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Malaysian developments

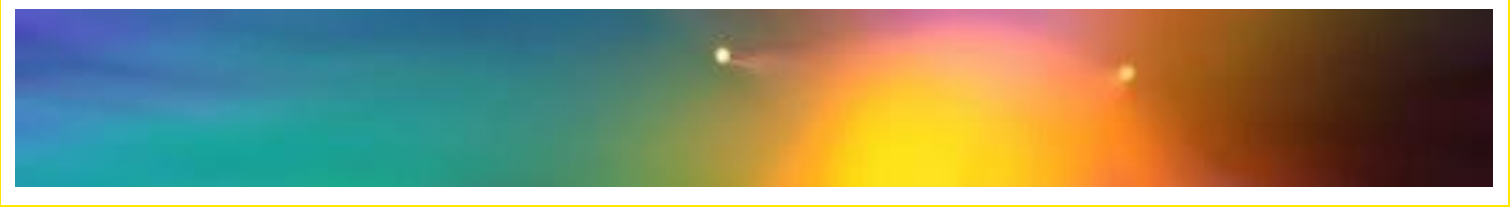
New system transformations and initiatives by the Inland Revenue Board (IRB)

On 6 March 2023, the IRB issued a media release stating that four new system transformations for public access and three new initiatives for HASiL's internal outreach were launched at its 27th HASiL Day Celebration Ceremony, to improve governance in its service delivery systems.

The four system transformations are as outlined below:

- ▶ e-TCC platform for taxpayers to obtain a tax compliance certificate (TCC¹), which is a pre-condition for companies that wish to participate in government procurements. This platform allows the certificate to be printed if the taxpayer has a good compliance status in its submission of income tax return forms and income tax payments.
- ▶ e-PC system for the public to lodge reports on tax evasions committed by any individual or business taxpayer, instead of writing

¹ This was proposed in Budget 2022.



in by way of e-mails.

- ▶ TikTok HASiL to disseminate tax information and announcements
- ▶ Upgraded Malaysian Income Tax Reporting System (MITRS 2.0) to facilitate the online submission of taxation worksheets, financial statements and audit supporting documents.

The three initiatives are as outlined below:

- ▶ Research Clips to display summaries of research papers prepared by the Strategic and Research Department, through a visual approach
- ▶ Updated Risk Management Manual 2.0, taking into account the latest information based on the ISO 31000:2018 Risk Management - Principles and Guidelines as well as HASiL's organizational structural changes that came into effect on 1 January 2023
- ▶ New version of the IRBM Taxpayer Roadmap, with an improved interactive display, to provide guidance to the public on income tax administration processes

Update on Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) (MLI)

As highlighted in earlier alerts, on 24 January 2018, Malaysia signed the MLI (see *Tax Alert No. 4/2018*). Briefly, the MLI allows the Government to effectively implement the anti-BEPS tax treaty measures by modifying existing tax treaties in a synchronized, simultaneous and efficient manner, without the need to renegotiate each treaty separately.

On 18 February 2021, Malaysia deposited its instrument of ratification for the MLI (see *Tax Alert No. 5/2021*). The MLI will come into force on 1 June

2021. However, the effective date of the relevant provisions under the MLI will depend on the dates the treaty partner countries deposit their instruments of ratification. The extent of modification to the tax treaties will also depend on the final positions adopted by the other countries.

The IRB has recently published on its website the latest list of signatories and parties to the MLI, along with each country's position, as of 6 March 2023. The website also outlines the list of Malaysia's treaties which will be modified by the MLI based on each country's position as of March 2023. The above-mentioned lists are available at the following [link](#) [see Sections A and C].

Overseas developments

Singapore plans to implement Global Anti-Base Erosion (GloBE) Rules and Domestic Top-up Tax (DTT) from 1 January 2025

Singapore has announced its plans to implement the GloBE Rules and DTT with dates of entry into effect:

- ▶ Income Inclusion Rule (IIR) & Domestic Top-up Tax (DTT): Fiscal years starting on or after 1 January 2025
- ▶ Undertaxed Profits Rule (UTPR): Fiscal years starting on or after 1 January 2025 (at the earliest)

The Singapore Government will continue to monitor international developments and adjust its implementation timeline as needed, if there are delays internationally. Companies may also expect adequate notice ahead of any rules becoming effective.

Detailed discussion

The key measures of the Singapore Budget announcement, as well as potential issues and planning considerations that businesses should be aware of, are summarized below.

Domestic Top-up Tax

The DTT will top-up an MNE group's effective tax rate in Singapore to 15%. The DTT will apply to MNE groups operating in Singapore that have annual revenues of at least €750 million, as reflected in the consolidated financial statements of the ultimate parent entity.

