The Productivity and Innovation Credit ("PIC")

In his recent May Day Rally, Prime Minister Lee Hsien Loong spoke about the importance of companies taking the lead in raising productivity levels in Singapore. He emphasized on how companies should make productivity and skills upgrading a top priority, work closely with unions and workers to improve performances and share gains with workers. He also stressed on the importance of workers to upgrade and learn new skills, contribute ideas to improve performance and to know processes well. He suggested the above could be accomplished by companies through capitalizing on the many restructuring grants for SMEs provided for by the government.

One such grant is the Productivity and Innovation Credit ("**PIC**") scheme which was introduced in Budget 2010 and strategically targeted to enhance existing tax measures that encourage productivity and innovation activities. The PIC scheme is managed by the Inland Revenue Authority of Singapore ("**IRAS**"). The scheme was further enhanced by the Minister of Finance in Budget 2011.

1. Summary

Under the PIC scheme approved in Budget 2010, businesses have the option of choosing between a tax deduction and a cash payout. As amended in March 2011, businesses now have a tax deferral option on top of these two choices.

The claim for enhanced deduction or cash payout is independent of the PIC tax deferral. Thus you can still claim enhanced deductions or a cash payout if you apply for a PIC tax deferral. There is no minimum PIC expenditure requirement to be met before a business can elect to defer the tax.

2. Qualifying Activities

The PIC scheme allows *all* businesses to enjoy 400% tax deductions or allowances of up to $400,000 each for their expenditure on six qualifying activities for every Year of Assessment ("**YA**") from YA 2011 to 2015. As an alternative, businesses have the option of a cash payout.

The six activities that qualify under the PIC scheme are:

(a) Acquisition of intellectual property rights;

(b) Registration of patents, trademarks, designs and plant varieties;

(c) Training of employees;

(d) Research and development activities;

(e) Investment in approved design projects; and

(F) Acquisition or leasing of PIC automation equipment

Specifically in the area of intellectual property, the PIC offers great benefits to companies, particularly Small and Medium Enterprises who are interested in the acquisition or registration of Intellectual Property Rights ("**IPR**") in Singapore. We have set out the relevant qualifying activities relating to IPR below:

2(a). Acquisition of IPRs

The scope of IPR that qualify under the PIC scheme are those IPR under section 19B of the Income Tax Act. These include:

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(a) Patents;
(b) Copyrights;
(c) Trademarks;
(d) Registered designs;
(e) Geographical indication;
(f) Lay-out design of integrated circuit; and
(g) Trade secret and/or information with commercial value.

Please note that certain categories of IPR and those relating to media and digital entertainment contents approved by EDB are excluded.

As a general rule, the expenditure for the acquisition of IPR must be claimed on its full cost, provided that the total expenditure of all IPR acquired does not exceed the $400,000 cap per YA. However the partial cost of one IPR may be claimed if this was to achieve the maximum expenditure cap for a YA.

2(b). Registration of IPRs

Registration cost is broadly divided into two categories, official fees and professional fees.

a. Official fees refer to payments made to the Registry of Patents, Registry of Trade Marks, Registry of Designs or the Registry of Plant Varity in Singapore or elsewhere for the filing of applications, search and examination reports or granting of a patent.

b. For Professional fees, it must be incurred in relation to the registration of the qualifying IPR and will cover payments made to any person acting as an agent for applying for any patent, registration of a trademark or design, or for preparing specification or other documents for the purpose of the respective statutes or intellectual property laws of any other country.

3. Cash Payout Scheme

As an alternative to the tax deductions, the PIC has a revised cash payout option which allows businesses to convert their expenditure into a non-taxable cash payout.

(i) Eligibility

Businesses eligible to opt for the cash payout are sole proprietorships, partnerships, companies (including registered business trusts) that have:

(a) incurred qualifying expenditure and are entitled to PIC during the basis period for the qualifying YA;

(b) active business operations in Singapore; and

(c) at least three local employees (Singapore citizens or PRs with CPF contributions excluding sole-proprietors, partners under contract for service and shareholders who are directors of the company). A business is considered to have met this three-local-employees eligibility if it contributes CPF on the payrolls of at least three local employees in the last month of its basis period for the qualifying YA.

(ii) Cash payouts

Businesses can convert up to 30% of $100,000 of their total expenditure in all six qualifying activities for YA 2011 and YA 2012; and up to 60% for YA 2013 to YA 2015 into a non-taxable cash payout.

By way of illustration of the above, for YA 2011 and YA 2012 eligible businesses can opt to convert up to a combined cap of $200,000 for all six qualifying activities into a cash payout.

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This translates to a maximum cash payout of $60,000 for YA 2011 and YA 2012.

As a result of positive feedback on this initiative, the 2012 Budget increased the rate for cash payout from 30% to 60% for YA 2013 to YA 2015. Thus businesses can receive a cash payout of up to $60,000 each year with the higher conversion rate.

For newly incorporated/registered businesses whose first YA is YA 2012, the expenditure cap for all six qualifying activities is $100,000 and the maximum cash payout is $30,000 for YA 2012.

4. Tax deduction

For YA 2011 to YA 2015, businesses enjoy a 400% tax deduction on up to $400,000 of their qualifying expenditures. To enable businesses to enjoy maximum PIC benefits, the annual expenditure cap of $400,000 for each activity is pooled to give a combined cap for the period YA 2011 to 2012 and the period YA 2013 to YA 2015.

This means that the total expenditure cap per qualifying activity for YA 2011 to YA 2012 is $800,000 and the total expenditure cap per qualifying activity for YA 2013 to YA 2015 is $1,200,000. Businesses would therefore be able to enjoy a tax deduction of up to $3.2 million (400% x $800,000) per qualifying activity for YA 2011 and 2012 and up to $4.8 million (400% x $1,200,000) per qualifying activity for YA 2013 to 2015.

5. Tax deferral

Businesses can defer a dollar of current YA tax for every dollar of qualifying expenditure incurred for the current YA.

The amount of tax that can be deferred is capped at $100,000. The option is available for the deferment of tax payable for YA 2011 to YA 2014 based on the qualifying PIC expenditure incurred for the corresponding financial years 2011 to 2014. The tax payable can be deferred to the time when the first assessment for the following Year of Assessment is raised.

Any business (including companies, sole-proprietors and partners) that has incurred qualifying PIC expenditure can apply for tax deferral.

6. Incentives for businesses

The PIC provides alternatives for companies to capitalize on the acquisition or development and registration of IPRs. It allows businesses to have more free cash flow and frees up financing, giving them opportunities to make more investments in productive and innovative activities.

David Lim & Partners LLP provides a full spectrum of legal services which includes intellectual property protection and commercialization. For more queries about how you can maximize the benefits of the PIC scheme through the acquisition or registration of IPRs, please feel free to contact our lawyers.

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