News Alert on the 2021 Singapore Budget and Other Recent Tax Developments

In a ‘no stone unturned’ approach, the Year 2020 saw the Singapore Government providing an unprecedented S$100 billion support to deal with the economic blow of the COVID-19 pandemic, leading to a record Budget deficit of S$64.9 billion, i.e., 13.9% of GDP. Not resting on its laurels as one of the best managed nations amidst the pandemic, the Finance Minister presented an ‘Emerging Strong Together’ Budget continuing the support to the workers, households and businesses while digging a further S$11 billion into reserves in addition to the S$11 billion in 2020.

For the businesses, the Budget further extended the Jobs Support Scheme for distressed sectors for a further period ranging from 3-6 months while also extending the Job Guarantee Incentive by another 7 months. On the tax front, the Budget extended the enhanced ‘loss carry-back’ relief, accelerated deductions for plant and machinery and refurbishment costs for one more year. In keeping up with the post pandemic economy, it extended the internationalisation incentives to virtual trade fairs and other expenses which would cater to the emerging realities of the businesses. The Budget also continues the motto of Singapore’s stable economic policy by extending the sunset dates of various deductions and/or exemptions applicable to the financial services sector and in general. On the GST front, it extends the scope of GST on imports by including the import of non-digital services and the import of low value goods effective from 2023.

This alert highlights key tax proposals from this Budget, as well as summarises the major tax developments over the past one year, which may be of interest to businesses and investors operating in Singapore.

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Corporate Tax

- The prevailing corporate tax rate remains at 17%.

- No Corporate Income Tax rebate has been announced for Year of Assessment (YA) 2021.

- **Loss carry-back relief**

  Generally, the tax losses and allowances for a YA may be carried back for an offset against the tax profits of the immediately preceding YA, capped at S$100,000.

  Budget 2020 had allowed carry-back of YA 2020 losses/allowances (within the above cap) for up to three immediately preceding YAs. The current Budget extends this enhanced carry back relief for losses/allowances generated during YA 2021 as well.

- **Acceleration of write-off/ deduction claim**

  - Plant and Machinery ("P&M")

    Generally, the capital allowances are available for capital expenditure on the acquisition of P&M over the working life of the assets as specified in the Sixth Schedule, or over 3 years.

    Budget 2020 gave an irrevocable option to the taxpayer to accelerate the above allowance over two years (75% of the cost incurred for YA 2021 and the balance 25% in YA 2022) for acquisition of P&M during YA 2021. This option did not allow for deferment of capital allowances claim. The current Budget extends this relief to the acquisition of P&M for YA 2022.

  - Renovation and Refurbishment ("R&R")

    Similarly, Budget 2020 gave an irrevocable option to the taxpayer to claim accelerated R&R deduction over one YA instead of the general amortisation over three consecutive YAs equally (within the overall cap of S$300,000 for every relevant block of three consecutive YAs). The current Budget proposes to extend this relief to R&R expenditure incurred for YA 2022.

- **Double Tax Deduction for Internationalisation scheme**

  Under the Double Tax Deduction for Internationalisation (DTDi) scheme, a 200% tax deduction is allowed on certain internationalisation expenses such as qualifying market expansion expenses incurred on participation in overseas trade fairs or approved locally held trade fairs.

  To continue supporting internationalisation initiatives amidst post-COVID environment, the scope of DTDi scheme will be enhanced to cover specified expenses incurred in participation at approved **virtual** trade fairs.

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In addition, the scope of qualifying internationalisation activities (not requiring prior approvals) will be enhanced to cover:

- Product/service certification approved by Enterprise Singapore
- Overseas advertising and promotional campaign
- Design of packaging for overseas markets and
- Advertising in approved local trade publication

The above enhancements are effective for expenses incurred from February 17, 2021; Enterprise Singapore will provide further details of the changes by February 28, 2021.

Financial Services Sector

- **Extension and refinement of the double tax deduction for qualifying upfront cost attributable to retail bonds**

  Under the existing provisions, bond issuers who carry on a business in Singapore, are allowed to claim double tax deduction on qualifying upfront cost incurred from May 19, 2016 (attributable to retail bonds issued during the period from May 19, 2016 to May 18, 2021) under the MAS' Seasoning Framework and Exempt Bond Issuer Framework.

