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GMS Flash Alert

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Singapore - Removal of Non-residency Election for Singaporeans Working Overseas

On 6 August 2019, the Inland Revenue Authority of Singapore (IRAS) announced that the administrative concession that allows Singaporeans to elect to be assessed as nonresidents will lapse as it is no longer relevant in furthering its objective of removing any disincentive for Singaporeans to work overseas.[1] The change takes effect 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.

WHY THIS MATTERS

The removal of the concessionary non-residency election would mean that the exemption under section 13(6) of the Singapore Income Tax Act ("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.

Background

In general, Singapore citizens working overseas would be regarded by IRAS as tax residents of Singapore since 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 a 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 nonresidents for any tax year where they have been working abroad for at least six months. As nonresidents, any remittances would not be subject to tax in Singapore.

Given 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 percent to 22 percent, after deducting personal reliefs. To a nonresident, Singapore-sourced employment income is taxed at a flat rate of 15 percent 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 percent. There are no personal relief deductions for a nonresident individual.

Nevertheless, there are other tax benefits of being treated as a nonresident, as noted below.

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 nonresident for three 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 nonresident treatment for this purpose will also no longer be relevant effective from 2020.

Business Travellers to Singapore

Section 13(6) of the Act provides for a tax exemption on income derived from employment exercised in Singapore for not more than 60 days in a year by nonresident 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 nonresident 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 make a return visit to 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.

KPMG NOTE

In this connection, Singaporeans working overseas should avoid extending personal home trips into work-days in Singapore. Additionally, employers and/or employees would need to keep track of the work-days spent in Singapore to help ensure tax reporting requirements are complied with.

FOOTNOTE:

1 See the IRAS webpage for "Individual Income Tax" at: https://www.iras.gov.sg/IRASHome/Quick-Links/Tax-Agents/News-and-Updates/Individual-Income-Tax/ .

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