



## **IC Advisors Transfer pricing Newsletter October 2015**

### **OECD**

A report prepared by the OECD Secretary-General to G20 Finance Ministers indicated that the OECD will lead a project jointly undertaken by the OECD, World Bank Group, IMF and the UN. The project aims to help tax administrations determine the price of mineral commodities for transfer pricing purposes to support the base erosion profit shifting (BEPS) issues in developing countries.

Deliverables due October 2016 include a report on the issues arising from the indirect transfer of assets. In addition, the toolkits on the following will be included:

- Assessment of BEPS risks, focusing on high-risk/significant industry sectors;
- Implementation support on transfer pricing documentation requirements;
- Strengthening capacity for effective tax treaty negotiations;
- Supporting implementation of rules to address base eroding payments of interest, royalties, management and service fees; and
- Development of rules to counter artificial profit shifting through supply chain restructuring.

### **Australia**

On 16<sup>th</sup> September 2015, Australia introduced a bill targeting companies that artificially avoid tax by circumventing the permanent establishment (PE) rules. The bill follows the draft on new transfer pricing documentation and country-by-country reporting rules released on 6<sup>th</sup> August 2015, with some notable changes as follows:

- The Australian income need to be diverted to a jurisdiction with a low or zero tax rate
- Foreign entity need not have the purpose of avoiding a PE
- Reduction of foreign income tax liability includes a deferral of income tax liability
- Country-by-country (CbC) and Masterfile reports that relate to the income year of the parent company is allowed. The Australian Tax Office (ATO) will also provide further guidance on the content of the reports.

The law's proposed effective date of January 1 2016 is unchanged.

### **China**

On 17<sup>th</sup> September 2015 the SAT released the public discussion draft on 'Special Tax Adjustments' which will replace the existing guidance on Special Tax Adjustments in Circular 2 [2009], which provides guidance on the Chinese Transfer Pricing (TP) rules and the key Chinese tax law anti-avoidance rules.

The draft clarifies the China's approach to the investigations and analysis, introducing new TP methodologies, and expanding TP documentation requirements. Double taxation incidents may arise in future and MNEs may be compelled to adjust their existing business models and/or transfer pricing policies.

### **Upcoming seminars:**

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. China vs India – A battle of transfer pricing regimes, on 19 October 2015, organised by ISCA

- b. Understanding Transfer Pricing, on 6 November 2015, organised by the Singapore Business Federation
- c. Preparing Transfer Pricing Documentation, on 16 November 2015, organised by CCH Malaysia in Kuala Lumpur, Malaysia
- d. Managing Transfer Pricing in Asia, on 1 December 2015, organised by ISCA

If you would like to attend any of these seminars, please drop us an email at [service@icadvisorsasia.com](mailto:service@icadvisorsasia.com).