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Response to Financial Crisis

Welcome to the first issue of our Asia Pacific (APAC) Regional Newsletter.

The purpose of this newsletter is to provide the latest updates in tax and other business regulations that would affect our client's existing or potential businesses in the APAC Region.

In this issue, we look at the various measures introduced by governments in different regions (*Hong Kong, Indonesia, Korea and Singapore*) to combat the economic downturn.

We also have an article (*Australia*) on what the global economic crisis mean for companies during these times.

On specific issues, we will look at the new "catch-all" provisions (*Malaysia*) that companies should be aware of.

We will also provide a closer look on how the recently enacted Measures on Transfer Pricing (*China*) will affect your business. In particular, the transfer pricing documentation requirement will no doubt cause concern to many enterprises carrying on business in China.

Finally, we have a business guide (*Mauritius*) which gives an overview on why setting up a company in Mauritius continues to be attractive to foreign investors.



Pro-active steps in response to the global financial crisis

Russell Bedford International in Top 15

Russell Bedford International has been named as one of the world's top 15 accounting networks in the 2008 survey published by International Accounting Bulletin.

The survey results, which were announced in the publication's

December 2008 issue, showed Russell Bedford at 15th position, with some 5,000 total staff and 200 offices worldwide.

Russell Bedford's latest achievement comes just one year after the network was named one of the first full

members of the IFAC Forum of Firms after reporting it had implemented a globally coordinated quality assurance programme, committed to the use of International Standards on Auditing, and met other specific ethics requirements.

- Russell Bedford International ranked Top 15
- 5,000 staff and 200 offices worldwide
- Full Member of IFAC Forum of Firms

Singapore Budget 2009

"... to help viable companies stay afloat during the recessionary period and to emerge with strength when the global economy recovers."

The Minister for Finance announced a S\$20.5 billion Resilience Package to help Singapore see through this period of exceptional difficulty.

The Package aims to save jobs for Singaporeans and to help viable companies to stay afloat during the recessionary period and to emerge with strength when the global economy recovers.

Sharpen competitiveness and capabilities for innovation

Corporate tax rate will be reduced from 18% to 17% with effect from YA 2010.

Accelerate capital allowance for equipment acquired in YAs 2010 and 2011 reduced from 3 years to 2 years.

Accelerate writing down of renovation and refurbishment expenses reduced from three years to one year.

Enhance business cash flows

Trade losses can now be carried back to set-off taxable income for up to 3 years and the qualifying amount increased to S\$200,000.

Also, with immediate effect for one year, all foreign income earned on or before 21 January 2009 will be exempted from tax when they are remitted.

For 2009, there will be a 40% property tax rebate for industrial and commercial properties.

Stimulate Bank Lending

New Bridging Loan Programme has been introduced to cater for loan of up to S\$5 million to meet the working capital needs for companies, especially mid-sized companies.

Other schemes and programmes have also been introduced to help Singapore companies secure working capital and trade financing facilities, as well as to protect Singapore-based exporters against non-payment and default risk of buyers.

For enquiries, please contact Ms Soo Geok Keen by email at sgk@stcsamasmgt.com.sg.

Hong Kong Budget 2009

"... to create and preserve jobs, to promote sustainable economic development"

The Financial Secretary announced the government's budget for 2009-10 on 25 February 2009.

With GDP forecasted to decrease by 2% to 3% in the 2009-10 fiscal year and in view of the world economic downturn, the government will adopt a series of counter-cyclical measures, the most prominent of which is to increase government expenditure for 2009-10 to more than HK\$300 billion.

The key objectives of the budget are to create and preserve jobs, to promote

sustainable economic development and to introduce certain measures to alleviate hardship.

Other than a rebate in the form of a tax credit of up to HK\$6,000 for taxpayers under Salaries Tax or Personal Assessment, and a waiver of Government Rates for the first two quarter of 2009-10, there are no substantial changes to the tax regime.

However, the government will propose changes to existing legislation to promote the following:

- Islamic Financial Products
- Development of Bond Market in Hong Kong
- Signing of more Double Taxation Agreement by liberalising exchange of tax information

In addition, the increase in capital works expenditure for 2009-10 to HK\$39.3 billion should be encouraging news to the construction industry in Hong Kong.

For enquiries, please contact Mr Ian Lee by email at ianlee@russellbedford.com.hk.

Current Changes in Indonesian Tax Rules

In 2009, the Government of the Republic of Indonesia enacted new provisions in taxation in response to the economic slowdown.

