

IRAS e-Tax Guide

Tax Framework for Transfer of Business by Insurers

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1. Aim

- 1.1. This e-Tax Guide sets out the tax framework for transfer of business by insurers licensed under section 11 of the Insurance Act 1966 (“licensed insurers”).
- 1.2. This e-Tax Guide is relevant to Singapore-incorporated licensed insurers that carry out a transfer of business effected by a scheme of transfer under section 117 of the Insurance Act 1966 (“IA”).

2. At a glance

- 2.1. To ensure parity in treatment for companies in the insurance business with other companies, the tax framework for facilitating corporate amalgamations under section 34C of the Income Tax Act 1947 (“ITA”) will be adapted to cover transfers of business by licensed insurers effected by a scheme of transfer under section 117 of the IA made on or after 1 November 2021.

3. Background

- 3.1. To minimise the tax consequences arising from a corporate amalgamation, the tax framework for corporate amalgamations¹ was introduced in 2009 under section 34C of the ITA. The tax framework for corporate amalgamations is intended to give tax effect to qualifying amalgamations as if there is no cessation of the existing businesses by the amalgamating companies and all risks and benefits that exist prior to the merger are transferred and vested in the amalgamated company. In other words, qualifying corporate amalgamations will be treated as a continuation of the existing businesses of the amalgamating companies by the amalgamated company for tax purposes.
- 3.2. A qualifying corporate amalgamation comprises amalgamation of companies:
 - i. where the notice of amalgamation under section 215F of the Companies Act 1967 (“CA”) or a certificate of approval under section 14A of the Banking Act 1970 is issued on or after 22 January 2009; or
 - ii. where the amalgamation is court-directed under the CA or any other amalgamation of companies, provided the amalgamation has a similar effect as that of a statutory voluntary amalgamation under section 215B to 215G of the CA. Such amalgamation of companies is subject to the approval of the Minister for Finance, or such person as he may appoint.

¹ Please refer to section 34C of the Income Tax Act 1947 and IRAS’ e-tax guide on “Tax Framework for Corporate Amalgamations”.

- 3.3. Due to regulatory restrictions imposed, licensed insurers are required to transfer their insurance-related businesses through a scheme of transfer under the IA. Licensed insurers are thus unable to transfer their insurance-related businesses through a statutory voluntary amalgamation under the CA and would not be able to avail themselves to the tax framework for corporate amalgamations under section 34C of the ITA.
- 3.4. To ensure parity in treatment for companies in the insurance business with other companies, the tax framework for facilitating corporate amalgamations will be adapted to cover transfers of business by Singapore-incorporated companies effected by a scheme of transfer under section 117 of the IA, where the court order for the confirmation of the scheme referred to under section 118 of the IA is made on or after 1 November 2021.
- 3.5. Accordingly, a new section 34CA is enacted in the ITA to apply with modification the tax treatments accorded to a qualifying amalgamation of companies under section 34C of the ITA, to qualifying transfers of business by licensed insurers.

4. Application of Section 34CA of the ITA

4.1. Section 34CA applies where:

- i. The Singapore-incorporated licensed insurer (“transferor”) transfers the whole of its insurance business along with any other business ancillary to it (“insurance business”) to another Singapore-incorporated company (“transferee”) under the IA, and the scheme of transfer under section 117 of the IA takes effect on a single date (“date A”) that is on or after 1 November 2021;
- ii. If the transferor conducts non-insurance business, it transfers all of its other trades or businesses that are not ancillary to its insurance business (“non-insurance business”) to the transferee and the transfer takes effect on a single date (“date B”) within 1 year before or after date A;
- iii. If the transferor conducts non-insurance business and wishes to apply for the section 34CA treatment, the transferee has obtained the Comptroller of Income Tax (“CIT”)’s approval to apply the section 34CA treatment to the transfer of the non-insurance business;
- iv. The conditions for the transfers of those businesses stipulated in paragraph 4.2 are satisfied; and
- v. The transferee makes an election for the application of section 34CA to the transfer of those businesses.

Conditions for the Transfer of Insurance and Non-Insurance Businesses

- 4.2. The conditions² for the transfer of insurance and non-insurance businesses under section 34CA are:

Insurance Business	Non-Insurance Business
i. The transferee takes over all the properties, rights, privileges, liabilities, and obligations of the transferor's insurance business on date A;	i. The transferee takes over all property, rights, privileges, liabilities and obligations, etc. of the transferor's non-insurance business on date B; and
ii. The transferor permanently ceases to carry on its insurance business on date A; and	ii. The transferor permanently ceases to carry on its non-insurance business on date B.
iii. The transferor is dissolved or wound up before the filing due date of the income tax return for the Year of Assessment ("YA") related to the basis period in which date A falls.	

