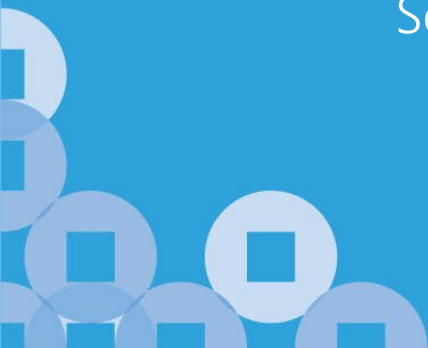




INLAND REVENUE
AUTHORITY
OF SINGAPORE

IRAS e-Tax Guide

Securities Lending and Repurchase Arrangements (Second Edition)



Securities Lending and Repurchase Arrangements

Published by
Inland Revenue Authority of Singapore

Published on 4 December 2024

First edition on 29 June 2012

Disclaimers: IRAS shall not be responsible or held accountable in any way for any damage, loss or expense whatsoever, arising directly or indirectly from any inaccuracy or incompleteness in the Contents of this e-Tax Guide, or errors or omissions in the transmission of the Contents. IRAS shall not be responsible or held accountable in any way for any decision made or action taken by you or any third party in reliance upon the Contents in this e-Tax Guide. This information aims to provide a better general understanding of taxpayers' tax obligations and is not intended to comprehensively address all possible tax issues that may arise. While every effort has been made to ensure that this information is consistent with existing law and practice, should there be any changes, IRAS reserves the right to vary its position accordingly.

© Inland Revenue Authority of Singapore

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

Table of Contents

| | | |
|----|---|----|
| 1 | Aim | 1 |
| 2 | At a glance | 1 |
| 3 | Glossary | 2 |
| 4 | Background | 6 |
| 5 | Qualifying securities lending and repo arrangements..... | 6 |
| 6 | Economic ownership..... | 7 |
| 7 | Tax treatment of gain/loss from transfer of securities or collateral under qualifying securities lending and repo arrangements | 8 |
| 8 | Tax treatment of actual distribution and compensatory payment arising from qualifying securities lending and repo arrangements | 12 |
| 9 | Tax treatment of other related payments..... | 17 |
| 10 | Administrative requirements | 17 |
| 11 | Contact information | 18 |
| 12 | Updates and Amendments | 19 |

1 Aim

- 1.1 This e-Tax Guide gives details on the income tax treatments and tax concessions of qualifying securities lending and repurchase (“repo”) arrangements under section 10H of the Income Tax Act 1947 (“ITA”).¹
- 1.2 It is relevant to any person who engages in securities lending and repo arrangements.

2 At a glance

- 2.1 When a person needs certain securities for the purpose of, say covering short sale, it can enter into a securities lending arrangement to borrow the securities. It is obliged to provide collateral and return the borrowed securities at a later date.
- 2.2 On the other hand, when a person has certain securities but needs cash, it can enter into a securities repo arrangement to sell the securities for cash with the agreement that the securities will be sold back to it at a later date.
- 2.3 Both arrangements involve transferring of ownership of the securities but only temporarily. If the arrangement is a qualifying arrangement, the person who originally owns the securities will not be treated as having sold the securities.
- 2.4 Briefly, this is the tax position for qualifying arrangements:

| | Securities lending arrangement | | Securities repo arrangement | |
|---|--------------------------------|------------------|-----------------------------|------------------|
| | Lender | Borrower | Seller | Buyer |
| Is the gain/ loss arising from transfer of securities taxable/ deductible? | No | Yes ² | No | Yes ² |
| Is the distribution in respect of the transferred securities subject to tax if it is not exempt from tax? | Yes | No | Yes | No |

- 2.5 Please refer to the paragraphs below for further details.

¹ This e-Tax Guide replaces the IRAS e-Tax Guide on “IRAS Guide on Securities Lending and Repurchase (“REPO”) Arrangement” published on 23 November 2001.

² When the transfer is made by the person in the normal course of its trade or business.

3 Glossary

3.1 Borrowing fee

This is a fee payable by a borrower to a lender under a securities lending arrangement for the use of the borrowed securities.

3.2 Compensatory payments

These refer to payments made by the transferee to the transferor which are of equal value to the distributions made in respect of the transferred securities or collateral that the transferee never receives.

3.3 Distribution

This includes the distribution of any income paid under the transferred securities or collateral to the holder of the transferred securities or collateral.

3.4 Equivalent securities

Equivalent securities (including securities used as collateral) are securities which are identical in type, nominal value, description and amount to the transferred securities and collateral.

