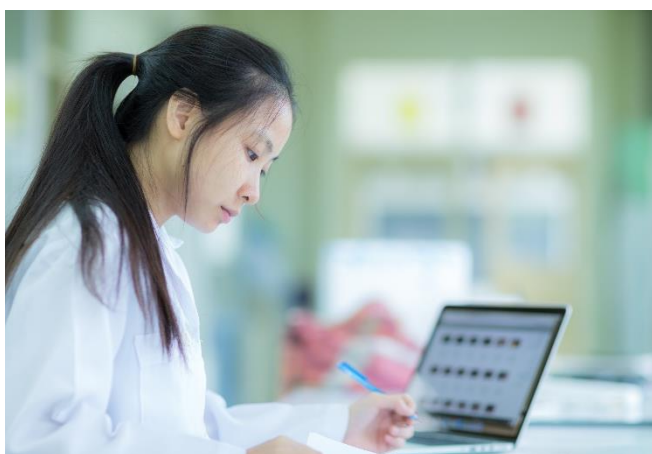


## Intellectual Property Development Incentive



In Budget 2017, Minister for Finance, Heng Swee Keat, announced a new tax incentive for the commercialisation of intellectual property (IP) from Singapore. The incentive, named the Intellectual Property Development Incentive (IDI), will provide concessionary tax rates on income from qualifying patents and other IP rights.

KPMG is pleased to see the introduction of the IDI, as this was one of our key recommendations for Budget 2017 to boost innovation in Singapore (see [KPMG's Pre-Budget 2017 Report, "Building Enterprises of the Future"](#)).

The IDI will take effect from 1 July 2017 and will incorporate the "modified nexus approach", which is a substance-based test, broadly meaning that to qualify for the IDI, businesses must undertake research and development (R&D) in Singapore.

The IDI is targeted to encourage R&D in Singapore by complementing other tax incentives available to encourage innovation and tapping onto the different stages of IP development:

- **Creation of IP:** Enhanced deductions for R&D expenditure (R&D Tax Incentive);
- **Protection of IP:** Enhanced deductions/allowances for registration, acquisition and in-licensing of IP under the Productivity and Innovation Credit scheme;

- **Exploitation of IP:** Concessionary tax rates for IP income under the IDI.

The Singapore Economic Development Board (EDB) will release further details in May 2017. In view that most of the details on the scheme are yet to be released, the comments in this Tax Alert will be based on the features contained under the Organisation of Economic Cooperation and Development (OECD)-endorsed "modified nexus" approach.

### What is the IDI?

The IDI will provide concessionary income tax rates on income from qualifying patents and other IP rights. Broadly, this means that royalties and licence fees over patents and part of the income from the sale of products incorporating a patented invention can potentially benefit from lower corporate income tax rates.

The tax rate that will apply under the IDI is yet to be announced, but we would expect that the tax rate to be aligned to the rates offered under the Development and Expansion Incentive (DEI), which is currently at 5 or 10 percent in typical cases.

### Administration of the IDI

The IDI will take effect on or after 1 July 2017 and will likely be subject to approval by the EDB. This would be unlike similar IP regimes, such as the UK Patent Box and Irish Knowledge Development Box schemes, which are self-assessment regimes.

If the IDI is subject to negotiation with and approval by the EDB, this may mean that the EDB may impose incremental commitments relating to headcount and business spending as part of the incentive conditions.

It can be expected that companies will be required to "track and trace" and provide evidence of expenditure incurred, income generated from IP assets and activities undertaken to generate the IP assets.

### “Modified nexus” approach

The IDI will incorporate the “modified nexus” approach endorsed by the OECD under Action 5 (Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance) of the Base Erosion and Profit Sharing (BEPS) project.

In layman terms, this broadly means that the preferential tax treatment under the incentive will be granted to income arising from IP where the actual R&D activities are undertaken by the claimant himself or outsourced to third parties.

The following table looks at some of the features under the “modified nexus” approach:

“Modified nexus” approach		Issues to consider under the IDI
Qualifying taxpayers	<ul style="list-style-type: none"><li>No restrictions, as long as conditions satisfied</li></ul>	<ul style="list-style-type: none"><li>Will this apply to all businesses based in Singapore?</li><li>We believe that this should not be restricted to multi-national corporations</li></ul>
Qualifying IP assets	<ul style="list-style-type: none"><li>Patents and copyrighted software</li><li>Marketing intangibles (e.g. trademarks) are excluded</li></ul>	<ul style="list-style-type: none"><li>Is legal ownership of IP required?</li><li>Can certain unregistered IP (so-called patentable inventions) be considered, taking into account commercial considerations for avoiding registration?</li><li>Are all types of patents to be covered (or only utility patents)</li></ul>
Qualifying income	<ul style="list-style-type: none"><li>Nexus ratio to be applied to calculate the income subject to preferential treatment, which will be dependent on the amount of qualifying R&amp;D expenditure incurred in proportion to overall R&amp;D expenditure</li></ul>	<ul style="list-style-type: none"><li>Scope of qualifying income to include sale of products incorporating the patented invention?</li><li>If royalties embedded in sales of products are required to be stripped out, what is an acceptable and practical method for doing so?</li><li>How to determine the nexus ratio if expenditure is under dispute with the Inland Revenue Authority of Singapore (IRAS) or subject to transfer pricing adjustments?</li><li>Expiry period of benefit?</li></ul>
Qualifying R&D expenditure	<ul style="list-style-type: none"><li>Expenditure for in-house R&amp;D</li><li>Outsourced R&amp;D payment to unrelated party</li></ul>	<ul style="list-style-type: none"><li>Will the meaning of R&amp;D be tagged to definition under the Income Tax Act, consistent with the R&amp;D Tax Incentive?</li><li>What if R&amp;D expenditure is incurred before the IDI commencement date?</li></ul>
Overall R&D expenditure	<ul style="list-style-type: none"><li>Qualifying R&amp;D expenditure</li><li>Acquisition cost of IP asset</li><li>Outsourced R&amp;D payment to related party</li></ul>	<ul style="list-style-type: none"><li>What does IP acquisition cost constitute? Does it include royalty and licence fee payments?</li></ul>

