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Malaysian developments

Pure equity holding Labuan entity exempted from minimum employee number requirement

As highlighted in earlier tax alerts, the Labuan Investment Committee (LIC) has released several documents containing clarifications on the substance requirements for Labuan entities, including the updated list of substantial activity requirements as approved by the Minister of Finance (MoF) (see *Special Tax Alert No. 1/2020*, *Tax Alert No. 23/2019, Tax Alert No. 24/2019 and Tax Alert No. 2/2020*).

The Labuan Business Activity Tax (Exemption) Order 2020 [P.U.(A) 177], gazetted on 2 June 2020, legislates one of the clarifications. The Order provides that a pure equity holding Labuan entity is exempted from the application of Section 2B(1)(b)(i) of the Labuan Business Activity Tax Act 1990 (LBATA) - i.e. such an entity would not require full-time employees in Labuan.

It is noted that "pure equity holding" is not defined in the LBATA nor the Exemption Order. However, in the Labuan Investment Committee (LIC) Pronouncement 3-2020, it is clarified that a pure equity holding company is a company that holds equity participations and earns only

dividends and capital gains (with very limited exceptions).

The Order is deemed to be effective from 1 January 2019.

Accelerated Capital Allowance incentives extended

Previous position

Pursuant to the Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017 [P.U.(A) 252] and Income Tax (Exemption) (No. 8) Order 2017 [P.U.(A) 253], a manufacturing company is eligible for Automation Capital Allowance (Automation CA) on amounts incurred for the purchase of automation equipment, as follows (see *Tax Alert No. 19/2017*):

	Category 1	Category 2
Type of industry	Qualifying project relating to rubber, plastic, wood, furniture and textile	Other than Category 1
Effective Years of Assessment (YAs)	YA 2015 to YA 2017	YA 2015 to YA 2020
Application to the Malaysian Investment Development Authority (MIDA)	1 January 2015 to 31 December 2017	1 January 2015 to 31 December 2020

Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017		
Incentive available: Accelerated Capital Allowance (ACA)	**Initial allowance:** 20% of the first RM4 million qualifying capital expenditure incurred **Annual allowance:** 80% of the first RM4 million qualifying capital expenditure incurred	**Initial allowance:** 20% of the first RM2 million qualifying capital expenditure incurred **Annual allowance:** 80% of the first RM2 million qualifying capital expenditure incurred
Income Tax (Exemption) (No. 8) Order 2017		
Incentive available: Income tax exemption	A qualifying company will be exempted from payment of income tax in respect of the statutory income derived from a qualifying project for the respective effective YAs. The amount exempted will be equivalent to 100% of the ACA given under P.U.(A) 252/2017, to be set off against 70% of the statutory income for each YA.	

Extension of incentives

In Budget 2018, to further encourage automation in the manufacturing sector, particularly in enhancing productivity and efficiency in the labour-intensive industries, it was proposed that the incentive period for Category 1 be extended for another three (3)

years. This applies to applications received by MIDA from 1 January 2018 to 31 December 2020.

Thereafter, in Budget 2020, it was proposed that the period for the incentive in both categories be extended, until YA 2023. This applies to applications received by MIDA until 31 December 2023.

To legislate the above-mentioned proposals, the following were gazetted on 28 May 2020, and are deemed to be effective from YA 2018.

- Income Tax (Accelerated Capital Allowance) (Automation Equipment) 2017 (Amendment) Rules 2020 [P.U.(A) 173]
- Income Tax (Exemption) (No. 8) 2017 (Amendment) Order 2020 [P.U.(A) 172]

The Amendment Rules and Amendment Order provide that:

- To be a qualifying company eligible for the incentives, one of the conditions is that the company must have been in operations for 36 months. Previously, the company must have carried on a qualifying project for at least 36 months.
- The incentive period is from YA 2015 to YA 2023.
- The incentive will apply to applications received by MIDA from 1 January 2015 to 31 December 2023.
- The reference to "Section 127" of the Income Tax Act 1967 (ITA) under the non-application proviso is to be replaced with "Paragraph 127(3)(b) and Section 127(3A)" of the ITA. This is in line with Practice Note No. 2/2018 dated 1 June 2018, issued by the Inland Revenue Board (IRB) to provide guidance on the non-application proviso stipulated in the Income Tax Orders (ITO) and Income Tax Rules (ITR) (see *Tax Alert No. 12/2018*).

