Singapore issues guidance on deduction for statutory and regulatory expenses

Executive summary

On 12 September 2014, the Inland Revenue Authority of Singapore (IRAS) issued an e-Tax Guide on the deduction allowed for qualifying statutory and regulatory expenses incurred by businesses in complying with various laws and regulations in Singapore or elsewhere. The specific deduction is introduced to support businesses’ efforts to comply with statutory and regulatory requirements and to provide certainty on the deduction of such expenses.

Detailed discussion

Expenses qualifying for tax deduction

Although businesses are required to comply with various laws and regulations, some of the expenses incurred in doing so may not be tax deductible, as they are not regarded as wholly and exclusively incurred in generating income. However, some of the expenses are currently allowed as an administrative concession.

Effective from year of assessment 2014 and thereafter, the following statutory and regulatory expenses will qualify for tax deduction if they are incurred for the purpose of the taxpayer’s business:

1. Expenditures incurred to comply with any written law of Singapore or another country, e.g., fees for preparation of tax computation, audit fees, and expenses incurred to rectify noncompliance

2. Expenses borne by a taxpayer to comply with any code, standard, rule, requirement or other document issued by the Singaporean Government, a public authority established by or under any public act, or by the government or a public authority of another country, or by a securities exchange, e.g., annual listing fees, and expenses incurred to cure noncompliance
3. Expenses incurred:
   
i. To study the impact of any proposed law or proposed document referred to in (2) above, e.g., expenses incurred to study the impact of the Foreign Account Tax Compliance Act when it was first proposed by the US Government
   
ii. To prevent or to detect any noncompliance with any law referred to in (1) above or document referred to in (2) above, e.g., GST Assisted Compliance Assurance Program (GST ACAP)³
   
iii. To voluntarily comply with a requirement of any law referred to in (1) above or document referred to in (2) above, e.g., audit fees incurred by a company eligible for audit exemption

The term "business" is clarified to mean not limited to an active trade or business carried on by a person, and would include a business from which passive income is acquired. However, this clarification is not codified in the Bill.

**Expenses not qualifying for tax deduction**

The qualifying expenses must be directly related to the taxpayer's compliance with the statutory or regulatory requirement, and must not be capital in nature. Expenses that would not qualify are as follows:

- Fines, penalties, security deposits forfeited for a breach of a requirement of any law referred to in (1) above or document referred to in (2) above, including any amount paid to settle any offence.
- Expenses which are already deductible under any provisions of the ITA.

**Documentation requirements**

Taxpayers are not required to submit any supporting documents or information when claiming a deduction of any qualifying statutory and regulatory expenses; however, they should prepare and retain documents⁴ containing the following information and submit them to the Comptroller of Income Tax upon request:

- Category under which a claim is made
- The statutory or regulatory requirement for which the expense is incurred and the manner that requirement applies to the taxpayer
- The nature of the expense and how it is directly related to the compliance of the statutory or regulatory requirement identified above

**Impact**

The proposed amendment codifies what were previously concessions granted; accordingly, the amendment provides more certainty to taxpayers on the deductibility of such expenses.

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**Endnotes**

1. This is one of the proposed amendments in the Income Tax (Amendment) Bill 2014 (Bill) which was first read in Parliament on 7 October 2014.

2. Year of Assessment (YA) refers to the year in which income tax is assessed on the company. The basis period for a particular YA is the financial year ending in the year preceding that YA.

3. GST ACAP is a compliance initiative for businesses that set up a robust GST Control Framework as part of good corporate governance.

4. The relevant documents/information must be retained for a period of at least five years from the relevant YA.
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