

Budget Seminar : Questions on Budget 2009 Changes and IRAS' Response

The Budget Seminar is an annual event where the Tax Academy of Singapore brings together senior tax officials and policy makers from the government and private sector to exchange views on the tax changes in Singapore's annual Budgets.

The Budget Seminar 2009 was held on 20 February 2009.

This is a list of the questions raised at the Seminar and IRAS' response, for information. Questions which do not relate to the tax changes announced in Budget 2009 have not been included in the list.

Topics

- A) Reduction in Rate of Tax for Companies**
- B) Enhanced Carry-back Relief System**
- C) Extension of the Tax Exemption Scheme for New Start-up Companies to Companies Limited by Guarantee**
- D) Enhancement of Existing Capital Allowance Regime**
- E) Accelerated Writing-Down Allowance for Acquisition of Intellectual Property Rights for Media & Digital Entertainment Content**
- F) Enhancement of Fund Management Incentive Schemes**
- G) Enhancement of the List of Specified Income and Designated Investments for Certain Tax Incentive Schemes**
- H) Temporary Liberalisation of Income Tax Exemption for Foreign-Sourced income Received in Singapore During Specified Period**
- I) Partial Input Tax Recovery for Qualifying Funds on GST Incurred on Prescribed Fund Management and Related Services**
- J) Changes to GST Treatment for the Aerospace Industry**
- K) Others**

S/N	Questions	IRAS' Response
A) Reduction in Rate of Tax for Companies		
1	<p>The withholding tax is now at 17% for payments due on or after 1 Jan 2009. For payments made on or after 1 Jan 2009 but in respect of services rendered in 2008 and 2009 (e.g., for the period Oct 2008 to Mar 2009), will the 17% be applicable to the full amount?</p>	<p>The rate applicable will depend on when the payment is due and payable. If any part of the payment for the services rendered is due and payable in 2008, the withholding tax rate applicable will be 18%.</p> <p>For details on when a payment is considered due and payable, please refer to IRAS e-Tax guide "Clarification on Date of Payment of Income for the Purposes of Withholding Tax under Section 45 of the Singapore Income Tax Act and Changes to the Withholding Tax Regime which takes effect from 1 April 2003" published on 31 March 2003.</p>
B) Enhanced Carry-back Relief System		
1	<p>A company that has assessable income for a particular YA may be eligible to offset the income with losses carried forward from a prior YA as well as losses carried back from a subsequent YA.</p> <p>For example, there could be a loss carried forward from YA2005 available to offset the assessable income of \$50,000 in YA 2006 in addition to the loss carried back from YA2009. In such a circumstance, what should the order of offset be?</p> <p>Is it carry forward first, then carry back?</p>	<p>Based on section 37E(1) and (17) of the Income Tax Act, the losses brought forward from YA 2005 would be deducted first.</p>
2	<p>Why is the timeframe for revised assessment to be issued and for refund longer if the loss carry-back election is filed with the tax return? 3 months v 1 month according to IRAS e tax guide.</p>	<p>The 1 month time frame for revising assessment(s) for the relevant YAs of set-off is to facilitate an earlier refund to taxpayers based on estimates of qualifying deductions for YA 2009 or 2010, when they are not yet in the position to submit tax returns and supporting documents at the time. In such a situation, the estimates are accepted. After the assessments are</p>

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		<p>revised based on the estimates of qualifying deductions provided, the credit balance, if any, will be refunded within 30 days from the date the assessments are revised. Accordingly, taxpayers would receive the refund within 2 months from the time they provide the estimates of qualifying deductions, not 1 month as suggested in the question. Detailed examination and verification would be made upon the submission of the tax return.</p> <p>Where a taxpayer prefers to elect for carry-back relief with submission of his tax return, the carried back losses and therefore, any tax refund, should be computed based on actual computation. IRAS may review the tax return, subject to a further detailed examination at a later stage if applicable, and revise the assessments based on actual computation within 2 months from the date of the submission of the election form with the tax return. This, together with the 30 days time frame for processing the refund if there is any credit balance arising from the revised assessment(s), accounts for the 3-month timeframe mentioned.</p> <p>Hence, effectively, the difference in the timeframe for processing a case where loss carry-back election is made by a taxpayer at the time he files his tax return and a case where the taxpayer provides an estimate of qualifying deductions is 1 month, not 2 months as suggested.</p>
3	<p>If the old loss carry-back election form has already been submitted for YA 2009 and the losses are only being carried back to YA 2008 (i.e. no change), must we still submit the new election form?</p>	<p>Yes, the new election form has to be submitted because the qualifying deductions for YA 2009 would be offset against the assessable income of YAs 2006, 2007 and 2008 in that order. Accordingly, we require a fresh confirmation in the election form that the shareholding test and/ or business continuity test</p>