However, certain corporate events may make it impossible for the transferee to return equivalent securities to the transferor. In such situations, the equivalent securities will mean:

| S/N | Corporate events affecting transferred securities or collateral | Equivalent securities |
|-------|---|---|
| (i) | Conversion, sub-division or consolidation | Securities into which the transferred securities or collateral have been converted, sub-divided or consolidated |
| (ii) | Redemption | Proceeds from the redemption of transferred securities or collateral |
| (iii) | Takeover | Cash or securities representing the proceeds of acceptances |
| (iv) | Call on partly-paid securities | Paid-up securities (provided the transferor has paid to the transferee the sum due on the call) |
| (v) | Bonus issue | Transferred securities or collateral together with the securities allotted by way of bonus |

| S/N | Corporate events affecting transferred securities or collateral | Equivalent securities |
|--------|--|--|
| (vi) | Rights issue | <ul style="list-style-type: none"> • Transferred securities or collateral together with the securities allotted, where the transferor has directed the transferee to take up the rights issue and has paid to the transferee any sum due on the issue; or • Transferred securities or collateral together with the proceeds from the disposal of the rights, where the transferor has directed the transferee to sell the rights |
| (vii) | Distributions in the form of securities or a certificate which may be exchanged for securities or an entitlement to acquire securities | Transferred securities or collateral together with the securities or certificate or entitlement equivalent to those allotted |
| (viii) | Any event similar to (vii) above | Transferred securities or collateral together with or replaced by a sum of money or securities equivalent to that received in respect of such event |

3.5 **Loan rebate fee**

This is a fee payable by a lender to a borrower when the borrower provides cash collateral to the lender for the transferred securities under a securities lending arrangement.

3.6 **Price differential**

This is generally the difference between the sale and repurchase price under a securities repo arrangement and is payable by the seller to the buyer.

3.7 **Securities lending arrangement**

This is an arrangement where a person (“lender”) lends its securities to another (“borrower”) in exchange for collateral. The borrower is obliged to return the transferred securities or their equivalent to the lender, either on the lender’s demand or within the period of the arrangement. When the lender receives the transferred securities or their equivalent, it returns the transferred collateral or its equivalent to the borrower.

Under the arrangement, the lender transfers the legal ownership of the securities to the borrower. However, it retains the economic ownership of the transferred securities. Please refer to paragraph 6 on the definition of economic ownership.

The collateral provided by the borrower can be cash or other securities. Like the lender, the borrower also transfers the legal ownership of the collateral to the lender but retains the economic ownership of the transferred collateral.

A securities lending arrangement is usually initiated by the borrower to cover a short sale, fail trade or other settlement or for market arbitrage or hedging activity.

3.8 Securities repo arrangement

This is an arrangement where a person (“seller”) sells its securities to another (“buyer”) for cash and the buyer agrees to sell back the transferred securities or their equivalent at a specified price on an agreed future date or on the seller’s demand.

Under the arrangement, the seller transfers the legal ownership of the securities to the buyer but retains the economic ownership of the transferred securities. Please refer to paragraph 6 on the definition of economic ownership.

A securities repo arrangement is usually initiated by the seller who has the securities but needs cash.

3.9 Singapore-based transferee

A Singapore-based transferee means a transferee:

- (i) who is resident in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore); or
- (ii) who is not resident in Singapore but enters into the securities lending or repurchase arrangement through a permanent establishment in Singapore or for the purpose of a business carried on through a permanent establishment in Singapore.

3.10 Singapore-based transferor

A Singapore-based transferor means a transferor:

- (i) who is resident in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore); or

- (ii) who is not resident in Singapore but enters into the securities lending or repurchase arrangement through a permanent establishment in Singapore or for the purpose of a business carried on through a permanent establishment in Singapore.

3.11 **Transferee**

This refers to a person who receives the transferred securities or collateral. It, therefore, includes:

- (i) the borrower who receives transferred securities under a securities lending arrangement;
- (ii) the lender who receives the transferred collateral under a securities lending arrangement; and
- (iii) the buyer who receives the transferred securities under a securities repo arrangement.

3.12 **Transferor**

This refers to a person who transfers the securities (including securities used as collateral) to another person. It, therefore, includes:

- (i) the lender who lends the transferred securities under a securities lending arrangement;
- (ii) the borrower who provides the transferred collateral under a securities lending arrangement; and
- (iii) the seller who sells the transferred securities under a securities repo arrangement.

3.13 **Transferred collateral**

These are securities which the borrower passes over to the lender as collateral under a securities lending arrangement.

3.14 **Transferred securities**

These are securities which the lender passes over to the borrower under a securities lending arrangement or seller passes over to the buyer under a securities repo arrangement.