It is noted, however, that the Budget 2020 proposal for the scope of the Category 2 incentive to be expanded to the services sector for applications received by MIDA between 1 January 2020 and 31 December 2023, has not yet been legislated.

Practice Note 3/2020: Clarification on Determining the Gross Income from Business Sources of not more than RM50 million, for a Company or Limited Liability Partnership

Further to the legislative changes via the Finance Act 2019, with effect from the year of assessment (YA) 2020, Small and Medium Enterprises (SMEs)[1] will only be entitled to the following preferential tax treatment if their gross income from a source or sources consisting of a business is not more than RM50 million for the relevant YA (see *Special Tax Alert: Highlights of 2020 Budget*):

- Preferential tax rate, where the corporate income tax rate on the first RM600,000 of chargeable income of an SME[1] is taxed at 17%, with the balance taxed at 24%; and
- Unlimited special capital allowance claim of 100% on assets valued at RM2,000 or less per asset (i.e. full capital allowance can be claimed in the year of acquisition, assuming the asset has been put into use)

The IRB has now issued a three-page Practice Note No. 3/2020 (PN) dated 18 May 2020, titled "Clarification on Determining the Gross Income from Business Sources of not more than RM50 million of a Company or Limited Liability Partnership" to provide further guidance on this additional requirement.

[1] Resident companies incorporated in Malaysia which have paid-up capital in respect of ordinary shares of RM2.5 million or less at the beginning of the basis period and that satisfy other specified conditions; or an LLP with a total capital contribution of RM2.5 million or less

The PN clarifies that the determination of gross business income is subject to:

(a) For companies or LLPs engaged in manufacturing, trading or services activities
- Section 22 of the ITA – Gross income generally
- Section 24 of the ITA – Basis period to which gross income from a business is related
- Section 30 of the ITA – Special provisions applicable to cross income from a business

or

(b) For companies or LLPs carrying out activities such as banking, insurance, developers or contractors
- Specific provisions under the ITA or specific regulations for certain industries

In addition, the PN explains the mechanism of determining the gross business income of companies or LLPs in the following situations (details are set out in Appendix I to this Alert):

i. The company is an investment holding company (IHC);
ii. Company or LLP without gross business income, but with other income such as rent and interest (including entities which have temporarily ceased business operations)
iii. Company or LLP with foreign-sourced gross business income
iv. Company or LLP enjoying certain incentives or tax incentives (e.g. pioneer status or investment tax allowance)

Public Ruling No. 1/2020 – Tax Incentives for BioNexus Status Companies

The IRB has issued PR No. 1/2020: Tax Incentives for BioNexus Status Companies, dated 22 May 2020, to explain the tax treatment of tax incentives for a BioNexus Status Company (BNX) in Malaysia. This new 35-page PR replaces PR No. 8/2018, which was published on 9 October 2018 (see *Tax Alert No. 22/2018*). The new PR comprises the following sections and sets out 14 examples:

1.0 Objective
2.0 Relevant provisions of the law
3.0 Interpretation
4.0 Introduction
5.0 BioNexus status company
6.0 Tax incentives
7.0 Capital allowances / industrial building allowance
8.0 Treatment on losses incurred by a BioNexus Status Company
9.0 Deductions for promotion of export
10.0 Deductions for research and development expenditure
11.0 Non-application
12.0 Withdrawal of tax exemptions
13.0 Compliance with the ITA
14.0 Updates and amendments
15.0 Disclaimer

The contents of the new PR are broadly similar to the earlier PR and explain the definition of a BNX, the application process for BioNexus status, the tax incentives available for a BNX, and treatment of losses incurred by a BNX. The PR has however been updated to reflect the legislative changes enacted via the following Amendment Orders which were gazetted on 31 December 2018 to adhere to requirements of the Forum of Harmful Tax Practices (FHTP) of the Organisation of Economic Co-operation and Development (OECD) (see *Tax Alert No. 1/2019*):
- Income Tax (Exemption) (No. 2) 2009 (Amendment) Order 2018 [P.U.(A) 381]
- Income Tax (Exemption) (No. 17) 2007 (Amendment) Order 2018 [P.U.(A) 395]

