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IRAS e-Tax Guide

Tax Exemption for Foreign-Sourced Income (Fourth Edition)



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1 Aim

- 1.1 This e-Tax Guide provides details on the tax exemption for certain foreign-sourced income from 1 Jun 2003 under the foreign-sourced income exemption (FSIE) scheme. This e-Tax guide consolidates the three e-Tax guides issued previously¹ on the FSIE scheme.
- 1.2 It applies to all Singapore tax resident persons receiving foreign-sourced income in Singapore.

2 At a glance

- 2.1 Under the FSIE scheme, foreign-sourced dividends, foreign branch profits and foreign-sourced service income received by specified resident taxpayers from 1 Jun 2003 are exempt from tax if the following qualifying conditions are met:
- a. "Subject to tax" condition;
 - b. "Foreign headline tax rate of at least 15%" condition; and
 - c. "Beneficial tax exemption" condition.
- 2.2 From 1 Jan 2004, all foreign-sourced income received in Singapore by resident individuals, except those received through a Singapore partnership, will be exempt from tax where the Comptroller is satisfied that the exemption will be beneficial to them.

¹ IRAS circulars on tax exemption for foreign-sourced dividends, foreign branch profits and foreign-sourced service income:

- Main circular published on 21 May 2003
- Two supplementary circulars published on 30 Jul 2004 and 31 May 2006

2.3 The FSIE scheme is summarised in the following table:

<p>Resident individuals (income <u>not</u> received through a partnership in Singapore)</p>	<p>Specified foreign income remitted into Singapore from 1 Jun 2003 to 31 Dec 2003 (both dates inclusive) are exempt from tax under S13(8)* subject to qualifying conditions.</p> <p>All foreign-sourced income remitted into Singapore from 1 Jan 2004 are exempt from tax under S13(7A)(b)* subject to the “beneficial tax exemption” condition.</p>
<p>Resident individuals (income received through a partnership in Singapore)</p>	<p>Specified foreign income remitted into Singapore from 1 Jun 2003 are exempt from tax under S13(8)* subject to qualifying conditions**.</p>
<p>Resident persons other than individuals</p>	

* Sections of the Income Tax Act 1947 (ITA).

** All qualifying conditions were temporarily lifted for foreign income accrued before 22 Jan 2009 and remitted into Singapore from 22 Jan 2009 to 21 Jan 2010, except for the “beneficial tax exemption” condition.

3 Glossary

3.1 Foreign-sourced Income

Foreign income that does not arise from a trade or business carried on in Singapore.

3.2 Person

Under section 2 of the ITA, a person includes a company, body of persons and a Hindu Joint Family.

3.3 Specified foreign income

The specified foreign income are:

- a. Foreign-sourced dividend;
- b. Foreign branch profits; and
- c. Foreign-sourced service income.

3.4 Specified resident taxpayers

The specified resident taxpayers are:

Period	Specified Resident Taxpayers
1 Jun 2003 to 31 Dec 2003	All persons resident in Singapore
From 1 Jan 2004	<ul style="list-style-type: none"> a. Resident persons other than individuals; and b. Resident individuals receiving the specified foreign income through a partnership in Singapore².

4 Background

4.1 Prior to 1 Jun 2003, resident taxpayers would be taxed on all foreign-sourced income received in Singapore, unless they are tax-exempt³.

4.2 They may also be taxed on the same foreign-sourced income in the foreign countries. To relieve themselves from double taxation, they may claim the following tax credits:

- a. Unilateral tax credit under Section 50A of the ITA for income remitted from countries with which Singapore does not have a Double Taxation Agreement (DTA);
- b. Double Taxation Relief under Section 50 of the ITA for income remitted from countries with which Singapore has a DTA; or

² From 1 Jan 2004, all foreign-sourced income received by resident individuals not through a partnership in Singapore are exempt from tax under S13(7A)(b) subject to the “beneficial tax exemption” condition.

³ Tax exempt under an approval granted by the Minister for Finance or under a tax incentive granted under ITA / Economic Expansion Incentives (Reliefs from Income Tax) Act 1967.

- c. Commonwealth Tax Relief under Section 48 of the ITA for income remitted from the Commonwealth countries. This section was repealed with effect from Year of Assessment 2010.
- 4.3 To enhance Singapore's attractiveness as a business hub and to boost our services export, it was announced in Budget 2003 and 2004 that tax exemption may be given to certain foreign-sourced income.

