

IRAS e-Tax Guide

Income Tax: Foreign Tax Credit Pooling



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Income Tax: Foreign Tax Credit Pooling System

1 Aim

- 1.1 This e-Tax Guide explains when and how you, as a resident taxpayer, may claim foreign tax credit (FTC) in respect of foreign income¹ you receive in Singapore under the new FTC pooling system introduced in Budget 2011.

2 Background

- 2.1 In Budget 2011, the Minister for Finance enhanced the FTC system for resident taxpayers by allowing the pooling of FTC on foreign income received (“FTC pooling system”) if certain conditions are met. This is to further facilitate the remittance of foreign income to Singapore by resident taxpayers. The FTC pooling system provides greater flexibility to resident taxpayers in FTC claims, thereby reducing their Singapore tax payable on the remitted foreign income.

3 Current Foreign Tax Credit System

- 3.1 Currently, as a resident taxpayer, you are subject to tax on the foreign income received in Singapore unless the foreign income qualifies for tax exemption under the Income Tax Act (ITA)². Where the foreign income is also subject to tax in the foreign jurisdiction from which you derive the foreign income, the ITA allows a credit for the foreign tax paid (i.e. FTC) against your Singapore tax payable on the foreign income. This helps to mitigate double taxation of the same income.
- 3.2 FTC is currently provided under the following sections of the ITA:
- (a) Section 50
Double taxation relief (DTR) is given on foreign income derived from a foreign tax jurisdiction with which Singapore has concluded an Avoidance of Double Taxation Agreement (“tax treaty”). The grant of DTR is governed by the terms of the tax treaty in force.

¹ This refers to income received in Singapore from outside Singapore that would qualify for foreign tax credit under sections 50, 50A or 50B of the Income Tax Act.

² Tax exemption is currently granted, subject to certain conditions, under the Foreign-Sourced Income Exemption (FSIE) regime pursuant to sections 13(7A) and 13(8) of the ITA.

- (b) Section 50A
Unilateral tax credit (UTC) is given on foreign income derived from a foreign jurisdiction with which Singapore does not have a tax treaty concluded, or where the foreign income is not covered in a limited tax treaty concluded between that foreign jurisdiction and Singapore.
- (c) Section 50B
DTR or UTC is given to the beneficiary of a trust who is entitled to the foreign income received by the trustee of the trust.

3.3 Regardless of the type of FTC (be it DTR or UTC) claimed on any source of foreign income from any country, the amount of FTC to be granted is the lower of the foreign tax paid and Singapore tax payable on the income computed on a “source-by-source and country-by-country” basis.

3.4 Under the above basis of FTC computation, any excess of foreign tax paid over the Singapore tax payable on one type of foreign income from a country (e.g. dividend from China) is not available for offset against the Singapore tax payable on another type of foreign income from the same country (e.g. interest from China). Similarly, any excess of foreign tax paid over the Singapore tax payable on one type of foreign income from a foreign country (e.g. dividend from China) is not available for offset against the Singapore tax payable on the same type of income from another foreign country (e.g. dividend from Malaysia). Any such excess foreign tax paid is disregarded for tax purposes.

4 New FTC Pooling System and Effective Date

4.1 Under the new FTC pooling system which takes effect from the Year of Assessment (“YA”) 2012, you may elect to pool the foreign taxes paid (including any underlying tax, where applicable) on any items of your foreign income, if the foreign income meets the conditions stated in paragraph 4.2. The amount of FTC to be granted is based on the lower of the total Singapore tax payable on those foreign income and the pooled foreign taxes paid on those income.

4.2 To qualify for the FTC pooling system, your foreign income must meet all the following conditions:

- (a) income tax must have been paid on the income in the foreign jurisdiction from which the income is derived;
- (b) the headline tax rate of the foreign jurisdiction³ from which the income is derived is at least 15% at the time your foreign income is received in Singapore;

³ The headline tax rate of the foreign jurisdiction refers to the highest corporate tax rate of the foreign jurisdiction.