Some of the key changes are as follows:

(a) The definitions of the following terms have been included or updated in the PR:
  - Qualifying activity
  - Intellectual property (IP) right

- New IP right
- New business
- Expansion project
- Life sciences
- Related company

(b) The words "approved business" have been replaced with the words "qualifying activity", in line with Income Tax (Exemption) (No. 17) 2007 (Amendment) Order 2018 [P.U.(A) 395].

(c) The PR explains the requirements below under the FHTP, as well as the grandfathering rules to ease the transition into the new regime:
- Substantial activities requirement, where the BNX must have an adequate number of full-time employees and incur an adequate amount of annual operating expenditure or investment in fixed assets to carry on the qualifying activity, to be eligible for the tax exemption
- Exclusion of IP income, where royalty and other income derived from IP rights will not be eligible for the tax exemption

(d) The explanations and examples of the tax incentives and deductions available to a BNX, including the determination of the tax exemption period, have been updated to reflect the mechanism of the FHTP requirements and the grandfathering rules.

Public Ruling No. 2/2020 and 3/2020 – Tax Treatment for Stock in Trade

PRs No. 2/2020 and 3/2020: Tax Treatment of Stock in Trade Part I – Valuation of Stock and Part II – Withdrawal of Stock, published on 3 June 2020, provide guidance on the valuation of stock in trade and the tax treatment for withdrawals of stock in trade, in relation to a business carried on by a person in Malaysia. The IRB has stated in both PRs that the earlier single 11-page PR No. 4/2006 (see *Tax Alert No. 24/2006*) that was issued on 31 May 2006, has been amended, updated, rewritten, rearranged and published in two parts (i.e. the two PRs outlined above). The IRB has also advised that both PR No. 2/2020 and 3/2020 should be read together. Hence, PR No. 4/2006 should no longer be referred to. Details of the two PRs are set out below.

Public Ruling No. 2/2020 – Tax Treatment of Stock in Trade Part I – Valuation of Stock

The new 17-page PR comprises the following sections and sets out 10 examples:

1.0 Objective
2.0 Relevant provisions of the law
3.0 Interpretation
4.0 Introduction
5.0 Stock in trade and its importance
6.0 Valuation of opening stock in trade and closing stock in trade
7.0 Method of valuing stock in trade
8.0 Valuation of stock in trade on cessation of business
9.0 Stock in trade obsolescence
10.0 Diminution in value of shares as stock in trade
11.0 Updates and amendments
12.0 Disclaimer

The new PR is broadly similar to the earlier PR and explains the importance of valuation of stock in trade, methodology of valuing stock in trade in carrying on the business and upon cessation of business, as well as the tax treatments under various scenarios.

Some of the key changes are as follows.

- **Paragraphs 4 and 5.1**
  The new PR explains that stock in trade is anything a business acquires, produces or manufactures, for the purpose of manufacturing, selling at a profit or exchanging. The PR also elaborates on the definition of stock in trade and reiterates that whether an item is stock in trade or otherwise would depend on the nature of the

business, as an asset may be stock in trade for one business but capital asset to another.

- **Paragraph 5.2**
  The new PR explains the timing of the transfer of ownership of goods under various scenarios.

- **Paragraph 6.3**
  The new PR clarifies the acceptable and unacceptable methods of determining "market value" for stock in trade.

- **Paragraph 6.4(a)**
  The PR indicates that where stock in trade is valued at cost, the acquisition cost would include:
  (i) Direct expenditure on the purchase of goods bought for resale and of materials and components used in the manufacture of finished goods;
  (ii) Other direct expenditure which can be identified specifically as having been incurred in acquiring stock or bringing it to its existing condition and location (e.g. customs duties, direct labour, transport and packaging); and
  (iii) Such part of any overhead expenditure as is properly attributable to the manufacture of the goods (e.g. rental of office, utilities charges, stationery and maintenance services)

  The earlier PR outlines the expenditure to be included as part of the "acquisition cost" for manufacturing and retail businesses separately.

