Chapter 1
BASIC TAX CONCEPTS

¶1-100 Summary checklist

•	The tax system is territorial, ie income is taxable in Singapore if it is sourced here or received, or deemed received, here.	¶1-101
•	Income is taxed on a preceding year basis, ie income earned in the year is assessed to tax in the following year of assessment.	¶1-102
•	Tax is assessed on chargeable income, ie total statutory income less capital allowances, losses and reliefs.	¶1-103
•	The prevailing tax rate for companies and non-residents is 17%; resident individuals are taxed based on graduated rates.	¶1-104
•	Residence of a person determines how a person will be taxed.	¶1-105
•	Not Ordinarily Resident Scheme.	¶1-106
•	Tax computation for a resident individual.	¶1-107
•	Tax computation for a company.	¶1-108

¶1-101 Charge to tax

The tax system in Singapore operates on a territorial basis. The charging section of the *Income Tax Act* (ITA) can be found in s 10(1), which states that:

> "Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereinafter for each year of assessment upon the income of any person accruing in or derived from Singapore or received in Singapore from outside Singapore in respect of:
>
> (a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised;
>
> (b) gains or profits from any employment;
>
> (c) (*Deleted*)
>
> (d) dividends, interest or discounts;
>
> (e) any pension, charge or annuity;
>
> (f) rents, royalties, premiums and any other profits arising from property; and
>
> (g) any gains or profits of an income nature not falling within any of the preceding paragraphs".

Section 10(1) of the ITA establishes the scope of taxation as income tax is payable if the income falling within s 10(1)(a) to 10(1)(g) accrues to or is derived by a person from:

- Singapore, or
- outside Singapore but received in Singapore.

Accordingly, if the income is sourced outside Singapore and is not received or deemed received in Singapore, the income will not be assessable to tax in Singapore.

(b) the tax paid on the dividends in the territory from which the dividends are received (ie dividend withholding tax).

The specified foreign income can also be exempted from tax if it was not subject to tax in the foreign jurisdiction due to a direct consequence of that foreign jurisdiction granting a tax incentive for carrying out substantive business activities in that jurisdiction.

Where the above conditions for tax exemption under s 13(9) of the ITA cannot be met, tax exemption may be granted by the Inland Revenue Authority of Singapore (IRAS) under s 13(12) of the ITA on a case-by-case basis upon application.

Tax exemption on foreign income received by resident individuals

All foreign-sourced income received or deemed received in Singapore by resident individuals on or after 1 January 2004 will be exempt from tax, if the Comptroller is satisfied that the tax exemption would be beneficial to the individuals, but excludes such income received by them through a partnership in Singapore.

Any foreign-sourced dividend, foreign branch profit and income derived from any professional, consultancy and other services rendered in any territory outside Singapore that is received or deemed received in Singapore by any individual resident in Singapore through a partnership in Singapore on or after 1 January 2004, will also be exempt from tax provided the conditions specified in s 13(9) are met and the Comptroller is satisfied that the income is derived from outside Singapore.

Law: s 10(1), 10(25), 13(7A), 13(8)–13(12)

¶1-102 Definitions

"Year of assessment" means "the period of 12 months commencing on such date as the Minister may, by notification in the *Gazette*, appoint, and each subsequent period of 12 months".

Year of assessment (YA) 2023 is the period from 1 January 2023 to 31 December 2023.

"Basis period" for any year of assessment means "the period on the profits of which tax for that year falls to be assessed".

The basis period thus determines the amount of income which would be taxable for that year of assessment. As the basis of assessment in Singapore is on the preceding year basis, income earned in the year will be assessed to tax in the following year of assessment.

Generally, for non-business income, the basis period for a year of assessment is either:

- the calendar year immediately preceding that year of assessment
- the period from the date of commencement to 31 December of the year immediately preceding that year of assessment, or
- the period from 1 January to the date of cessation in the year immediately preceding that year of assessment.

For business or trading income, the basis period for a year of assessment is the accounting period ending in the year preceding the year of assessment. On a strict basis, this would mean that non-December year-end businesses with non-trade income would need to keep track of their non-trade income and have such income assessed on a preceding calendar year basis.

However, the non-trade income of companies, bodies of persons, sole proprietorships and partnerships will be taxed on an accounting year basis. In other words, all income (business or trading and non-business income) and other income of these taxpayers are taxed on an accounting year basis. Similarly, approved donations will also be allowed tax deduction on an accounting year basis.

"Person" is defined to include "a company, body of persons and a Hindu joint family".

A **"company"** can be incorporated or registered under any law in force in Singapore or elsewhere.

A **"body of persons"** excludes a company or a partnership.

- gifts of money made to the Government or to any approved public institution
- gifts of computers (including computer software and peripherals) approved by the Minister or such person as he may appoint and made by any company to any institution of a public character (IPC) or a prescribed educational, research or other institution in Singapore
- gifts of shares in a company or units in unit trusts traded in Singapore or listed on Singapore Exchange made by an individual to any approved public institution, and
- gifts of any immovable property to any approved public institution.

To encourage greater charity giving in Singapore and community involvement across the charitable sector, tax deduction for donations made to approved IPCs and other approved institutions (such as approved museums and prescribed schools) during the period from 1 January 2016 to 31 December 2023 will be allowed at 250%. (see ¶4-109).

However, gifts of computers (including software and peripherals) by any company to any IPC or any prescribed educational, research or other institution in Singapore made after 20 February 2017, will no longer qualify for tax deduction.

No deduction is allowed to a person for a donation made to an IPC if that person does not provide that IPC with such information within such time and in such form and manner as the Comptroller may specify.

- **Chargeable income** — This is the remainder of assessable income after allowing personal reliefs and other deductions in Pt X of the ITA.

On determination of the chargeable income, the tax liability of the person is ascertained in accordance with the relevant tax rates.

Law: s 35, 37, 38, 39

¶1-104 Tax rates

The tax rates applicable depend on the type of taxpayer.

Resident individuals

Resident individuals are taxed based on the graduated rates set out in Pt A of the Second Schedule to the ITA.

The personal tax rates table for YA 2017 onwards is as follows:

	Chargeable Income* ($)	Tax Rate (%)	Gross Tax Payable ($)
On the first	20,000	–	–
On the next	10,000	2	200
On the first	30,000	–	200
On the next	10,000	3.5	350
On the first	40,000	–	550
On the next	40,000	7	2,800
On the first	80,000	–	3,350
On the next	40,000	11.5	4,600
On the first	120,000	–	7,950
On the next	40,000	15	6,000
On the first	160,000	–	13,950
On the next	40,000	18	7,200
On the first	200,000	–	21,150
On the next	40,000	19	7,600
On the first	240,000	–	28,750
On the next	40,000	19.5	7,800
On the first	280,000	–	36,550

(11) Mr Chan, a Singaporean, was assigned to China on a 2-year employment contract commencing 1 August 2020. He came back to Singapore at the end of his contract on 31 July 2022 and commenced another employment in Singapore on 1 August 2022. What is Mr Chan's residence status for the relevant years of assessment?

