

IRAS CIRCULAR

**TAX ON GROSS INCOME DERIVED FROM
SINGAPORE BY
NON-RESIDENT PUBLIC ENTERTAINERS
- CLARIFICATION ON OBLIGATIONS OF LOCAL
PAYER TO WITHHOLD TAX**



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TAX ON GROSS INCOME DERIVED FROM SINGAPORE BY NON-RESIDENT PUBLIC ENTERTAINERS – CLARIFICATION ON OBLIGATIONS OF LOCAL PAYER TO WITHHOLD TAX

INTRODUCTION

1. Currently, a non-resident public entertainer¹ is subject to tax at the concessionary tax rate of 15% on his income² derived in respect of services performed in Singapore. In this regard, the income tax is collected from the local agent or sponsor of the public entertainer (hereinafter referred to as “local payer”) who is appointed as agent under section 57 of the Singapore Income Tax Act (“SITA”) to withhold the tax due. The local payer is required to complete Form IR153, giving details of the public entertainer’s engagement. A Notice of assessment will then be issued to the public entertainer. The local payer is required to pay over the tax withheld immediately to the Comptroller of Income Tax (“CIT”).
2. To ease tax compliance for the non-resident public entertainers and reduce the administrative requirements for local payers, Ministry of Finance³ has decided that with effect from 1 January 2008, non-resident public entertainers would be subject to a withholding tax at 15% of their gross income². The local payers would be required to withhold the tax due, notify and remit the tax withheld to CIT in accordance with the provisions stipulated under the new section 45GA of the Income Tax (Amendment) Bill 2007 which applies the same provisions as section 45 to such payments.
3. The purpose of this Circular is to :
 - (i) provide details on the changes to the filing and payment procedures as well as the penalties applicable to the new regime for withholding tax under section 45 of the SITA, which takes effect from 1 January 2008; and
 - (ii) clarify what constitutes date of payment of income for the purpose of complying with the requirement to withhold / deduct tax under section 45 of the SITA.

¹ A non-resident public entertainer includes a stage, radio or television artiste (eg singer, dancer, actor), an athlete (eg runners, swimmers, jockeys, golfers, tennis players, racing drivers) or individual exercising a profession, vocation or employment of a similar nature in Singapore for less than 183 days in a calendar year.

² As an administrative concession, the accommodation provided to a non-resident public entertainer for 60 days or less in a calendar year and airfare borne by a local payer would not be regarded as part of the taxable income of the non-resident public entertainer. If the public entertainer bears these expenses, he may deduct it from his taxable income. This concession will continue to apply under the withholding tax regime.

³ Ministry of Finance has announced this tax change during the public consultation of the Income Tax (Amendment) Bill 2007 on 15 June 2007.

WITHHOLDING TAX REQUIREMENTS

Filing and payment procedures

4. With effect from 1 January 2008, a local payer is required to notify and pay the tax withheld to CIT by the 15th day of the month following the month in which the payment of income is made to the non-resident public entertainer. He will have between 15 and 45 days to remit the tax withheld to CIT, depending on the date of payment of income. For example, if the payer is liable to make an income payment to the public entertainer on 2 February 2008, he has to notify CIT and remit the tax withheld by 15 March 2008.
5. For the purpose of notifying CIT of the tax withheld, the local payer is required to complete Form IR37D (to be released by end December 2007). The completed form and payment must be submitted to the CIT at the same time. No tax assessments will be issued to the non-resident public entertainers. Instead, a confirmation letter of withholding tax payment will be issued to the local payer.

CLARIFICATION OF WHAT CONSTITUTES DATE OF PAYMENT OF INCOME

Date of payment of income

6. Where the date on which the income accrues to a non-resident public entertainer is stipulated under any written contract or agreement, the date of payment of income⁴ shall be the date of accrual as stipulated therein. For example, if the terms of the agreement provide that fees shall accrue to the non-resident public entertainer at the end of the month, the date of payment of the fees for the purposes of section 45 of SITA is deemed to be the last day of the month.

Multiple payments for a single engagement

7. Where a local payer makes multiple or a series of payments to the same public entertainer in respect of the same engagement, the local payer will, as an administrative concession, be allowed to consolidate the payments and remit the tax on the consolidated amount of gross income to CIT by the 15th day of the month following the last date of payment of income, if the conditions set out in paragraph 8 are met.

⁴ The term "date of payment of income", pursuant to section 45(8) of the SITA, refers to the date on which the person who has contracted for the service is liable to pay the fees to the person who renders the service (or the date on which the income accrues to the person who renders the service) if this date precedes the actual date of payment of income.

8. This administrative concession applies only if the interval between the first and the last date of payment of income to the non-resident public entertainer does not exceed 60 days. In other words, only sums liable to be paid within 60 days from the first date of payment of income to the same public entertainer in respect of the same engagement will be consolidated and tax withheld on the consolidated amount will have to be remitted to CIT by the 15th day of the month following the last date of payment of income. Payments for the same engagement that are made subsequent to this 60-day period from the first date of payment of income for that engagement are subject to withholding tax requirements as set out in paragraphs 4 and 5 above.
9. As an illustration of this administrative concession, a local payer engages a non-resident public entertainer to perform in Singapore. The local payer agrees to bear all lodging and airfare (say, \$10,000) from 1 April 2008 to 15 May 2008 for the public entertainer in addition to paying him a fee of \$80,000 (\$40,000 by 15 April 2008 and the remaining amount of \$40,000 by 15 May 2008). The lodging provided for 45 days and airfare expenses borne by the local payer will not constitute the income of the public entertainer under the administrative concession². The withholding tax of \$12,000 (15% of \$80,000) on the gross fees of \$80,000 should be remitted to the CIT by 15 June 2008 as the interval between the two payments is less than 60 days.

Penalties applicable under the withholding tax regime

10. Where payment of the tax withheld is not received by the due date, a 5% late payment penalty will be imposed under section 45(4)(a) of the SITA. Following the example in paragraph 9, if the local payer only remits the tax withheld to CIT on 20 June 2008 i.e. 5 days after the due date of 15 June 2008, a 5% late payment penalty will be imposed.
11. Where payment of the tax withheld is not received within 30 days after the due date, an additional 1% penalty will be imposed under section 45(4)(b) of the SITA for each completed month that the tax remains unpaid, subject to a maximum of 15%. Based on the same example in paragraph 9, if the local payer remits the tax withheld on 20 September 2008, a late payment penalty of 7% will be imposed, 5% for late payment and an additional 2% for the payment being overdue thereafter by an additional 2 whole months.

ENQUIRIES

12. For any clarification on this Circular, please call 6351 3874. For any enquiry on payment and filing procedures, please call 6351 2784/5/6/7. Alternatively, you may visit our website at www.iras.gov.sg.