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Singapore's consistent, agile support for innovation and IP in a digital age

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Singapore has been agile in refining its support for companies investing in the acquisition, development, enhancement and exploitation of intellectual property rights, which is the key to innovation in the digitalised economy of the future.

Sam Sim and Vincent Ooi outline the main tax measures announced in recent budgets.

Singapore's Finance Minister Heng Swee Keat announced tax changes in his [2019 budget statement](#), which was delivered in Parliament on [February 18 2019](#). These changes need to be appreciated in the broader context of the need for ongoing transformation of Singapore's economy to capture opportunities in a global environment that is shaped by four major shifts:

1. The shift in global economic weight towards Asia;
2. Rapid technological advancements;
3. Changing demographic patterns; and
4. The decline in support for globalisation.

This year's budget continued the trend in recent budgets of focusing on building and deepening capabilities of businesses through innovation.

To enhance Singapore's attractiveness as a location for businesses to hold and commercialise intellectual property rights (IPRs), writing-down allowances are granted on capital expenditure incurred in acquiring IPRs under section 19B of the Income Tax Act (ITA).

The 2016 budget had announced, with effect from year of assessment (YA) 2017, to recognise the varying useful lives of IPRs and allow taxpayers the flexibility to choose their writing-down period while maintaining a simple and certain tax regime, a company will be allowed to make an irrevocable election to claim the writing-down allowances over a five-year, 10-year or 15-year period (on a straight line basis) beginning from the YA of the basis period in which the capital expenditure is incurred in acquiring the IPR. Such an election has to be made when filing the income tax return, but the election is irrevocable.

The 2019 budget continued to recognise that IPRs and the exploitation thereof are important creators of value in a knowledge-based economy. As such, the writing-down allowance (WDA) for acquisition of qualifying IPRs under section 19B of the ITA will be extended to cover capital expenditure incurred in respect of qualifying IPRs acquired on or before the last day of the basis period for YA 2025.

To be eligible for WDAs, the transferee (i.e. company that acquires the IPRs) must acquire the legal and economic ownership of the IPRs from the transferor (i.e. person who sells the IPRs to the transferee). The IPRs covered under section 19B for the purpose of claiming writing-down allowances are patents, copyrights, trademarks,

registered designs, geographical indications, lay-out designs of integrated circuit, trade secrets or information with commercial value and plant varieties.

Enhanced writing down allowance

In a separate [productivity and innovation credit scheme](#), from YA 2011 to 2018, capital expenditure incurred to acquire IPRs can qualify for 400% writing-down allowances instead of 100% allowances subject to a certain expenditure cap; and 100% writing-down allowances on the balance expenditure exceeding the cap.

This, however, excludes IPRs that are granted a waiver of the legal ownership condition by the Economic Development Board (EDB) and IPRs pertaining to films, television programmes, digital animations or games or other media and digital entertainment contents approved by the EDB for writing-down allowances over two years.

Disposal of IPRs

Where the IPRs come to an end without being subsequently revived, or a company permanently ceases to carry on the trade or business for which the IPRs were acquired, no writing-down allowance shall be granted to the company for the year in which the event occurs or any subsequent year.

Any writing-down allowances granted previously would not be deemed as income in the year in which the event occurs. Where a company sells, transfers or assigns all or any part of the IPRs, the transaction could result in a balancing adjustment.

Proceeds from disposal	Greater than tax written down value	Less than tax written down value
	Balancing charge is computed	No balancing allowance granted
	The difference between the sale price and the Tax Written Down Value (TWDV) of the IPRs would be deemed as income (i.e. a balancing charge) and brought to tax in the year of disposal.	The difference between the sale price and the TWDV of the IPRs is not available to the company as a balancing allowance in the year of disposal.
	The balancing charge is capped at the amount of writing-down allowances granted previously.	

If the IPR's disposal price is lower than its open market price, the comptroller of income tax can compute a balancing charge based on the open market price of the IPR. In this regard, it is worth noting the requirement that an independent valuation report needs to be submitted to the comptroller of income tax when such transactions involve related party and the capital expenditure equals or exceeds S\$500,000 (\$369,100). The

threshold before an [independent valuation report](#) is needed is S\$2 million if the parties are not related.

Investment allowance under an automation support package

First announced in the 2016 budget, the automation support package aims to support businesses as they roll out and scale up automation projects.

The [package has four components](#) including grants to support scaling including supporting automation projects, improving access to loans to finance automation projects, government agencies helping enterprises access overseas markets with automation projects and a 100% investment allowance for approved capital expenditure on automation equipment.

This allowance, capped at S\$10 million per project, is in addition to the pre-existing capital allowance for plant and machinery. The 2019 budget, however, extends this investment allowance by two years for projects approved from April 1 2019 to March 31 2021.

Research and development support

To support businesses in conducting research and development (R&D) to build and deepen capabilities, the 2018 budget had enhanced the 50% deduction to 150% in regard to staff costs and consumables incurred for conducting R&D activities in Singapore. Tax deductions in respect of IPR in-licensing payments and IPR registration costs were also raised from 100% to 200% on the first S\$100,000 of payments and costs incurred.

Intellectual property development incentive

The 2017 budget introduced the [intellectual property development incentive](#) (IDI) to encourage the use and commercialisation of IPRs arising from R&D activities. This is intended for companies prepared to make significant investments contributing to Singapore or advancement of capabilities towards globally leading industries.

The qualifying income under the IDI encompasses royalties or other income receivable as consideration for the commercial exploitation of qualifying IPR. For such income, there is a tax rate of 5% or 10%, to be stepped by at the prescribed intervals. In line with the G20-OECD BEPS Action 5 recommendations, the percentage of qualifying income will be determined by the modified nexus formula. The IDI incentive is for a period of 10 years with possible further extensions not exceeding 10 years each.

Qualifying IPRs consists of patents and copyright subsisting in software including a family of qualifying IPRs that are closely interlinked and where it is not possible to separately identify R&D spending or income derived to a particular IPR. The election into the IDI scheme is irrevocably made when filing the income tax return. Taxpayers will need to maintain records and documentation to substantiate that income subject to the concessionary tax rate is qualifying IP income, expenditure is incurred in producing qualifying IP income, the IPR is a qualifying IPR producing IP income and the basis for

determining qualifying IPR is part of a family of qualifying IPRs. Separate accounts will need to be maintained for non-qualifying income.

Consistency and long-term vision

The various budget measures introduced in the years leading up to 2019 show a consistent push to incentivise the acquisition, development, enhancement, protection and exploitation of IPRs, which is the key to innovation in the digitalised economy of the future.

This relentless and consistent long-term vision and focus on innovation in the digitalised economy is one of the reasons why Singapore is consistently ranked as one of the most digitally competitive economies in the world in surveys such as the [IMD World Digital Competitiveness Ranking 2017](#).

Although Singapore is not part of the OECD, it assiduously adheres to international standards of taxation including ensuring as a member of the BEPS implementation Inclusive Framework that the country's policies adhere to international standards.

This article was written by Sam Sim, senior advisor to the University of Vienna Institute for Austria and International Tax Law Global Tax Policy Centre, and Vincent Ooi, lecturer at the Singapore Management University School of Law.

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