Tax

MOF Launches Two Consultations on Implementation of BEPS 2.0 Pillar Two, Amendments to Income Tax Act

Introduction

In February 2024, a suite of tax measures was announced in Singapore's Budget 2024, including the upcoming implementation of Pillar Two of the Base Erosion and Profit Shifting 2.0 ("**BEPS 2.0**") on 1 January 2025.

On 10 June 2024, the Ministry of Finance ("**MOF**") launched two public consultations on two Bills to implement the tax measures from Budget 2024:

1. Consultation on the Multinational Enterprise (Minimum Tax) Bill ("**MNE Bill**") and the Multinational Enterprise (Minimum Tax) Regulations 2025 ("**MNE Regulations**"), regarding the implementation of BEPS 2.0 Pillar Two; and

2. Consultation on the Income Tax (Amendment) Bill 2024 ("**ITA Bill**"), which proposes 15 amendments to the Income Tax Act 1947 ("**ITA**") to effect measures announced in Budget 2024 and seven amendments arising from MOF's periodic review of Singapore's income tax regime.

The MNE Bill, in particular, signals a major change to Singapore's tax regime by introducing a minimum effective tax rate ("**ETR**") of 15% for large multinational entity ("**MNE**") groups pursuant to the Global Anti-Base Erosion Model Rules ("**GloBE Rules**").

The consultations will run from 10 June 2024 to 5 July 2024, with MOF to provide a summary of responses in September 2024.

In this Update, we provide an overview of the two Bills.

MNE Bill

Background to BEPS 2.0

Base erosion and profit shifting ("**BEPS**") refers to tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to locations with no/low tax rates and no/little economic activity. To combat tax avoidance by MNEs through the use of BEPS strategies, the G20 tasked the Organisation for Economic Co-operation and Development ("**OECD**") to address the issue.

Tax

The OECD established the Inclusive Framework ("**IF**") as a platform for its BEPS discussions. In October 2021, the IF agreed to a Two-Pillar solution to address the tax challenges arising from the digitalisation of the economy, which became known as BEPS 2.0. Pillar Two of BEPS 2.0 includes the GloBE Rules, which aims to ensure that large MNE groups operating in more than one jurisdiction pay a minimum ETR of 15%. The GloBE Rules are comprised of:

(a) the Income Inclusion Rule ("**IIR**"), under which a top-up tax is imposed on a relevant parent entity of an MNE group in proportion to its ownership interests in a low-taxed constituent entity that has an ETR below 15%; and

(b) the Undertaxed Profits Rules ("**UTPR**"), under which a top-up tax will be collected in jurisdictions in which the MNE group operates if its parent entity has not been subjected to the IIR in its jurisdiction.

BEPS 2.0 was accepted by Singapore, alongside more than 135 IF member jurisdictions. In Budget 2024, Singapore announced that it would implement Pillar Two of BEPS 2.0.

Overview of MNE Bill

In response to BEPS 2.0, Singapore intends to implement a Multinational Top-Up Tax ("**MTT**") and Domestic Top-Up Tax ("**DTT**") by way of the MNE Bill and MNE Regulations.

The MTT will apply the IIR in Singapore by imposing a top-up tax on constituent entities ("**CEs**") of MNE groups that are located in Singapore if the CE has ownership interests in CEs located in jurisdictions with an ETR of less than 15%. However, the MTT would generally not apply if the parent entity of the CE chargeable under the MTT is subject to an equivalent top-up tax.

On the other hand, the DTT aims to ensure that a foreign equivalent of the MTT will not be levied on CEs located in Singapore. It imposes a top-up tax on CEs located in Singapore to raise their ETR to at least 15%.

Per section 18, the MNE Bill will apply to MNE groups ("**in-scope MNE groups**") for a financial year ("**FY**") beginning on or after 1 January 2025 if its consolidated group revenue (determined by reference to the consolidated financial statements of its ultimate parent entity) for that FY is equal to or exceeds the threshold in subsection (2) for at least two FYs of the immediately preceding four FYs.

The threshold is computed by the formula $\textbf{EUR 750m} \times \frac{\textbf{months in the FY}}{\textbf{12}}$, or the equivalent currency as determined in regulations made under section 93.