4 Background

- 4.1 A securities lending arrangement involves a lender and a borrower of securities. The lender would transfer the securities to the borrower. In return, the borrower would transfer cash or securities as collateral to the lender. When the borrower subsequently returns the transferred securities or their equivalent to the lender, the lender will return the transferred collateral or its equivalent to the borrower³.
- 4.2 In a securities repo arrangement, the seller sells the securities to a buyer for cash with an agreement that the buyer would sell back the transferred securities or their equivalent to the seller³ at a later date.
- 4.3 Both securities lending and repo arrangements, therefore, require the transfer of securities or collateral (“transferred securities or collateral”) and the subsequent return of the transferred securities or collateral or their equivalent (“equivalent securities”).
- 4.4 Under the arrangements, legal titles change hands although the transferor continues to retain the economic ownership of the transferred securities or collateral.
- 4.5 Based on ordinary tax rules, the gain or loss arising from the securities lending and repo arrangements is taxable or allowable in the hands of the transferor and transferee at each transfer if it is derived in the normal course of a business or trade.

5 Qualifying securities lending and repo arrangements

- 5.1 If the securities lending and repo arrangements were qualifying arrangements, instead of applying the general tax position, including that in paragraph 4.5, the tax treatment and concessions explained in paragraphs 7 and 8 would apply. These tax treatment and concessions apply to qualifying securities lending and repo arrangements entered into on or after 23 November 2001.
- 5.2 Securities lending and repo arrangements are treated as qualifying arrangements when the following conditions are satisfied:
- (i) the transferred securities or collateral do not involve stocks or shares of unlisted Singapore resident companies; and

³ In this e-Tax Guide:

- The lender who lends the securities, the borrower who provides the collateral and the seller of the securities are collectively referred to as transferors.
- The borrower who receives the securities, the lender who receives the collateral and the buyer of the securities are collectively referred to as transferees.

Please refer to paragraphs 3.11 and 3.12 of the glossary.

- (ii) the transferor continues to bear the risks and retains the economic ownership of the transferred securities or collateral during the period of the securities lending or repo arrangement although the legal titles are passed to the transferee. Please refer to paragraph 6 on the definition of economic ownership.

5.3 With effect from 27 November 2024 (“effective date”), the scope of qualifying securities lending and repo arrangements is expanded by removing the condition mentioned in paragraph 5.2(i). This means that there will no longer be any restriction on the types of securities⁴ that can be transferred under a qualifying securities lending and repo arrangement. The tax treatment of all distribution income from transferred securities or collateral will also be aligned with that for dividend and interest income.

6 Economic ownership

6.1 The requirements for economic ownership are not limited to the transferor’s entitlement to the distributions on the transferred securities or collateral. The transferor is considered to have retained the economic ownership of the transferred securities or collateral if the following elements are present in a securities lending or repo arrangement:

| S/N | Factors | Conditions |
|-------|--|---|
| (i) | Structure of arrangement | It must be documented in writing. |
| (ii) | Risks and rewards of the transferred securities or collateral | The transferor must continue to assume the risks and retain the rewards, including the return of transferred or equivalent securities by the transferee. |
| (iii) | Distributions on the transferred securities or collateral | The transferee must pass on the distributions on the transferred securities or collateral or make compensatory payments of equal value to the transferor. Please see details on distributions and compensatory payments in paragraph 8. |
| (iv) | Right to receive any part of the total consideration payable under | Transferor must not dispose of such right. |

⁴ Examples of securities that can be transferred under a qualifying securities lending and repo arrangement include stocks and shares of companies, units in real estate investment trusts (“REITs”), exchange-trade funds (“ETFs”), business trusts and depository receipts.

| S/N | Factors | Conditions |
|------|---|--|
| | the securities lending or repo arrangement | |
| (v) | Arm's length consideration | Transferor and transferee must transact on arm's length basis and not enter into the arrangement with a view to avoid, reduce or defer Singapore tax. |
| (vi) | Transferee's reasons for acquiring the securities | <p>The transferee must acquire the securities for one or more of the following acceptable commercial reasons:</p> <ul style="list-style-type: none"> • To settle a sale of securities • To replace the securities obtained under an earlier securities lending or repo arrangement • To on-lend the transferred securities to another person • To fulfil obligations of an uncovered written option position • To hedge and arbitrage • To manage liquidity through repo arrangement • To hold the transferred securities as collateral against the obligations of the counterparty to the securities lending or repo arrangement • Such other purposes as the Minister (or such person as the Minister may appoint) may allow |

7 Tax treatment of gain/loss from transfer of securities or collateral under qualifying securities lending and repo arrangements

Tax treatment for transferor

- 7.1 Under a qualifying securities lending or repo arrangement, the transferor retains economic ownership of the transferred securities or collateral. The transferor only temporarily allows the transferee to use the transferred securities or collateral.
- 7.2 Accordingly, for income tax purposes, no gain or loss will be recognised when:
- (i) the transferor transfers the transferred securities or collateral to the transferee. Such transfer is not regarded as a disposal of the securities or collateral by the transferor; and

- (ii) the transferee subsequently re-transfers the equivalent securities to the transferor. Such re-transfer is not regarded as a re-acquisition of the securities by the transferor.

