

IRAS Tightens Tax Exemption Conditions for Singapore Citizens and Permanent Residents Working Remotely in Singapore



The COVID-19 pandemic has made remote working the new norm for the global workforce. With it comes a host of tax issues and compliance risks that returning Singaporeans, Singapore permanent residents (SPRs) and businesses will have to deal with.

As COVID tax reliefs come to an end in several jurisdictions, the Inland Revenue Authority of Singapore (IRAS) has become increasingly stringent in granting tax exemption on employment income relating to work performed remotely in Singapore on behalf of overseas employers. From 1 July 2021, the concession will only be allowed on a case-by-case basis upon the IRAS' review of the individual's circumstances.

Singaporeans/SPRs working remotely in Singapore up to 30 June 2021

For Singaporeans/SPRs who have been exercising employment overseas but worked remotely from Singapore in 2020 due to COVID-19, the IRAS is prepared to treat the individuals as not exercising employment in Singapore as part of support measures to assist taxpayers in mitigating tax exposure. Their income during the period of remote work will not be taxable in Singapore. This is provided that:

- a) There is no change to the contractual terms governing the individual's employment overseas before and after the return to Singapore; and
- b) This is a temporary work arrangement due to COVID-19.

If the individual's stay in Singapore has extended to 2021, the IRAS will continue to grant exemption on the income for the period of his/her extended stay up to 30 June 2021 provided that the following additional conditions are satisfied:

- c) The work performed by the individual during the stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19;
- d) The individual will leave Singapore as soon as he/she is able to do so by 30 June 2021; and
- e) His/her employment income earned during the stay in Singapore from 1 January 2021 is subject to tax in the country of the overseas employer.

The tax exemption from 1 January 2021 to 30 June 2021 is only applicable to employees who returned to Singapore in 2020 and not to employees who returned to Singapore in 2021. The exemption is granted automatically if the conditions are fully satisfied. Nonetheless, the employer and employee are required to provide supporting documents to substantiate that the above conditions are satisfied if requested by the IRAS.

Singaporeans/SPRs working remotely in Singapore from 1 July 2021

If the Singaporean/SPR employee's remote working arrangement in Singapore extends beyond 30 June 2021, the income relating to remote work from 1 July 2021 (assuming income up to 30 June 2021 qualifies for exemption) will be subject to tax in Singapore. However, the IRAS will consider extending the tax exemption on the income on a case-by-case basis if:

- The individual is unable to leave Singapore due to a travel ban in the country of employment, or he/she is unable to travel due to the unavailability of flights or other modes of transport; and
- The individual will leave Singapore as soon as he/she is able to do so.

An application for the IRAS to review the individual's case would have to be submitted. Besides having to satisfy conditions (a) to (e) mentioned above, the individual is also required to provide the following information:

- i. The individual's name and NRIC number
- ii. Date on which the individual started to work remotely from Singapore
- iii. Name and address of the overseas employer and the individual's designation
- iv. The number of staff under the individual's supervision, if any, and where they are currently based
- v. The name and designation of the individual's reporting officer and where he/she is currently based
- vi. The individual's nature and scope of work, before and after he/she returned to Singapore, together with supporting documents
- vii. Whether the overseas employer has any related entities in Singapore and, if so, the name of each entity
- viii. Whether any of the individual's work performed/to be performed in Singapore is for clients in Singapore and/or business activities of any entities in Singapore, regardless of whether they are related to the overseas employer. Relevant details would have to be provided if the individual answers "yes" to this question
- ix. Whether the work performed/to be performed by the individual during the stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19

- x. Documents to support that the individual has made every effort to leave for the country of overseas employment but was unable to do so
- xi. Documents to support that the employment income earned during the stay in Singapore is subject to tax in the country of the overseas employer



Central Provident Fund (CPF) requirement

Contributions to the CPF are required for a Singaporean/SPR employee working in Singapore. In respect of an employee who has been working remotely in Singapore for an overseas employer since 2020 due to the pandemic, except for tax-related conditions, the CPF Board (CPFB) has generally adopted the IRAS' guidelines in granting exemption from CPF contributions. Specifically, the conditions are that:

- a) There is no change in the contractual terms governing the employee's employment overseas before and after his/her return to Singapore in 2020; and
 - b) This is a temporary work arrangement due to COVID-19.
- Additional conditions for exemption from CPF contributions while working remotely in Singapore from 1 January 2021 to 30 June 2021:
- c) The work performed by the employee during his/her stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19; and
 - d) The employee will leave Singapore as soon as he/she is able to do so.