Timing of implementation

The DTT will be implemented for fiscal years starting on or after 1 January 2025.

While it is noted the Organisation for Economic Co-operation and Development (OECD) has provided in its earlier statement that the UTPR should be implemented one year after the IIR, the Budget announcement seems to suggest that the IIR and UTPR will be implemented in 2025 (this will need to be validated when the legislation is released).

Legislation of GloBE rules and DTT

The legislation has not been released. The Budget 2023 announcement alone should not be considered as nor constitute substantive enactment of the GloBE Rules and DTT.

Observations

- The planned 2025 implementation suggests that broader policy considerations have been taken into account (e.g., that businesses value certainty on the tax regime, and rushing the implementation of new rules could be costly and risky to stakeholders) and it also is an acknowledgement of the feedback gathered from

MNEs that additional time is required to prepare for and comply with the GloBE rules. This also gives the Singapore Government more time to review and develop its suite of tax and non-tax tools to attract investments into the country.

- In addition to the extension of a number of existing incentive regimes, Singapore's Deputy Prime Minister and Minister of Finance said that Singapore would "review and update its broader suite of industry development schemes to ensure that Singapore remains competitive in attracting and retaining investments." This is a welcomed indication that tax incentive regimes in Singapore will continue to remain.
- The transitional country-by-country reporting safe harbor rules apply for a stipulated period of time and will expire thereafter. Its validity will not be extended notwithstanding that Singapore will only implement the GloBE rules and DTT in 2025.

Considerations for foreign MNEs with Singapore operations

Whether the foreign MNEs will ultimately have a top-up tax liability in relation to their Singapore operations will depend on the profile of the specific foreign MNE group.

Implications

The implementation of the GloBE rules and DTT in 2025 may give Singapore MNEs the initial impression that they can temporarily scale back their preparation for compliance with the GloBE rules. However, it should be noted that various jurisdictions (such as South Korea, Switzerland, and the United Kingdom) have announced their intention to implement the GloBE rules effective from 2024. Therefore, Singapore MNEs may still be impacted by the GloBE rules in 2024 if they have presence in such jurisdictions.

Organizations in Singapore that are planning to apply for tax incentives, or those with existing tax

incentives, should consider strategies and formulate options for their incentive packages.

Thailand plans to implement global minimum tax rules under OECD BEPS 2.0 Pillar Two

Thailand announced its plans to implement the global minimum tax rules under Pillar Two of the OECD's BEPS 2.0 Project and assigned the Revenue Department to draft the associated legislation. In addition, the Board of Investment Thailand (BOI) has been assigned to consider measures to alleviate impacts from the implementation of Pillar Two on Thailand's existing tax incentive programs.

Further details of the implementation and associated regulations have yet to be announced. Companies may expect adequate notice ahead of any rules becoming effective.

Detailed discussion

On 7 March 2023, the Thai Cabinet approved in principle the implementation of the global minimum tax in Thailand and assigned the Revenue Department and BOI to proceed as outlined below.

1. The Revenue Department is to draft the associated legislation and set the guidelines to:
 - ▶ Collect top-up taxes in accordance with Pillar Two. The Revenue Department is in the process of drafting the legislation, of which the first draft should be ready for consideration by 2023 with an effective date in 2025
 - ▶ Allocate 50 to 70% of top-up taxes collected under Pillar Two to the Competitiveness Enhancement Fund of the BOI (details will be further discussed between the Revenue Department and the BOI)
 - ▶ Share the details of the top-up taxpayers with the BOI

2. The BOI will consider providing cash grants to qualifying investors, subject to the investment/spending amount that would promote Thailand's competitiveness and long-term investment.

Implications

Even though the legislation is not yet enacted, in-scope MNEs should begin assessing the potential impacts from the implementation of global minimum tax rules and be ready for the anticipated law changes. They should also be well-prepared in terms of resources and processes to properly manage the data collection and analysis and global minimum tax liability computations, and applicable reporting obligations.

Contact details

Principal Tax

Yeo Eng Ping (EY Asia-Pacific Tax Leader)

eng-ping.yeo@my.ey.com

+603 7495 8288

Amarjeet Singh (EY Asean Tax Leader)

amarjeet.singh@my.ey.com

+603 7495 8383

Farah Rosley (Malaysia Tax Leader and Malaysia Global Compliance and Reporting Leader)

farah.rosley@my.ey.com

+603 7495 8254

People Advisory Services

Tan Lay Keng (EY Asia-Pacific People Advisory Services Leader)

lay-keng.tan@my.ey.com

+603 7495 8283

Christopher Lim (EY Asean Immigration Leader and Malaysia People Advisory Services Leader)

christopher.lim@my.ey.com

+603 7495 8378

Irene Ang

irene.ang@my.ey.com

+603 7495 8306

Cynthia Wong

cynthia.wong@my.ey.com

+603 7495 8129

Business Tax Services

Robert Yoon (EY Asia-Pacific Fixed Assets Services Leader)