5 FSIE scheme

- 5.1 The FSIE scheme is provided under Sections 13 (7A) to 13 (11) of the ITA.
- 5.2 Specified foreign income received in Singapore on or after 1 Jun 2003 by specified resident taxpayers will be exempt from tax where the qualifying conditions are met. The conditions are elaborated in paragraph 8.
- 5.3 The tax treatment as described under paragraph 4.2 will continue to apply where the qualifying conditions are not met.
- 5.4 The tax exemption applies to specified foreign income that does not arise from a trade or business carried on in Singapore. Where the foreign income arises from a trade or business carried on in Singapore, it remains taxable in Singapore upon accrual regardless of whether it is received in Singapore.

6 Scope of specified foreign income

6.1 Foreign-sourced dividend

For the purposes of the tax exemption, a dividend is a foreign-sourced dividend if it is paid by a non-Singapore tax resident company. This treatment also applies to foreign dividend, which may be the income of a trade or business carried on in Singapore by a specified resident taxpayer (e.g. dividends received by a bank tax resident in Singapore). In addition, there is no shareholding requirement to enjoy the tax exemption.

6.2 Foreign branch profit

A foreign branch is a business operation of a Singapore company registered as a branch in a foreign country. Foreign branch profits are profits from a trade or business carried on outside Singapore by the foreign branch. It excludes non-trade or non-business income of the foreign branch.

6.3 Foreign-sourced service income

Service income refers to income from professional, technical, consultancy or other services provided by a specified resident taxpayer in the course of its trade, profession or business. Such service income is considered foreign-sourced if the services are provided through a fixed place of operation in a foreign country. If the services are not provided through a fixed place of operation in a foreign country, the service income will be considered Singapore-sourced even though:

- a. The income is derived from services rendered outside Singapore; and
- b. Tax is payable in that foreign country in accordance with the provisions of a DTA with the foreign country.

6.4 A fixed place of operation refers to a place of management, an office or some floor space where the specified resident taxpayer or its employees provide the services. A place of operation is considered a fixed place of operation if:

- a. It has features of permanence. This is a question of fact.
- b. It is at the disposal of the specified resident taxpayer on an on-going basis. The mere presence of the specified resident taxpayer in a particular location does not necessarily mean that the place is at its disposal. For example, a taxpayer visits a major customer's premises regularly to render audit services. This does not mean the premises are at the taxpayer's disposal for the purpose of its trade, profession or business. Thus, they do not constitute a fixed place of operation.
- c. The specified resident taxpayer uses it regularly to carry on its trade, business or profession of providing services.
- d. The specified resident taxpayer does not use it to perform only auxiliary or preparatory activities.

Please refer to Annex A for some examples on whether a place of operation is considered a fixed place of operation.

7 Foreign-sourced income received in Singapore

7.1 A foreign-sourced income is considered to be received in Singapore when the income is:

- a. remitted to, transmitted or brought into Singapore; or
- b. applied in or towards satisfaction of any debt incurred in respect of a trade or business carried on in Singapore; or

- c. applied to purchase any movable property, which is brought into Singapore.

7.2 The foreign-sourced income need not be earned on or after 1 Jun 2003. However, it has to be received on or after 1 Jun 2003 to qualify for tax exemption under the FSIE Scheme.

8 Qualifying conditions

8.1 Tax exemption is given to specified resident taxpayers when the following conditions are met:

- a. "Subject to tax" condition;
- b. "Foreign headline tax rate of at least 15%" condition; and
- c. "Beneficial tax exemption" condition.

8.2 "Subject to tax" condition

To meet this condition, the specified foreign income must have been subject to tax in the foreign country from which the income is received. This is illustrated in the following table:

Scenario	Is the "subject to tax" condition met?
<ul style="list-style-type: none"> • The specified foreign income is taxed in country A. • The income is remitted back to Singapore from Country A. 	Condition is met
<ul style="list-style-type: none"> • The specified foreign income is exempt from tax in Country A. • The income is remitted back to Singapore from Country A. 	Condition is not met because no tax is suffered in country A. However, if the tax exemption is given due to substantive business activities carried out in Country A, the condition will be regarded as met. [See paragraph 8.2(a)]
<ul style="list-style-type: none"> • The specified foreign income is taxed in country A. • The income is moved or reinvested in country B. • Country B does not levy any income tax on the income. • The income is remitted back to Singapore from country B. 	Condition is not met because no tax is suffered in country B.

