



Regulatory Update

3 January 2017

Income Tax (Amendment No. 2) Bill 2016

Overview

Jurisdiction	Singapore
Executive Summary	<p>The amendments in this bill to the Income Tax Act mainly facilitate the implementation of the Automatic Exchange of Information (“AEOI”), under the Common Reporting Standards (“CRS”).</p> <p>The amendments allow Singapore to sign Competent Authority Agreements (“CAAs”) with other jurisdictions to effect AEOI under the CRS. At the same time, the amendments empower the IRAS to collect information from financial institutions. Financial institutions must provide and retain information required under the CRS on foreign account holders.</p> <p>Financial Institutions’ duty to provide information overrides conflicting duty to observe secrecy. In addition, sanctions will be imposed by IRAS on persons that intentionally provide false information on their tax residency to financial institutions.</p>
Impact on IAMS	<p>IAMS should note that intentionally providing false information constitutes an offence, and they may be required to submit information as requested in facilitating IRAS’ to determine their compliance with regulations.</p> <p>IAMS’ duty to provide information to another person for the purpose of complying in due diligence or audit requirements overrides conflicting duty to observe secrecy.</p>
Required Action	<p>No action is required by IAMS.</p> <p>With regards to the obligations under the CRS see the separate update regarding the Common Reporting Standard Regulations 2016.</p>
Effective Date	11 April 2016

The New Rules

Income Tax (Amendment No.2) Bill 2016

The amendments in this bill mainly to facilitate the implementation of the Automatic Exchange of Information (“AEOI”), under the Common Reporting Standards (“CRS”).

On the one hand, the new amendments empower the IRAS to obtain information from financial institutions, which is to be submitted electronically. On the other hand, the amendments provide for Competent Authority Agreements (“CAAs”) that are based on the CRS to be declared as an International Tax Compliance Agreement by the Minister. This allows Singapore to sign CAAs with other jurisdictions to effect AEOI



under the CRS. In addition, sanctions may be imposed by IRAS on persons that intentionally provide false information on their tax residency to financial institutions.

The “Wider Approach”

The previous regulation requires financial institutions to collect and retain only the information from account holders that are tax residents of jurisdictions with which Singapore has a tax compliance agreement. With the incorporation of the new amendments, financial institutions must also collect and retain information required under the CRS on all non-Singapore-tax-resident account holders.

With regards to CRS, Financial Institutions need to conduct an indicia search of all pre-existing accounts to identify accounts belonging to all non-Singapore tax residents, and may elect to obtain relevant information to remediate accounts with one or more indicia.

IRAS will have the power to make regulations that impose authorisation and audit requirements. They will be empowered to obtain information for the purpose in determining Financial Institutions’ compliance with the regulations.

Likewise, Financial Institutions will be allowed to (a) provide information to another person; (b) carry out any due diligence procedure; (c) appoint another person or request its internal auditor to carry out compliance audit; and (d) provide information to the person carrying out the audit and that they have the duty to provide these information to the relevant persons for the purpose of complying with the requirements under the regulations which overrides conflicting duty to observe secrecy.

Effect

Impact on Independent Asset Managers

IAMs should also note that intentionally providing false information constitutes an offence. IAMs must now collect and retain information required under the CRS on non-Singapore-tax-resident account holders too.

IAMs will be required to submit information to the IRAS as requested in facilitating IRAS’ to determine their compliance with regulations.

IAMs’ duty to provide information to another person for the purpose of complying in due diligence or audit requirements under the regulations overrides conflicting duty to observe secrecy.

Required Action and Possible Approaches

IAMs do not need to take any action. However, IAMs should be ready to assist IRAS and other financial institutions, in particular custodian banks of their clients, to obtain information on their clients required under CRS.

At the same time, IAMs should be ready to demonstrate to IRAS that they comply with their obligations and the requirements under CRS. For information on these obligations – in fact the exemption from such obligations – please see the separate update regarding the Common Reporting Standard Regulations 2016.



Please consult the following new rules for details:

- [Income Tax Act \(CHAPTER 134\)](#)
- [Income Tax \(Amendment No.2\) Bill 2016](#)

For more information or further discussions, please contact Water Dragon Solutions Pte Ltd, the Compliance Practice of Maroon Analytics Pte Ltd.

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