Spring-Clean Your Corporate Tax Matters

Recognising And Addressing Common Compliance Errors Forms

February 2025

Facilitated by:
Singapore Chartered Tax Professionals

KEY TAKEAWAYS

- Even if a company has already received a query or is under IRAS' audit or investigation, it may still qualify for reduced penalties under the voluntary disclosure programme if the errors or past actions being disclosed are not directly related to the scope of the ongoing query, audit, or investigation.
- To avail themselves of the liberalised tax treatment of expenses incurred in Singapore to derive foreign income, companies must ensure that the allowable expenses have not already been claimed as a deduction in the foreign tax jurisdiction.
- Companies with syndicated loans should note that they may be eligible to claim a higher portion of the front-end fees (exceeding 55%) if they can substantiate their claims with documentary evidence.

As the Lunar New Year celebrations light up the season, it is the perfect time to embrace the spirit of renewal – not just for your home, but for your corporate tax matters as well. This season, let's declutter your corporate tax affairs, sweep away any compliance gaps, and usher in key tax changes with festivities to set your business up for success in the year ahead.

Foreign-Sourced Income

Foreign-sourced income is taxable in Singapore when remitted to and received in Singapore. Under the liberalised tax treatment of expenses incurred in Singapore to derive foreign income, companies can opt to carry forward allowable expenses incurred in Singapore in the year to derive foreign income but which is not remitted to Singapore in that same year. These expenses can be deducted in subsequent years when the foreign income is remitted to Singapore.

While companies are expected to track the movement of their foreign income and maintain records to substantiate their tax treatment, this is an often-overlooked area that leads to reporting mistakes.

SPRING-CLEANING TIPS

To ensure that companies keep track of their foreign income and accurately report their taxes when the foreign income is considered received in Singapore, they are required to provide the following information in their tax computations with effect from year of assessment (YA) 2024:

(i) Unremitted foreign income brought forward from prior YAs;
(ii) Foreign income earned in the current financial year;
(iii) Foreign income received in Singapore during the financial year;
(iv) Foreign income used during the year and not received in Singapore;

(v) Unremitted foreign income carried forward; and

(vi) Tracking of allowable expenses attributable to the foreign income if the company is electing for the liberalised tax treatment of expenses incurred in Singapore to derive foreign income.

To avail themselves of the liberalised tax treatment under (vi), companies must ensure that the allowable expenses have not already been claimed as a deduction in the foreign tax jurisdiction. The Inland Revenue Authority of Singapore (IRAS) may request an external auditor's certificate to this effect before such expenses are allowed to be deducted.

Tax Deduction For Front-End Fees

Tax deduction is accorded to prescribed borrowing costs paid in lieu of interest or for the reduction thereof under Section 14(1)(a)(ii) of the Income Tax Act 1947. One such prescribed borrowing costs is front-end fee.

Essentially, front-end fees are the amounts payable to the lender at the beginning of the term of borrowing, which is equivalent to the interest which the borrower would otherwise be required to pay to the lender under the loan agreement. If the front-end fee includes payments for other products or services provided by the lender (for example, underwriting and arranger fees), such components must be excluded from deduction as they are not equivalent to interest otherwise payable.

From YA 2023, a deduction is allowed on front-end fees subject to certain conditions.

Bilateral Loans and Club Loans

For bilateral loans and club loans, the full amount of front-end fee is allowed deduction if the following conditions are met:

(i) Loan facility must be drawn down by the end of the basis period in which the front-end fee is incurred;

(ii) The front-end fee must be incurred in the basis period for the YA in which the tax deduction is claimed;

(iii) The loans agreement and other loan documentation must not indicate any intention by the lender to sell down the loan or provide underwriting services; and

(iv) The deductible amount of front-end fee must not include any fees for services.

Syndicated Loans

To reduce compliance effort for companies that do not know or are unable to provide a breakdown of the interest and service components in the front-end fees, IRAS will allow deduction on 55% of front-end fees payable for syndicated loans, subject to the company meeting conditions (i), (ii) and (iv) above.

Spring-Cleaning Tips

If your company has forgone the deduction claims on front-end fees previously due to the extensive documentary requirements, now is the ideal time to reassess whether the company is now able to meet the conditions to claim deductions for the front-end fees in respect of the bilateral, club or syndicated loans respectively.

It should be noted that you can claim deduction in excess of the 55% for your syndicated loans if you are prepared to support the claim with documentary evidence. For example, you may provide documentary evidence showing intention for the front-end fee payment and the amount of front-end fee equivalent to interest that would otherwise be payable.

Foreign Tax Credit

One perennial entry in the list of common taxpayer mistakes identified by IRAS is incorrect foreign tax credit claims. Companies may wrongly claim foreign tax credit on trade income that is not derived through a permanent establishment (PE) in the foreign jurisdiction. Additionally, they may also incorrectly claim foreign tax credit against foreign tax that was not paid in accordance with the relevant Avoidance of Double Taxation Agreement (DTA). In some instances, non-Singapore tax resident companies may also attempt to claim foreign tax credits.

SPRING-CLEANING TIPS

Before claiming foreign tax credit, you may first check that your company meets the following three conditions:

(i) The company is a tax resident of Singapore for the relevant basis year.
  - Check whether the company's control and management are exercised in Singapore.

(ii) The income is subject to taxation in Singapore.
  - Check that the company is in a tax-paying position and that the income has been brought to tax in Singapore.

(iii) Tax has been paid or is payable on the same income in the foreign jurisdiction.
  - If the foreign jurisdiction is a treaty partner of Singapore, check the provisions in the relevant DTA.

For trade income, you should only claim the foreign tax credit if your company's trade income is derived through a PE in the foreign jurisdiction. For passive income (such as interest and dividend) derived from outside Singapore, you should claim the foreign tax credit in the year of remittance (when such income is taxed in Singapore).

Wrapping Up The Spring-Cleaning

VOLUNTARY DISCLOSURE PROGRAMME

After you have reviewed the various risk areas and identified the errors in your company's past returns, you may wrap up the spring-cleaning by making good such past errors. Your company will qualify for reduced penalties for errors in relation to income tax (including cash payouts/bonus), GST, withholding tax and stamp duty if it is eligible for the IRAS voluntary disclosure programme (VDP). To be eligible, the company must:

- Make a timely, accurate, complete, and self-initiated disclosure to IRAS. The voluntary disclosure should be made:
  - before the company receives a query from IRAS relating to its tax or cash payout/bonus matters, or
  - before the company receives notification from IRAS on the commencement of an audit or investigation on its tax or cash payout/bonus matters.
- Cooperate fully with IRAS to correct the errors made.
- Ensure the payment of additional taxes or amount exceeding cash payout/bonus than entitled to, and the penalties imposed (if any).

If your company has already received a query or is under IRAS' audit or investigation, it may still qualify for reduced penalties under the VDP if the errors or past actions being disclosed are not directly related to the scope of the ongoing query, audit, or investigation.

Conclusion

As we step into the Year of the Snake, it is crucial for businesses to stay ahead by continually refining their corporate tax practices. By proactively addressing compliance gaps and staying abreast with the latest tax updates, you can ensure a smoother 2025 with lesser tax surprises. Embrace the spirit of renewal this season and set up your company for success in the year ahead!

Please click here to rate this article.

This technical commentary is written by SCTP's Tax Head, Accredited Tax Advisor (Income Tax) Felix Wong and Tax Manager, Accredited Tax Practitioner (Income Tax & GST) Joseph Tan. For more insights, please visit https://sctp.org.sg/Tax-Articles.