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LHAG update

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9 APRIL 2020

Pliability Amid a Prolonged Pandemic: A Proposal on Viable Tax Measures

With one economic stimulus package following another in short succession, new tax measures too have come in a flurry. Together with some of the other announcements made by the Inland Revenue Board (**IRB**) and the Customs Department, these initiatives aim to keep the wheels of the economy turning. By sustaining employment, encouraging investment, and enhancing the cash flow of both businesses and domestic households, the government hopes the economy will be able to weather through the storm with the least possible strain.

Tax measures

Thus far, the long line of new tax measures designed to benefit businesses already includes deferment of tax instalments for SMEs and the tourism industry, early revision of tax estimates, exemption of hotels from service tax, accelerated capital allowances for machinery and equipment, tax deduction of up to RM300,000 on renovation and refurbishment costs, tax deduction for donations to the COVID-19 fund, and import duty and sales tax exemptions on machinery and equipment used in port operations.

While these efforts are laudable, the government might soon find itself in need of more policymaking to prop up the economy. If further tax measures need to be introduced, it may be better for the government to target them at individuals and businesses which need them most, rather than having a blanket application across the board.

Additional measures that could be implemented to help businesses and individuals include:

(a) *Introducing carry-back losses.* This would enable taxpayers to carry back their 2020 tax losses against the profits recorded in previous tax years. Countries such as the Czech Republic, Norway, Poland and Singapore have put in place such a provision in one variant or another, or have relaxed existing rules on carry-back losses.

(b) *Raising the threshold for small-value assets.* This results in more assets coming within the small-value assets category to qualify for 100% capital allowance. Currently, small-value assets refer to assets worth RM2,000 or below.[1] Elsewhere, New Zealand has temporarily increased the threshold for small-value assets by tenfold.

(c) *Granting further deductions or special tax credits for certain expenses.* Italy, for example, has provided tax credits for expenses incurred by businesses on the sanitisation of workplaces.

(d) *Offering reduced income tax rates for businesses.* South Korea applies this to small and medium-sized businesses located in areas with the highest COVID-19 infections, whereas Indonesia limits it to sectors most affected by the pandemic.

(e) *Exempting low-income earners from payment of income tax.* In Indonesia, manufacturing workers earning below a certain threshold qualify for this exemption.

(f) *Deferring payroll tax liability for businesses affected by the pandemic by several months.* In the Netherlands, deferral is only extended to businesses which have run into problems due to the pandemic.

(g) *Exempting businesses from paying payroll taxes or making refunds of payroll taxes paid this year.* Several Australian states have implemented this to varying degrees for small and medium-sized businesses: Some only provide partial exemption and refunds, whereas others provide them in full. Businesses in the Eastern European country of Moldova are only eligible for 100% refund if they are forced by the government to stop their economic activities (rather than voluntarily).

(h) *Waiving stamp duty on all loan and credit transactions.* Put into effect by Chile, this measure aids the provision of liquidity to businesses.

(i) *Providing land tax relief for businesses.* The UK has provided relief for a variant of land tax known as business rates.

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[1] Income Tax Act 1967, Schedule 3, para 19A

Other jurisdictions have demonstrated that, with some ingenuity, it is possible to target tax measures to benefit those which appreciate them most. Further tax benefits, if any, can be directed to businesses in certain brackets — such as those which belong to sectors or localities most negatively impacted by the pandemic — and businesses outside of these brackets which, nevertheless, are able to show a substantial economic downturn following the pandemic. Granted, a more targeted approach would involve more bureaucracy and higher implementation costs. But there is a reason why cost-benefit analysis has a role to play in any good policymaking.

The question of budget is always the elephant in the room for tax policymaking, perhaps more so when the measures concerned serve to give rather than take. Policymakers would do well to remember that there is considerable room for manoeuvre in the design of every tax benefit. Further deductions, for example, need not necessarily come in the form of “double deductions”. A further 30% tax deduction for certain expenses is better than none at all.

Some suggestions on best administrative practices for the IRB

All IRB premises, except for stamp duty counters at the Branch Stamping Offices, are shut throughout the remaining lockdown period under the Movement Control Order (**MCO**). The IRB initially shifted all channels of communication with taxpayers online. However, amid the MCO, HASIL Care Line was revived on 30 March 2020 – perhaps in recognition that complex issues are better dealt with through telephone communication. This effort is in line with that of other jurisdictions: the call centres of most tax administrations around the globe remain fully operational during the coronavirus crisis. The Australian Taxation Office, for example, has taken the prudent step to reinforce its call centres in response to higher demands during the pandemic. The Inland Revenue Authority of Singapore even provides a call-back facility.

There is no indication that the IRB would be halting audits after the lockdown period. Elsewhere, like Denmark, Latvia and Russia, field audits have been suspended. The IRB should also play its part in promoting liquidity in businesses by expediting tax refunds and allowing more flexibility in the restructuring of tax debts.

Extraordinary times call for extraordinary measures. In a world temporarily intruded by COVID-19, that means injecting a degree of pliability into policymaking and administrative practices.

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Published by the Tax, SST & Customs Practice