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Tax alert

Singapore incentives developments: new legislation on Refundable Investment Credit and minimum requirements for the new 15% concessionary tax rate tier under the Development and Expansion Incentive

With Singapore's impending implementation of an income inclusion rule and domestic top-up tax with effect from 1 January 2025, there were a number of new measures announced in Singapore Budget 2024 earlier this year such as the introduction of the Refundable Investment Credit (RIC) scheme and the additional concessionary tax rate tier of 15% for a number of existing tax incentives.

These were announced with the intent to augment the suite of incentive tools available and to ensure that Singapore remains competitive in attracting foreign direct investments amidst a post-Pillar Two tax landscape.

More recently, the legislation on the RIC has been introduced in the Singapore Parliament and the entry-level benchmarks for the 15% concessionary tax rate under the Development and Expansion Incentive have been publicly released.

As 1 January 2025 draws closer, companies with plans for Singapore to play or continue to play an important role in its future business strategy and direction should consider how these recent developments influence its overall incentive strategy prior to discussions with the relevant governmental authorities.

More details on these developments are outlined below.

Legislation on Refundable Investment Credit

The Singapore Budget 2024 introduced an RIC, which is a Global Anti-Base Erosion (GloBE) rules-compliant qualifying refundable tax credit aimed at encouraging sizeable investments in Singapore.

To recap, features of the RIC scheme are summarised below:

- ▶ The Economic Development Board (EDB) and Enterprise Singapore (EnterpriseSG) will award the RICs based on qualifying expenditure¹ incurred by the company in respect of qualifying activity or activities²
- ▶ Each RIC award will have a qualifying period of up to 10 years
- ▶ Companies can receive up to 50% of support on each qualifying expenditure category
- ▶ Credits can offset against corporate income tax payable, domestic top-up tax (DTT), penalty, surcharge or interest related to the awardee company's income tax under the draft Multinational Enterprise (Minimum Tax) Bill
- ▶ Any unutilised credits will be refunded to the company in cash, within four years from when the company satisfies the conditions for receiving the credits
- ▶ The RIC will qualify as Qualified Refundable Tax Credits (QRTCs) under Base Erosion and Profit Shifting (BEPS) 2.0 Pillar Two

On 9 September 2024, the Income Tax (Amendment) Bill was introduced in the Singapore Parliament. The Bill seeks to implement legislative amendments to the Income Tax Act 1947 (ITA) to effect:

- ▶ Tax measures announced in the 2024 Budget Statement
- ▶ Changes arising from the Ministry of Finance's periodic review of Singapore's income tax regime including the introduction of the RIC

A new section has been inserted (Section 93B of the ITA) that implements the RIC scheme. The section lays out, amongst others, details of the award and giving of the RIC for qualifying expenditure incurred by companies. The credits will be used to offset taxes (and other amounts) levied on and due from companies with a refund mechanism to the company for any unutilised credits.

Some key items are as follow:

- ▶ The RIC is treated as a grant from the Singapore Government
- ▶ In order for a company to avail to the RIC, it must be issued a letter of award that would include details such as the following:

- ▶ Qualifying activity for which the approval is given
- ▶ Type(s) of qualifying expenditure in carrying out the qualifying activity, and associated support rates
- ▶ The qualifying period in which the qualifying expenditure is to be incurred (must not exceed 10 years)
- ▶ Maximum amount of RICs to be given
- ▶ Conditions imposed on the company
- ▶ The claim period within which the company may make its RIC claim
- ▶ After the RIC qualifying expenditure has been incurred, the company may apply for an amount of the RIC stated in the letter of award. Upon approval, the company will be given a letter of confirmation on the amount of RICs and the RICs will be credited to an RIC account
- ▶ Any unutilised RICs will be paid to the approved company no later than four years after the company makes an application
- ▶ No approval for the RIC will be given after 31 December 2029
- ▶ The RIC for each qualifying expenditure is the lesser of the maximum amount of RICs specified in the letter of award, or the prescribed formula (qualifying expenditure x prescribed rate in the letter of award)
- ▶ A company may make an election for RICs to be paid back to the company instead of being used to offset its taxes
- ▶ There is a "first in, first out" basis where RICs are used to offset taxes. In certain circumstances, the Comptroller can determine how the offset is to be carried out
- ▶ If a letter of award is revoked, an amount equivalent to all RICs given to the company for qualifying expenditure after the date of revocation is recoverable from the company
- ▶ There are provisions to allow for the RIC awardee company to apply for any amount of RICs to offset any due tax of one or more other companies that are within the same group

While the new section does not have a prescriptive list on what is qualifying activity or qualifying expenditure, qualifying activity and qualifying expenditure will be specified in the letter of award. We understand that the EDB will be issuing further guidance on the RIC in due course, anticipated before end-2024.

¹ Depending on the qualifying activity or activities, qualifying expenditure categories may include capital expenditure, manpower costs, training costs, professional fees, intangible asset costs, fees for work outsourced in Singapore, materials and consumables, freight and logistics costs.

² Includes investing in new productive capacity, expanding or establishing the scope of activities in digital services, professional services, and supply chain management, expanding or establishing headquarter activities, or Centres of Excellence, setting up or expansion of activities by commodity trading firms, carrying out R&D and innovation activities, implementing solutions with decarbonisation objectives.

Minimum requirements for the new 15% concessionary tax rate tier under the Development and Expansion Incentive

The EDB has also recently released on its website³, the new minimum conditions for the new 15% concessionary tax rate (CTR) tier under the Development and Expansion Incentive (DEI), along with the updated conditions for the existing 5% and 10% CTR tiers.

Concessionary tax rate	For every five-year qualifying period
5%	<ul style="list-style-type: none">▶ Carry out at least one headquarter (HQ) activity in Singapore▶ Employ at least 18 and 30 additional skilled employees, based in Singapore by Year 3 and 5 respectively▶ Incur additional annual Total Business Expenditure (TBE) of at least S\$8mn and \$13mn by Year 3 and 5 respectively
10%	<ul style="list-style-type: none">▶ Carry out at least one HQ activity in Singapore▶ Employ at least 15 and 25 additional skilled employees based in Singapore by Year 3 and 5 respectively▶ Incur additional annual TBE of at least S\$5.5mn and \$9mn by Year 3 and 5 respectively
15%	<ul style="list-style-type: none">▶ Carry out at least one of the HQ activity in Singapore▶ Employ at least 8 and 13 additional skilled employees, based in Singapore by Year 3 and 5 respectively▶ Incur additional annual TBE of at least S\$3mn and \$5mn by Year 3 and 5 respectively

It is to be noted that the revised conditions for the 5% concessionary rate incentive are lower than prior benchmarks.

The revised minimum conditions appear to be accessible for many companies looking to place strategic functions and activities in Singapore.

³ EDB's website <<https://www.edb.gov.sg/en/grants/incentives-and-schemes/international-headquarters-award.html>> accessed 28 October 2024

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