(12) While in the USA, Jerome, an American, signed a one-year employment contract with a Singapore company as its regional marketing manager. His Singapore employment was to commence on 1 June 2021. However, he was required to travel to the regional offices outside Singapore to familiarise himself with the company's overseas operations prior to his arrival in Singapore on 15 July 2021. He will return to the USA on his last day of employment. Determine his residence status for the relevant years of assessment.

(13) Facts as in (12) above except that Jerome returned to Singapore on 1 August 2022 to commence employment with another Singapore company. This time his contract is for 2 years.

Determine his residence status for all the relevant years of assessment, including the earlier years of assessment.

(14) Ace Pte Ltd was incorporated in Singapore on 15 January 2021 but commenced business only on 13 March 2021. The company chose 31 January as its accounting year end. Its first accounting period was to 31 January 2022.

State the basis periods for the first 3 relevant years of assessment.

[AAT adapted]

(15) Black Pte Ltd was incorporated in 2015 and prepares its accounts to 31 December annually. The company ceased business on 30 June 2022. State the s 10(1)(a) basis periods for the last 2 relevant years of assessment.

[AAT adapted]

(16) The statutory income of COM Pte Ltd during the years ended 31 August 2020 and 2021 were $5,000 and $180,000 respectively. The following donations were made on the dates shown and have no naming rights:

Date	*Recipient*	*Amount*	*Remarks*
		$	
28 September 2019	Geylang East Home for the Aged*	10,000	20 hospital beds
15 January 2020	Boy's Town*	4,000	Cash
1 April 2021	Refugees' Fund	3,000	Cash
30 June 2021	National Museum	20,000#	Sculptures
31 July 2021	National University of Singapore@	5,000	Computers
28 August 2021	Yayasan Mendaki*	7,000	Cash

* Approved public institution.# Value approved by the Minister.@ Prescribed educational institution.

Calculate the chargeable income of the company for YA 2021 and YA 2022

[ICSA adapted]

Type of Accommodation Benefit	Taxable Value
Housing allowance	Tax in full. Where the employee signs a rental agreement but the employer pays the rent to the landlord, the actual rental amount paid by the employer will be taxed in full.

From YA 2020, employers are required to use the actual rent paid to report the accommodation benefits if the property is rented by the employer. If the employers do not pay any rent (eg where the property is owned by the employer), they can use the AV of the property to report the accommodation benefits and the value of furniture and fittings is to be determined based on 40% (partially furnished) or 50% (fully furnished) of AV of the property.

Other benefits

Generally, for other benefits provided by the employer, the taxable benefit on the employee is the actual cost to the employer.

Retirement benefits

Retirement benefits are taxable unless exempted under s 13 (see ¶3-115).

Example 9

An employee was earning an annual salary of $200,000 and a bonus of $50,000 in the calendar year 2021. He was provided with a fully furnished apartment (with an AV of $40,000) at a monthly rental of $4,000, which $3,300 is rental of apartment and $700 for the furniture and fixtures. He also contributed a monthly rent of $1,000 in the year.

The taxable value for accommodation and furniture and fittings on the employee is as follows:

Total rental (inclusive of rent for furniture and fittings) paid by employer: $4,000 × 12 = $48,000.

Less rent paid by employee of $12,000.

The taxable benefit of accommodation and furnishing is $36,000 (ie $48,000 – $12,000).

IRAS Practice: IRAS e-Tax Guide: Tax Change in Basis for Computing Taxable Car Benefit dated 14 December 2018

Law: s 10(2)(a)–10(2)(d)

¶3-109 Gains or profits from stock options

Employee share options or employee share ownership

With effect from 1 January 2003, any employee share options (ESOP) or employee share ownership (ESOW) gains will be taxed in Singapore to the extent that there is a nexus between that share option or share awards and the employment exercised in Singapore, ie the share option or share awards are granted while the individual is exercising employment in Singapore.

Therefore, where an employee who is granted ESOP or ESOW awards on or after 1 January 2003 while he/she is exercising his/her employment in Singapore, the full amount of ESOP or ESOW gains would be regarded as gains or profits derived from employment in Singapore under s 10(1)(b) of the ITA. This is so regardless of the country in which the ESOP is exercised or where the shares under ESOW are vested.

The amount of taxable gains or profits derived by the employee is the difference between the open market price of the shares at the time of exercising/accruing/vesting of the ESOP or ESOW and the amount paid by the employee for such shares. Such gains from stock options are to be treated as part of the gains or profits of employment.

Where the open market price of the shares is not readily available, the net asset value of the shares will be used to determine the market price of the shares.

Where the company is listed on the Singapore Exchange (SGX), the open market price of the shares is determined based on the last done price on the day that the shares are first listed on the SGX after the acquisition of the shares by the employee, ie with a free right of disposal of such shares.

If there is a restriction on sale of shares acquired under the ESOP or ESOW plan, ie the shares cannot be sold within a certain period from the date the ESOP or ESOW is exercised/vested (such period is known as "the moratorium"), then the gains derived by the employee would constitute gains accruing to him/her on the date the moratorium is lifted. The taxable gain is the difference between the open market price of the shares on the date the moratorium is lifted and the exercise price multiplied by the number of shares involved in the exercise.

Deemed exercise rule

Non-Singapore citizens and non-SPRs or SPRs who are leaving Singapore permanently on cessation of employment in Singapore or SPRs who are posted to work overseas will be deemed to have exercised the stock options granted by the company during the time when they were exercising employment with the company in Singapore.

The "deemed exercise" rule applies to any unexercised stock option or stock option where the moratorium has yet to be lifted under any ESOP or ESOW plan or shares under ESOW plan with vesting imposed where the beneficial interest from the ownership of the shares has not yet vested that were granted to them on or after 1 January 2003 while they were exercising employment in Singapore.

The gain under the "deemed exercise" rule is the difference between the open market value one month before the date of cessation of employment or the date the right/benefit to acquire the shares is granted, whichever is later; and the exercise price of the unexercised stock options.

If the gains derived from the subsequent (actual) exercise of the stock options are lower than the gains under the "deemed exercise" rule, the employee can apply to the IRAS to reassess the tax liability based on the actual gains. However, such request must be submitted within 4 years from the year of assessment following the year in which the "deemed exercise" rule is applied.

Tracking option

The "deemed exercise" rule at the time of tax clearance will not apply to any foreign employee leaving Singapore permanently at the time of cessation of employment or SPRs who are posted to work overseas if the employer has applied for and has been granted approval by the IRAS to adopt the tracking option.

Subject to the employer satisfying qualifying conditions, the tracking option allows the company to keep track of:

- when the foreign employee exercises any ESOP that were unexercised, or
- when the shares acquired under any ESOP are no longer subject to any restriction, or
- when the shares under any ESOW plans, that were unvested or restricted, at the time the foreign employee ceased employment in Singapore, vest or are no longer subject to any restriction (referred to as "income realisation event").

Upon the occurrence of such an event, the employer will compute and report the gains from the income realisation to the Comptroller and also undertake to collect and pay the tax on such gains to the Comptroller.

Once the employer opts for the tracking option in respect of a particular foreign employee, it would need to track all the unexercised or restricted ESOP and unvested or restricted shares granted under any ESOW plans held by that foreign employee at the time the foreign employee ceases employment in Singapore. The employer will not be allowed to selectively apply the tracking option only to certain tranches of unexercised or restricted ESOP, or unvested or restricted shares granted under any ESOW plans held by that foreign employee or subsequently opt out of the tracking option.

