

Technical Group Discussion

Be Clued in on the 'Inside Track'

26 September 2011, Monday

The recent fully-subscribed technical discussion organised by SIATP saw representatives from the Inland Revenue Authority of Singapore (IRAS) giving a behind-the-scenes perspective on tax compliance. Ms Loh Lee Kim, Assistant Commissioner of IRAS' Compliance Strategy and Risk Division, started the morning's discussion with an overview of IRAS' compliance framework and its relationship with tax agents, followed by illustrations of undesirable tax practices. Also present was Mr Chua Aik Loy, Director in IRAS' Investigation and Forensics Division.



Participants networked and caught up with peers over breakfast before the start of the technical discussion.

In its pursuit of being the leading tax administration in the world, one of IRAS' strategic goals is to ensure compliance by all taxpayers. This is to be achieved through four strategic pillars with the overarching objective of ensuring enhanced voluntary compliance and based on the premise that taxpayers are generally compliant.

Examples of initiatives that have been put in place under these four strategic pillars to enhance voluntary compliance include having a simpler tax system, providing comprehensive information online, leveraging on technology to assist taxpayers in getting their tax matters right, taking strong action against taxpayers who are non-compliant and even having an informants programme.

Tax Offence vs Tax Planning

To understand what it means to achieve better voluntary compliance, Lee Kim also explained the boundaries that mark the difference between tax offence and tax planning. An act may constitute a tax offence when it leads to the filing of an incorrect return or tax evasion whereas in tax planning, the key considerations are the commercial reasons underlying the business set-ups and the economic substance achieved consequently.

The session progressed with various illustrations on undesirable tax practices.

Delaying Approval of Director's Fees at AGM

Companies of concern have charged director's fees in the profit and loss account. However, the fees are subsequently not approved at the Annual General Meeting (AGM) and hence,

the individual director is not taxed. The company subsequently holds Extraordinary General Meetings over several years to approve the director's fees in parts. There is thus a time lapse between the time of deduction and the point of taxation. This is not an acceptable practice as it is viewed as a misrepresentation by the company which has claimed the deduction upfront but consciously chooses not to materialise the event.

Setting Up "Phoenix Companies"

This scenario starts with a successful company. After a few years, the owner weans off the profits and incorporates another company that is in the same line of business, with the same address and employees to continue with the business leaving the original company saddled with debts and liabilities. IRAS pays close attention to such "phoenix companies" as they are typically non-compliant across a range of tax obligations and there is a higher probability that these companies would potentially defraud a significant number of creditors and customers.

Deferred Billing

This would typically happen in multi-national corporations where annual targets are being set by their headquarters. For various reasons such as ensuring consistent performance across years, the country office chooses to delay billing its customers for transactions happening towards the end of the financial year's last quarter though internally, it is aware that the sales have concluded and revenue can be recognised. The company then declares sales as revenue in the subsequent financial year.



Getting insights from IRAS was on the minds of participants in yet another over-subscribed event for accredited tax professionals.

This practice is not in line with accounting principles. Revenue should be accrued when earned, and not when the customer is billed. IRAS views such accounting adjustments to delay recognition of income as unacceptable, in view of the trend of a declining corporate tax rate and the time value of money.

Setting Up Shell Companies to Claim Tax Exemption for New Companies

Similar to "phoenix companies" set-ups, this illustration describes an individual who owns a profitable business. New companies are then set up to enjoy tax exemption but there may not be real business activity. IRAS is constantly on a lookout for companies lacking in economic substance and activities. The profits are simply transferred from the profitable business to the new companies to enjoy tax exemption for newly incorporated companies.

Shifting profits to shell companies is not in line with the objectives of the tax exemption scheme for newly incorporated companies.

The 2009 case of Steel Forming and Rolling Specialists Pte Ltd (SFRS) was highlighted to illustrate this scenario where the director admitted that no services were rendered by the

related companies of SFRS. Forensics evidence showed that SFRS had created invoices and management agreements to give the impression that services were performed by the related companies. SFRS was prosecuted and penalised for tax evasion. The director was prosecuted for assisting the company to evade tax. He was penalised and imprisoned for the offence.

Changing Business Constitution – “Partnership – Corporate Partners”

This illustration involves a profitable company that is owned by related parties. A new partnership is subsequently formed, which takes over the business of the profitable company. Owners of the original company form corporations to act as partners of the new partnership. These corporations may not conduct any business activity except being the partners of the new partnership. The business constitution has thus changed but there is no change in the business operations. The underlying intent is to avail the corporate partners to the full tax exemption for newly incorporated companies. IRAS takes a serious view of such scenarios where there is a lack of economic substance in entities and activities.

Concluding Remarks

Accredited tax professionals and tax agents in general, continue to play an instrumental role in achieving voluntary compliance. SIATP members, for example, may be advising clients on the availability of grants IRAS offers for the purchase of accounting software to enhance the standard of record keeping or providing tax advice on the conditions for various claims and reliefs.

In the event of uncertainty, tax agents are advised to verify with IRAS beforehand instead of thinking about the tax implications after the transactions.

In the long run, there may be preferential treatment accorded to accredited tax professionals with sufficiently high standards. This may in turn result in fewer audits for their clients.

The session ended with a presentation of tokens of appreciation by SIATP Board Member and Tax & Levies Committee Member, Ms Latha Mathew, to Lee Kim and Aik Loy.