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PRIMER ON THE SINGAPORE BUDGET 2016: 24 MARCH 2016

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Introduction

The Singapore Budget Statement for 2016 is set to be delivered in Parliament on Thursday, 24 March 2016. This Budget is prepared for each financial year, which begins on 1 April of every calendar year and ends on 31 March of the next calendar year. It is inclusive of the revised Singapore government revenue and expenditure projections for the current financial year, as well as the planned government revenue and expenditures for the upcoming financial year.[1]

In anticipation of the upcoming Budget announcement, a number of professional firms have been quick to forecast the various areas that the Singapore government would review and revise. We add our observations to a few of the key main issues and concerns. This includes our proposed recommendations as well as the changes which we expect may be likely to come into effect, and which will have certain notable impact on prospective investments into Singapore.

1. Singapore's Tax Regime

Singapore has a competitive and effective tax system. The Singapore government offers to businesses and investors many attractive tax incentives and breaks. In the midst of a global economic downturn, to maintain such standards will be a challenge. However, we are of the opinion that the Singapore government will be up to the task. We foresee changes to be made in the implementation of tax incentives.

From the suggestions submitted and opinions expressed for the 2016 Budget, there is the expectation that Singapore will promote greater innovation, and more strictly regulate tax incentives to ensure they are awarded for substantive activities sufficiently based in Singapore.[2]

Furthermore, with the global shift in attitude towards greater tax transparency and stricter enforcement against tax avoidance led by the Organisation for Economic Co-operation and Development (OECD), we foresee that the Singapore government will be influenced to enforce stricter international tax rules.[3] As such, we expect the country's domestic tax system to be reinforced.

At the same time, we also expect Singapore to negotiate and conclude all relevant tax treaties with other countries, such as with the United States of America and other Asian countries including those countries in the emerging markets to continue to protect and promote business activities.

2. Base Erosion and Profit Shifting (BEPS)

[1] See, http://www.singaporebudget.gov.sg/budget_2016/home.aspx

[2] See for examples, REACH Discussion Forum <https://www.reach.gov.sg/participate/discussion-forum>; PWC's 'Proposals to enhance Singapore's economy' <http://www.pwc.com/sg/en/singapore-budget-2016/assets/budget-2016-proposals.pdf.>; and Deloitte Singapore's proposals for Budget 2016 <http://www2.deloitte.com/sg/en/pages/tax/articles/2016-pre-budget-feedback.html>

[3] See, http://www.oecd.org/tax/all-interested-countries-and-jurisdictions-to-be-invited-to-join-global-efforts-led-by-the-oecd-and-g20-to-close-international-tax-loopholes.htm

BEPS refers to tax planning strategies that capitalise on mismatches in tax rules to make profits "disappear".[4] It involves the activity of artificially shifting profits to locations with lower or no taxes, so as to avoid paying the same. There has been an increase in global efforts against the BEPS problem of exploitative tax planning strategies. Following the OECD announcement of a new framework for countries to further reform the international tax system and tackle tax avoidance, it is critical for Singapore to ensure that its tax system remains up to date and reflect global developments and its shift towards greater transparency. This will ensure Singapore retains its attractive position as a global business and financial hub. However, we caution against overdoing this. Singapore ought to only reciprocate towards the countries that have seemingly taken steps of their own to remain transparent. As such, the Singapore government may elect to take the stance of only negotiating and concluding with jurisdictions that have made efforts to be transparent. While the BEPS is expected to level the playing fields, we note that the novelty of such an exercise would be easily defeated if other countries were to deliberately refuse compliance.

3. Tax Rates -- Corporate Tax, Withholding Tax and Tax Exemptions

There has been no indication that changes will be made to Singapore's corporate tax rate, which is set at a competitive rate of 17%. The same is the case for the withholding tax rates for companies, persons or individuals that are non-resident, which generally varies on the range between 10% to 22% depending on the types and nature of payments. We consider that on a global scale, these are competitive rates.

We note that under *Section 13(8)* of the *Income Tax Act*, Singapore companies have exemptions from tax for certain incomes, profits and dividends from foreign sources. We also understand that there have been several proposals and recommendations made to the Singapore government to expand the scope of such exemptions so as to further encourage Singapore businesses and to maintain its attractiveness as a global business hub.[5] For instance, one such recommendation is for the exemption to include royalties so as to encourage the development of Intellectual Property (IP) by companies, which will in turn develop Singapore's status as an IP hub.[6] We are in favour of such proposals, and it remains to be seen whether such recommendations will be implemented by the Singapore government in a bid to increase tax revenue.