a. “Subject to tax” condition for substantive business activities

Some countries give tax exemption on the income of investors who carry out substantive business activities⁴ in their country as tax incentive. These investors would be liable to tax if not for the tax exemption. From 30 Jul 2004, specified foreign income given such tax exemption will be regarded as having met the “subject to tax” condition.

b. Foreign-sourced dividend

The Comptroller of Income Tax (CIT) will regard the “subject to tax” condition as met although the foreign-sourced dividend may be temporarily deposited into a foreign custodian account before its remittance into Singapore. Temporarily deposited into a foreign custodian account means:

- i. the dividend is remitted to Singapore within one year from the date it was deposited into the foreign custodian account, and
- ii. the deposit in the foreign custodian account generates no income other than the incidental interest on the standing balance.

Any interest from the foreign custodian account must be segregated and not form part of specified foreign income under the FSIE scheme.

For the purpose of this “subject to tax” condition, tax paid or payable on foreign-sourced dividend received in Singapore includes:

- i. the dividend tax, which is income tax levied on the dividend by the foreign country of source; and
- ii. the underlying tax⁵, which is income tax paid or payable to the foreign countries on the income out of which the dividend is paid.

Annex B provides examples on how to determine if tax has been paid or is payable in the foreign countries.

⁴ Generally, substantive business activities refer to business activities that:

- (a) are carried out through staff with certain expertise (e.g. managing directors, chief financial officers, researchers in R&D, factory managers, etc); and
- (b) incurred actual expenditure to carry out the activities.

The specified foreign income from such activities should have been subject to tax in the foreign country if not for the tax exemption incentive given by the country.

⁵ If the payer company paid the dividend out of dividend it received from another company, say D, which is in the same country, the underlying tax paid by D on the dividend is not to be considered as tax paid or payable by the payer company for the purpose of this condition.

c. *Administrative methods to substantiate that underlying tax has been paid on the foreign-sourced dividend*

Specified resident taxpayers may choose any of the following two methods to prove to the CIT that their foreign-sourced dividend has suffered underlying tax. Apart from these two methods, they could also choose any other method to prove to the CIT's satisfaction that the "subject to tax" condition is met⁶. Once they have chosen a method, they have to apply it consistently. However, where exceptional situations warrant a change in the method, the taxpayer may do so only after seeking the CIT's approval.

Method 1: Comparison of total dividends paid with total taxed profits

This method is suitable for local holding companies with newly incorporated foreign subsidiary companies. They would be in a position to track the taxed income of each foreign subsidiary and the dividends that each subsidiary has paid out.

The recipient of the foreign-sourced dividend has to track:

- i. The total dividends paid by the foreign payer company including the foreign-sourced dividend; and
- ii. The total taxed income of the foreign payer company including income subject to tax as capital gains.

The CIT will consider the "subject to tax" condition met if (ii) is equal or greater than (i).

Method 2: Use of audited accounts of foreign payer company

This method is suitable for portfolio investors (i.e. having less than 100% ownership in the foreign payer company).

To meet the "subject to tax" condition, the audited accounts of the foreign payer company for the financial period ending in the year prior to the year when the dividend is received in Singapore must show a positive current year tax, excluding deferred tax expense.

⁶ CIT may update other acceptable methods to prove that the "subject to tax" condition is met on the IRAS website from time to time.

8.3 “Foreign headline tax rate of at least 15%” condition

- a. The foreign headline tax rate refers to the highest corporate tax rate of the foreign country of source in the year the specified foreign income is received in Singapore. It must be at least 15%.
- b. The headline tax rate need not be the actual tax rate imposed on the specified foreign income in that country. For example,

<u>Date</u>	<u>Event</u>						
2000	<p>A tax resident in country A paid dividend to Company X, a tax resident in Singapore:</p> <table style="margin-left: 40px; border-collapse: collapse;"> <tr> <td style="padding-right: 20px;">Gross dividend</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>Less: Tax on dividend (10%)</td> <td style="text-align: right;"><u>\$(1,000)</u></td> </tr> <tr> <td>Net dividend</td> <td style="text-align: right;"><u>\$9,000</u></td> </tr> </table> <p style="margin-left: 40px;">Company X deposited the \$9,000 into its bank account in country A</p>	Gross dividend	\$10,000	Less: Tax on dividend (10%)	<u>\$(1,000)</u>	Net dividend	<u>\$9,000</u>
Gross dividend	\$10,000						
Less: Tax on dividend (10%)	<u>\$(1,000)</u>						
Net dividend	<u>\$9,000</u>						
1 Jul 2003	<p>Company X remitted the \$9,000 to Singapore Headline tax rate of country A is at least 15%</p>						