- **Paragraphs 7.2 and 7.3**
  The new PR explains the accounting standards applicable to stock in trade. However, as the basis of valuation of stock in trade for accounting purposes may not always be acceptable for income tax purposes, the new PR goes on to elaborate on the interaction between valuation for accounting purposes and tax purposes, as well as what should (or should not) be included in the valuation of stock in trade for tax purposes .

- **Paragraph 8.4**
  The new PR explains the methodology for the valuation of stock in trade of a ceased business in the hands of the purchaser of the stock. An example is also provided to demonstrate the treatment for both seller and purchaser of the stock, where the stock purchased does not constitute stock in trade of the purchaser.

Public Ruling No. 3/2020 – Tax Treatment of Stock in Trade Part II – Withdrawal of Stock

The new eight (8)-page PR comprises the following sections and sets out 10 examples:

1.0 Objective
2.0 Relevant provisions of the law
3.0 Interpretation
4.0 Introduction
5.0 Withdrawal of stock in trade for own use
6.0 Withdrawal of stock in trade for other reasons
7.0 Stock in trade parted with by compulsion
8.0 Updates and amendments
9.0 Disclaimer

The new PR explains the tax treatment of withdrawal of stock in trade in ascertaining the adjusted income of a business carried on by a person in Malaysia, pursuant to Sections 24(2) and 24(3) of the ITA.

Similar to the earlier PR, the new PR reiterates that pursuant to Section 24(2)(a) of the ITA, stock in trade withdrawn for one's own use has to be accounted for and valued at the amount equal to the market value of that stock at the time of its withdrawal. This amount is to be taken as part of gross income from the business. The new PR further clarifies the tax treatment where the withdrawal of stock in trade for one's own use relates to:

- Two distinct business activities; or
- The reclassification from trading to capital or vice versa due to the change in intention of the business

Four examples have been provided in the new PR to demonstrate the above under various scenarios.

The new PR explains and provides examples to demonstrate the tax treatment pursuant to Section 24(2)(b) of the ITA, where stock in trade is withdrawn from one's business (other than on requisition or compulsory acquisition or in a similar manner), including the withdrawal of stock in trade:

(i) Without any consideration received
(ii) For a consideration consisting of any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash
(iii) For other reasons for a consideration consisting of property together with a debt owing to the relevant person and/or any such sum in cash

Pursuant to Section 24(3) of the ITA, where the stock in trade is withdrawn under scenario (iii) above, the market value of that stock in trade can be reduced by the amount of the debt and/or sum. The new PR clarifies and provides an example to demonstrate that in this scenario:

(a) The amount of debt would be a trade debt and is taxable when the stock in trade is withdrawn (Sections 24(1) and 24(3)(b) of the ITA);
(b) The cash sum would be taxable when it is received (Section 24(3)(c) and 28 of the ITA); and
(c) The balance would be taxed at the time the stock is withdrawn from the business (Section 24(2) of the ITA)

In addition, the new PR also highlights the tax treatment pursuant to Section 4C of the ITA (which is effective YA 2014), where gains or profits from a business would include amounts receivable arising from stock in trade parted by an element of compulsion. The amount receivable would constitute gross income of the business in the year when the stock in trade was compulsorily acquired.

Overseas developments

India Tax Administration extends applicability of transfer pricing safe harbor rules to financial year 2019-20

India's Central Board of Direct Taxes (CBDT), the apex Indian tax administration body, first issued transfer pricing (TP) safe harbor rules (SHR) in 2013. The SHR listed specific transactions that were covered, provided procedures for adopting safe harbors, the transfer prices to be adopted, the compliance procedures upon adoption of a safe harbor and circumstances in which a safe harbor adopted may be held to be invalid. Those rules were applicable for five years and ended with financial year (FY) 2016-17. The CBDT then extended and modified the SHR for three additional FYs ending FY 2018-19.

