



Euro debts seem to continue with endless discussions. It would be good to have new funding during the hot summer. Would this come from Asia Pacific?

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Highlights

This Issue starts with an article on reform on reporting for Not-For-Profit (“NFP”) organizations in Australia, with the view of creating better transparency and accountability for this sector.

Changes are noted for the accounting profession in China, as JV accounting firms with majority control under foreigners (including partners from Hong Kong and Taiwan) will see their foreign control being phased out to not more than 20% by 2017. Our

Beijing office has an article reporting the changes.

Hong Kong reports on the Li & Fung tax decision where the Court of Appeal determined in favour of the taxpayer’s offshore claim and the Revenue decided not to appeal. We look at the implication of the case.

Indonesia continues with the converge of its accounting standard with ISA and we have an update thereon.

In Malaysia, new transfer

pricing rules are introduced and are deemed to have retrospective effect from 1 January 2009. A summary of the new rules is provided by our KL office.

We end this issue with a report on two incentives to assist GST compliance being offered by the Revenue as reported by our Singapore office.

News of our regional firms

Network expands presence in China – Latest move in strategy to develop national coverage

Russell Bedford has further expanded its presence in China with the admission to its network of Shanghai JiaLiang CPAs Limited,

based in Shanghai.

Complementing the network’s principal existing locations in Beijing, Hong Kong and

(Continued)

"... to develop a national network of member firms..."

Guangzhou, this latest addition is a key step in Russell Bedford's strategy to develop a national network of member firms in major business locations throughout China.

Established in 2008, Shanghai JiaLiang CPAs

has quickly established a reputation as an adviser to inbound international investors, with many major brand names and an increasing number of multinational companies among its 400-plus clients. Under managing partners Charles Wang, the firm has also become

recognized for its professional excellence, being awarded the highest possible quality classification, Category 'A', by the Shanghai Institute of Certified Public Accountants (SICPA).

Reform package for NFP Sector

AUSTRALIA

SAWARD DAWSON
chartered accountants

"...will now require their financial statements to be audited."

The Not-For-Profit (NFP) sector, which includes charities and many other organisations doing community and philanthropic work, is currently confronted with a once-in-a-generation wave of reform packages.

1. A new national regulator, the Australian Charities and Not-for-profits Commission (ACNC) is being introduced. Many charitable organisations will soon be required to lodge financial information for the first time and other charities will now require their financial statements to be audited. Although the ACNC will initially only impact on charities, it will in due course extend to all NFPs and this has major implications

for financial reporting, taxation and governance obligations for all NFPs.

2. NFPs and charities face major reforms in the areas of taxation.

a) The 2011 Federal Budget announced that commercial activities undertaken by charities would be taxed unless they are fully applied to their charitable activities. Although the commencement date for this has been extended to 1 July 2012, we still have no legislation in place and so this creates difficulties in advising NFP clients;

b) In addition, there has been some redefinitions of the tax exemption rules with a new 'in Australia' test which means that charities carrying on activities outside of Australia may lose their income tax exemption. This requires careful consideration;

c) A draft tax ruling that is expected to be converted into a full ruling very soon and therefore will be binding will place restrictions on school building funds and the way in which these buildings may be used;

d) There also new rules that apply

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for public ancillary funds and a new statutory definition of 'charity'.

with the Accounting Standards when preparing their reports. This will mean greater complexity and cost.

reforms present. Further details can be found on our website www.youraccountant.com.au/services/nfp2

3. In addition, the intersection of Australian Accounting Standards with charities required to report via the ACNC will bring challenges to many charities previously not required to comply

Saward Dawson are experts in the area of charities and Not-For-Profits and have a team of specialists who are assisting organisations as they address the challenges that these

