Sustainability | Tax

Consultation on Changes to Carbon Pricing Act 2018 to Revise Carbon Tax Regime

Introduction

In joining the global fight against climate change, Singapore has raised its climate ambitions to achieve net zero emissions by or around mid-century. In this regard, the Singapore Government stated in the Budget 2022 that it intends to, among other things: (i) raise the carbon tax progressively from 2024; (ii) introduce a transition framework to give eligible companies in emissions-intensive trade-exposed ("**EITE**") sectors more time to adjust to a low-carbon economy; and (iii) provide companies with the option to use eligible international carbon credits instead of paying carbon tax for up to 5% of their taxable emissions from 2024 onwards.

The carbon tax regime in Singapore is governed under the Carbon Pricing Act 2018 ("**CPA**") that provides for, among other things, requirements relating to registration, reporting and payment of tax in relation to greenhouse gas ("**GHG**") emissions. To give effect to the proposed changes to the carbon tax regime in order to meet Singapore's climate goals, legislative changes are being proposed to the CPA. These proposed changes are set out in the draft Carbon Pricing (Amendment) Bill ("**Bill**"), which the Ministry of Sustainability and the Environment ("**MSE**") is seeking feedback on through a public consultation exercise from **8 July 2022 to 5 August 2022**.

In this Update, we outline key proposed changes in the Bill.

Revisions to Carbon Tax Rate, Registration and Emissions Reporting Requirements

The CPA sets out the registration, emissions reporting and carbon tax payment requirements for specified registered persons and business facilities. Where the business facility is under the operational control of a person in a trigger year, the person must register as a registered person and register the relevant business facility as a reportable facility and/or a taxable facility. Business facilities that emit a specified threshold amount of GHG emissions must be registered as a reportable facility and/or taxable facility and are subject to registration and emissions reporting requirements.[1] A taxable facility is also required to pay carbon tax.

[1] A reportable facility refers generally to any industrial facility that emits direct GHG emissions equal to or above 2,000 tCO_2e annually. A taxable facility refers generally to any industrial facility that emits direct GHG emissions equal to or above 25,000 tCO_2e annually.

Sustainability | Tax

Progressive Increase in Carbon Tax Rate

Currently, the carbon tax rate is $5/t$CO_2$e. To meet Singapore's enhanced climate goals, the carbon tax is proposed to be increased progressively as follows:

- $5/t$CO_2$e for carbon tax for GHG emissions in 2023 or any earlier emissions year;
- $25/t$CO_2$e for carbon tax for GHG emissions in 2024 or 2025; and
- $45/t$CO_2$e for carbon tax for GHG emissions in 2026 or any later emissions year.

Revised Registration and Emissions Reporting Obligations

Amongst others, changes are also proposed to amend the registration and emissions reporting requirements of registered persons, reportable and taxable facilities (particularly where there has been a transfer of operational control over a business facility), as well as the basis for liability for carbon tax. These include amending the obligations of a person (Y) to whom a registered person (X) transfers operational control over a business facility, in relation to: (a) Y's registration as a registered person, and the registration of the business facility as a reportable facility, or both a reportable facility and a taxable facility, of Y; and (b) X's and Y's submission of emissions reports and monitoring plans.

Changes are also proposed to allow a business facility as a reportable facility or a taxable facility to be deregistered if the registered person of the business facility, despite having operational control over the business facility, is no longer operating it.

Transition Framework for EITE Companies; Allowances to Reduce Carbon Tax for Eligible Taxable Facilities

A transition framework is being proposed to provide time for existing EITE companies to adjust to a low-carbon economy, by granting allowances to eligible taxable facilities to reduce the amount of carbon tax payable for any emissions year. Examples of EITE sectors include the energy and chemicals and electronics sectors. Non-EITE sectors include domestic-oriented sectors such as power generation companies and waste management companies, among others.