On 20 May 2020, the CBDT amended the SHR to extend their applicability to FY 2019-20, without any further modifications. Taxpayers opting for the SHR for FY 2019-20 need to file the return of income for the year on or before the date of furnishing the prescribed Form 3CEFA for opting for the SHR. The due date for this election is 30 November 2020.

Further, the Finance Act, 2020 amended the Income Tax Law (ITL) to enable the CBDT to prescribe SHR for the attribution of profits to a business connection or the permanent establishment (PE) of a non-resident. However, those SHR have not been issued to date.

Detailed discussion

International transactions and applicable safe harbor transfer price

A summary of the safe harbor transfer price declared by an eligible taxpayer that shall be accepted by the tax authorities for FY 2019-20 is outlined in Appendix II to this Alert.

Key considerations

- The procedural aspects relating to compliance formalities for opting for the safe harbor, eligible taxpayers, verification by the tax officer, assessment procedures and implications where conditions are not met, remain the same as before.
- Taxpayers who have entered into an eligible international transaction and wish to opt for SHR for FY 2019-20 or extend applicability of a prior SHR election, are required to file a return of income on or before furnishing Form 3CEFA to the Assessing Officer, by the due date of 30 November 2020.
- Taxpayers opting for safe harbor for FY 2019-20 are required to maintain prescribed TP documentation and file the Accountant's report in Form 3CEB by the due date of 31 October 2020.
- Where the transfer price declared by the eligible taxpayer is accepted by the tax authorities, the taxpayer shall not be eligible to invoke the Mutual Agreement Procedure under the relevant tax treaty. Further, taxpayers electing the safe harbor will not be able to claim any further adjustment to the price, either on account of comparability differences or the benefit of the range as prescribed under the ITL.

Implications

Complying with the arm's length principle can be burdensome. Even good faith efforts to comply may result in uncertainty because tax authorities may analyze the transaction in a different way. The modifications made to the SHR in 2017 were intended to make the use of SHRs more attractive for taxpayers. The extension of the SHR for the FY 2019-20 is a welcome move by the CBDT. Taxpayers should evaluate the feasibility of opting for the SHR for FY 2019-20 to manage potential TP controversy.

Spain sends Mandatory Disclosure Rules Bill to Parliament for approval

The Spanish Government published draft legislation in June 2019 accompanied by detailed guidance implementing the European Union (EU) Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive). Under DAC6, taxpayers and intermediaries are required to file information on reportable cross-border arrangements from 1 July 2020. However, reports will retrospectively cover arrangements where the first step is implemented between 25 June 2018 and 1 July 2020.

On 22 May 2020, after public consultation, the Spanish Government published a revised Bill which has been sent to the Congress and Senate (the Parliament) to be voted upon. If implemented as currently proposed, the Spanish legislation will be broadly aligned to the requirements of the EU Directive.

It is expected that further regulations will be published by the Spanish Government to address the practical application of the Hallmarks and the Main Benefit Test. However, it is not yet known whether the regulations will be available before 1 July 2020.

Detailed discussion

Background

The Council of the European Union Directive 2018/822 of 25 May 2018 amending Directive 2011/16/EU regarding the mandatory automatic exchange of information in the field of taxation (the Directive or DAC6), entered into force on 25 June 2018.

The Directive requires intermediaries (including EU-based tax consultants, banks and lawyers) and in some situations, taxpayers, to report certain cross-

border arrangements (reportable arrangements) to the relevant EU member state tax authority. This disclosure regime applies to all taxes except value added tax (VAT), customs duties, excise duties and compulsory social security contributions. Cross-border arrangements will be reportable if they contain certain features (known as hallmarks). The hallmarks cover a broad range of structures and transactions. For more background, see EY Global Tax Alert, Council of the EU reaches an agreement on new mandatory transparency rules for intermediaries and taxpayers, dated 14 March 2018.

EU Member States were required to adopt and publish national laws to comply with the Directive by 31 December 2019.

The initial draft legislation and accompanying detailed guidance implementing the Directive in Spain were discussed in detail in the EY Global Tax Alert, Spain publishes draft proposal on Mandatory Disclosure Rules, dated 28 June 2019.