  In order to promote the rated retail bond issuances, the double tax deduction (DTD) scheme is proposed to be extended for qualifying upfront cost incurred on or after May 19, 2021 that is attributable to rated retail bonds (instead of all retail bonds) issued during the period from May 19, 2021 to December 31, 2026 under the aforesaid framework. MAS will provide further details by May 31, 2021.

- **Extension and rationalisation of withholding tax exemptions for the financial sector**

  The existing withholding tax (WHT) remission for interbank/ interbranch transactions on interest payments [covered by Section 12(6) of Singapore Income Tax Act (SITA)] will be legislated as a WHT exemption with effect from April 01, 2021, along with a review date of December 31, 2031. The WHT exemption will apply to all payments made beyond December 31, 2031 under contracts that takes effect by December 31, 2031.

  The WHT exemption on interest payments by specified entities[1] will be extended from March 31, 2021 up to December 31, 2026.

- **Extension of WHT exemption for structured products**

  Under the existing provisions, the WHT exemption is allowed on payments made to non-residents (excluding any permanent establishments (PE) in Singapore) from structured

[1] Specified entities are:

i Banks licensed under the Banking Act or merchant banks approved under the MAS Act.
ii Finance companies licensed under the Finance Companies Act
iii Approved entities that are (a) licensed under the Securities and Futures Act for dealing in capital markets products and advising on corporate finance; (b) involved or will be involved in the underwriting of debt or equity issuances; and (c) approved by MAS for the purpose of the exemption.

products offered by a financial institution in Singapore (made under a contract that takes effect during the period from January 01, 2007 to March 31, 2021).

The above sunset date of March 31, 2021 is now extended to December 31, 2026.

- **Extension of WHT exemption on payments for over the counter (OTC) financial derivatives**

  Under the existing provisions, the WHT exemption is allowed on payments made to any non-resident person (excluding any PE in Singapore) from OTC financial derivatives made by a financial institution in Singapore.

  This WHT exemption, scheduled to lapse after March 31, 2021, is now extended to December 31, 2026.

- **Lapse of the Insurance Business Development-Specialised Insurance Scheme**

  To streamline and simplify Insurance Business Development umbrella scheme, the Insurance Business Development-Specialised Insurance (“IBD-SI”) scheme will lapse after August 31, 2021. With the lapse of the IBD-SI scheme, insurers engaged in the specialised insurance and reinsurance business can apply for the IBD umbrella scheme.

Other corporate tax measures

- **Automation Support Package and Investment Allowance Scheme**

  The Automation Support Package (ASP) will lapse after March 31, 2021.

  The Investment Allowance (IA) scheme to support automation will be extended by two years for automation projects approved by Enterprise Singapore from April 2021 to March 31, 2023. All other conditions remain same.

- **Extension and enhancement of Investment Allowance (Energy Efficiency) Scheme**

  The existing scheme is renamed to “Investment Allowance for Emissions Reductions” (IAER) and provides for expansion in the scope of qualifying projects to also include non-data centre projects with reduced greenhouse gas emissions.

  The revised conditions will apply to projects approved by EDB from April 01, 2021 to December 31, 2026. EDB will release further details by June 30, 2021.

- **Withdrawal of the Accelerated Depreciation Allowances for Highly Efficient Pollution Control Equipment**

  Under the Accelerated Depreciation Allowances for Highly Efficient Pollution Control Equipment (ADA-PCE) scheme, an accelerated one-year write-off was allowed for the

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capital expenditure cost of acquiring qualifying highly efficient PCE. This scheme will be withdrawn from February 17, 2021.

- **Encouraging Philanthropy and Volunteerism**

  To continue encouraging Singaporeans to give back to the community, qualifying donations will be eligible for a 250% tax deduction made to Institutions of a Public Character (IPCs) and other qualifying recipients up to December 31, 2023.

  To continue supporting corporate volunteering, 250% tax deduction on qualifying expenditure (e.g., staff cost) will be extended till December 31, 2023 under the Business and IPC Partnership Scheme (BIPS).

