

Tax alert

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New e-Tax Guides on taxation of insurers arising from adoption of FRS 117 and tax framework for transfer of business by insurers

Introduction

On 21 October 2022, the Inland Revenue Authority of Singapore (IRAS) issued a new e-Tax Guide titled “Income Tax: Taxation of Insurers Arising from Adoption of FRS 117 – Insurance Contracts” (FRS 117 e-Tax Guide).

The FRS 117 e-Tax Guide provides details on the income tax treatment of a licensed insurer (“insurer”) arising from the adoption of FRS 117 *Insurance Contracts* or SFRS(I) 17 *Insurance Contracts* (collectively referred to as “FRS 117” hereinafter). The new guide applies to insurers for financial years beginning on or after 1 January 2023.

On 11 November 2022, IRAS issued another e-Tax Guide titled “Tax Framework for Transfer of Business by Insurers” (Section 34CA e-Tax Guide). The Section 34CA e-Tax Guide provides details on the tax framework for transfer of business by insurers licensed under Section 11 of the Insurance Act 1966 (IA) effected by a scheme of transfer under Section 117 of the IA made on or after 1 November 2021.

This tax alert summarises and provides insights on the tax treatments of insurers adopting the FRS 117 and the tax framework for transfer of business by insurers.

FRS 117 e-Tax Guide

Pre-FRS 117 treatments

The current income tax basis of insurers is based on the fund concept and the tax treatment for the various insurance funds is provided under Section 26 of the Singapore Income Tax Act (SITA). Except for profits from Participating Fund (“Par Fund”), insurers are generally taxed based on the surplus method and rely on their financial statements (FS) as a starting point in the preparation of their tax computations, complemented by their MAS Statutory Returns, which are used to segregate their income and expenses into respective funds and business lines.

For profits from Par Fund, insurers rely on their MAS Statutory Returns instead of FS and are taxed based on the actual distributions made to policyholders and shareholders

as reflected in the MAS Statutory Returns.

Post-FRS 117 Treatments

With the adoption of FRS 117, insurers are required to prepare their tax computations by using the MAS Statutory Returns, instead of FS, as the basis with effect from Year of Assessment (YA) 2024 (or YA 2025 for insurers whose financial year end (FYE) is not 31 December) or such earlier YA as may be approved by IRAS (referred to as “Transitional YA” hereinafter).

Accordingly, there will be certain changes to the existing tax treatments, transitional tax adjustments and new tax adjustments arising from the use of MAS Statutory Returns as the basis for preparing tax computations. Please refer to the Appendix for a summary table of the changes in existing tax treatment and the transitional tax adjustments.



Administrative procedures

Insurers are required to submit their MAS Statutory Returns (including auditor's report) together with their Form C, audited FS and tax computation starting from the YA 2024 (or YA 2025 for insurers whose FYE is not 31 December). In addition, insurers must meet a new requirement of submitting a copy of their Detailed Profit and Loss (P&L) Statement, based on Form A2 of MAS Statutory Returns, together with Form C.

For insurers (other than captive and marine mutual insurers) whose FYE is not 31 Dec, the Transitional YA will be YA 2025. Besides submitting the MAS Statutory Returns for the calendar year 2024, they are also required to prepare and submit the certified MAS Statutory Returns for the period from the first day immediately after the last day of the financial year ending in 2023 to 31 Dec 2023.

For the Singapore branches of foreign insurers, the P&L of its shareholders' fund will not be reflected in the MAS Statutory Returns. Thus, if there is any income derived by the shareholders' fund of a foreign insurer through its Singapore branch, the branch will need to submit the management accounts of the shareholders' fund certified by its Chief Executive or other authorised personnel.

Please refer to Sections 10 and 11 of the e-Tax Guide for details.

Section 34CA e-Tax Guide

Due to regulatory restrictions, insurers are required to transfer their insurance-related businesses through a scheme of transfer instead of a statutory voluntary amalgamation under the Companies Act 1967 and, hence, would not be able to avail themselves to the tax framework



for corporate amalgamations provided for under Section 34C of the SITA.

To ensure parity in treatment for companies in the insurance business with other companies, a new Section 34CA has been enacted in the SITA to apply with modification the tax treatments accorded to a qualifying amalgamation of companies under Section 34C of the SITA, to qualifying transfers of business by insurers.

Section 34CA would apply, subject to relevant conditions, where:

1. There is a transfer of the whole of the insurance business by a Singapore-incorporated insurer ("transferor") to another Singapore-incorporated company ("transferee") under the IA which is effected by a scheme of transfer that takes place on a single date ("date A") that is on or after 1 November 2021;
2. There is a transfer of the non-insurance business by the transferor to the transferee which has been approved by the Comptroller of Income Tax (CIT) which takes place on a single date ("date B") within one year before or after date A. The transferee

is required to make an election for applying to the CIT in writing within 90 days from the earlier of date A or date B or such further period as the CIT may allow to apply the Section 34CA tax framework to the transfer of the non-insurance business.

