TED: Trigger Points: Be Alert, Be Ready

Know the Tax Implications at Key Business Milestones

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A business life cycle is punctuated with a myriad of key milestones. While businesses focus on achieving financial targets or product development milestones, many overlook or may even be ignorant of tax implications at various business junctures.

For example, as businesses reach S$1 million in taxable supplies, Goods and Services Tax (GST) implications set in. In addition, a seemingly operational area of business travel may too trigger overseas tax obligations on the business regardless of whether the business has an office overseas.

Businesses that are not mindful of these tax implications may find themselves tripping over these trigger points with possibly grave consequences.

Accredited Tax Advisor (Income Tax & GST) Boey Yoke Ping, Tax Leader at Baker Tilly TFW LLP, identifies the tax impact businesses may face at various business junctures and highlights blind spots and common errors experienced by businesses.

Tax Compliance

At the beginning, even before registering the business name, business owners need to decide on the type of business to be set up – ranging from a sole proprietorship to a company – as this has corresponding tax implications in terms of deductions, tax rates and tax exemptions, to name a few.

To illustrate, a sole proprietor files the business income as his own income. A partnership, Limited Liability Partnership (LLP) or Limited Partnership (LP) is required to file an annual income tax return to show all income earned by the partnership and deductions claimed for expenses incurred in carrying on the partnership business, but does not pay income tax.

Instead, each partner will be taxed on his or its share of the income. A partner that is an individual will be taxed based on his personal income tax rate, while a partner that is a company will be taxed based on the corporate income tax rate.

Deductibility of Expenses

It is important for business owners to put adequate processes in place to segregate business and personal expenses. Business expenses are the costs incurred in the course of running your business, and only deductible business expenses (those that are wholly and exclusively incurred in the production of income) may be used to reduce the taxable income.

At a recent *Tax Excellence Decoded* session organised by the Singapore Institute of Accredited Tax Professionals, Accredited Tax Advisor (Income Tax and GST) Boey Yoke Ping, Tax Leader at Baker Tilly TFW LLP, commented, "It is essential to ensure documentation processes, such as the filing of receipts, are in order and implemented effectively to ensure the business is not put in an undue tax risk position at a later stage."

While seemingly straightforward, the segregation of expenses may be quite a complex affair particularly for first-time business owners. For example, the salary, bonus, allowances, insurance and medical expenses (subject to conditions) of employees are allowable business expenses (which may be claimed as deduction to reduce the taxable income) for sole proprietorships and partnerships, but the business owner's own salary, bonus, allowances, Medisave and CPF contributions, medical fees, income tax, insurance, and donations are not.

Personal Tax Matters

Business owners will also have to grapple with tax-related matters pertaining to their employees. Specifically, the Return of Employee's Remuneration (known as Form IR8A and its accompanying appendices) must be prepared and given to all employees (including full-time and part-time resident employee, non-resident employee, resident and non-resident director and pensioner) by March 1 each year. Employees are required to submit their individual income tax return by April 15 (or April 18 for e-Filing).

Businesses who are on the Auto Inclusion Scheme and e-submit their employees' salary information to the Inland Revenue Authority of Singapore (IRAS) are not required to prepare these forms for their employees, although they may choose to provide their employees with a separate statement of earnings for record.

One commonly misunderstood area for personal tax is the treatment of car and car-related benefits. Car park charges reimbursed or provided by employer when an employee drives from home to work and parks his own car in the office car park or a nearby car park are taxable at the hands of the employee, but reimbursement on car park charges for work purposes, such as attending client meetings, are not. It is useful to note that there is a car benefits calculator available on the IRAS' website for businesses to check the taxable value of car benefits.

GST Requirements

Businesses should regularly monitor the need for GST registration as they grow. GST registration is necessary when the business's taxable turnover for the past 12 months ending March, June, September or December is more than S$1 million, or when the business has grounds to reasonably expect its taxable turnover in the next 12 months to be more than S$1 million.

If a business does not exceed S$1 million in taxable turnover, it may still choose to voluntarily register for GST after careful consideration of factors such as the profile of its suppliers (whether they are GST-registered) and the amount of input tax[1] that it may be able to claim. It must be noted that unlike compulsory GST registration, voluntary GST registration requires the company director, sole-proprietor, partner or trustee to complete and pass two e-learning courses - "Registering for GST" and "Overview of GST".

Upon the approval of GST registration, GST (output tax[2]) must be charged on the sales of goods and services made in Singapore at the prevailing rate of 7%. GST is usually paid to IRAS on a quarterly basis, although businesses may also request for a change in filing frequency depending on business needs. For example, businesses may choose to apply for monthly GST filing for cashflow purposes if they incur substantial input taxes.