- **Extension of Not-for-Profit Organisation tax incentive**

  The Not-for-Profit Organisation (NPO) tax incentive provides tax exemption on the income derived by an approved NPO, subject to conditions. This incentive, scheduled to lapse after March 31, 2022, is now extended to December 31, 2027.

Goods and Services Tax (GST)

- **GST on imported low-value goods and B2C non-digital services**

  Currently, low-value goods (< S$400) imported via air or post are not subject to GST. Similarly, Business-to-Consumer (B2C) non-digital imported services are also not subject to GST.

  The current Budget now proposes to extend GST to the above supplies with effect from 2023 (through the extension of the Overseas Vendor Registration and reverse charge regimes for B2C imported non-digital services). IRAS will consult the industry before the implementation.

  The above creates a level playing field for the domestic supplier in similar situation and add the GST scope of imported supplies, which was last extended to include B2C imported digital services and business-to-business (B2B) imported services (announced in 2018 and implemented from 2020).

- **Conditions for Zero-Rating Media Sales**

  Currently for GST purposes, the media sales are zero-rated if the advertisement is intended to be substantially circulated outside Singapore. This basis for determining zero-rating of media sales will be replaced with the place where the contractual customer and direct beneficiary belong. Accordingly, with effect from January 01, 2022:

  (i) If the customer belongs in Singapore, the media sales will be standard rated.

(ii) If the customer belongs outside Singapore, then the media sales can be zero-rated only where the direct beneficiary either belongs outside Singapore or is GST-registered in Singapore.

Personal Income Tax

- The top marginal tax rate remains at 22%, with the rates and bands also remaining unchanged.

- No personal tax rebate is announced for YA 2021.

Non-tax measures

- **Extension of Jobs Support Scheme**

  In order to continue support for workers and businesses, Jobs Support Scheme (JSS) will be extended for the below sectors that continue to be hard-hit due to COVID:

  - **Aviation, aerospace, and tourism sector:** Businesses in these sectors will receive 30% support for wages paid from April to June 2021, and 10% support for wages paid from July to September 2021
  - **Retail, arts and culture, food services, and built environment:** Businesses in these sectors will receive 10% support for wages paid up to June 2021.

- **Jobs Growth Incentive**

  To enable Singaporeans to take on new jobs and acquire new skills, hiring window under the Jobs Growth Incentive (JGI) is extended by seven months for all new local hires i.e. upto September 2021. For employers hiring mature workers, persons with disabilities, and ex-offenders, the support will be given up to 18 months. The support will be limited to 12 months for other employees.

- **Wage Credit Scheme**

  The Wage Credit Scheme is extended by one year to 2021, with the government co-funding ratio remaining at 15% and the qualifying gross wage ceiling at S$5,000.

- **Encouraging Early Adoption of Electric Vehicles and environmental sustainability**

  To encourage early adoption of Electric Vehicles, the Additional Registration Fee floor will be lowered from S$5,000 to S$0 for electric cars from January 2022 to December 2023. Petrol duty rates have been revised with an increase of S$0.15 per litre for premium grade and S$0.10 per litre for intermediate grade. Other transitional offset measures have been introduced for vehicles using petrol.

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Key tax developments over last one year

Support measures and tax guidance related to covid-19 resilience package

- **Income Tax Treatment of COVID-19 Related Payouts**

The tax support measures include various COVID-19 related payouts and the income tax treatment of such pay-outs in the hands of businesses and individuals is as follows:

Purpose of Payout	Tax Treatment
Payouts that are meant to **support individuals** through the exceptional circumstances arising from the COVID-19 pandemic or as unconditional gifts.	**Not taxable** Examples – Payouts under Self-Employed Person Income Relief Scheme, COVID-19 Support Grant, Workfare Special Payment (under Care and Support package), Temporary Relief Fund payout, Courage Fund COVID19 Relief schemes etc.
Payouts that help employers retain their local employees by providing **cashflow support or mitigate the financial impact** of COVID-19 containment measures	**Not taxable** Examples – Job Support Scheme payout, COVID-19 payouts for Quarantine Order Leave-of Absence, Stay-Home Notice, Government Cash Grant for rental relief etc.
Payouts that are given to **defray the operating costs** of a business and is revenue in nature.	**Taxable** Examples - Temporary Housing Support for employers affected by Malaysia's Movement Control Order, payouts to support employment of senior workers, Special relief for unhired taxis etc.