Corporate Income Tax

The Corporate Income Tax rate for 2009 will change from a progressive rate to a single tax rate of 28% and will reduce to 25% for the year 2010.

Individual Income Tax

For Individual Income Tax, the top tax bracket under the

progressive tax rates will be reduced from 35% to 30%.

Other Taxes

Tax rate for dividends, interests, royalties, gifts, rewards and bonuses remains at 15%.

Tax rate for rents and compensation for services of technical, management, construction, consultancy etc is 2% unless the recipient does not have a taxpayer registration number, in which case, 4% is charged instead.

Withholding Tax

Previously, obligation to withhold tax arises at the earlier time of when the cost is accrued and when the cost is paid. Now, the obligation only arises when the cost is paid.

For enquiries, please contact Mr Tubagus Arief Prima at arief@russellbedford.co.id.

"...single tax rate of 28% and will reduce to 25% for the year 2010."

Tax Incentives for Foreign Investments in Korea

The Korean government has introduced a range of preferential tax treatment to qualifying Foreign-Invested-Companies (FIC) under the Restriction of Preferential Taxation Act (RPTA) to encourage foreign investments and the transfer of advanced technologies to Korea.

Corporate Income Tax

For qualifying FICs, Corporate Income Tax is exempt for the first 3 years or 5 years (depending on the type of qualifying entity) and reduced to 50% for the subsequent 2 years.

Similar exemptions and reductions are applied to Dividend Income Tax and local taxes.

Technological Licenses

Any contract which

introduces qualifying high-level technology vital to the strengthening of international competitiveness of domestic industries, the royalty income received shall be exempt from tax for 5 years from the date of first payment.

Tax Incentive for Foreign Engineers

Qualifying Foreign Engineers under the Enforcement Decree of RPTA who receive income for providing services to natives in Korea are exempt from tax for up to 5 years from the date such service is first rendered, provided that the starting date is no later than 31 Dec 2009.

The same exemption applies to Qualifying Foreign Engineers who provide services under technology

introduction contracts under the Foreign Investment Promotion Act for 5 years from the date the notification certificate on technology introduction contract was issued, provided that the issue date is no later than 31 Dec 2009.

Special Taxation Concession

30% of salary income for services provided in Korea is not taxable. Alternatively, the foreign expatriate may elect to apply a flat rate of 16.5% on their salary income if it results in a lower taxable amount. However, no exemption, deduction or tax credit would be allowed in the calculation.

For enquiries, please contact Mr Brian Shim by email at yss@cjac.net.

"...a range of preferential tax treatment ... to encourage foreign investments and the transfer of advanced technologies to Korea."

What does the global economic crisis mean for my business ?

"In tough times it is even more important for you to know exactly where you are at ..."

The speed and the sheer magnitude of the global economic crisis took all of us by surprise. However, every business must now take stock of their position and plan ahead for the impact of these tough times.

Review your business risks

It would be a good idea to take a step back to assess the risks that are peculiar to your business.

Consider the impact of slowing cash flow, decreased turnover, tighter margins, increasing bad debt risk and what they all mean for your business in order to plan your defensive action.

Build on your strengths

Identify your niche market or specialisation as that is your competitive advantage. Be proactive in protecting it and building on it.

Monitor your cash flow

In tough times it is even more important for you to know exactly where you are at. You must know your outstanding debtors, stock levels, creditors, actual profit or loss last month and your cash flow for the next month.

Manage your cash flow by running down excessive stocks and tightening up on debtor collections.

Manage your costs

Now is the time to review your costs and to tighten up the approval process to ensure optional spending is carefully controlled. Encourage staff to take accrued leave during off-peak periods.

Make good use of the idle capacity by starting projects that you were too busy to do before, ie system upgrades, promotion and training to strengthen your business for the future.

For enquiries, please contact Mr Bruce Saward by email at bruce@sawarddawson.com.au.

Withholding tax 'catch all' provisions in Malaysia

"These new provisions have not only enlarged the tax net ... but also imposed onerous burden on taxpayers."

Section 4 of the Malaysian Income Tax Act (MITA) deals with the class of income on which tax is chargeable.

Subsection (a) to (e) contains specific classes of income such as gains or profits from a business or from an employment, dividends, interest, rental and royalty income.

Subsection (f) is a 'catch all' provision that covers all gains or profits not falling under subsections (a) to (e).

However, there was no clear provision as to the scope of subsection (f) and how it will be taxed.

