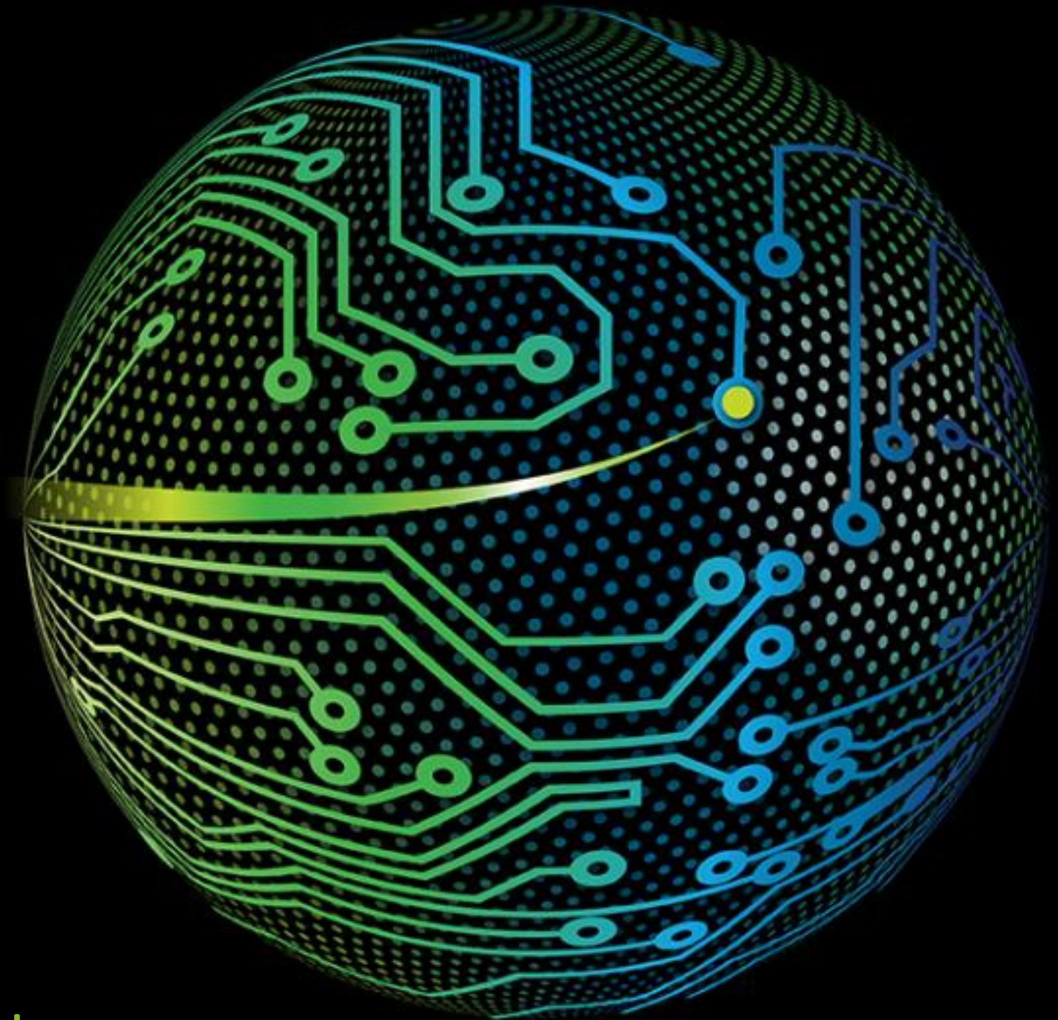
Deloitte.



Regional Indirect Tax update

Trusted. Transformational. Together.

18 March 2024

MAKING AN IMPACT THAT MATTERS since 1845

Deloitte.

Regional Indirect Tax update Panellists:

Senthuran Elalingam

Financial Services
Indirect Tax Leader
Deloitte Asia Pacific

Candy Tang

VAT Partner
Deloitte China

David Knott

Head of Tax, Asia Pacific
AIG Insurance

Matthew J Campbell

Head of Tax, Asia Pacific
JP Morgan

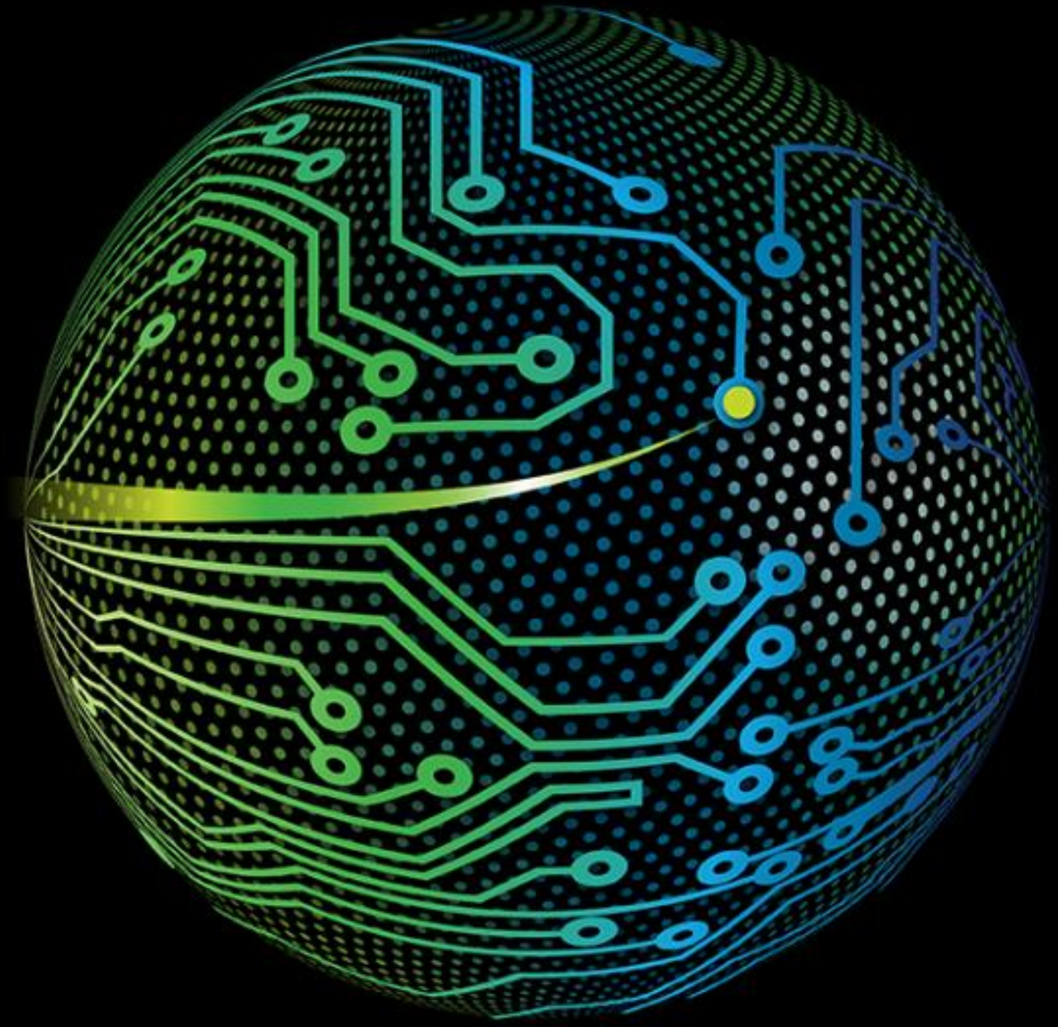
Kwan Chang Yew

Head of Group
Tax Advisory
OCBC

Agenda

1. Introduction
2. Country updates
3. E-Invoicing developments
4. Panel Discussion

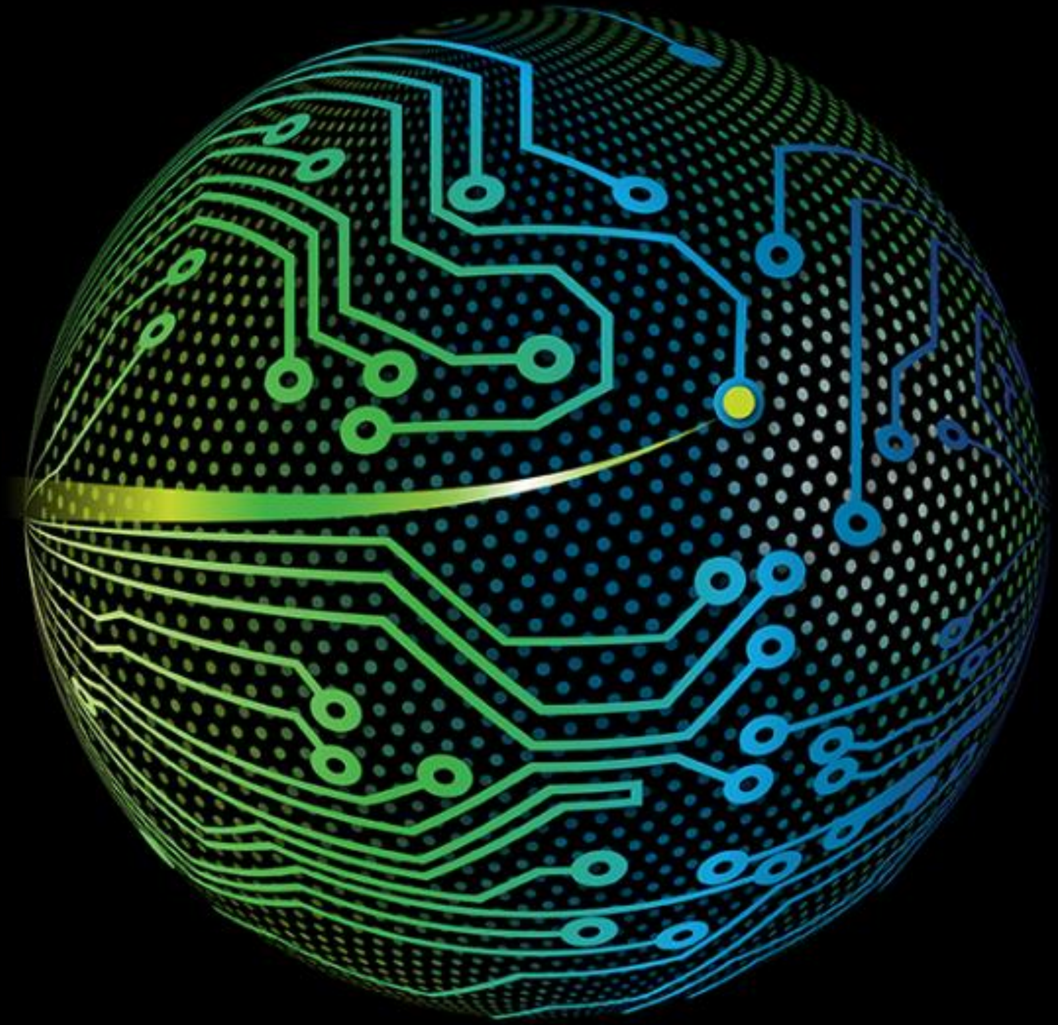
Introduction



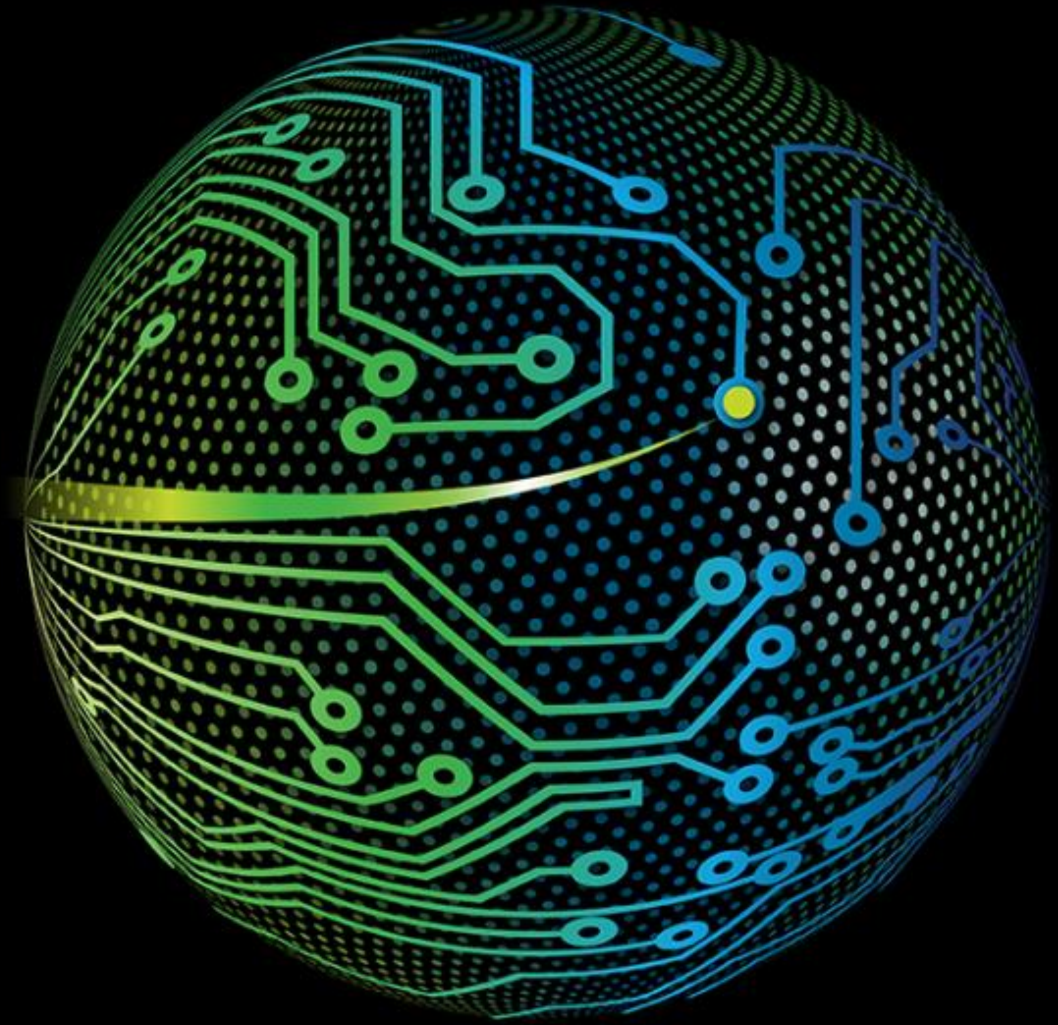
Introduction
Key themes

- Regulatory changes continue to be in focus:
  - Expansion and modification of existing indirect tax laws;
  - Rate changes
  - Introduction of electronic invoicing regimes
- Tax controversy, policy and advocacy on indirect tax matters is in greater focus (Audit activity, increasingly aggressive positions adopted by tax authorities)
- Automation, use of technology and outsourcing compliance continue to be considerations for management of indirect tax risk