The CPF exemption from 1 January 2021 to 30 June 2021 is only applicable to employees who returned to Singapore in 2020 and not to employees who returned to Singapore in 2021.

For extended remote working arrangements in Singapore beyond 30 June 2021, CPF exemption will only be granted on a case-by-case basis upon writing to the CPF Board and subject to the CPF Board's review of the individual's circumstances.

Essentially, in addition to declaring that conditions (a) to (d) mentioned above are satisfied, proof would have to be submitted to substantiate that the individual is unable to leave Singapore due to a travel ban imposed in the overseas employment location, or due to the unavailability of flights or other modes of transport.

Our views

With more stringent requirements to qualify for tax exemption from 1 July 2021, Singaporean/SPR employees who have been working in Singapore remotely for an overseas employer since 2020 due to COVID-19 are likely to be subjected to individual income tax in Singapore. This could potentially give rise to double taxation issues for these individuals if their income is also subject to tax in their country of employment.

While mitigation of double taxation may be sought through the Double Taxation Agreements (if applicable) between Singapore and the other countries, the additional administrative procedures could inevitably increase the compliance costs for the individuals or employers.

CPF contribution requirements for remote working arrangements that do not meet the criteria for exemption would also lead to additional costs for employers. Notably, the overseas employer would need to undergo additional

administrative procedures before it is able to make mandatory CPF contributions for employees working remotely from Singapore. This is on top of social security costs that it may have already incurred in its local jurisdiction.

What does this mean from a corporate tax perspective?

The tax concessions in relation to a company's tax residence status and permanent establishment (PE) remain in place for Year of Assessment (YA) 2022, subject to meeting the relevant conditions.

To recap, from a tax residence perspective, this means that companies with directors based overseas may still be considered tax residents in Singapore even if they are not able to hold board meetings in Singapore due to travel restrictions. From a PE perspective, employees of a foreign company who remain in Singapore due to travel restrictions may not result in the creation of a PE in Singapore for the foreign company.

While it is comforting for companies to see the above concessions extended to cover YA 2022 (financial years ending in 2021), cross-border remote working arrangements are likely to result in corporate tax consequences for the employer if such arrangements become a permanent feature after travel restrictions ease. We are already starting to see some countries challenge overseas remote working arrangements and seek to impose local taxes on foreign companies. As borders reopen, we expect to see more tax authorities taking a stricter approach on this issue.



Why is this important?

With the evolving challenges caused by COVID-19, amongst other considerations, it is imperative that employers are able to track the work locations of their employees and are aware of the associated tax and social security exposures that may arise, both at the individual and corporate levels, as their employees carry out their work duties remotely.

Remote working is also emerging as a new norm to attract and retain talent in a competitive global workforce. This poses more challenges for companies to stay compliant due to the complexities of cross-border tax issues that may come with remote working arrangements. Any breach of an employer's obligations may result in penalties and reputational repercussions for the employer.

To manage the additional tax risks, employers will need to ensure they have robust processes in place to track how long employees spend in Singapore compared to other countries and the nature of the work they perform while they are here.

How we can help

Companies should invest in greater use of technology and data analytics in managing and tracking their mobile workforce. KPMG's technology solution can provide real-time tracking and assessments of employees' remote or overseas workdays and provide companies with greater visibility and control in managing the potential employment tax, corporate tax and social security compliance risks, as well as immigration implications arising from the remote working arrangements of a global workforce. This will allow employers to stay on top of changing regulations and stay in compliance efficiently.

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