

# **IRAS SUPPLEMENTARY CIRCULAR**

**TAX EXEMPTION  
FOR  
FOREIGN-SOURCED DIVIDENDS,  
FOREIGN BRANCH PROFITS  
AND  
FOREIGN-SOURCED SERVICE INCOME**



**INLAND REVENUE  
AUTHORITY  
OF SINGAPORE**

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[revised paragraphs 3b and 4 to clarify on the application of method 2]<sup>1</sup>

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<sup>1</sup> The revision is to provide clarification on the application of Method 2 following enquires received by IRAS on the use of the method. It clarifies that Method 2 is only applicable to portfolio investors. Accordingly, non-portfolio investors could only avail of Method 1 or another acceptable relevant method to prove that foreign-sourced dividend satisfies the “subject to tax” condition. It also makes clear that CIT will consider the “subject to tax” condition as met by a portfolio investor who receives foreign-sourced dividend in Singapore if the audited accounts of the payer company for the financial period ending in the year prior to the year in which the dividend is received in Singapore shows a positive current year tax expense. Portfolio investors generally refer to those investors who acquire shares in a company (“investee company”) with the view of investment returns and do not participate either directly or indirectly or in association with others in the control and management of the investee company.

# IRAS SUPPLEMENTARY CIRCULAR

## TAX EXEMPTION FOR FOREIGN-SOURCED DIVIDEND, FOREIGN BRANCH PROFITS AND FOREIGN-SOURCED SERVICE INCOME

### INTRODUCTION

This circular supplements the IRAS circular dated 21<sup>st</sup> May 2003 (hereinafter referred to as “the main circular”) and the IRAS supplementary circular dated 30<sup>th</sup> July 2004 on “Tax Exemption for Foreign-sourced Dividend, Foreign Branch Profits and Foreign-sourced Service Income”. It sets out –

- a) two administrative methods that taxpayers can adopt to prove that their foreign-sourced dividend, foreign branch profits and foreign-sourced service income (hereinafter referred to as “specified foreign income”) satisfy the condition stipulated under section 13(9)(a) of the Singapore Income Tax Act (revised edition 2004) [“ITA”] (hereinafter referred to as the “subject to tax” condition) [see paragraphs 2 to 4]; and
- b) how section 13(9)(b) of the ITA would apply to foreign-sourced dividend, foreign branch profits or foreign-sourced service income (hereinafter referred to as “the specified foreign income”) received from a foreign tax jurisdiction that has special tax legislation imposing tax on such income at a rate lower than the highest rate of tax stipulated in its main legislation [see paragraphs 5 and 6].

### SECTION 13(9)(a)

#### **Administrative methods**

2 Since the release of the main circular, there has been feedback on difficulties faced in proving that specified foreign income satisfies the “subject to tax” condition, especially for portfolio investors receiving foreign-sourced dividends.

3 To simplify compliance and to give more tax certainty to taxpayers, persons to whom section 13(8) of the ITA applies may adopt any of the following two administrative methods to prove that their foreign-sourced dividend satisfies the “subject to tax” condition -

- a) **Method 1: Comparison of total dividends paid with total taxed profits**

For this method, the person receiving the foreign-sourced dividend has to keep track of the total dividends paid by the payer company and the total taxed income<sup>2</sup> of the payer company. If the total amount of taxed income of the payer company is equal or greater than the total amount of dividends paid by the payer company, up to and including the year of payment of the

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<sup>2</sup> Taxed income includes capital gains derived by the payer company which are subjected to capital gains tax.

dividend in question, the Comptroller of Income Tax (“CIT”) will consider the “subject to tax” condition met. This method is suitable for holding companies with newly incorporated foreign subsidiary companies as these holding companies would be in a position to keep track of the taxed income of each foreign subsidiary company and the dividends that each has paid.

b) Method 2: Use of audited accounts of payer company

This method is only applicable to portfolio investors. CIT will consider the “subject to tax” condition met as long as the audited accounts of the payer company for the financial period ending in the year prior to the year the dividend (which is not subject to dividend withholding tax in the foreign tax jurisdiction) is received in Singapore shows a positive current year tax expense<sup>3</sup>.

4 These two methods are non-prescriptive. In other words, persons to whom section 13(8) of the ITA applies may choose, from the two, the relevant method applicable to them. They may also choose any other method to prove to the CIT’s satisfaction that the “subject to tax” condition is met. For consistency, taxpayers have to use the same method for all Years of Assessment. Where there are exceptional changes to the circumstances of the taxpayers to warrant a switch to another method, taxpayers may seek the CIT’s approval to change the method used to prove that the “subject to tax” condition is met.

### **SECTION 13(9)(b)**

5 In paragraph 11 of the main circular, it was stated that the headline tax rate of a foreign tax jurisdiction refers to the highest corporate tax rate of the foreign jurisdiction. It need not be the actual rate of tax imposed by the foreign jurisdiction on the specified foreign income.

6 It is hereby clarified that where the specified foreign income received in Singapore -

- (a) is chargeable to tax under a special tax legislation of the foreign tax jurisdiction that is independent<sup>4</sup> of its main legislation which charges tax on income; and
- (b) the special tax legislation imposes tax at a rate lower than the highest rate applicable to other companies in that tax jurisdiction under the main legislation; and
- (c) the application of the lower rate of tax is not pursuant to a tax incentive granted for carrying out substantive activities in that foreign jurisdiction (for

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<sup>3</sup> Current year tax expense does not include deferred tax.

<sup>4</sup> For example, the Economic Expansion Incentives (Relief from Income Tax) Act (revised edition 2005) of Singapore is not considered an independent special tax legislation because section 2 of the said Act makes clear that the Act shall be construed as one with the Income Tax Act (revised edition 2004) of Singapore.

example, special tax legislation enacting incentives for income derived from carrying out manufacturing activities in Special Economic Zones),

the headline tax rate for the purposes of section 13(9)(b) is the highest of the tax rate stipulated in this special legislation instead of the highest rate of tax specified in the main tax legislation.

#### **EFFECTIVE DATE**

7 The positions set out in this supplementary circular takes effect from today.

#### **ENQUIRIES**

8 Enquiries on the contents of this circular may be directed to IRAS at 6351-2117.

Inland Revenue Authority of Singapore