



IC Advisors Transfer pricing Newsletter
April 2016

Singapore Budget 2016

The Singapore Budget 2016 was announced by the Honourable Hang Swee Keat, Singapore Finance Minister, on 24 March 2016. There was no explicit mention of any transfer pricing changes. The Budget presented by the Finance Minister can be characterized as next 50 years Growth Plan of the Singapore Government.

Two areas where we see the Budget touching on transfer pricing related issues are:

- a. The extension and subsequent enhancement of the Finance and Treasury Centre (“FTC”) scheme. The FTC which was meant to expire on 31 March 2016 has been extended to 31 March 2021 with the following enhancements.
 - i. The concessional tax rate will be lowered to 8% with a substantial increase in the requirements to qualify for this rate.
 - ii. To qualify for the concessional tax rate, the FTC will be allowed to obtain funds directly from approved network companies, with safeguards put in place to address any possible round-tripping risks.

To some extent the extension and enhancement of the FTC has been expected in light of the fact that there has been increased competition for finance and treasury activities in the region, with both Malaysia and Hong Kong introducing incentives to attract such activities. The reduction in the concessional tax rate to 8% will hopefully ensure Singapore as a competitive location for conducting finance and treasury activities. In addition, the enhancements suggested in the budget, around the withholding tax treatment for interest, will provide taxpayers additional leeway on structuring their in-house bank / cash pool activities. However, in order to ensure that proper consideration of the FTC on intercompany financing the IRAS would expect that all borrowings and lendings are conducted in line with the arm’s length standard.

- b. The introduction of an anti-avoidance mechanism for intellectual property rights (“IPR”) transfers. Currently, there are no specific provisions in the ITA that explicitly authorise the Comptroller of Income Tax (“CIT”) to make adjustments to the transacted price of an IPR to ensure that it is reflective of the market value. Thus, an anti-avoidance mechanism will be introduced under Section 19B that will give the CIT the power to make the necessary adjustment to the acquisition price or the disposal price to one that is consistent with the “open market value”. While the anti-avoidance mechanism will apply to transactions undertaken by both related and third parties, one would wonder why two seemingly unrelated parties would transact at anything but the open market value. The introduction of the anti-avoidance mechanism is also in line with the increasing focus by the IRAS for related party transactions to be conducted on an arm’s length basis. It is also in line with the actions of other tax authorities which have increasingly introduced General anti-avoidance rules (“GAAR”). Furthermore, the introduction of an anti-avoidance mechanism to a specific transaction in this instance will provide the IRAS with additional legislative power to review transactions entered into by Singapore based taxpayers.

OECD BEPS Action Plans

The implementation of the BEPS Action Plans by countries continues in full swing. As part of the implementation, tax authorities are carrying out dialogues with their respective taxpayer community on

how the Action Plans should be implemented in their local economies, keeping in mind, local facts and circumstances.

In the Asia-Pacific region, we expect changes in the local tax and transfer pricing legislation in the following jurisdictions:

- a. Japan;
- b. Korea;
- c. China;
- d. Australia; and
- e. Malaysia.

Taxpayers that have regional operations would be well-served to stay up-to-date on these developments.

Upcoming seminars:

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. 2016 Singapore Budget and a Tax Outlook with Insights from a Transfer Pricing Perspective, organised by AscentiaTax on 5 May 2016;
- b. Tax Considerations on Cross-Border Intercompany Services, May 18, organised by CCH
- c. Handling Transfer Pricing Audits and Engaging in Dispute Resolution, on 14 June 2016

If you would like to attend any of these seminars, please send an email to sowmya@icadvisorsasia.com.