Joint Venture Accounting Firm Ended Its History in China

Following a series of talks and negotiations between the China's Ministry of Finance (MOF) and the Big Four since the beginning of this year, the Ministry, together with other four departments, finally issued the Sino-Foreign Cooperative Accounting Firms Localisation Conversion Program On 10 May 2012, which sets deadlines for the Big Four accounting firms to restructure into limited partnerships which shall be owned by locally qualified partners. Under the transition, the firms are required to form group partnerships with limited liability, and they can have up to 40% foreign partners (including those from Hong Kong and Taiwan, same below) with

overseas qualifications, ten years of experience and five years in China. The limit drops year by year to 20% by 31 December 2017. This rule is also applicable to the firm management, i.e., the management committee must not have more than 40% foreigners from 2012 also reducing gradually to 20% by the end of 2017. The managing partner must be a Chinese national holding Chinese CPA qualification, but the current managing partners can remain in their existing post for up to three years if they have problem meeting the criteria.

The Big Four has been in China since it opened up in late 1970s – firstly starting with

representative offices and then forming cooperative joint ventures in early 1990s. The joint ventures have been essentially owned and controlled by foreign partners, many of who are from Hong Kong. Hong Kong partners fill most of the management positions, but few of these partners have Chinese CPA licenses. The existence of the joint ventures has been endorsed by the Chinese government and accepted by the accounting society in view of the fact there was a lack of experienced local CPAs in this young profession and their presence makes foreign investors more comfortable in China. The Big Four even successfully secured in 2001 an exception to national treatment included in



"...required to form group partnerships with limited liability..."

CHINA

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China's WTO accession that allowed them to continue to have foreign ownership in their existing joint ventures. However, the joint venture terms for the Big Four expire in 2012 for three of them with PwC having an extra five years. The Ministry of Finance duly called for the localisation conversion with confidence that there are already a number of experienced local CPAs and the Chinese accounting profession becomes much more mature than 20 years ago.

While international practice is on the side of the Chinese regulators,

the program attracted wide foreign press concerns. To respond to recent foreign press concerns, Yang Min, the Chief of Accounting Regulatory Department MOF, clarified on 23 May that the intent of the rule is not to force out foreign partners. He indicated that about 50% of Big Four partners currently are not locally qualified, most of who are Hong Kong CPAs. Although they are not allowed to practice as partners of transformed firms, they have 5 years transitional period to make appropriate arrangements. Liu Guangzhong, Yang's colleague, also indicated

that audit quality would be retained through the changes. He said that the core management structure changes will be gradual and will not affect the firm's overall management pattern. The form of limited partnership helps to strengthen the firm's awareness of risk prevention and the unified internal management system helps to improve the firm level of quality control.

HONG KONG



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The Li & Fung Case and implications on source

Li & Fung (Trading) Ltd ("LFT") is a leading provider of sourcing services to customers who were importers, department stores and chain stores located overseas. Typically LFT received 6% of the FOB value of the goods supplied to such customers and paid 4% of the FOB value to affiliates for sourcing services in the source countries of the goods.

Before the Board of Review, the Revenue argued that LFT's profits

operated a 'supply-chain management business' and the 2% margin was earned by LFT from that business in Hong Kong. The Board rejected the Revenue's case and determined that LFT was 'a commission agent'. The source of the income was where the relevant affiliates carried out the sourcing services which gave rise to LFT's income.

At the Court of First Instance, the Revenue reformulated its approach and argued that

the Board had erred in not apportioning the gross profit of 6% between sources in and outside of Hong Kong; as performed respectively by LFT and the overseas affiliates. The Revenue considered that weight should be given to the work of LFT in managing and supervising its affiliates from Hong Kong. The Court upheld the Board's decision as there was (i) evidence substantiating that the income was derived from services by the affiliates overseas; and (ii) no basis

for saying that the Board ought to have apportioned the commission in the way suggested.

The case proceeded to the Court of Appeal and the question of law on source of profits was considered - with reference to decided tax cases including the HK-TVB case, the Kwong Mile Service case and the ING Baring case. The Court of Appeal held that LFT's case compared well with the ING Baring decision. In other words, to determine the source of a profit, one must first identify the transaction which directly gives rise to the profit. Antecedent and incidental activities, though commercial important, are legally irrelevant in ascertaining source.