S/N	Questions	IRAS' Response
		for the relevant periods are satisfied.
C) Extension of the Tax Exemption Scheme for New Start-up Companies to Companies Limited by Guarantee		
1	<p>Under the tax exemption scheme for new start-up companies, will a wholly-owned Singapore subsidiary company qualify for the new tax exemption if –</p> <p>(a) The holding company is an overseas company and has at least 1 individual with at least 10% of shareholding;</p> <p>(b) The holding company is a Singapore company which is also wholly owned by another Singapore company and this company's shareholders are all individuals.</p>	Neither (a) nor (b) will qualify for the new start-up exemption scheme, as it only applies to companies (with not more than 20 shareholders) which are directly-owned by at least one shareholder who is an individual beneficially holding at least 10% of the total number of issued ordinary shares of the company.
2	Under the old conditions, a company with a corporate shareholder does not qualify for the full tax exemption. Can the company now claim for the full tax exemption? What about the prior YAs?	<p>The conditions for a qualifying company are as follows:</p> <p><u>From Year of Assessment (YA) 2005 to YA 2008:</u> To qualify for the tax exemption for new start-up companies, a company must:</p> <p>a) be incorporated in Singapore (other than a company limited by guarantee);</p> <p>b) be a tax resident in Singapore for that YA; and</p> <p>c) have its total share capital beneficially held, directly or indirectly, by no more than 20 individuals throughout the basis period relating to that YA.</p> <p><u>With effect from YA 2009:</u> To qualify for the tax exemption for new start-up companies, a company must:</p> <p>a) be incorporated in Singapore (other than a company limited by guarantee);</p> <p>b) be a tax resident in Singapore for that YA;</p> <p>c) have no more than 20 shareholders throughout the basis period for that YA where:</p>

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		<p>i) all of the shareholders are individuals beneficially holding the shares in their own names; or</p> <p>ii) at least one shareholder is an individual beneficially holding at least 10% of the total number of issued ordinary shares of the company.</p> <p><u>With effect from YA 2010:</u> The start-up exemption will be extended to companies limited by guarantee.</p> <p>Generally, the tax change will apply to existing companies still within their first three YAs on a prospective basis. The enquirer may wish to write in with full details so that IRAS can consider the specific circumstances of the company.</p>
D) Enhancement of Existing Capital Allowance Regime		
1	Can accelerated capital allowances apply to progress payments made during basis period of YA 2010 and YA 2011 for construction of new machinery, if the order for new machinery was placed before YA 2010 and the construction will complete in or after YA 2011?	No. The underlying objective of the budget change is to encourage businesses to acquire new plant or machinery during this year and the next. Where the decision to acquire the plant or machinery was already made before YA 2010, the progress payments made in the basis period for YA 2010 and 2011 will continue to qualify for capital allowance under the current 3-year write-off scheme.
E) Accelerated Writing-Down Allowance for Acquisition of Intellectual Property Rights for Media & Digital Entertainment Content		
1	Why is the Writing-Down Allowance accelerated only for Media & Digital Content? Why is it not extended to other types of intellectual property rights?	The accelerated writing-down allowance is granted only to qualifying intellectual property rights (IPRs) for Media and Digital Entertainment (MDE) content because of the Government's drive to promote the MDE sector and to encourage MDE businesses to actively exploit their IP rights from Singapore.

S/N	Questions	IRAS' Response
F) Enhancement of Fund Management Incentive Schemes		
1	Will there be any restriction on the amount or percentage of shares the fund management company or its related companies can own in the qualifying fund? It is not uncommon for a fund management company to own a stake in the fund to attract investors by showing their commitment. More commonly this is known as sponsoring the Fund.	Under the budget change, there is no restriction on the amount or percentage of shares the fund management company or its related companies can own in the qualifying fund.
2	What are the likely conditions under the Enhanced Tier?	The applicant for the Enhanced Tier must have a minimum fund size of S\$50 million at the point of application. Further details of the conditions of the Enhanced Tier will be released by MAS in April 2009.
3	Can a Singapore resident fund application come under the enhanced tier as well?	There is no restriction imposed on the residency status of the fund vehicles under the Enhanced Tier.
4	Can an existing fund apply for the enhanced tier scheme?	Existing funds that are under the existing fund management incentive schemes may apply for the Enhanced Tier if they meet the conditions of the Enhanced Tier. Further details of the conditions of the Enhanced Tier will be released by MAS in April 2009.
5	Fund management industry incentives proposed to allow offshore LLPs as “qualifying funds”. Will this be limited to LLPs or extended to all forms of partnership vehicles (used by the fund management industry)?	No. The Enhanced Tier will apply to funds that are constituted in the form of Limited Partnerships (LPs). The conditions under the Enhanced Tier will be applied at the LP level instead of at the individual partner's level.
G) Enhancement of the List of Specified Income and Designated Investments for Certain Tax Incentive Schemes		

