



# ITX InTouch

The latest in indirect tax news for the Asia Pacific region

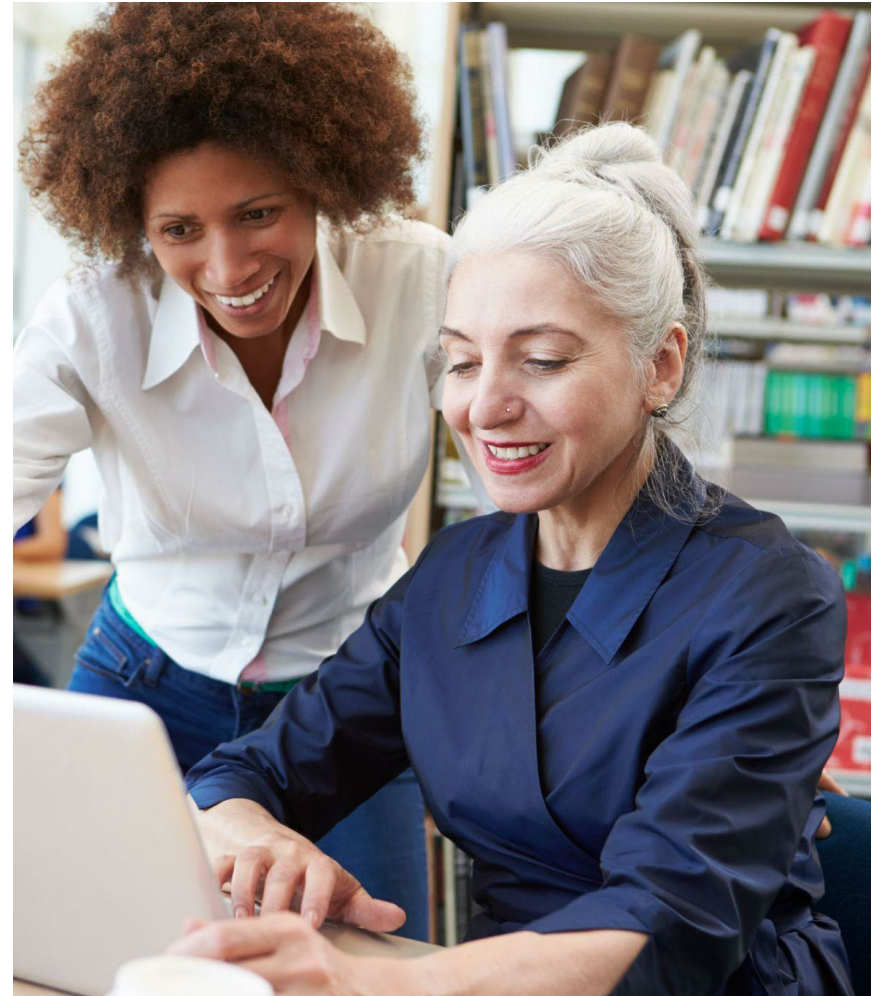
Issue 4 2022 –July-September 2022



# Introduction

Welcome to the latest issue of InTouch which covers the key developments in value added tax (VAT) and goods and services tax (GST) in the Asia Pacific region during the period July 2022 to September 2022. As economies within our region become increasingly impacted by Global events, the role indirect taxes play in either supporting targeted stimulus measures or aiding revenue collections will become more and more critical.

Please reach out to any of the PwC contacts listed in this issue if you have any questions on the news items.



# Table of contents

1. Australia.....	2
2. China .....	2
3. India.....	2
4. Japan.....	2
5. Malaysia .....	2
6. New Zealand .....	2
7. Vietnam .....	2



# Australia

## ATO Justified Trust Reviews

- The Australian Taxation Office (ATO) has recently begun issuing early notification letters for its next round of Combined Assurance Reviews (CAR) under its Justified Trust Program. Referred to as "CAR 2.0", from a Goods and Services Tax (GST) perspective many of the questions remain the same but with some key differences. It is clear that the ATO's expectations in terms of what taxpayers have been doing to prepare for a Justified Trust review has increased. In this regard, those taxpayers who have prepared beforehand are more likely to be on the front foot with the ATO and better able to optimise their level of assurance.