- (c) there must be Singapore tax payable on your foreign income; and
 - (d) you are entitled to claim for FTC under sections 50, 50A or 50B of the ITA on your foreign income.
- 4.3 All other existing conditions applicable to FTC claims under sections 50, 50A or 50B of the ITA remain unchanged. The current method of computing the amount of Singapore tax payable on your foreign income continues to apply under the FTC pooling system.
- 4.4 If your foreign income does not qualify for the FTC pooling system or you do not wish to claim FTC under the FTC pooling system, the current “source-by-source and country-by-country” basis for computing the amount of FTC on your foreign income continues to apply.
- 4.5 The following examples in the Annex 1 illustrate the computation of FTC under the FTC pooling system:
- (a) Example 1 – Computation of FTC for a company which receives foreign income
 - (b) Example 2 – Computation of FTC for a company whose foreign income qualify for DTR and UTC
 - (c) Example 3 – Computation of FTC for a company whose income is subject to different tax rates
 - (d) Example 4 – Computation of FTC for an individual who receives foreign income

5 Administrative Procedure

- 5.1 If you wish to elect for the FTC pooling system for computing the FTC on any foreign income you have received in a relevant YA, you must do so⁴ in the tax computation submitted to IRAS together with your annual income tax return for the YA. You should also show clearly the details⁵ of the foreign income on which you are claiming FTC under the FTC pooling system and the corresponding computation of FTC claimed.

⁴ For partners receiving foreign income through partnerships, the partners have to make the election in their respective tax computations.

⁵ The details include nature of income, gross income, country in which foreign income is derived, headline tax rate of that country, amount of foreign tax paid and foreign tax rate applicable to the foreign income and net income received.

- 5.2 In the absence of the election and relevant computation of FTC, IRAS is to compute the FTC on your foreign income using the current “source-by-source and country-by-country” basis of computation.
- 5.3 You are required to maintain relevant supporting documents to substantiate that foreign income tax had been paid on your foreign income. You need not submit those documents to IRAS unless we ask you to do so.

6 Frequently Asked Questions

6.1 What does “takes effect from YA 2012” in paragraph 4.1 mean?

It means that you can elect for the FTC pooling system to apply on the foreign income you receive in Singapore during the basis period for the YA 2012 and subsequent YAs.

6.2 Is there any restriction on the types of foreign income or country from which the foreign income is derived which can qualify for the FTC pooling system?

As long as the foreign income meets the conditions stated under paragraph 4.2, there is no restriction on the types of foreign income or the foreign jurisdictions from which the income is derived under the FTC pooling system.

6.3 Can I change the pool of foreign income after I have made my first selection in my income tax return?

Once a Notice of Assessment is issued, any change in the pool of foreign income under the FTC pooling system is subject to the normal objection period and procedures.

6.4 Can I vary the source and types of foreign income under the FTC pooling system for different YAs?

Yes. Your choice of claiming FTC under the FTC pooling system on any source of foreign income is applied on each YA basis. In other words, your pool of foreign income under the FTC pooling system in one YA need not be the same in another YA.

6.5 What if my foreign income qualifies for both the FTC pooling system and Foreign-Sourced Income Exemption (FSIE) regime?

Where your foreign income meets the conditions for tax exemption under the FSIE regime⁶ under sections 13(7A) or 13(8) as well as for

⁶ Please refer to the IRAS Circular and Supplementary Circulars on “Tax exemption for foreign-sourced dividends, foreign branch profits and foreign-sourced service income” first published on 21 May 2003, 30 July 2004 and 31 May 2006 for more details of the FSIE regime.

FTC pooling system to apply, you are allowed to choose, for each YA, any of the following to apply to your foreign income:

- (a) Tax exemption under the FSIE regime; or
- (b) FTC under the FTC pooling system; or
- (c) FTC under the “source-by-source and country-by-country” basis.

6.6 What if there is no tax paid on my foreign dividend but the foreign company paying the dividend to me has paid income tax on the income out of which the dividend is declared (i.e. underlying tax)?

The foreign income tax paid to be pooled includes the proportionate amount of underlying tax paid by the foreign company on your foreign dividend if the conditions under the relevant tax treaty or section 50A(3) for claiming FTC on the underlying tax are met.