7.3 There is no specific maximum period imposed on a securities lending or repo arrangement to qualify for this tax treatment.

7.4 However, when an actual disposal takes place, the transferor has to recognise the gain or loss. Actual disposal can arise under these situations:

| S/N | Event which takes place after the transfer of securities or collateral | When is transferor regarded as making an actual disposal? |
|-------|---|---|
| (i) | Redeems the transferred securities | At the time of redemption |
| (ii) | Transferor directs the transferee to accept the take-over offer | At the time the take-over offer is due for acceptance |
| (iii) | Transferor instructs the transferee to sell the transferred securities to the issuer | At the time the sale to issuer occurs |
| (iv) | Either the transferor or transferee defaults and the securities lending or repo arrangement is terminated | <p>Equivalent securities may not be returned but the obligations of both transferor and transferee are set off against each other.</p> <p>The transferor will be regarded as having disposed of the transferred securities in consideration of the collateral at the time the securities lending or repo arrangement is terminated.</p> <p>The transferor will, however, not be regarded as having disposed of the transferred securities or collateral if at the time the transferee defaults, the transferor immediately applies the collateral placed by the transferee to re-acquire securities equivalent to the transferred securities.</p> |
| (v) | Event such as those under 3.4(vii) and 3.4(viii) | Parties involved should seek clarification from the Comptroller of Income Tax on how such cases should be treated for income tax purposes. |

7.5 The gain or loss from the actual disposal is taxable or deductible if the transferor carries on the transactions in the normal course of its trade or business.

7.6 In addition, for any transfer of foreign securities (including securities used as collateral) under any securities lending and repo arrangement that occurs on or after 1 January 2024, any gain arising from the arrangement will be treated as income chargeable to tax under section 10(1)(g) of the ITA, if the transfer falls within the scope of section 10L of the ITA.

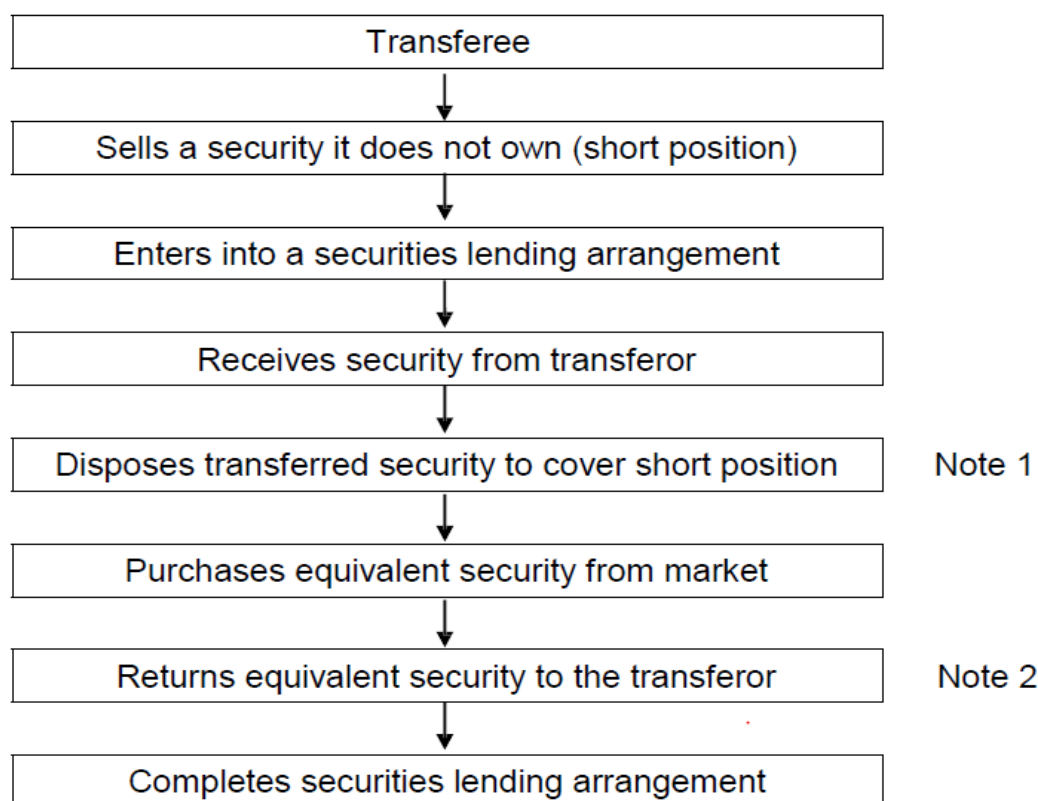
Tax treatment for transferee

7.7 A transferee may make a gain or loss from:

- (i) selling the transferred securities or collateral to another person other than the transferor; and
- (ii) returning the equivalent securities to the transferor subsequently.