## ATO View of AAT Decision on GST Turnover

- The ATO has issued a decision impact statement on the Administrative Appeals Tribunal decision in *Collins & Anor ATF the Collins Retirement Fund v Commissioner of Taxation* [2022] AATA 628. This case concerned the sale of subdivided lots and whether the proceeds from these sales were excluded from the GST turnover of a superannuation fund for purposes of GST registration. The sale of the subdivided lots would be excluded if they occurred by way of transfer of a capital asset or solely as a consequence of ceasing to carry on an enterprise or solely as a consequence of substantially and permanently reducing the size or scale of an enterprise. The AAT found that the land sales were made in the course of carrying on an enterprise and as a consequence of that enterprise.

- The ATO considers that the AAT's reasoning is consistent with GST Ruling GSTR 2001/7 on the meaning of GST turnover and noted that the activities of some entities are deemed to be an enterprise under s9-20 of the A New Tax System (Goods and Services Tax) Act 1999 and accordingly requiring only the turnover threshold for registration to be considered. Comments on the decision impact statement are due by 8 July 2022.

## Luxury Car Tax Threshold

- The ATO has published the luxury car tax threshold for the 2022-23 income year which is AUD 71,849 (increased from AUD 69,152) and the fuel efficient car threshold is AUD 84,916 (increased from AUD 79,659).

## Draft Updates to GST Ruling on Financial Supplies and Acquisitions

- The Australian Taxation Office (ATO) has issued a draft consolidation of proposed changes to Goods and Services Tax (GST) Ruling GSTR 2002/2 which deals with the GST treatment of financial supplies and related supplies and acquisitions. The draft updated ruling reflects changes in the GST law reflecting cross-border supplies and digital currency as well as new references to public guidance released relating to financial supplies, and some proposed changes to modernise parts of the Ruling. Comments can be made on the proposed updates by 23 September 2022.

## Addendum to GST Ruling on Aged Care Services and Accommodation

- The ATO issued an addendum to GSTR 2012/3 which deals with the GST treatment of aged care services and accommodation in retirement villages and privately funded nursing homes and hostels. The addendum specifically considers the provision of daily meals and heavy laundry to residents of a serviced apartment within retirement villages. The ATO view has been broadened and principles provided to assist compliance with subsection 38-25(3A) of the A New Tax System (Goods and Services Tax) Act 1999 (GST Act) which sets out when services provided to a resident of a serviced apartment in a retirement village will be treated as provided in a 'residential setting' and accordingly GST-free. The amended ruling includes examples of different circumstances.

## GST Attribution for Farm-out Arrangements

- The ATO has released for comment a draft legislative instrument that sets out attribution rules for certain deferred transfer farm-out arrangements. Under a typical deferred transfer farm-out arrangement, the owner of an interest in a mining tenement (farmor) transfers a percentage of that interest to the farmee if the farmee meets specified exploration commitments or makes monetary payments.
- The draft instrument proposes to override the basic attribution rules (outlined in section 29-5 of the GST Act) to attribute GST payable if a farmor receives an exploration benefit as consideration (or part consideration) for the supply of an interest in a mining tenement, before the farmee exercises the right to acquire that interest. The determination also sets out the attribution rules that apply instead of the basic attribution rules to attribute input tax credits if the farmee exercises the right to acquire the interest in the mining tenement and this is a creditable acquisition for the farmee.

## Information Requirements for Adjustment Notes

- The ATO has released for comment a draft legislative instrument that sets out the additional information requirements for a document to be an adjustment note or recipient created adjustment note under subsection 29-75(1) of the GST Act. Unless an exception applies, a supplier or a recipient must hold an adjustment note to attribute a decreasing adjustment from an adjustment event when completing their GST return for a tax period. Comments were due to be made on the draft instrument by 26 August 2022.



