

PRISM

Tax Newsletter

2nd Quarter 2019

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Australia

Foreign Investment in Australia

Foreign investment is essential to Australia's prosperity. It has helped build Australia's economy and will continue to enhance the wellbeing of Australians by supporting financial growth.

If you are a foreign person and you are planning to invest in Australian residential real estate, agricultural land, or water entitlements you may need to apply to the Foreign Investment Review Board (FIRB) and register your investment with us.

Before you start, you need to check if you are a foreign person. This depends on a range of factors, such as your visa status, where you live and investment ownership. (ATO Website – Foreign investment in Australia)

外国投资对澳大利亚的繁荣发展十分重要，它不但有助于建立澳大利亚经济，也能为经济带来增长，持续提高澳大利亚人的福祉。

如果您是外国人并且您计划投资澳大利亚住宅房地产，农业用地或水权，您可能需要向外国投资审查委员会 (FIRB) 申请并向委员会注册您的投资。

在此之前，您需要确认您属于是否是外国人，这取决于一系列因素，例如您的签证状态，居住的地方和投资所有权。(ATO网站 - 澳大利亚的外国投资)

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China

The Chinese government promulgated a series of policies on deepening the reform of value-added tax

On March 20, 2019, the Ministry of Finance, the State Taxation Administration and the General Administration of Customs jointly promulgated a policy on deepening the reform of value-added tax (hereinafter referred to as VAT), which took effect on April 1, 2019

2019年3月20日中国财政部、税务总局、海关总署联合颁布深化增值税改革政策，政策自2019年4月1日起实施。

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Greece

Real estate investments get a competitor for residence permit

There have been several discussions for changes in the Greek Golden Visa Programme that currently offers a five-year residency visa in return for an investment in the Greek Real Estate Sector. The new scheme aims at attracting new investments in Greek Intangible Assets, like government bonds, in order to help stabilize the country's economy.

希腊政府对希腊黄金签证计划的变更进行了多次讨论，该计划目前提供五年居留签证，计划申请者需对希腊房地产业进行投资。新方案目的是为希腊吸引无形资产的投资，如政府债券等，以帮助稳定希腊经济。

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Malaysia

The Liabilities of A Company Director

Section 75A of the Income Tax Act 1967 (ITA) provides for a director of a company to be responsible for any tax or debt that is due and payable by the company, and the tax owing or debt is recoverable from the company's directors. Any person occupying the position of a director during the period in which the tax or debt is liable to be paid is jointly and severally liable for any tax or debt that is due and payable by the company.

1967年“所得税法”(ITA)第75A条规定，公司董事应对公司税款或债务负责。税局可向公司董事追讨公司欠下的税务与债务。在担任公司董事的期间内，所有的董事必须共同承担相关的税务及欠款。

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Malta

Tax Incentives for Foreign Investors to Setup Their Business in Malta

The Maltese Economy provides tax incentives with the aim to attract and protect investors to the country. This is over and above the well-known Malta Tax refund system which provides for refund of taxes up to the level of 6/7 on the taxes paid by the trading company. Other Specific tax incentives range from;

- Malta's unique tax credit system which credits can be calculated as a percentage of expenditure on certain fixed assets and as a percentage of salary/wage expenses as a result of employing Maltese nationals (for the first two years of operation)
- The extensive network of Double Tax Treaties with the aim of providing tax relief to businesses that are based in Malta and have operations in external territories.
- Other Financial Incentives related to beneficial labour costs, Malta Freeport legislation for customs free trade and other financial aids provided by Malta Enterprise to investment undertakings that are deemed beneficial to the Maltese economy.