The gain or loss is taxable or allowable if the transferee carries on these transactions in the normal course of its trade or business.

7.8 The illustration below shows when the gain or loss arising from the transferee's short selling will be recognised for income tax purposes:



Note 1: The transferee is to recognise the gain or loss when it disposes of the transferred securities to another person other than the transferor to cover its short position.

Note 2: The transferee is to recognise the gain or loss when it returns the equivalent securities to the transferor.

7.9 The securities lending and repo arrangement can be terminated under the various events described in paragraph 7.4. As such, the transferee may not be able to purchase from the market and return the equivalent securities to the transferor. When such event takes place, the transferee is deemed to have returned the equivalent securities to the transferor and completed the arrangement. Consequently, the transferee is required to recognise the gain or loss.

7.10 In calculating the gain or loss, the transferee must first determine the market value of the transferred securities at the time he borrows them. This market value is then used as the cost of the transferred securities and the sale price of equivalent securities.

7.11 Below is an example on a step-by-step computation of the gain or loss under a securities lending arrangement for a transferee with accounting year ending on 31 December:

| | Date of transaction | Transaction price or market value of securities, as the case may be |
|---|---------------------|--|
| Transferee short sells securities it does not own | 29 December 2022 | \$20,000 (A) (consideration received from short sale) |
| Transferee borrows transferred securities to cover short position | 31 December 2022 | \$10,000 ⁵ (B) (market value of transferred securities at date of borrowing) |
| Transferee buys equivalent securities from the market to return to the transferor | 1 July 2023 | \$15,000 (C) (purchase cost of equivalent securities) |

The securities lending arrangement is completed on 1 July 2023 when the transferee returns the equivalent securities to the transferor.

⁵ The market value of the transferred securities at the time of the transfer, which is \$10,000, is taken as the cost of the transferred securities and the sale price of the equivalent securities.

Year of Assessment 2023 – Deemed gain on short sale (29 December 2022)

$$\begin{aligned} &= A - B \\ &= \$20,000 - \$10,000 \\ &= \underline{\underline{\$10,000}} \end{aligned}$$

Year of Assessment 2024 – Actual loss when transferee buys equivalent securities from market to return to transferor (1 July 2023)

$$\begin{aligned} &= B - C \\ &= \$10,000 - \$15,000 \\ &= \underline{\underline{\$(5,000)}} \end{aligned}$$

Overall net gain for transferee over two accounting years

$$\begin{aligned} &= \$10,000 - \$5,000 \\ &= \underline{\underline{\$5,000}} \end{aligned}$$

8 Tax treatment of actual distribution and compensatory payment arising from qualifying securities lending and repo arrangements

8.1 In order for a transferor to be considered as the economic owner of the transferred securities or collateral under a qualifying securities lending or repo arrangement, when a distribution is made in respect of the transferred securities or collateral, the transferee has to:

- (i) pass on such distribution to the transferor if the transferee receives the distribution; or
- (ii) make a payment of equal value to the distribution to the transferor if the transferee does not receive the distribution (“compensatory payment”).

8.2 This requirement is consistent with the terms of standard market agreements such as Global Master Securities Lending Agreement, Overseas Securities Lender’s Agreement and Global Master Repurchase Agreement.

8.3 However, in order not to prevent or discourage the buy/sell trades in repo markets where compensatory payments are not made, the transferee is not required to make compensatory payment if the repo arrangement relates to Singapore Government Securities⁶, qualifying debt securities⁷ and foreign debt securities⁸.

8.4 The tax treatment of actual distribution and compensatory payment is explained in the following paragraphs.

⁶ “Singapore Government securities” has the same meaning as in section 43H(4) of the ITA.

⁷ “Qualifying debt securities” has the same meaning as in section 13(16) of the ITA.

⁸ “Foreign debt securities” has the same meaning as in section 10H(12) of the ITA.