**For more information please contact:**

**Michelle Tremain**

Partner, PwC Australia

Indirect Taxes lead, Asia-Pacific

Phone: +61 8 9238 3403

Email: [michelle.tremain@pwc.com](mailto:michelle.tremain@pwc.com)

# China

## **Announcements on the Pilot Program of Fully Digitalised E-invoice Recipients**

- In order to implement the notice on "Further Deepening the Tax Collection Reform" issued by the General Office of the Central Committee of the Communist Party of China and the General Office of the State Council, comprehensively promoting the digital upgrading and intelligent transformation of tax collection and management, and reducing the cost of tax collection, the State Taxation Administration has built an unified national electronic invoice service platform, which provides taxpayers with the functions of issuance, delivery and verification of fully digitized e-invoices (hereinafter referred to as "E-invoices"), so as to achieve the goal of digitization of tax invoices. With the consent of the State Taxation Administration, it was decided to add Hainan Province, Gansu Province, Guizhou Province, Tianjin Municipality, Dalian City, Shanxi Province and Ningxia Hui Autonomous Region to the list for carrying out the pilot of receiving E-invoices. Starting from 28 August 2022, the pilot of fully digitalized E-invoices recipients would be fully rolled out across China.

## **Announcement on Tax Policies Concerning Repayment in Kind of Non-performing Loans of Banking Financial Institutions and Financial Asset Management Companies**

- On 30 September 2022, the Ministry of Finance ("MOF") and the State Taxation Administration ("STA") jointly issued the Announcement on the Tax Policies Concerning Repayment in Kind of Non-performing Loans of Banking Financial Institutions and Financial Asset Management Companies (the "Announcement"), with effect from 1 August 2022 to 31 July 2023.

- The Announcement states that, when banking financial institutions and financial asset management companies (i.e. general VAT taxpayers) dispose real estate for repayment of debts, they may choose to calculate and pay VAT at the rate of 9% based on the sales amount which is ascertained by deducting the amount paid for acquiring the debt-foreclosed real estate from the total price.
- When a banking financial institution or a financial asset management company that chooses the above method to calculate the sales revenue, it shall not issue a special VAT invoice to the purchaser for the respective immovable property.



**For more information please contact:**

**Robert Li**

Senior Manager – Indirect Tax, PwC China

Phone: +86 (21) 2323 2596

Email: [robert.li@cn.pwc.com](mailto:robert.li@cn.pwc.com)



# India

## Notifications/Circulars for CGST

### Notifications

- **Excluded the period from March 01, 2020 to February 28, 2022 for calculation of limitation period w.r.t refund application and order by the Department**
  - The CBIC vide **Notification No. 13/2022- Central Tax dated July 05, 2022**, excluded the period from March 01, 2020 to February 28, 2022, for calculation of following limitation period w.e.f. March 01, 2020:
    - for computation of period of limitation under Section 73(10) of the CGST Act for issuance of order under Section 73(9) of the CGST Act, for recovery of erroneous refund; and
    - for computation of period of limitation for filing refund application under Section 54 or 55 of the CGST Act.
- **IGST exemption withdrawn on research equipments imported by institutions or universities**
  - The CBIC vide **Notification No. 42/2022-Customs dated July 13, 2022**, has issued amendments in its earlier issued Notification No. 51/96-Customs dated July 23, 1996 ("Exemption Notification") which provided exemption to research equipments imported by public funded research institutions or various universities and non-commercial institutions etc. so as to withdraw the exemption of the IGST leviable on certain goods specified therein, when imported into India.
- **CBIC reduces e-Invoicing limit Rs. 10cr from existing limit of Rs. 20cr w.e.f. Oct 01,**
  - The CBIC issued Notification No. 17/2022–Central Tax dated August 01, 2022 to amend Notification No. 13/2020 – Central Tax, dated March 21, 2020 to decrease the e-Invoicing aggregate turnover limit from 20 crore to 10 crore w.e.f. October 01, 2022.
- **CBIC vide its Notification 18/2022-Central Tax dated 28 September 2022**, has notified the has notified various provisions of the Finance 2022 mentioned below:
  - The registered person shall be entitled to avail ITC in respect of any invoice or debit note till 30th day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.
  - The registered person who issues a credit note in relation to supply of goods or services shall declare the details of such credit note in month during which such credit note has been issued but not later than the 30th day of November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier.
  - The rectification of error or omission of the details furnished in GSTR-1 shall be allowed till 30th day of November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

### Circular/Instruction

- CBIC vide Circular No. 178/10/2022-GST dated 03 August 2022 clarified GST applicability on liquidated damages, compensation, and penalty arising out of breach of contract or other provisions of law. In all the cases, it has been evidently clarified and emphasized that the said activities would be treated as taxable only if the said activities

are performed under the contractual agreement (whether express or implied) and for a consideration agreed for such acts.

