

Advance Ruling Summary No. 11/2023
Published on 4 Sep 2023

1. Subject:

- a. Whether the dividends declared by Company A to Company B, to be satisfied by the issue of the relevant Notes (as defined below) pursuant to the respective payment direction letters (whereby the Notes are kept entirely outside Singapore), will be regarded as received in Singapore under section 10(25) of the Income Tax Act 1947 (2020 Revised Edition) (the “**ITA**”).
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2. Relevant background and facts:

- a. Company A is incorporated and operates outside Singapore.
- b. Company B is a Singapore tax resident company. Its principal activity is investment holding.
- c. Company B is a shareholder of Company A.
- d. Company A intends to declare a dividend of US\$X, pro rata to its shareholders. The dividend will be satisfied by the issue of promissory notes (the “**Notes**”) pursuant to the terms of separate payment direction letters (the “**PDLs**”).
- e. Upon completion of the above, Company B will declare a dividend of US\$Y to its shareholder, a Singapore incorporated company. To settle the dividend payment, Company B will direct Company A to issue the relevant Notes (aggregating to US\$Y) to Company B’s shareholder or such other person as directed by the shareholder.
- f. Dividends will be declared up the chain in the similar manner as 2(e) above (i.e., through all the intermediate holding companies) to the group’s ultimate shareholder, Company Z (a company incorporated outside Singapore). These dividends will be satisfied by the issue of the Notes directly by Company A to Company Z pursuant to the terms of the PDLs.
- g. Company Z will eventually hold the Notes with an aggregate principal amount of US\$X issued by Company A. The dividends up the chain will be declared, and the Notes issued in satisfaction of these dividends, on the same day.
- h. The key terms of the Notes are as follows:

Term	The principal amount of each Note, together with the accrued and unpaid interest, shall be due and payable at
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	the close of business on Year T, unless extended by mutual agreement of the parties.
Interest rate	The interest shall accrue on the outstanding unpaid principal amount of each Note at a rate, which will be determined and agreed between the parties based on the arm's length principle.
Prepayment	The amount outstanding under each of the Notes (including accrued and unpaid interest) may be prepaid at any time without penalty.

- i. It is expected that Company A will settle the Notes and the accrued interest by Year T. The quantum of such payments will be dependent upon:
 - (i) cash requirements of Company Z; and
 - (ii) Amount of surplus cash reserves accumulated at Company A's level.
- j. All payments of principal and interest will be made by Company A to Company Z in cash using banking/payment gateway network wholly outside Singapore.
- k. The Notes will be prepared and executed outside Singapore and will not be received or brought into Singapore.

3. Relevant legislative provisions:

- a. Income Tax Act 1947 (2020 Revised Edition) - Section 10(25)

4. The rulings:

- a. The dividends declared by Company A to Company B, to be satisfied by the issue of the relevant Notes pursuant to the respective PDLs (whereby the Notes are kept entirely outside Singapore), will not be regarded as received in Singapore under section 10(25) of the ITA and is therefore not taxable under section 10(1) of the ITA.
- b. The ruling is subject to the following conditions:
 - (i) The dividends declared by Company A to Company B constitutes foreign-sourced income of Company B for Singapore income tax purposes;
 - (ii) The foreign-sourced dividends from Company A are not remitted to, transmitted or brought into Singapore from the time the foreign-

sourced dividend accrues to Company B to the time it is paid as one-tier tax exempt dividends to its shareholder.

- (iii) The foreign-sourced income is not in fact amounts:
- applied in or towards satisfaction of any debt incurred in respect of a trade or business carried on in Singapore by Company B;
 - applied by Company B to purchase any movable property, which is brought into Singapore; or
 - constituting foreign-sourced income of Company B, which had already been remitted to, transmitted or brought into Singapore from the time the foreign-sourced dividend income was accrued to Company B to the time it was paid as one-tier tax exempt dividends to its shareholder.
- (iv) The transaction must not be a tax avoidance scheme within the ambit of section 33 of the ITA.
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5. Reasons for the decision:

- a. The dividends declared by Company A to Company B, to be satisfied by the issue of the relevant Notes pursuant to the respective PDLs (whereby the Notes are kept entirely outside Singapore) do not come within the provisions of section 10(25) of the ITA.
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6. General Reference:

- a. Taxpayers may refer to the IRAS Website for further guidance on the application of section 10(25) where income from outside Singapore is considered received in Singapore.
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Disclaimer

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