Tax treatment of actual distribution passed on by transferee

- 8.5 When an actual distribution in respect of the transferred securities or collateral in the hands of a Singapore-based transferee is passed on by the transferee to a transferor, the Singapore-based transferee —
- (i) will not be taxed on the actual distribution received in respect of the transferred securities or collateral;
 - (ii) will not be allowed a deduction for the passing on of the distribution to the transferor;
 - (iii) is not entitled to any tax credit for any foreign tax suffered on an actual distribution received outside Singapore; and
 - (iv) must withhold and pay the withheld tax to IRAS when passing on an actual distribution to any non-resident non Singapore-based transferor if the distribution is in respect of transferred securities or collateral that are any of the following:
 - (a) debt securities (other than qualifying debt securities)⁹;
 - (b) units of a REIT or an approved REIT ETF¹⁰.
- 8.6 Instead, the transferor (or the ultimate transferor in a chain) is regarded as the recipient of the actual distribution made in respect of the transferred securities or collateral. As such, the transferor will be taxed on the distribution passed on by the transferee to it as follows:

| Transferee | Transferor | Tax treatment of distribution in the hands of transferor |
|----------------------------|----------------------------|--|
| Singapore-based transferee | Singapore-based transferor | <p>All distributions must be included in the transferor's statutory income of the year in which the actual distribution is made to the transferee.</p> <p>The distribution will be taxed at the same tax rate (including tax exemption) that would have applied to the distribution as if the actual distribution had been made to the transferor.</p> |

⁹ Please refer to section 45 of the ITA for the applicable withholding tax rate. However, the Singapore-based transferee does not need to account for withholding tax if the transferee is a financial institution specified in Part II of the Schedule ("specified institution") of the Income Tax (Exemption of Interest and Other Payments for Economic and Technological Development) (No. 3) Notification 2003 (G.N. No. S 500/2003).

¹⁰ Please refer to section 45G of the ITA for the applicable withholding tax rate.

| Transferee | Transferor | Tax treatment of distribution in the hands of transferor |
|--------------------------------|--------------------------------|---|
| | | <p>A transferor resident in Singapore may submit relevant receipts to claim a tax credit for the actual foreign tax suffered by a Singapore-based transferee on the actual distribution received outside Singapore.</p> |
| Singapore-based transferee | Non Singapore-based transferor | <ul style="list-style-type: none"> • Any distribution of interest (other than interest derived from qualifying debt securities) in transferred securities or collateral; or • any distribution in respect of transferred securities or collaterals that are units of a REIT or an approved REIT ETF, <p>is subject to withholding tax¹¹, unless tax exemption¹² or waiver of the obligation to withhold tax is granted.</p> |
| Non Singapore-based transferee | Singapore-based transferor | <p>All distributions will be regarded as separate and distinct foreign income¹³. Hence, such income will be taxed on an arising basis (in the following two situations) or on a remittance basis (in all other situations), in accordance with Singapore tax rules.</p> <p>(i) The transferred securities or collateral are local securities.</p> <p>(ii) The Singapore-based transferor is a financial institution or a person who carries on a trade or business of sale and purchase of securities. This is regardless whether the transferred securities or collateral are foreign securities.</p> |

¹¹ A Singapore-based transferee must withhold and pay the withheld tax to IRAS in accordance with section 45 or section 45G (as the case may be) when passing on the distribution to a non-resident non Singapore-based transferor.

¹² Please refer to the Income Tax (Exemption of Interest and Other Payments for Economic and Technological Development) (No.3) Notification 2003 (G.N. No. S 500/2003).

¹³ That is, a Singapore-based transferor will not be taxed on the distribution passed on by a non Singapore-based transferee at the same tax rate that would have applied to the distribution had it been made directly to the transferor, unlike the case of an actual distribution passed on by a Singapore-based transferee to a Singapore-based transferor.

| Transferee | Transferor | Tax treatment of distribution in the hands of transferor |
|--------------------------------|--------------------------------|---|
| | | Similar to the case of an actual distribution that is passed on by a Singapore-based transferee to a Singapore-based transferor, a transferor resident in Singapore may submit relevant receipts to claim a tax credit for the actual foreign tax suffered by the Singapore-based transferee on the actual distribution received outside Singapore. |
| Non Singapore-based transferee | Non Singapore-based transferor | Not applicable |

Tax treatment of compensatory payment made by transferee

- 8.7 A transferee may not always hold the transferred securities or collateral for the entire period of the securities lending or repo arrangement. The transferee could have delivered them to meet its short selling obligation. The transferee could have also transferred them under another securities lending or repo arrangement.
- 8.8 As such, the transferee could not have received any actual distributions on the transferred securities or collateral. However, the transferee should still make a compensatory payment to the transferor. The transferee will be allowed a deduction for such payment if it is a revenue expense wholly and exclusively incurred in the production of the transferee's income.
- 8.9 The transferor, on the other hand, will be taxed on the compensatory payment as follows:

