

Tax

Public Consultation on 23 Proposed Amendments to Income Tax Act

Introduction

On 8 June 2022, the Ministry of Finance ("**MOF**") announced a [public consultation](#) on 23 proposed amendments to the Income Tax Act 1947 ("**ITA**"). The amendments are set out in the [draft Income Tax \(Amendment\) Bill](#) ("**Draft Bill**"), and comprise:

- Eight amendments to reflect tax measures announced in the 2022 Budget Statement, including:
 - Enhancing the progressivity of personal income tax ("**PIT**") of tax-resident individual taxpayers, and aligning the tax rates of non-tax-resident individual taxpayers to the revised top marginal PIT rate for tax-resident individuals.
 - Facilitating the disclosure of company-related information for official duties.
- 15 amendments arising from the periodic review of Singapore's tax system to revise existing policies, improve tax administration, and enhance the clarity of existing legislation, including:
 - Providing expressly that the Comptroller of Income Tax ("**Comptroller**") has the power to extend filing deadlines in the ITA.
 - Amending the definition of "local employee" under section 37O of the ITA to recognise central hiring and secondment arrangements under the Mergers and Acquisitions (M&A) Scheme.
 - Streamlining provisions on the Board of Review ("**BOR**") and adopting discretionary one-member coram approach for BOR hearings.

The consultation will run from 8 June 2022 to **6 July 2022**. A summary of the main comments received and MOF's responses to the same will be published in August 2022.

In this Update, we elaborate on the amendments below.

Tax Measures in Budget 2022

Budget 2022, titled "Charting Our New Way Forward Together" was unveiled on 18 February 2022 as covered in our earlier Legal Update "[Forward, Together: Singapore Budget 2022](#)". It included several amendments to Singapore's tax regime, which MOF now proposes to implement by way of the draft Bill.

The eight amendments to be implemented are as follows:

1. **Changes to PIT rates of tax-resident individual taxpayers ("tax residents") and non-tax-resident individual taxpayers ("non-tax residents")**

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- a. Currently, the top marginal PIT rate for tax residents is 22%. This will be increased as follows:
 - i. Chargeable income from S\$500,000 to \$1 million: 23%
 - ii. Chargeable income above S\$1 million: 24%
 - b. For non-tax residents, the PIT rates for certain income will also be revised to 24%.
 - c. This increase will take effect from Year of Assessment ("YA") 2024. However, for income due to non-tax residents that are subject to withholding tax ("WHT"), the changes in WHT rates will take effect for payments made from 1 January 2023 instead.
- 2. Facilitation of disclosure of company-related information for official duties**
- a. Currently, the Inland Revenue Authority of Singapore ("**IRAS**") can disclose information collected under the ITA to a public officer (or any other authorised person outside the public sector who is engaged by the Government or a statutory board) ("**Authorised Persons**") where taxpayers have provided consent. Without consent, IRAS may only disclose information where specific legislative exemptions have been provided.
 - b. To facilitate the disclosure of company-related information by IRAS for official duties, the ITA and the Goods and Services Tax Act ("**GSTA**") will be amended to empower IRAS to disclose a prescribed list (set out in [Annex A](#) of the public consultation) of identifiable information on companies to public sector agencies for the performance of official duties without the taxpayer's consent. Such information will be made less granular to preserve the company's confidentiality, e.g. disclosing a company's sales revenue band but not the exact value of the sales revenue.
 - c. This information will not be disclosed to any Authorised Person.
- 3. Extension of the Aircraft Leasing Scheme ("ALS") until 31 December 2027.** This will take effect from 1 January 2023.
- 4. Adaptation of the tax framework for facilitating corporate amalgamations ("Tax Framework") for licensed insurers**
- a. The Tax Framework minimises tax consequences arising from a qualifying corporate amalgamation as defined under section 34C of the ITA.
 - b. To ensure parity in treatment for all companies, including those that are in the insurance business, the Tax Framework will be adapted to cover the merger of Singapore-incorporated companies involving a scheme of transfer under section 117 of the Insurance Act 1966 ("**IA**"), where the court order for the confirmation of the scheme is made on or after 1 November 2021.