S/N	Questions	IRAS' Response
1	What are the reasons for adopting the approach of specifying “designated investment”/”specified income” and having to continually update this list, instead of adopting an “exclusion list”?	As financial products evolve, the types of income that can be derived from financial instruments may be expanded. The “exclusion list” approach may result in the tax exemption of an income stream which is not intended to be incentivised.
H) Temporary Liberalisation of Income Tax Exemption for Foreign-Sourced income Received in Singapore During Specified Period		
1	Income derived before the budget date and remitted to Singapore during the window period i.e. 22/1/2009 to 21/1/2010 is tax exempt. Are there further conditions that may be imposed to qualify for tax exemption?	There are no other conditions, as long as the tax exemption is beneficial to the taxpayers. But taxpayers are required to make a declaration in their income tax returns on their remittance of their foreign income.
2	For concession on directly-owned subsidiaries, is there a requirement for the profits earned on or before 21 Jan 2009 to be audited?	Singapore taxpayers must satisfy IRAS that profits are earned by directly-owned subsidiaries on or before 21 January 2009. They should maintain sufficient documentation, be it audited accounts or any alternative documentary evidence, to substantiate to IRAS that this is the case.
3	Is there any condition imposed on the usage of funds?	The objective of the liberalized FSIE scheme is to encourage businesses tap on their foreign funds to finance the business needs in Singapore during this credit-crunch period. Businesses are in the best position to determine the usage of their funds for this purpose.
4	If I use foreign branch profits earned after 22 Jan 2009 to buy movable property that is subsequently brought back to Singapore, will the new foreign sourced income exemption still apply?	No. The liberalized FSIE scheme only applies to foreign-sourced income which are earned on or before 21 January 2009.
5	On the foreign sourced income exemption, the administrative concession for exemption of dividends paid by directly-owned subsidiaries provided underlying profits earned before 21/1/2009 – is there a minimum shareholding requirement?	The Singapore taxpayer must own <u>more than 50%</u> of the ordinary shares in the foreign company.

S/N	Questions	IRAS' Response
6	On the foreign sourced income exemption, the administrative concession required information on use of remitted funds. Why?	The objective of the liberalized FSIE scheme is to encourage businesses tap on their foreign funds to finance the business needs in Singapore during this credit-crunch period. The information on the use of remitted funds will enable the Government to evaluate the effectiveness of the scheme.
7	Is the interest income of the foreign branch taxable in Singapore when remitted to Singapore head office as part of branch profits remittance? E.g. Korean sourced non-trade income (e.g. interest) of a branch in Korea remitted to Singapore head office. Is it taxable?	As long as the interest income is rightfully earned by the Korean Branch on or before 21 January 2009 and is <u>not</u> derived as part of the trade or business of the Singapore head office, the foreign-sourced interest income of the Korean Branch will qualify for the tax exemption if it is remitted to Singapore from 22 January 2009 to 21 January 2010.
8	Under what circumstances will the Comptroller of Income Tax (CIT) be satisfied that the foreign sourced income exemption is beneficial to taxpayers under section 13(9)? Does CIT issue confirmation?	We do not issue a confirmation that tax exemption is beneficial to a taxpayer. Taxpayers should make their own evaluation of whether the exemption is beneficial to them as they know their own circumstances best. For administrative purposes, unless the taxpayer informs IRAS that tax exemption is not beneficial to him, we will consider that it is beneficial to him and will grant the tax exemption accordingly.
9	What is the rationale for restricting the foreign sourced income exemption to income earned on or before 21 Jan 2009? Why penalize taxpayers that are still in a position to earn income?	The objective of the budget change is to encourage businesses tap on their past foreign funds to finance their business needs in Singapore. The restriction of the liberalized FSIE scheme to income that was already earned before the budget day also serves to address concerns with tax planning and round-tripping of locally-sourced income as foreign-sourced income to qualify for the tax exemption. Foreign-sourced income which are earned after budget day can still qualify for tax exemption under the current section 13(8) if the conditions under section 13(9) are met.

S/N	Questions	IRAS' Response
I) Partial Input Tax Recovery for Qualifying Funds on GST Incurred on Prescribed Fund Management and Related Services		
1	What is the likely GST input recovery rate for Singapore resident fund? Can you provide a range?	<p>The remission allows qualifying funds that are managed by a prescribed fund manager in Singapore to claim a <u>substantial</u> portion of the input tax incurred on prescribed expenses.</p> <p>Further details on the annual recovery rate will be published by MAS in April 2009.</p>
2	Partial input tax recovery for qualifying funds – is this for the lifetime of the fund? When deciding on location to set up a fund, clients are concerned with costs associated to the fund for the shelf life. It will be preferred if the GST recovery concession is for the lifetime of fund.	The remission only applies to prescribed expenses incurred from 22 January 2009 to 31 March 2014, subject to review.
J) Changes to GST Treatment for the Aerospace Industry		
1	GST treatment of aircraft/aircraft related supplies –Details of the new scheme – import GST suspension available?	Please refer to IRAS e-Tax Guide - “GST Guide for the Aerospace Industry” published on 2 March 2009.
K) Others		
1	Since the Government is freezing all fees and charges, will IRAS continue to absorb the 2% GST increase or consider removing its charges for advance rulings altogether?	IRAS will continue to absorb the 2% GST increase until 31 December 2009.
2	Seems like business operation under sole proprietorship not provided any in the budget – any reason why these business operation mode have been excluded. Why penalize these entrepreneurs?	There are a number of measures introduced in 2009 Budget to help sole proprietorship businesses. They include: job credits, personal income tax rebate, enhanced loss carry-back relief, enhancement of capital allowance claim, property tax rebate for industrial and commercial property etc.