

IRAS e-Tax Guide

Income Tax :

**Temporary Liberalisation of
Income Tax Exemption for
Foreign-Sourced Income
Received in Singapore**

From 22 Jan 2009 to 21 Jan 2010



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

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IRAS e-TAX GUIDE

TEMPORARY LIBERALISATION OF INCOME TAX EXEMPTION FOR FOREIGN-SOURCED INCOME RECEIVED IN SINGAPORE FROM 22 JAN 2009 TO 21 JAN 2010

INTRODUCTION

1. All foreign-sourced income remitted to Singapore by individuals (other than resident individual partners of partnerships in Singapore) is currently exempt from tax.
2. Under the Foreign-Sourced Income Exemption (“FSIE”) Scheme, certain types of foreign-sourced income received by resident non-individuals and resident individual partners of partnerships in Singapore (hereinafter referred to as “specified resident taxpayers”) are also exempt from tax if certain conditions are met. These conditions are explained in paragraph 6 below.
3. In his Budget Statement 2009, the Minister for Finance announced the temporary lifting of conditions for remittance of foreign-sourced income to be exempted in the hands of specified resident taxpayers. In addition, the scope of the FSIE Scheme for specified resident taxpayers will also be temporarily expanded to cover all foreign-sourced income.
4. This e-Tax Guide provides details of this temporary liberalisation of income tax exemption for foreign-sourced income that accrues on or before 21 Jan 2009 and is received in Singapore from 22 Jan 2009 to 21 Jan 2010 (both dates inclusive).

CURRENT TAX TREATMENT

5. Under the current FSIE Scheme, as provided in section 13(8) of the Income Tax Act (“ITA”), tax exemption is granted, subject to conditions, on the following foreign-sourced income which is received in Singapore by a specified resident taxpayer from a foreign jurisdiction:
 - a) foreign-sourced dividends;
 - b) foreign branch profits;
 - c) income from any professional, consultancy or other services rendered through a fixed place of operation outside Singapore.

6. The conditions, as specified in section 13(9) of the ITA, are:
- a) income tax must have been paid in the foreign jurisdiction from which the foreign-sourced income is received (hereinafter referred to as the “subject to tax condition”);
 - b) at the time the foreign-sourced income is received in Singapore, the headline tax rate of the foreign jurisdiction from which the foreign-sourced income is received is not less than 15% (hereinafter referred to as the “foreign headline tax rate condition”); and
 - c) the Comptroller of Income Tax (“CIT”) is satisfied that the tax exemption would be beneficial to the person resident in Singapore.

NEW TAX TREATMENT FOR FOREIGN-SOURCED INCOME RECEIVED IN SINGAPORE FROM 22 JAN 2009 TO 21 JAN 2010

7. To help businesses make the best use of all their sources of funds, including prior years’ foreign-sourced income currently kept outside Singapore, to meet their business financing needs in Singapore during the current period of tight credit, the Minister for Finance has decided to make temporary changes to the current FSIE Scheme for specified resident taxpayers. These changes are:
- a) temporary expansion of the scope of the current FSIE Scheme under section 13(8) of the ITA to cover all foreign-sourced income accrued on or before 21 Jan 2009 and received in Singapore by specified resident taxpayers from 22 Jan 2009 to 21 Jan 2010 (both dates inclusive) (hereinafter referred to as “1-year exemption period);
 - b) temporary lifting of the “subject to tax” and “foreign headline tax rate” conditions specified in section 13(9) of the ITA for tax exemption of foreign-sourced income accrued on or before 21 Jan 2009 and received in Singapore by specified resident taxpayers during the 1-year exemption period.
8. The current rules laid down in the IRAS e-Tax Guides on “Tax exemption for foreign-sourced dividends, foreign branch profits and foreign-sourced service income” published on 21 May 2003 and 30 July 2004 will continue to apply for determining the source of such income under the temporarily liberalised FSIE Scheme.
9. With the temporarily liberalised FSIE Scheme, foreign-sourced incomes which are not covered by section 13(8) tax exemption, such as foreign interest, rental or royalty income, can now qualify for tax exemption provided the income was earned on or before 21 Jan 2009 and is received in Singapore by a specified resident taxpayer during the 1-year exemption period.

10. Income, including interest, rental or royalty income, which constitutes income of a trade or business carried on in Singapore, and therefore is Singapore-sourced income, is and will continue to be brought to tax in Singapore as and when the income arises, whether the funds comprising the income are received in Singapore or not.
11. To qualify for the income tax exemption under the temporarily liberalised FSIE Scheme, the foreign-sourced income must not have already been remitted or deemed remitted to Singapore on or before 21 Jan 2009 under section 10(25) of the ITA.