Section 34CA tax treatments

The income tax treatments prescribed in Paragraph 6 and Annex A of the IRAS e-Tax Guide on "Tax Framework for Corporate Amalgamations" will similarly apply to qualifying transfers of business by insurers, as though the transferor is the amalgamating company and the transferee is the amalgamated company.

These tax treatments would continue to apply except for financial instruments where the transfer of business takes place before 1 January 2023 and the FRS 39/FRS 109 tax treatment has been adopted by the transferor and/or transferee.

The income tax treatments prescribed in the FRS117 e-Tax Guide would apply for these financial instruments transferred for basis period beginning on or after 1 January 2023, or an earlier basis period approved by the CIT to adopt the MAS Statutory Returns as the basis for preparing their tax computations.

Our comments and insights

The release of the FRS 117 e-Tax Guide and Section 34CA e-Tax Guide provide insurers with much-needed clarity on the tax treatments arising from the adoption of the MAS Statutory Returns as the basis of preparation of the tax computation following FRS 117 taking effect from 1 January 2023 and the tax neutrality to be attained when transferring insurance-related businesses through corporate amalgamations provided for under the SITA.

Our key comments are as follows:

FRS 117 e-Tax Guide

- The change in the basis of preparation of the tax computation from the FS to MAS Statutory Returns has presented substantial changes in the existing tax treatments and additional tax adjustments required by taxpayers, particularly in the Transitional YA, and in any subsequent YAs as going forward. Such tax adjustments may lead to additional tax payable which may impact cash flow issues for some insurers that have not anticipated such changes.
- Insurers implementing FRS 109 and FRS 117 at the same time will face two major accounting standards changes within the same year. Coupled with the current backdrop of a manpower crunch and an economic slowdown, such substantial changes would present a real challenge for the insurers during the Transitional YA of adopting a new basis of preparation of tax computation and accounting standards.
- Operational aspects of tax reporting and compliance of the insurers will need to be

updated to ensure compliance with the new basis of taxation under FRS 117. With effective date of adopting FRS 117 fast approaching, it is of utmost importance that insurers review their current accounting and tax reporting and compliance systems and the manpower of their finance organisations to ensure they are well equipped and well-prepared to manage the substantial changes brought about by adopting FRS 117 on 1 January 2023.

- For Par Fund of life insurer, there are currently uncertainties surrounding the timing of the tax adjustments of unrealised gains/losses arising from immovable properties and investments in subsidiaries that are capital in nature which is currently under review by the IRAS. Against the backdrop of the new FRS 117 and the change in the basis of preparation of tax computation, this is an issue which the life insurers should pay attention to.
- It is anticipated that the deferred tax recognition of an insurer may be affected following the recognition, measurement and timing of taxable profits changes because of the adoption of FRS 117. Given that any deferral or acceleration of taxable profits could impact the deferred tax balances, the regulatory capital level required by an insurer could consequentially be impacted. Tax accounting could, thus, be another pitfall that a licensed (re)insurer should watch out for.

Section 34CA e-Tax Guide

- The enactment of the new Section 34CA in the SITA would enable licensed

insurers to apply the tax framework of corporate amalgamations provided in Section 34C of the SITA to a transfer of business by insurers under a scheme of transfer. It would provide greater certainty and minimise the tax consequences/implications arising from insurers undertaking a transfer of their insurance business.

- However, we are cautious about the wording of Section 34CA(25) as relates to the deduction of any capital allowance, donation or loss attributable or apportioned to the transferred business remaining unabsorbed on the effective date. Accordingly, it seems that any loss items transferred from the transferor can only be set off against income arising from business from the transferor's business. Such wording provides an impression that there will always be a need to track such losses against income from business transferred in, which appears to be impractical from an operational standpoint. Thus, any further clarification to be provided by IRAS in this regard would be greatly welcome by the insurance sector.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