6.7 Can my foreign income which qualifies for tax sparing credit under the relevant tax treaty be allowed to be pooled with my other foreign income under the FTC pooling system?

No. Tax sparing credit is generally granted under the tax treaty on foreign income which has not been subject to tax in the foreign tax jurisdiction. Hence, the foreign income does not meet the condition in paragraph 4.2(a). As such, tax sparing credit on foreign income continues to be computed using the “source-by-source and country-by-country” basis.

6.8 How does the FTC pooling system apply to a company whose income is subject to tax at more than one tax rate?

Where a company derives foreign income taxable at different tax rates (i.e. concessionary and normal tax rates), the FTC pooling system applies as follows:

- (a) the Singapore tax payable on the foreign income (for which the company elects the FTC pooling system) under the concessionary and normal tax categories is aggregated; and
- (b) the amount of FTC to be given is based on the lower of the total Singapore tax payable and the total foreign tax paid on the same pool of foreign income.

Example 3 of Annex 1 illustrates the application of FTC pooling system under this scenario.

6.9 What if I suffer a loss on the foreign income received?

Where a business suffers a loss (under any tax rate category), the foreign tax paid on the foreign income falling under that tax category is

not allowed to be pooled as there is no Singapore tax payable on the foreign income.

6.10 What if my foreign income is exempt from tax?

The FTC pooling system is not applicable to foreign income which is exempt from tax in Singapore (e.g. exempt under section 13H of ITA). This however does not apply in the scenario where, despite your foreign income qualifying for tax exemption under the FSIE regime, you have elected to claim FTC on the foreign income under the FTC pooling system. In such a case, the tax exemption under the FSIE regime does not apply to such foreign income. Instead, the said foreign income will be brought to tax and FTC is granted under the FTC pooling system.

6.11 What if my foreign income is subject to the quarantine rules under the ITA?

In those cases where your income is subject to quarantine rules specified under the ITA (e.g. section 10D, 10E, 10H, 26, 43I, 43Y, 43ZA etc.), you may still elect for the FTC pooling system to apply to any foreign income falling under those tax categories and the normal tax category, subject to meeting the conditions for FTC pooling system. However, if you suffer a loss under those tax categories, the foreign income under those tax categories does not qualify for the FTC pooling system.

7 Contact Information

7.1 For any general enquiries or clarification on this e-tax guide, please call:

- (a) 1800-3568622 (Corporate); or
- (b) 1800-3568300 (Individual).

Example 1: Computation of FTC for a company which receives foreign income

	Headline tax rate of country	Amount	Foreign tax paid	Deductible expenses
Trade income (net of deductible exp. & CA)		2,190,000		
Foreign income - dividend (Country X)	20%	80,000	16,000	1,000
Foreign income - dividend (Country Y)	10%	100,000	10,000	1,000
Foreign income - interest (Country Z)	15%	200,000	20,000	20,000

Company A derives and receives the above income during the basis period for YA 2012. It elects for FTC pooling system on dividend income from Country X and interest income from Country Z (both income qualifying for DTR). Dividend income from Country Y does not qualify for FTC pooling as the headline tax rate condition is not met.

Tax computation for YA 2012:

Trade income (net of deductible expenses and capital allowances)	2,190,000	
Dividend (Country X) (net of deductible expenses of \$1,000)	79,000	(A)
Dividend (Country Y) (net of deductible expenses of \$1,000)	99,000	(B)
Interest (Country Z) (net of deductible expenses of \$20,000)	180,000	(C)
Total statutory income	2,548,000	(D)
Less : deductible donations (say)	-8,000	
	2,540,000	
Less : investment allowance (say)	-140,000	
	2,400,000	
Less : group relief transferred in under section 37C (say)	-200,000	
	2,200,000	
Less: partial tax exemption amount	-152,500	
Chargeable income after exempt amount	2,047,500	
Tax @ 17%	348,075.00	(E)
Less : FTC under pooling system	-35,381.25	
FTC not under pooling system	-10,000.00	
Net tax payable	302,693.75	