(based in Johor)

robert.yoon@my.ey.com

+603 7495 8332

Bernard Yap

bernard.yap@my.ey.com

+603 7495 8291

Wong Chow Yang

chow-yang.wong@my.ey.com

+603 7495 8349

Chan Vai Fong

vai-fong.chan@my.ey.com

+603 7495 8317

Chua Siong Chee

siong-chee.chua@my.ey.com

+603 7495 8410

Global Compliance and Reporting

Julian Wong (EY Asean Global Compliance and Reporting Leader and EY Asean Managed Services Leader)

julian.wong@my.ey.com

+603 7495 8347

Farah Rosley (Malaysia Tax Leader and Malaysia Global Compliance and Reporting Leader)

farah.rosley@my.ey.com

+603 7495 8254

Janice Wong (EY Asean Japan Business Services (JBS) Tax Leader)

janice.wong@my.ey.com

+603 7495 8223

Asaithamby Perumal

asaithamby.perumal@my.ey.com

+603 7495 8248

Julie Thong

julie.thong@my.ey.com

+603 7495 8415

Liew Ai Leng

ai-leng.liew@my.ey.com

+603 7495 8308

Linda Kuang

(based in Kuching)

linda.kuang@my.ey.com

+6082 752 660

Mark Liow

(based in Penang)

mark.liow@my.ey.com

+604 688 1899

Jaclyn Tan (Payroll Operate Services)

jaclyn.tan@my.ey.com

+603 7495 8404

Contact details

International Tax and Transaction Services

Yeo Eng Ping

eng-ping.yeo@my.ey.com
+603 7495 8288

Amarjeet Singh

amarjeet.singh@my.ey.com
+603 7495 8383

Sockalingam Murugesan (EY Asean Transfer Pricing Leader and Malaysia Transfer Pricing Leader)

sockalingam.murugesan@my.ey.com
+603 7495 8224

Anil Kumar Puri

anil-kumar.puri@my.ey.com
+603 7495 8413

Andrew Loh

andrew.loh@my.ey.com
+603 7495 8313

Chua Meng Hui

meng-hui.chua@my.ey.com
+603 7495 8261

Sharon Yong

sharon.yong@my.ey.com
+603 7495 8478

Derek Chan

derek.chan@my.ey.com
+603 7495 8336

Florence Tan

florence.tan@my.ey.com
+603 7495 8585

Shalini R Chandrarajah

shalini.chandrarajah@my.ey.com
+603 7495 8281

International Tax and Transaction Services (cont'd)

Gary Ling (Transfer Pricing)

gary.ling@my.ey.com
+603 7495 8388

Hisham Halim (Transfer Pricing)

hisham.halim@my.ey.com
+603 7495 8536

Vinay Nichani (Transfer Pricing)

vinay.nichani@my.ey.com
+603 7495 8433

Indirect Tax

Yeoh Cheng Guan

cheng-guan.yeoh@my.ey.com
+603 7495 8408

Jalbir Singh Riar

jalbir.singh-riar@my.ey.com
+603 7495 8329

Aaron Bromley

aaron.bromley@my.ey.com
+603 7495 8314

Financial Services

Koh Leh Kien

leh-kien.koh@my.ey.com
+603 7495 8221

Bernard Yap

bernard.yap@my.ey.com
+603 7495 8291

Gary Ling (Transfer Pricing)

gary.ling@my.ey.com
+603 7495 8388

Important dates

15 March 2023	Due date for monthly instalments
31 March 2023	6 th month revision of tax estimates for companies with September year-end
31 March 2023	9 th month revision of tax estimates for companies with June year-end
31 March 2023	Statutory deadline for filing of 2022 tax returns for companies with August year-end. A blanket extension of time has been provided until 30 April 2023.
31 March 2023	Extended 2022 tax return filing deadline for companies with July year-end.
15 April 2023	Due date for monthly instalments
30 April 2023	6 th month revision of tax estimates for companies with October year-end
30 April 2023	9 th month revision of tax estimates for companies with July year-end
30 April 2023	Statutory deadline for filing of 2022 tax returns for companies with September year-end. A blanket extension of time has been provided until 31 May 2023.
30 April 2023	Extended 2022 tax return filing deadline for companies with August year-end.

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Publisher:

Ernst & Young Tax Consultants Sdn. Bhd.
Level 23A Menara Milenium
Jalan Damanlela, Pusat Bandar Damansara
50490 Kuala Lumpur
Tel: +603 7495 8000
Fax: +603 2095 7043