Sustainability | Tax

Amendments to Carbon Pricing Act Tabled in Parliament

Introduction

The carbon tax regime in Singapore is governed under the Carbon Pricing Act 2018 ("**CPA**") that provides for, among other things, requirements relating to registration, reporting and payment of tax in relation to greenhouse gas ("**GHG**") emissions. Singapore recently consulted on raising its climate ambition to achieve net zero by 2050, which you may read more about in our Legal Update here. Increasing carbon tax is part of Singapore's strategy to achieve its raised climate ambition. On 3 October 2022, the Carbon Pricing (Amendment) Bill ("**Bill**") was tabled for First Reading in Parliament. The Bill seeks to amend the CPA in the following key aspects:

- Revising the carbon tax rate and carbon price;
- Providing for the grant of allowances for eligible taxable facilities to reduce carbon tax;
- Renaming "carbon credits" as "fixed-price carbon credits", and providing for the surrender of eligible international carbon credits in place of fixed-price carbon credits for the purposes of paying the carbon tax. There are also provisions to establish the International Carbon Credits Registry and international carbon credit registry account, as well as for various related matters; and
- Revising registration and emissions reporting obligations (in particular, where there has been a transfer of operational control over a business facility), and the basis for liability for carbon tax.

This development follows an earlier consultation conducted by the Ministry of Sustainability and the Environment ("**MSE**") from 8 July 2022 to 5 August 2022. We covered main aspects of the consultation in our Legal Update here. MSE also provided its Response to feedback received on the consultation.

This Update broadly outlines certain key features of the Bill. After the consultation, there have been some revisions to the draft Bill. Where relevant, we cover some of these changes – do note this is by no means comprehensive, and please refer to the Bill here for details. If you wish to discuss any aspect, please feel free to contact our Sustainability Practice which comprises multi-disciplinary specialist teams who can provide you with tailored advice on any potential impact these changes have on your businesses.

Revisions to Carbon Tax Rate and Carbon Price

Under the CPA, a taxable facility is required to pay carbon tax. The current carbon tax rate is $5/tCO2e. The Bill provides for the progressive increase in the carbon tax rate as follows:

- $5/ tCO_2e for carbon tax for GHG emissions in 2023 or any earlier emissions year;
- $25/ tCO_2e for carbon tax for GHG emissions in 2024 or 2025; and
- $45/ tCO_2e for carbon tax for GHG emissions in 2026 or any later emissions year.

The CPA also sets out the concept and value of a carbon credit, and governs how a carbon credit may be dealt with. Currently, each carbon credit has a value of $5. The Bill renames "carbon credits" as "fixed-price carbon credits" and sets out amendments to the carbon price as follows:

- $5 for any fixed-price carbon credit purchased in 2024 or any earlier year;
- $25 for any fixed-price carbon credit purchased in 2025 or 2026; and
- $45 for any fixed-price carbon credit purchased in 2027 or any later year.

Allowances to Reduce Carbon Tax for Eligible Taxable Facilities

In the consultation, a transition framework was proposed to provide time for emissions-intensive trade-exposed companies to adjust to a low-carbon economy. The Bill sets out provisions for the grant of allowances to eligible taxable facilities to reduce the amount of carbon tax payable for an emissions year.

Briefly, these provisions will apply in relation to any emissions years starting from and including 1 January 2024 up to such date as may be prescribed by the Minister for Trade and Industry. An allowance, in relation to a taxable facility that is eligible for an allowance for an emissions year, refers to the amount by which the total amount of reckonable GHG emissions of the taxable facility in the emissions year may be reduced for the purpose only of determining the amount of the tax chargeable for the emissions year, in accordance with an award of allowances granted.

Among other things, the provisions also cover the eligibility criteria of a taxable facility of registered persons for allowances and various matters pertaining to award of allowances, for instance, empowering the Minister to devise the methodology in calculating the quantum of allowance for the specific taxable facility and emissions year. In addition, registered persons cannot object to the amount of allowances included in the notices of assessment issued to them.

For details, please refer to the new Division 1A of Part 5 to the CPA set out in the Bill.

Use of International Carbon Credits

A new section 31A allows for the conversion of fixed-price carbon credits purchased at a certain price to such number of fixed-price carbon credits according to a specified formula upon change in carbon price. The Bill also provides for various matters concerning eligible international carbon credits, the International Carbon Credits Registry and international carbon credit registry accounts. Notably, there are provisions to allow the surrender of eligible international carbon credits in place of fixed-price carbon credits for the purpose of paying the carbon tax. For details on this and other changes, please refer to the new Divisions 5 and 6 under Part 5 of the CPA set out in the Bill.

Revisions to Registration and Emissions Reporting Requirements

Under the CPA, where the business facility is under the operational control of a person in a trigger year, the person must register as a registered person and register the relevant business facility as a reportable facility and/or a taxable facility. Business facilities that emit a specified threshold amount of GHG emissions must be registered as a reportable facility and/or taxable facility and are subject to emissions reporting requirements.