Country updates



E-invoicing developments



APAC Cockpit

Key

Clearance method

Post-audit model

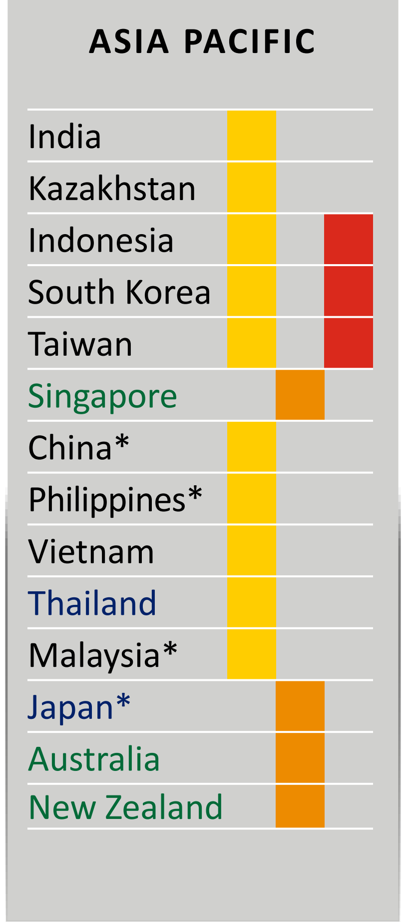
Mandatory for non-residents

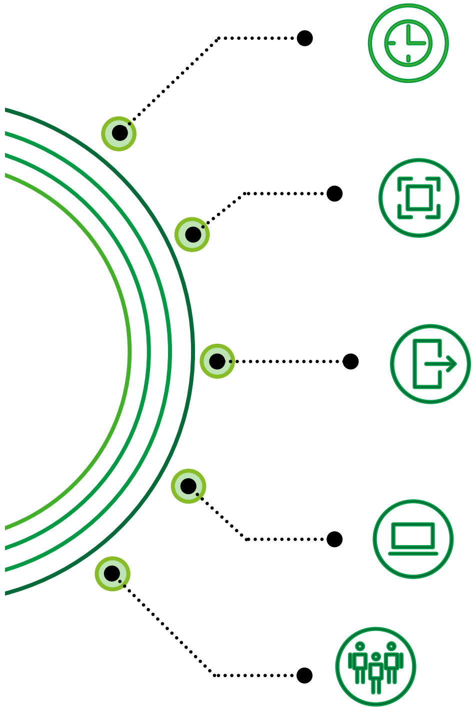
* Indicates Implementation in progress

- Green highlight indicates mandatory e-invoicing *only* for business to government (**B2G**) transactions

- Black text indicates mandatory e-invoicing for various transactions (**B2C**, **B2B**, **B2G**, **G2B**, **G2B**)

- Blue highlight indicates voluntary e-invoicing





The timeline is aggressive for new mandates
APAC countries are pushing aggressive timelines (e.g., Malaysia) which means taxpayers need to be looking at ERP system data, business processes etc. to ensure you will be ready in time

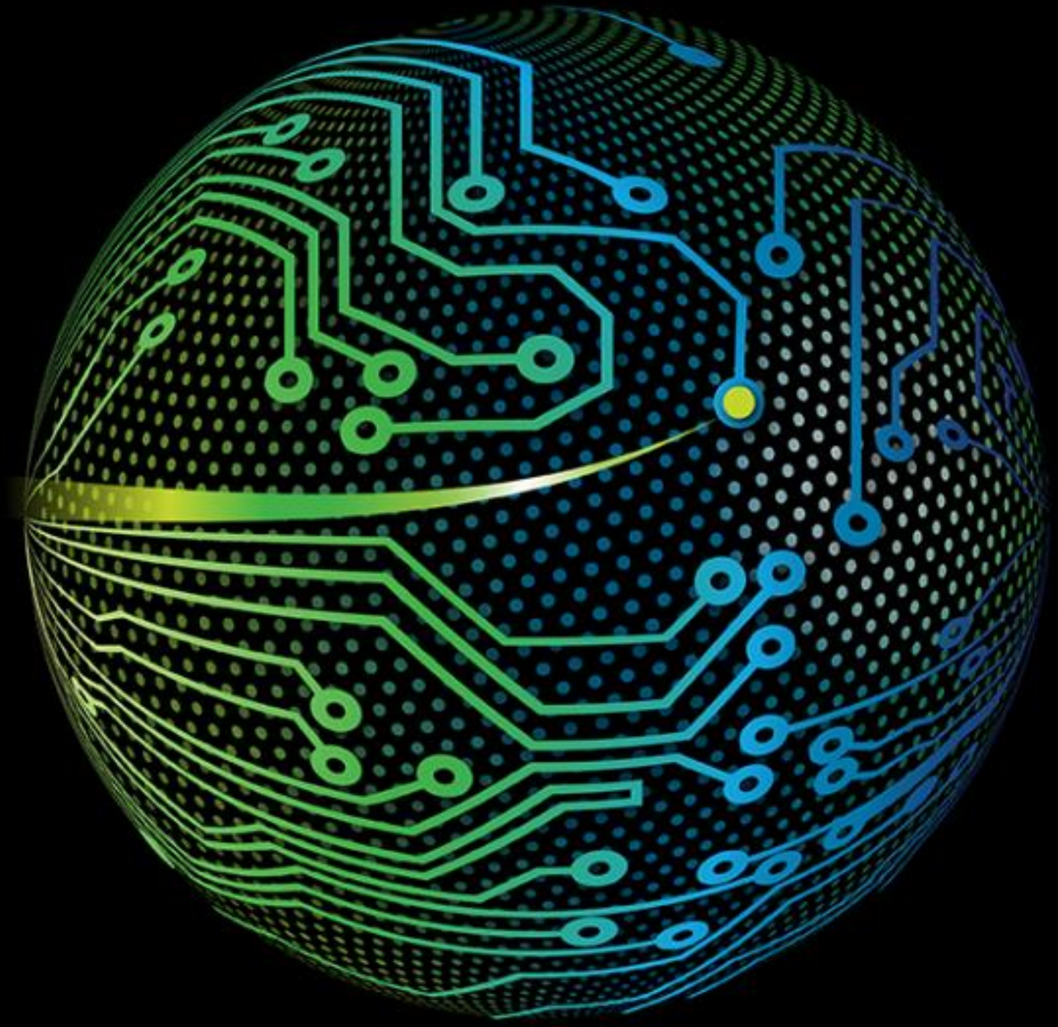
Hard clearance model is more complex to implement
There is no “standard” hard clearance model, creating a unique and complex landscape in each country to implement

Moving to real time tax returns and reporting
The broad aim is a push for pre-populated tax returns for indirect tax and direct tax (e.g., Malaysia and Indonesia)

Tax authorities only allowing certain type of service providers/taxpayers to link to their systems
Many countries expect service providers and taxpayers to be government certified or within certain criteria before they can send e-invoices

Penalties are high
Many jurisdictions are imposing harsh penalties for non-compliance to get businesses in line with the initiatives

Singapore



Updated computation methodology for the FITR

- FITR computation will be updated to capture all income streams of the bank based on the annual income statistics submitted to the Monetary Authority of Singapore (MAS).
- FITR will continue to be computed on annual basis.
- The IRAS will adjust the computation of the FITR to effectively exclude the income statistics of banks that have opted for the Special Method—potential for FITR to be reduced over time if more banks opt for the Special Method.
- The current FITR is computed based on the assumption that 50% of the banks’ exempt supplies made to businesses are made to Goods and Services Tax (GST) registered customers. The IRAS will retain the use of this 50% proxy in computing the updated FITR.
- With the updated FITR, the Reverse Charge Interim Solution will cease to apply where direction attribution is no longer allowed and input tax claim in relation to imported services will be based on the FITR.
- Indicative FITR range based on 2018 to 2020 statistics:

Category	Indicative FITR	Current FITR
Full banks	65% to 67%	74%
Wholesale banks	83% to 85%	94%
Merchant banks	86% to 91%	94%