| Transferee | Transferor | Tax treatment of compensatory payment in the hands of transferor |
|----------------------------|----------------------------|--|
| Singapore-based transferee | Singapore-based transferor | All compensatory payments (in place of any distribution in respect of transferred securities or collateral) will be taxed at the same tax rate (including tax exemption) that would have applied to the distribution had it been made directly to the transferor. Where a compensatory payment is in place of any distribution derived from outside Singapore, no tax credit will be allowed to a transferor resident in Singapore as no actual |

| Transferee | Transferor | Tax treatment of compensatory payment in the hands of transferor |
|--------------------------------|--------------------------------|--|
| | | foreign tax had been suffered by the transferee ¹⁴ . |
| Singapore-based transferee | Non Singapore-based transferor | <p>Any compensatory payment in place of :</p> <ul style="list-style-type: none"> • any distribution of income derived from outside Singapore; • any distribution of interest (other than interest derived from qualifying debt securities); • any distribution of any other income that is not exempt from tax; or • any distribution in respect of transferred securities or collaterals that are units of a REIT or an approved REIT ETF, <p>is subject to withholding tax¹⁵, unless tax exemption¹⁶ or waiver of the obligation to withhold tax is granted.</p> |
| Non Singapore-based transferee | Singapore-based transferor | <p>All compensatory payments will be regarded as separate and distinct foreign income¹⁷. Hence, such income will be taxed on an arising basis (in the following two situations) or on a remittance basis (in all other situations), in accordance with Singapore tax rules.</p> <p>(i) The transferred securities or collateral are local securities.</p> <p>(ii) The Singapore-based transferor is a financial institution or a person who carries on a trade or business of sale and</p> |

¹⁴ This is unlike the case of an actual distribution received outside Singapore in the hands of a Singapore-based transferee which is passed on by the transferee to a transferor resident in Singapore.

¹⁵ A Singapore-based transferee must withhold and pay the withheld tax to IRAS in accordance with section 45 or section 45G (as the case may be) when making the compensatory payment to a non-resident non Singapore-based transferor.

¹⁶ Please refer to the Income Tax (Exemption of Interest and Other Payments for Economic and Technological Development) (No.3) Notification 2003 (G.N. No. S 500/2003).

¹⁷ That is, the Singapore-based transferor will not be taxed on the compensatory payment (in place of any distribution in respect of transferred securities or collateral) made by a non Singapore-based transferee at the same tax rate that would have applied to the distribution had it been made directly to the transferor, unlike the case of a compensatory payment made by a Singapore-based transferee to a Singapore-based transferor.

| Transferee | Transferor | Tax treatment of compensatory payment in the hands of transferor |
|--------------------------------|--------------------------------|--|
| | | <p>purchase of securities. This is regardless of whether the transferred securities or collateral are foreign securities.</p> <p>Similar to the case of a compensatory payment made by a Singapore-based transferee to a Singapore-based transferor, no tax credit will be allowed to a transferor resident in Singapore as no actual foreign tax had been suffered by the transferee.</p> |
| Non Singapore-based transferee | Non Singapore-based transferor | Not applicable. |

9 Tax treatment of other related payments

- 9.1 Where the borrowing fee, loan rebate fee, price differential or interest payment derived from collateral¹⁸ is borne directly or indirectly by a resident of or permanent establishment in Singapore or is deductible against any income accruing in or derived from Singapore, they would be deemed to be derived from Singapore and hence, subject to Singapore tax.
- 9.2 Singapore withholding tax is applicable if the borrowing fee, loan rebate fee, price differential or interest payment derived from collateral are payable or paid to non-resident transferor or transferee, unless tax exemption¹⁹ or waiver of obligation to withhold tax is granted.
- 9.3 The deductibility of the borrowing fee, loan rebate fee, price differential or interest payment derived from collateral is subject to the existing tax rules.

10 Administrative requirements

- 10.1 The transferor and transferee, or their agent, have to maintain proper records of the securities lending or repo arrangement. Such records include documents showing distributions passed on, compensatory payments made,

¹⁸ The interest payment refers to interest derived by a financial institution from moneys obtained from the cash collateral that is placed by a person under qualifying securities lending and repurchase agreements entered with the financial institution and is held on as a deposit in a bank in Singapore.

¹⁹ Please refer to the Income Tax (Exemption of interest and other payments for economic and technological development) (No.3) Notification 2003 (G.N. No. S S500/2003).

economic ownership remains with the transferor, etc. The records are to be retained for a period of 5 years. Upon request, transferor, transferee or its agent is to submit full particulars of such records to Comptroller of Income Tax.

11 Contact information

- 11.1 If you have any enquiries or need clarification on this e-Tax Guide, please call 1800-356 8622.