Stock options granted prior to taking up Singapore employment

For an employee who has been granted stock options in respect of employment exercised overseas, any gains derived by the employee from the exercise of the stock options are not regarded as income derived from Singapore and will not be subject to tax in Singapore even if the employee is to exercise the stock option while he/she is exercising an employment in Singapore.

¶3-109a Equity Remuneration Incentive Scheme (SMEs)

The ERIS (SMEs) provides tax incentive to employees who derive gains from ESOP granted by high-tech entrepreneurial companies in order to encourage technopreneurship.

Tax exemption

Under the ERIS (SMEs), a 50% income tax exemption for each year of assessment over a period of 10 years (if certain criteria are met) is granted to qualifying employees on the gains derived from:

- stock options granted from 1 June 2010 to 31 December 2013 (both dates inclusive) under any ESOP plans, or
- shares granted from 1 January 2012 to 31 December 2013 (both dates inclusive) under any ESOW plans.

The accumulative gains on which the tax exemption applies are capped at $10m over a 10-year period. For stock options or shares granted on or before 31 December 2013 which qualify for ERIS (SMEs), the employee will continue to enjoy the partial tax exemption under the ERIS (SMEs) as long as the gains are derived on or before 31 December 2023 (10 years from 31 December 2013).

The 10-year period commences from the year the employee first enjoys the partial tax exemption on his/her ESOP or ESOW gains derived from stock options or shares granted during the qualifying period.

Qualifying conditions

To qualify for the ERIS (SMEs), a company (Qualifying Company) must be incorporated in Singapore, grant stock options to its own employees and meet the following conditions at the time of the grant of options:

- it must carry on business activities in Singapore, and
- the aggregate market value of its gross assets at the time of the grant of options (or if this is not available, the aggregate market value of its gross assets as reflected in its audited accounts at the end of the accounting period immediately before the grant of the options), must not exceed $100 million. Where the market value of any asset is not available, its book value as reflected in the audited accounts may be used instead.

Stock options granted by parent company

Where stock options are not granted by a company to an employee who is exercising employment for the company but by its parent company which is operating a Group ERIS (SMEs), the parent company can be considered as a Qualifying Company in relation to the employee of the first mentioned company for the purposes of the scheme if the following requirements are met at the time of the grant of options:

- The company for whom the employee is exercising employment must satisfy the requirements of a Qualifying Company as set out earlier and must not separately operate an ERIS (SMEs) on its own.
- The parent company must be incorporated in Singapore.
- The parent company must carry on business activities in Singapore.
- The aggregate market value of the gross assets of the parent company on a group basis at the time of grant of options (or if this is not available, the aggregate market value of its gross assets as reflected in its consolidated audited accounts at the end of the accounting period immediately before the grant of options) must not exceed $100 million. Where the market value of any asset is not available, its book value as reflected in the consolidated audited accounts may be used instead.

"Qualifying employee" means an employee (other than any non-executive director) of a company, who at the time of the grant to him/her of any right or benefit to acquire the shares of the company or shares of its holding company, as the case may be:

- is committed to work:
  - where the time of the grant is before 1 January 2010:
    (i) at least 30 hours per week for the company, or

Relevant percentage requirement

- in relation to any right or benefit under a share acquisition scheme to acquire the shares of a qualifying company or its holding company granted before 16 February 2008, means:
  - in aggregate at least 50% of the employees of the qualifying company are offered during any calendar year any rights or benefits to acquire shares in the qualifying company or in its holding company under that scheme, as ascertained in accordance with the specified formula, or
- in relation to any right or benefit under a share acquisition scheme to acquire the shares of a qualifying company or its holding company granted on or after 16 February 2008, means:
  - in aggregate at least 25% of the employees of the qualifying company are offered during any calendar year any rights or benefits to acquire shares in the qualifying company or in its holding company under that scheme, as ascertained in accordance with the specified formula.

Vesting period requirement

The current SGX vesting period requirements are as follows:

- where the exercise price of the share is equivalent to its market value at the time of grant of option, the option given on the share may not be exercised within one year from the grant of the option, and
- where the exercise price of the share is at a discount to its market value at the time of grant of option, the option given on the share may not be exercised within 2 years from the grant of the option.

"Part-time employee" means an employee of a company who is committed to work:

- where the time of the grant is before 1 January 2010:
  - for not more than 30 hours per week (including any time he/she would be required to work but for injury, any official leave or such other similar events) for the company, or
- where the time of the grant is on or after 1 January 2010:
  - for not more than the number of hours per week referred to in s 66A(1) of the *Employment Act* (including any time he/she would be required to work but for injury, any official leave or such other similar events) for the company.

"Qualifying employee" means an employee of a qualifying company who, at the time of the grant to him/her of any right or benefit to acquire the shares of the company or the shares of its holding company, as the case may be, does not beneficially own, directly or indirectly, voting shares that confer the right to exercise or control the exercise of not less than 25% of the voting power in the qualifying company which grants the right or benefit to acquire its shares.

Law: s 10(6), 10(6A), 10(7), 13L

¶3-109c Equity Remuneration Incentive Scheme (Start-Ups)

The ERIS (Start-Ups) was introduced to improve the attractiveness of equity-based compensation tools for new start-up companies incorporated in Singapore. It provides tax incentive to employees who derive gains from ESOP or ESOW plans.

Tax exemption

A qualifying employee under the ERIS (Start-Ups) can enjoy tax exemption of 75% of up to $10 million of gains from an ESOP or ESOW plan over a 10-year period provided certain criteria are met.

The accumulative gains on which the tax exemption applies are capped at $10 million over a 10-year period. For stock options or shares granted on or before 15 February 2013 which qualify for the ERIS (Start-Ups), the employee will continue to enjoy the partial tax exemption under the ERIS (Start-Ups) as long as the gains are derived on or before 31 December 2023 (10 years from 31 December 2013).

- all of whom are individuals, or
- at least one of whom is an individual holding at least 10% of the total number of issued ordinary shares of the qualifying company, and

- has gross assets the market value of which does not exceed $100 million.

"Qualifying employee" means an employee (other than any non-executive director) of a company, who at the time of the grant to him/her of any right or benefit to acquire the shares of the company or shares of its holding company, as the case may be:

- is committed to work:
  - where the time of the grant is before 1 January 2010:
    (i) at least 30 hours per week for the company, or
    (ii) where he/she is committed to work less than such number of hours, is committed to work at least 75% of his/she total working time per week for the company, and
  - where the time of the grant is on or after 1 January 2010:
    (i) at least the number of hours per week referred to in s 66A(1) of the *Employment Act* for the company, or
    (ii) where he/she is committed to work less than such number of hours, is committed to work at least 75% of his/her total working time per week for the company, and
- does not beneficially own, directly or indirectly, voting shares that confer the right to exercise or control the exercise of not less than 25% of the voting power in the company which grants the right or benefit to acquire its shares.