Availability of Special Method of Apportionment

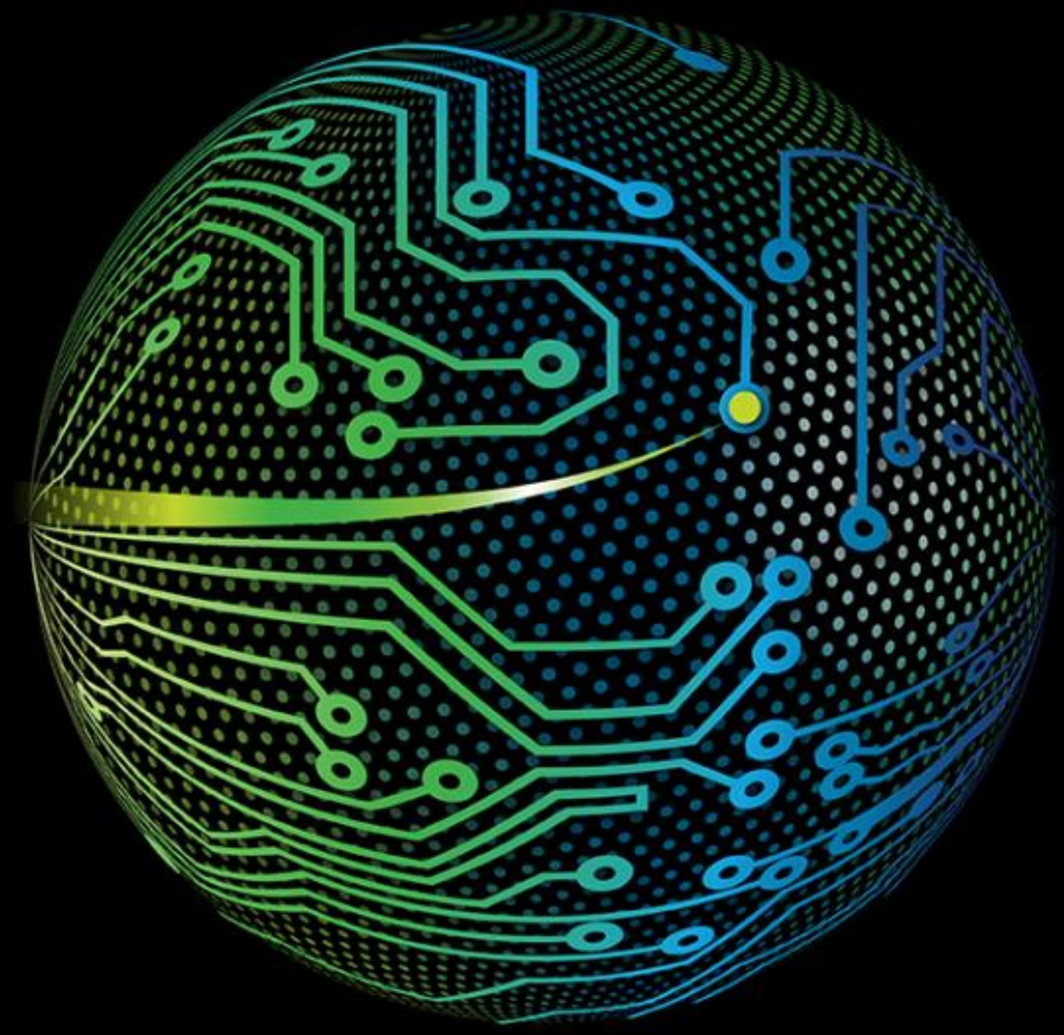
- Alternative to FITR—a non-revocable election
- Limited window of application between 1 January to 31 March of each calendar year for approval to use special method from 2025.

Availability of Special Method of Apportionment

- IRAS has published the e-Tax Guide on 6 March 2024. Key observations from the e-Tax Guide include:

    1) Information on what to include in the Application
    2) Extension of Application Period for applicants in 2024 to 30 June 2024
    3) 12 month concession to implement for applicants in 2024
    4) Examples of acceptable methods of apportionment/proxies
    5) Inconsistency of treatment for intra-branch supplies
    6) Ability to use prior-year data for calculations with annual “true-up”

China



Country indirect update—China

Progress of China VAT Law Legislation

Latest development

- Following the first Draft VAT Law being published in Dec, 2022, the second version was published in September 2023 for public consultation
- It is anticipated that the draft VAT Law may be submitted to the authorities for the third review in early March 2024.

Potential impacts on the financial industry

1) Whether the input VAT on loan interest would become recoverable?
   — If yes, significant benefit to the loan borrowers, but a series of issues for financial institutions:
      ✓ Whether the inter-bank lending activities are still VAT exempted?
      ✓ Choices between interest income and gain/loss on transfer of financial products?
      ✓ Increase of compliance costs from the request of VAT invoices.
2) Place of supply rules for services, e.g.,
      ✓ how to define the services being "consumed" in China?
      ✓ How to define the financial products being "issued" in China?
3) Possible tightening-up the credit of input VAT incurred on fixed assets, intangible assets and real estate assets, requesting proportionating between non-VAT-able and VAT-able projects.

Country indirect update—China
Progress of China VAT Law Legislation

Issues still being discussed

- Continuity of the existing preferential VAT policies
- Expansion of the VAT exempted scope for export of financial services
- The carry-over/retroactive adjustment of the loss generated from the trading of the financial products
- Exemption of VAT on the net gains generated from the trading of financial products by offshore entities and tax withholding mechanism
- Definition of “financial institutions” especially for foreign entities

Country tax update—China

Renewal of several preferential VAT regulations

Several preferential VAT regulations related to FSI were renewed in 2023:

Beneficiary	Overview	Expiration date
Financial institutions	Interest income derived by financial institutions (including non-bank financial institutions) from petty loans granted to micro-sized enterprises, small enterprises, and individually owned businesses are exempted from VAT.	31/12/2027
Financial institutions	Guarantee fee income and re-guarantee fee income from the provision of financing guarantee for borrowing and issuance of bonds for farmers, small/micro-sized enterprises and individually owned businesses can be VAT-exempted.	31/12/2027
Small-scale VAT payers	Small-scale VAT payers whose monthly sales amount is not more than RMB 100,000 (inclusive) would be exempted from VAT. The VAT levying rate of small-scale VAT payers is tentatively reduced from 3% to 1%.	31/12/2027
Institutional investors	Institutional investors' income from transfer of Chinese Depository Receipts (CDRs) of innovation-oriented enterprises can be VAT exempted pursuant to the provisions on transfer of financial products.	Not mentioned
Public fund managers	Managers' income of Publicly offered securities investment funds from transfer of CDRs of innovation-oriented enterprises can be temporarily exempted from VAT.	31/12/2025
Qualified foreign institutional investors (QFIIs) or Renminbi qualified foreign institutional investors (RQFIIs)	Income obtained by qualified foreign institutional investors (QFIIs) or Renminbi qualified foreign institutional investors (RQFIIs) from transfer of the CDRs of innovation-oriented enterprises by entrusting domestic companies can be temporarily exempted from VAT.	Not mentioned

Latest status of China E-invoice

The E-Invoice pilot has been rolled out to all regions in China in 2023. Paper invoices are gradually phasing out.

2023 **2024**

Step 1: E-Invoice Rollout

2023 Q1 – Q2
E-invoice rolled out in most regions in China

2023 Q3 – Q4
E-invoice completed the rollout in all regions

Step 2: Cancel Paper Invoice by regions

2023 Q3 – Q4
Paper invoices started to be cancelled by regions, i.e., Shanghai, Sichuan, Guangdong, Chongqing

tax bureaus' action：
1 retrieve paper printing u-disk
2 limit the distribution quantity of blank paper invoices

2024
Paper invoices may be completed phased out in 2024/2025

The new E-invoices program aims to achieve "full digitalisation" for the management of invoices, which could bring far-reaching changes to the daily operations of businesses as well as to the tax administration. The **main changes** comparing with paper invoice include:

Changes in tax authority operation platform
The State Taxation Administration (STA) has established a new nationwide online platform to enable taxpayers to issue, deliver, and receive, validate E-invoices at all times. Lots of new features are introduced such as invoice full life cycle status tracking, equipment free , labeling etc.

Changes in Invoice format & layout
E-invoices are delivered in the form of data messages, breaking the specific format requirements such as PDF and OFD. The invoice layout elements have also been changed significantly.

Latest status of China E-invoice

The E-Invoice pilot has been rolled out to all regions in China in 2023. Paper invoices are gradually phasing out. (Cont.)

	2023		2024
Step 1: E-Invoice Rollout	**2023 Q1 – Q2** E-invoice rolled out in most regions in China	**2023 Q3 – Q4** **E-invoice completed the rollout in all regions**	
Step 2: Cancel Paper Invoice by regions		**2023 Q3 – Q4** Paper invoices started to be cancelled by regions, i.e. Shanghai, Sichuan, Guangdong, Chongqing tax bureaus' action： ①retrieve paper printing u-disk ②limit the distribution quantity of blank paper invoices	**2024** **Paper invoices may be completed phased out in 2024/2025**

Changes in management mechanism

Based on the dynamic "credit + risk" system, combining with the taxpayer's production and operation, invoicing and declaration behavior, the tax bureau automatically gives the taxpayer a credit for the total amount of invoices and dynamically adjusts this amount, so as to realise the credit system management of "system grant credit mainly, supplemented by manual adjustment".

