Top 5 Tax Considerations for SMEs in 2017

Key tax areas to look out for

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"For the last five years the global economy has been in a low-growth trap, with growth disappointingly low and stuck at around three per cent per year," observed Catherine L. Mann, Chief Economist of the Organisation for Economic Co-operation and Development (OECD), in the OECD's "Economic Outlook Report" for November 2016.[1] The report also estimated global real GDP growth for 2017 to remain at a modest 3.3%.

The local business community in Singapore shares the gloomy economic sentiments for 2017. Of the over 1,100 companies that took part in the National Business Survey conducted by the Singapore Business Federation, close to half of the respondents expected economic climate in Singapore to worsen in 2017. [2]

To stay ahead in these challenging times, small and medium-sized enterprises (SMEs), which typically do not have deep pockets compared to multinationals, must all the more stay focused on their core businesses while keeping sight of all other important (but oft-neglected) areas, such as tax. For a start, here are five key tax areas that SMEs should look out for in 2017. Hopefully these will help SMEs avoid unnecessary tax issues with the authorities, and possibly even generate some tax savings along the way.

(1) Last Hurrah for PIC

As announced in Budget 2016, the Productivity and Innovation Credit (PIC) scheme will lapse after Year of Assessment (YA) 2018. This essentially means that financial year (FY) 2017 is the final year for businesses to enjoy enhanced tax deductions or allowances on qualifying PIC activities. It is therefore timely for companies to evaluate their plans for the next few years to see if there are any tax-saving opportunities.

Some possible considerations are:

- Are there plans to upgrade the computers or purchase new software?
- Are there plans to automate any aspect of operations (for example, assembly and testing operations)?
- Are there relevant training programmes for your staff that have not been tapped into and require new investment?

[1] Catherine L. Mann (2016) "Escaping the Low Growth Trap: Effective Fiscal Initiatives, Avoiding Trade Pitfalls", Organisation for Economic Co-operation and Development; www.oecd.org
[2] http://www.sbf.org.sg/sbf-national-business-survey-2016-17-businesses-still-facing-challenging-times-and-more-can-be-done-to-mobilise-companies-to-transform, Singapore Business Federation; www.sbf.org.sg

- Are there plans to possibly acquire, license or register any intellectual property rights (such as patents, copyrights and trademarks) for the business?

- Are there plans to embark on any research and development (R&D) or design projects?

If the answer to any of the above questions is yes, companies may wish to review whether the specific expense or activity qualifies for PIC, and if so, consider the possibility of bringing forward the company's plan (assuming it makes business sense to do so) to enjoy the enhanced tax deductions before the PIC scheme lapses.

(2) TP Documentation Requirements

It has been two years since the Inland Revenue Authority of Singapore (IRAS) introduced the requirement for taxpayers to maintain contemporaneous transfer pricing (TP) documentation (one that is in existence at the time of undertaking the transaction) to support the pricing of their related party transactions (RPTs). While the IRAS has been reasonable in administrating the requirement (and took on more of an educational role in helping taxpayers comply with the requirement) since its introduction, there is a chance that more stringent enforcement actions for non-compliance may be used in the future (considering ample time has been given to companies to comply).

A common misconception held by many SMEs is that TP documentation is only applicable to big multinational enterprises. While the IRAS does not expect taxpayers to prepare TP documentation for all RPTs, SMEs are not immune to TP documentation requirements.

For example, a Singapore company may be required to prepare TP documentation if it transacts with its Singapore related party which is subject to a different corporate tax rate. It is also not overly difficult for SMEs to exceed the stipulated RPT thresholds (over which TP documentation would be required). The thresholds for the various categories are shown in Table 1.

Table 1
TP documentation: RPT categories and thresholds

Category of RPT	**Threshold per FY (S$)**
Purchase of goods from all related parties	15 million
Sale of goods to all related parties	15 million
Loans owed to all related parties	15 million
Loans owed by all related parties	15 million
All other categories of RPT (such as service income, service payment, royalty income, royalty expense, rental income and rental expense)	1 million per category of transaction

SMEs which have significant RPTs but have yet to make preparations to comply with TP documentation requirements are advised to review their internal processes and the various categories of RPT to evaluate whether the company is poised to meet all TP requirements before tax authorities come knocking.