- 4.3. For avoidance of doubt, if the licensed insurers are unable to meet the conditions in paragraph 4.2 above, both the transfer of insurance and non-insurance businesses will not qualify for the tax framework under section 34CA. In such an instance, the tax treatment under the tax framework under section 34CA will be reversed. Consequently, taxes arising from the above reversal will be recovered from the licensed insurers. See paragraph 5.9 for details.

5. Tax Treatment

- 5.1. The intention of section 34CA is to apply, with appropriate modifications, the tax treatments under the tax framework for corporate amalgamations to qualifying transfers of business by licensed insurers. As such, wherever relevant, the income tax treatments prescribed in paragraph 6 and Annex A of IRAS' e-tax guide on "Tax Framework for Corporate Amalgamations", will apply to qualifying transfers of business by licensed insurers, as though the transferor is the amalgamating company, and the transferee is the amalgamated company.
- 5.2. For avoidance of doubt, the existing tax treatments specifically applicable to licensed insurers under section 26 of the ITA will continue to apply and where the transferor has any unutilised tax loss items attributable or apportioned to the transferred business remaining unabsorbed on the effective date, then sections 23 and 37 apply, with the necessary modifications, as if the

² Includes any other conditions as may be prescribed by regulations under section 34CA(31) of the ITA.

transferee is the transferor for the purposes of deducting the unutilised tax loss items against the income or the statutory income (as the case may be) of the transferee.

5.3. In determining the taxable income of a licensed insurer:

- i. in a case where an insurance business is transferred by a licensed insurer (transferor) during the basis period, the amount of the transferor's policy liabilities immediately before the date of the transfer, must be added to the ending value of the transferor's policy liabilities; and
- ii. in a case where an insurance business is transferred to a licensed insurer (transferee) during the basis period, the amount of the transferor's policy liabilities immediately before the date of the transfer, must be added to the beginning value of the transferee's policy liabilities.

Refer to Annex A for a numerical example on how to determine the value of policy liabilities of a licensed insurer in relation to the transfer of the insurance business.

5.4. Goods and Services Tax ("GST")

The GST implications for transfers of business by licensed insurers under section 34CA are set out in Annex B. For other types of business transfers, the prevailing GST rules will apply.

5.5. Stamp Duty

Stamp duties relief is available if the qualifying transfer of business by insurers satisfies the Stamp Duties (Relief from Stamp Duty upon Reconstruction or Amalgamation of Companies) Rules.

From the Year of Assessment ("YA") 2024 (or YA 2025 for insurers whose financial year end ("FYE") is not 31 Dec) or such earlier YA as may be approved by the CIT

- 5.6. With the adoption of the Financial Reporting Standard ("FRS") 117 *Insurance Contracts* or Singapore Financial Reporting Standard (International) ("SFRS(I)") 17 *Insurance Contracts* (collectively referred to as "FRS 117" hereinafter) for the preparation of the financial statements, insurers must use the MAS Statutory Returns instead of the financial statements as the basis for preparing their tax computations from YA 2024 (or YA 2025 for insurers whose FYE is not 31 Dec) or such earlier YA as may be approved³ by the CIT. Consequently, a new section 34AAA of the ITA is also introduced to provide for a new basis for computing the profits, losses and expenses in respect of financial instruments of licensed insurers once insurers start to use the MAS Statutory Returns for preparing their tax computations. Related consequential adjustments to existing tax treatments will also be introduced.

³ Licensed insurers who have sought and obtained the CIT's approval to early adopt the use of MAS Statutory Returns as the basis for preparing their tax computations.

- 5.7. Accordingly, the tax treatments prescribed in paragraphs 5.1 to 5.2 will continue to apply except for financial instruments where the transfer of business takes place before 1 January 2023 and section 34CA(26)⁴ is applicable. For basis period beginning on or after 1 Jan 2023 or an earlier basis period approved by the CIT to adopt the MAS Statutory Returns as the basis for preparing their tax computations, section 34CA(26) will no longer be applicable since all insurers covered under this framework would need to comply with section 34AAA.
- 5.8. Please refer to IRAS' e-Tax Guide "Income Tax: Taxation of Insurers Arising from Adoption of FRS 117 – Insurance Contracts" for more information on the above and other tax treatments applicable to licensed insurers adopting FRS 117.