IRAS Practice: IRAS e-Tax Guide: Equity Remuneration Incentive Scheme (ERIS) (Second Edition) published on 26 April 2013; IRAS e-Tax Guide: Tax Treatment of Employee Stock Option and Other Forms of Employee Share Ownership Plans published on 24 June 2013

Law: s 10(6), 10(6A), 10(7), 13M

¶3-110 Excess provident fund contributions

Contributions by employers to provident funds are considered as employment income unless they are exempt under s 13 (see ¶3-115). If the employer contributes in excess of the provident fund requirements in respect of ordinary or additional wages paid to the employee in that year, the employer's excess contributions are deemed to be income of the employee.

Under the *Central Provident Fund Act* (CPF Act), employers are to contribute CPF on the ordinary and additional wages paid to their employees who are Singapore citizens or SPRs.

The full CPF contribution rates for employers and employees for various types of employees who are Singapore citizens or SPRs (who have more than 2 years of obtaining SPR status) and the CPF contribution allocation rates that apply to wages earned from 1 January 2022 are as follows:

	Contribution rate (for monthly wages ≥ $750)			*Credited into*		
Employee age (Years)	*Contribution by employer (% of wage)*	*Contribution by employee (% of wage)*	*Total contribution (% of wage)*	*Ordinary account (% of wage)*	*Special account (% of wage)*	*Medisave account (% of wage)*
35 & below	17	20	37	23	6	8
Above 35–45	17	20	37	21	7	9
Above 45–50	17	20	37	19	8	10
Above 50–55	17	20	37	15	11.5	10.5
Above 55–60	14	14	28	12	5.5	10.5
Above 60–65	10	8.5	18.5	3.5	4.5	10.5
Above 65–70	8	6	14	1	2.5	10.5
Above 70	7.5	5	12.5	1	1	10.5

(ii) any distribution made by any restricted authorised scheme out of income derived from Singapore or received in Singapore on or after 17 February 2006, that is income or deemed to be income of the individual,

except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession

(zj) any income derived from any structured product offered by a financial institution derived from Singapore:

(i) by an individual, in the basis period relating to YA 2008 and any subsequent year of assessment, except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession, or

(ii) by a non-resident person (not being an individual) if:

(A) it does not, by itself or in association with others, carry on a business in Singapore, and does not have a PE in Singapore, and

(B) the contract in respect of the structured product is entered into between it and the financial institution during the period from 1 January 2007 to 31 December 2026 (both dates inclusive) and, if such contract is renewed or extended, the period for which it is renewed or extended commences before 1 January 2027

(iii) by a non-resident person (not being an individual) who carries on any operation in Singapore through a PE in Singapore if:

(A) the funds used by that person to invest in the structured product are not obtained from the operation, and

(B) the contract in respect of the structured product is entered into between it and the financial institution during the period from 1 January 2007 to 31 December 2026 (both dates inclusive) and, if such contract is renewed or extended, the period for which it is renewed or extended commences before 1 January 2027.

(zk) any prepayment fee, redemption premium and break cost from debt securities derived from Singapore on or after 15 February 2007 by any individual, except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession

(zl) any other income directly attributable to debt securities as may be prescribed by regulations derived from Singapore on or after the prescribed date by any individual, except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession

(zm) the income of any charity registered or exempt from registration under the *Charities Act* (Cap 37)

(zn) (*Deleted by Act 32 of 2019 with effect from 2 December 2019*)

(zo) any sum accrued to a woman on or after 1 January 2011 by way of maintenance in accordance with an order of court or deed of separation

(zp) any contribution to the CPF in respect of an individual, and any cash payment made by an individual, made by the Government under the Workfare Bonus scheme, the Workfare Special Payment scheme, the Workfare Special Bonus scheme or such other scheme involving similar contributions or payments by the Government as the Minister may by notification in the *Gazette* approve

(zq) any contribution to the CPF in respect of an individual, and any cash payment to an individual, made by the Government under the Workfare Income Supplement scheme established under Pt VIA of the CPF Act

(zr) any contribution by the Government to the PSE account, or an account in the CPF, of an individual who is or was a national serviceman, as part of the National Service Housing, Medical and Education Awards

(zs) any distribution made to an individual by a trustee of an approved REIT exchange-traded fund, out of a distribution from a REIT that is in turn made out of income of the kinds mentioned in s 43(2A)(*a*)(i), (ii), (iii), (iv) and (v), but not where the first mentioned distribution

Income of eligible family-owned investment holding company

An eligible family-owned investment holding company will be exempt from tax on all "relevant income" as specified below:

- any income of the kinds as specified in s 13(1)(zd), 13(1)(ze), 13(1)(zf), 13(1)(zi), 13(1)(zj), 13(1)(zk) or 13(1)(zl) of the ITA accrued in or derived from Singapore on or after 1 April 2008, or
- any income of the kinds referred to in s 13(7A) received in Singapore on or after 1 April 2008.

The Minister may make regulations to provide for the deduction of expenses, allowances, losses and donations of an eligible family-owned investment holding company otherwise than in accordance with the ITA.

Where a company fails to satisfy the definition of "eligible family-owned investment holding company" in any basis period beginning on or after 1 April 2013, the above exemption shall not apply to the company in any subsequent basis period, even if it satisfies the definition in that subsequent period.

The above exemption shall cease to apply with effect from the year of assessment 2024.

"Eligible family-owned investment holding company" means any company incorporated before 1 April 2013:

- whose shareholders are related to each other in the manner prescribed by regulations
- whose operation consists wholly or mainly of the holding or making of investments, and
- which satisfies such other conditions as may be prescribed by regulations.

Income arising from funds managed by fund manager in Singapore

Under s 13X, subject to conditions as may be prescribed by regulations or specified in the letter of approval of the person, master fund, feeder fund, SPV, master-feeder fund structure, master-feeder fund-SPV structure or master fund-SPV structure, the income of the following persons arising from funds managed in Singapore by a fund manager will be exempt from tax:

(a) an approved person whose approval is granted between 1 April 2009 and 31 December 2024 (both dates inclusive).

(b) a company, a trustee of a trust fund or a partner of a limited partnership, where the company, trust fund or limited partnership is the approved master fund or an approved feeder fund of an approved master-feeder fund structure, arising from funds of the master fund or any feeder fund of that structure whose approval is granted between 7 July 2010 and 31 December 2024 (both dates inclusive).

(c) in relation to an approved master-feeder fund-SPV structure, a company, a trustee of a trust fund or a partner of a limited partnership, where the company, trust fund or limited partnership is the approved master fund or an approved feeder fund of the structure, approved 1st tier SPV, approved 2nd tier SPV or approved eligible SPV, taxable entity of any approved eligible SPV of the structure where the eligible SPV is not a legal entity, arising from funds of the master fund or any feeder fund of that structure whose approval is granted between 1 April 2015 and 31 December 2024 (both dates inclusive).

(d) in relation to an approved master fundSPV structure, a company, a trustee of a trust fund or a partner of a limited partnership, where the company, trust fund or limited partnership is the approved master fund of the structure, approved 1st tier SPV, approved 2nd tier SPV or approved eligible SPV, taxable entity of any approved eligible SPV of the structure where the eligible SPV is not a legal entity, arising from funds of the master fund of that structure whose approval is granted between 1 April 2015 and 31 December 2024 (both dates inclusive).

