Clarification on the SEZs

Some clarification is seen on the original intention of the Special Economic Zone (SEZ) legislation, since the release of the Draft Taxation Laws Amendment Bill on 21 July.

It is proposed, as intended by the SEZ legislation, to attract new and expanded manufacturing businesses, that only new companies or expansions of existing companies would qualify for the SEZ income tax benefits.

In regards to expanded manufacturing businesses, the expansion must result in at least a 100% increase in gross income before the expansion, determined with reference to the highest gross income derived by that company during any of the 3 immediately preceding years of assessment. Furthermore, where a company operated outside an SEZ prior to such an expansion, it will also be required that the expansion should not result in a closure or reduction of the production, along with number of employees and gross income of the business carried on by that company or a connected person in relation to that company outside an SEZ.

We are pleased that changes will be made to the current profit shifting anti-avoidance measure. This measure disqualifies a company for the SEZ income tax benefits where transactions with connected persons constitute more than 20% of its deductible expenditure or more than 20% of its income.

With this change a company will not wholly be disqualified from claiming the income tax benefits. Provision will be made for a qualifying company to be treated as carrying on a separate trade outside of the SEZ. Taxable income, determined by considering income and deductible expenditure that exceeds the set thresholds will be subject to the normal tax rate at 28%. For income and expense amounts below the set thresholds, the company will still qualify for the reduced tax rate of 15% and will be able to claim the accelerated building allowance.

These amendments will be deemed effective from 1 January 2019 and apply in respect of years of assessments ending on or after that date.

In order to also align the Employment Tax Incentive (ETI) benefits with the intention of the SEZ legislation, it is proposed that not all companies operating within an SEZ will be able to claim the ETI allowance in respect of all their employees without any regard for the age limit, this will now only be available for qualifying companies meeting the SEZ income tax requirements. The proposed amendment will be back dated and be effective from 1 March 2019.

-ENDS-

Note to editors

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