

Singapore - Deemed Exercise Rule and Opportunity for Tax Refund

This Tax Alert highlights the potential opportunity available for certain non-citizen employees who have previously worked in Singapore to apply for a tax refund if the actual gain realised upon the exercise or vesting of shares is lower than the gain previously subjected to tax under the Singapore deemed exercise rule. Below is a summary of the deemed exercise rule and the potential tax refund opportunity.

Why this matters

As global equity markets have dropped significantly over the past few weeks and may remain depressed, non-citizen employees who previously paid taxes in Singapore under the deemed exercise rule may qualify for a tax refund. The reassessment opportunity would benefit individual taxpayers, or their employers that funded the tax on the deemed gains under a corporate tax equalisation programme.



Background

Under Singapore tax law, certain non-citizen employees are deemed to derive taxable gain from unexercised stock options and unvested share awards when they cease employment in Singapore.

This deemed exercise rule applies to any unexercised or restricted employee share options (ESOP) or any unvested or restricted shares under an employee share ownership (ESOW) plan granted while the non-citizen employee was working in Singapore.

Tax Treatment

When the deemed exercise rule applies, the non-citizen employee is deemed to have derived final gain from ESOP or shares under an ESOW plan.

The deemed gains are calculated based on the Open Market Value (OMV) of the shares as at one month prior to the cessation of employment or the date of grant of the ESOP or ESOW (whichever is later), less the price payable (if any) by the employee to acquire the shares.

Tax Refund

If the amount of deemed gain computed and reported on the tax clearance return is greater than the actual gain realised by the individual upon exercise or vesting, upon application, the Comptroller of Income Tax (CIT) may reassess the individual's tax liability based on the actual gain computed for the assessment year to which the deemed exercise relates.

To apply for a reassessment of tax liability, the individual must submit:

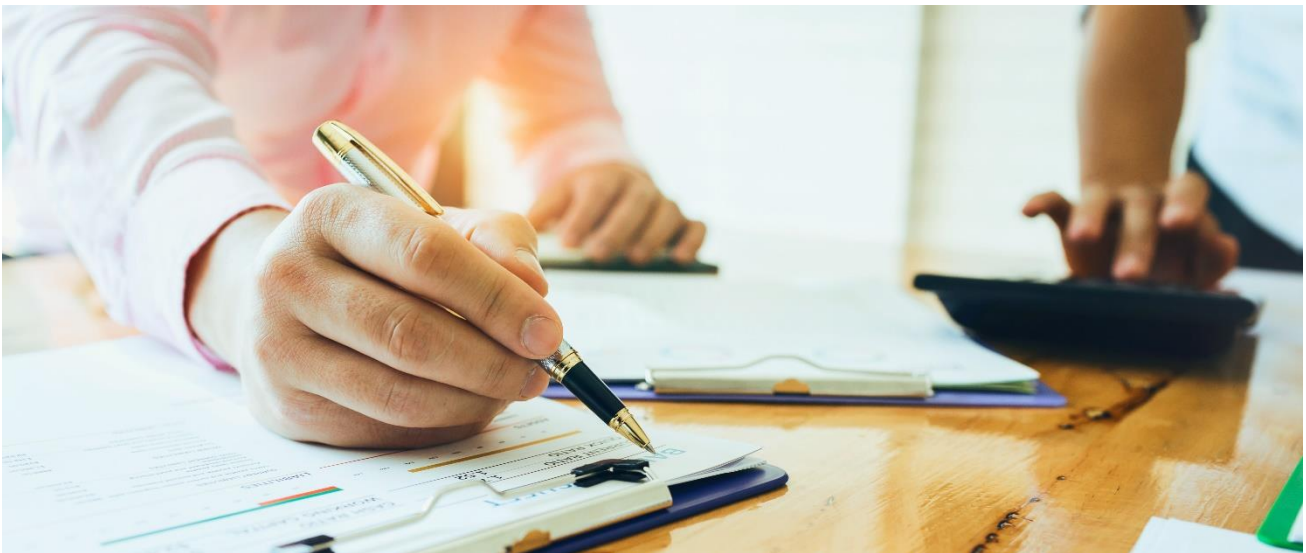
- (a) an application to the CIT within four years from the year of assessment following the year in which the deemed exercise rule applied; and
- (b) relevant documentation to support that the actual tax liability is lower than that computed under the deemed exercise rule.

Where the actual gain realised at exercise or vesting is greater than the deemed gain computed under the deemed exercise rule, no additional tax is assessed.

Recommended next steps by KPMG

With the depressed global equity markets, the actual gains realised upon exercise of the ESOP and/or vesting of the ESOW shares previously subjected to tax under the deemed exercise rule may be lower than the deemed gains.

The reassessment opportunity presents taxpayers and employers a potential avenue to recover taxes previously paid. It is recommended that interested parties consult with their professional tax advisers to assess their situations and determine next steps.