Company X satisfied the “foreign headline tax rate” condition as the headline tax rate of country A is at least 15% in the year of remittance (i.e. 2003). This is notwithstanding the dividend was taxed at only 10 % in country A.

c. Foreign special tax legislation

Effective from 31 May 2006, the headline tax rate is the highest stipulated tax rate in the special legislation instead of the highest tax rate in the main tax legislation. This applies when:

- i. the specified foreign income received in Singapore is chargeable to tax under a special tax legislation of the foreign country instead of its main legislation;
- ii. the special tax legislation imposes tax at a rate lower than the highest tax rate under the main legislation for other companies; and
- iii. this lower tax rate under the special tax legislation is not a tax incentive for carrying out substantive activities in that foreign country (e.g. special tax incentive for income derived from carrying out manufacturing activities in Special Economic Zones).

8.4 “Beneficial tax exemption” condition

The CIT must be satisfied that the tax exemption would be beneficial to the specified resident taxpayers. Where the CIT considers that the tax exemption is not beneficial to them, they can claim reliefs for foreign tax paid (paragraph 4.2).

9 Administrative procedures

9.1 To claim tax exemption

Specified resident taxpayers need not submit documents (such as dividend vouchers, notices of assessment issued by foreign country etc) with their income tax returns to show that their specified foreign income qualifies for the exemption. However, they should retain these supporting documents should the CIT request for these documents for verification.

They only need to declare that their specified foreign income qualifies for the tax exemption in their income tax returns and provide the following particulars:

- a. Nature and amount of the specified foreign income;
- b. Country from which the income is received;
- c. Headline tax rate of that country; and
- d. Amount of foreign tax paid/payable in that country.

9.2 To meet “Subject to tax” condition for substantive business activities

Specified resident taxpayers need not submit any supporting documents together with their income tax returns. However, they should still maintain the following documents as the CIT may request for them when reviewing the tax returns:

- a. A declaration⁷ that the foreign country has exempted the specified foreign income from tax because of substantive business activities carried on by the company in that country; and
- b. A copy of the tax incentive certificate/approval letter issued by the foreign country. In lieu of this, a foreign dividend voucher stating that the dividend is exempt from tax for carrying out substantive business activities in that foreign country will suffice.

⁷ The CIT may, if he thinks fit, request for the submission of other documentary evidence or records for the verification of the accuracy of this declaration.

10 Contact information

10.1 If you have any enquiries or need clarification on this e-Tax Guide, please call:

- a. 1800-3568 622 (Corporate)
- b. 1800-3568 300 (Individual).