Recovery of Taxes due to the Failure to Satisfy the Conditions to Qualify for Section 34CA⁵

- 5.9. In a situation where the transfer of business fails to satisfy the conditions prescribed in paragraphs 4.1 and 4.2 (i.e. where the transfer of insurance and non-insurance businesses occur over two YAs and the licensed insurers have claimed the tax benefits of section 34CA after obtaining approval from the CIT), the tax treatments under section 34CA are to be reversed. The licensed insurers are required to inform the CIT in writing of the failure to satisfy the conditions together with the revised tax computation reflecting any reversals of tax treatment **within 1 month** from the day the licensed insurers are aware they are not able to fulfil the conditions to qualify for section 34CA. The reversal mechanism will follow the rules below:
- i. The reversal will be made in the YA the section 34CA tax treatments were accorded to the transferor or the transferee (e.g. if the tax benefit was accorded in YA 2023, the reversal will be made in that same YA); and
 - ii. The reversal will be made to the party who benefited from the tax treatment under section 34CA (e.g. if the transferee benefitted from the

⁴ Section 34CA(26) provides that if the transferor had previously adopted the FRS 39 tax treatment under section 34A of the ITA, then the transferee will not be allowed to opt out of the FRS 39 tax treatment unless the transferee is already on FRS 109 tax treatment. Similarly, if the transferor had previously adopted the FRS 109 tax treatment under Section 34AA of the ITA, then the transferee will not be allowed to opt out of the FRS 109 tax treatment. On the other hand, if the transferor had (1) previously opted out of the FRS 39 and FRS 109 tax treatment while the transferee had adopted the FRS 39 tax treatment; or (2) previously opted out of the FRS 109 tax treatment while the transferee had adopted the FRS 109 tax treatment, then the gains or losses, not being capital in nature, arising from the transitional tax adjustments to the financial instruments of the transferor will be taxed as the income of the transferee, or allowed as a deduction against its income, for the YA of the basis period in which the date of transfer falls.

⁵ Section 34CA(31)(f) of the ITA provides that the Minister may make regulations to provide for allowing of any deduction or the making of any allowance under this section before a requirement in section 34CA(1) of the ITA is satisfied, and the recovery of the amount of any deduction wrongfully allowed or allowance wrongfully made under this section because that requirement is not satisfied, including the deeming of a specified amount as income on a specified date.

tax treatment, then the reversal will be made to the transferee's tax assessment).

Refer to [Annex C](#) for a numerical example of the reversal mechanism.

6. Administrative Procedure

Timeframe for Approval for the Transfer of Non-Insurance Business

- 6.1. The transferee is required to apply to the CIT in writing **within 90 days from the earlier of date A or date B** or such further period as the CIT may allow for this section to apply to the transfer of the non-insurance business. The transferee which applies to the CIT in writing is required to submit documents containing details of the non-insurance business and plans regarding the transfer of the non-insurance business at the time it makes the application.

Timeframe for Election for the Application of Section 34CA to the Transfer of Insurance and Non-insurance businesses

- 6.2. The transferee is required to make an election in writing to the CIT, **within 90 days from the later of date A or date B** or such further period as the CIT may allow. An election, once made by the transferee, is irrevocable and has to be accompanied by the court order for the confirmation of the scheme of transfer referred to under section 118 of the IA and any other legally binding agreement for the transfer of the non-insurance business (if any).
- 6.3. The transferee which elects for section 34CA to apply is required to provide the following information at the time it makes the election in writing to CIT or such time as CIT may approve:
- i. Reasons for the transfers of business;
 - ii. A copy of the transfer proposals or agreements;
 - iii. A list giving details of the investment assets taken over by the transferee as outlined in paragraph 6.3 of IRAS' e-tax guide on "Tax Framework for Corporate Amalgamations". Details that should be kept include:-
 - Description of the asset;
 - Date of purchase by the transferee;
 - Original cost of the asset;
 - How the asset was financed;
 - Purpose of the acquisition by the transferee, together with supporting evidence; and
 - Basis for claiming that the assets are on capital account; and
 - iv. All outstanding income tax returns and the finalised set of accounts and tax computations up to the date of transfers of the transferor.

Please refer to [Annex D](#) for a copy of the Election Form.

7. Contact Information

7.1. For any enquiries or clarification on this e-Tax Guide, please call:

1800-356 8622 (Corporate Income Tax);

1800-356 8633 (Goods and Services Tax); or

1800-356 8300 (Stamp Duty)

Annex A – Determining the Amount of Policy Liabilities of a Licensed Insurer in relation to the Transfer of the Insurance Business

Transferee A takes over an insurance business from Transferor B on 1 July 2022. Both Transferee A's and Transferor B's financial year end is on 31 December.

