

It has been almost a year since the beginning of the Covid-19 pandemic, yet the world is still in the thick of the ensuing global economic fallout. To stabilise economic activities during this difficult period and position Singapore for recovery, the Singapore government had decisively rolled out numerous relief packages over a record four Budgets in 2020. Meanwhile, Inland Revenue Authority of Singapore (IRAS) has also dished out various guidances to provide clarity on the tax implications arising from the Covid-19 situation.

In July 2020, [Singapore Chartered Tax Professionals](#) published an article "[Covid-19 and Taxes](#)" to highlight three key tax implications arising from Covid-19 that businesses and their employees should take note of. Since then, additional guidances on the various tax types have been made available. This article focuses on these new guidances.

Individual Tax

TAX RESIDENCY AND RELATED ISSUES

A Singapore citizen or Singapore Permanent Resident who is exercising overseas employment, but is now working remotely from Singapore for his overseas employment due to the Covid-19 situation, will continue to be considered as not exercising an employment in Singapore for the period from the date of his return to 31 December 2020 (extended from the previous deadline of 30 September 2020). This is provided that there is no change in the contractual terms governing his employment overseas before and after his return to Singapore, and that it is a temporary work arrangement due to Covid-19.

The updated deadline is subject to review as the Covid-19 situation evolves.

EMPLOYMENT AND RELATED BENEFITS

Employers may provide accommodation and other related benefits to employees affected by movement restrictions imposed within and across borders due to Covid-19. Recognising that employees receive these benefits only as the result of the extraordinary circumstance arising from the Covid-19 pandemic (such as Malaysia's Movement Control Order or MCO), a tax exemption has been granted on qualifying benefits (including accommodation in Singapore, as well as food, transport and daily necessities for consumption in Singapore) given to employees in the calendar year 2020, subject to conditions and a cap on the amount of exemption.

Goods and Services Tax (GST)

As employees are encouraged to work from home (WFH) during this period, many businesses have incurred additional expenses to support such new work arrangements. IRAS has, in its [GST guidance](#), clarified the rules on input tax claim for certain Covid-19 related costs.

OFFICE EQUIPMENT FOR HOME USE TO FACILITATE WFH

Where businesses have purchased office equipment (such as printer and chairs) for their employees' home use to facilitate WFH during the Covid-19 period, input tax is claimable on such purchases if the company owns the equipment. Conversely, input tax is not claimable if the company does not own the equipment on the basis that the purchase is primarily incurred for private purposes.

UTILITY AND TELEPHONE BILLS, MONTHLY SUBSCRIPTION FEES FOR MOBILE PHONES AND BROADBAND INCURRED WHILE EMPLOYEES WFH DURING COVID-19 PERIOD

Input tax is claimable on the business portion of the expenses incurred during the Covid-19 period. For the input tax to be claimable, it is important to ensure that the supply is contracted in the employee's name, and not any other person living in the same household.

COVID-19 TESTS AND HOSPITALISATION CHARGES FOR EMPLOYEES

GST incurred on Covid-19 tests and hospitalisation charges for employees are regarded as medical expenses and accordingly, disallowed under Regulation 26 of the GST (General) Regulations Act.

PERSONAL PROTECTIVE EQUIPMENT FOR EMPLOYEES

Unlike Covid-19 tests and hospitalisation charges for employees, input tax is claimable on personal protective equipment (including masks, thermometers, and hand sanitisers) provided to employees on the basis that they are incurred for the purpose of the business.

COSTS INCURRED FOR EMPLOYEES ON STAY-HOME NOTICE

Unlike GST incurred on accommodation, food, transport to and from testing facilities, and thermometers for an employee who is required to serve a stay-home notice (SHN) upon returning from his overseas business trip is generally claimable (with certain exceptions). On the contrary, GST incurred on such costs for an employee returning from a personal trip overseas is not claimable, as they are incurred primarily for the employee's personal benefits.

SHN EXPENSES AND ACCOMMODATION PROVIDED TO MALAYSIAN WORKERS

GST incurred on accommodation provided to a Malaysian worker in light of the MCO, where the Malaysian worker normally resides overseas and is required to remain in Singapore for business continuity purposes during the MCO period, is considered to be incurred for business purposes and accordingly, is claimable.

