

Advance Ruling Summary No. 4/2024
Published on 1 Apr 2024

1. Subject:

Whether the transfer of Company A's Properties (defined below) to Company B is a capital transaction.

2. Relevant background and facts:

- a. Company A is incorporated in Singapore and carries on a business in Singapore.
 - b. Company A currently owns properties for its own use, which were acquired over a period of time to meet its expansion plans. It also made separate purchases of properties solely for investment purposes (collectively "**the Properties**").
 - c. As part of a corporate restructuring, the Properties in Company A will be transferred to Company B (a related party of Company A).
 - d. The purchase of the Properties had been financed with mortgages and mortgages-in-escrow. No supplementary work was done to make the Properties more marketable.
 - e. Apart from earlier sales of property units in a building due to a lack of space in that building to meet its operational needs, Company A had not disposed of any other properties.
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3. Relevant legislative provisions:

- a. Income Tax Act 1947 (2020 Revised Edition) – Section 10(1)
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4. The rulings:

- a. The transfer of Company A's Properties to Company B is a capital transaction.
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5. Reasons for the decision:

- a. The transfer of Company A's Properties to Company B is regarded as a capital transaction after taking into consideration the following factors:

- i. Intention of Company A at the time of acquiring the Properties;
 - ii. The holding period of the Properties;
 - iii. Frequency of similar transactions by Company A; and
 - iv. Circumstances for the sale of the Properties to Company B.
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6. General Reference:

- a. Taxpayers may refer to the factors listed on IRAS website¹ that the Comptroller of Income Tax considers when determining whether or not a trade is being carried on.
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Disclaimer

The published summary of the advance ruling is for general reference only. It is binding only in respect of the applicant of the advance ruling and the specified transaction under consideration of the advance ruling. All taxpayers should exercise caution in relying upon the published summary of the advance ruling, as the Comptroller is not bound to apply the same tax treatment to a transaction that is similar to the specified transaction.

Please note that IRAS will not update the published ruling to reflect changes in the tax laws or our interpretations of the tax laws.

¹ The said factors can be found at the following address:
<https://www.iras.gov.sg/taxes/corporate-income-tax/income-deductions-for-companies/taxable-non-taxable-income>