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IRAS e-Tax Guide

Determining the Date of Payment or Deemed
Payment for the Purpose of Complying with
Withholding Tax Obligations



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1 Aim

1.1 This e-Tax guide¹ is to:

- (i) clarify what constitutes date of payment of income for the purpose of complying with the requirement to withhold or deduct tax under section 45 of the Singapore Income Tax Act (SITA), as well as under any other provisions with similar requirement, where the payment of income (other than director's fees²) is made or deemed to be made to a non-resident person; and
- (ii) provide details on withholding tax filing and payment due date as well as the applicable late payment penalties.

2 Background

2.1 Section 45 of the SITA provides that where a person is liable to pay to another person not known to him to be resident in Singapore (hereinafter referred to as "non-resident person") any interest which is chargeable to tax under the SITA, the person making the payment (hereinafter referred to as "payer") shall deduct therefrom tax at the appropriate rate on every dollar of the interest and shall immediately give notice of the deduction of tax in writing and pay to the Comptroller of Income Tax (CIT) the amount so deducted.

2.2 In a case where the interest liable to be paid is not actually paid over to the non-resident person but is "reinvested, accumulated, capitalised, carried to any reserve or credited to any account however designated or otherwise dealt with on behalf of the non-resident person", section 45(8)(b) of the SITA deems the interest as having been paid to the non-resident person on the date any of the above event occurs.

2.3 The withholding tax requirement is also applicable to the payment of royalties, management fees, director's remuneration, professional and other service fees etc. to a non-resident person, as provided under sections 45A, 45B, 45C, 45D, 45E, 45F, 45G, 45GA and 45H of the SITA.

¹ This e-Tax guide replaces the IRAS' e-Tax guide on "Clarification on Date of Payment of Income for the Purposes of Withholding Tax under Section 45 of the Singapore Income Tax Act and Changes to the Withholding Tax Regime Which Takes Effect From 1 April 2003" published on 31 Mar 2003.

² For director's fees, generally such fees accrue to director on the date the director's fees are voted and approved at the company's Annual General Meeting. For further details, please refer to e-Tax Guide "Tax Treatment of Director's Fees and Bonuses from Employment" dated 12 Sep 2014. The date used to determine when an individual becomes entitled to director's fees is also one of the considerations for the date of payment of fees to non-resident directors for the purpose of complying with withholding tax requirement under section 45B of the SITA.

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- 2.4 Pursuant to section 45(8)(b) of the SITA, withholding tax must be accounted for at the earliest of the following dates:
- a) when the liability to pay the income arises (i.e. the income is due and payable) in accordance with the terms of the agreement or contract. In the absence of an agreement or contract, the date of invoice (further explained in paragraphs 3.2 below) is regarded as the deemed date of payment;
 - b) when the income is credited to the account of the non-resident person (or reinvested, accumulated, capitalised or carried to any reserve or any other account however designated, or otherwise dealt with on his behalf); and
 - c) when actual payment of the income is made.

3 How to Determine Date of Payment for the Purpose of Complying with Withholding Tax Obligations

3.1 Date of payment of income where there is a contract or agreement

3.1.1 Where the date on which income is payable to a non-resident person is stipulated under any written contract or agreement, the date of payment of the income shall be the due and payable date as stipulated therein. For example, if the terms of the agreement provide that royalties at 5% of sales shall be payable to the non-resident person at the end of each quarter, the date of payment of the royalties for the purposes of section 45A of SITA is deemed to be the last day of each quarter.

3.1.2 However, if there is an additional condition in the agreement that royalty is only payable by Singapore payer upon demand by the non-resident person or voluntarily by Singapore payer, then the date of payment will not be the last day of each quarter. The date of payment will now be the date printed on the demand note from the non-resident person or the date voluntary payment is made by the Singapore payer. Similarly, allowable deduction under section 14(1)³ of SITA will also be given based on the date of demand note or voluntary payment date by the Singapore payer.

3.2 Date of payment of income where demand for payment is in the form of invoice

3.2.1 Where the date of payment of the income is not spelt out in any written contract or agreement, but instead the demand for payment of the

³ Section 14(1)(a) may be applicable if the payment is interest or in lieu of interest.

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income is by way of an invoice from the non-resident person, the date of payment is deemed to be the date as printed on the invoice.

3.2.2 Where the Singapore payer is given an extension of time by the non-resident person to make the payment, the deemed date of payment shall remain as the date printed on the invoice. This is because the payer's liability to pay arises on the date of the invoice and any credit terms extended to the payer are merely an arrangement made between the payer and payee to defer actual payment.

3.2.3 To illustrate, suppose a non-resident person issues an invoice dated 1 March to a Singapore payer for management fees in respect of services rendered by the former, and the Singapore payer receives the invoice on 5 March. Although a 30-day credit term is given to the payer and the Singapore payer makes actual payment on 15 March, the date as printed on the invoice (i.e. 1 March) shall be taken as the deemed date of payment of the fees.

3.3 Date of payment of income where there is an accrual in the payer's account

3.3.1 If the accrual is a mere accounting entry and the liability to pay the income has not arisen and no deduction is allowed under section 14(1) or 14(1)(a), withholding tax obligation will not arise solely due to the accrual.

3.3.2 To illustrate, assume that the Singapore payer's financial year end is 31 Oct and the interest payment is due on 31 Mar, 30 Jun, 30 Sep and 31 Dec respectively. For accounting purposes, the Singapore payer accrued the interest in the month of October for the financial year end 31 Oct 2021.

The interest for the month of October is not due until 31 Dec 2021, so the corresponding accrual will not be allowed as a deduction for the financial year end 31 Oct 2021 and withholding tax obligation will not arise on the date of accrual.

3.4 Date of payment of income where there is no physical pay over of cash

3.4.1 Using the example in para 3.3.2, assume that the non-resident person (Payee B) instructed the Singapore payer (Payer A) not to pay over the interest on 30 Sep 2021, but to credit it to a designated account. The withholding tax obligation arises on 30 Sep 2021 as interest is deemed paid.

3.4.2 Using the example in para 3.3.2, assume that Payee B decided to ask Payer A not to pay over the interest on 30 Sep 2021, but to pay Payee B's subsidiary company C to settle Payee B's outstanding liability with

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company C. The withholding tax obligation arises on 30 Sep 2021 as interest is deemed paid.

- 3.4.3 Using the example in para 3.3.2, assume that on 30 Sep 2021, Payee B obtained agreement from Payer A that the interest payable will be added to the principal loan amount. The withholding tax obligation arises on 30 Sep 2021 as interest is deemed paid.

4 Due Date to File and Pay Withholding Tax and Applicable Penalties

- 4.1 Payer is required to file⁴ and pay the tax withheld to CIT by the 15th of the second month from the date of payment of the income to a non-resident person.
- 4.2 A late payment penalty of 5% will be imposed⁵ if the withholding tax is not received by CIT by the due date. If the tax remains unpaid 30 days after the due date, an additional penalty of 1% may be imposed⁶ for each completed month that the tax remains unpaid, up to a maximum of 15% of the unpaid tax.

5 Contact Information

- 5.1 For any general enquiries or clarification on this e-Tax guide, please call IRAS at 1800-356 8622 (Corporate) or 1800-356 8300 (Individual). For any enquiries on payment and filing procedures relating to withholding tax, please call 6356 7012.

⁴ With effect from 1 Jul 2016, it is compulsory to file Withholding Tax electronically.

⁵ Under section 45(4)(a) of the SITA

⁶ Under section 45(4)(b) of the SITA