- **Instructions w.r.t. generation and quoting of DIN on communication issued by the officers/staff of the AP State Department**

- The Government of Andhra Pradesh, Commercial Taxes Department vide Circular No. 2 of 2022 dated August 01, 2022, has issued instructions regarding the generation and quoting of Document Identification Number (“DIN”) on any communication sent to taxpayers by the officers/staff of the Commercial Taxes Department.

## Case laws

- The Hon'ble Supreme Court in **Pradeep Goyal v. Union of India & Ors.** [Writ Petition (Civil) No. 320 of 2022 dated July 18, 2022] held that implementation of Document Identification Number (“DIN”) for intimating communications sent by the State Tax Officers/Other Officials, would be beneficial in the larger public interest to enhance good governance and to bring transparency and accountability in the indirect tax administration. [SC directs GST Council to issue advisory to States to implement DIN system]
- The Hon'ble High Court, Gujarat in the matter of **M/S Louis Dreyfus Company India Private Limited v. Union of India** [SPECIAL CIVIL APPLICATION NO. 11540 of 2021 dated July 07, 2022] has directed the department to grant refund of Integrated Goods and Services Tax (“IGST”) already paid by the assessee on the amount of ocean freight charges.
- The **Hon'ble Karnataka High Court** in Commissioner of Central Tax v. ABB Limited [Central Excise Appeal No.16/2021 dated June 01, 2022] affirmed the order passed by the CESTAT, Bangalore holding that the assessee is not liable to reverse the CENVAT credit availed, on the grounds of absence of suppression of facts. Held that, balance sheet is conclusive evidence in itself to infer trading activities of an assessee and allegations levelled for suppression of facts are not tenable when the same was already available with the Revenue

Department (i.e. Suppression of facts cannot be alleged when the trading activities were declared in Balance Sheet).

- The AAAR, Maharashtra in Dubai Chamber of Commerce and Industry [Order No. MAH/AAAR/AM-RM/08/2022-23 dated June 23, 2022] has modified the order of the AAR, to the extent that, the activities performed by the Liaison Office (“LO”) acting as link for communication, at the behest of foreign Head Office, cannot be considered as an intermediary. Held that, such activities will come under the ambit of “Supply”, for which LO is liable to pay the GST and required to take GST Registration to discharge their liability, on the amount received from the Head Office.
- The AAAR, Andhra Pradesh, in the matter of M/s. Vishnu Chemicals Limited, [AAAR No./AP/05/GST/2022 dated January 24, 2022] has held that no Input Tax Credit (“ITC”) on monthly rental tax invoices raised after the expiry of the period of limitation. The invoice referred pertain to the services rendered in the financial year 2018-19 however invoice issued in April 2020 is hit by the limitation for claiming ITC under section 16(4) of CGST Act, 2017



**For more information please contact:**

**Pratik Jain**

Partner, National Leader – Indirect Tax, PwC India

Phone: +91 98111 41868

Email: [pratik.b.jain@pwc.com](mailto:pratik.b.jain@pwc.com)



# Japan

**Japanese Consumption Tax:** New requirement to show tax amount in JPY on invoices



**For more information please contact:**

**Takashi Murakami**

Partner, PwC Tax Japan

Phone: +81 (0)80 3592 6121

Email: [takashi.a.murakami@pwc.com](mailto:takashi.a.murakami@pwc.com)

# Malaysia

## Retable of Budget 2023

- The Budget 2023 was tabled on 7 October 2022. However, the Parliament was dissolved on 10 October 2022 before the Budget 2023 could be passed and approved. As such, the Budget 2023 would have to be retabled again when the new Parliament resits. We will provide with the details of the key indirect tax measures from the Budget 2023 when it is retabled.

## Exemption on Digital Payment Services by Local Non-Bank Providers

- The Minister of Finance has granted exemption from payment of service tax to recipients of digital payment services rendered by local non-bank providers (LNBP) for 3 years with effect from 1 August 2022 to 31 July 2025. To qualify for the above exemption, the LNBP must be a registered person under the Service Tax Act 2018 who provides digital payment services in Malaysia and regulated by Bank Negara Malaysia. However, the above exemption is not applicable to digital payment services rendered by foreign service providers to Malaysian users and other digital services other than digital payment services rendered by the LNBP.

