The Income Tax (Amendment) Bill 2024 – Important changes and implications for businesses

October 2024

In brief

The Income Tax (Amendment) Bill 2024 (ITA Bill), which proposes changes to the Income Tax Act 1947 (ITA), was published and read for the first time in Parliament on 9 September 2024. The ITA Bill proposes amendments to legislate measures announced in the 2024 Budget Statement and changes arising from the Ministry of Finance's (MOF's) periodic review of Singapore's income tax regime.

The Multinational Enterprise (Minimum Tax) Bill 2024 (MMT Bill), which proposes to implement the Global Anti-Base Erosion Model Rules (Pillar Two) (GloBE Model Rules) of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF), comprising the Income Inclusion Rule (IIR), and the Domestic Top-Up Tax (DTT) regimes, was concurrently published and read in Parliament. The MMT Bill also proposes consequential amendments to the ITA.

Prior to this, the MOF had published drafts of the above bills and the Multinational Enterprise (Minimum Tax) Regulations for a public consultation exercise which took place from 10 June 2024 to 5 July 2024. The MOF subsequently published a summary of the feedback it received on 31 August 2024 and provided its responses to some of the said feedback. In this Tax Bulletin, we share some of our observations and comments on certain important tax changes proposed in the ITA Bill.

In detail

The ITA Bill proposes 15 amendments to legislate measures announced in Budget 2024 including the corporate and individual tax rebates for Year of Assessment (YA) 2024, enhancement of the tax deduction for renovation or refurbishment expenditure, and the introduction of a new Overseas Humanitarian Assistance Tax Deduction Scheme.

We consider the following to be of significant interest and impact to businesses:

1. Refundable investment credit (RIC)

The ITA Bill proposes to introduce a new RIC scheme which was announced by the Finance Minister in Budget 2024.

Benefits of RICs

The scheme provides that upon approval, a company which incurs qualifying expenditure will be entitled to tax credits (i.e. RICs) that may be utilised in the following manner:

- To offset tax (including interest, penalties and surcharges) levied on or due from the company under the ITA,
- To offset DTT or multinational enterprise top-up tax (including interest, penalties and surcharges) (MTT) that is levied on or due from the company under the Multinational Enterprise (Minimum Tax) Act 2024 (MMT Act), when it enters into effect,
- To offset tax levied on or due from one or more companies of the same group, or
- Where the RICs cannot be fully utilised, paid to the company.

Currently, the ITA Bill limits the types of tax against which RICs may be utilised to:

(i) income taxes payable under the ITA, and
(ii) DTT or MTT under the MMT Act.

It is noteworthy that RICs cannot be set off against withholding tax due by the company to the government, presumably on the basis that the withholding tax is a tax on certain income derived by the non-resident and the company is only an agent to collect the tax for the government.

We had previously proposed that the government allow businesses to set off their RICs against a broader range of other types of taxes, such as goods and services tax, property tax or stamp duties due by the company to the government. While this suggestion was not adopted, we hope that in the future, the MOF will consider such flexibility in the scheme as the RIC becomes more entrenched in our income tax law.

Qualifying expenditure ‘incurred’

The legislation, as currently drafted, stipulates that RICs should be granted in respect of expenditure which is ‘incurred’. It is unclear if the policy intent is to align this term to the same ‘incurred’ condition for tax deduction in section 14(1) of the ITA. If so, it could lead to some common business expenditures failing to qualify for RIC claims.

As an example, it is generally accepted that where share-based remuneration awards are satisfied by way of a fresh issue of shares, there is no expenditure incurred since the company issuing the shares may be seen as not having suffered a diminution or movement of its assets. The IRAS could accordingly question if expenditure is actually incurred in the awards of new shares should the company attempt to claim RIC on such costs. It would therefore be helpful for taxpayers if this point can be clarified by the MOF.

Granting RICs based on other measures of economic value-add

The legislation provides for RICs to be granted only by reference to expenditure, i.e. value-added inputs to the business. Conceivably, there are many other ways to measure a company’s contributions to the Singapore economy. Outcome-based measures such as achieving certain production volumes, reduction in the units of greenhouse gases emitted, etc., may perhaps be considered in a future iteration of the RIC scheme. With businesses always being challenged to achieve more with less, they need to continue to push the productivity boundaries. Granting RICs based on the amount of expenditure incurred may not provide the right incentive to many businesses facing cost pressures. Therefore, awarding RICs based on achieved outcomes that align with business objectives could significantly enhance the attractiveness of RICs to businesses.

Administration of RIC scheme

In the event that an awardee company contravenes a provision of the ITA or a condition in its letter of award, the relevant authority may require the company to show cause why its letter of award should not be amended or revoked, giving 30 days to the taxpayer to reply. The ITA Bill does not provide for any flexibility to extend the 30-day timeline. It is suggested that the relevant authority should be given the powers to extend the timeline at its discretion, where the company has valid reasons to make such a request, to facilitate the administration of the scheme.

As the Singapore tax system is being revised in response to global tax development, and as global and local tax compliance becomes more challenging for taxpayers, transparency of incentive administration, clarity of tax rules and ease of compliance are imperative if Singapore is to remain a competitive business location.