However, where the income of any approved person or company, trustee or partner, taxable entity, 1st tier SPV, 2nd tier SPV or eligible SPV mentioned above is not exempt from tax, s 13C, 13CA and 13R will not apply to that income notwithstanding anything in those provisions.

"**Taxable entity**", in relation to an investment vehicle (including a master fund, a feeder fund and an SPV) that is not a legal entity, means the person to whom income from the investment vehicle accrues.

(B) the company did not undertake any property development in Singapore or elsewhere for a period of at least 60 consecutive months before the disposal of shares, or

(c) the disposal of shares by a partnership, limited partnership or limited liability partnership one or more of the partners of which is a company or are companies.

For share disposals that do not meet the above guidelines, the tax treatment of the gains/losses arising from share disposals will continue to be determined based on a consideration of the facts and circumstances of each case.

These guidelines will apply to disposal of shares during the period from 1 June 2012 to 31 December 2027 (both dates inclusive) regardless of whether the investee company is:

- incorporated in Singapore or elsewhere,
- listed on the Singapore Exchange (SGX) or an exchange elsewhere, or non-listed.

"**Activity of holding immovable properties**" excludes the holding of immovable properties where such properties are used to carry on a trade or business, including the business of letting immovable properties.

"**Property development**" means construction or causing the construction of any building or part of a building, and acquisition of land or building for such construction, and for this purpose "construction" means —

(a) any building operations, or demolition and rebuilding operations, in, on, over or under any land for the purpose of erecting a building or part of a building, and

(b) any alteration or addition to, or partial demolition and rebuilding of, any building or part of a building,

that requires the approval of the Commissioner of Building Control under the Building Control Act (Cap. 29) or (if carried out in a country outside of Singapore) would have required such approval if it had been carried out in Singapore.

IRAS Practice: IRAS e-Tax Guide: Certainty of Non-taxation of Companies' Gains on Disposal of Equity Investments (Third Edition) published on 10 December 2020

Law: s 13W

¶3-117 Exemption of certain payments received in connection with COVID-19 events

Section 13X provides that the following are exempt from tax:

(a) a cash payment made on behalf of the Government to a person under the public scheme known as the Self-Employed Person Income Relief Scheme (SIRS), that is part of the Budget Statements of the Government dated 26 March 2020 and 6 April 2020

(b) a cash payment made on behalf of the Government to a person under the public scheme known as the Jobs Support Scheme (JSS)

(c) a cash payment made by the Government to a person under any of the following public schemes:

(i) Quarantine Order Allowance (QOA) Scheme

(ii) Leave-of-Absence (LOA) Programme,

(iii) The Stay-Home Notice (SHN) Support Programme,

(d) a cash payment made on behalf of the Government to an individual under the public scheme known as the COVID-19 Support Grant (CSG), that is part of the Budget Statement of the Government dated 26 March 2020, and the ministerial statement of the Minister dated 17 August 2020

(e) a cash payment made by the Singapore Tourism Board between (and including) the months of April and July 2020 to the holder of a tourist guide licence as defined in s 19A(1) of the Singapore Tourism Board Act (Cap. 305B), to mitigate any loss of income from a COVID-19 event

(f) a cash payment made by the Maritime and Port Authority of Singapore under the public scheme known as the Seafarers Relief Package in the year 2020 to a seafarer as defined in s 2(1)

¶6-110 Tax treatment of unabsorbed trade loss of a partner of a limited liability partnership

Transferor is a sole proprietor or a partner

Generally, the unabsorbed trade loss of a transferred trade, business, profession or vocation of a sole proprietor or a partner of a partnership/transferor LLP remaining in the year of assessment of transfer can be carried forward to a future year of assessment for set-off against future income of the sole proprietor or the partner notwithstanding that the sole proprietor or the partner of the partnership/transferor LLP becomes a partner of the transferee LLP or not. However, the carry forward of the unabsorbed trade loss is subject to the shareholding test where the partner is a company.

Transferor is a company

Where a company transfers a trade, business or profession to an LLP and dissolves thereafter, the issue of carrying forward its unabsorbed trade loss of the transferred trade, business or profession for set-off against its future income does not exist.

On the other hand, if the company does not dissolve after the transfer, its unabsorbed trade loss of the transferred trade, business or profession remaining in the year of assessment of transfer can be carried forward to a future year of assessment for set-off against its future income, subject to the shareholding test. This is regardless of whether the company becomes a partner of the transferee LLP.

IRAS Practice: IRAS e-Tax Guide: Income Tax Treatment of Limited Liability Partnerships (LLPs) (Second Edition) published on 1 March 2014

Law: s 36A

¶6-111 Tax treatment of unabsorbed donation of a partner of a limited liability partnership

A transferor can carry forward to a future year of assessment for set-off against his/her future income, any unabsorbed donation of his/her transferred trade, business, profession or vocation remaining in the year of assessment of transfer, except where the transferor is a company which dissolves after the transfer. This is regardless of whether the transferor becomes a partner of the transferee LLP.

IRAS Practice: IRAS e-Tax Guide: Income Tax Treatment of Limited Liability Partnerships (LLPs) (Second Edition) published on 1 March 2014

Law: s 36A

¶6-112 Admission of new partner(s) to the limited liability partnership

Where an LLP admits a partner or partners, each existing partner of the LLP will be considered to continue to carry on the same trade, business or profession, unless facts show that there is indeed a change in the trade, business or profession carried on through the LLP. As long as the business continuity test has been satisfied, each partner's unabsorbed CA or IBA of the LLP brought forward from a prior year of assessment (if any) can be set off firstly against his/her income from the LLP, and then his/her income from other sources (subject to the relevant deduction restriction).

Regardless of whether there is a cessation of trade, business, profession or vocation arising from the admission of new partners, each existing partner of the LLP may be able to carry forward his/her unabsorbed trade loss or donation from a prior year of assessment for set-off firstly against his/her income from the LLP and then his/her income from other sources. The set-off of such unabsorbed trade loss is subject to the relevant deduction restriction, and where the existing partner of the LLP is a company, it will be subject to the shareholding test.

IRAS Practice: IRAS e-Tax Guide: Income Tax Treatment of Limited Liability Partnerships (LLPs) (Second Edition) published on 1 March 2014

Law: s 36A

¶6-113 Withdrawal of partner(s) of a limited liability partnership

Where an existing partner withdraws from an LLP, this partner is considered to have ceased to carry on the same trade, business, profession or vocation. Consequently, his/her unabsorbed CA or IBA of the LLP will be disregarded. However, his/her unabsorbed trade loss or donation of the LLP may be carried to future years of assessment for set-off against his/her income from other sources (subject to the relevant deduction restriction). Where the withdrawing partner is a company, the carry forward of its unabsorbed trade loss of the LLP is subject to the shareholding test.

The tax treatment of unabsorbed CA, IBA, trade loss and donation of the remaining partners of the LLP will follow that of the partners who continue to be partners of an LLP where there is admission of new partner(s) to the LLP, as spelt out above.