The Bill makes revisions to the registration and emissions reporting requirements of registered persons, reportable and taxable facilities (particularly where there has been a transfer of operational control over a business facility), as well as the basis for liability for carbon tax. These changes include amending the obligations of a person (Y) to whom a registered person or a person liable to be registered as a registered person (each X) transfers operational control over a business facility, in relation to: (a) Y's registration as a registered person, and the registration of the business facility as a reportable facility, or both a reportable facility and a taxable facility, of Y; and (b) X's and Y's submission of emissions reports and monitoring plans. There are also amendments to alter the basis on which the carbon tax is payable, taking into account the changes to the registration and emissions reporting requirements. The Explanatory Statement provides further details and an illustration of how these changes will work.

The Bill also contains provisions to allow the deregistration of a business facility as a reportable facility or a taxable facility if the registered person of the business facility, despite having operational control over the business facility, has ceased to operate the business facility and has no intention of resuming its business activity within the next 36 months after such cessation.

Updated list of GHG and global warming potential of GHG

The Bill also makes revisions to the list of GHG and global warming potential of GHG in the First Schedule. Additional hydrofluorocarbons and perfluorocarbons have been added to the list of GHG. These amendments align with the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. These provisions were not in the draft Bill in the consultation.

How We Can Help

The Bill sets out important and significant developments in relation to the treatment of carbon tax and carbon credits. We strongly encourage businesses to follow the developments and assess the practical impact and opportunities they afford to your operations.

If you have any queries regarding the above development, please feel free to contact our team below.

Sustainability | Tax

In full support of the Singapore Government's efforts to champion green and sustainability practices in Singapore and the region, Rajah & Tann Singapore has a Sustainability Practice which comprises multi-disciplinary specialist teams who can advise you on the adaptation of your business to take into account sustainability and ESG (environmental, social and governance) issues.

Our Tax Practice is well placed to assist with appeals under the Carbon Pricing Act, including appeals against refusals to deregister business facilities as taxable facilities, refusals to approve emissions reports or monitoring plans, refusals to refund tax, or refusals to revise any assessment. Working closely alongside our Sustainability Practice, we bring a holistic edge and will be able to guide you comprehensively along each step of the appeal process.

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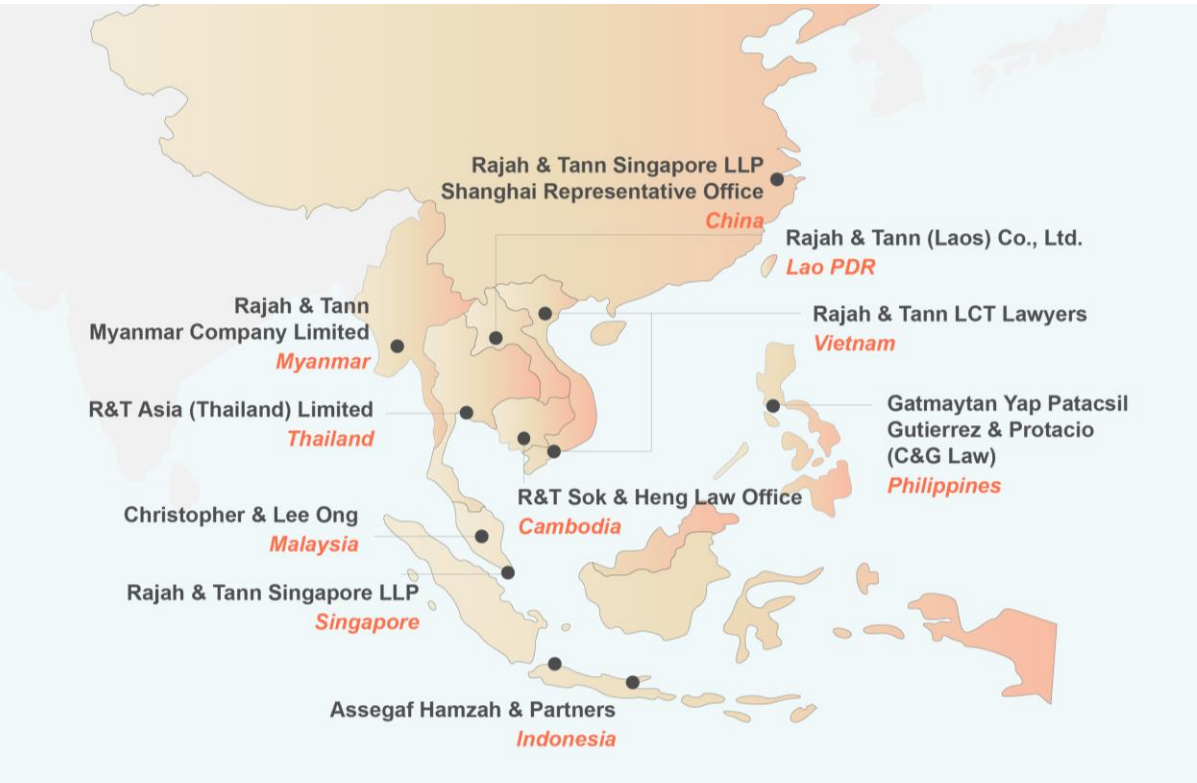

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