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Tax Alert

ISSUE 19 | **JUNE 2016**

Singapore commits to adopting BEPS measures including Country-by-Country Reporting

On 16 June 2016, the Ministry of Finance announced in a press release that Singapore has become the latest participant to the OECD's inclusive framework for the implementation of measures against Base Erosion and Profit Shifting (BEPS). The inclusive framework enables countries to participate as BEPS Associates, and to work collectively to level the taxation playing field across jurisdictions.

The framework's mandate focuses on the review and implementation of the four minimum standards under the BEPS Project. We have reproduced these four standards, along with brief details of Singapore's focus:

1. Countering harmful tax practices – Singapore assures that tax incentives are here to stay, but affirms these are subjected to regular reviews and refinement.
2. Preventing treaty abuse – Singapore, together with a group of jurisdictions working under the aegis of the OECD and G20, is currently working on the development of a multilateral instrument that incorporates BEPS measures into existing bilateral treaties.
3. Country-by-Country Reporting (CbyCR) requirements – Further details are provided in the following paragraphs.
4. Enhancing tax dispute resolution – Singapore will work closely with other jurisdictions to monitor the implementation of minimum standards on dispute resolution developed under the BEPS Project, including the effective and timely resolution of disputes through the mutual agreement procedure.

As a BEPS Associate, Singapore will have equal rights as the OECD and G20 members in developing standards on BEPS-related issues, as well as reviewing and monitoring the implementation of the BEPS package. BEPS Associates will also benefit from access to capacity-building support for the implementation process, including guidance on developing Action Plans for BEPS implementation.

Country-by-Country Reporting Requirements

By joining the inclusive framework, Singapore's participation puts a spotlight on transfer pricing with its announcement to implement CbyCR. Singapore's CbyCR requirements will apply to multinationals (MNCs) whose ultimate parent entity is in Singapore, and whose group turnover exceeds SGD 1.125 billion – equivalent to the threshold of EUR 750 million specified by the OECD.

MNCs whose revenues exceed the threshold are required to file their CbyCR report with the Inland Revenue Authority of Singapore (IRAS) within 12 months from the last day of the financial year. The foregoing will affect MNCs whose financial years begin on or after 1 January 2017. Hence, the first wave of Singapore CbyCR reports will be due by 31 December 2018.

While IRAS will exchange CbyCR reports with jurisdictions that Singapore has entered into bilateral agreements with, it will also be setting conditions for the exchange of CbyCR reports, namely:

- the corresponding jurisdictions should have a strong rule of law, and can ensure the confidentiality of information exchanged and the prevention of its unauthorised use; and
- there must be reciprocity in terms of the information exchanged.

Further details on the implementation of CbyCR (including possible secondary mechanisms which may impact non-Singapore headquartered companies) will be released by September 2016, following further stakeholder consultation to be conducted by IRAS.

Our Observations

Singapore has consistently advocated the use of the internationally-sanctioned arm's length principle as the foundation for transfer pricing. The implementation of CbyCR strengthens Singapore's commitment to the transparency required, to ensure that MNC profits are taxed where economic activities take place and value is created. This should serve to safeguard Singapore's reputation as a responsible member of the international tax community.

Taxpayers with group turnovers exceeding or nearing the specified threshold should be 'CbyCR-ready', given the lead time before implementation. As a starting point, taxpayers should review and consider whether the information required in the CbyCR template released by the OECD is readily available. Due to the complexities of business structures and differences in accounting standards/systems, there may be challenges in gathering the required information. MNCs should therefore start the process as early as possible, such as conducting a "dry run" of the CbyCR report to identify any difficulties upfront.

Apart from assessing their capabilities in the information gathering process, MNCs should review the CbyCR information to be presented and consider how it could be interpreted by the respective tax authorities. For example, CbyCR information which highlights large profits in companies in low-tax countries could be interpreted negatively. Accordingly, support for the substance and value created by such companies may be very much in order. Taxpayers should also ensure that their transfer pricing policies are supported with robust transfer pricing documentation that will resonate with the impression formed by the CbyCR report.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

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