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- c. The adaptation of the Tax Framework is subject to conditions such as the transferee taking over all property, rights, privileges, liabilities, and obligations, etc. of the transferor, and the transferor being dissolved or wound up before the filing due date of the income tax return for the relevant YA.

5. Extension and rationalisation of tax incentives for Project and Infrastructure Finance

- a. Two tax incentive schemes for Project and Infrastructure Finance are due to expire on 31 December 2022, namely:
 - i. Exemption of qualifying income from qualifying project debt securities; and
 - ii. Exemption of qualifying foreign-sourced income from qualifying offshore infrastructure projects/assets received by approved entities listed on the Singapore Exchange.
- b. These schemes will be extended until 31 December 2025.

6. Insurers to change basis of preparation of tax computations from financial statements ("FS") to Monetary Authority of Singapore ("MAS") Statutory Returns

- a. With the adoption of the new Financial Reporting Standard ("FRS") 117 for the preparation of the FS, the MAS Statutory Returns instead of the FS will be used as the basis for preparing tax computations for insurers. Related consequential adjustments to existing tax treatments will also be introduced.
- b. This will take effect from YA 2024, or YA 2025 for insurers whose financial year end is not 31 December.

7. Extension of WHT exemptions for non-tax-resident mediators and arbitrators

- a. Currently, such mediators and arbitrators are exempted from 15% WHT on gross income or 22% on net income until 31 March 2022.
- b. This exemption will now be extended by one year to 31 March 2023. Thereafter, such mediators and arbitrators will be subject to a concessionary WHT rate of 10%, subject to conditions, until 31 December 2027. Alternatively, they may elect to be taxed at 24% on their net income from YA 2024.

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Periodic Review of Income Tax Regime

Key amendments

1. **Extending the application of section 37A adjustment factor ("adjustment factor") to persons deriving qualifying income from qualifying debt securities ("QDS")**
 - a. Currently, an adjustment factor is applied when a company offsets its unabsorbed capital allowances, losses and donations in respect of income that is subject to tax at one rate against income that is subject to tax at a different rate.
 - b. The proposed amendment extends the application of the adjustment factor to bodies of persons deriving qualifying income from QDS. This will take effect from YA 2023.
2. **Extending the application of section 13(12A) of the ITA to orders made under section 13(12) that exempt from tax foreign-sourced income received in Singapore by certain entities ("Orders")**
 - a. Currently, section 13(12A) applies to Orders where the foreign-sourced income is received by (i) the trustee of a Singapore-listed Real Estate Investment Trust ("**S-REIT**"), or (ii) a Singapore-incorporated company the share capital of which is wholly-owned directly by the trustee of a S-REIT.
 - b. The proposed amendment will extend the application of section 13(12A) to Orders where the recipients are:
 - i. a trustee of a sub-trust where all rights or interests in property of the sub-trust are held by the trustee of a S-REIT for the benefit of the S-REIT's beneficiaries; or
 - ii. a Singapore-incorporated company the share capital of which is wholly-owned indirectly by the trustee of a S-REIT.
3. **Extending the application of section 45I to varied contracts**
 - a. Currently, interest payments made by a tax-resident or permanent establishment in Singapore to a non-tax-resident outside Singapore are subject to 15% WHT. There are exemptions to WHTs for financial institutions, which are generally applied on a contract basis such that all interest payments under an eligible contract will be exempted from WHT as long as the contract is in force, including extended or renewed contracts.
 - b. The proposed amendment will extend the treatment to varied contracts, where the variation takes effect on or after the date the Amendment Act is published in the Gazette to the end of the relevant period for the various WHT exemptions.