	Policy liabilities as at 1 January 2022	Policy liabilities transferred on 1 July 2022	Policy liabilities as at 31 December 2022
Transferee A	\$2 million	\$1.5 million transferred from Transferor B	\$5 million (including \$1.5 million from Transferor B)
Transferor B	\$1 million	\$1.5 million transferred to Transferee A	\$0

Based on the operations of section 26(5) and 26(13) of the ITA, the amounts of policy liabilities of Transferee A and Transferor B after the transfer of insurance business are as follows:

Transferee A

Increase in policy liabilities
= \$5 million - \$3.5 million (\$2 million + \$1.5 million) = \$1.5 million

Transferor B

Increase in policy liabilities
= \$1.5 million (\$0 million + \$1.5 million) - \$1 million = \$0.5 million

Annex B – Summary of GST Implications

The GST implications below are applicable insofar as:

- (i) The insurers involved are registered or liable to be registered for GST; and
- (ii) The transfer of business falls under section 34CA(1) of the ITA⁶ and the insurers have made an election under section 34CA(6) of the ITA.

For qualifying corporate amalgamations⁷, please refer to the Tax Framework for Corporate Amalgamations (Third Edition). For all other forms of business transfers or mergers including business transfers that are approved by the Minister of Finance or such person as the Minister may appoint under section 34CA(5) of the ITA, the prevailing GST rules will apply.

S/N	GST Issue	GST Implications
1	Transfer of business as a going concern ("TOGC")	As an administrative concession, where both the insurers are GST-registered, the transfer of business will automatically qualify as a TOGC, except in the case where the transferee is or will be a member of a GST group. For the latter, it will have to self-assess whether the prevailing conditions set out in the GST (Excluded Transactions) Order can be satisfied.
2	GST registration/ deregistration	<p>GST registration status is non-transferable. Hence, the prevailing rules for GST registration will continue to apply.</p> <p>Where the transferee is already GST-registered prior to the business transfer, its GST registration number will be retained after the transfer has taken place. If the transferor ceases to exist on the transfer date, its GST registration status will have to be terminated.</p>
3	GST group registration/ deregistration	<p>GST group registration status is non-transferable. Hence, the prevailing rules for GST group registration will continue to apply.</p> <p>Where the transferee is already part of a GST group prior to the business transfer, it will have to review its eligibility for group registration and apply for withdrawal if it can no longer satisfy the eligibility conditions (e.g. control requirements) after the business transfer. Where necessary, the transferor that ceases to exist on the transfer date will have to be deregistered from its GST group.</p>
4	Major Exporter Scheme (MES)	MES status is non-transferable. Hence, the prevailing rules for MES will continue to apply.

⁶ Refer to the conditions outlined in paragraph 4.1 of this e-tax guide.

⁷ That is, where a notice of amalgamation under section 215F of the Companies Act or certificate of approval under section 14A of the Banking Act is issued on or after 22 January 2009.

		Where the transferee has already obtained MES status prior to the business transfer, it will have to review its eligibility for MES upon the business transfer and notify the Comptroller if it can no longer satisfy the MES conditions (e.g. value of zero-rated supplies drops below MES requirements). For such cases, the Comptroller may terminate the MES status of the transferee or impose additional conditions, for the protection of revenue. If the transferor ceases to exist on the transfer date, its MES status will be terminated on that day.
5	GST liabilities, obligations and entitlements	<p>All GST liabilities, obligations and entitlements (including GST returns, payments, penalties and refunds) due to the transferor will be automatically transferred to and assumed by the transferee on the date of the transfer.</p> <p><u>Bad debt relief</u> The transferee is entitled to claim bad debt relief on supplies previously made by the transferor, provided that other conditions in Regulation 83 are satisfied.</p> <p><u>Repayment of input tax previously claimed by transferor</u> The transferee is liable under Section 19(12) of the GST Act, to repay input tax that has been previously claimed by the transferor if no actual payments were made to the suppliers within 12 months from the respective due dates.</p>
6	Transitional rules	<p><u>(A) Issuance of tax invoices</u> The transferee is allowed to issue tax invoices and credit notes for supplies that have been made by the transferor prior to the business transfer.</p> <p><u>(B) Input tax claims</u> The transferee is allowed to claim input tax based on tax invoices/ import permits issued to the transferor for purchases and imports that have been made prior to the business transfer, subject to the other input tax conditions in Sections 19 and 20 of the GST Act.</p>

Annex C – Numerical Example of Reversal Mechanism

A Singapore-incorporated licensed insurer (Company A), conducting both insurance and non-insurance businesses, decides to transfer its insurance business in the basis period for YA 2023 and non-insurance business in the basis period for YA 2024 to another Singapore licensed insurer (Company B). In YA 2023, Company A obtained approval from CIT to avail itself of the tax treatments under section 34CA but later found out that it could not satisfy the conditions for the transfer of its non-insurance business in YA 2024.