Certain provisions under the ITA, such as administration, enforcement and appeals, will also apply to DTT and MTT, subject to modifications set out in the MNE Bill.

Tax

Registration of in-scope MNE groups

Under Part 4 of the MNE Bill, an in-scope MNE group must be registered. The ultimate parent entity of an in-scope MNE group must notify the Comptroller of Income Tax ("**Comptroller**") of its liability to be registered.

DTT obligations

(a) *Designated filing entity:* The ultimate parent entity of an in-scope MNE group must designate a CE located in Singapore as the designated local DTT filing entity ("**DFE**") for DTT purposes. The DFE must file a DTT return within 15 months after the end of each FY.

(b) *Liability for DTT*: The DFE is liable to pay DTT ("**chargeable entity**") if the CEs located in Singapore have an ETR below 15%. Any DTT payable must be paid no later than one month after the due date for the DTT return. If the chargeable entity fails to pay DTT, the DTT may be collected from the other CEs located in Singapore on a joint and several basis.

(c) *Separate assessments for CEs:* In-scope MNE groups may opt for certain CEs to be assessed separately on their allocated DTT, subject to conditions.

(d) *Impact on MTT:* Where DTT has been imposed, a foreign equivalent of MTT will not be applicable to CEs located in Singapore.

MTT obligations

(a) *Designated filing entity:* The CEs of an in-scope MNE group must designate a CE located in Singapore as the designated local Global Anti-Base Erosion ("**GloBE**") information return filing entity ("**GFE**") for MTT purposes.
- If a GloBE information return (or similar return) *has not* been filed by a filing entity of the MNE group in another jurisdiction: The GFE must file a GloBE information return in Singapore within 15 months after the end of each FY.
- If a GloBE information return (or similar return) *has* been filed by a filing entity of the MNE group in another jurisdiction: The GFE must notify the Comptroller of the particulars of the filing entity and the jurisdiction where it is located.
- In addition, parent entities located in Singapore liable to MTT must file the MTT return (i.e. a tax return containing the MNE group's assessment of its MTT liability in Singapore) within 15 months after the end of each FY.

(b) *Liability for MTT*: Under Part 2 of the MNE Bill, a CE of an MNE group located in Singapore is liable to pay MTT (also referred to as a "**chargeable entity**") if:
- it holds an ownership interest in another CE located in another jurisdiction; and
- the CEs located in that jurisdiction have an ETR below 15%.

(c) *MTT payable by chargeable entities:* Broadly, this is the aggregate of the top-up amount computed for each of the CEs that it holds an ownership interest in. Any MTT payable must be paid no later than one month after the due date for the MTT return. MTT is generally not applicable if an equivalent top-up tax is paid by a CE that is a parent entity of the chargeable entity.

Amendments to ITA

The MNE Bill will also amend the ITA to set out the tax treatment for the following:

	Qualified IIR or UTPR imposed by foreign jurisdictions	Qualified Domestic MTT imposed by foreign jurisdictions
Tax deduction	Not allowed	Not allowed
Eligible for foreign tax credit	No	Yes, subject to conditions
Meets the "subject to tax" condition under the foreign-sourced income exemption ("**FSIE**") regime and the foreign tax credit pooling system	No	Yes
Considered in determining the foreign headline tax rate condition under the FSIE regime and the foreign tax credit pooling system	No	No

For DTT and MTT imposed by Singapore, tax deduction will not be allowed.

ITA Bill

The ITA Bill comprises:

(a) 15 amendments to effect measures announced in Budget 2024; and

(b) seven amendments arising from MOF's periodic review of Singapore's income tax regime to better reflect policy objectives and to improve tax administration.

Budget 2024 measures

Among the 15 amendments to effect measures announced in Budget 2024, we highlight the following amendments relevant to corporations:

Tax

(a) *50% Corporate Income Tax ("**CIT**") rebate for Year of Assessment ("**YA**") 2024.* The rebate is capped at S$40,000. Companies with at least one local employee in 2023 will receive a minimum cash payout of S$2,000.