马耳他提供税收激励措施，旨在吸引和保护投资其国家的投资者。该制度规定退税至贸易公司缴纳的税款最高可达6/7，比马耳他原本的退税制度还高。其他具体税收优惠包括：

- 马耳他独特的税收抵免制度，其中抵免额计算是为某些固定资产支出的百分比，以及雇用马耳他国民（工作头两年）的月薪/薪资支出的百分比；
- 广泛的双重征税协定网络，为总部设在马耳他并在外部地区开展业务的企业提供税收减免；
- 与有利劳动力成本、马耳他自由港关于海关自由贸易立法相关的其他财务激励措施、以及马耳他企业发展局向对马耳他经济有利的投资活动提供的其他金融援助。

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UK

Digitalisation of UK Tax System

Making Tax Digital (MTD) is a fundamental change to the UK tax system. It is the Government's vision of transforming the current UK tax system to become "one of the most digitally advanced tax administrations in the world". (Chancellor speech, 2015)

The transformation involves automation, keeping digital records and using cloud-based accountancy software. The new regime aims to improve efficiency, effectiveness, and should be easy to use for taxpayers.

稅務数字化是英国税收制度的重大变革。政府的愿景是将现行的英国税制转变为“世界上数字化程度最高的税务管理机构之一”。（2015年英国财政大臣演讲）

这种转型涉及财务自动化，保存数字财会记录和使用基于云端的会计软件。新制度旨在提高效率和效力，并应易于纳税人使用。

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Australia



Foreign Investment in Australia

Australia's foreign investment policy consists of five elements:

1. Legislation

The Foreign Acquisitions and Takeovers Act 1975 (FATA) is the legislative framework for the foreign investment screening regime.

Foreign owners pay an annual vacancy fee on residential properties not rented or occupied for more than 183 days (6 months in any 12 month period).

2. Australia's foreign investment policy

- The FATA provides guidance to foreign investors.
- Private foreign investors must seek approval (upwards of 15%) in an Australian business valued above \$248 million (in 2013 prices, indexed annually).
- All foreign government owned investors require Government approval, irrespective of the asset value
- New Zealand and United States investors, \$248 million threshold only applies for certain sensitive sectors. Otherwise, a \$1,078 million threshold applies.


3. The Treasurer

- The Treasurer is responsible for all foreign investment.
- The FATA allows the Treasurer to decide if foreign investments are not in the Australian national interest.
- The Treasurer can block proposals.
- Applicants have no right of administrative or judicial review.
- The Administrative Decisions (Judicial Review) Act 1977 exempts decisions under FATA from judicial review.

4. The Foreign Investment Review Board

- The Treasurer is advised and assisted by the Foreign Investment Review Board (FIRB).
- The FIRB is an administrative body with no statutory existence.
- Treasurer decisions are underpinned by analysis and recommendations made by the FIRB.

5. Prescribed sensitive sectors

- Separate legislation imposes requirements and/or limits on foreign investment in the following areas:
 - the banking sector—Banking Act 1959, the Financial Sector (Shareholdings) Act 1998.
 - airports — the Airports Act 1996 limits ownership to 49%
 - the shipping industry — the Shipping Registration Act 1981
 - the telecommunications sector — ownership of Telstra is limited to 35%, individual foreign investors to a maximum of 5%. 

Reference

(ATO Website – Foreign investment in Australia)

Parliament of Australia - Kali Sanyal, Economics

China



The Chinese government promulgated a series of policies on deepening the reform of value-added tax

On March 20, 2019, the Ministry of Finance, the State Taxation Administration and the General Administration of Customs jointly promulgated a policy on deepening the reform of value-added tax (hereinafter referred to as VAT), which took effect on April 1, 2019:

1. If the general taxpayer of VAT (hereinafter referred to as the taxpayer) commits VAT taxable sale or imports goods, the tax rate shall be reduced to 13% or 9%, if the original applicable tax rate is 16% or 10%, respectively.
2. If the taxpayer buys agricultural products, the deduction rate shall be reduced to 9% from the original one of 10%. Taxpayers who purchase agricultural products for the production or entrusted processing of goods with a 13% tax rate, shall calculate the input tax amount at a deduction rate of 10%.
3. For goods and services exported at a tax rate of 16% and an export tax rebate rate of 16%, the export tax rebate rate shall be reduced to 13%. For goods and cross-border taxable trades exported at a tax rate of 10% and an export tax rebate rate of 10%, the export tax rebate rate shall be reduced to 9% (please refer to the Announcement for detailed information on the implementation date).