11 Updates and Amendments

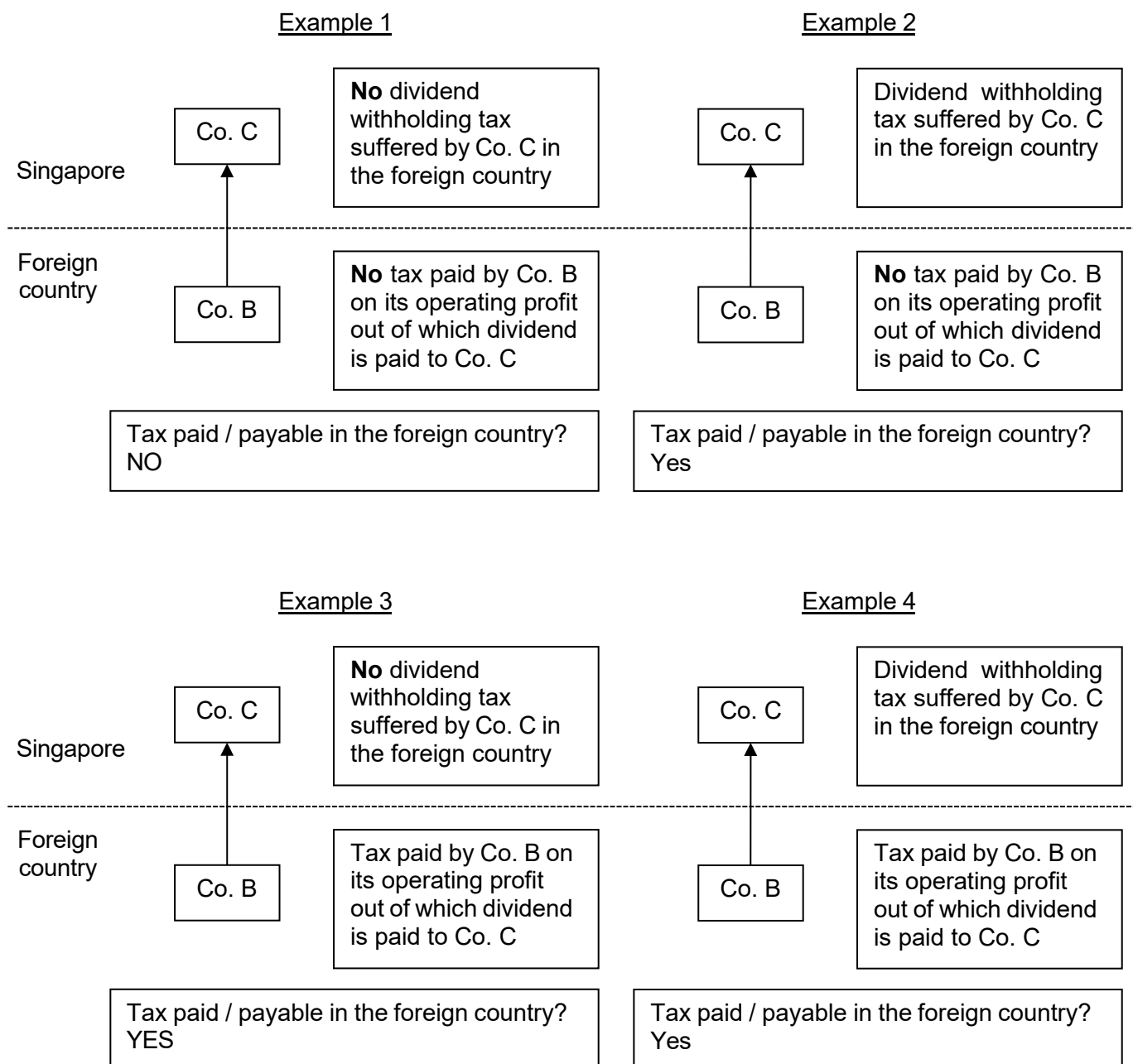
	Date of amendment	Amendments made
1	31 May 2013	<ul style="list-style-type: none">• Revision to Paragraph 9.2.
2	23 Jan 2019	<ul style="list-style-type: none">• Revision to Paragraph 2.3 due to deletion of S13(8A) to S13(8D) of ITA.• Insertion of footnote 2 to Paragraph 3.4.• Insertion of footnote 6 to Paragraph 8.2(c).• Editorial changes to Paragraphs 2.1, 3.2, 3.3, 3.4, 4.2, 8.1, 8.2, 8.3, 8.4, 9.1 and 9.2.
3	16 Aug 2023	<ul style="list-style-type: none">• Updated the citation of Acts.

Annex A – Examples of a fixed place of operation

	Scenario	Is it a fixed place of operation?
1	A Singapore engineering firm rents an office in country A merely for the purpose of supplying information regarding the firm's expertise.	No fixed place of operation in country A because the services rendered through the rented office in country A are services that are preparatory or auxiliary in character.
2	A Singapore law firm rents an office on a temporary basis in country B for the purpose of carrying out detailed research and study relating to the only case the firm is appearing before a court in country B.	No fixed place of operation in country B because the rented office is of a temporary nature.
3	A Singapore architect firm has a rented office in country C. The office is used by a team of architects and employees employed from country C to undertake one project after another on an on-going basis.	Yes. There is a fixed place of operation in country C because the office is at the disposal of the firm and has features of permanence (i.e. a team of employees undertaking projects on a long term basis).

Annex B – Illustration on whether tax is paid or payable in a foreign country

The following examples illustrate whether there is tax paid or payable in a foreign country from which a foreign sourced dividend is received for the purposes of the tax exemption



Annex B - continued