IRAS Practice: IRAS e-Tax Guide: Income Tax Treatment of Limited Liability Partnerships (LLPs) (Second Edition) published on 1 March 2014

Law: s 36A

¶6-114 Limited partnerships

An LP is a business structure with at least one partner registered as a limited partner and one partner registered as a general partner under the *Limited Partnerships Act 2010* (LP Act). The structure of an LP allows a business to operate and function as a partnership without a separate legal personality from the partners.

A limited partner of an LP is only liable for the debts incurred by the LP to the extent of his/her contributed capital. He/she will not be allowed to take part in the management of the LP apart from what is stated in Sch 1 to the LP Act.

On the other hand, a general partner of an LP is personally liable for all the debts incurred, obligations and liabilities of the LP. Where there are 2 or more general partners, the general partners are jointly and severally liable for all debts, obligations and liabilities of the LP. A general partner can take part in the management of the LP and share the right to use partnership property as well as the profits of the firm in pre-defined proportion.

An LP will enjoy tax transparency like LLPs and general partnerships. The limited partners of an LP will be treated in the same manner as the partners of an LLP for income tax purposes (see ¶6-108–¶6-113). Hence, the deductibility of a limited partner's share of an LP's trade loss and CA is also subject to the same relevant deduction restriction rules applicable to partners of LLPs. Similarly, if the limited partner's cumulative relevant deductions were to exceed his/her capital contribution due to a reduction in his/her capital contribution in any year of assessment, the excess will be deemed income chargeable to tax to him/her under s 10(1)(g) of the ITA for that year of assessment, and an amount equal to the excess will be deemed to be a loss by him/her in the trade or business of the LP.

The general partners of an LP are treated in the same manner as the partners of a general partnership for income tax purposes. As such, the relevant deduction restriction rules mentioned above will not apply to such partners.

Re-registration of partners

For income tax purposes, if the trade, business or profession of an LP remains unchanged, the re-registration of a general partner in an LP as a limited partner or vice versa will not affect the continuity of the trade, business or profession carried on by the partners even if the partners involved in such a conversion are subject to a new capital contribution requirement and/or profit sharing entitlement.

Where a general partner re-registers as a limited partner of the same LP, the relevant deduction restriction rules will only apply to him/her prospectively from the year of assessment relating to the basis period in which the re-registration takes place. The same tax treatment will apply when an existing partner of a general partnership re-registers as a limited partner upon a transfer of a general partnership business to an LP.

For a limited partner who re-registers to become a general partner of an LP, the relevant deduction restriction rules will cease to apply to him/her from the year of assessment relating to the basis period in which the re-registration takes place. In other words, any restriction that previously

SRS contribution cap

From YA 2017, the yearly maximum SRS contribution for a Singaporean/Singapore permanent resident (SPR) and a foreigner is as follows:

	*Absolute income base**	*Maximum yearly contribution*
Singaporean/SPR	17 months × $6,000 = $102,000	$102,000 × 15% = $15,300
Foreigner	17 months × $6,000 = $102,000	$102,000 × 35% = $35,700
* Based on 17 months of CPF monthly salary ceiling.		

Relaxation in SRS rules

The Government has included the following measures in its multi-pronged strategy to address the financial needs of a greying population:

- employers are allowed to contribute to their employees' SRS accounts, subject to the current contribution limits of $15,300 per year for Singapore citizens and SPR employees and $35,700 per year for foreigner employees

  The employers' contributions to the SRS accounts will be taxable to the employees, but the employees will be able to enjoy tax relief up to the applicable contributions per year of assessment.

  Employers will be allowed to claim full tax deduction for the contributions that they make to their employees' SRS accounts.

- the age limit (below the statutory retirement age) for individuals qualifying for contributions to the SRS accounts has been removed, and

- individuals without any earned employment income in the previous year are allowed to contribute to their SRS accounts in the current year.

Law: s 39(2)(o)

¶7-123 Parenthood tax rebate

Parenthood tax rebate (PTR) is given to parents who are tax residents in the year of assessment for the birth of a child in the basis period for the year of assessment. The PTR can be set-off against the income tax liabilities of either or both parents and the balance can be carried forward until the rebate is fully utilised.

The availability of PTR is subject to the following conditions:

- the child is a legitimate or legally adopted child
- the child must be a citizen of Singapore at the time of birth or adoption or within 12 months thereafter, and
- in the case of an illegitimate child, the individual becomes lawfully married to the natural parent of the child before the child reaches 6 years of age.

The amount of rebate is as follows:

	Quantum of rebate
	$
1st child	5,000
2nd child	10,000
3rd child	20,000
4th child	20,000
5th or subsequent child	20,000

(e) Relocation passage to Singapore at $165 each. Home leave passage for the whole family (excluding Faith, his eldest daughter) at $380 each and holiday trip to Japan for the whole family (excluding Faith) at $1,800 each.

They have 4 children as follows:

(i) Faith

Married and 24 years old. Studying Greek history, a course not available in Singapore, at the Athens University. The cost for the year is $5,600.

(ii) Grace and Hans

Aged 18 and 15 years old respectively. Both are studying in Singapore schools and did not receive any income during the year.

(iii) Iman

Aged 13 years old and physically handicapped. His wife is a full-time housewife and has no other income.

Calculate Mr Wee's tax liability for YA 2022.

(2) Rachel, an SPR, is the chief scientist with the Research Institute Pte Ltd, a Singapore company. She received the following from the company for the year ended 31 December 2021:

Salary	$180,000
Bonus	$50,000

A company car was provided and running expenses of $18,000 were paid by the company. Total mileage travelled was 15,000 km, 40% being for business use. The cost of the new car is $240,000 and the PARF rebate is $30,000.

The following benefits were also provided to Rachel and her family in 2021:

(a) An all expenses paid holiday to Phuket for her entire family. The total cost paid was $6,000.

(b) An employee stock option was granted to Rachel by her Singapore employer on 1 January 2019. This entitled her to purchase up to 100,000 shares within 5 years at an option price of $1. Rachel exercised the option on 30 June 2019 to purchase 50,000 shares when the market price was $1.50. She later sold the shares on 31 July 2021 at a price of $2.50, realising a profit of $75,000.

She exercised the remaining portion of the option on 1 October 2021 and the last done price on listing date of the shares was $1.80. She has yet to sell this lot of 50,000 shares.

(c) A partially furnished apartment owned by the company from 1 March 2021 to 31 December 2021. The annual value of the apartment is $30,000. She and her family stayed in a self-rented bungalow before 1 March 2021.

Rachel contributes $2,500 per month to her SRS account.

Her mother is 60 years old and lives with her. During the year, her mother received $10,000 interest income from fixed deposits placed with a local bank.

Rachel is 30 years old and divorced. She fully maintains her 3 children from her previous marriage. They are aged 13, 11 and 8 years old and are non-Singapore citizens.

Calculate her tax liability for YA 2022.

