

## Change Update - NOR Exemption of Employer's Contribution to Overseas Pension or Provident Fund



Certain employees had been precluded from the tax exemption of employer's contributions to overseas pension or provident fund under the Not Ordinarily Resident (NOR) taxpayer scheme. With the recently announced change in October, more NOR taxpayers would qualify for the tax exemption.

### **Background**

Under the law, employer contributions made in respect of an employee to any pension or provident fund constituted outside Singapore shall be deemed as income to the employee for the year in which the contributions are made.

However, under the NOR taxpayer scheme, an eligible NOR employee may apply for tax exemption (subject to a NOR cap<sup>1</sup>) for the employer's contribution to a non-mandatory overseas pension or provident fund. An overseas pension or provident fund will generally be regarded as a non-mandatory fund where the contributions are not made to compulsory schemes operated, regulated and supervised by the employee's home country government while the employee is working overseas.

The Inland Revenue Authority of Singapore (IRAS) has set several conditions which must be satisfied for NOR tax exemption concession to apply.

One particular condition is the Singapore entity must not claim a corporate tax deduction (up to the NOR cap) for the contribution. Where the employer's contribution made on or after 1 January 2014 is borne by a foreign company and is not charged or recharged to any Singapore entity, this condition will not be satisfied and the NOR tax exemption will not be available to the employee. The condition is also not satisfied where the employer is a tax-exempt body or a representative office which is not required to file a corporate tax return.

## Tax Changes

On 19 October 2018<sup>2</sup>, the IRAS announced a change in position. The condition that the employer must not claim a corporate tax deduction (up to the NOR cap) will be considered as satisfied where:

- the contribution is borne by a foreign company and is not charged or recharged to the Singapore employer, as no corporate tax deduction on the contribution is taken by the Singapore employer; or
- the employer is a tax-exempt body or representative office that is not required to file a tax return, as no corporate tax deduction on the contribution is taken by the employer

The change will enable more NOR individuals to qualify for the tax exemption concession in the future. The IRAS will also allow NOR individuals, who did not previously claim the concession for Years of Assessment (YA) 2017 and 2018, to submit the NOR application for the concession to IRAS for its review and re-assessment of tax, within 4 years from each respective YA.

## Our Comments

NOR taxpayers should consider whether there is a refund opportunity for YA 2017 and YA 2018 and file for re-assessment of tax within the 4-year re-assessment period. Employers who bear the taxes of their employees should also review their records for any possible re-assessment to obtain the refund.

## How We Can Help

KPMG can assist taxpayers and employers to evaluate and file the NOR application form for the refund.

<sup>1</sup> The NOR cap is computed based on Central Provident Fund (CPF) capping rules as if the employer had made contribution to the CPF Board for a Singapore citizen as required under the CPF Act. For example, for the year 2018, the maximum employer's CPF contribution limit is S\$17,340 for employee's age 55 years and below. The NOR cap is also determined based on the total employer contribution to an approved mandatory or a non-mandatory overseas contribution scheme or to both.

<sup>2</sup> <https://www.iras.gov.sg/IRASHome/Quick-Links/Tax-Agents/News-and-Updates/Individual-Income-Tax/> & <https://www.iras.gov.sg/irashome/Individuals/Foreigners/Working-out-your-taxes/Special-tax-schemes/Not-Ordinarily-Resident-NOR-Scheme/#title2>

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