IMMEDIATE ACTIONS PROPOSED FOR ENTERPRISES:

1. **Re-designed the existing output and input invoice processes**, identify which processes need to be adjusted to cope with e-invoice requirements and meanwhile consider potential compliance risk control
2. **Develop system solution** to process e-invoice in batch to achieve automation and compliance control for both output and input E-invoice before paper invoices are totally cancelled out. Without effective system solution, the labor cost and control risk will be high, especially if the invoice volume is high.
3. **Consider integrating with the Leqi interface** if the enterprise meets the self-built technical requirements of the tax bureau. If not, enterprise can also integrate with **web version interface**.

Country tax update—China

Indirect Tax Audit

Some observations under Golden Tax IV

cross comparison

More data is available and more cross comparisons

doubtful points

More frequent tax doubtful points

self inspection

More self-inspections requirements

industry chain

More assistance on tax audit on tax issues of upstream and downstream enterprises

Indirect tax audit is focus on:

The authenticity of VAT invoices

Trace back through the whole supply chain

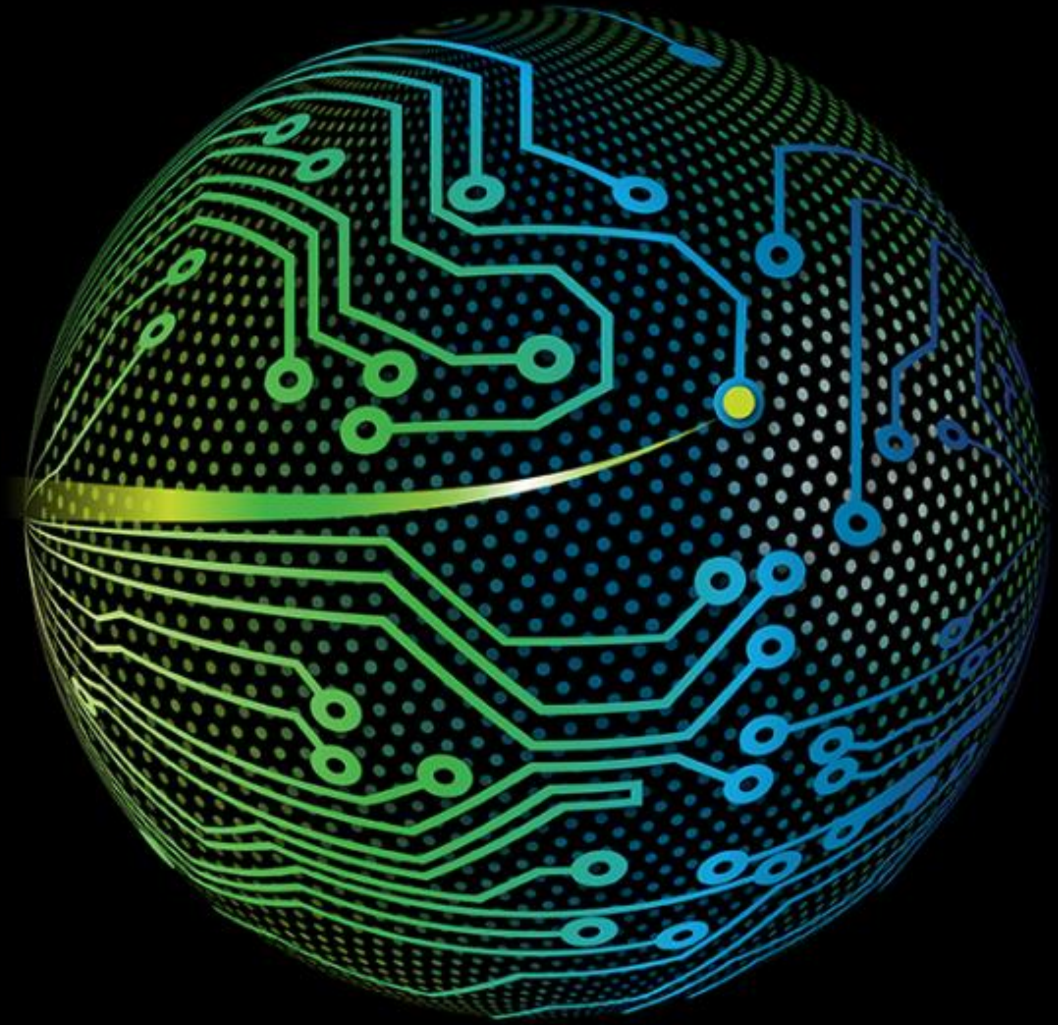
Reconciliation of VAT revenue and CIT revenue

The revenue gap analysis between VAT returns and CIT returns declared

Inspections on preferential VAT treatment

- Inspections on zero-rating, VAT exemption preferential treatment.
- Inspection due to the significant amount of excessive input VAT credit balance

Malaysia



Service Tax

Rate and scope changes

- Service tax rate increased from 6% to 8% (effective 1 March 2024) apart from logistics, telecommunication and food and beverage services
- Adjustment of exemptions to broking and underwriting services for financial services
- Transitional Rules:

Service Period	Applicable Rate
Service commences and concludes before 1 March 2024	6%
Service commences on or after 1 March 2024	**8%**
Service spans 1 March 2024	• Portion of service performed up to and including 29 February 2024–6%; • Portion of service performed on or after 1 March 2024–**8%**
Entire payment received **prior to 1 March 2024** for service performed on or after 1 March 2024	6%
Part payment received **prior to 1 March 2024** for service performed on or after 1 March 2024	• 6% on the portion of service covered by the part payment; • **8%** for the remainder of the service

Concession provided

Service Tax
Broking services

Changes to brokerage services description

Prior to 26 February 2024	Post 26 February 2024
The provision of services relating to financial services for the use or provision of brokering and underwriting.	Provision of brokering or underwriting services <u>except</u> the provision of the following services: • brokering or underwriting services related to medical insurance or medical takaful borne by an individual; • brokering or underwriting services related to life insurance policies or family takaful certificates borne by an individual; or • brokering or underwriting services related to goods, land or any other matters outside Malaysia.

Service Tax

Broking services (cont'd)

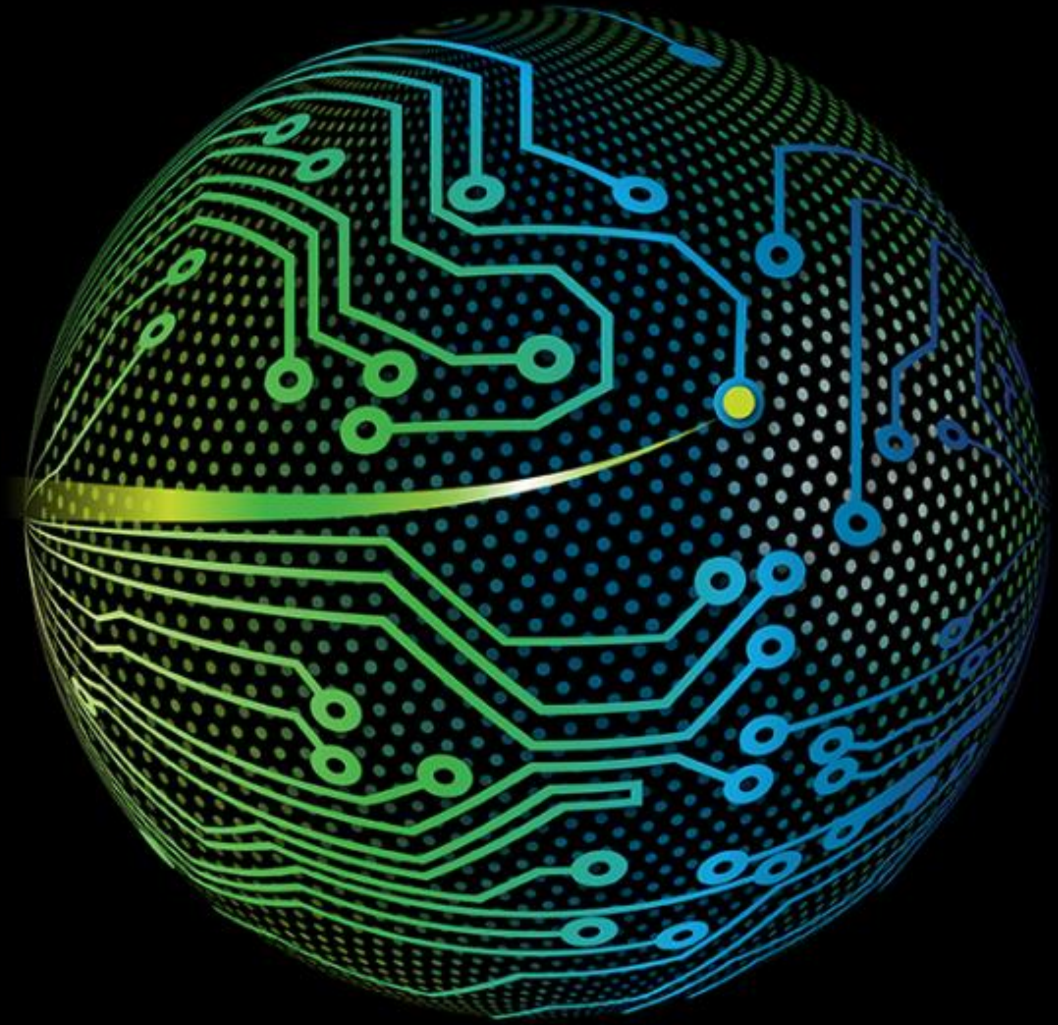
Changes to brokerage commission for insurance