(3) Laura, a Singapore citizen, had a tax adjusted income of $300,000 from her accountancy firm for the year ended 31 December 2021. During the year, she made the following donations:

	$
Kim Keat Community Centre Building Fund*	15,000
Church	10,000
Computers to Teochew Clan Association	30,000
Computers to the Children's Home*	7,500

* approved IPC

Chapter 8

TAXATION OF EMPLOYEES

¶8-100 Summary checklist

•	Employment income is sourced in the location where the employment is exercised.	¶8-101
•	Under a dual employment contract arrangement, the income from offshore employment is not taxable in Singapore unless it is received in Singapore.	¶8-102
•	The tax liability of an area representative is computed on the remuneration relating to the time spent in Singapore or the remittances into Singapore (if the individual is resident), whichever is the greater.	¶8-103
•	There are several potentially tax efficient benefits for employees which can be used in planning a remuneration package.	¶8-105

¶8-101 Source of employment income

Section 12(4) of the *Income Tax Act* (ITA) deems employment income to be sourced in Singapore if the employment is exercised in Singapore (see ¶3-114). This is regardless of who the employer is, where the contract is signed or where the remuneration is paid.

Where the employment is sourced in Singapore, the entire remuneration is subject to Singapore tax. However, employees who exercise part of their employment outside Singapore may be able to structure their employment so as to minimise their Singapore tax liability.

Law: s 12(4)

¶8-102 Dual employment contracts

Where an individual has distinct responsibilities both in Singapore and outside Singapore, it may be possible to have 2 employment contracts: one contract with the Singapore company in respect of services performed in Singapore (Singapore employment), and the other contract with an overseas company in respect of services performed outside Singapore (offshore employment).

The remuneration attributable to the offshore employment should not be assessable to tax in Singapore as it is not sourced in Singapore. Foreign-sourced personal income remitted or deemed remitted into Singapore by an individual is not taxable in Singapore.

Considerations when structuring dual employment contracts

The following considerations should be taken into account in the structuring of such employment:

- Two separate contracts must be drawn up.
- The employment duties, responsibilities and locations where the duties are to be discharged must be clearly specified in each contract.
- The remuneration attributable to the Singapore employment must be reasonable with regard to the duties and responsibilities and the amount of time spent in rendering these services in Singapore by the employee.
- The services relating to the offshore employment must be performed exclusively outside Singapore, ie no part of the offshore employment should be performed in Singapore.
- The remuneration relating to the offshore employment must be borne by the offshore employer. Under no circumstances should the remuneration be recharged to any Singapore entity.

Care should be taken in structuring such contracts to ensure that there are indeed 2 distinct employments. If the services performed outside Singapore were merely incidental to the Singapore employment, then the overseas employment is simply an extension of the Singapore duties and the entire remuneration is considered sourced in Singapore (see ¶3-107).

Calculate Mr Bay's chargeable income for YA 2022 and assume that there are 365 days in the year 2021.

[ATTS adapted]

(2) Terence Kan, the accountant of Singapore G Pte Ltd has approached you to help him restructure the company's Managing Director's (MD) remuneration package. The following details are available:

	$
Salary	100,000
Cash housing allowance	60,000
School fees for daughter	10,000
One return ticket each for the MD and his family	12,000
Entertainment claims reimbursed by company	30,000
Airfare to relocate the MD and his family to Singapore on his commencement of employment	18,000

The company is considering whether to provide the MD rent-free fully furnished accommodation by paying the landlord direct instead of giving the MD a cash housing allowance. The monthly rent is $6,500 of which $5,000 relates to accommodation and $1,500 to furniture and fixtures, and the AV of the apartment is $48,000. The MD would be required to contribute $2,000 monthly towards the rental.

The MD commenced employment on 1 January 2021 and is expected to be repatriated back to his home country in August 2022

Show the total s 10(1)(b) income of Terence for both alternatives.

[NTU adapted]

(3) John Smith, a resident of Fantasia, is keen to work in Singapore. He has offers from the following companies:

(i) A company resident in Fantasia which has a representative office in Singapore.

As the company's area representative, he will be stationed in Singapore. His duties would require him to travel outside Singapore between 40% and 60% of his time. The contract is either for a one-year or 3-year stay in Singapore. His employment income will be paid to his bank account in Fantasia. He would have to make his own arrangements to transfer his income into Singapore for his upkeep. There is no tax treaty between Singapore and Fantasia.

(ii) A Singapore company which has several subsidiaries in the ASEAN countries.

As part of his Singapore duties as the regional marketing manager, he would be required to visit overseas customers. This would probably take up 20% of his time. He may be subject to tax in one of the countries which does not have a tax treaty with Singapore.

Advise John on all relevant Singapore tax issues relating to each job offer.

(4) Super Data Inc ("Super Data") is tax resident in the USA, which does not have a tax treaty with Singapore. Super Data intends to set up a Singapore plant and Mr Movenpick will be seconded to head the Singapore operations. He will be offered a 2-year contract. The contract provides for a monthly salary of $15,000 and the following terms:

(i) a housing allowance of $9,000 per month

(ii) Super Data will continue to contribute $500 per month to his US retirement pension scheme, and

(iii) his Singapore income tax on employment income will be borne by himself.

Advise Mr Movenpick of the Singapore tax implications of his remuneration package as well as suggest ways of restructuring the terms, if any, in order to minimise his tax liability.

Non-resident director's remuneration

Any remuneration paid by a company to any director of the company who is not resident in Singapore, is subject to WHT at 22% under the provisions of s 45B of the ITA. The date of payment for director's fees approved in arrears is the date they are voted and approved at the company's annual general meeting.

The IRAS has clarified that fees paid by non-resident companies with no presence in Singapore to their directors purely in their capacity as directors are sourced in the country where the company is a resident. Pursuant to this clarification, the fees derived by non-resident directors of companies that have no presence in Singapore are not liable to Singapore tax notwithstanding that the directors may, on some occasions, conduct their meetings in Singapore.

IRAS Practice: IRAS e-Tax Guide: Clarification on the Tax Treatment of Directors' Fees Derived by Non-Resident Directors of Companies that have No Presence in Singapore revised on 1 December 2011

Law: s 45B

Distribution by unit trust

WHT provisions in s 45 shall apply in relation to any distribution made by a unit trust which is deemed to be income under s 10(19), (20) and (21). However, WHT will not apply to:

- any distribution which is made on or after 28 February 1998 by a designated unit trust referred to in s 35(12)
- any distribution made on or after 1 January 2015 by a unit trust to a branch in Singapore of a company incorporated outside Singapore and not known to the trustee of the unit trust to be resident in Singapore.

Law: s 45C

Gains from real property transactions

Income arising from the disposal of real property by a non-resident person, who is chargeable to tax under s 10(1)(a), is subject to WHT at 15% under the provisions of s 45 of the ITA.

"**Real property**", in relation to a disposal of which the income is chargeable to tax under s 10(1)(*a*), means any land and any interest, option or other right in or over any land.

Law: s 45D

Withholding tax exemption for payments made by banks, finance companies and certain approved entities

Under s 45I, the WHT provisions in s 45(1) to (8) and s 45A(1) will not apply to any income referred to in s 12(6) which is liable to be paid by the following specified financial institutions:

- banks licensed under the *Banking Act* or approved under the *Monetary Authority of Singapore Act*
- finance companies licensed under the *Finance Companies Act*, and
- financial institutions that:
  - (i) hold a capital markets service licence under the *Securities and Futures Act* for dealing in capital markets products and advising on corporate finance
  - (ii) are involved or will be involved in the underwriting of debt or equity market issuances, and
  - (iii) have been approved before 17 February 2012 for the purposes of the Income Tax (Exemption of Interest and Other Payments for Economic and Technological Development) Notification 2012 (G.N. No. S72/2012),

  if the payment is made:
- at any time during the period from 17 February 2012 to 31 December 2026 (both dates inclusive) under
  - (i) a contract which takes effect before from 17 February 2012

As per the existing tax treatment, the PEs in Singapore are required to declare the s 12(6) payments that they received in their annual income tax returns and are assessed to tax on such payments (unless the payments are specifically exempt from tax).