4. For travelers departing from China who claim a refund on goods with a tax rate of 13%, the tax rebate rate shall be 11%; while for those who claim a refund on goods with a tax rate of 9%, the tax rebate rate shall be 8%.

Before June 30, 2019, if the VAT is levied at the pre-adjustment tax rate, the refund rate before the adjustment shall be applied; if the VAT is levied at the adjusted rate, the adjusted refund rate shall be implemented.

The execution time of the tax refund rate shall be subject to the date of issuance of the ordinary VAT invoice for returned goods.

5. With effect from April 1, 2019, the Article 1 (4.1), and Article 2 (1.1) of the Provisions on Matters Related to the Pilot Project for Conversion of Business Tax to Value-added Tax (C.SH. [2016] No.36), shall cease to be implemented, which means that the input tax amount arising from the taxpayer's acquisition of real estate or real estate in construction shall no longer be deducted in two years. The input tax amount to be deducted which has not been completely deducted in accordance with the above provisions, may be deducted from the output tax since April 2019.
6. When a taxpayer purchases domestic passenger transport service, the input tax can be deducted from the output tax (see the Announcement for detailed calculation method).

Article 27 (6) of the Implementation Measures for the Pilot Project of the Conversion of Business Tax to Value-added Tax (C.SH. [2016] No.36), and Article 2 (1.5) of the Provisions on Matters Related to the Pilot Project for Conversion of Business Tax to Value-added Tax (C.SH. [2016] No.36), shall be adjusted from "purchased passenger transport services, loan services, catering services, resident daily services and entertainment services" to "purchased loan services, catering services, resident daily services and entertainment services".

7. From April 1, 2019 to December 31, 2021, taxpayers engaging in production and consumer service industry are allowed to add 10% to the amount of tax payable in accordance with the deductible input tax for the current period (hereinafter referred to as the additional deduction policy).
 - (i) "Taxpayers engaging in production and life services" as mentioned herein refer to those whose sales amount from providing postal services, telecommunications services, modern services and life services (hereinafter referred to as the Four Services) exceeds 50% of their total sales. The Four Services shall be subject to the

scope stipulated in the Notes to Sales Services, Intangible Assets and Real Estate (C.SH. [2016] No.36).

For taxpayers registered before March 31, 2019, if their sales volume for the period from April 2018 to March 2019 (for those who operate less than 12 months, the sales volume shall be calculated based on the actual operating period) meets the above-mentioned conditions, the additional deduction policy shall be effective since April 1, 2019.

For taxpayers registered after April 1, 2019, if their sales volume for the three-month period from the date of registration meets the above requirements, the additional deduction policy shall be applied from the date of registration as a general taxpayer.

Once the additional deduction policy is applied, it shall not be adjusted in the current year, and whether it will be applicable in the following years shall be determined on the basis of the sales volume of the previous year.

The additional deduction amount that shall be accrued but not accrued by taxpayers, shall be accrued in the current period in which the applicable additional deduction policy is determined.

- (ii) The taxpayer shall calculate the amount of add-on deduction on the basis of 10% of the current input tax credit. The input tax amount is not allowed to be deducting from the output tax in accordance with the current regulations, shall not be taken account into the additional deduction amount. If the input tax with an additional deductible amount being accrued is transferred out according to regulations, the additional deduction amount shall be reduced accordingly for the current period in which the input tax is transferred out.
- (iii) The taxpayer shall, after calculating the tax payable under the general tax method (hereinafter referred to as the tax payable before deduction) in line with the current provisions, apply the following additional deduction policies accordingly:
 - A. If the tax payable before the deduction is zero, the current deductible additional deduction amount shall be fully carried forward to the next period for deduction;
 - B. If the tax payable before the deduction is larger than zero and greater than the current deductible additional deduction amount, the

deductible additional deduction amount for the current period shall be fully deducted from the tax payable before deduction;

- C. If the tax payable before the deduction is larger than zero and is less than or equal to the current deductible additional deduction amount, the current deductible additional deduction amount shall be set off against tax payable to zero. The current add-on deduction amount that has not been completely set off shall be carried forward to the following period.

