Tax Alert

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Update: Removal of Non-Residency Election for Singaporeans Working Overseas

Effective from Year of Assessment 2021

Why this matters

This Tax Alert explains the recent clarification KPMG sought with the Inland Revenue Authority of Singapore (IRAS) and supersedes the KPMG Tax Alert issued in August 2019 (Issue 10 | August 2019).

In summary, the clarified updates to the Removal of Non-Residency Election for Singaporeans Working Overseas are as follows:

1. Overseas-based Singaporean employees still have the option to elect to be assessed as non-residents of Singapore, on the condition that they had been employed overseas during the whole of the year preceding the Year of Assessment (YA).

2. Consequently, the 60-day tax exemption on income derived from employment exercised in Singapore under Section 13(6) of the Singapore Income Tax Act may be applied to overseas-based Singaporean employees on business travel to Singapore.

Background

On 6 August 2019, the IRAS announced that the administrative concession which allows Singaporeans the option of being assessed as non-residents will be removed as it is no longer relevant in furthering its objective of removing the disincentive for Singaporeans to work overseas. The removal is effective from YA 2021 (Income Year 2020).

In general, this announcement means that Singapore citizens working overseas would be regarded by the IRAS as tax residents of Singapore, as their absence is viewed as temporary i.e. without a view or intent to establish a residence abroad.

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

From 1 January 2004, remittances of foreign-sourced income by Singapore tax residents have been exempt from tax under Section 13(7A) of the Singapore Income Tax Act.

With the exemption of remittances of foreign-sourced income, a Singapore tax resident status would generally result in lower tax liability. This is because any Singapore-sourced income is taxed at graduated rates ranging from 0% to 22%, after deducting personal reliefs. However, as a non-resident, Singapore-sourced employment income is taxed at a flat rate of 15% or at the graduated rates of a resident, whichever tax is higher. Other types of income (income from rental properties in Singapore, for instance) are taxed at a flat rate of 22%.

There are no personal relief deductions for a non-resident individual.

In light of the above, the IRAS views that the administrative concession that allows Singapore citizens to elect to be assessed as non-residents is no longer relevant. Hence, this concession will be removed with effect from YA 2021.

Further clarified updates to removal of concession

The IRAS has recently advised KPMG that the change announced on 6 August 2019 would **only** affect Singaporeans who have not been employed overseas for the whole year. It will **not** affect the treatment of Singaporeans who have been employed overseas during the whole of the year preceding the Year of Assessment.

Business travellers to Singapore

Section 13(6) of the Singapore Income Tax 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 (not applicable to company directors and public entertainers).

Hence, under these current rules, if a Singapore citizen working overseas opts to be assessed as a non-resident and limits his or her 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 **exempt from tax**.

Overseas-based Singaporean employees still have the option to elect to be assessed as non-residents, on the condition that they had been employed overseas during the whole of the year preceding the year of assessment.

Our comments

The availability of the non-residency option is a welcome relief for both Singaporean employees and their overseas employers, as it results in related tax compliance and administrative costs being alleviated or altogether avoided. With this clarification, the Section 13(6) exemption would still be applicable to Singaporeans who make business trips to Singapore for not more than 60 days in the calendar year while they are working outside Singapore for the full year.

However, as non-residents, other Singapore-sourced income (e.g. rental income) will be assessed at non-resident rates.

The non-residency option is to be assessed in view of an individual's circumstances and the overall tax position is to be carefully considered before an election is made.

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