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Administrative amendments

Several amendments are more administrative in nature, which we sketch out briefly below:

1. Allowing a Travel Restriction Order (TRO) to be served electronically;
2. Providing expressly that the Comptroller has the power to extend filing deadlines in the ITA;
3. Granting the Comptroller the power to compound offences under the new section 105M(1B) of the ITA (relating to penalties on certain Automatic Exchange of Information (AEOI) offences);
4. Empowering BOR Chairpersons with the discretion to convene a one-member coram instead of the default three-member coram for BOR hearings;
5. Amending several definitions, namely:
 - a. "Foreign ship" – to exclude a ship that is a provisionally registered ship in relation to the scope of tax exemption under the Maritime Sector Incentive-approved International Shipping Enterprise award under section 13E of the ITA.
 - b. "Local employee" – to recognise central hiring and secondment arrangements under the Mergers and Acquisitions Scheme under section 37O of the ITA
6. Standardising the terms "related party", "holding company" and "subsidiary" in the ITA;
7. Clarifying that the tax exemption under the enhanced tier fund scheme (section 13U scheme) will be allowed on qualifying income arising from funds of foreign investors and qualifying funds under the tax incentive schemes for funds, in addition to funds of a master fund or any feeder funds;
8. Allowing the Minister for Finance and an authorised body to determine the eligibility of a foreign trust under the Foreign Trust Scheme;
9. Clarifying that interest income derived from loans of capital nature should be charged to tax based on contractual interest instead of effective interest; and
10. Repealing obsolete provisions of the ITA (set out in the Appendix to [Annex B](#)) that relate to expired tax schemes, incentives, concessions and treatments.

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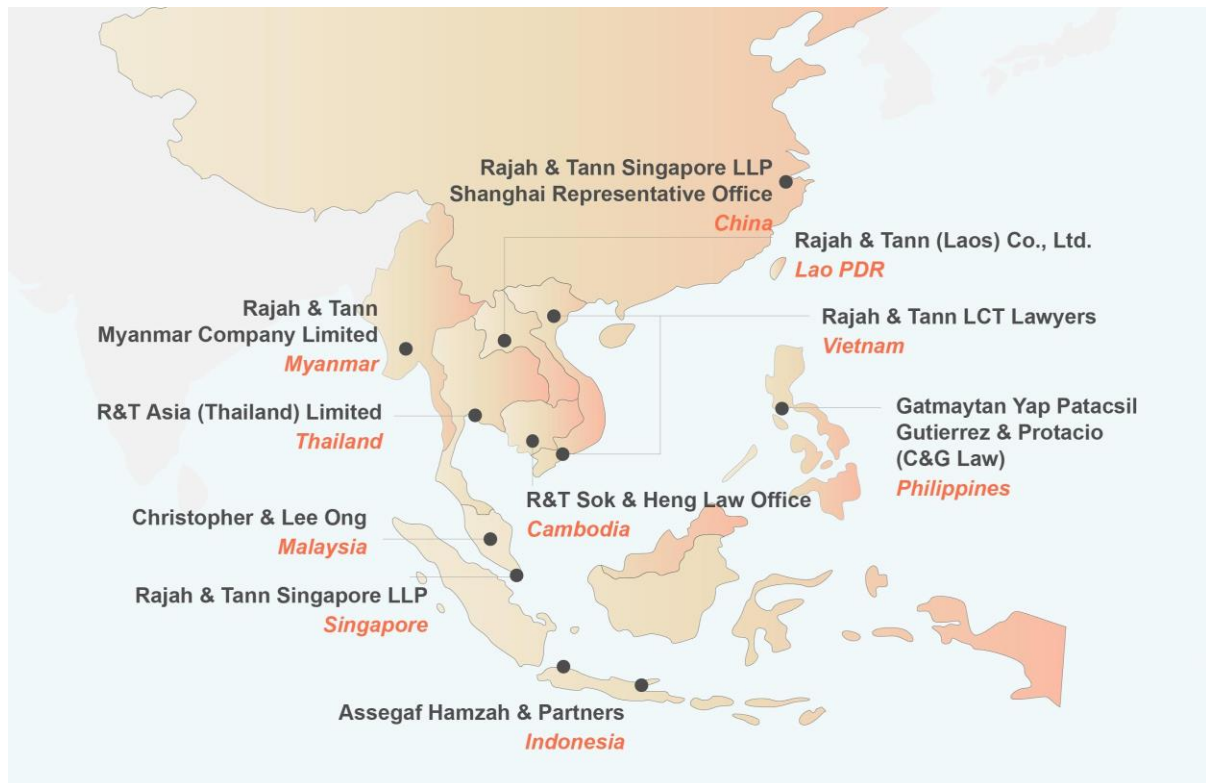
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