Pursuant to the 2009 Budget, the MITA has been amended

to include a new derivation section which deem certain income to non-resident to be subject to withholding tax of 10% in respect of "gains or profits" under Section 4(f) of the MITA.

Though not specifically provided in the MITA, examples were given in the 2009 Budget in respect of income that falls under Section 4(f) including commissions, guarantee fees and introducer's fee paid to non-residents.

The new provisions are effective from 1 January 2009.

As such, payments to non-residents previously not subject to withholding tax

should now be reviewed to ascertain if the new provision applies.

These new provisions have not only enlarged the tax net where certain classes of income, the activities of which are performed outside Malaysia, are now subject to withholding tax but have also imposed an onerous burden on taxpayers who will have to determine whether a particular payment shall be construed as Section 4(f) income to the non-resident payee.

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China Tax – Transfer Pricing Documentation Requirements

Implementation Measures of Special Tax Adjustments (STA Measures) were formally approved by the State Administration of Taxation on 8 January 2009. The STA Measures, which are effective for the tax year 2008 onwards, provide detailed guidance on many issues relating to Transfer Pricing (TP) including:

- Annual Related Party Transaction (RPT) Disclosure
- Contemporaneous Documentation Requirements;

Annual RPT Disclosure

The STA Measures have substantially expanded the TP filing requirement for all enterprises that are taxed on an actual profit basis by requiring submission of 9 disclosure forms to provide

details such as functional and risk analysis, RPT financial situation analysis, and comparability factor analysis.

The forms are to be submitted together with the annual enterprise income tax return by the 31 May each year.

Documentation Requirement

All enterprises, unless exempt by the STA Measures, must maintain contemporaneous Transfer Pricing Documentations (“TPD”).

Exemption from TPD requirements is granted to enterprises with annual RPTs of tangible goods and intangibles that are less than Rmb 200 million and Rmb 40 million respectively; or if an existing Advance Pricing Arrangement is in place; or if the taxpayer is less than 50%

foreign-owned and does not have cross-border RPTs.

Filing Requirements

The TPD must be completed by the 31 May of the following year.

Although the deadline for 2008 tax year is extended to 31 December 2009, enterprises must declare by 31 May 2009 whether contemporaneous TPD has been prepared to support the enterprise’s transfer pricing policy for the year.

Upon request by the tax authorities, the enterprise must submit its TPD within 20 days. In addition, the TPD submitted must be in Chinese.

For enquiries, please contact Mr Jimmy Chung by email at jimmychung@russellbedford.com.hk.

“... enterprises must declare by 31May2009 whether contemporaneous TPD has been prepared ... ”

Mauritius and its Business Environment

The Republic of Mauritius, a volcanic island, is situated some 2,000 kilometres off the south-east coast of Africa. Due to its very location Mauritius has for centuries been a bridge between the East and the West by being a natural port of call between the two worlds.

A gateway it remains until this very day, not only as a modern business route between Europe - Americas and Asia-Pacific but also between Asia and Africa.

Strategically located within an ideal zone (GMT+5 (Summer Time) & GMT+3 (Winter Time)), Mauritius can conduct business with most countries round the world within normal working hours.

Tapping on its natural geographical location coupled with its political and socio-economic stability, Mauritius has over the past two decades crafted the right prerequisites including various incentives and schemes to boost investment,

making it an advantageous, safe and business-friendly destination for the global investor community.

Mauritius has indeed a positive track record as a competitive location for doing business and has attracted foreign investors from around the globe, many of whom have re-invested in multiple projects and contributing in many economic activities of the island.

“... an advantageous and business-friendly destination for the global investor community”

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Mauritius and its Business Environment (*Continued*)

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In the past few years Mauritius has launched widespread reforms to promote a liberal and open economic philosophy, the aim of which is to attract even more international investors and make Mauritius become a major business and financial hub of the African region.

The tax rate in Mauritius is now one of the lowest in the world. The corporate and

personal tax rates have been reduced to a flat rate of 15%.

There is no capital gains tax and no withholding tax on dividend, interest and royalties paid by Global Business Companies to non-residents.

Companies with a Category 1 Global Business License are subject to a maximum effective tax rate of 3%.

In addition, to be fiscally competitive on a global basis, Mauritius has an extensive

network of Double Taxation Avoidance Treaties and Investment Promotion and Protection Agreements.

There are also no exchange controls and businesses are supported by an efficient banking system.

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