KPMG

Tax Alert

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Removal of Non-Residency Election for Singaporeans Working Overseas

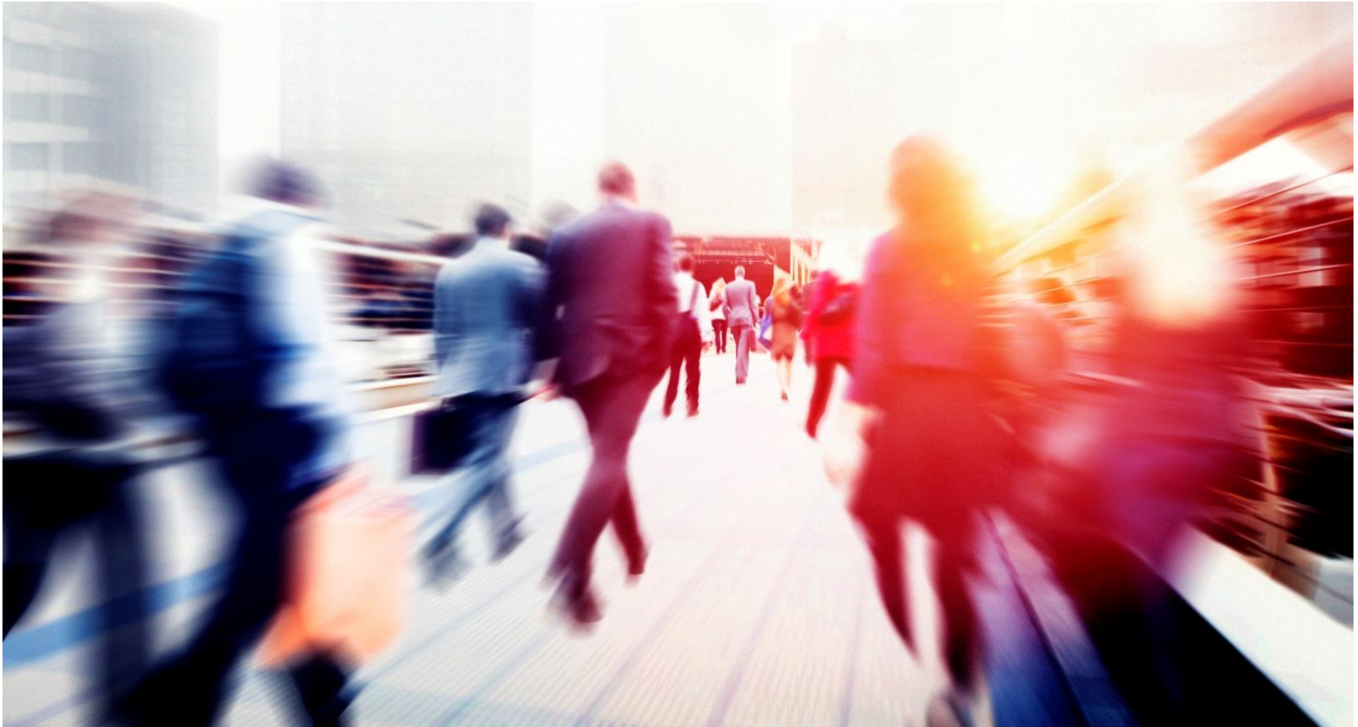
Effective from Year of Assessment 2021

Employers and Singapore citizens should take note of this change as Singaporeans travelling to Singapore for business trips while posted overseas may trigger employer and employee tax obligations.

Background

In general, Singapore citizens working overseas would be regarded by the Inland Revenue Authority of Singapore (IRAS) as tax residents of Singapore as their absences from Singapore are viewed as temporary and not with a view or intent to establish a residence abroad.

Before 1 January 2004, foreign-sourced income remitted into Singapore by resident individuals was taxable. Hence, for Singaporeans working overseas, the portion of the overseas employment income remitted into Singapore was taxable, although foreign tax credit could have been claimed, subject to limitations. To remove any disincentive for Singaporeans to work overseas, as an administrative concession, the IRAS allowed Singaporeans the choice of being treated as non-residents for any tax year where they have been working abroad for at least 6 months. As non-residents, any remittances would not be subject to tax in Singapore.



With the exemption of remittances of foreign-sourced income with effect from 1 January 2004, tax resident status would generally result in a lower tax liability as any Singapore-sourced income is taxed at graduated rates ranging from 0% to 22%, after deducting personal reliefs. Whereas as a non-resident, Singapore-sourced employment income is taxed at a flat rate of 15% or at the graduated rates as a resident, whichever tax is higher. Other types of income (e.g. income from rental properties in Singapore) are taxed at a flat rate of 22%. There are no personal relief deductions for a non-resident individual.

Nevertheless, there are other tax benefits of being treated as a non-resident:

Not Ordinarily Resident (NOR) Taxpayer Scheme

An individual may be able to qualify for the time apportionment of employment income concession under the NOR taxpayer scheme upon repatriation to Singapore, if he meets the qualifying criteria of being a Singapore non-resident for 3 consecutive Years of Assessment immediately before repatriation (i.e. re-establishing residency in Singapore) and would spend at least 90 days outside Singapore in a calendar year pursuant to his Singapore employment.

However, the NOR scheme will be abolished after 2019, which means that individuals becoming tax residents in 2020 onwards will no longer qualify for the scheme. The election for non-resident treatment for this purpose will also no longer be relevant effective from 2020.

Business Travellers to Singapore

Section 13(6) of the Singapore Income Tax Act (the Act) provides for tax exemption on income derived from employment exercised in Singapore for not more than 60 days in a year by non-resident individuals (other than as company directors and public entertainers). Hence, under current rules, if a Singapore citizen working overseas opted to be assessed as a non-resident and limited his business trips to Singapore to not more than 60 days in a calendar year, the income relating to the business trips in Singapore would be exempted from tax.

On the other hand, as tax residents, if Singaporeans employed overseas visit Singapore and perform services in Singapore pursuant to their overseas employment, regardless of the number of days spent in Singapore, the income attributable to the services in Singapore would be regarded as Singapore-sourced taxable income. Such income would need to be reported on the Form IR8A (Return of Employee's Remuneration) by the overseas employing entity. Generally, if certain treaty conditions are met, double taxation may be avoided by claiming a foreign tax credit / exemption.

In this connection, Singaporeans working overseas would need to carefully review the overall tax impact from the resident versus non-resident status before making an annual election for non-resident status.

Tax Change
On 6 August 2019, IRAS announced that the administrative concession that allows Singaporeans to elect to be assessed as non-residents will lapse as it is no longer relevant in furthering its objective of removing any disincentive for Singaporeans to work overseas. The change takes effect from Year of Assessment 2021.

Our Comments
The removal of the concessionary non-residency election would mean that the exemption under Section 13(6) of the Act cannot be applied to overseas-based Singaporean employees on business travel to Singapore. Additionally, there will be added tax obligations for both the Singaporean employees and their overseas employers. This change has placed overseas-based Singaporean employees at a disadvantage as compared to overseas-based non-Singaporean employees.

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