In YA 2023, Company A transferred some machineries and unutilised tax loss items to Company B as part of the transfer of the business. The details of the machineries and unutilised tax loss items transferred are as follows:

- Machinery:
 - Original cost: \$75,000
 - Tax written down value: \$50,000
 - Remaining useful life: 2 years
 - Current market price: \$80,000
- Unutilised losses transferred from transferor to transferee: \$20,000

As the companies were not able to satisfy the conditions to qualify for section 34CA, the tax treatments for such transfers are to be reversed in YA 2023:

Transferor (YA 2023)

The transferor will be treated as having sold the machineries to the transferee on the date of transfer. Accordingly, this will give rise to balancing allowance or balancing charge depending on the market value of the machineries transferred to the transferee.

Tax loss (failed to transfer to transferee)	(20,000)
Add: Balancing charge from sale of P&M (capped at CA previously allowed)	25,000
Chargeable income	5,000
Less: Partial tax exemption	
- First \$5,000 @ 75%	(3,750)
Chargeable income after exemption	1,250
 Tax payable @ 17%	 212.50
Less: Tax previously assessed	0.00
Additional tax payable	212.50

Transferee (YA 2023)

Unabsorbed tax loss items belonging to the transferor **will be disregarded**. Accordingly, unutilised tax loss items claimed by the transferee will be reversed.

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Chargeable income (After claiming capital allowances and unabsorbed tax loss items)	200,000
Add: CA claimed as if s24 is elected (50,000 / 2)	25,000
Less: CA claimed on machineries bought (80,000 / 3)	(26,667)
Add: Recovery of unabsorbed tax loss items claimed	20,000
Adjusted chargeable income	<u>218,333</u>
Less: Partial tax exemption	
- First \$10,000 @ 75%	(7,500)
- Next \$190,000 @ 50%	<u>(95,000)</u>
Chargeable income after exemption	<u>115,833</u>
 Tax payable @ 17%	 19,691.61
Less: Tax previously assessed	<u>(16,575.00)</u>
Additional tax payable	<u>3,116.61</u>

Annex D – Election Form for Companies for Qualifying Transfer of Business by Insurers under Section 34CA of the Income Tax Act 1947

- Note:**
- This Form may take you 10 minutes to complete.
 - Please get ready the particulars of the transferor and transferee companies.
 - Under section 34CA(6) of the Income Tax Act 1947 (“ITA”), the election has to be made by the transferee.
 - You may submit the completed and signed Form, together with the documents specified in Part 5 below, to IRAS via myTax Mail (<https://mytax.iras.gov.sg>).

Part 1 – Particulars of companies	
<u>Transferee</u>	
Name of company:	
Tax Ref. No.:	
Date of transfer of insurance business:	
Date of transfer of non-insurance business:	
<u>Transferor</u>	
Name of company:	
Tax Ref. No.:	
Part 2 – Details of Transfers	
State briefly the purpose for carrying out the transfer(s) of business	
Part 3 – Confirmation	
We confirm that we have fulfilled the conditions stipulated in section 34CA(1) of the ITA for the transfer of insurance business and non-insurance business (if any).	
Part 4 – Election	
We elect for section 34CA of the ITA in respect of qualifying transfers of business by Singapore-incorporated licensed insurers to apply to the transferee and transferor. A copy of the court order for the confirmation of the scheme of transfer referred to under section 118 of the Insurance Act and any other legally binding agreement for the transfer of the transferor’s non-insurance business (if any) are attached.	
We accept that the election is irrevocable.	

Part 5 – Documents submitted (Tick where applicable)

We enclose the following documents together with the election made under section 34CA(6) of the ITA:

- ☐ A copy of the transfer proposal or agreements
- ☐ A list of the investment assets⁸ taken over by the transferee
- ☐ Finalised set of accounts and tax computation(s) of the transferor that ceased to exist, for the current year of assessment and the year of assessment relating to the basis period/s in which the date/s of transfer/s falls, and all other outstanding returns of these companies.

Name and signature of person making the election: _____

Capacity of person making the election: _____

Date of election: _____

Contact number: _____

⁸ Please refer to paragraph 6.3 of IRAS e-Tax Guide on Tax Framework for Corporate Amalgamations.