Having considered the advice of its Counsel, the Revenue issued a post-judgment statement saying that it would not appeal against the determination. It was Counsel's view that the decision should be accepted as final unless the Revenue could establish that the case involved questions of great general or public importance or there were exceptional circumstances justifying the grant of permission to appeal to the Court of Final Appeal. In the same post-judgment statement the Revenue stated that the case should not have wider application since there is no change in law regarding "source".

At the time of the ING Baring decision, the Revenue also issued statement suggesting that the ING Baring case should not have a wider application and should be restricted to commission activities by stock brokerage business. With the LFT case, we consider that the ING Baring decision clearly has a wider application for the purpose of determining source of profits in general.

HONG KONG

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"...though commercial important, are legally irrelevant..."

International Standards on Auditing Effective From 2013

International Standards on Auditing (ISA) will become effective in Indonesia replacing the old audit standard adopted from the US Generally Accepted Auditing Standards. ISA is planned to become effective for audit of financial statements for period beginning on or after 1 January 2013. The effectiveness of ISA will be determined in the Management Meeting of the Indonesian Institute

of Public Accountants (IAPI) after the Professional Standard Board-IAPI completed the final draft of audit standard adopted from ISA and received the inputs from stakeholders in a public hearing.

For the time being, the Exposure Draft of the new audit standard has been issued in public hearing to receive any inputs from stakeholders. Besides public hearing,

IAPI collaborating with Center for Supervision of Accountants of Ministry of Finance of Indonesia performs socialization through a continuing professional education (CPE) attended by most public accountants in Indonesia. The public hearing and socialization are expected to improve the quality of understanding and acceptability by public accountant practitioners to the new audit standard so

INDONESIA



Russell Bedford Indomitra
Management & Legal Consulting

INDONESIA

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"...all sections of international standards on auditing and international standards on assurance engagements will become effective simultaneously."

that when it becomes effective, it can be well applied by all public accountants in Indonesia. ISA adoption by IAPI constitutes another achievement of Indonesian accountants after 2010, when Code of Ethics for Professional Accountants issued by International Ethics Standards Board for Accountants (IESBA) was also adopted by IAPI. Afterwards, the Indonesian Accounting Standard Board of the Indonesian Institute of Accountants (IAI) has adopted IFRS partially since 2008 and fully adopted it in 2012.

The ISA and IFRS adoption process constitutes the implementation of commitment of the Indonesian accountants to obey the statement of obligation from IFAC, considering that IAI is a member of IFAC. Besides that, this step also constitutes the implementation of Indonesian government's obedience to the G-20 commitment on the transparency of financial

reporting that among others is performed by adopting the accounting standard and international audit standard issued by IFAC. The ISA and IFRS adoption shows Indonesia's obedience to the international commitment in transparency besides improves the quality of financial statement audited by Indonesian public accountants that is completely needed in the improvement of GCG quality.

Different from IFRS adoption process that has taken place partially since 2008, ISA adoption process takes place all at once, so that towards the financial statement audit beginning on 1 January 2013, all sections of international standards on auditing and international standards on assurance engagements will become effective simultaneously. In the beginning, adoption process using one-time-adoption approach worried the Indonesian public accountant practitioners

that adjustment could not be made quickly and precisely. However, according to the Professional Standards Board-IAPI, due to the close connection among sections in ISA, the partial adoption process will be difficult to take place. On the contrary, one-time adoption will help public accountants to apply the audit standard completely.

By adopting ISA, some activities were and are being undertaken by the Indonesian public accountants. The activities among others are following the new standard trainings and making synchronization of some guidance and audit documentations to be pursuant to the regulation in ISA. One of very noticeable differences in the ISA-based audit standard is different in the wordings of audit opinion. Therefore, the Indonesian public accountant practitioners should get used to the new audit opinion wordings.

MALAYSIA



RUSSELL BEDFORD MALAYSIA

Income Tax (Transfer Pricing) Rules 2012

The Income Tax (Transfer Pricing) Rules 2012 ("Transfer Pricing Rules" or "the Rules") were

gazetted on 11 May 2012 and are deemed to have retrospective effect from 1 January 2009. These

Transfer Pricing Rules are an extension of the existing transfer pricing legislation, i.e. Section

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"...advocate the use of year-by-year comparison..."