About KPMG Tax Alert

KPMG Tax Alert highlights the latest tax developments, impending change to laws or regulations, current practices and potential problem areas that may impact your company. As certain issues discussed herein are time sensitive, it is advisable to make plans accordingly.

Tax Alert is issued exclusively for the information of clients and staff of KPMG Services Pte. Ltd. and should not be used or relied upon as a substitute for detailed advice or a basis for formulating business decisions.

Authors

Anna Low

Partner

T: +65 6213 2547

E: alow@kpmg.com.sg

Dennis McEvoy

Partner

T: +65 6213 2645

E: dennismcevoy@kpmg.com.sg

Contact us

Tay Hong Beng

Partner

Head of Tax

T: +65 6213 2565

E: hongbengtay@kpmg.com.sg

Ajay K Sanganeria

Partner

Deputy Head of Tax

T: +65 6213 2292

E: asanganeria@kpmg.com.sg

BANKING & INSURANCE

Alan Lau

Partner

T: +65 6213 2027

E: alanlau@kpmg.com.sg

REAL ESTATE & ASSET MANAGEMENT

Teo Wee Hwee

Partner

T: +65 6213 2166

E: weehweeteo@kpmg.com.sg

Agnes Lo

Partner

T: +65 6213 2976

E: agneslo1@kpmg.com.sg

Anulekha Samant

Partner

T: +65 6213 3595

E: asamant@kpmg.com.sg

Leonard Ong

Partner

T: +65 6213 2038

E: leonardong@kpmg.com.sg

ENERGY, TECHNOLOGY, MEDIA & TELECOMMUNICATION

Gordon Lawson

Partner

T: +65 6213 2864

E: glawson1@kpmg.com.sg

Larry Sim

Partner

T: +65 6213 2261

E: larrysim@kpmg.com.sg

Lim Li Peng

Partner

T: +65 6213 3709

E: lipenglim@kpmg.com.sg

INFRASTRUCTURE, GOVERNMENT & HEALTHCARE

Chiu Wu Hong

Partner

T: +65 6213 2569

E: wchiu@kpmg.com.sg

Gan Kwee Lian

Partner

T: +65 6213 2546

E: kweeliangan@kpmg.com.sg

Toh Boon Ngee

Partner

T: +65 6213 2052

E: btoh@kpmg.com.sg

CONSUMER & RETAIL

Tan Chee Wei

Partner

T: +65 6213 2470

E: cheeweitan@kpmg.com.sg

CORPORATE TAX PLANNING & COMPLIANCE

Mak Oi Leng

Partner

T: +65 6213 7319

E: omak@kpmg.com.sg

Pauline Koh

Partner

T: +65 6213 2815

E: paulinekoh@kpmg.com.sg

PERSONAL TAX & GLOBAL MOBILITY SERVICES

Anna Low

Partner

T: +65 6213 2547

E: alow@kpmg.com.sg

Dennis McEvoy

Partner

T: +65 6213 2645

E: dennismcevoy@kpmg.com.sg

Contact us

GOODS AND SERVICES TAX

Lam Kok Shang

Partner

T: +65 6213 2596

E: kokshanglam@kpmg.com.sg

Gan Hwee Leng

Partner

T: +65 6213 2813

E: hweelenggan@kpmg.com.sg

TRANSFER PRICING

Felicia Chia

Partner

T: +65 6213 2525

E: fchia@kpmg.com.sg

Lee Jingyi

Partner

T: +65 6213 3785

E: jingyilee@kpmg.com.sg

PROPERTY TAX & DISPUTE MANAGEMENT

Leung Yew Kwong

Principal Consultant

T: +65 6213 2877

E: yewkwongleung@kpmg.com.sg

R&D & GRANTS CONSULTING

Harvey Koenig

Partner

T: +65 6213 7383

E: harveykoenig@kpmg.com.sg

TAX TRANSFORMATION & GOVERNANCE

Alia Lum

Partner

T: +65 6213 3203

E: alum1@kpmg.com.sg

US TAX SERVICES

Daniel Joe

Partner

T: +65 6213 2626

E: danieljoe@kpmg.com.sg

TAX – DEALS, M&A

Adam Rees

Principal Advisor

T: +65 6213 2961

E: adamrees@kpmg.com.sg

KPMG

16 Raffles Quay #22-00

Hong Leong Building

Singapore 048581

T: +65 6213 3388

F: +65 6220 9419

E: tax@kpmg.com.sg

Ranked Tier 1 Firm in Singapore – World Tax, World Transfer Pricing and Tax Transactional 2019, *International Tax Review*

National Transfer Pricing Firm of the Year – Asia Tax Awards, 2018 & 2019, *International Tax Review*

Withholding Tax Team of the Year – Asia Tax Awards 2019, *International Tax Review*

For more information, please [view our tax services page](#).

kpmg.com.sg



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 KPMG Services Pte. Ltd. (Registration No: 200003956G), a Singapore incorporated company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Singapore.