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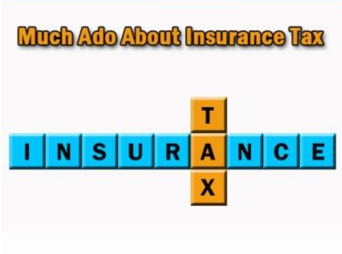
Singapore Institute of ACCREDITED TAX PROFESSIONALS



TED: Much Ado About Insurance Tax Part2

Significant Updates and Essentials

1 September 2016, Thursday

Facilitated by:
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Insurance is a unique business, and the tax treatment of a typical transaction for insurance companies may often be unique to the industry. To enhance clarity in this specialised industry, the [Singapore Institute of Accredited Tax Professionals] recently organised a *Tax Excellence Decoded* session in collaboration with tax advisors from KPMG in Singapore to provide a holistic view on the various tax considerations of insurance companies.

In the first of our two-part series focusing on the insurance sector, we covered global and Singapore tax changes as well as their impact on the insurance industry. In this sequel, we will be focusing on specific Singapore tax areas including goods and services tax (GST), incentives for innovation and transfer pricing (TP).

Goods and Services Tax

The unique nature of the insurance sector means that GST rules are sometimes different from other businesses and thus administratively cumbersome to apply in insurance business arrangements. This may be further complicated by special GST treatments designed for specific insurance types or transactions.

To help participants navigate the GST landscape, Accredited Tax Advisor (Income Tax & GST) Gan Hwee Leng, Indirect Tax Partner, KPMG in Singapore, highlighted common GST blind spots and errors for the insurance sector and provided valuable insights.

LIFE INSURANCE

The life insurance premium received from a policyholder belonging in Singapore is an exempt supply, while the life insurance premium received from a policyholder belonging outside Singapore is a zero-rated supply.

For GST purposes, an investment-linked policy is regarded as a single supply of life policy and exempt from GST (assuming the policyholder belongs in Singapore) if the following conditions are satisfied:

(a) The main purpose of the policyholder is to purchase a life insurance policy and not merely an investment product;
(b) The investment element is always provided together as a package with the life insurance contract, and
(c) The investment-linked policy falls within the definition of “life policy” in the Insurance Act.

Any accompanying fees and charges in relation with an investment-linked policy will be treated as additional consideration for an exempt supply (assuming it is a local policyholder) arising from the provision of a life insurance contract.

Co-insurance

For co-insurance, it is a common industry practice for the lead insurer to issue invoices to policyholders and account for the full insurance premium (including both the lead insurer and the co-insurer's share of the insurance premium) in its GST F5 returns. From a GST perspective, this is incorrect. The correct approach is for each co-insurer to account for its own share of insurance premium in its GST F5 returns.

Accredited Tax Advisor (Income Tax & GST) Gan Hwee Leng, Indirect Tax Partner, KPMG in Singapore, highlighted common GST blind spots and errors for the insurance sector.

Reinsurance Premiums

In Singapore, the GST treatment for reinsurance premiums is dependent on the belonging status of the cedant or retrocessionaire (from which the reinsurance premiums are received). Reinsurance premiums received from local cedants are exempt from GST, while those received from overseas cedants are zero-rated.

If the reinsurance contract is a worldwide contract covering several of the cedant's related companies located both in and outside Singapore, the GST treatment for the reinsurance premiums would be dependent on the belonging status of each of the cedant's related companies, notwithstanding that the contract may be signed with a local cedant. If there is a GST compliance concern, approval from the Inland Revenue Authority of Singapore (IRAS) may be sought on alternative methods of determining the GST classification of the reinsurance premiums received.

Time of Supply

It is not uncommon for insurers to report insurance premiums in their GST returns based on the time the payments are recognised as premiums in their financial statements; this is not in compliance with the time of supply rule. Insurance companies may seek the IRAS' approval to deviate from the time of supply rule.

Incentives for Innovation

Moving from an overview of GST to tax incentives, there are opportunities aplenty for insurance companies. With Singapore becoming a global leader for fintech and insurtech, the insurance industry is stepping up efforts to innovate to better serve its customers, but many in the industry may not be aware that their innovations could potentially qualify for incentives in Singapore. Accredited Tax Advisor (Income Tax) Harvey Koenig, Partner, Enterprise Incentive Advisory, KPMG in Singapore, addressed this area as he shared his vast experience on incentives for innovation, particularly those applicable to the insurance sector.