140A of the Income Tax Act 1967 and the Transfer Pricing Guidelines issued in 2003.

The Rules are applicable to taxpayers who are engaged in related party transactions (controlled transactions).

Related party transactions refer to transactions/financial assistance between:

- Persons one of whom has control over the other;
- Individuals who are relatives of each other; or
- Persons both of whom are controlled by some other person.

The key areas covered under the Transfer Pricing Rules are as follows:

(i) Contemporaneous transfer pricing documentation

Taxpayers who are engaged in controlled transactions i.e. transactions between related parties must prepare and maintain contemporaneous transfer pricing documentation. To be contemporaneous, taxpayers need to ensure that transfer pricing documentation

is prepared when developing, implementing or reviewing a controlled transaction.

(ii) Transfer pricing methodologies

The Rules prescribe five transfer pricing methodologies. Preference is given to traditional transactional methods (i.e. Comparable Uncontrolled Price method, Resale Price method or Cost Plus method) over transactional profit methods (i.e. Profit Split method or Transactional Net Margin method).

(iii) Comparability of transactions

The transfer pricing rules advocate the use of year-by-year comparison when determining the arm's length price. If a year-by-year comparison is not feasible, the Director General has the discretion to allow the use of multiple year data.

(iv) Intra-group services

In determining the arm's length price for intra-group services, the taxpayer needs to

demonstrate that a service has been provided, and that a benefit has been derived from that service. The Inland Revenue Board ("IRB") has the right to disregard any intra-group services charges if it involves shareholder or custodial activities, duplicative services, services that provide incidental or passive benefits, or on-call services.

(v) Cost contribution arrangement

The cost allocation, entry, withdrawal or termination in respect of the arrangement shall be conducted at arm's length.

(vi) Intangible property

The Transfer Pricing Rules prescribe the use of Comparable Uncontrolled Price method or the Profit Split method in determining the arm's length nature of the transaction.

In addition, beneficial owner of the intangible property is required to receive an arm's length consideration. Beneficial ownership arises when the

MALAYSIA

(Continued)

"...ensure that contemporaneous transfer pricing documentations are duly prepared..."

entity is involved in developing the intangible property or by undertaking marketing activity which aids in the commercial exploitation of the property or has important promotional value.

(vii) Interest on financial assistance

Requirement to determine arm's length interest rate received or provided in a financial arrangement. Financial assistance includes loan, interest bearing credit, advance or debt and the provision of any security or

guarantee.

(viii) Adjustment by Director General

The Director General is empowered to disregard or make adjustments to the transfer price and interest rate for any particular transaction if there is reason to believe that the economic substance differs from the form or if the arrangement does not make economic sense.

The Transfer Pricing Rules reaffirm the IRB's increasing focus on the pricing of controlled transactions. It is imperative for taxpayers engaging in controlled

transactions to ensure that contemporaneous transfer pricing documentations are duly prepared to support the related party pricing as any tax adjustments by the IRB on the transfer price/interest rate could result in substantial tax payable and penalty.

SINGAPORE

STEVEN TAN RUSSELL BEDFORD PAC
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GST Initiatives to Facilitate Voluntary Compliance

Goods and Services Tax (GST) is a broad-based consumption tax levied on the importation of goods as well as nearly all supplies of goods and services in Singapore. GST is a self assessed tax and GST registered businesses must submit accurate returns and pay tax in a timely manner. To assist GST-registered businesses to comply with their tax obligations, the Inland Revenue Authority of

Singapore(IRAS) has introduced two GST initiatives on a voluntary basis. These are:
a. Assisted Compliance Assurance Programme (ACAP)
ACAP, launched on 5 Apr 2011, provides a holistic framework for businesses to proactively self-manage their GST risks and treat tax risk management as part of their corporate governance framework.

IRAS is the first tax administration in the world to incentivise businesses to undertake ACAP by setting aside a total of \$10 million budget to co-fund GST-registered businesses 50% of the cost (capped at \$50,000) of engaging an external consultant to validate their GST control framework.

