

Tax alert

Proposed changes to the Approved Royalty Incentive

The simplification of the Approved Royalty Incentive (ARI) to cover classes of royalty agreements based on an activity-set-based approach (instead of an agreement-based approach) was announced during the Singapore Budget 2022.

On 3 October 2023, the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Bill 2023 ("Amendment Bill") was introduced in Parliament, proposing changes to Section 40 of the Economic Expansion Incentives (Relief from Income Tax) Act 1967 (EEIA) and consequential amendments to the Income Tax Act 1947 to reflect the changes to the ARI.

Summary of changes proposed

Singapore proposed changes to the EEIA to effect its 2022 Budget announcement, simplifying the existing agreement-based ARI to activity-set-based ARI, which took effect from 1 April 2023.

The salient amendments include:

- ▶ Extension of ARI approvals until 31 December 2028.
- ▶ Sunsetting the “current ARI” scheme (where the incentive is linked to individual agreements), i.e., agreement-based ARI, effective 31 March 2023.
- ▶ Replacement of the current ARI scheme with a “new ARI” based on a set of activities, i.e., activity-based ARI, approved by the Minister.
- ▶ Companies may apply for a revocation of their existing agreement-based ARI, and apply for the new activity-based ARI.
- ▶ The activity-based ARI covers royalties, technical assistance fees, contributions to research and development costs payable to non-resident person(s) for purposes of the approved activities.
- ▶ More than one activity may be covered under the ARI.
- ▶ The Minister may specify different tax incentives (including different concessionary tax rates) for different classes, categories or descriptions of:
 - ▶ Approved activities.

Or

- ▶ Relevant royalties, fees or contributions for an approved activity.

Or

- ▶ Non-resident persons to whom relevant royalties, fees or contributions for an approved activity are payable.
- ▶ The pre-requisite to the incentive is that the income received by recipient should be subject to a headline tax rate of more than 0% in the recipient's home country.

Observations

- ▶ Compared to the agreement-based ARI, the new activity-based ARI is intended to reduce the administrative burden of requesting approval for each new agreement entered into as well as any variation made to the approved agreements.
- ▶ There is a possibility for a company to enjoy both the agreement-based ARI and activity-based ARI at the same time.

Considerations for companies enjoying the existing ARI

We understand that the Singapore Economic Development Board (EDB) has started to issue updates to companies that are enjoying the agreement-based ARI currently, with the one-time and irrevocable option to change from the agreement-based ARI to the activity-based ARI by 30 November 2023.

It is important to fully consider the implications based on your company's actual facts and circumstances in assessing whether a revocation of existing agreement-based ARI in “exchange” for the application of the new activity-based ARI would be beneficial to the company.

Legislation of proposed changes

The Amendment Bill was introduced in Parliament for first reading on 3 October 2023. Following two more readings, we expect the proposed changes to be passed into law by the end of 2023.

If you would like to know more about the issues discussed or EY services, please contact one of the following or your usual EY contact:

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