In contrast, GST incurred on SHN expenses and accommodation provided to Malaysian workers under the Periodic Commuting Arrangement (PCA) scheme is not claimable on the basis that such expenses are primarily incurred for the personal benefit of the employee; the SHN expenses need not have been incurred had the employee not returned to Malaysia for personal reasons.

Transfer Pricing

The disrupted global supply chain caused by the Covid-19 pandemic is expected to have an impact on businesses' operations and consequently, on their transfer pricing (TP) positions. Businesses face uncertainties on how one may realign existing supply chain arrangements and undertake comparability or benchmarking analysis in the absence of data to determine the arm's length prices for TP purposes.

Recognising businesses' desire for more certainty, IRAS has issued a [TP guidance](#) to address some commonly asked questions by taxpayers whose supply chains and daily operations have been disrupted by Covid-19.

DOCUMENTING IMPACT OF COVID-19

To substantiate the arm's length nature of their TP outcome, taxpayers are expected to provide the following information in their TP documentation:

- A broad analysis of how the company has been affected by Covid-19 and the direct impact of Covid-19 on the company;
- Documentation of who and which entity within the group made decisions relating to management of risks relating to Covid-19; the information would help to indicate which entities are in control of the decisions and accordingly, should bear the related risks;
- The functional analysis of the company and its related parties before and after Covid-19, including any re-allocation of functions, assets and risks, as well as any re-characterisation;
- The contractual arrangements between the company and its related parties; any obligations or material terms and conditions that have been varied, amended or terminated in light of Covid-19 should be highlighted;
- A comparison of the budgeted (pre-Covid 19) and actual results of the profit and loss analysis of the company, with explanation and evidence to support the variances;
- Reasons and supporting evidence to justify how the company's profitability has been negatively impacted by Covid-19;
- Details relating to Covid-19 specific government assistance that the company has received, or government regulations imposed on the company which has an impact on its operations.

The above information request demonstrates IRAS' willingness to work with businesses to better understand the broader facts and circumstances that they face during these exceptional economic situations. At the same time, it highlights once again the importance of contemporaneous documentation in substantiating the arm's length nature of businesses' TP outcomes.

FLEXIBILITY IN CONDUCTING ECONOMIC ANALYSIS

Under usual circumstances, companies are required to consult IRAS if they wish to test related party transactions over a multiple-year period. However, in view of the exceptional Covid-19 situation, companies are now allowed to apply term testing for Year of Assessment (YA) 2021 (that is, financial year 2020) without prior consultation with IRAS, if they are of the view that annual testing may result in volatile results due to the impact of Covid-19. Companies would be expected to explain clearly in the TP documentation how the term testing was applied and highlight that this is a once-off event.

When considering to perform term testing, it is important for companies to take into account the corresponding impact of this approach on its related parties in other jurisdictions. Potential disputes may arise if term testing is not allowed in the other jurisdictions.

CONSIDERATIONS FOR ADVANCE PRICING AGREEMENTS

Companies with existing Advance Pricing Agreements (APAs) with IRAS should consider whether there is any breach of the terms and conditions in the existing agreement due to Covid-19. If there is a breach, the company should inform IRAS, provide an analysis of the impact as a result of Covid-19, explain why the terms and conditions have been breached, and suggest the next course of action.

Companies with APA applications under review would need to assess whether there are Covid-19 related TP implications that would impact the APA application (for example, if there are any changes in the functional profile of the covered entities), and if so, provide relevant details to IRAS. Where significant uncertainties are involved or anticipated, it is possible that the APA process will be put on hold or even terminated.

Companies looking to file a new APA application or renew its existing APA may do so if their business operations and economic performance are not significantly impacted by Covid-19. Otherwise, it may be worth considering to do so only when there is a greater level of certainty on the factors which may affect the determination of arm's length transfer prices between related parties.

While it may be tempting for businesses to focus on their immediate survival during an economic downturn, staying disciplined and ensuring that tax implications are considered when making business decisions will definitely pay off in the long run. The importance of maintaining contemporaneous documentation, particularly to substantiate the TP outcomes during exceptional economic situations, cannot be further emphasised.

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Felix Wong is Head of Tax, and Angelina Tan is Technical Specialist, Singapore Chartered Tax Professionals (formerly Singapore Institute of Accredited Tax Professionals).

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