12 Updates and Amendments

| S/N | Date of amendment | Amendments made |
|-----|-------------------|---|
| 1 | 29 June 2012 | <p>Updated the example in paragraph 11 of the original e-Tax guide on the transferee's short sale transaction that straddles two accounting years with current dates (see paragraph 7.10).</p> <p>Paragraphs 13 and 16 of the original e-Tax guide on exemption of withholding tax for borrowing fee, loan rebate fee and price differential have been replaced with the applicable gazette order under section 13(4) in footnote 10.</p> <p>Paragraph 30 of the original e-Tax guide on exemption of withholding tax for pure manufactured payment has been replaced with the applicable gazette order under section 13(4) in footnote 9.</p> <p>The terms "manufactured payment" or "pure manufactured payment" in paragraph 18 onwards of the original e-Tax guide have been replaced with "distribution" and "compensatory payment" to be consistent with S10N of ITA.</p> <p>Paragraphs 21 to 23 and 25 and Appendices C to G of the original e-Tax guide in respect of the following have been removed as they are no longer relevant with the introduction of one-tier corporate tax system:</p> <ul style="list-style-type: none"> • administrative procedure for passing on of Singapore dividends and related tax credits; • giving notice to Central Depository (Pte) Ltd or relevant Depository Agents for passing on Singapore dividends and related tax credits; and • failure to give such notice. <p>Paragraphs 14, 17 and 31 and Appendix A of the original e-Tax guide on tax treatment of borrowing fee, loan rebate fee, price differential and manufactured payment have been removed. The summarised tax position is now in paragraph 9 or Annexes 1 to 3.</p> |

| S/N | Date of amendment | Amendments made |
|-----|-------------------|---|
| | | <p>Appendix B of the original e-Tax guide on tax treatment of manufactured and pure manufactured payments has been updated and replaced with Annexes 1 to 3.</p> |
| 2 | 4 December 2024 | <ul style="list-style-type: none"> • Updated the short title of the ITA based on the 2020 Revised Edition of the ITA as well as the references made to sections 10N and 43N to sections 10H and 43H respectively as the provisions have been renumbered in the 2020 Revised Edition of the ITA. • Amended paragraphs 2.4, 3.2 and 8.1 as well as inserted paragraphs 3.3 and 5.3 and footnote 4 to reflect the following updates: <ul style="list-style-type: none"> – Expanded scope of qualifying securities lending and repo arrangements for arrangements that are entered into with effect from 27 November 2024. – New definition of “distribution” in section 10H(12) of the ITA in view of the expanded scope of qualifying securities lending and repo arrangements. – Remove the mention of dividend and interest in view of the expanded scope of qualifying securities lending and repo arrangements. • Amended S/N (v) of the table at renumbered paragraph 3.4 to update the term “Capitalisation issue” to “Bonus issue” to align the term with that in paragraph (e) of the definition of “equivalent securities” in section 10H(12) of the ITA. • Amended renumbered paragraph 3.9 to align the definition of “Singapore-based transferee” with that in section 10H(12) of the ITA. • Amended renumbered paragraph 3.10 to align the wordings with those in renumbered paragraph 3.9. • Added paragraph 7.6 to clarify that any gain arising from any transfer of foreign securities |

| S/N | Date of amendment | Amendments made |
|-----|-------------------|---|
| | | <p>under any securities lending or repo arrangement that occurs on or after 1 January 2024 will be treated as income chargeable to tax under section 10(1)(g) of the ITA, if the transfer falls within the scope of section 10L of the ITA.</p> <ul style="list-style-type: none"> • Amended S/N (iii) of the table at renumbered paragraph 7.4 and renumbered paragraph 7.7 to remove references to provisions in the ITA that were repealed. • Amended renumbered paragraph 7.11 to update the examples to more recent years. • Amended paragraphs 8.5 and inserted footnotes 9 and 10 to provide greater clarity regarding the tax treatment of actual distribution in the hands of a Singapore-based transferee and the requirement to withhold tax on any distribution in respect of transferred securities or collateral that are units of a REIT or an approved REIT ETF. • Combined and amended paragraphs 8.6 and 8.7 into renumbered paragraph 8.6, amended table at renumbered paragraph 8.9, inserted footnotes 11 to 15 and 17, and deleted Annexes 1 to 3 to provide greater clarity regarding: <ul style="list-style-type: none"> - Tax treatment of actual distribution in the hands of transferor; and - Tax treatment of compensatory payment in the hands of transferor. • Amended paragraphs 9.1 to 9.3 and inserted footnote 18 to clarify interest payment derived from collateral is one of the other related payments under which the tax treatments mentioned in paragraph 9 would apply. • Other editorial changes to various paragraphs, footnotes and renumbering of paragraphs. |