Financial Sector Technology & Innovation Scheme

The Financial Sector Technology & Innovation (FSTI) scheme is generally used for three purposes:

(i) setting up of innovation centres in Singapore;
(ii) institution-level projects to catalyse the development of innovation solutions that have the potential to promote growth efficiency or competitiveness, and
(iii) industry-wide projects to support the building of industry-wide technology infrastructure or utility that is required for the delivery of new, integrated services.

The Monetary Authority of Singapore (MAS) has committed S$225 million to the programme for approved projects. Insurance companies interested to tap on the FSTI scheme must apply with the MAS prior to the start of their innovation projects.

RESEARCH AND DEVELOPMENT TAX INCENTIVE

The Research and Development (R&D) tax incentive essentially incentivises qualifying R&D projects that have an objective to acquire new knowledge or use the results of a study for production or improvement, involve novelty or technical risks and are carried out through a systematic, investigative and experimental study.

To illustrate, an insurance company seeks to develop a new, cutting-edge, end-to-end on-demand technological solution for robust underwriting and policy processing in the global health insurance industry. If the solution is the first of its kind and would outperform existing disparate solutions currently available in the market, this novel R&D project could possibly qualify for the R&D tax incentive.

Transfer Pricing

TP is one of the key areas in the Organisation for Economic Co-operation and Development (OECD)'s Base Erosion and Profit Shifting (BEPS) Project. As a BEPS associate, Singapore is committed to support the key principle underlying the BEPS Project whereby profits should be commensurate with the underlying economic substance and value creation.

TRANSFER PRICING DOCUMENTATION

Singapore currently does not have any industry-specific TP rules. All companies in Singapore are required to adhere to the arm's length principle, which is the internationally-accepted standard to guide TP. If the value of related-party transactions exceeds the minimum threshold or does not fall under any of IRAS' administrative exemptions, companies are also expected to prepare and maintain contemporaneous TP documentation. Accredited Tax Advisor (Income Tax) Geoffrey Soh, Head of Transfer Pricing, KPMG in Singapore, shared on the topic and underscored the growing emphasis by the tax authorities to make clear the entire value chain.

Accredited Tax Advisor (Income Tax) Harvey Koenig, Partner, Enterprise Incentive Advisory, KPMG in Singapore, shared his vast experience on incentives for innovations.

"When preparing TP documentation, companies should not only focus on entity-level information; group-level information, industry analysis, functional analysis and economic analysis are equally crucial in TP documentation," added Accredited Tax Practitioner (Income Tax) Felicia Chia, Partner, Transfer Pricing, KPMG in Singapore.

COMMON RELATED-PARTY TRANSACTIONS FOR INSURANCE COMPANIES IN SINGAPORE

Intra-group reinsurance, intra-group financing and intra-group services (such as claims and underwriting management, actuarial and legal services, and back-office administration) and investment and asset management services are some of the common related-party transactions for insurance companies in Singapore.

Accredited Tax Advisor (Income Tax) Geoffrey Soh, Head of Transfer Pricing, KPMG in Singapore, discussed the latest in transfer pricing in Singapore.

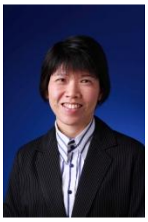
Singapore insurance companies receiving intra-group services from related parties, especially overseas related parties, may be asked to demonstrate the application of the "benefits test" whereby IRAS tries to ascertain that the benefits obtained by the Singapore insurance company is not too remote or incidental to its business. On the other hand, a Singapore insurance company providing intra-group services for related parties would be expected to include all relevant costs (including the oft-overlooked indirect costs) when computing service fees for the intra-group services, as well as to ensure that an arm's length mark-up has been earned.

If the intra-group services fall within the list of routine support services in Annex C of the Transfer Pricing Guidelines, the Singapore insurance company could rely on the safe harbour rule and apply a 5% mark-up on the costs (without the need to justify the mark-up). However, if the intra-group services fall outside of the safe harbour rule, the Singapore insurance company would be required to substantiate that the mark-up is at arm's length.

One key TP challenge for investment and asset management services is to decide on the appropriate TP methodology as different TP methodologies (such as cost plus method versus a fee based on a percentage of assets under management) are likely to yield very different results for such services.

As the tax world adjusts to the new world order of BEPS, it is crucial for insurance companies to stay vigilant in this time of uncertainty and to maintain ample documentation to justify their tax positions – it may just come in handy one day.

Facilitators



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This technical event commentary is written by Felix Wong, Head of Tax, SIATP. This article is based on SIATP's Tax Excellence Decoded session facilitated by accredited tax professionals from KPMG in Singapore.

For more tax insights, please visit www.siatp.org.sg.

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