Service	Prior to 26 February 2024	Post 26 February 2024
Brokerage commission calculated based on % of gross premium	Brokerage commission which is included in the insurance premium has been taxed and accounted by the insurer, and therefore brokerage commission is not subject to service tax.	Broking commission subject to service tax

Issues

- Increase cost to the insurer as brokerage commission are now taxable and B2B exemption is not applicable.
- Example calculation provided in the Guide on Broking and Underwriting is not clear—require further clarification
- Significant confusion in the industry as to whether the services are subject to service tax and different positions have been adopted by various participants.

Indonesia



Country indirect update—Indonesia

Progress of Indonesia VAT Law Legislation

Latest development

- Indonesia has amended the VAT Law with Harmonization of Tax Law, which effective from FY2022
- The new 11 % VAT Rate is effective from April 2022 and 12% starting from fiscal year 2025
- The VAT classification of services provided by Financial Services Industry has shifted from **<u>non-VATable services</u>** into **<u>VAT Exempted services</u>**
- Transfer of foreclosed assets (AYDA) is subjected to VAT **1.1%,** if the Bank has re-owned the foreclosed assets

Potential impacts on the financial industry

1) Whether Bank shall issue VAT invoice for each transactions, since according to regulation for VAT Exempted services, the taxpayer is remain to issue the tax invoice

   If yes, significant administrative burden for the Bank

   ✓ Only applicable for non-Interest income which subject to or applicable for all the income should apply the Tax Invoice

2) AYDA cases before FY22 are still being corrected by the Tax Office

   ✓ The new regulation has more clarifty for the financial industry, the tax office provide confirmation that AYDA is subject 1.1% (10% x 11%) during the sales transaction if the Bank has re-owned the AYDA

Country indirect update—Indonesia

Progress of Indonesia VAT Law Legislation

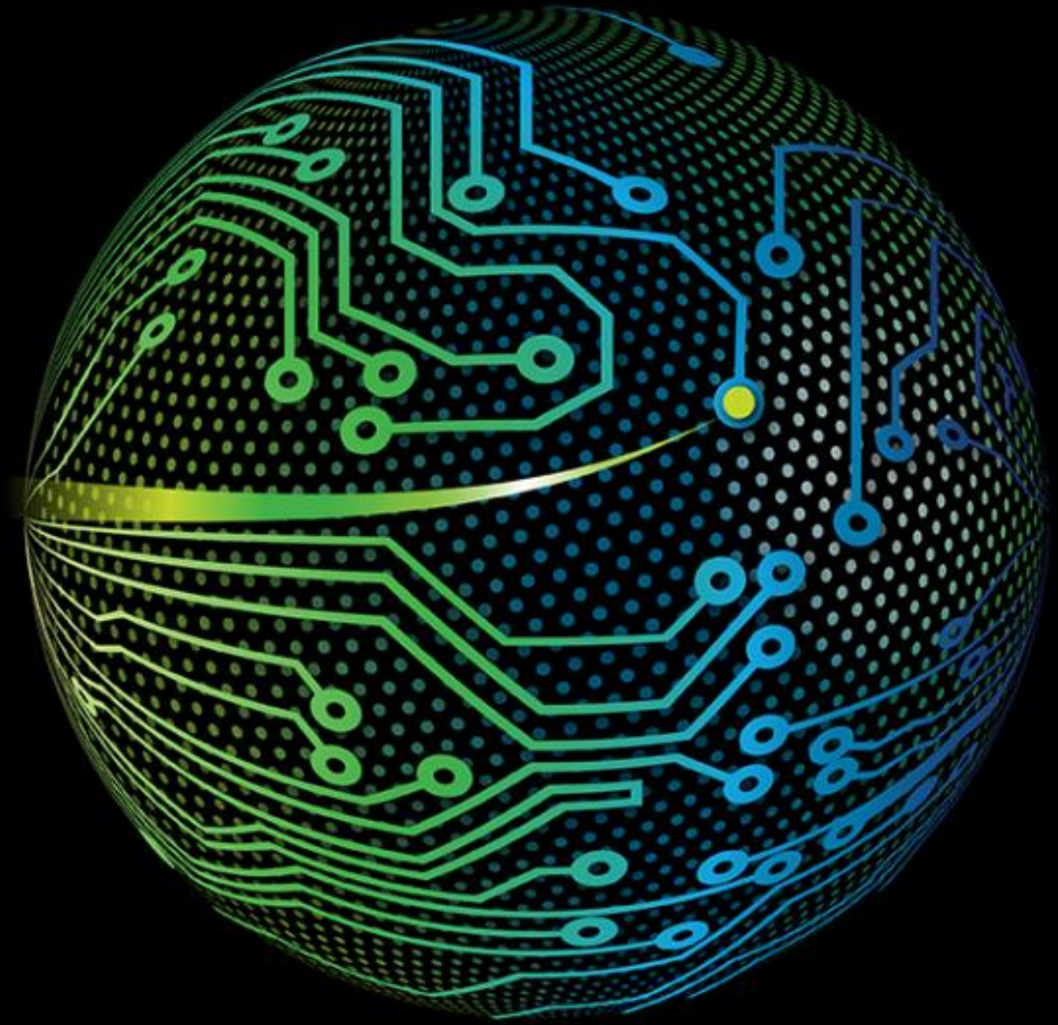
Issues still being discussed

- The format of VAT Invoice for the VAT Exempted transactions
- VAT imposition for the foreclosed assets (AYDA) which still owned by Debtors

VAT Focus area during Tax Audit process

- Revenue Equalization between the amount reported in FS/CIT compared to VAT return
- Sale on AYDA before the FY22

India



Banks & NBFCs : Phases of Business model

Changes in style of business

While traditional banks/NBFCs have long focused on acquiring masses through savings & transaction services, neo-banks carved out a niche within the value chain

Traditional banking

- Used to be a branch/ATM phenomenon
- Digital channels started seeing adoption post 2010
- Focused primarily on CASA related services—transfers, payments, account maintenance

Digital banking

- To compete in the digital era, Banks started to roll out their own platforms
- In addition to basic banking services, multiple add-on layers were added
  - Distinct branding (e.g., Yono, 811)
  - Refreshed UI/UX
  - Addl. digital journeys—fully digital account opening, open FD, apply for loan
  - Cross selling—investment products, insurance, etc.