(b) *Introduction of the Refundable Investment Credit ("**RIC**").* The RIC will support up to 50% of qualifying expenditures for qualifying activities on an approval basis. The credits may be offset against any payable CIT, with unutilised tax credits to be refunded to the company in cash within four years.

(c) *Enhancement of the tax deduction for Renovation or Refurbishment ("**R&R**") expenditure.*
- The scope of qualifying expenditure will be expanded to include designer or professional fees.
- There will be a fixed three-year period in relation to computing the R&R expenditure cap, beginning from YA 2025 to YA 2027.
- R&R deductions may be claimed in one YA, subject to the prevailing expenditure cap.

(d) *Extension and revision of the tax incentive schemes for funds managed by Singapore-based fund managers ("**Qualifying Funds**").* From 1 January 2025, the section 13O scheme will now include limited partnerships registered in Singapore, while the economic criteria for Qualifying Funds under the sections 13D, 13O and 13U schemes will be revised.

(e) *Allowing the qualifying income of shipping entities to be taxed by reference to net tonnage.* This applies to three Maritime Sector Incentive ("**MSI**") sub-schemes: (i) MSI-Shipping Enterprise (Singapore Registry of Ship); (ii) MSI-Approved International Shipping Enterprise; and (iii) MSI-Maritime Leasing (Ship).

(f) *Introduction of additional concessionary tax rate ("**CTR**") Tiers for the following:*

Incentive / Scheme	Current CTR	New CTR
Finance and Treasury Centre Incentive	Approved companies are eligible for a CTR of 8% on qualifying income	Additional CTR tier of 10%
Aircraft Leasing Scheme	Approved aircraft lessors are eligible for a CTR of 8% on qualifying income	Additional CTR tier of 10%
Development and Expansion Incentive	Approved companies are eligible for CTRs of 5% or 10% on qualifying income	Additional CTR tier of 15%
Intellectual Property Development Incentive	Approved companies are eligible for CTRs of 5% or 10% on qualifying income	Additional CTR tier of 15%
Global Trader Programme	Approved companies are eligible for CTRs of 5% or 10% on qualifying income	Additional CTR tier of 15%

(g) *Introduction of the Overseas Humanitarian Assistance Tax Deduction Scheme ("**OHAS**").* Under the OHAS, corporate and individual donors will receive 100% tax deduction for qualifying overseas cash donations. Such donations must be made: (i) through a designated charity; and (ii) towards a fundraiser for emergency humanitarian assistance with a valid Fund-Raising for Foreign Charitable Purposes permit from the Commissioner of Charities. The OHAS will run from 1 January 2025 to 31 December 2028.

For more information on the Budget 2024 tax changes, please see our February 2024 Legal Update titled "Singapore Budget 2024: Building Our Shared Future Together".

Periodic review of Singapore's tax regime

Another seven amendments are proposed to improve tax administration and achieve policy objectives.

	Applicable to	Proposed amendment
1.	Foreign trusts, locally-administered trusts, and foreign accounts of philanthropic purpose trusts	The existing tax incentive schemes for these trusts will be extended to 31 December 2027. The ITA Bill also clarifies that a tax exemption applies to all foreign-sourced income received by a locally-administered trust from the date that the amendments come into force.
2.	Sovereign funds	The tax incentive scheme for sovereign funds will be extended to 31 December 2029, while its scope will be enhanced to support funds owned by multiple foreign governments as of 7 February 2024.
3.	Real estate investment trusts ("**REITs**")	When REIT managers use the REIT units received as part of their management fees to pay employees or directors, the tax deduction amount will be the market value of the REIT units on the date the units were originally received by the REIT managers. This will take effect from YA 2026.
4.	Family offices	The tax exemptions under sections 13O and 13U of the ITA will be extended until 31 December 2029. In addition: (a) the section 13O scheme will be enhanced to include limited partnerships registered in Singapore; (b) the economic criteria for Qualifying Funds under the sections 13D, 13O and 13U schemes will be revised; and

