

INTERNATIONAL TAXATION: MALAYSIAN PERSPECTIVE

Date: 10 & 11 Jan 2017 | Venue : Seri Pacific Hotel, Kuala Lumpur
Event Code: 17WS/001

Introduction

In today's digital era, both MNCs and SMEs are involved in cross-border sales or acquisition of goods or services. Income tax implications should be considered in respect of cross-border sales as well as acquisitions given that many jurisdiction (including Malaysia) require the acquirer/payer to withhold tax and remit to the tax authority.

This course is an unparalleled effort to approach international taxation principles from the Malaysian perspective. It covers the international tax elements in the Income Tax Act 1967 taking into the domestic case law as well the international tax principles based upon which Malaysia has signed more than 75 double tax agreements.

Methodology

Lectures accompanied with practical examples.

Course contents

- Overview of key considerations in tax policy design:
 - Capital export neutrality vs capital import neutrality
 - Foreign tax credit – per country basis vs per source basis
 - Treatment of losses for the purposes of double taxation relief
 - Basis for determining tax residency
 - Taxation on distribution of corporate income
 - Branch profits distribution tax
 - Tax incentives in attracting foreign investments vs promoting export by local businesses
- Role of double tax agreements
- OECD and UN Model Tax Convention: background and comparison
- Introduction to the structure of the OECD Model Tax Convention (“Convention”), its general definitions (Art 3) and resident rules (Art 4)
- Vienna Convention on the law of treaties
- Legal status of OECD Commentary to the model tax convention
- Business income:
 - Trading with Malaysia vs Trading in Malaysia
 - “Operations” test in sec 12 of Income Tax Act 1967 (“ITA”)
 - Permanent Establishment in Double Tax Agreements – criteria & implications (Art 5 & 7)
 - Rule of attraction in the UN model – why wouldn't it work for Malaysia?
- Passive income (dividend, interest, royalty and rental):
 - Domestic law exemption for dividend and its implication on the foreign shareholders' tax sparing credit
 - Interest
 - ITA definition, derivation scope and withholding tax requirements
 - Article 11 of the Convention
- Royalty income
 - ITA definition, derivation scope and withholding tax requirements
 - Article 11 of the Convention
- Rental income (income from immovable property)
 - Article 6 of the Convention
- Technical fee etc. (Section 4A of ITA)
 - ITA definition, derivation scope and withholding tax requirements
 - Implications of double tax agreement – OECD model vs UN model vs actual double tax agreements signed by Malaysia
 - Analysis of the AlamMaritim case – including comparing of the relevant provisions in the 1968 Malaysia-Singapore treaty vs. other treaties in force
- Employment income:
 - Derivation scope under sec 13(2) and the 60-day exemption under ITA
 - Article 15 of the Convention – including practical issues such as secondment of employees
- Double tax relief:
 - Exemption for foreign source income - para 28, Sch 6, ITA
 - Unilateral and bilateral foreign tax credit and its relevance for income derived from Malaysia - Sch 7, ITA
 - Art 23 of Convention
- Overview of Transfer Pricing Issues:
 - Overview of methods and documentary requirements – based on Malaysian Rules and Guidelines 2012 and OECD TP Guidelines 2013
 - Primary adjustment, corresponding adjustment and secondary adjustment (Art 9)
 - Bilateral and Multilateral Advanced Pricing Agreements (APAs)
 - The way forward: three-tier transfer pricing documentation - country-by-country reporting, master file and local file
- Mutual Agreement Procedure (MAP) (Art 25)
- Exchange of information (Art 26)
- Snapshot of the Base Erosion and Profit Shifting (BEPS) project and highlight of other international tax developments

Note:

Participants are advised to bring Income Tax Act 1967 (including all amendments) for ease of reference. OECD model tax convention will be provided.

Speaker's Profile

Thenesh Kannaa is a partner of Thenesh, Renga & Associates (TraTax Malaysia), a firm of chartered accountants dedicated to providing income tax and GST advisory to clients across multiple industries as well as GLCs and statutory bodies.

Thenesh is a fellow member of the Association of Chartered Certified Accountants (FCCA, UK) and a member of the Malaysian Institute of Accountants (MIA), the Chartered Tax Institute of Malaysia (CTIM) and the International Fiscal Association (IFA, Netherlands). He also holds a diploma in International Taxation from the Leiden University, Netherlands. Thenesh is a licensed tax agent (income tax & GST) in Malaysia. He is also a member of the CTIM's Editorial Committee and the Technical Committee for Indirect Taxes.

Thenesh has authored three books on Malaysian taxation for Kluwer Wolters (CCH) and a wide range of technical articles for MIA's Accountants Today, CTIM's Tax Guardian, ACCA's AB magazine, and the Taxation Institute of Hong Kong's Asia-Pacific Journal of Taxation. Thenesh has presented on diverse tax topics in more than 100 conferences and seminars and has been interviewed on contemporary tax matters by the Traxx.fm (RTM 4, 90.3 fm), THR Raaga (99.3 fm), V'Buzz (Astro), New Straits Times and the Malaysia SME business newspaper.

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- * Walk-in participant registration and attendance is subject to availability of seats and full payment.
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Confirmation of Registration

The confirmation letter will be emailed 5 days before the commencement of the event upon receipt of full payment. In the event you do not receive the confirmation letter 5 days before the event, please contact us immediately.

Disclaimer

The Organiser reserves the right to change the speaker, date, venue or to cancel the event if the number of participants is less than 20. A minimum of 3 days notice will be given.

Recording

Video / Sound recording is strictly prohibited.