The EDB will release further details on how qualifying IP income is defined along with the applicable concessionary tax rates and possible periods of award.

## Transitional provisions

With the introduction of the IDI, IP income will be removed from the scope of the existing Pioneer - Services / Headquarters and the DEI - Services / Headquarters incentives in respect of awards from 1 July 2017.

IP income under the current Pioneer Services Incentive and the DEI will continue to be incentivised under the existing incentive awards till 30 June 2021.



## Our comments

The IDI is similar to Patent Box regimes that have been in place in many European countries for some time. With the introduction of the IDI, Singapore is now the only country within the Asia-Pacific region other than India to have a Patent Box-type regime.

Taking into account Singapore's other favourable attributes such as strong regulatory IP protection regime (Singapore is rated best place in Asia for IP rights protection, Global Competitiveness Report 2015-2016), wide network of tax treaties and strong government support for R&D, the introduction of the IDI will further develop Singapore as the most compelling jurisdiction for creating, protecting and exploiting IP rights within the Asia-Pacific region.

The adoption of the "modified nexus" approach means that the IDI will be BEPS-compliant, reflecting Singapore's commitment to the BEPS framework.

The IDI should be a natural extension for those companies that are already availing of the R&D Tax Incentive. However, it is desired that the definition of R&D under the IDI will be broader than its current definition under the Income Tax Act, so as to encourage more enterprises to undertake R&D activities. This will encourage a wider scope of innovation activities within Singapore.

## How KPMG can help

KPMG's Enterprise Incentive Advisory team is a dedicated multi-disciplinary team of experienced tax and accounting professionals, IT technologists, scientists and engineers. With our various technical backgrounds and strong industry links, we can provide timely and relevant advice to support your business throughout the IP development lifecycle to include R&D Tax Incentive claims, IP protection and exploitation of IP.

Areas that we can assist you with:

- 1) Seek an advance tax ruling from the IRAS on the applicability of tax allowances on IP acquisition costs
- 2) Evaluate and prepare your R&D Tax Incentive claims
- 3) Undertake a health check to determine the applicability of the IDI scheme for your business (any R&D resulting in product / process patents and copyrighted software)
- 4) Develop an IP protection strategy by first identifying patenting and software copyright opportunities
- 5) Review your R&D arrangements and IP ownership globally, including legal and structuring aspects
- 6) Conduct a study on the feasibility of having a centralised regional / global IP hub in Singapore as part of headquarters strategy
- 7) Review your IP Development Master Plan showing incremental headcount, R&D spending and IP commercialisation roadmap
- 8) Review your financial projections and put in place accounting and tracking systems to establish how much IP income would qualify and link expenditure to income and IP
- 9) Review your revenue and transfer pricing model and assess if there is any embedded IP in your sales as well as valuation methodology of any acquired IP





## Contact us

### **Chiu Wu Hong**

#### **Head of Tax**

**T:** +65 6213 2569

**E:** wchiu@kpmg.com.sg

### **Harvey Koenig**

#### **Head of Enterprise Incentives Advisory**

**T:** +65 6213 7383

**E:** harveykoenig@kpmg.com.sg

### **Ho Kah Chuan**

#### **Director, ASEAN Incentives Advisory**

**T:** +65 6213 7303

**E:** kahchuanho@kpmg.com.sg

### **Lee Bo Han**

#### **Senior Manager, R&D Incentives Advisory**

**T:** +65 6213 3465

**E:** bohanlee@kpmg.com.sg

### **KPMG**

**16 Raffles Quay**

**#22-00 Hong Leong Building**

**Singapore 048581**

**T:** +65 6213 3388

**F:** +65 6227 1297

**E:** tax@kpmg.com.sg

Find out more about our services at [kpmg.com.sg](http://kpmg.com.sg)

*Asia Tax Firm of the Year; Asia International Tax Firm; Asia Indirect Tax Firm; Asia Global Executive Mobility Firm and National Firm for Transfer Pricing in Singapore – Asia Tax Awards 2016, International Tax Review.*

*Ranked Tier 1 Firm in Singapore – World Tax 2017, International Tax Review.*

*For more details of our Tax services, please click [here](#).*

### **About Tax Alert**

KPMG's Tax Alerts highlight the latest tax developments, impending change to laws or regulations, current practices and potential problem areas that may impact your company. As certain issues discussed herein are time sensitive it is advisable to make plans accordingly.

"Tax Alert" is issued exclusively for the information of clients and staff of KPMG Services Pte. Ltd. and should not be used or relied upon as a substitute for detailed advice or a basis for formulating business decisions.

[kpmg.com.sg/socialmedia](http://kpmg.com.sg/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2017 KPMG Services Pte. Ltd. (Registration No: 200003956G), a Singapore incorporated company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Singapore.