- **Guidance on Tax Residency and PE**

The IRAS has clarified that even if directors' meetings cannot be held in Singapore due to COVID-19 situation, Singapore ***tax residency*** for companies in YA 2021 will remain the same as in YA 2020, provided their economic circumstances remain the same.

Conversely, the temporary and unplanned physical presence of foreign companies' employees in Singapore, in the year 2020 (for up to 183 days), due to COVID-19 travel

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restrictions, will not result in ***PE*** exposure, provided the foreign company had no PE in Singapore in YA 2020 and its economic circumstances remained the same.

- **Transfer Pricing Guidance**

  For substantiating the arm's length condition in the case of an entity that is severely affected by COVID-19, the IRAS has issued guidance on the information that can be included as part of Transfer Pricing (TP) documentation. The IRAS has also clarified on how term-testing (i.e. testing of the related party transaction over a multiple-year period) can be applied for an entity's related party transactions so that the impact of COVID-19 can be spread out over a longer period of years.

  Furthermore, the IRAS has issued FAQs on the impact of COVID-19 on an existing Advance Pricing Arrangements (APA) as well as APA applications.

- **Income Tax Treatment of Real Estate Investment Trusts and Approved Sub-Trusts**

  In order to provide Real Estate Investment Trusts (REITS) with greater flexibility to manage their cashflows and raise funds amid a challenging operating environment due to COVID-19, various relief measures have been introduced such as extension of time for distribution of taxable specified income of the trustee for the financial year (FY) 2020 and FY 2021. The updated e-tax guide provides details/clarifications on all the measures.

- **GST Guidance**

  The IRAS has issued guidance on the circumstances when ***GST input tax*** can be claimed on accommodation expenses and other types of benefits provided to support employees who are affected by the COVID-19 pandemic.

  In case of ***exports of goods***, the usual timeframe of 60 days for exporting the goods and collating the required documents is extended to 120 days if the delays arose from the COVID-19 situation.

- **Individual Income Tax Guidance**

  Due to the border restrictions imposed due to COVID-19, employees (normally residing outside Singapore e.g., Malaysia, who are required to reside in Singapore to ensure the continuity of employer's business) receiving accommodation and related benefits will be tax exempt in Singapore subject to the satisfaction of certain conditions.

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Employment income of ***individuals working for overseas employers***, who are now working ***remotely*** from Singapore, will **not** be taxable in Singapore for the specified period.

Form C-S (LITE)

The IRAS has launched a simplified Corporate Income Tax (CIT) Return for smaller companies having revenue less than S$200,000.

Clarification on the deductibility of the unilateral digital taxes

The IRAS has clarified that if such taxes are imposed as an income tax, deduction would be prohibited under section 15(1)(g). However, if such taxes are imposed in the form of turnover taxes, then they may be deductible against income taxable in Singapore under section 14(1). Examples of such taxes are India's Equalization Levy (EL) and the United Kingdom's Digital Services Tax.

Advance rulings

Since April 2020, a summary of Advance Rulings issued by the IRAS are been published on the IRAS website. This would further encourage taxpayers to actively approach IRAS for obtaining advance rulings on tax matters so as to avoid uncertainty or dispute on the tax positions. The matters on which advance rulings have been issued so far include characterization of hybrid instruments and related issues, withholding on payments made pursuant to license agreements, income tax issues relating to foreign limited partnership, tax treatment of expenditure incurred to acquire new business, the applicability of deemed remittance for capital reduction exercise, etc.

Income tax treatment of digital tokens

IRAS has issued e-tax guide on income tax treatment of digital tokens – including payment tokens, utility tokens and security tokens. Clarifications have also been provided on tax treatments of various events such as receipt of Initial Coin Offering (ICO) proceeds, ICO failure, receiving payment token through mining, founder's tokens etc.

- **Payment tokens** are synonymous with cryptocurrencies and have no further function apart from being used as a mode of payment. These are regarded as intangible property for tax purposes. Accordingly, if a change in fair value of the payment tokens is recognized in the financial statements, such unrealized fair value gain and/or loss is not taxable and/or deductible.