The key differences between the Spanish Bill (which has been submitted for Parliament approval) and the EU Directive are summarized below. A revised version of the accompanying guidance has not been issued to date.

Legal professional privilege

In accordance with the option provided under the Directive, the draft Spanish Mandatory Disclosure Rules (MDR) legislation exempts intermediaries from the obligation to report where the reporting obligation would breach legal professional privilege (LPP). If there are no intermediaries that can report, the obligation will shift to the relevant taxpayers.

In the draft Bill (pre-consultation), the objective scope was very limited as the LPP only protected private non-wealth data and data threatening personal and family honor or privacy, as well as confidential data that the intermediary had been made privy to due to the rendering of professional advisory or defense services.

This scope of the LPP in the context of DAC6 is redefined in the Bill to Intermediaries, as defined in the Directive irrespective of their business activities, that have provided advice with respect to the design, marketing, organization or making available for implementation, or management of the implementation, of a cross-border arrangement, with the sole purpose of assessing the compliance of that mechanism with the applicable rules and without seeking or facilitating its implementation.

It is possible for the relevant taxpayer to authorize the waiver of LPP so that the intermediary can make the report.

If an intermediary is exempt from reporting based on LPP, it must notify other intermediaries and the relevant taxpayer, to whom the obligation to report will be shifted. Failure to make this notification results in penalties (€600), which will be increased in the event that the cross-border arrangement should have been reported by another intermediary or the relevant taxpayer but it has not been reported. In this scenario, the standard penalty regime described below applies.

Penalties

Failure to submit information within the deadline or submitting incomplete, inaccurate or false information, is considered a severe tax infringement.

The penalties initially set in the draft bill of June 2019 have been increased. Penalties now amount to €2,000 per data or set of data, with a minimum of €4,000 and a maximum of the amount of fees received by the intermediary or the tax value of the arrangement in the case of the taxpayer (instead of the amounts initially set in the draft bill, which were €1,000 and €3,000, respectively).

An additional €1,500 penalty would be imposed if the reporting obligation is not done by electronic means (instead of the €1,000 initially set in the draft bill).

Next steps

Now, the Bill moves to the Parliament for approval. If approved, it will come into force on 1 July 2020, after it is published in the Spanish Official Gazette.

If an extension to the DAC6 reporting deadlines is approved at the EU level, an extension could be introduced during the Parliamentary negotiation as an amendment to the Bill.

Determining if there is a reportable cross-border arrangement raises complex technical and procedural issues for taxpayers and intermediaries. Due to the scale and significance of the DAC6, taxpayers and intermediaries who have operations in Spain should review their policies (internal, with clients, with advisors) and strategies for logging and reporting tax arrangements so that they are fully prepared to meet their obligations and specific deadlines.

APPENDIX I

Determination of gross business income

No.	Scenario	Tax treatment
1	Company is an IHC	For a company which is an IHC and is: (i) Subject to Section 60F of the ITA (i.e. IHC not listed on Bursa Malaysia), the company is deemed to have no gross business income and is not eligible for the preferential tax treatments (ii) Subject to Section 60FA of the ITA (i.e. IHC listed on Bursa Malaysia), the company is deemed to have gross business income and is eligible for the preferential tax treatments
2	Company / LLP without gross business income, but with other income such as rent and interest (including temporarily ceased business operations)	If the other incomes (e.g. rent, interest etc.) are not assessed as gains or profits from a business under Section 4(a) of the ITA, the company or LLP is not eligible for the preferential tax treatments.
3	Company / LLP with foreign-sourced gross business income	The foreign-sourced gross business income will be taken into account in determining whether or not the company or LLP's gross business income exceeds RM50 million.
4	Company / LLP enjoying certain incentives or tax incentives (e.g. pioneer status or investment tax allowance)	The exempted gross business income will be taken into account in determining whether or not the company or LLP's gross business income exceeds RM50 million.