Appendix

(A) Changes in the existing tax treatments and transitional adjustments

Category	Changes in the existing tax treatments	Transitional adjustments
Insurers whose FS are prepared in non-Singapore dollar functional currencies	<p>The Singapore dollar figures in the MAS Statutory Returns will be accepted by the IRAS for the preparation of tax computation, subject to the following conditions:</p> <ul style="list-style-type: none">the exchange rate is obtained from any of the sources listed in Annex B of the e-Tax Guide;the exchange rate must be updated at least once every 3 months;the exchange rate must be consistently used for internal business reporting, accounting and goods and services tax purposes (if applicable); andthe exchange rate must be used consistently for the insurer's income tax computations unless there are reasonable grounds to justify the change.	<p>Insurers are given an irrevocable option in the Transitional YA, for translating all existing non-Singapore dollar functional currency balances into Singapore dollar using the average of the exchange rates of:</p> <ol style="list-style-type: none">the 12 months before the end of the last accounting period in which the FS are prepared based on FRS 104 and submitted in non-Singapore dollar functional currency; orthe accounting period that constitutes the basis period for a YA.
Insurers whose FYE is not 31 December	<p>Insurers (excluding captive and marine mutual insurers) are required to prepare their MAS Statutory Returns on a calendar year basis regardless of the insurer's FYE. In this regard, the insurers are required to submit their Estimated Chargeable Income (ECI) within 3 months after the last day of their annual reporting period of MAS Statutory Returns on a calendar year basis.</p>	<p>For insurers (excluding captive and marine mutual insurers) whose FYE is not 31 December, the Transitional YA and the due date to file ECI are as follows:</p> <ol style="list-style-type: none">The Transitional YA will be YA 2025.Due date for filing of ECI for YA 2025 and subsequent YAs will be changed to within 3 months from 31 December of the year preceding the YA (i.e., 31 December 2024).
Insurers whose policy liabilities accepted for tax purpose currently are based on amounts reflected in FS	<p>The policy liabilities figures reported in the MAS Statutory Returns, instead of the FS, should be used for tax purposes.</p>	<p>For insurers whose policy liabilities are based on the amounts reflected in the FS and were accepted for tax purpose, a one-time tax adjustment may be made in the Transitional YA.</p> <p>Where the tax adjustment is to be made in YA 2024, the amount of adjustment is based on the difference between the policy liabilities figure in the FS as of 31 December 2022 and policy liabilities figure in MAS Statutory Returns as of 1 January 2023, with adjustment (if applicable). The tax rate to be applied will be based on the applicable tax rate on the first day of the basis period for the Transitional YA under the respective funds of the insurer.</p>
Insurers with financial instruments	<p>Insurers (except Par Fund of a life insurer) must apply the Mark-To-Market (MTM) tax treatment for financial instruments starting from the Transitional YA.</p> <p>Under the MTM tax treatment, tax adjustment is generally not required for all gains and losses (such as changes in the values of debt and equity securities and any related exchange differences) on financial instruments reported in the MAS Statutory Returns as long as these financial instruments are on revenue account.</p> <p>Impairment losses and gains are allowable as a deduction or taxable as long as the financial instruments are credit-impaired in accordance with FRS 109.</p>	<p>When adopting the MTM tax treatment, a one-time transitional tax adjustments must be made in the Transitional YA to bring gains and losses to tax or allow them as deductions as if the MTM tax treatment had been applied from the first day of acquiring the financial instruments.</p> <p>Annex G of the e-Tax Guide provides details of the transitional tax adjustments when adopting the MTM tax treatment.</p> <p>Additional tax payable may arise from the move to the MTM tax treatment for financial instruments. An instalment plan of up to 18 months may be provided to affected insurers for the Transitional YA, upon request.</p>

Appendix

(B) Tax adjustments required to prepare tax computation arising from the use of MAS statutory returns

Tax adjustments of gains/losses from immovable properties (other than Par Fund of a life insurer)

Insurers will need to make yearly tax adjustments in their tax computations to exclude any unrealised gains or losses from immovable properties reported in the MAS Statutory Returns.

On disposal of their immovable property, insurers will have to exclude any realised gain or loss from their disposal of the immovable property reported in their MAS Statutory Returns unless the amount of disposal gains or losses are determined to be revenue in nature.

For Par Fund, the CIT is currently reviewing the timing of the tax adjustments of unrealised gains or losses of immovable properties that are capital in nature. The CIT will release the details of the tax treatment separately in due course.

Tax adjustments of gains/losses from investments in subsidiaries and associates (other than Par Fund of a life insurer)

For investments that are not measured in accordance with FRS 109, insurers will need to make yearly tax adjustments in their tax computations to exclude any unrealised gains or losses from their investments in subsidiaries and associates reported in the MAS Statutory Returns.

On disposal of their investments in subsidiaries and associates, insurers will have to exclude any realised gains or losses from their investments in subsidiaries and associates reported in the MAS Statutory Returns unless the amount of disposal gains or losses are determined to be revenue in nature.

For Par Fund, the CIT is currently reviewing the timing of the tax adjustments of unrealised gains or losses of such investments that are capital in nature. The CIT will release the details of the tax treatment separately in due course.

Other tax adjustments

- Reinsurance premiums
- Shareholders' fund expenses
- Inter-fund adjustments
- Rental income/expense
- FRS 116 interest and depreciation expenses
- Translation exchange differences
- Contingency reserves
- Qualifying Debt Securities
- Capital injections

There are other tax adjustments which may be required when insurers adopt the MAS Statutory Returns to prepare the tax computations. More details can be found under Paragraph 8.10 of the e-Tax Guide.

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