Date of accrual of income

12. When an item of income is considered to have accrued to a taxpayer has to be determined by reference to the specific facts and circumstances giving rise to the income. Generally, CIT will take guidance from considerations set out in the Financial Reporting Standard (“FRS”) 18 on revenue recognition for financial reporting purposes. CIT will continue to adopt this approach in determining whether an item of foreign-sourced income has accrued to a taxpayer in Singapore on or before 21 Jan 2009.
13. In the case of foreign-sourced dividend, CIT considers such dividend to have accrued to a taxpayer in Singapore on or before 21 Jan 2009 only if the dividend was actually paid by a non-resident company on or before 21 Jan 2009 to the taxpayer in Singapore. If the non-resident company merely proposes to pay a dividend and/or provides for the dividend payable in its financial accounts on or before 21 Jan 2009, CIT does not consider the taxpayer in Singapore as having derived a foreign-sourced dividend on or before 21 Jan 2009 under the temporarily liberalised FSIE Scheme.
14. In the case of dividends paid by non-resident companies which are substantially (more than 50% of the ordinary shares) and directly owned by specified resident taxpayers on 21 Jan 2009, the liberalised FSIE Scheme will also apply to dividends paid by these subsidiaries out of profits already accrued to them on or before 21 Jan 2009, as a concession. However, income tax exemption under the liberalised FSIE Scheme will only apply to dividends actually received in Singapore by specified resident taxpayers during the 1-year exemption period, and the dividends are paid out of revenue reserves accumulated up to 21 Jan 2009 by their directly-owned foreign subsidiaries. The example in Annex 1 illustrates this. Specified resident taxpayers who directly own 50% or less of the ordinary shares of non-resident companies as at 21 Jan 2009 may make application under section 13(12) of the ITA for tax exemption on the dividends to be received from such companies. The requirements for application for tax exemption under section 13(12) for this purpose are explained in paragraphs 23 and 24.

Deemed remittance

15. Section 10(25) of the ITA clarifies that foreign-sourced income is considered to have been received in Singapore if:
- a) the income is remitted to, transmitted or brought into, Singapore; or
 - b) the income is applied in or towards satisfaction of any debt incurred in respect of a trade or business carried on in Singapore; or
 - c) the income is applied to purchase any movable property which is brought into Singapore.
16. Accordingly, where an act by a specified resident taxpayer brings him within any of the circumstances mentioned above, the specified resident taxpayer is considered to have received the respective amount of foreign-sourced income in Singapore at the time of the act. Where the act occurs during the 1-year exemption period, tax exemption under the liberalised FSIE Scheme will apply to the respective amount of foreign-sourced income deemed received by him in Singapore.

Requirement to track funds kept outside Singapore

17. Currently, where a taxpayer has kept both foreign-sourced income and capital funds outside Singapore, CIT may accept, as an administrative concession, the taxpayer's claim that funds remitted by him to Singapore comprises solely capital funds under the following circumstances:
- a) the taxpayer provides an account of the funds from income and capital sources on the day before fund remittance and demonstrate that after the remittance, the funds remaining outside Singapore is not less than the accumulated foreign-sourced income which has yet to be remitted to Singapore; or
 - b) the taxpayer demonstrates that the amount of funds remitted is not more than the capital funds invested outside Singapore (net of any losses incurred on capital account)¹.
18. Taxpayers who have availed themselves of the above concession are not precluded from benefiting from the tax exemption granted under the liberalised FSIE Scheme by remitting their foreign-sourced income to Singapore during the 1-year exemption period. However, they are required to continue tracking their remittance of funds according to income or capital sources if they wish to continue availing themselves of the concession after 21 Jan 2010.

¹ Please refer to the e-Tax Guide on "Section 10(25) of the Singapore Income Tax Act – Interpretation and Practice" published on 28 Dec 1995 for more details of the concession.

Expenses incurred in respect of foreign-sourced income received

19. All expenses incurred in respect of any foreign-sourced income received in Singapore which qualifies for tax exemption shall be deductible only against that foreign-sourced income, and are not available for deduction against any other taxable income.

ADMINISTRATIVE PROCEDURES

20. To enjoy the tax exemption under the temporarily liberalised FSIE scheme, specified resident taxpayers are required to make a declaration in their income tax returns², giving the following information in the relevant section of a downloadable form (available on IRAS website):
- a) nature and quantum of foreign-sourced income;
 - b) date of receipt of foreign-sourced income in Singapore;
 - c) country from which the foreign-sourced income is received³;
 - d) name of payer and country of source³; and
 - e) use of the remitted income.
21. Specified resident taxpayers are required to maintain sufficient supporting documents to substantiate that the amount of foreign-sourced income accrued to them on or before 21 Jan 2009 (or in the case of dividends from their directly-owned foreign subsidiaries, that the dividends are paid out of income already accrued to the subsidiaries and formed part of the subsidiaries' accumulated revenue reserves on or before 21 Jan 2009) and are received by them in Singapore during the 1-year exemption period. The taxpayers do not have to submit the supporting documents when they file their income tax returns. They must however retain the documents and upon request, provide them to CIT for verification.