The proposed provisions relating to the grant of allowances to reduce carbon tax are set out in a new Division 1A of Part 5 in the CPA, which will apply in relation to emissions years starting from and including 1 January 2024 up to such date as may be prescribed by the Minister in charge. An allowance, in relation to a taxable facility that is eligible for an allowance for an emissions year, refers to the amount by which the total amount of reckonable GHG emissions of the taxable facility in the emissions year may be reduced for the purpose only of determining the amount of the tax chargeable for the emissions year.

Sustainability | Tax

Among other things, the proposed new provisions in the CPA set out the eligibility criteria for the grant of allowances to taxable facilities, as well as how the amount of allowances will be determined (for instance, based on efficiency standards and decarbonisation targets). Further details of the framework will be shared in 2023 before the revised carbon tax framework is implemented in 2024.

Revisions to Carbon Price, Credits; Use of International Carbon Credits

The CPA sets out the concept and value of a carbon credit, and governs how a carbon credit may be dealt with. Currently, each carbon credit has a value of $5. It is proposed that the carbon price will be amended as follows:

- $5 for a fixed-price carbon credit purchased in 2024 or any earlier year;
- $25 for any fixed-price carbon credit purchased in 2025 or 2026; and
- $45 for any fixed-price carbon credit purchased in 2027 or any later year.

Changes are also proposed to rename "carbon credits" as "fixed-price carbon credits". A new section 31A is proposed to allow for the conversion of fixed-price carbon credits purchased at a certain price to such number of fixed-price carbon credits according to a specified formula upon change in carbon price.

In addition, it is also proposed to provide companies with the option of using eligible international carbon credits instead of paying carbon tax for up to 5% of their taxable emissions from the year 2024 onwards. To implement this proposal, key proposed amendments to the CPA include:

- Establishing an International Carbon Credits Registry and international carbon credit registry accounts; and
- Providing for various matters concerning eligible international carbon credits, the International Carbon Credits Registry and international carbon credit registry accounts. For instance, to allow the surrender of eligible international carbon credits in place of fixed-price carbon credits for the purpose of paying the carbon tax. These changes are set out in the proposed new Divisions 5 and 6 in Part 5 of the CPA.

For details of these and other changes, please refer to the Bill for the new/revised definitions as well as clauses amending the relevant sections in the CPA.

Concluding Words

Feedback on the Bill must be submitted to MSE by **5pm on 5 August 2022**. For more information, please click here for the MSE public consultation exercise made available on REACH (www.reach.gov.sg). The full text of the draft Bill is available here.

Sustainability | Tax

How We Can Help

The Bill sets out important and significant developments in relation to the treatment of carbon tax and carbon credits. We strongly encourage businesses to follow the developments and assess the practical impact and opportunities they afford to your operations.

If you have any queries regarding the above development, please feel free to contact our team below.

In full support of the Singapore Government's efforts to champion green and sustainability practices in Singapore and the region, Rajah & Tann Singapore has a Sustainability Practice which comprises multi-disciplinary specialist teams who can advise you on the adaptation of your business to take into account sustainability and ESG (environmental, social and governance) issues.

Contacts

Sustainability

Lee Weilin
Head, Sustainability
Partner, Banking & Finance

T +65 6232 0707

weilin.lee@rajahtann.com

Kala Anandarajah, PBM
Partner, Sustainability
Head, Competition & Antitrust and Trade

T +65 6232 0111

kala.anandarajah@rajahtann.com

Soh Lip San
Partner, Sustainability
Energy & Resources

T +65 6232 0228

lip.san.soh@rajahtann.com

Sandy Foo
Partner, Sustainability
Deputy Head, Corporate and Transactional Group
Head, Mergers & Acquisitions

