

IRAS CIRCULAR

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



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

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

INTRODUCTION

On 28th February 2003, DPM and Minister for Finance announced in his Budget Statement 2003 that foreign-sourced dividends, foreign branch profits or foreign-sourced service income (hereinafter referred to as “the specified foreign income”) received in Singapore on or after 1st June 2003 will be tax exempt.

2 The tax exemption for the specified foreign income is granted to further simplify Singapore’s tax system as well as to enhance Singapore’s attractiveness as a business hub and to boost our services exports.

3 This circular provides details of the tax exemption for the specified foreign income.

CURRENT TAX TREATMENT

4 Currently, the specified foreign income are taxed when they are received in Singapore, unless they are tax exempt¹.

5 Depending on the tax rules of the foreign jurisdictions from which the specified foreign income is received, the specified foreign income may also be subjected to tax in the foreign jurisdictions (i.e. there may be international double taxation). Double taxation of the specified foreign income is relieved or eliminated through our tax credit system by the granting of the following to the person resident in Singapore receiving the specified foreign income:

- a) Unilateral tax credit under section 50A of the Singapore Income Tax Act (SITA) [for such income remitted from countries which Singapore has not concluded an Avoidance of Double Taxation Agreement (DTA) with];
- b) Relief through bilateral agreements under section 50 of the SITA (for such income remitted from countries which Singapore has concluded a DTA with); and
- c) Relief under section 48 of the SITA in respect of Commonwealth income tax paid (for such income remitted from the Commonwealth countries).

¹ Tax exempt under section 13(5) of the Singapore Income Tax Act (SITA) [in respect of such income received by non-resident individuals], under section 13(8) of the SITA [in respect of such income exempt from tax under an approval granted by the Minister for Finance] or under a tax incentive granted under SITA/the Economic Expansion Incentives (Relief from Income Tax) Act.

SCOPE OF TAX EXEMPTION

6 With effect from 1st June 2003, tax exemption will be granted to all persons² resident in Singapore on their specified foreign income received in Singapore on or after 1st June 2003 provided that the following qualifying conditions are met:

- a) in the year the income is received in Singapore, the headline tax rate (see paragraph 11) of the foreign jurisdiction from which the income is received is at least 15%; and
- b) the specified foreign income has been subjected to tax (see paragraph 12) in the foreign jurisdiction from which they were received.

Where the conditions are not met, the tax treatment of the specified foreign income (as described under paragraphs 4 and 5) will continue to apply.

Details of specified foreign income for the purposes of the tax exemption

(a) Foreign-sourced dividend

7 For the purposes of the tax exemption, a dividend is considered a foreign-sourced dividend if paid by a company that is not a tax resident in Singapore. This treatment applies even though the dividend received may constitute the income of a trade or business carried on in Singapore by a resident of Singapore (e.g. dividends received by a bank tax resident in Singapore). In addition, there is no shareholding requirement to be met in order to enjoy the tax exemption on the foreign-sourced dividends.

(b) Foreign branch profits

8 A foreign branch refers to a business operation of a company registered as a branch in a foreign jurisdiction (i.e. not a foreign incorporated company). Profits of a foreign branch (that qualify for the tax exemption) refer to profits arising from a trade or business carried on by the foreign branch. It does not cover non-trade or non-business income (such as interest income or royalty income) of the foreign branch.

(c) Foreign-sourced service income

9 Service income (as distinguished from employment income) refers to professional, technical, consultancy or other services provided by a person in the course of its trade, profession or business. Service income is considered foreign-sourced if the service is rendered in the course of a person's trade, business or profession, through a fixed place of operation in a foreign jurisdiction. In other words, the income from a service will be considered Singapore-sourced if it is not rendered through a fixed place of operation in a foreign jurisdiction and the person rendering the service carries on a trade, business or profession of providing such a service in Singapore. This is notwithstanding that:

² A person is defined under section 2 of the SITA to include a company, body of persons and a Hindu joint family.

- a) the income is derived from services rendered outside Singapore; and
- b) in accordance with the provisions of a DTA with the foreign jurisdiction, tax is payable in that foreign jurisdiction³.

Effective date

10 The tax exemption applies to the specified foreign income received in Singapore on or after 1st June 2003, that meet the two qualifying conditions stated in paragraph 6. This is regardless of the date such income was previously earned (i.e. it need not be earned on or after 1st June 2003).

Headline tax rate

11 Headline tax rate of a foreign 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.

Example showing the concept of the effective date and the headline tax rate:

In the year 2000, an amount of \$9,000 of dividend (net of tax at 10%, amounting to \$1,000) was paid by a company resident in country A to an individual resident in Singapore. The amount was not remitted back to Singapore but was deposited by that individual into his bank account maintained in country A. If the individual were to decide to remit the \$9,000 dividend back to Singapore on 1 July 2003, and in the year 2003, the headline tax rate of country A is at least 15%, he will be entitled to tax exemption on the \$9,000. This is notwithstanding that he was subjected to tax in country A at the rate of 10% only.

Income has been subjected to tax

12 The condition that the specified foreign income received in Singapore must have been subjected to tax in the foreign jurisdiction from which the income is received means that income tax on the income must have been paid or is payable⁴ in the foreign jurisdiction from which the income is received. In other words, tax paid on the specified foreign income in any other foreign jurisdiction (other than the jurisdiction from which the income is received) will not be considered for the purposes of satisfying this condition.