Computation of FTC under FTC pooling system

Singapore tax payable on foreign income	
-- dividend (Country X) (A/D x E)	10,791.96
-- interest (Country Z) (C/D x E)	24,589.29
Total Singapore tax payable on income qualifying for FTC pooling	35,381.25
Total foreign tax paid	36,000.00
FTC = lower of total Singapore tax payable and total foreign tax paid	35,381.25

Computation of FTC on dividend from Country Y

Singapore tax payable on dividend (B/D x E)	13,524.11
Foreign tax paid	10,000.00
FTC = lower of total Singapore tax payable and foreign tax paid	10,000.00

Example 2: Computation of FTC for a company whose foreign income qualify for DTR & UTC

	Headline tax rate of country	Amount	Foreign tax paid	Expenses applicable to foreign income
Service income – local		3,000,000		
Service income - from Country X	20%	500,000	100,000	
Deductible expenses & CA for service income		2,000,000		
Foreign income - interest (Country Y)	30%	200,000	<u>20,000</u>	1,000
Total foreign tax paid			<u><u>120,000</u></u>	

Company B is engaged in the business of providing consultancy services in Singapore and derives the above income during YA 2012. It elects for the FTC pooling system on service income from Country X (qualifying for UTC) and interest income from Country Y (qualifying for DTR).

Tax computation for YA 2012:

Service income - local		3,000,000	
Service income - Country X		<u>500,000</u>	(A)
Total service income		3,500,000	(B)
Less: deductible expenses & capital allowances		<u>-2,000,000</u>	
		1,500,000	(C)
Interest (Country Y)		200,000	
Less: expenses		<u>-1,000</u>	(D)
		1,699,000	(E)
Less: deductible donations (say)		-100,000	
Less: partial tax exemption amount		<u>-152,500</u>	
Chargeable income after exempt amount		<u><u>1,446,500</u></u>	
Tax @ 17%		245,905.00	(F)
Less : FTC under pooling system		<u>-59,816.96</u>	
Net tax payable		<u><u>186,088.03</u></u>	

Computation of FTC under FTC pooling system

Singapore tax payable on:	
-- service income (A/B x C/E x F)	31,014.67
-- interest (D/E x F)	<u>28,802.29</u>
Total Singapore tax payable on income qualifying for FTC	<u><u>59,816.96</u></u>
Total foreign tax paid	120,000.00
FTC = lower of total Singapore tax payable and total foreign tax paid	59,816.96

Example 3: Computation of FTC for a company whose income is subject to tax at different tax rates

	Concessionary tax rate 10%	Normal tax rate 17%	Total foreign tax paid
Trade income (net of deductible expenses and capital allowances)	800,000	1,200,000	
Royalty (Country X) (net of expenses)	300,000	200,000	
Foreign tax paid on royalty	45,000	10,000	55,000

Company C enjoys the concessionary tax rate of 10% on its qualifying trade income and royalty income from foreign countries. It elects for FTC pooling system on all its royalty income received in Singapore (which qualifies for DTR).

(Assume headline tax rate condition met.)

Tax computation for YA 2012:

	10%	17%	Total
Trade income (net of deductible exp. & CA)	800,000	1,200,000	2,000,000
Foreign income – royalty	300,000 (A)	200,000 (D)	500,000
	1,100,000 (B)	1,400,000 (E)	2,500,000
Less: partial tax exemption amount	-	-152,500	-152,500
Chargeable income after exempt amount	1,100,000	1,247,500	2,347,500
Tax @ 10% / 17%	110,000.00 (C)	212,075.00 (F)	322,075.00
Less : FTC under pooling system			-55,000.00
Net tax payable			<u>267,075.00</u>

Computation of FTC under FTC pooling system

Singapore tax payable on:	
-- royalty under 10% concessionary tax rate (A/B x C)	30,000.00
-- royalty under 17% normal tax rate (D/E x F)	30,296.43
Total Singapore tax payable on income qualifying for FTC	<u>60,296.43</u>
Total foreign tax paid	55,000.00
FTC = lower of total Singapore tax payable and total foreign tax paid	55,000.00