For ease of compliance, the IRAS will accept as contemporaneous TP documentation any documentation prepared at any time no later than the time of completing and filing the tax return for the financial year in which the transaction takes place. In other words, if a transaction takes place in FY 2017, the TP documentation should be prepared by the filing due date for the YA 2018 tax return (i.e. 30 November 2018).

(3) Providing B2C e-Services to Overseas Customers

A local SME providing business-to-consumer (B2C) e-services to overseas consumers checks the Singapore Goods and Services Tax (GST) implications of its B2C sales of e-services to overseas consumers, and duly files its GST return with the IRAS.

The above is all good, except that the local SME will also need to bear in mind the growing list of countries which now requires overseas service providers to register and account for local GST or value-added tax (VAT) on the B2C e-services supplied to consumers in their respective countries.

In Korea, for example, if a Singapore SME (which has no place of business in Korea) provides e-services (such as applications, games, music, films, electronic documents and software) to a Korea-resident consumer, the relevant e-services will be considered as being provided in Korea and as a result, the Singapore SME will be subject to a simplified VAT registration process, VAT return filing and VAT payment on these e-services.

Similarly, in New Zealand, a Singapore SME will need to register and collect GST on certain services and intangibles (including digital downloads) supplied remotely to New Zealand-resident consumers if it exceeds the threshold of NZ$60,000 per annum.

In view of this growing movement from supplier-based to destination-based consumption tax for cross-border e-services, companies providing substantial amount of B2C e-services to overseas customers, especially those in the European Union (EU), Korea, Japan and other Asia-Pacific countries are advised to find out whether there is a need to register for GST or VAT in these countries.

(4) Managing Business Travel

From tax incentive schemes for internationalisation to calls from business leaders and associations, the constant message to Singapore SMEs for the past few years has been to grow beyond Singapore. As local SMEs gear up to compete in overseas markets, the number of business travels and overseas deployments of personnel is expected to increase sharply.

Business travellers may unknowingly create a permanent establishment (and hence taxable presence) for their companies overseas if they provide services exceeding a specific period(s) of time in certain countries. It is hence essential for companies to keep a close tab on their employees' business travels to comply with any foreign tax obligations that may arise.

In this era of big data and analytics, foreign tax authorities and customs can easily track the presence of business travellers in their countries through their immigration systems.

While long-term deployments of personnel (such as secondment) are normally tracked and administered through established human resources (HR) programmes in most companies, short-term business travels are often not tracked centrally by any one department. This may result in unfortunate situations where foreign tax authorities find out about a company's tax obligations in their respective countries before the company itself realises them.

Non-compliance with the foreign tax requirements not only can lead to fines and penalties, but also reputational risks and business disruptions for the company. In this regard, SMEs that are regionalising are encouraged to consider their business travel policies and invest in a viable company-wide tracking system to mitigate such risks arising from an internationally-mobile workforce.

(5) Staying Away from Tax Avoidance Arrangements

Rounding up the five key tax areas to look out for is one of the hottest tax topics in Singapore last year – tax avoidance.

The IRAS published an e-Tax Guide on "The General Anti-avoidance Provision and its Application" in July 2016 to clarify its approach to the construction of the general anti-avoidance provisions in the Income Tax Act. While the examples in the guide do not specifically clarify how the general anti-avoidance provisions should be applied per se, they are useful in helping companies better understand the types of arrangements that are generally frowned upon by the IRAS.

The key takeaway for SMEs is, to minimise the risk of tax avoidance, businesses must be able to demonstrate that their transactions are carried out for bona fide commercial reasons and that the avoidance or reduction of tax (if any) is not one of the main purposes of the transactions. In practice, contemporaneous documentation (such as minutes of Board Meetings) is often the key to demonstrate the commercial intent behind the company's decision at the time when the transaction took place.

There you have it, the five key tax areas for SMEs to look out for in 2017. With that, may you breeze through the year with no surprises from the taxman.

This technical article is written by SIATP's Head of Tax, Felix Wong.

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