## Implementation Date of Imposing Excise Duty on Certain Premix Preparations

- The Royal Malaysian Customs Department announced that the implementation date of imposing excise duty on certain premix preparations containing a total sugar content exceeding 33.3 grams per 100 grams shall be 1 January 2023. The implementation was previously postponed from the proposed date of 1 April 2022.



**For more information please contact:**

**Raja Kumaran**

Tax Director, Indirect Tax, PwC Malaysia

Phone: +60 (3) 2173 1701

Email: [raja.kumaran@pwc.com](mailto:raja.kumaran@pwc.com)

# New Zealand

## Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill

- The Government first introduced the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (“the Bill”) to Parliament on 30 August. The Bill attracted significant attention for its proposals relating to GST for managed funds, and the flow-on impact on KiwiSaver balances. The Bill was therefore withdrawn and subsequently reintroduced to Parliament on 8 September. The Bill contains a raft of GST changes, including:
  - Further amendments to the invoicing rules;
  - Platform operators in the gig and sharing economy;
  - Apportionment rules; and
  - GST on legislative charges (such as levies).

### GST Invoicing Changes

- A key principle of the changes to the current invoicing rules is to increase flexibility and remove the requirement to issue and hold a single prescribed “tax invoice” document. Rather, the GST requirements would be met if specified GST information is provided and held, regardless of the source e.g. commercial invoices, supply agreements, or other business records.
- **Why is this important?**
  - There will be less rigid requirements on what entities need to hold to support GST claims;
  - Current tax documents issued that are compliant with the current GST rules should generally be compliant with the new rules; and

- However – current AP systems may reject invoices that will be compliant under the new rules (therefore PwC’s recommendations is for businesses to focus on the AP side as a priority).
- The majority of the invoicing changes are set to take effect from 1 April 2023.

### Platform Economy: GST Changes

- The Bill proposes to extend the current GST rules for electronic marketplaces (that currently apply to remote services and low value imported goods) to taxable accommodation, ride-sharing, and food and beverage delivery services that are provided through electronic marketplaces.
- This means that electronic marketplace operators facilitating these services via their platforms will be required to collect and return GST at the standard rate of 15% when they are performed, provided, or received in New Zealand.
- These changes are set to take effect from 1 April 2024.

### GST Apportionment

- The Bill introduced a number of suggested changes to the apportionment rules:
  - This test will capture all goods or services acquired for \$10,000 or less which are used predominantly (i.e. greater or less than 50%) for either taxable or non-taxable purposes.
  - Where the intention is for a good or service to be used predominantly for a taxable purpose – this change would allow a taxable person to claim the full amount of input tax incurred.



- However, if they instead intended to use the good or service for a predominantly non taxable purpose – they would not ordinarily be entitled to claim any input tax (irrespective of whether they intended to use the good or service to partly make taxable supplies).
- This change is expected to apply from 1 April 2023.
- GST-registered persons may elect to treat certain goods with a minor taxable use as outside of the “GST net” (i.e. no GST deductions, but no GST on sale of that asset) (e.g. a farm house with a home office).
  - The proposed exemption would be limited to tangible assets, such as land, dwellings or vehicles (i.e. goods) which are likely to have a minor amount of use in making taxable supplies.
  - Services are excluded.
  - The proposal to elect to treat assets as exempt would generally apply retrospectively from 1 April 2011.
- The measures are intended to reduce the number of taxpayers who need to make GST adjustments or undertake GST apportionment.

### **GST on Legislative Charges**

- Under current law, the GST treatment of legislative charges (e.g. levies) is generally determined according to ordinary principles, and there is no clear or discernible pattern as to why some levies or charges are deemed by the GST Act to be subject to GST. The Bill proposes to bring consistency to the GST treatment of legislative charges by deeming all such charges (as defined) to be subject to GST as consideration for a supply of goods or services. GST will not apply to certain excluded fees e.g. fines, penalties, interest and general tax.

- The new rule will apply in relation to any new legislative charges which come into force on or after 1 July 2023, and to existing legislative charges from 1 July 2026.