² For Singapore partnerships, the precedent partner is required to make the declaration in the tax return of the partnership (Form P).

³ For example, a taxpayer had previously deposited, into a bank account in Hong Kong, the dividend income it had derived from a company resident in China. And during the 1-year exemption period, it remits the dividend income sitting in the Hong Kong bank account to Singapore. The country from which the foreign dividend income is received is Hong Kong. The company in China is the payer of the dividend and the country of source is China.

CLAIM OF FOREIGN TAX CREDIT ON FOREIGN-SOURCED INCOME RECEIVED

22. Where CIT considers that the tax exemption under the temporarily liberalised FSIE Scheme is not beneficial to a specified resident taxpayer (e.g. the taxpayer should find it more beneficial to claim tax credit under the foreign tax relief system based on their circumstances), the taxpayer can continue to avail himself of relief for foreign tax paid on the foreign-sourced income by making such claim in his income tax return⁴.

APPLICATION FOR TAX EXEMPTION UNDER SECTION 13(12)

23. Specified resident taxpayers who directly own 50% or less of the ordinary shares of non-resident companies as at 21 Jan 2009 may apply for tax exemption under section 13(12) of the ITA on dividends they have yet to receive in Singapore. For this purpose, an applicant must be able to substantiate that the foreign dividends to be received in Singapore during the 1-year exemption period are paid out of profits already accrued to the dividend-paying company on or before 21 Jan 2009. To qualify for consideration of tax exemption under section 13(12), the applicant must make the application before the foreign dividend is received in Singapore.
24. Applicants must make their application using the prescribed application form at Annex 2. The prescribed form is downloadable from IRAS website at www.iras.gov.sg. The following supporting documents must be submitted together with the application form:
- a) documentary evidence which shows the applicant's percentage of ordinary share ownership in the foreign dividend-paying company before 22 Jan 2009 (e.g. a copy of the applicant's audited or certified accounts for the accounting year ending on or before 22 Jan 2009 which shows the investment in the foreign dividend-paying company);
 - b) copy of the foreign dividend-paying company's audited or certified accounts prepared for the accounting year ending before 22 Jan 2009 which shows the amount of accumulated revenue reserves which is available for distribution to shareholders before 22 Jan 2009;
 - c) documentary evidence which shows the foreign dividend-paying company has paid a dividend during the period from 22 Jan 2009 to 21 Jan 2010 out of, but not exceeding, the accumulated revenue reserves reflected in the accounts mentioned in (b) above; and

⁴ For Singapore partnerships, the claim for foreign tax relief may be made by writing to IRAS or reflecting the claim in the tax computation.

- d) documentary evidence (e.g. a notification of dividend payment by the foreign dividend-paying company) which shows the amount of foreign dividends payable to the applicant (the amount should not have been already remitted to Singapore at the time of application).

Application should be sent to:

The Comptroller of Income Tax
Inland Revenue Authority of Singapore
Tax Policy and Ruling Branch
55 Newton Road
Singapore 307987.

FOREIGN-SOURCED INCOME RECEIVED IN SINGAPORE AFTER 21 JAN 2010

- 25. Any foreign-sourced income received in Singapore on or after 22 Jan 2010 by specified resident taxpayers shall be subject to the current provisions in sections 13(8), 13(9) and 13(10) of the ITA.

