

IRAS CIRCULAR

GAINS OR PROFITS FROM SHARE OPTION



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Updated on 28 March 2005. Updates are as follows:

- Clarify that the sections quoted in the circular refers to the sections in the Income Tax Act (Revised Edition 2001 and before)
- Clarify that the basis of taxing any gains or profits arising from share options as set out in this circular is only applicable to share options that are granted before 1 January 2003

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INTRODUCTION

- 1 Section 10(5) of the Singapore Income Tax Act Revised Edition 2001 and before (SITA) deems any gains or profits derived by any person by the exercise of any share option granted to him by reason of any office or employment held by him to be his income. An employee who is granted a share option by an employer, or any other person who is granted a share option by reason of any office held by him, e.g. a director or an external auditor, is therefore subject to tax on any gains or profits arising from the exercise of the share option.
- 2 The amount of gains or profits arising from the exercise of any share option is the difference between the open market price of the shares at the time of exercise of the share option and the amount paid for such shares. Where the open market price of the shares is not readily available, as is often the case for shares in a private company, the net asset value of the shares will be used to determine the market price of the shares.
- 3 The taxability of gains or profits derived from share options and the determination of the amount of gains or profits to be taxed is in most cases straight forward and rarely poses any problem. However, there are exceptional situations where the tax treatment is not straight forward. These are situations where share option is granted in one jurisdiction but exercised in another jurisdiction.
- 4 This Practice Note sets out the basis of taxing any gains or profits derived by an individual who exercises share options that are granted to him **before 1 January 2003**, by reason of any office or employment held by him. For share options granted **on or after 1 January 2003**, please refer to IRAS circular on “Changes to Tax Treatment of Employee Stock Options and Other Forms of Employee Share Ownership Plans” for details on the change in basis of taxation in respect of share options. Specifically, this Note clarifies the interpretation of section 10(5) of the SITA and the application of that section in the following situations:
 - (a) share option granted to a person in a jurisdiction outside Singapore but exercised by him while he is in Singapore; and
 - (b) share option granted to a person in Singapore but exercised by him while he is outside Singapore.

Administrative Practice

- 5 Under section 10(5) of the SITA, any person who obtains a share option by reason of any office or employment (as opposed to share option obtained by a shareholder) held by him is deemed to derive an amount of income, equal to the gains or profits arising from the exercise of the share option, at the time he exercises the option. As a corollary, prior to the exercise of the option, no income can be said to be derived by him from the option granted to him.
- 6 In line with the above interpretation, a person who exercises his share option while he is in Singapore is considered as having derived from Singapore income amounting to the gains or profits computed in accordance with the basis specified in section 10(5) (which is also set out in paragraph 2 above). The full amount of gains or profits shall be taxable in Singapore. Therefore, in the case of a person who was granted a share option prior to his posting to Singapore but who exercises the option while he is in Singapore, he will be subject to tax in Singapore on the full amount of gains or profits derived from the exercise of the option. The income so derived is taxable under section 10(1)(g) of the SITA.
- 7 Conversely, any gains or profits from share options exercised by any person while he is overseas is not regarded as income derived from Singapore. **In the case of a person who was granted a share option prior to his posting overseas and who exercises the option while he is overseas, he will therefore not be subject to tax in Singapore on any gains or profits derived when he exercises the option. However, if he is a resident of Singapore, any amount of such gains or profits remitted to Singapore will be subject to tax as income received in Singapore from outside Singapore.**
- 8 For the purposes of this Practice Note:
 - a the term “share” shall include “stocks”; and
 - b in relation to share option, the term “exercise” shall include the assignment or release of the right to acquire shares by an employee.
- 9 Any person who has any enquiries on this Note may call IRAS for clarification.