

ASIFMA Results of Polling on Digital Certificate of Tax Residence (“COTR”)

Date: Friday, 6 Aug 2021

Members: Product Tax Committee (“PTC”) and Operational & Transactional Taxes Subcommittee (“OTT SC”)

Response rate: 7 out of 49 (14%) firms responded

Polling Questions	Responses
1. Please list up to 3 APAC markets where you have operational challenges with paper form COTRs issued by your local tax office.	<ul style="list-style-type: none"> • Hong Kong (3 firms) • Indonesia (3 firms) • Australia (2 firms) • India (1 firm) • Japan (1 firm) • Korea (1 firm) • Romania (1 firm)
	<p><u>Other comments:</u></p> <ul style="list-style-type: none"> • We currently do not face any operational challenges with paper form COTRs in any APAC markets. For us, the APAC market which we typically require COTRs is Singapore, and I believe IRAS does issue digital copy.
2. Please describe the challenges you experience.	<ul style="list-style-type: none"> • Tracking and receiving physical COTRs via mail. • Getting the original copy of COTR or delivering physical COTRs to stakeholders (intermediaries, source market participants, advisors, etc.). • Constraints on the number of COTRs issued by the tax authority and there is risk that the COTR is lost in transit (e.g. HK IRD only issues one original COTR per taxpayer per treaty per year and duplicates are only provided in limited situations). • Tracking progress of applications. • Long processing time for applications (esp. there is delay due to Covid-19 given the staffing/operational/resourcing issues). • Apostille where required creates additional challenges. • Tracking which entity has made COTR applications and for which countries, because not all of these are initiated or handled centrally by tax (e.g. business team sometimes apply for COTRs without notification to the tax team). • Tax authority should maintain the legal entity name/tax identification of the taxpayers, so taxpayers do not have to submit supporting documents (e.g. trust deed, business registration) for the first-time COTR application. This will also eliminate the discrepancies between the legal entity name in the trust deed submitted and the legal entity name that tax authority has on file.
3. Do you expect that an electronic COTR would address the challenges you face? Are there other changes to the	<p><u>Suggestions to advocate for:</u></p> <ul style="list-style-type: none"> • Some of the issues would be resolved to the extent it would be easy to access the electronic COTRs however not all markets accept electronic COTRs. It would be good to have a portal where applications could be tracked (e.g. a comprehensive process whereby the initial application, tracking of status of and issuance of the COTR is done electronically/online via a secured website hosted by the local tax authority would be ideal).

<p>COTR request process you would like ASIFMA to advocate for?</p>	<ul style="list-style-type: none"> • To streamline the process so that the same information does not need to be replicated for the same entity across multiple COTR applications. • “Read only” and “read and” write access rights to the application portal for different users to help manage/centralise the application process. • Ability to track status of applications and a service pledge where the tax authority would commit to issuing the COTR by a certain time after application would also be useful, and this is commonly found in other markets. • Ability to email and print copies of COTRs, request hard copies from tax authorities if required. • COTR application via e-platform can vastly reduce the manual work/time spent to complete/sign paper application if the volume is huge. • Shorter turnaround time as taxpayers/tax authority are not required to mail physical application/COTR. • <i>HK specific</i> - difficult application for non-HK registered entities defined as HK tax resident (by the place of effective management) to get COTR (e.g. a BVI incorporated entities without HK registration but has effective management in HK). HK IRD to issue guidance for non-HK registered entities defined as HK tax residence for application of COTR. • <i>Australia specific</i> - tax authority to provide asset owners/asset managers/intermediaries with a single point of contact to manage COTR & document ‘stamping’ at scale. <p><u>Other comments:</u></p> <ul style="list-style-type: none"> • Yes, it would address the issues in Q2 above, but it would also create a need for some changes to the tax ops workflow process. We are already doing this with the tax doc workflow initiative, and we have more processes available to accommodate with Covid-19 contingency measures, but it would be a change and require planning. <p>Generally, a move to electronic COTRs would be very welcomed by the industry as a whole. Covid-19 has highlighted the fragile structure of the withholding tax industry and its continued reliance on paper-based procedures. In APAC markets, any delay in COTR processing can be extremely impactful, given that global custodians will generally only support a relief at source service due to complexities that exist in dealing directly with tax authorities for reclaim. Any move to electronic COTRs would need to be a reciprocal agreement with a foreign treaty partner. Spain and the UK have been a good working examples of how to support the acceptance of electronic COTRs in global markets through their bi-lateral agreements. We would suggest that Spain are even further ahead with their electronic COTR process as they have methods available to their treaty partners to test for authenticity of documents received (using specific watermarks and codes on the e-COTRs).</p>
<p>4. Do you expect that applying for COTR from local tax office electronically would streamline the tax relief application process?</p>	<ul style="list-style-type: none"> • Yes. • We would assume so but that would be dependent on the process and requirements of the other jurisdictions. • Only partially. The application for a COTR is only part of the process to obtain relief at source. There are other requirements imposed by the local authority or issuers, and these would not be addressed by applying for COTRs electronically. For example, tax jurisdiction such as Indonesia requires COTR to be available before the income payment date for relief at source to apply, and this is problematic for income events in January where the COTR is just being processed/issued by the local tax authority in Hong Kong.