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**APPLICATION FOR WAIVER OF WITHHOLDING TAX
ON PAYMENTS TO SINGAPORE BRANCHES OF NON-
RESIDENT COMPANIES WHICH ARE NOT BANKS**



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Revisions have been made to:

- (a) the relevant tax rate;
- (b) incorporation of Paragraph C of the e-Tax Guide on “Simplification of Income Tax Rules and Procedures for Companies” (Ref: 2003/IT/11) [repealed];
- (c) reference to an available application form;

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APPLICATION FOR WAIVER OF WITHHOLDING TAX ON PAYMENTS TO SINGAPORE BRANCHES OF NON-RESIDENT COMPANIES WHICH ARE NOT BANKS

INTRODUCTION

1. Section 45 of the Income Tax Act provides that where a person is liable to pay to another person not known to him to be resident in Singapore any interest which is chargeable to tax under the Act, the person paying the interest shall deduct therefrom tax at the appropriate rate on every dollar of the interest and shall immediately give notice of the deduction of tax in writing and pay to the Comptroller of Income Tax the amount so deducted. Failure to give notice of such deduction to the Comptroller within 10 days after such deduction is an offence.
2. A similar requirement is found in section 45A which applies to other income referred to in section 12(6) or (7). Section 12(6) and (7) deem certain types of income to be derived from Singapore under certain situations. The types of income referred to in section 12(6) and (7) are as follows:

Section 12(6)(a) - interest, commission, fee or any other payments in connection with any loan or indebtedness or with any arrangement, management, guarantee, or service relating to any loan or indebtedness

Section 12(6)(b) - any income derived from loans where the funds provided by such loans are brought into or used in Singapore

Section 12(7)(a) - royalty or other payments for the use of or the right to use any movable property

Section 12(7)(b) - any payment for the use of or the right to use scientific, technical, industrial or commercial knowledge or information or for the rendering of assistance or service in connection with the application or use of such knowledge or information

Section 12(7)(c) - any payment for the management or assistance in the management of any trade, business or profession

Section 12(7)(d) - rent or other payments under any agreement or arrangement for the use of any movable property

3. As Singapore is an international business centre, many multinational enterprises have set up business operations in Singapore, including the carrying on of a business through a branch in Singapore.
4. A company is considered a non-resident of Singapore for tax purposes if the control and management of its business is exercised outside Singapore. When a person based in Singapore makes any payment of the types of income referred to in paragraph 1 or 2 to the Singapore branch of a non-resident company, that person has to withhold tax at the prevailing corporate tax rate of the gross amount, in accordance with section 45 or 45A. In addition, the Singapore branch has to submit the audited accounts and tax return annually to the Comptroller to determine its tax

liability. Tax withheld at source under section 45 or 45A is set off against the tax liability. Excess tax withheld is refundable.

5. Section 45(2)(b) provides that the Comptroller may by notice in writing permit any person to pay interest or other income referred to in section 12(6) or (7) without deduction of tax. Such a waiver may be granted where there is reasonable assurance that the tax for which the withholding requirement is waived will be collected by the annual tax assessments on the recipient of the income. The Comptroller has been granting such waiver in respect of payments to Singapore branches of foreign companies (including banks), on a case-by-case basis upon application by these companies. However, such waiver of withholding tax has been granted to Singapore branches of foreign companies other than banks on an annual basis, subject to certain conditions, i.e. these branches have to submit applications every year so that the waiver will continue to be valid for income received in the coming year.
6. In order to save time and effort involved in the submission and processing of such annual applications by Singapore branches of foreign companies not in the banking sector, the Comptroller has decided to modify the procedure of granting the waiver of withholding tax in respect of income paid to the Singapore branches.

ADMINISTRATIVE STATEMENT

7. With immediate effect, a Singapore branch of a non-resident company may apply for a waiver of withholding tax on income¹ paid to it, subject to the following conditions:
 - (a) The branch is part of a substantial overseas group. As a guide, a group with turnover of at least US\$50 million per annum on a consolidated basis may be considered a substantial group. [With effect from 7 Aug 2003, this condition (a) is not required if the application is in respect of interest income only]
 - (b) The branch has been carrying on business in Singapore for at least 2 years.
 - (c) The branch has and continues to have a good record of compliance with the requirements of the taxation laws of Singapore.
 - (d) The head office of the company provides a letter of undertaking that should there be tax not paid by the branch arising from the waiver, the head office will make good the difference.
 - (e) At the time of application, the branch provides a schedule showing the names of the persons from which income to be covered by the waiver will be received.
 - (f) The branch gives an undertaking to the Comptroller to:
 - (i) report all payments on which withholding of tax would be applicable, if not for the waiver, as income in its accounts;

¹ The conditions are also applicable for the application for waiver of withholding tax on interest income, previously stated in the e-Tax Guide ref: 2003/IT/11 (repealed).

- (ii) confirm that such income has been so reported when the tax computation is filed;
 - (iii) inform him should it subsequently fail to meet the condition stated in subparagraph (a); and
 - (iv) inform him of any impending decision to cease operations in Singapore.
- (g) The waiver once granted will be valid indefinitely unless revoked by the Comptroller. Approval granted will be subject to annual review and may be withdrawn for any company found to have breached any of the conditions under which the waiver has been granted.
8. Any company that cannot meet the above conditions for the indefinite waiver may still apply for a waiver, based on the merits of its own facts. On a case-by-case basis, waiver may still be given subject to certain conditions, which may include a requirement to furnish a banker's guarantee based on the amount of tax involved in the waiver.
 9. Application form together with the required attachments should be addressed to the Corporate Tax Division, Inland Revenue Authority of Singapore. A copy of the application form can be downloaded from our website (www.iras.gov.sg). It can be found under <Quick links> <Forms> <Business & Employers> <Corporate Tax forms> <Application for Waiver of Withholding Tax Under Section 45/45A.doc>.