It is important for businesses to be clear on when GST registration is required. Errors in this may result in IRAS reviewing and determining the rightful GST registration date. Businesses could then be required to account for GST from that date despite not collecting any GST on such supplies from their customers previously. Business costs are thus affected.

Crossing Borders

Businesses using Singapore as the regional hub to expand overseas may move goods and people across borders, or possibly set up overseas entities. These have tax implications.

Businesses which export more than 50% of their goods may take advantage of the Major Exporter Scheme (MES). Designed to ease cashflow issues, businesses under this scheme do not need to incur GST charges on their imports.

It should be noted that when applying for or renewing the application of MES, businesses will have to perform a self review using the Assisted Self-help Kit (ASK).

Some of the common errors are the validity of tax invoices used to support input tax claims, non-reporting of exempt supplies, and wrongful reporting of goods moving between two countries other than Singapore as zero-rated goods (and thus distorting the export numbers).

Other tax implications include value-added tax which is similar to GST, customs duties and excise duties. While there are no customs duties in Singapore except for certain types of alcohol, there are excise taxes on broad categories of goods including alcohol, tobacco, motor vehicles and motor spirits.

[1] Input tax is the GST that businesses incur on their purchases from GST-registered suppliers or when they import goods into Singapore.
[2] Output tax is the GST that is charged and collected by GST-registered businesses from their customers and is to be paid to IRAS.

Cross-Border-Related Party Transactions

There has been heightened scrutiny in this area, especially in view of developments spearheaded by the Organisation for Economic Co-operation and Development (OECD) in putting in place measures to minimise base erosion and profit shifting by businesses moving incomes from high tax jurisdictions to lower tax jurisdictions.

Since the start of 2015, taxpayers in Singapore are required to prepare and keep contemporaneous transfer pricing documentation. This requirement essentially stipulates that at the point of a cross-border-related party transaction, there must be documentation in place to justify the transaction price (which should be comparable to prices that unrelated parties would have charged in similar circumstances).

Cross-Border Staff Movements

Businesses expanding overseas will have to manage international staff movements as such movements may have tax implications – both for the business and employee – not to mention other legislative and remuneration matters.

A good mix of tax professionals coupled with non-tax management executives listened intently to Accredited Tax Advisor (Income Tax & GST) Boey Yoke Ping, Tax Leader at Baker Tilly TFW LLP.

From a business' perspective, there are generally three types of policies which are commonly used to handle international relocation. A tax equalisation policy aims to ensure the staff relocating pays the same amount of worldwide taxes as if he had remained in the home country. A tax protection policy, on the other hand, aims to reimburse the staff for any additional taxes incurred as a result of an international assignment. Alternatively, businesses may also choose to bear the foreign tax (partially or fully) for the employee. Regardless of the policy, the overarching objective is to provide certainty to the employee in terms of his tax obligations.

Beyond personal tax issues, businesses should also be conscious of possible corporate tax exposures in foreign countries arising from international staff movements (regardless of whether there is physical office space in the country).

Cross-Border Services

Other than international staff movements, businesses may also engage third parties in its international operations. Be it consultants, contractors or other professionals, fees are paid for their services. Such fees could trigger withholding tax obligations.

Withholding tax is a collection mechanism that IRAS uses to collect taxes from foreign companies or individuals.

When a payment of a specified nature (such as royalty, interest or technical service fee) is made to a person not known to be a resident in Singapore, a percentage of the payment must be withheld and paid to IRAS by the 15th day of the second month in which the payment is made. The amount of withholding tax may be reduced by relevant clauses in the respective double taxation agreement.

Repatriating Profits

Following their expansion to overseas markets, businesses may want to repatriate profits from abroad. Broadly, companies may choose to repatriate via the "above the line" or "below the line" methods.

Profits repatriated via "above the line" methods could be in the form of service fees paid to parent company, interest on borrowings and sale of goods. Issues pertaining to related-party transactions (such as transfer pricing) should be managed in these situations.

Profits may also be repatriated via "below the line" methods such as dividend distribution or branch profit remittance. In these scenarios, taxes are generally borne by the overseas subsidiary or branch.

Sale of Business

The sale of a business may have corporate tax implications for a company or group (for example, whether the gain on sale is taxable) and could impact its overall profitability. It may also lead to other corporate tax issues such as the failure to meet conditions to make use of unutilised tax loss items.

For GST-registered entities, the sale of a business may lead to the question on whether the business is transferred as a going concern (and thus excluded from GST obligations).

Regardless of whether the business is transferred as a going concern, the transferor entity is reminded to cancel the GST registration. Separately, personal tax matters, such as the filing of Form IR8A and Form IR21 (for foreign workers), should also be considered.

It is critical that businesses do not brush tax issues aside as a secondary affair at every business milestone. An unexpected tax consequence may be costly, if not crippling, to a business (both in terms of finances as well as manpower resources). Be Alert. Be Ready.

Facilitator

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