T +65 6232 0716

sandy.foo@rajahtann.com

Ng Sey Ming
Partner, Sustainability
Co-Head, Banking & Finance

T +65 6232 0473

sey.ming.ng@rajahtann.com

Disa Sim
Partner, Sustainability
Head, Appeals & Issues

T +65 6232 0415

disa.sim@rajahtann.com

Shemane Chan
Partner, Energy & Resources

T +65 6232 0285

shemane.chan@rajahtann.com

Tax

Vikna Rajah
Head, Tax and Trust
Co-Head, Private Client

T +65 6232 0597

vikna.rajah@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*
Rajah & Tann Singapore LLP
T +65 6535 3600
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*
R&T Sok & Heng Law Office
T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海
SHANGHAI REPRESENTATIVE OFFICE | *China*
Rajah & Tann Singapore LLP
Shanghai Representative Office
T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*
Assegaf Hamzah & Partners

Jakarta Office
T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office
T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*
Rajah & Tann (Laos) Co., Ltd.
T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*
Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*
Rajah & Tann Myanmar Company Limited
T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL
GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*
Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)
T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

RAJAH & TANN | *Thailand*
R&T Asia (Thailand) Limited
T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*
Rajah & Tann LCT Lawyers

Ho Chi Minh City Office
T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

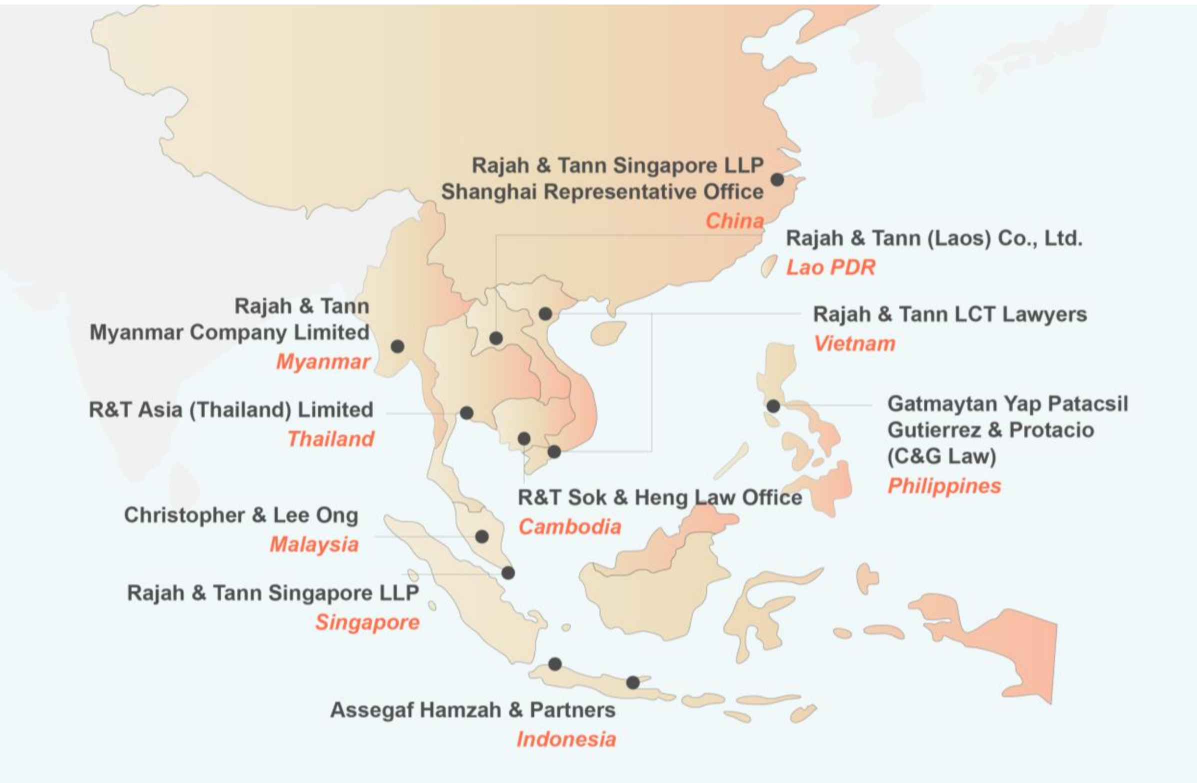
Hanoi Office
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

RAJAH & TANN ASIA
LAWYERS WHO KNOW ASIA

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.