

# **Expatriates Guide**

## **Taxation Of Expatriates Working In Singapore**

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### **TAX ADMINISTRATION**

The tax year for individuals runs from 1 January to 31 December on a calendar year basis. Tax is assessed on a preceding calendar year basis. Singapore does not impose a Pay-As-You-Earn (PAYE) monthly deduction for personal tax payments.

Foreigners may have left Singapore by the time tax is assessed on their income and payment is due. For this reason, employers have a legal obligation to inform the Comptroller of Income Tax (“CIT”) using Form IR21 (notification by employer of an employee’s cessation of employment or departure from Singapore) at least one month in advance before the non-citizen employee leaves Singapore. The employer will have to withhold payment of monies due to the employee until the employer has received the “tax clearance” from the CIT.

The CIT may require a banker’s guarantee on the estimated tax likely to be payable. The CIT has powers to prevent the departure of a foreigner, at all exit checkpoints, where there are outstanding tax liabilities not paid.

### **WHEN IS EMPLOYMENT INCOME TAXABLE?**

1. The charge to tax is specifically imposed under the Singapore Income Tax Act. This is found in s.10(1)(b) which imposes tax on “gains or profits from any employment”. S.10(2) goes on to define the meaning of “gains or profits from any employment” to include any form of wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance paid or granted in respect of the employment whether in money or otherwise. This is a comprehensive definition and will include any benefits whether in money or money’s worth so long as these benefits are connected to an employment.
2. Singapore has a territorial basis of taxation. Tax is imposed only where the employment income has a Singapore source. Where the source of the employment income is outside Singapore, the income is taxable in Singapore only if it is remitted into Singapore and the employee is a Singapore tax resident.
3. The question of the “source” of an employment income is a practical matter of the facts of the case. The location where the services are performed is an important factor but it is not necessarily conclusive as to the source of an employment. Even if an employee has to perform services outside Singapore, the whole of his employment income is taxable in Singapore if it can be established that his employment is substantially exercised in Singapore.
4. Anyone who exercises an employment in Singapore is taxed on his income arising from his period of work in Singapore, even if his employer is a company located outside Singapore, the employment contract is signed outside Singapore and his remuneration is paid outside Singapore. However, if he works in Singapore for not more than 60 days in the year preceding any year of assessment, his gains or profits from the employment exercised in Singapore will be exempt from tax so long as he is not a tax resident in that year of

assessment. This tax exemption does not apply to directors' emoluments and public entertainers.

## **REGIONAL DUTIES OUTSIDE SINGAPORE**

It is recognised that very often employees in Singapore, both Singaporeans and foreigners, have to perform duties that are regional in nature and require frequent and extended periods outside Singapore. This fact is recognised by the Comptroller of Income Tax and there are currently two tax statuses that specifically address this issue.

The first is the Area Representative tax status. The Area Representative is a Regional Manager of the Singapore Representative Office (SRO). The SRO is registered with the government agency, International Enterprises Singapore. It normally performs all marketing and technical support services in and outside Singapore. It is not allowed to trade or make any sales in Singapore.

The Area Representative is directly employed by his Head Office outside Singapore. Although he is exercising an employment in Singapore, the Comptroller of Income Tax recognises that his duties are largely regional and outside Singapore. As an administrative concession, the Area Representative is given tax exemption on his employment income for the number of business days he is out of Singapore.

The second is the Not Ordinarily Resident (NOR) tax status. The NOR status is available to both Singaporeans and foreigners. Once the NOR status is granted, the employee is able to obtain the same tax exemption as that of an Area Representative.

This is a significant tax concession as, unlike the Area Representative, the NOR employee is employed by a Singapore employer and he has duties largely based in Singapore. The NOR status recognises that nowadays most senior managers employed in Singapore have to attend to business matters outside Singapore.

Terms and conditions apply to the NOR status including a minimum floor rate of tax of 10% on the employment income, and a minimum of 90 business days out of Singapore, in order to qualify.

## **TAX SAVINGS**

It is possible to achieve tax savings in some circumstances :

1. An overseas employee that has a work assignment that falls within the 60-day rule is exempt from tax, subject to the conditions.
2. At most levels of income the tax payable at the resident graduated tax rates is lower than the flat 15% rate applicable to non-residents. The non-resident does not benefit from the personal reliefs and allowances available only to tax residents. The current tax brackets for a resident are set out in Appendix A.

3. The qualitative test of a resident is that you reside in Singapore except for temporary absences which are not inconsistent with a claim to be resident in Singapore. The quantitative test is that you are physically present in Singapore for 183 days or more.
4. A foreigner has 3 possible tax categories : (a) he works for not more than 60 days and is exempt from tax on his employment income; (b) he works for more than 60 days but less than 183 days. He is liable to tax at the non-resident rate (currently 15%); (c) he works for 183 days or more. He is liable to tax at the resident rate.
5. Some taxable benefits in kind are taxed at amounts below the actual cost of these benefits, resulting in tax savings to the employee. An example is the housing rent paid by the employer which is taxed at 10% of the employee's assessable income or the actual rents paid whichever is the lower. Another example is the interest-free or interest-subsidised staff loans.
6. The employer's contribution to Non-Approved Pension Fund or Social Security Scheme is taxable as an income of the employee unless you qualify for tax exemption under the NOR status.
7. The tax resident can lower his tax liability through the Supplementary Retirement Scheme.
8. Employee Stock Options and Share Awards are taxable. You should obtain separate professional advice on the question of when to exercise your options and at which stage you are taxable.

## **OTHER SIGNIFICANT TAX ISSUES**

From time to time we issue news on recent amendments to the Income Tax Act, recent tax rulings and guidelines and recent tax changes. If you would like to be on our mailing list, please email us your contact particulars.

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