Businesses that have obtained ACAP status will

enjoy benefits such as 3 to 5 years of exemption from time-consuming and costly GST audits, faster GST refunds, speedier resolution of GST issues and automatic renewal of GST schemes.

b. Assisted Self-help Kit (ASK)
ASK is a comprehensive self-assessment compliance package to help businesses review correctness of GST submission and discover

past GST errors early to qualify for IRAS' Voluntary Disclosure Programme. ASK is available to all GST-registered businesses.

What is the difference between ASK and ACAP?

Both ASK and ACAP are assisted initiatives designed to encourage GST compliance, but each has its own target businesses and focus. Their key differences are:

Table 1

	ASK	ACAP
1. Target businesses	All GST-registered businesses, regardless of turnover , may adopt ASK on a voluntary basis. IRAS may also require businesses to adopt ASK for specified purposes e.g. in applying for GST schemes as specified.	For GST-registered businesses that: <ul style="list-style-type: none"> (i) place importance on tax risk management as part of their corporate governance; and (ii) establish robust GST controls at three levels: Entity, Transaction and GST Reporting. Participation in ACAP is entirely voluntary, depending on the entity readiness and needs.
2. Focus	ASK focuses on 3 key aspects of ensuring GST compliance: <ul style="list-style-type: none"> (i) Internal processes to properly handle GST reporting of transactions; (ii) Accurate filing of GST returns by conducting pre-filing check; and (iii) Annual review of past returns filed in each financial year (ASK Annual Review). 	ACAP focuses on conducting a holistic review of the effectiveness of the GST Control Framework to manage GST risks and secure on-going GST compliance. The review approach differs from ASK Annual Review. This is illustrated in Table 2.

"...ASK is a comprehensive self-assessment compliance package..."

SINGAPORE

(Continued)

3. Outcome	<ul style="list-style-type: none"> • Cultivates discipline to adopt at least the essential requirements in getting ready to be GST compliant. • Provides assurance on the correctness of the current and past GST submissions. 	<p>Provides assurance of GST compliance to the stakeholders of the businesses on a sustainable long term basis by incorporating the following elements in its tax risk framework:</p> <p>(i) Risk Identification; (ii) Corrective Measures; (iii) Preventive Measures; and (iv) Monitoring Mechanism.</p>
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The distinguishing differences between ASK Annual Review and ACAP are:

Table 2

	ASK	ACAP
1. Aim	Detects errors early for GST returns filed in the past financial year.	Ensures effectiveness of GST controls and accuracy of GST reporting for a 12-month period.
2. Review approach	<ul style="list-style-type: none"> • Step-by-step process based on ASK Annual Review Guide. • Focuses on verifying transactions reported in the GST returns regardless of the internal controls. 	<ul style="list-style-type: none"> • Risk-based review of GST controls based on GST ACAP Review Guidance. • Wider scope than ASK Annual Review as it focuses on: <ul style="list-style-type: none"> (i) extensive reviews on internal controls that impact GST compliance; and (ii) verifying transactions to ensure accuracy of GST reporting.

“Ensures effectiveness of GST controls...”

3. Personnel involved in review	<p>Either:</p> <ul style="list-style-type: none"> (i) In-house GST personnel or accounting staff; or (ii) External tax advisory firms. <p><i>With effect from 2013, for the purpose of applying for GST schemes where ASK is specified as a pre-requisite, it must be reviewed by Accredited Tax Practitioner (GST) or Accredited Tax Advisor (GST) of Singapore Institute of Accredited Tax Professionals (SIATP).</i></p>	<p>Either:</p> <ul style="list-style-type: none"> (i) CPA firm or its tax affiliate where the team lead is an Accredited Tax Advisor (GST) of SIATP; (ii) Internal audit team where the team member is an Accredited Tax Practitioner (GST) or Accredited Tax Advisor (GST) of SIATP; or <p>A joint team comprising both (i) and (ii).</p>
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SINGAPORE

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"...must be reviewed by Accredited Tax Practitioner (GST)..."

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