



## **Singapore Business Tax developments** Committed to your success

### **Exclusion of Intellectual Property Income from Singapore's PC-S and DEI tax incentives**

#### **Background**

A new Intellectual Property (IP) regime known as IP Development Incentive (IDI) was announced in Budget 2017. It incorporates the BEPS-compliant modified nexus approach, and will be introduced to provide concessionary tax treatment for IP income. Accordingly, concessionary tax treatment for income derived from intellectual property rights (IPRs) will be removed from the scope of existing incentives offered, namely the Pioneer Service Companies Incentive (PC-S) and the Development and Expansion Incentive (DEI).

#### **Legislations issued and their impact**

To give effect to the exclusion of IP income from the scope of PC-S and DEI, the following legislations were issued recently:

- Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2018;
- Economic Expansion Incentives (Relief from Income Tax) (Intellectual Property Income) Regulations 2018; and
- Economic Expansion Incentives (Relief from Income Tax) Act 2018 (Commencement) Notification 2018.

Various definitions are provided under the legislations, including:

- IPR is defined as a right conferred by any patent, copyright, trade mark, registered design, geographical indication, layout-design of integrated circuit or the grant of protection of a plant variety; and

- Income from IP is defined as royalties or other income receivable as consideration by the company for granting the right to another party to commercially exploit the IPRs.

For PC-S and DEI awards approved before 1 July 2018, income from existing IPRs owned will continue to be covered under the scope of the respective incentives until 30 June 2021 (also known as the “grandfathering provision”). However, any IPR acquired from a related party for the period from 17 October 2017 to 30 June 2018 (where one of the main purposes for the acquisition is for the avoidance of tax) or any IPR acquired on or after 1 July 2018 will not be covered under the grandfathering provision.

All relevant IP income will be excluded for new or extension of PC-S and DEI awards approved on or after 1 July 2018.

---

### **Deloitte Singapore’s views**

There are different definitions of IPR; one being defined under section 19B of the Income Tax Act and the other within the new regulations issued. It appears that the definition of IPR under the new regulations has a narrower scope compared with section 19B as the term “trade secret or information that has commercial value” has been omitted.

One other observation is the definition of “IP income” for the exclusion under PC-S and DEI to apply. The test is whether the incentive company grants a right to another party to commercially exploit the IPRs. There are also exceptions to the exclusion for toll manufacturing, contract manufacturing and limited risk distribution arrangements.

IDI is envisaged to be effective 1 July 2018. A potential third definition of IPR is likely to be included in the legislation for IDI; under the BEPS-compliant approach, IPRs that could qualify for tax benefits are patents and other IPRs that are functionally equivalent to patents (which includes copyrighted software). As such, an IP income stream that was previously incentivised under the PC-S or DEI scheme may not necessarily be covered under the IDI.

Given the changes, it is timely for businesses, in particular for PC-S and DEI award holders, to evaluate the potential impact of the exclusions on their incentivised IP income streams. If certain IP income streams have to be excluded, businesses should identify the correct timelines to exclude the relevant income, as well as consider whether such IP income streams can be incentivised under the new IDI.

We hope that you find this newsletter useful and we welcome your feedback.

---

## Contacts

Should you have any comments or questions arising from the newsletter, please speak to your usual Deloitte contact or the Deloitte Singapore Tax professionals listed below.

### **Lee Tiong Heng**

Tax Partner, Global  
Investment & Innovation  
Incentives Leader  
Deloitte Singapore  
+65 6216 3262  
[thlee@deloitte.com](mailto:thlee@deloitte.com)

### **Yvaine Gan**

Senior Tax Manager, Global  
Investment & Innovation  
Incentives  
Deloitte Singapore  
+65 6531 5090  
[yvgan@deloitte.com](mailto:yvgan@deloitte.com)



### **Deloitte | Add Deloitte as safe sender**

Deloitte Touche Tohmatsu Limited  
6 Shenton Way, OUE Downtown 2, #33-00  
Singapore 068809

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte's approximately 264,000 people make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

### **About Deloitte Southeast Asia**

Deloitte Southeast Asia Ltd – a member firm of Deloitte Touche Tohmatsu Limited comprising Deloitte practices operating in Brunei, Cambodia, Guam, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam – was established to deliver measurable value to the particular demands of increasingly intra-regional and fast growing companies and enterprises.

Comprising approximately 340 partners and 8,800 professionals in 25 office locations, the subsidiaries and affiliates of Deloitte Southeast Asia Ltd combine their technical expertise and deep industry knowledge to deliver consistent high quality services to companies in the region.

All services are provided through the individual country practices, their subsidiaries and affiliates which are separate and independent legal entities.

### **About Deloitte Singapore**

In Singapore, services are provided by Deloitte & Touche LLP and its subsidiaries and affiliates.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Deloitte & Touche LLP (Unique entity number: T08LL0721A) is an accounting limited liability partnership registered in Singapore under the Limited Liability Partnerships Act (Chapter 163A).

© 2018 Deloitte & Touche LLP