Neobanking

- Sharp focus on a customer segment with tailored propositions and easily recognisable USPs
- Enabled by a superior tech platform (not just digital channel apps)—more nimble/ agile in product introduction, more efficient processes
- Modern UI/UX
- Modern physical form factors (non-traditional card designs)
- Better use of digital advertising/creatives

Examples of retail neo-banking brands with recognisable USPs

Banks & NBFCs : Critical Sector Issues

Key areas

Compliance relaxations to Neo Banks

Neo Banks have not been granted recognition as 'Banks' under Indian Banking Regulation Act

E-invoicing relaxations are not available to Neobanks

Use of IT software & brand

Applicability of GST on common IT software installed within the banks along with brand usages on free of cost basis have been recently challenged

Taxability on Interchange fee/Merchant Discount Rate

Lot of tussle around applicability of GST taxability on interchange fee and merchant discount rate charged

Input Service Distributor [ISD]

Current tax positions adopted for transfer/distribution of credits between different units of same PAN are required to be revisited in light of recent Budget developments wherein ISD is to be made mandatory requiring separate ISD GST registration

Insurance—Non life: Critical Sector Issues

- Long pending Indirect Tax Litigation [under erstwhile Service Tax and current GST regime] in relation to the taxability on share of premium between lead insurer and following co-insurers

- Directorate General of Goods and Service Tax Intelligence [DGGI] is issuing notices in relation to ORC commission restructuring undertaken between Insurance Company and brokers. The authorities are disallowing Input Tax Credit availed for GST paid on procurement of such marketing services.

- Divergent view on group health and personal accident insurance services provided to SEZ (Free Trade Zones) customers. It is alleged by tax authorities that such services are for the use of individuals (and family members) and hence should not be zero-rated at par with supplies authorised for use in the Free Trade Zone.

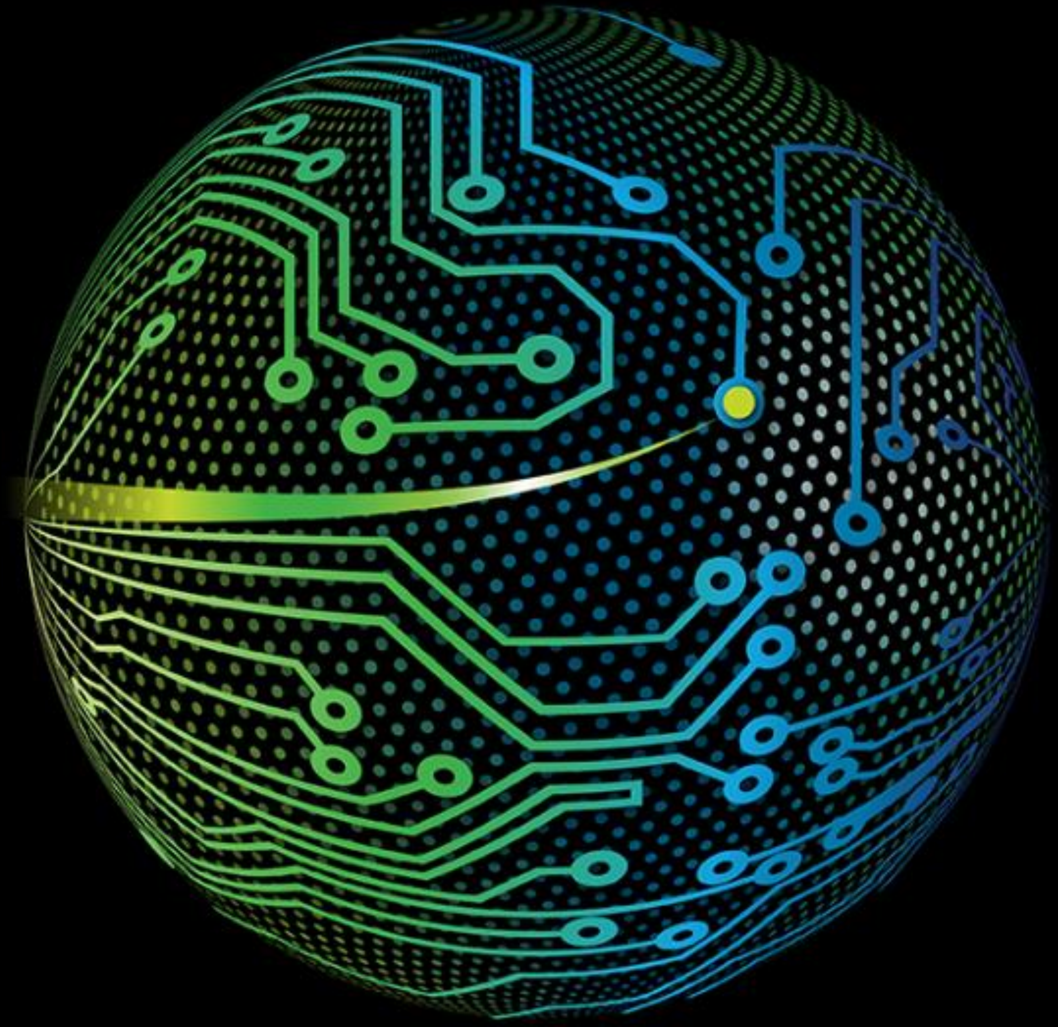
Insurance—Life: Critical Sector Issues

- Certain investment products are taxed at an abated rate thereby reducing the effective tax rate on total premium. Tax authorities view the abated value of premium considered for tax should be recognised as taxable revenue and balance be treated as exempt income necessitating reversal of corresponding Input Tax Credit.

- Tax authorities are of the opinion that investment income should be considered as exempt revenue and proportionate reversal of Input Tax Credit should be done.

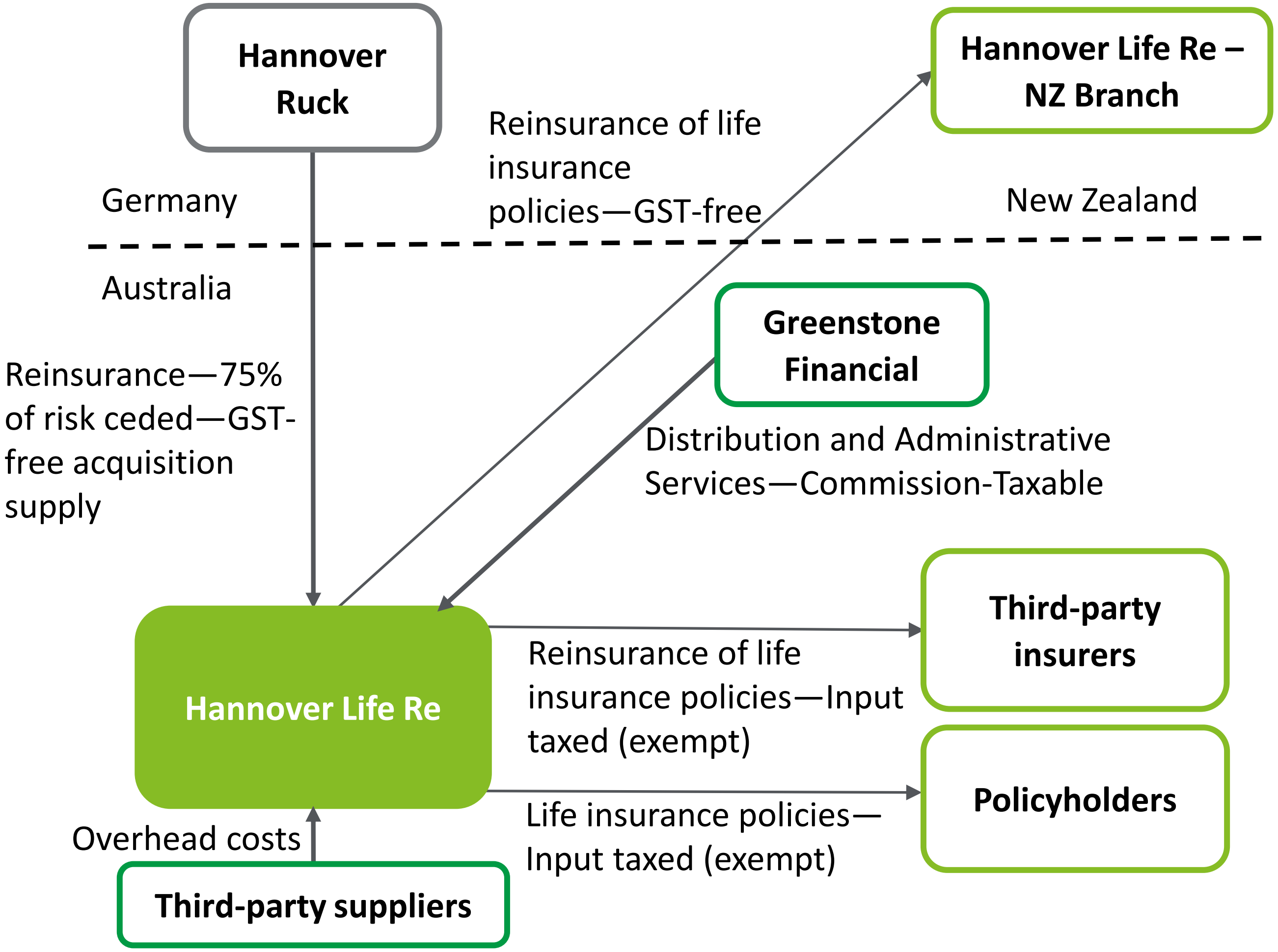
- Whether additional benefits offered on top of an insurance policy should be classified at the same rate as principal premium or at generic rate.