APPENDIX II

Summary of the safe harbor transfer price declared by an eligible taxpayer that shall be accepted by the tax authorities for FY 2019-20

<table>
<tr><th>Eligible international transaction</th><th>Threshold limit value</th><th>Safe harbor margin</th></tr>
<tr><td rowspan="2">Provision of software development services other than contract research and development (R&D) services, with insignificant risks</td><td>Up to INR 1 billion</td><td>17% or more on total operating costs</td></tr>
<tr><td>Above INR 1 billion up to INR 2 billion</td><td>18% or more on total operating costs</td></tr>
<tr><td rowspan="2">Provision of information technology enabled services, with insignificant risks</td><td>Up to INR 1 billion</td><td>17% or more on total operating costs</td></tr>
<tr><td>Above INR 1 billion up to INR 2 billion</td><td>18% or more on total operating costs</td></tr>
<tr><td>Provision of knowledge process outsourcing services, with insignificant risks</td><td>Up to INR 2 billion</td><td><table>
<tr><th>Margin on total operating costs</th><th>Employee cost to operating costs</th></tr>
<tr><td>24% or more</td><td>60% or more</td></tr>
<tr><td>21% or more</td><td>40% or more but less than 60%</td></tr>
<tr><td>18% or more</td><td>40% or less</td></tr>
</table></td></tr>
<tr><td>Advancing of intra-group loan to a non-resident wholly owned subsidiary (WOS) where the amount of loan is denominated in Indian Rupees (INR)</td><td colspan="2">The interest rate declared in relation to the international transaction is not less than the one-year marginal cost of funds lending rate of the State Bank of India (SBI) as on 1 April of the relevant previous year plus,<table>
<tr><td>Basis points</td><td>Credit Rating Information Services of India Limited's credit rating of associated enterprise (AE)</td></tr>
<tr><td>175</td><td>Between AAA to A or its equivalent</td></tr>
<tr><td>325</td><td>BBB-, BBB or BBB+ or its equivalent</td></tr>
<tr><td>475</td><td>Between BB to B or its equivalent</td></tr>
<tr><td>625</td><td>Between C to D or its equivalent</td></tr>
<tr><td>425</td><td>Credit rating of AE is not available, and the amount of loan advanced to the AE including loans to all AEs in INR does not exceed INR 1 billion in aggregate as on 31 March of relevant previous year</td></tr>
</table></td></tr>
<tr><td>Providing corporate guarantee to WOS</td><td>No threshold</td><td>The commission or fee declared in relation to the international transaction is at the rate of 1% or more per annum on the amount guaranteed</td></tr>
<tr><td>Provision of contract R&D services wholly or partly relating to software development, with insignificant risks</td><td>Up to INR 2 billion</td><td>24% or more on total operating costs</td></tr>
</table>

Provision of contract R&D services wholly or partly relating to generic pharmaceutical drugs, with insignificant risks	Up to INR 2 billion	24% or more on total operating costs
Manufacture and export of core auto components	No threshold	12% or more on total operating costs
Manufacture and export of non-core auto components where 90% or more of total turnover during the relevant previous year is in the nature of original equipment manufacturer (OEM) sales	No threshold	8.5% or more on total operating costs
Receipt of low value-adding intra-group services	Up to INR 100 million	Mark-up on costs not exceeding 5%. The cost allocation methodology should be certified by an accountant.

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Important dates

Note: Please see EY Special Tax Alert No. 11/2020 and EY Special Tax Alert No. 12/2020 for information on the grace periods which have been provided to help businesses cope with the Movement Control Order.

15 June 2020	Due date for monthly instalments
30 June 2020	6th month revision of tax estimates for companies with December year-end
30 June 2020	9th month revision of tax estimates for companies with September year-end
30 June 2020	Statutory deadline for filing of 2019 tax returns for companies with November year-end. As a concession, this deadline is extended to 30 September 2020 pursuant to the updated Return Form (RF) Filing Programme.
15 July 2020	Due date for monthly instalments
31 July 2020	6th month revision of tax estimates for companies with January year-end
31 July 2020	9th month revision of tax estimates for companies with October year-end
31 July 2020	Statutory deadline for filing of 2019 tax returns for companies with December year-end. As a concession, this deadline is extended to 31 October 2020 pursuant to the updated RF Filing Programme.

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