- (iv) The additional deduction policy is not applicable for taxpayers who export goods and services or commit cross-border taxable trades, thus the corresponding input tax shall not be deducted.

For taxpayers engaging in the export of goods and services or cross-border taxable trades, and their input tax cannot be divided and are not allowed to accrue additional deduction amount, the following formula shall apply:

Input tax not allowed to accrue additional deduction amount = total input tax that cannot be divided in the current period * sales of both exports of goods and services and cross-border taxable trades in the current period / total sales in the current period.

- (v) Taxpayers shall independently account for the changes in the calculation, set-off, adjustment and balance of the additional deduction amounts. Whoever defrauds the applicable additional deduction policy or falsely increases the additional deductible amount shall be punished in accordance with the Law of the People's Republic of China on the Administration of Tax Collection.

- (vi) After the expiration of the additional deduction policy, taxpayers shall no longer calculate the additional deduction amount, and the balance of the additional deduction amount shall cease to be set off.

8. The tax rebate system for the retention of VAT at the end of period shall be piloted from April 1, 2019. 🇬🇷

Greece



Real estate investments get a competitor for residence permit

The "Golden Visa" for placements in intangible assets, is expected to have an impact of about 250.000 € or

more on the number of transactions made in real estate via the investment incentive scheme (by Non-EU nationals).

The relevant provisions are included in article 42 (Law 4251/2014, Government Gazette 1, no 80) to adjust the Greek legislation with the Directive 2016/943 of 8 June 2016 of the European Parliament and Council.

Following the adoption of the article mentioned above, Non-EU nationals will be able to choose between two different types of investments, in order to obtain a residency permit and gain access to 26 Schengen Countries. They will be able to either pursue a property of a minimum value of 250.000 € or invest at least 400.000 € in Greek Intangible Assets.

In more details, the Greek legislature would provide a five year residency to those who make an investment in one of the following categories:

- a capital injection of at least 400.000 € to a company with a registered office or establishment in Greece.
- a capital injection of a minimum value of 400.000 € to a Real Estate Investment Company (REIC), which aims to invest exclusively in Greece for an increase in share capital. According to experts, this provision is expected to favor smaller companies or those ready to launch an IPO. For companies that are already established, like NBG Pangaea, the largest REIC in Greece, the 400.000 € capital injection is only a fraction of the increase in share capital, which is to take place towards the end of this year.
- a capital injection of at least 400.000 € to either Venture Capital Companies for the acquisition of new capital shares or to Mutual Funds in order to purchase new shares, provided that the above Alternative Investment Funds (AIF) aim to invest exclusively in companies based in Greece.
- Investments in Greek Government Bonds with a minimum purchase value of 400.000 € and a remaining residual maturity of at least three years from the time of purchase, through a Credit Institution established in Greece.
- A minimum deposit of 400.000 € in a Greek Credit Institution, for at least a period of one year, with a chance of renewal.
- Purchase of shares, corporate bonds and / or Greek government bonds, which are admitted for trading in regulated markets operating in Greece, with a purchasing value of at least 800.000
- Purchase of shares with a value of at least 400.000 € in a mutual fund incorporated in Greece or another country and intended for investments exclusively in shares, bonds and / or Greek government bonds that are admitted for trading in regulated markets

operating in Greece, with the condition that the fund's assets amount to at least 3 million €.

- Purchase of shares with a minimum purchasing value of 400.000 € in an Alternative Investment Fund (AIF), which is incorporated in Greece or another Country Member of the European Union and aims to invest exclusively in the Greek Real Estate sector.

The above transactions should be made through an organized banking system, where a banking account associated with investments in intangible assets is held. The manager of the account is required to invest the funds in transferable securities or Real Estate in Greece (in the case of AIFs), so that the average annual balance of the account does not exceed 20% of the nominal value of the original investment in bonds or shares of the AIF.