Tax

	Applicable to	Proposed amendment
		(c) the Minister may be able to adjust the conditions of the tax exemption awarded under the sections 13O and 13U schemes, even after the award has been granted. Additionally, tax deductions provided to a company under the Philanthropy Tax Incentive Scheme for Family Offices ("**PTIS**") will be apportioned between income taxed at different rates (if applicable) on a basis considered reasonable by the Comptroller. Further, unabsorbed deductions relating to an income will be set off against other income taxed at a different rate after applying an adjustment factor in accordance with section 37A of the ITA.
5.	Insurers	Additional tier 1 (AT1) capital instruments (other than shares) issued by insurers on or after 1 January 2025 will be treated as a debt for tax purposes.
6.	Securities lending or repurchase ("**SBL**") arrangements	The scope of qualifying SBL arrangements under section 10H of the ITA will be expanded to: (a) include unlisted shares of Singapore tax resident companies; and (b) align the tax treatment of all distribution income in respect of all securities with that for dividend and interest income.
7.	Partnerships and sole-proprietors	The requirement to furnish estimated chargeable income (ECI) will be waived for: (a) persons responsible for filing partnership returns; and (b) individual sole-proprietors, including those not registered with the Accounting and Corporate Regulatory Authority (ACRA).

Tax

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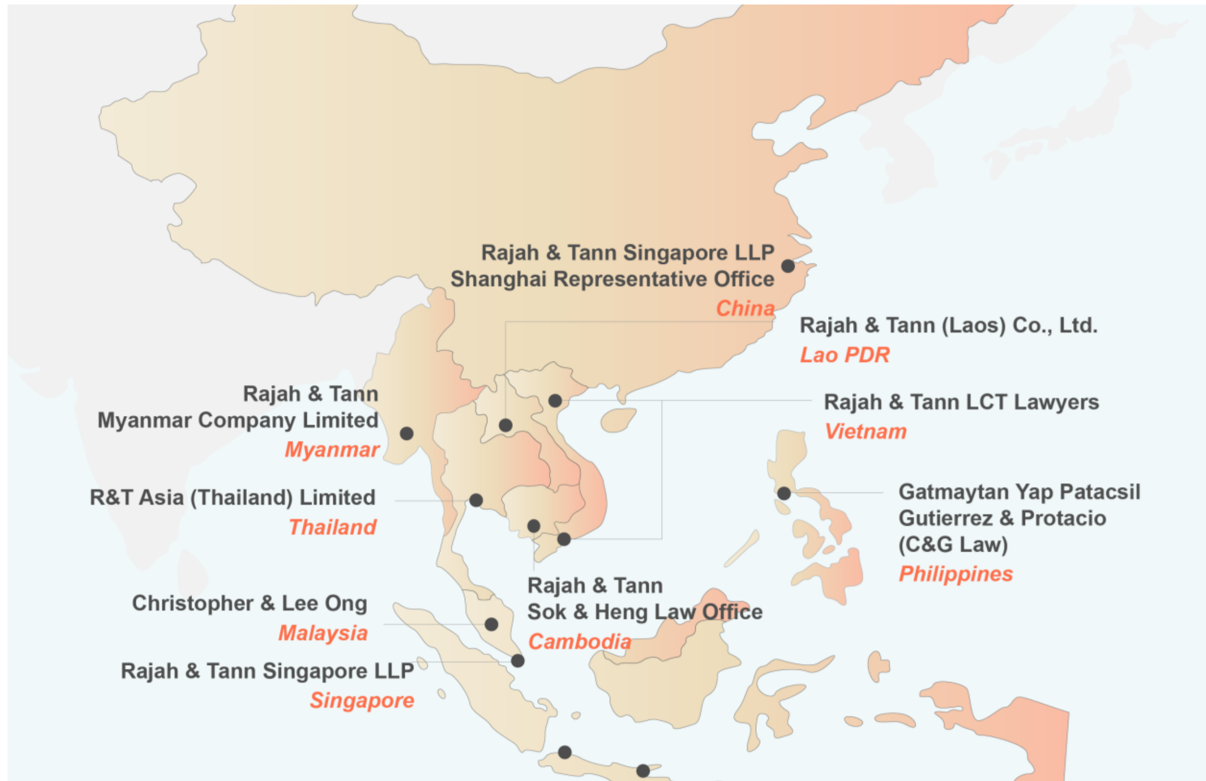

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