



Singapore tax updates: COVID-19

Why this matters

The Inland Revenue Authority of Singapore (IRAS) announced on 6 April 2020 several tax concessions in response to the current COVID-19 pandemic. Companies and individuals should take note of the concessions as they may provide some relief in terms of Singapore tax filing and payment obligations.

1 Tax treatment of overseas-based employees working in Singapore due to COVID-19

Singapore citizens working overseas would generally be regarded by the IRAS as tax residents of Singapore as their absences from Singapore would be viewed as temporary and not with a view or intent to establish a residence abroad. On the other hand, Singapore Permanent Residents (SPRs) and foreigners are generally regarded as non-tax residents of Singapore when working overseas.

As tax residents, if Singaporeans employed overseas visit Singapore for business purposes, the income attributable to the services in Singapore would be regarded as Singapore-sourced taxable income.

As non-residents, Section 13(6) of the Singapore Income Tax Act provides a tax exemption for income derived from employment exercised in Singapore for not more than 60 days in a year by non-resident individuals (other than as company directors and public entertainers).

With a rapidly evolving COVID-19 situation, many overseas-based Singaporeans and SPRs have returned to Singapore temporarily and are working remotely from Singapore. In some cases, individuals have been unable to leave Singapore due to travel restrictions (e.g. lock downs, flight cancellations, etc.).

Tax Concession

IRAS announced that they would not treat Singaporeans/SPRs as exercising Singapore employment from the date of return to Singapore until 30 September 2020 (subject to review depending on the COVID-19 situation), provided the following conditions are met:

- there is no change in the contractual terms governing their employment overseas before and after their return to Singapore; and
- this is a temporary work arrangement due to COVID-19.

In addition, the IRAS will not treat non-resident foreigners who are on business trips to Singapore and cannot leave Singapore due to COVID-19 as exercising Singapore employment provided:

- the period of their **extended stay** in Singapore is not more than 60 days; and
- the work performed during the extended stay is not connected to their business assignment in Singapore, and the work would have been performed overseas if not due to COVID-19.

2 Extension of time to file Singapore individual income tax return

The annual individual income tax return filing deadline is 18 April (if e-filing). However, when a non-Singapore citizen employee ceases employment, starts an overseas posting or leaves Singapore for a period of more than three months, the employer must provide written notice (Form IR21 – Notice of Cessation of Employment for non-Singapore citizens) to the IRAS at least one month prior to the date of cessation/departure from Singapore. In addition, the employer must withhold any monies due to the employee until the Comptroller gives tax clearance or upon expiry of 30 days after receipt by the Comptroller of the Form IR21.

Tax Concession

IRAS announced that individuals are granted an automatic extension of time until 31 May 2020 to file their annual individual tax return.

Companies seeking tax clearance in April 2020 will be given a one-month extension of time to file the Form IR21. However, the withholding requirement of monies due the employee pending tax clearance remains unchanged.

3 Deferment of Singapore tax payment by individuals

Individuals may pay their taxes either via the GIRO (General Interbank Recurring Order) instalment scheme (over a maximum of 12 months starting from May each year to April of the following year) or via a lump-sum payment, which is due within 30 days from the date of issuance of the Notice of Assessment (NOA).

Tax Concession

Individuals under the GIRO instalment arrangement can apply to defer their GIRO deductions which are originally due in May, June and July 2020. The GIRO deduction plan will be pushed back three months and resume in August 2020.

Employees who are paying their taxes via lump-sum payment can apply to defer payment by three months.

On a case-by-case basis, the IRAS may also be prepared to review and accommodate a longer instalment payment arrangement for taxpayers in need of help.

4 Tax residence status of companies affected by location of Board meetings

Generally, the residence of a company is determined based on where the control and management of its business is exercised, and the location of the company's Board meetings (when strategic decisions are made) is an important factor in defining where the control and management is situated.

Tax Concession

Due to COVID-19 travel restrictions, it may not be possible for Board meetings to be held in Singapore. The IRAS will consider the company as a tax resident for the Year of Assessment (YA) 2021 (i.e. for financial year ended/ ending 2020) if it meets the following conditions:

- the company is a Singapore tax resident for YA 2020;
- there are no other changes to the economic circumstances (e.g. principal activities and business model, nature of business operations, usual business operations location etc.) of the company; and
- the directors of the company have to attend the Board meeting outside Singapore, or if the meeting is held via electronic means (e.g. via video-conferencing, tele-conferencing, etc.) due to the directors being temporarily restricted in their travel as a consequence of COVID-19.

On the other hand, if the company is a non-tax resident for YA 2020, the IRAS will continue to treat it as a non-tax resident for YA 2021, provided it meets the following conditions:

- the company has to hold its Board meeting in Singapore due to the travel restrictions relating to COVID-19; and
- there are no other changes to the economic circumstances of the company.

The company should maintain and be able to provide (upon request) documentation or records (e.g. board minutes indicating reasons why directors are attending the meeting at various locations) to the IRAS to support its claim of being treated as a tax resident or non-tax resident for Singapore tax purposes.

5 Permanent establishment (PE) issues arising from employees of foreign companies working in Singapore due to COVID-19

Generally, a PE may be created by a foreign entity in Singapore if it has an employee or person acting on its behalf who has and habitually exercises in Singapore, the authority to negotiate or conclude contracts in the name of the foreign entity or provide services in Singapore on its behalf.

With the employees of the foreign entities performing work remotely in Singapore for an extended period for the benefit of their overseas employers, depending on the nature of their work performed, PE issues may be triggered in Singapore.

Tax Concession

IRAS announced that it would not consider such unplanned presence as having created a PE in Singapore for the foreign company, provided it meets all of the following conditions:

- the foreign company does not have a PE in Singapore for YA 2020;
- there are no other changes to the economic circumstances of the company;
- the unplanned presence of the employees in Singapore is due to travel restrictions relating to COVID-19 and their physical presence in Singapore is temporary (as a guide, generally not more than 183 days in year 2020 from the date of first arrival in Singapore); and
- the activities performed by the employees during the unplanned presence would not have been performed in Singapore if not for the travel restrictions.

Our Comments

The support measures, particularly the exemption from tax of employment income relating to Singapore workdays, are welcome news in this unprecedented time which has brought about tremendous challenges both for employers and employees.

The concessions on corporate tax residence and permanent establishments also provide welcome relief and certainty for businesses. Otherwise issues of source of income, attribution of profits and transfer pricing will come into play.

These measures for both businesses and employees to alleviate otherwise challenging tax consequences due to the unintended and unprecedented circumstances are very practical and much applauded.

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