

Extension Of IRAS' Power To Disclose Taxpayers' Information

Understanding The Enhanced Powers

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Facilitated by:

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KEY TAKEAWAYS

- Income Tax (Amendment) Act 2022 introduced legislative changes to both the Income Tax Act and the Goods and Services Tax Act, to enhance IRAS' powers to obtain and disclose taxpayers' information to public officers and officers of statutory boards for the performance of their official duties.
- The amendments to the official secrecy provisions in these Acts have been made to support data-driven policymaking, operations, and integrated service delivery.
- Taxpayers should assess the validity and scope of the request to evaluate its impact on the business.

In this era of big data, businesses and organisations place great importance on data privacy and confidentiality to assure customers and users that they can be trusted with personal data. It is no wonder that some eyebrows were raised last year when the government proposed amendments to tax laws to facilitate the disclosure of information by the Inland Revenue Authority of Singapore (IRAS).

On 4 November 2022, legislative changes under the Income Tax (Amendment) Act 2022 to section 6 of the Income Tax Act 1947 (ITA) and section 6 of the Goods and Services Tax Act 1993 (GSTA) came into effect concerning the confidentiality of taxpayers' information. Essentially, the changes enhanced the Comptroller of Income Tax (CIT)'s and the Comptroller of Goods and Services Tax (CGST)'s power to obtain and disclose taxpayers' information to public officers and officers of statutory boards for the performance of their official duties, as well as to third-party contractors engaged by the government or a statutory board ("authorised person").

At a recent webinar organised by the [Singapore Chartered Tax Professionals](#), Accredited Tax Advisor (Income Tax and GST) Mr S. Sharma, Consultant at Adsan Law LLC, shed light on these legislative changes and provided insights to taxpayers and their advisers on the business implications of such changes.

IRAS' Enhanced Power to Facilitate the Disclosure of Information for Official Duties

Although the tax legislation had earlier provided for exceptions for disclosure for the carrying out of certain official duties and the scope of such exceptions had been extended over time (for example, amendments had been made in the Income Tax (Amendment) Bill 2018 to empower IRAS to share information with other law enforcement agencies), such exceptions have been seen by the authorities as inadequate to support the performance of official duties.

In his [Second Reading Speech on the Income Tax \(Amendment\) Bill 2022](#), Senior Minister of State for Finance Mr Chee Hong Tat explained that further amendments to the official secrecy provision of the ITA and GSTA would be made “to support data-driven policymaking, operations, and integrated service delivery” by facilitating the disclosure of information by IRAS for official duties.

SHARING OF INFORMATION BY IRAS WITH EXPRESS CONSENT FROM TAXPAYERS

Prior to the latest amendments, both CIT and CGST were only allowed to disclose information collected under their Acts to specific public officers, statutory board officers or authorised person with express consent from the taxpayer to assist with official duties in administering or facilitating the administration of any written law or public scheme. In other words, the Comptrollers would not have the authority to share information where the official duties of public officers go beyond administering a written law or public schemes unless specific exemptions apply.

On this, the Minister shared an example where IRAS was unable to share a company's information with Enterprise Singapore for its regular review of the internationalisation schemes, even though the company had given its consent, as the review did not fall within the “administration of any written law or public scheme”. Following the amendments to Section 6 of the ITA, IRAS can now disclose the information to Enterprise Singapore for the performance of official duties in similar situations.

SHARING OF INFORMATION BY IRAS WITHOUT EXPRESS CONSENT FROM TAXPAYERS

Under the new Section 6(12B) of the ITA and Section 6(9C) of the GSTA, IRAS is now allowed to disclose a prescribed list of identifiable company-related information to public sector agencies for the performance of official duties, without obtaining express consent from taxpayers. The prescribed list includes information such as name of company, revenue, net profit (or loss), tax deduction claimed under specified tax incentive schemes, income received in Singapore from outside Singapore, total value of supplies and total value of zero-rated supplies made by the company.

“The list of prescribed information can provide economic agencies with useful insights, such as business trends and effectiveness of existing incentives. These insights to public officers may prove useful in helping to shape Singapore's future policy directions,” explained Mr Sharma.

Interestingly, the sharing of information without express consent from taxpayers applies solely to company-related information and will not apply to the data of individuals.

SAFEGUARDS ON SHARING OF INFORMATION

In his Second Reading Speech in Parliament, the Minister acknowledged the importance of protecting data confidentiality and assured that safeguards would be put in place as the government strives to balance data confidentiality with service efficiency and convenience. An example of such safeguards is that information in the prescribed list will only be made available to public officers and will be provided in less granular form (for example, values would be presented in ranges instead of exact amounts).

The Minister also reiterated that all information on taxpayers “will continue to be safeguarded under existing tax legislation, the Official Secrets Act and the Public Sector (Governance) Act, as well as data governance policies set out in the government’s instruction manuals” and reassured taxpayers that any unauthorised disclosure of data is an offence.

Understanding What Lies Ahead for Businesses

Amid the changing disclosure environment, businesses need to adjust and operate on the basis that prescribed information (including non-anonymised information) could be shared with other government ministries, departments or other public sector agencies as no express consent is required for disclosure by IRAS. Accordingly, businesses should be prepared for potential queries from other government ministries, departments or other public sector agencies arising from the prescribed information. Should they encounter unauthorised disclosure of information, taxpayers should fall back on the prior and newly-introduced safeguards available under the relevant legislation.

Where express consent is required for IRAS to disclose information to public officers and officers of statutory boards for the performance of their official duties, businesses need to be vigilant where their information may end up, as IRAS may or may not reveal the identities of the public officers or officers of statutory boards requesting such information.

In deciding whether consent should be provided, businesses should assess the validity and scope of each specific request. When in doubt, businesses should consider their rights and liabilities pertaining to withholding consent, or providing consent, as the case may be.

Conclusion

As the saying goes, “The best lightning rod for your protection is your own spine.” Notwithstanding the safeguards available to protect taxpayers, businesses need to be proactive in understanding the legislative amendments and consider conducting an internal review on the possible business impact from IRAS’ enhanced powers to disclose taxpayer data to public officers and officers of statutory boards. Where appropriate, an action plan should be mapped out in advance to deal with the issues that could arise between the business and public sector agencies.

Know your rights. Be prepared.

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