In conclusion, it remains to be seen whether the coexistence of these two different types of investment will eventually limit the volume of transactions made in real estate via the "Golden Visa", which currently exceeds 1 billion euros. Surely, the new regime may act as a stimulus for both the investment banking sector and the real estate investment companies and help boost the Greek economy. 🇬🇷

Malaysia



The Liabilities of A Company Director

The director of a company is responsible for the company's tax as follows:

- any tax that is due and payable by a company; and
- any debt that is due and payable by the company as an employer in respect of Monthly Tax Deduction (MTD).

Section 75A of the Income Tax Act 1967 (ITA) provides for a director of a company to be responsible for any tax or debt that is due and payable by the company, and the tax owing or debt is recoverable from the company's directors. Any person occupying the position of a director during the period in which the tax or debt is liable to be paid is jointly and severally liable for any tax or debt that is due and payable by the company.

A director means any person who –

- (a) is occupying the position of a director (by whatever name called), including any person who is concerned in the management of the company's business; and
- (b) is, either on his own or with one or more associates,

the owner of, or able directly or through the medium of other companies or by any other indirect means to control, not less than 20% of the ordinary share capital of the company.

Action to recover a company's taxes or debts that are due and payable can be taken against the directors of a company as follows:

- preventing taxpayer from leaving the country
- a civil suit against both a company and the directors of the company

A company which is under winding up, action cannot be taken against a company's directors if taxes or debts arising become due and payable. This is because the directors of the company are no longer liable for taxes or debts arise when the company is in the winding up process. 🇲🇹

Reference

1. Public Ruling 2/2019 Director's Liability

Malta



Tax Incentives for Foreign Investors to Setup Their Business in Malta

Whether your business is established, or you are just looking to get started, the prospect of making your investment in a foreign country can be a mixture of both appealing and scary. The correct incentives need to be in place for such an investment to happen and one country that fits this bill is Malta.

A Little Background on Malta

The Republic of Malta is an island type country located in Southern Europe (east of Tunisia and south of Italy). It is made up of an archipelago and is known for being the 10th smallest country in the world.

Maltese natives account for over 95% of the population and the official languages spoken are English, Maltese, and to a much lesser extent, Italian.

Tax Benefits for Foreign Investors

A major factor in the decision to establish a business in a foreign country is taxation. While the amount of revenue a business can pull in is a big indication of profitability, expenses such as taxes also play a large role. If tax laws in a country mean businesses are heavily taxed, then such a country may not be the best option to establish your business.

In Malta, tax incentives are generally governed by the Malta Enterprise Act and the Business Promotion Act, which aim to attract potential investors to the country.

This is over and above the Malta Tax refund system which provides for distribution of taxes paid up to the level of 6/7 on the taxes paid by the trading company.

The major tax incentive is Malta's unique tax credit system. To put it simply, tax credits allow a company to make deductions from the tax that is due once required conditions are met. The most prominent of all these conditions is industry. This system most heavily applies to firms engaged in the electrical, pharmaceutical, biotechnology, and the manufacturing industry. The credits can be calculated as a percentage of expenditure on certain fixed assets and as a percentage of salary/wage expenses as a result of employing Maltese nationals (for the first two years of operation).

The actual percentages depend on the amount of expenditure and unused credits do roll over across accounting periods. Other notable tax credit applications include:

- Credits for expenditure on research that ultimately results in new product development or existing product improvement
- Credits for expenditure on any creative activity that results in economic development in Malta
- Credits on various costs for self-employed persons and small companies
- Credit on expenses associated with financing approved projects (tax rates can go from the standard 35% to as low as 15.75% here)

Double Tax Treaties

The existence of double tax treaties is another large contributing factor to the likelihood of foreign investment. Malta has established double tax treaties with many countries. The idea is to provide relief to businesses that are based in Malta and have operations in external territories. Typically, this means that taxation occurs at both endpoints, but the treaties aim to provide relief from the Maltese end of this. Double taxation relief comes in the following forms:

- i) Unilateral relief – Where there is an application of taxes in a foreign country on businesses transactions that warrant a similar type of taxation in Malta, relief is provided to Maltese residents or companies registered in Malta.
- ii) Flat Rate Foreign Tax Credit (FRFTC) – Companies that are registered in Malta enjoy a 25% credit on income received from overseas investments such as rents, royalties, etc.