ENQUIRIES

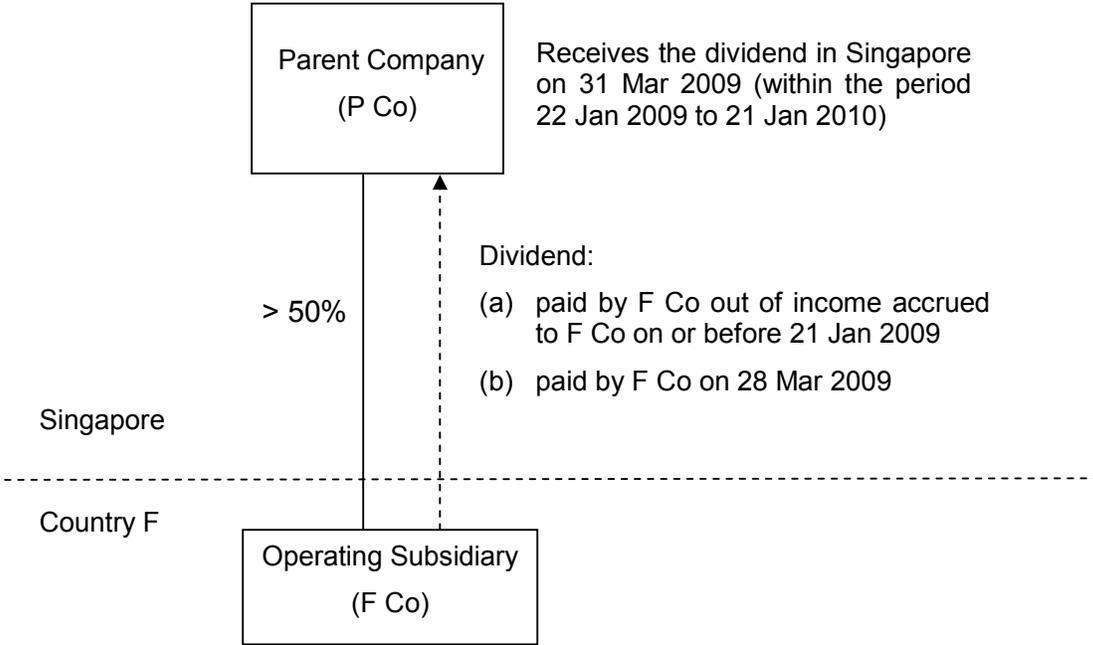
- 26. For any general enquiries or clarification on this Circular, please call:
 - a) 1800-3568622 (Corporate); or
 - b) 1800-3568611 (Individual).

Inland Revenue Authority of Singapore

INCOME ACCRUED ON OR BEFORE 21 JAN 2009 TO DIRECTLY-OWNED FOREIGN SUBSIDIARIES IS COVERED BY SCOPE OF THE TEMPORARILY LIBERALISED FSIE SCHEME

Example

Foreign-sourced dividends received by the parent company in Singapore (P Co) from its directly-owned foreign subsidiary in Country F (F Co) in the following situation can benefit from tax exemption granted under the temporarily liberalised FSIE Scheme provided P Co remits or is deemed to have remitted the dividends to Singapore during the period 22 Jan 2009 to 21 Jan 2010.



Application form

**Application for tax exemption
under section 13(12) of Income Tax Act
on foreign-sourced dividend
to be remitted to Singapore
from 22 Jan 2009 to 21 Jan 2010**

**Inland Revenue Authority of Singapore
(Tax Policy & Ruling Branch)
55 Newton Road
Singapore 307987**



INLAND REVENUE
AUTHORITY
OF SINGAPORE

INSTRUCTIONS

1. To assist us in evaluating your application expeditiously, please provide the information requested as completely as possible. If space is insufficient, a separate sheet may be used.
2. All information given will be held in the strictest confidence. Where information is not yet available or inapplicable, please indicate accordingly.
3. It may take you 10 minutes to fill up this form.
4. This application should be sent to:
The Comptroller of Income Tax
Inland Revenue Authority of Singapore
Tax Policy & Ruling Branch
55 Newton Road
Singapore 307987.

1. Particulars of Applicant:

Name	
Address	
Income Tax Reference No.	
Nature of business/activity	
Telephone No.	

2. Name and Address of contact person:

Name	
Designation	
Address	
Email Address for correspondence	
Telephone No.	

3. Particulars of holding/ultimate holding company of the Applicant (if applicable):

Name	
Address	
Income Tax Reference No.	
Nature of business/activity	

4. Particulars of foreign-sourced dividend to be received in Singapore

a	Name of foreign company paying dividend to applicant	
b	Address of foreign company	
c	Country in which the foreign company is a tax resident	
d	Nature of business/activities of the foreign company	
e	Percentage of shareholding held by the applicant in the foreign company as at 21 Jan 2009	
f	Total amount of dividend paid by foreign company and date of payment	
g	Amount of foreign dividend to be received by applicant in Singapore and expected date of receipt	
h	Expected use of the remitted foreign dividend	

5. Checklist of documents to be submitted

a	Document(s) to show that the applicant was a shareholder of the foreign company before 22 Jan 2009	Yes / No
b	Copy of the foreign company's statement of accounts for the year ended	Yes / No
c	Document(s) to show the amount of dividend paid by the foreign company	Yes / No
d	Document(s) to show the amount of foreign dividends to be received by the applicant in Singapore	Yes / No

6. Declaration

I declare that the particulars stated above and the accompanying information are true and correct to the best of my/our knowledge.

Authorised signature of applicant

Date

Full name and designation