³ Under certain Avoidance of Double Taxation Agreements concluded by Singapore, tax is payable in the foreign jurisdiction if the person resident in Singapore is present in the foreign jurisdiction for a specified time period even if the person has no fixed place of operation in the foreign jurisdiction.

⁴ Whether tax is payable or otherwise is determined upon the finalisation of the assessment on the specified foreign income by the foreign jurisdiction.

13 Therefore, this condition will not be considered as having been met in each of the following circumstances:

- a) Under the tax law of the foreign jurisdiction from which the specified foreign income is received, the income is taxable but an income tax exemption is granted by the foreign jurisdiction; and
- b) After paying income tax on the specified foreign income in the foreign jurisdiction where the income was sourced, the specified foreign income is moved to or invested in another foreign jurisdiction that does not levy any income tax on such income before the income is remitted back to Singapore.

In the case of a foreign-sourced dividend which is temporarily deposited into a custodian account outside the jurisdiction in which the dividend is sourced only for the purpose of its onward remittance to Singapore, the dividend can be treated as if it has been remitted directly from the jurisdiction where the dividend is sourced for the purpose of the tax exemption under section 13(8). A foreign-sourced dividend will be regarded as temporarily deposited into a custodian account if the dividend is remitted to Singapore within one year from the date of deposit into the custodian account and there is no additional income being generated from the custodian account (other than the incidental interest paid on the sum standing in the custodian account). This treatment applies only to the dividend that was deposited into the custodian account. Any interest income generated from the custodian account must be separately identified, as it does not form part of the specified foreign income covered by the tax exemption scheme.

14 In respect of a dividend paid to a person resident in Singapore by a company resident in a foreign jurisdiction from which the dividend is received, tax paid or payable by that person on the dividend in that foreign jurisdiction covers only:

- a) the income tax on the dividend that the person resident in Singapore is subject to in that foreign jurisdiction; or
- b) the income tax paid or payable in that foreign jurisdiction by the payer company (i.e. underlying tax⁵) on its income out of which the dividend is paid.

The Annex provides examples illustrating whether there is tax paid or payable in a foreign jurisdiction from which a foreign-sourced dividend is received for the purposes of the tax exemption.

⁵ If the payer company paid the dividend out of dividend it received from another company in the that same jurisdiction, the underlying tax paid in that foreign jurisdiction by the other company is not to be considered as tax paid or payable by the person resident in Singapore on the dividend it received from that jurisdiction.

DISTRIBUTION OF EXEMPT DIVIDEND OUT OF THE TAX EXEMPT SPECIFIED FOREIGN INCOME

15 Companies resident in Singapore that have been granted tax exemption on their specified foreign income can distribute normal exempt dividend⁶ out of such tax-exempt income if they choose to do so. Their corporate shareholder(s) which are resident in Singapore (regardless of their percentage of shareholding, and whether they are the immediate shareholders or otherwise) will be able to further onward distribute normal exempt dividends out of the normal exempt dividend received.

16 Companies resident in Singapore that have been granted tax exemption on its specified foreign income are required to maintain an exempt profit account up till 31st December 2007. The amount to be credited into their exempt profit accounts (out of which they can pay normal exempt dividends) is the amount of the specified foreign income remitted to Singapore less the amount of expenses incurred by them to earn the specified foreign income.

ADMINISTRATIVE PROCEDURE

17 To enjoy the tax exemption on the specified foreign income, persons resident in Singapore need not submit documents (such as dividend vouchers, notices of assessment issued by the relevant foreign jurisdiction etc) with their income tax returns to substantiate that their specified foreign income qualifies for the exemption. They need only to declare in the appropriate section of their income tax returns that their specified foreign income qualify for the tax exemption and furnish the following particulars:

- a) Nature and amount of income (i.e. foreign-sourced dividends, foreign branch profits or foreign-sourced service income);
- b) Country from which the income is received;
- c) Headline tax rate of the country from which the income is received; and
- d) Amount of foreign tax paid/payable in the country from which the income is received⁷.

18 Although there is no need to submit supporting documents, the persons resident in Singapore should retain all their supporting documents for the purposes of submission to the Comptroller of Income Tax if called upon to do so⁸.

⁶ Normal exempt dividends are dividends paid out of (a) income that has been exempt from tax, or income net of tax payable at a concessionary rate of tax, (b) approved deduction or approved further deduction of expenses, or (c) foreign tax credit allowed. For full details on the payment of normal exempt dividends, please refer to IRAS circular dated 15th August 2002 on the New One-Tier Corporate Tax System.

⁷ Whether tax is payable or not, is determined upon the finalisation of the assessment on the specified foreign income by the foreign jurisdiction.

ENQUIRIES

- 19 For any general enquiries or clarification on this Circular, please call:
- a) 1800-3568622 (Corporate);or
 - b) 1800-3568300 (Individual).

Inland Revenue Authority of Singapore

⁸ The Comptroller of Income Tax may call for the supporting documents as part of the Inland Revenue Authority of Singapore's audit/verification process.

Examples illustrating whether there is tax paid or payable in a foreign jurisdiction from which a foreign-sourced dividend is received for the purposes of the tax exemption