Commonwealth Relief – While this is not commonly applied, relief is granted when a company registered in Malta pays taxes to Commonwealth countries excluding the United Kingdom.

Financial Incentives

Apart from those that are taxation-based, other financial incentives are just as important to the decision to establish a business in Malta.


First, there is the benefit of labour costs. Compared to countries such as the United States of America, labour costs associated with operations are much lower in Malta. This even applies to labour provided by highly skilled individuals.

The Malta Freeport is customs-free, which means shipping requirements attract much lower costs when compared to many other countries.

Foreign investment is also encouraged as Malta provides financial aid to undertakings that are deemed beneficial to the Maltese economy. This financial aid includes:

- Assistance for structural work required for investment in factories (there is also assistance provided in locating prospective factories)
- Training grants that are granted to companies that engage in qualifying training activities
- Business loans with interest rates as low as 2.5%
- Various business cash grants that are available for activities such as research and development, engaging field advisors, participation in trade fairs, etc.

Malta is an attractive territory for foreign investment and the information provided above lists a subset of the reasons why this is the case. If you are considering such a venture, Malta may be the place for you.

Should you need further information for setting up your business in Malta please contact Mr. Robert Borg at robert@reandamalta.com. 

Reference

https://www.ird.gov.hk/eng/tax/dta_cbc.htm#notification

UK



Digitalisation of UK Tax System

The introduction of MTD was announced in the 2015 Government Autumn statement report as a measure of simplifying the UK tax system. HM Revenue & Customs (HMRC) have identified that the current human intervention in reporting has resulted in an estimated gap in revenue of nearly £9 billion. The UK government's intention is to reduce this tax gap by introducing the requirement to keep digital records

and automate the process of information that is sent digitally to them.

MTD affects the following taxes: Value Added Tax (VAT), Income Tax and Corporation Tax. The implementation will take place in stages.

Making Tax Digital (MTD) Timeline

MTD reporting for VAT came into effect from 1 April 2019 for VAT registered businesses with taxable turnover of £85,000 and above.

Income Tax and Corporation Tax will not be implemented until April 2021 at the earliest, which will allow time for businesses and organisations to test the new system.

More complex VAT registered business have a deferred implementation date of 1 October 2019, such as: local authorities, public organisations and businesses based overseas.

MTD for VAT

From April 2019, VAT registered businesses and organisations are required to:

- Maintain digital accounting records
- Produce VAT returns using the information held within their accounting software
- Submit digital records to HMRC on a quarterly basis without human intervention
- Use a functional compatible software to digitally submit the information to HMRC.

A “functional compatible software” is a software, which can connect to HMRC system via an Application Programming Interfaces (API) platform.

Further details on MTD recognised software suppliers are available on HMRC website.

HMRC have announced that exemptions are available for businesses and organisations where they cannot interact with HMRC digitally. These exemptions are not automatic and each application will be considered based on the business or taxpayer’s specific circumstances.


Voluntarily VAT registered businesses are not required to comply with the MTD regime. Whilst they can join this MTD scheme, they will remain within the scheme until they deregister from VAT.

A new points-based penalty regime will replace the existing penalty system from April 2020. However, the UK Government have allowed a “soft landing” period for the first 12 months for failure to meet the mandated requirements.

MTD for income tax pilot

A trial of MTD income tax has already commenced and taxpayers are invited to test the new service. The taxpayers again will use a compatible functional software to submit quarterly updates where they meet the qualifying criteria of being self-employed and/or have rental property income.

Businesses and taxpayers can delegate the MTD process to their UK tax agents to deal with the ongoing administration and registration to the new system.

MTD is challenging for both businesses and their advisers. However, we have been advised that, once the transformation has been embraced, businesses can benefit from automation, streamlining of processes and improved compliance, due to the information readily available to HMRC. 

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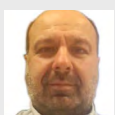
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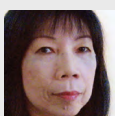
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