2. Introduce an alternative net tonnage basis of taxation for shipping entities

With effect from YA 2024, an alternative basis of tax will be available where the qualifying income of qualifying shipping entities is taxed by reference to the net tonnage of their ships. This is applicable to entities under the Maritime Sector Incentive (MSI)-Shipping Enterprise (Singapore Registry of Ships), MSI-Approved International Shipping Enterprise, and MSI-Maritime Leasing (Ship) schemes (collectively referred to as the MSI schemes).

Comprehensive rules and response to global tax changes

The change ensures Singapore has a comprehensive incentive regime for its maritime community and preserves its status as an international maritime hub. International enterprises operating in Singapore should be familiar with tonnage tax regimes elsewhere in the world.

The OECD has recommended a new Subject-to-Tax Rule (STTR) be adopted by jurisdictions as part of its GloBE Model Rules. Broadly, the STTR allows a jurisdiction (A) to impose an additional tax of up to 9% on certain payments (such as interest and royalty – collectively referred to as 'covered income' that an entity in A pays to related entities in another jurisdiction (B), if the covered income is taxed at less than 9% in B. The STTR provides an exemption for income that is subject to tax under a tonnage taxation regime. The introduction of a tonnage tax regime by Singapore therefore adheres to accepted global tax principles and facilitates compliance by maritime enterprises with the potential implementation of STTR from 2025 onwards.

Election period

The ITA Bill provides that, upon making an election, tonnage tax shall apply on qualifying income of the shipping enterprise derived in its incentive period. Therefore, such an election is usually valid for 10 years, the typical tenure of the MSI incentive award. Another election for the tonnage taxation basis is allowed upon the renewal of the award, which is typically given in additional tranches of 10 years. An election is irrevocable during the term of the MSI incentive and the taxation basis ceases to apply only when the enterprise which made the election no longer owns or operates the vessel.

Tax as a tool to support the government's environmental agenda

In an interesting move, shipping enterprises which utilise 'green ships'[1] can enjoy a discount off the tonnage tax rates compared to those using non-green vessels. This perhaps marks the first time the government has made a distinction in taxing economic activities of a similar nature by reference to the differential environment impact caused by the tools of business. This could perhaps provide a template in shaping future tax policy as the government pushes its green agenda to achieve its net-zero target.

Operational considerations

While the net tonnage basis should alleviate some tax compliance burdens, the shift away from financial details required for a typical tax computation towards the need to provide operational details associated with the tonnage of vessels may prove burdensome for certain shipping companies. Further, there are ringfencing rules of tax attributes such as unutilised capital allowances and tax losses which could be especially difficult to track.

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[1] A green ship is defined as one which:

- adopts an engine capable of using zero-carbon fuels or low-carbon content fuels with a conversion factor value of lower than two; or
- adopts an electric propulsion system capable of being powered by batteries or fuel cells.

Singapore ship owners and ship operators should consider whether to elect for the alternative basis of tax starting from YA 2024 where the tax return is due for filing on 30 November 2024. Although, for now, there may be little reason to opt for this alternative taxation basis over existing exemption regimes - a consistent feedback from the Singapore shipping community ever since the tonnage tax regime was announced in Budget 2024.

3. Extend and revise the tax incentive schemes for funds managed by Singapore-based fund managers

The various tax incentive schemes for funds and the associated goods and services tax remission and withholding tax exemption schemes will be extended till 31 December 2029.

Key among the significant changes being made to the tax incentive schemes for funds is the revision of economic conditions for qualifying funds under sections 13O and 13U of the ITA. These economic conditions relate to the level of assets under management, the amount of annual business spending and the number of investment professionals employed by a Singapore fund management company. Other changes include the extension of the exemption provided for Singapore tax resident funds in section 13O of the ITA to funds constituted as limited partnerships registered in Singapore with the enactment of a new section 13OA.

The Monetary Authority of Singapore has issued a circular on 1 October 2024. Please refer to our Tax Bulletin dated 3 October 2024 for details.

4. Introduce additional concessionary tax rate tiers for certain tax incentive schemes

The ITA Bill also proposes amendments to introduce an additional 10% concessionary tax rate tier to the Finance and Treasury Centre incentive and Aircraft Leasing Scheme, and an additional 15% tax rate tier to the Intellectual Property Development Incentive, Development and Expansion Incentive and Global Trader Programme. It also provides that the Minister or an authorised body may, on its own initiative (or by application of the company), substitute the current approved concessionary rate with another prescribed rate.

The Minister or the authorised body may vary the concessionary tax rate on its own initiative. Unless there are exceptional circumstances, it would not be equitable for the authorities to unilaterally vary an existing approved tax rate, since the taxpayer would have been approved for the specified rate based on agreed circumstances and economic commitments. The tax rate should only be changed if the taxpayer makes an application for such change, which will in any case be subject to the approval of the relevant authorised body.

Contact us

If you would like to discuss any of the issues raised, please get in touch with your usual PwC contact or any of the individuals listed below.

Lennon Lee
Tax Leader
+65 8182 5220
lennon.kl.lee@pwc.com

Tan Ching Ne
Corporate Tax Leader
+65 9622 9826
ching.ne.tan@pwc.com

Irene Tai
Partner, Corporate Tax
+65 9756 8439
irene.cf.tai@pwc.com

Tan Tay Lek
Partner, Corporate Tax
+65 9179 2725
tay.lek.tan@pwc.com

Lim Lian Cheng
Partner, Corporate Tax
+65 9759 2180
lian.cheng.lim@pwc.com

For further details on our industry specialists, please click here.