development of the digital ecosystem in Malaysia, the following tax incentives have been proposed for activities under the Digital Ecosystem Acceleration Scheme:

Digital Technology Provider

(a) New company
- Income tax rate of 0% to 10% for a period of up to 10 years

(b) Existing company that diversifies in new service activities or new service segments
- Income tax rate of 10% for a period of up to 10 years

Digital Infrastructure Provider

Investment Tax Allowance of 100% on capital expenditure incurred for qualifying activities for up to 10 years. This allowance can be set off against 100% of statutory income.

Effective date: Applications received by Malaysian Investment Development Authority from 30 October 2021 to 31 December 2025

5. Extension of Reinvestment Allowance ("RA") claim

Currently, companies engaged in manufacturing and selected agricultural activities which have incurred capital expenditure for purposes of expansion, modernisation, automation or diversification projects are eligible to claim RA at 60% on the qualifying capital expenditure for 15 consecutive years.

This RA incentive has been extended several times for companies that have exhausted the 15 years as follows:

Reinvestment Allowance	Duration (Year of Assessment)
Special RA	2016 to 2018
PENJANA RA	2020 to 2022
Budget 2022 (Extension of PENJANA RA)	2023 to 2024

Any unutilised PENJANA RA prior to YA 2024 can be carried forward for a period of 7 YAs immediately following YA 2024.

6. Review of stamp duty rates on contract notes for sale of shares, stocks or marketable securities

Presently, contract notes for trading of shares listed on Bursa Malaysia Securities Berhad are subject to stamp duty at the rate of 0.1% with a cap of RM200 per contract note.

It is proposed that the stamp duty rate be reviewed as follows:

a. Rate be increased to 0.15%; and

b. Removal of the RM200 cap for each contract note

Effective date: 1 January 2022

7. **Real Property Gains Tax ("RPGT") rate for disposal of chargeable asset**

   RPGT rate for disposal of a chargeable asset by a Malaysian citizen or permanent resident in the sixth year onwards to be reduced from 5% to 0%.

   Effective date: 1 January 2022

8. **Indirect tax Special Voluntary Disclosure Programme**

   A special voluntary disclosure programme for indirect taxes has been proposed by the Royal Malaysian Customs Department with the following penalty remission incentives:

   - First phase: 100% remission on penalties
   - Second phase: 50% remission on penalties

   The official terms of this programme have not been officially announced.

TAXING PHILIPPINE OFFSHORE GAMING OPERATIONS

PHILIPPINES

MFP
M. F. Padernal and Co.

On September 22, 2021, the President approved Republic Act (RA) No. 11590, entitled an "Act Taxing Philippine Offshore Gaming Operations", which introduced new provisions to the National Internal Revenue Code (NIRC) of 1997 regarding the taxation of offshore gaming licensees, popularly known as Philippine offshore gaming operations (POGOs), and their service providers and alien employees. On November 26, 2021, the Bureau of Internal Revenue, issued Revenue Regulations (RR) No. 20-2021, "Implementing RA No. 11590, otherwise known as an Act Taxing Philippine Offshore Gaming Operations, amending for the Purpose Sections 22, 25, 27, 28, 106, 108 and Adding New Sections 125-A and 288(G) of the NIRC, as amended, and for Other Purposes".

Below are the significant features of RA No. 11590 and RR No. 20-2021.

1. An offshore gaming licensee is a POGO whether organized in the Philippines or abroad, duly authorized by the Philippine Amusement and Gaming Corporation (PAGCOR) or special economic zone authority or tourism zone authority or freeport authority to conduct offshore gaming operations, including the acceptance of bets from offshore customers.

2. An accredited service provider to a POGO shall be a juridical person, whether created or organized, or a natural person, regardless of citizenship or residence, which provides ancillary services, such as: (a) customer and technical relations and support; (b) information technology; (c) gaming software; (d) data provisions; (e) payment solutions; and (f) live studio and streaming services.

3. Gaming revenues or receipts, or agreed predetermined minimum monthly gaming revenues or receipts, whichever is higher, are subject to a 5% gaming tax. This is in lieu of all other direct and indirect internal revenue taxes and local taxes. The

5% gaming tax must be directly remitted to the BIR on or before the 20th day following the end of each month.

4. Non-gaming revenues are subject to the 25% regular corporate income tax rate. The non-gaming revenues of all POGOs shall be subject to value-added tax (VAT) or percentage tax, whichever is applicable.

5. The sale of goods, property and services to POGOs is subject to the VAT zero rate.

6. Accredited service providers to POGOs are subject to the 25% regular corporate income tax rate. RA No. 11590 expressly provides that these service providers are not covered by the 5% gaming tax.

7. The sale of services to service providers to POGOS are subject to the VAT zero rate.

8. The gross income of alien employees is subject to a 25% final withholding tax (FWT). The employer is required to remit a monthly minimum FWT of Php12,500 per employee. The gross income shall include, whether in cash or in kind, basic salary/wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, received by an alien employee from the POGO entity.

   Alien employees pertain to alien individuals who, regardless of residency term and class of working or employment permit or visa, are employed and assigned in the Philippines by POGO or service provider to a POGO.

9. The employer is required to submit to the BIR an original copy of the notarized employment contract that clearly states the annual salary, benefits and entitlements of the alien employees. Every alien employee must have a taxpayer identification number (TIN). POGOs and service providers to POGOs shall be liable to a fine of Php20,000 per employee without TIN.

   Failure to withhold the 25% FWT will cause deficiency tax assessments on the employer, deportation of the alien employee and barring from re-entry to the Philippines and blacklisting of the alien employee by the Department of Labor and Employment.

"Gaming revenues or receipts, or agreed predetermined minimum monthly gaming revenues or receipts, whichever is higher, are subject to a 5% gaming tax."

CHANGES TO ADDITIONAL BUYER'S STAMP DUTY (ABSD)

SINGAPORE

STEVEN TAN RUSSELL BEDFORD PAC
PUBLIC ACCOUNTING CORPORATION

In Singapore, additional buyer's stamp duty is payable on acquisition of residential properties based on the higher of the consideration or market value. The ABSD rate applicable to the buyer is dependent on the profile of the buyer.

To cool the residential property market, the Singapore Government announced that the ABSD rates will be raised with effect from 16 December 2021 as follows:

Profile of buyer	Old ABSD Rates	New ABSD Rates
Singapore Citizen buying 1st residential property	0%	0%
Singapore Citizen buying 2nd residential property	12%	17%
Singapore Citizen buying 3rd and subsequent residential property	15%	25%
Singapore Permanent Resident buying 1st residential property	5%	5%
Singapore Permanent Resident buying 2nd residential property	15%	25%
Singapore Permanent Resident buying 3rd and subsequent residential property	15%	30%
Foreigners buying any residential property	20%	30%
Entities buying any residential property	25%	35%
	Plus additional 5% for housing developer (non-remittable)	Plus additional 5% for housing developer (non-remittable)

"…ABSD rates will be raised with effect from 16 December 2021..."

A buyer may apply for a transitional ABSD remission to use the old ABSD rates for residential properties acquired on or after 16 December 2021 if all of the following conditions are strictly met:

a) The Option to Purchase (OTP) is granted on or before 15 December 2021;
b) This OTP is exercised on or before 5 January 2022 or the date of expiry of the OTP validity period, whichever is the earlier; and
c) This OTP is not varied (including any extension of the validity period) on or after 16 December 2021.

The transitional ABSD remission must be submitted within 14 days after the date of execution of the instrument.

Disclaimer

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

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