4. Government Service Tax (GST)

The GST rate in Singapore which is set at 7% is one of the lowest globally. Many tax professionals are of the opinion that this is unlikely to rise in the upcoming Budget as the government has already adequately accounted for the increased spending til the end of the decade.[7] Be that as it may, we expect the Singapore government to increase tax revenue in view of the uncertain global economic outlook. In Singapore, businesses are generally only liable to apply for GST registration if their taxable turnover income is over S$1 million. This was clearly underpinned by the government's intentions to exempt certain businesses, namely the small and medium-sized enterprises (SMEs) from such a burden. However, we note that such a figure of S$1 million is substantially higher than in many other countries. As such, given the increase social expenditure by the Government in recent

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[4] See, http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm#background

[5] See, (n1); See also, http://www.businesstimes.com.sg/opinion/singapore-tax-policies-must-change-with-domestic-needs-global-trends

[6] See, Ernst & Young's Budget 2016 Wishlist <http://www.ey.com/SG/en/Services/Tax/EY-singapore-budget-2016-wish-list>;

[7] See, <http://www.businesstimes.com.sg/opinion/singapore-budget-2016/spores-tax-revenue-collection-which-way-forward>

years, we may expect that the Singapore government will lower the registration conditions. This will result in more businesses coming under the ambit of GST.

Furthermore, it is trite that in certain transactions such as the supply of goods from overseas, these transactions fall completely outside the scope of GST. As such, we note that the Singapore government may decide to enforce regulations and procedures in the upcoming Budget so as to ensure that GST will apply to such transactions in future. One such example is transactions in the digital economy. Identified as "GST Leakages", tax professionals note that common transactions such as payments made to foreign vendors for online digital services are currently not subject to GST.[8] We expect the government to be reviewing this and will make appropriate adjustments to the GST scope.

5. Finance & Treasury Centre (FTC) Tax Incentive, Productivity and Innovation Credit Scheme (PIC) and SPRING Singapore Incentives

The attractive tax incentives enjoyed by businesses in Singapore are arguably unrivalled elsewhere. To cite just one example, in order to attract investors and businesses to setup base in Singapore for activities in the finance and treasury sector, the Singapore Economic Development Board's FTC Tax Incentive grants corporations with various tax concessions, including reduced corporate tax rates on fees, interest, dividends and gains from qualifying services and activities.[9] Furthermore, under this particular FTC Incentive, corporations conducting FTC related activities also enjoy withholding tax exemptions on interest payments on loans from banks and approved network companies.[10] Tax incentives such as these are the mainstay of the Singapore government's strategy in promoting financial services activities and developing the country into a financial hub.

However, we have been given to understand that the Singapore government is seeking to further improve the manner in which some of these tax incentives are being administered. For instance, with regards to the PIC, we understand that there has been an increase in the number of taxpayers experiencing difficulties in the submission and processing of claims. It was reported that there has been a surge in administrative hurdles where taxpayers are subject to multiple queries at various stages and where protracted reviews and analyses are conducted on the eligibility of claims.[11] It has been further pointed out that this is particularly the case in relation to claims involving research and development (R&D). There seems to be concerns that subjective assessments may be applied arbitrarily without appreciating the novelty of the R&D.

Amongst the pre-Budget feedback and recommendations submitted for 2016, it has been identified almost unanimously that encouraging innovation will help Singapore to sustain a competitive economy.[12] As such, we are expecting that the government will take on board such proposed recommendations in the upcoming Budget. With productivity and innovation becoming increasingly vital to Singapore's economy, the government is likely to be required to resolve the current hurdles with the PIC claims, especially for innovation-related claims, and particularly in R&D. Likewise, in relation to the various grants, schemes and programmes provided by SPRING Singapore, an agency under the Ministry of Trade and Industry, we expect the government to conduct the appropriate

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[8] See, Deloitte Singapore's proposals for Budget 2016 <http://www2.deloitte.com/sg/en/pages/tax/articles/2016-pre-budget-feedback.html>

[9] See, https://www.edb.gov.sg/content/dam/edb/en/resources/pdfs/financing-and-incentives/Finance%20and%20Treasury%20Centre%20(FTC)%20Award%20Brochure.pdf

[10] Ibid.

[11] See (n6), Ernst & Young's Budget 2016 Wishlist

[12] See, KPMG Pre-Budget 2016 Report http://www.kpmg.com/sg/en/issuesandinsights/articlespublications/pages/pre-budget-2016-report.aspx;

reviews and ensure that such grants, schemes and programmes will continue to be accessible in assisting and providing benefits to Singapore businesses in pursuit of productivity and innovation.

6. Regulating the New Tax Environment

As we anticipate the incoming changes to the Singapore tax regime, it follows that we can envisage that there is likely to be an increase in the number of tax disputes. As such, we encourage investors and businesses to be cautious of any potentially contentious tax issues arising in their dealings, particularly when it comes to cross-border transactions. We encourage the inclusion of tax arbitration clauses in agreements by investors and businesses as a precaution.

Conclusion

The Singapore government has indicated that it will be particularly prudent with the 2016 Budget in view of the expected slower economic growth.[13] It was reported that while 'exceptional measures' are not expected, it is rather unlikely to expect the introduction of new measures on top of the already pre-existing ones to further help businesses develop.[14] In our view, this is a fair assessment. That said, the Singapore government's growth forecast for the country is expected to be at the range of between 1 to 3 percent.[15] This is an acceptable range. As such, we are of the view that the Singapore government will still fine tune existing policies with medium-term to long-term sustainability on the agenda.

[13] See, http://www.channelnewsasia.com/news/business/singapore/what-to-expect-from-a/2589898.html
[14] See, http://www.channelnewsasia.com/news/business/singapore/budget-2016-will-have/2572742.html
[15] See (n3).