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- **Utility tokens** gives the owner a specified or implied right to use or benefit from goods and/or services in exchange for that token. As such, when a person acquires a utility token, the amount incurred by the user to purchase the utility token is treated as a prepayment for the goods or services it may receive in future. When the token is actually used to exchange for the goods or services, a tax deduction may be allowed to the user.
- **Security tokens** gives the owner an equity/ interest akin to a specified or implied degree of control or economic entitlement. As such, the taxability of the return derived from a security token would depend on the nature of the return, for example, whether it is in the form of interest, dividend or other distributions.

For GST purposes, with effect from January 01, 2020, there are no GST implications on the supply of digital payment tokens and security tokens. However, GST implications may arise for utility tokens in some cases.

Tax framework for Variable Capital Companies (VCCs)

The IRAS has issued an e-tax guide on August 28, 2020 that explains the tax framework for Variable Capital Companies (VCCs)**,** which is broadly summarized as follows:

- **Income Tax Treatment** - VCCs incorporated under the VCC Act are treated as companies incorporated under the Companies Act for income tax purposes. Further, regardless of whether a VCC is a non-umbrella VCC or an umbrella VCC comprising two or more sub-funds, it will be recognized as a single entity for income tax purpose. Although tax may still need to be computed for separate sub-funds in line with the detailed guidance. This may be of little practical consequence for the VCCs enjoying tax exemption on their entire income under Section 13R, etc.
- **GST Treatment** - For GST purposes, each sub-fund of an umbrella VCC is regarded as a separate person, as a sub-fund makes independent sale and purchase decisions based on its respective investment mandate. At a practical level, each of the sub-funds may need to claim the **GST remission** separately.
- **Stamp Duty Treatment** - The sub-funds of an umbrella VCC are treated as separate persons for stamp duty purposes and accordingly, stamp duty is levied at the sub-fund level, e.g. for share transfer instruments executed by an umbrella VCC for its sub-funds. The fresh issue of shares in sub-funds should generally not attract any stamp duty.

Singapore GAAR - Enhanced Measures

In order to further deter tax avoidance arrangements, the Ministry of Finance (MoF) has now proposed certain amendments to the GAAR provisions. The key features of the proposed amendments are as follows:

i. introduction of a 50% surcharge on additional tax arising from any GAAR adjustments from YA 2023 onwards;
ii. inclusion of group relief within the scope of GAAR; and
iii. mandating the application of GAAR to deny any tax benefits, where the Comptroller is satisfied that an arrangement has been implemented for the purpose of tax avoidance.

Even before the above specific provisions comes into force, the IRAS has already been examining the arrangements lacking commercial rationale or substance from a GAAR perspective. This is evident from a recent ruling in case of GCL v CIT [2020] SGITBR 1 (GCL), wherein the Income Tax Board of Review confirmed the invocation of GAAR provisions under section 33.

Income tax treatment of foreign exchange gains or losses for businesses

With effect from YA 2020, CIT is prepared to allow businesses to treat foreign exchange differences arising from the revaluation of designated bank account as revenue in nature even if the said designated bank account is not maintained solely for revenue purposes. This is provided that the number and value of capital transactions within the designated bank account do not exceed the specified de minimis limit.

GST updates

- From May 2021, most notices will be digitized and paper notices will be phased out.
- To combat Missing Trader Fraud, the IRAS' powers to investigate tax crimes and for seizure of goods have been increased in the GST (Amendment) Bill. The anti-avoidance rules dealing with specific tax planning arrangements have also been enhanced.
- On November 09, 2020, IRAS issued e-tax guide identifying the TP adjustments on which corresponding GST adjustments are required to be made.

International tax updates

- DTA Agreement with Turkmenistan entered into force on April 30, 2020.
- Singapore and Indonesia signed updated tax treaty on February 04, 2020 (the updated tax treaty is not yet ratified and hence, it does not have the force of law)

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- A summary of the effective date from which the MLI changes to various Double Tax Avoidance Agreements (DTAs) of Singapore comes into force is as follows:
  – Indonesia – December 26, 2020
  – Oman - November 01, 2020
  – Kazakhstan - October 01, 2020
  – Czech Republic - September 01, 2020
  – San Marino - July 01, 2020
  – Russia - May 30, 2020
  – Portugal and Uruguay - June 01, 2020

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