Australia



Country indirect tax update—Australia

Case Law Update—Hannover Life



Entitlement to input tax credits for a life insurer relating to:

1) Provision of life insurance policies in Australia
2) Provision of reinsurance of life policies underwritten by third-party insurers in Australia
3) Provision of reinsurance of life insurance policies underwritten by its NZ branch for customers in NZ
4) Acquisition of reinsurance from Hannover Ruck to cede 75% of risk on its underwritten life insurance policies—this is a GST-free acquisition supply for GST purposes

Four main issues (from the Commissioner's perspective):

a) Whether the acquisitions of Distribution and Administrative (DA) Services were partly for a creditable purpose;
b) If so, whether the method in relation to the input tax credit apportionment of DA services is fair and reasonable;
c) Whether the acquisitions of Overheads were partly for a creditable purpose; and
d) If so, whether the apportionment method in relation to overheads is fair and reasonable.

Country indirect tax update—Australia
Case Law Update—Hannover Life (cont.)

Judgement

a) Whether the acquisitions of Distribution and Administrative (DA) Services were partly for a creditable purpose;

(Commissioner successful) No, the commissions incurred for the DA Services related wholly to input taxed supplies of life insurance policies in Australia. A taxpayer cannot make taxable supplies 'by and through' an input taxed supply, as such there was no 'real and substantial relationship' between the commissions and the reinsurance to Hannover Ruck.

b) If so, whether the method in relation to the input tax credit apportionment of DA services is fair and reasonable;

N/A

c) Whether the acquisitions of Overheads were partly for a creditable purpose; and

(Taxpayer successful) Yes, as overheads relate to all enterprise activities.

d) If so, whether the apportionment method in relation to overheads is fair and reasonable

(Taxpayer successful) This must be determines based on specific facts and circumstances and was not decisively ruled on as part of the judgement.

Impact

Cost Allocation

- The judgement reiterates that taxpayers need to ensure that identified relationships arising "by and through" initial input taxed supplies are disregarded, consistent with the principles outlined in Rio Tinto.
- Where costs relate directly to input taxed supplies it is unlikely there will be an entitlement to input tax credits, other than specific reduced credit acquisitions.
- Cost allocation methods should be reviewed to ensure they consider all supplies being made from a GST perspective which may not be consistent with statutory allocation methods, and that the relationships between acquisitions and supplies should be clearly documented.

Apportionment

- Consideration must be given to the classification of overhead costs when calculating apportionment. Methodologies must reflect consumption of the relevant acquisitions and reflect all relevant supplies for GST purposes.

Notice of Appeal

- The Commissioner filed a notice of appeal to the Full Federal Court against the decision in August 2023, and the appeal is due to be heard on Tuesday 27 February 2024.

Country indirect tax update—Australia

Australian Taxation Office Activity—Assurance Reviews

- Continuing to undertake assurance reviews in respect of the Top 100 and Top 1,000 taxpayers (reviews are more detailed for Top 100 taxpayers given their greater size).

- These reviews will mainly consist of Combined Assurance Reviews (CARs) alongside income tax, which broadly comprise tax technical, governance and data reviews.

- As of 30 June 2023 financial services businesses had been the subject of significantly less CARs than taxpayers across all other industries. However, we understand that the ATO is now giving greater focus to financial service businesses, and we have seen an increase in the number of taxpayers within the industry who are being notified of CARs in the second half of 2023. We expect this focus on the financial services industry to be maintained throughout 2024.

- Within FSI specifically, assurance reviews for GST will focus on the following technical issues:
  - GST classification of supplies, including inconsistent treatments adopted,
  - GST recovery, including the use of a fair and reasonable apportionment methodology (and cost allocations) to determine entitlement to input tax credits and reduced input tax credits,
  - Input tax recovery where the Financial Acquisitions Threshold (FAT) is exceeded,
  - Identification of reverse charge on cross-border transactions (both third party and intra-group),
  - Decreasing and increasing adjustments (for general insurers), and
  - Recovery of GST based on recipient created tax invoices (RCTIs).

- Tax governance continues to be a significant focus area, and the ATO's expectations in relation to GST have increased, particularly around identification of key controls (especially in relation to data/coding) and the sufficiency of documentation of controls.

- CARs will also include detailed data testing to identify any inconsistent treatments of transactions and to 'prove' that governance/data controls are operating effectively.

Country indirect tax update—Australia

Australian Taxation Office Activity—Reduced Input Tax Credit

Fact Pattern

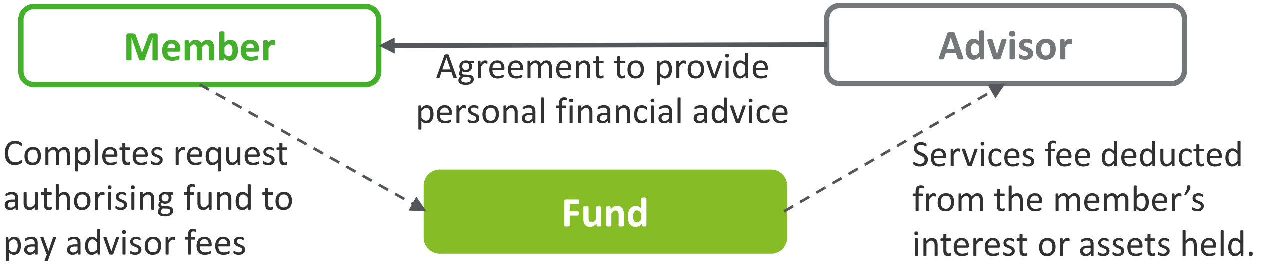
- Superannuation funds and investor-directed portfolio services (IDPS) investment platforms will no longer be able to claim reduced input tax credits (RITCs) in full for investor specific adviser service arrangements, with the following features.

  — The member engages an advisor to provide them with personal financial advice concerning their interest in the fund.

  — The member request the fund to pay the advisor (although, liability to pay the fee remains with the member).

  — The advisor is not involved in executing any underlying transactions.

  — The advisor may be required to be registered with the fund and agree to certain conditions, in order to receive payment from the fund.



ATO Updated Technical Position

- The ATO has ruled that funds can no longer claim RITCs for certain advisor fees, as the fund is not the recipient of a supply. The payment from the fund to the advisor is part of an administrative arrangement between the parties, as ultimately it is the member who is paying the fees and is liable to the pay the adviser.
- Going forward, such arrangements will be seen as solely involving the supply of financial advice from the advisor to the member—there is no second supply to the fund.
- Funds which previously received a private ruling on RITC entitlements based on published guidance should check if the scheme in the ruling aligns with their current contractual arrangements.
- The ATO has stated that compliance resources will not be devoted to reviewing RITC claims for tax periods ending before 1 July 2024 (previously 1 April 2024).

Panel discussion