Rödl & Partner

MALASYIA NEWSFLASH

Covid-19
Tax Issue:
May 2020

THINKING GLOBALLY

Latest News on Law, Tax and Business in Malaysia

www.roedl.de/malaysia | www.roedl.com/malaysia

Rödl & Partner

MALAYSIA NEWSFLASH

THINKING GLOBALLY

Covid-19
Tax Issue:
May 2020

Read in this issue:

→ WEATHERING THE COVID-19 STORM WITH EFFECTIVE TAX MANAGEMENT

The spread of the Novel Coronavirus (“covid-19”) has been declared a global pandemic by the World Health Organization (“WHO”), following its rapid spread across the world which has caused disruption to businesses and society globally. In order to control the spread of the covid-19 virus, many governments across the world have implemented stay home orders, travel restrictions and social distancing measures causing severe disruption to businesses leading to a contracting economy in many countries.

The CENTRAL BANK OF MALAYSIA recently revised the nation´ s GDP OUTLOOK for 2020 to between –2 per cent to +0.5 per cent compared to +4.3 per cent in 2019. Similar effects are being perceived globally, with many countries facing a serious risk of entering into a recession.

In response to this crisis, many governments have enacted fiscal and monetary stimulus measures to alleviate the cash flow burden for businesses and to keep businesses afloat. Even after the global pandemic will have been brought under control, companies are likely to still face the aftermath. As such, companies should take this opportunity to look at their financial health to determine whether any improvements can be made in both, short and long term.

Companies can look into short term measures to help ease their cash flow, whilst in the long term they can look into restructuring from a strategic and operational perspective to optimize return on capital. From a tax perspective, such steps may derive significant benefits if carried out efficiently, while they may have adverse tax consequences if not implemented correctly.

In this article, we look into various business continuity measures from a tax perspective that can be undertaken by organizations to stay resilient during times of uncertainty.

FREEING UP CASH FLOW

Businesses should review their cash flow and make use of any opportunities to defer or reduce the payment of tax. Since February 2020, the Malaysian government has announced 3 separate ECONOMIC STIMULUS PACKAGES (“ESP”) valued at MYR 250 billion to counter the economic impact of the covid-19 outbreak. Part of the measures introduced in the ESP include the deferment of tax instalment payments for Small and Medium Enterprises (“SMEs”) which will allow qualifying companies to defer their tax instalment payments to reduce immediate cash outflow.

In addition, all companies are allowed to apply for a special revision of tax estimate in the 3rd month. With the large scale disruption caused by the covid-19 outbreak, many companies are having to scale down their operations and to revise their financial projections. This measure will allow companies to free up their cash flow by reducing their instalment payment and avoid overpayment of taxes.

Companies should also monitor their tax obligations closely to avoid the imposition of penalties, and to expedite tax refunds, if any. Due to the imposition of the Movement Control Order (“MCO”) in Malaysia, the Malaysian tax authorities have granted companies an additional grace period for submission of tax returns and payment of tax. This extension will allow companies to buy additional time and to channel their funds to more urgent business requirements.

MINIMIZING TAX LEAKAGES

Tax management should be the focus of an organization in its overall cash management strategy. Given these challenging times, businesses should carefully consider new capital investments. However, businesses may also take this opportunity to invest in new machinery to position themselves at a competitive advantage when the economy rebounds.

Under the ESP, the Malaysian government has introduced a measure to allow for accelerated capital allowance on machinery and equipment including information and communication technology (“ICT”) equipment, incurred from 1 March 2020 to 31 December 2020.

Businesses should examine the tax implications of strategies that will allow them to more carefully manage their tax positions. This may include writing down obsolete inventory and investments and the crystallization of unrealized tax positions (e.g. foreign exchange exposure), and undertaking a more detailed analysis of year end provisions and accruals.

Balance sheet strategies can be adopted to reinforce a company's tax position. Such approaches may include managing the effective tax rate of the company. Areas to consider include non-cash employee benefits and bad debt write-offs. It should be taken into consideration whether any tax deductions might be available to debts written off as well as to the crystallization of unrealized tax positions to reduce overall taxable income.

Companies within a group should also take this opportunity to review their overall tax position and apply for group relief for utilization of losses during this time to effectively manage their tax position.

STREAMLINING BUSINESS OPERATIONS

Large and complex group structures may need to be reviewed to alleviate cash inefficiencies by optimizing economies of scale and minimizing duplication of activities. Under Malaysian tax rules, the amalgamation of business operations within a group of companies can be relatively tax neutral. However, such transactions should be carefully reviewed to ensure that any tax costs are minimized.

Companies may also choose to downsize their current business operations or focus on their core business. Where companies choose to sell off assets to streamline business, the tax implications of such transactions should also be carefully reviewed. The sale of assets on its own should not give rise to a taxable event. However, the tax on the written down value of such assets should be reviewed to ensure that it does not lead to a balancing charge.

ADJUSTING TRANSFER PRICING MODELS

As a result of the covid-19 outbreak, companies may have had to restructure or relocate some of their functions due to supply chain disruptions. Supply chain disruptions coupled with a challenging economic outlook will change the way businesses operate, which will impact a group's transfer prices. Such changes may change a functional characterization of a company and consequently change its arm's length prices. Companies will have to review whether the transfer pricing models which were prepared under normal economic circumstances may be held up during times of economic distress.

For example, routine service providers may produce loss making returns. The question management should ask is whether routine service providers should bear some of the group's losses or if they should maintain a routine return consistent with the group's transfer pricing policy.

Intercompany financing arrangements may also provide businesses with the opportunity to manage their taxes. Existing funding arrangements could be reviewed and restructured with interest rates adjusted to reflect the current arm's length interest rates. With third party interest being lowered, companies could take advantage of this in their intercompany financing. However, companies should still be wary of interest restriction rules which would limit a tax deduction on intercompany debt especially when considering new or increased financial support from their group as well as withholding tax on cross border financing.

As companies start to migrate from a crisis response phase to a recovery stage, they will need to assess the medium and longer term impact on their business. In a downturn, numerous challenges present themselves, and a natural response would be to focus on today's problems. Whilst this is certainly important, it is important to recognize the opportunities presented by a downturn. Effective tax management will help to ensure your business is robust enough to weather the storm and to come out of it relatively unscathed.

CONTACT FOR FURTHER INFORMATION:

Priya Selvanathan
T +60 3 2276 2755
priya.selvanathan@roedl.com

Imprint

Malaysia News Flash, Special Edition May 2020

Publisher:
Roedl Consulting Sdn Bhd
Unit 18-12, Menara Q Sentral
No. 2A, Jalan Stesen Sentral 2
Kuala Lumpur Sentral 50470
Rödl & Partner

Responsible for the content:
Priya Selvanathan
priya.selvanathan@roedl.com

Layout:
Priya Selvanathan
priya.selvanathan@roedl.com