Our full commentary of the Bill can be found in the latest edition of our Tax Tips publication.



**For more information please contact:**

**Eugen Trombitas**

Partner, PwC New Zealand

Phone: +64 21 493 903

Email: [eugen.x.trombitas@pwc.com](mailto:eugen.x.trombitas@pwc.com)

# Vietnam

## No Requirement for Issuance of Electronic VAT Invoices for Export Customs Declaration

- The General Department of Customs has recently issued an Official Letter on the requirements for invoices for exported goods. GDC confirms that the invoice to be used for export customs declarations is a commercial invoice or equivalent document. There is no requirement to issue electronic VAT invoices (“e-invoices”) to perform export customs procedures.
- On 03 June 2022, the General Department of Customs issued Official Letter No. 2054/TCHQ-GSQL to the General Department of Taxation on the use of invoices for exported goods, making the following key points:
  - Regarding the invoice to be submitted in the export customs dossier:
    - Pursuant to current customs regulations, the customs dossier for exported goods includes commercial invoice or equivalent document.
    - It is not required to issue electronic VAT invoices in order to carry out export procedures.
  - Regarding the timing of VAT e-invoice issuance for exported goods:
    - Pursuant to points b and c, Clause 3, Article 13 of Decree 123/2020/ND-CP, the timing for VAT e-invoice issuance for exported goods is after the completion of export customs procedures.

- This is welcome guidance and clarifies questions raised by many exporters as to which invoices should be used for customs purposes.

- For the issuance of e-invoices under Decree 123/2020/ND-CP, companies should review and ensure their procedures and timing are in accordance with these regulations.

## Decree 49/2022/ND-CP Amending Decree 209/2013/ND-CP Regarding VAT

- 209/2013/ND-CP regarding VAT.
- Decree 49 will take effect from 12 September 2022.
- Some key changes are as follows:
  - Deductible land price used in VAT calculations in cases of real estate transfer
    - The determination of “compensation” and “site clearance” costs to be deductible in land price in case the State allocates land, or leases the land, to a taxpayer to construct infrastructure and housing for sale are added. Accordingly, the deductible costs would be the amounts approved by the competent authorities.
    - The deductible land price in case a business establishment receives a LUR transfer from an organization or individual is amended to exclude the infrastructure value.
  - VAT payments for business activities or business households
    - For business activities or business households which do not apply or do not fully apply accounting system, invoices and documents in accordance with the regulations, they shall pay

VAT under the deemed method specified in Article 51 of the Law on Tax Administration.

- VAT refund for investment projects
  - o Decree 49 removed the requirement of the construction period to last more than one year to get VAT refund on an annual basis. Furthermore, Decree 49 provides guidance for the case of new investment projects having many investment phases or having investment items.
  - o An investment project which conducts conditional business activities can still obtain VAT refund during the investment period if such investment project, as regulated by the investment and governing law, is not required/has not yet been required to obtain a license/confirmation/approval from the competent authorities to carry out the conditional businesses.
- This is a welcomed change and may help to solve difficulties for many taxpayers in conditional sectors obtaining the VAT refund and assist in accelerating the process.
- Decree 49 will take effect from 12 September 2022, however, the provision relating to VAT refund for investment projects of conditional business activities as regulated in Point 3, Article 1 of Decree 49 took effect from the effective date of Decree 100/2016 (i.e. 1 July 2016). The tax authorities will adjust the VAT, penalty and late payment interest where the VAT refund of the taxpayers of conditional businesses have been recaptured under previous regulations.



**For more information please contact:**

**Annett Perschmann-Taubert**

Partner, Tax and Legal Services PwC (Vietnam) Ltd.

29 Le Duan Street, Ben Nghe Ward

District 1, Ho Chi Minh City, Vietnam

Telephone: +84 28 3824 0113

E-mail: [annett.perschmann@pwc.com](mailto:annett.perschmann@pwc.com)



# Thank you



© 2022 PricewaterhouseCoopers. All rights reserved.

PwC refers to the Australia member firm, and may some times refer to the PwC network. Each member firm is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details. This content is for general information purposes only and should not be used as a substitute for consultation with professional advisors.

Liability limited by a scheme approved under Professional Standards Legislation.

PWC200615906