Extend and rationalise the WHT exemption for the financial sector

To continue supporting the competitiveness of our financial sector, the Minister has proposed in his 2022 Budget Statement on 18 February 2022 that the WHT exemption for the following payments will be extended till 31 December 2026:

a) Payments made under cross currency swap transactions by Singapore swap counterparties to issuers of Singapore dollar debt securities,

b) Interest payments on margin deposits made under all derivatives contracts by approved exchanges, approved clearing houses, members of approved exchanges and members of approved clearing houses,

c) Specified payments made under securities lending or repurchase agreements by specified institutions, and

d) Payments made under interest rate or currency swap transactions by MAS.

The above will cover payments made under a contract or agreement that takes effect on or before 31 December 2026.

However, the Minister has also proposed to rationalise the WHT exemption for payments made under interest rate or currency swap transactions by financial institutions, which will be allowed to lapse after 31 December 2022. Such payments will be covered under the existing WHT exemption for payments on over-the-counter financial derivatives.

MAS will provide any consequential details by 31 May 2022.

Extend the WHT exemption on payments for over-the-counter ("OTC") financial derivatives

To support Singapore's value proposition and competitiveness of our financial sector, the WHT exemption will be extended for another 5 years till 31 December 2026.

All other conditions of the WHT exemption remain the same. All payments on OTC financial derivatives made by a financial institution in Singapore to any non-resident person (excluding any PE in Singapore) are exempt from WHT, where such payments —

(a) are made during the period from 20 May 2007 to 31 December 2026 (both dates inclusive) under a contract that took effect before 15 February 2007, or

(b) are made under a contract that takes effect during the period from 15 February 2007 to 31 December 2026 (both dates inclusive). In such cases, the WHT exemption applies to the entire duration of the OTC financial derivatives contract, including payments that are made beyond 31 December 2026 under that contract.

Law: s 45I

Space satellites

From 28 February 2013, payments for satellite capacity are characterised as payments for services rather than treated as payments for the use of movable properties. This recognises that payers generally do not have material possessory interest or control over the satellites. With the new characterisation, payers no longer need to withhold tax on payments to non-residents for the use of satellite capacity since the services are rendered outside Singapore.

"Space satellite" is defined to mean any apparatus placed in orbit relative to the earth for any economic, scientific or technological purpose.

Payments for software and payments for the use of or the right to use information and digitised goods by end-users

From 28 February 2013, the rights-based approach was adopted to characterise the following payments:

- *Payments for software or copyright right*

  WHT is not applicable (s 12(7A)(c)) to payment for the use of software not being a right to commercially exploit in one form or another the copyright of such software to:

(i) reproduce, modify or adapt, and distribute the software, information or digitised goods, or

(ii) prepare a derivative work based on the software, information or digitised goods for distribution.

These include payments for shrink-wrap software, downloadable software, software bundled with hardware, software licences (eg site, enterprise or network), and limited duration licensed software and software products with online elements.

Where a payment is made to a copyright owner for the transfer of partial rights in the copyright (eg licensing of copyright to be commercially exploited by the payer), the payment is a royalty. WHT at 10% or at the reduced rate as provided under an avoidance of double taxation agreement (DTA) shall apply if the payment is made to a non-resident. If, however, the payment is made to a copyright owner for the complete alienation of copyright rights in the goods or software, then the transaction is a sale of the copyright. In the hands of the copyright owner, any gains derived from such sale constitute either his business income (if the copyright right constitutes his stock in trade) or capital gains. The sale consideration paid to a non-resident is not subject to withholding tax.

- *Payments for the use of or the right to use information*

WHT is not applicable (s 12(7A)(c)) to payment for the use of or the right to use information, not being a right to commercially exploit in one form or another the copyright in such information.

These include subscriptions to Bloomberg, Reuters, Lexis-Nexis and other similar subscriptions, but exclude payments for the use or the right to use patents, trademarks, registered designs, geographical indications, and the layout design of integrated circuits, plant varieties and trade secrets where WHT shall apply.

- *Payments for the right to use of and right to use digitised goods*

WHT is also not applicable (s 12(7A)(c)) to payment for the use of or the right to use digitised goods, not being a right to commercially exploit in one form or another the copyright in such software or digitised goods such as the right to:

(i) reproduce, modify or adapt, and distribute the software, information or digitised goods, or

(ii) prepare a derivative work based on the software, information or digitised goods for distribution.

These include payments for online or downloadable ring tones, music videos, books and other similar goods.

- *Payments for copyrighted article*

Payments for software or digitised goods that do not involve the transfer of the copyright rights embedded in the goods will be considered as payments for copyrighted articles and are not subject to WHT.

The rights-based approach characterises a payment based on the nature of the rights transferred in consideration for the payment. It draws a distinction between the transfer of a "copyright right" and the transfer of a "copyrighted article" from the owner to the payer.

For example, if a person purchases software for personal use or for use within his/her business operations, the payment he makes is a payment for a copyrighted article. Then, WHT is not applicable. However, payments for additional services, such as subsequent software maintenance, user training, customisation of software or information, and development of add-on applications, are not within the scope of the rights-based approach, and WHT may apply if such additional services are performed in Singapore.

The term "commercially exploit" means to be able to:

(i) reproduce, modify or adapt and distribute the software, information or digitised goods, or

(ii) prepare derivative works based on the copyrighted software program, information or digitised goods for distribution.

"Digitised goods" means text, images or sounds that are transferred through a handphone, fixed-line phone, cable network, satellite, the Internet or other forms of electronic transmission, but does not include software.

Transaction costs (eg valuation and due diligence costs) incurred in relation to a share acquisition will remain non-tax deductible. These shall also not form part of the qualifying share acquisition for the purpose of determining the amount of the M&A allowance.

Events resulting in forfeiture and reduction in M&A allowance

Divestment of ordinary shares acquired pursuant to a qualifying share acquisition

Where the divestment occurs after the basis period for the year of assessment in which the qualifying share acquisition took place and causes the acquiring company's ownership or the acquiring subsidiary's ownership of the ordinary shares in the target company to become 50% or less (under s 37L(4)(a) or 37L(4)(b) of the ITA) or to a percentage below 75% (under s 37L(4)(c) or 37L(4)(d) of the ITA) (whichever was the threshold reached that resulted in the M&A allowance), the M&A allowance shall cease to be given to the acquiring company from the year of assessment to which the divestment of ordinary shares relates.

Where the divestment does not result in an acquiring company's ownership or acquiring subsidiary's ownership, as the case may be, of the ordinary shares in the target company to become 50% or less (under s 37L(4)(a) or 37L(4)(b)) or to a percentage below 75% (under s 37L(4)(c) or 37L(4)(d)) (whichever was the threshold reached that resulted in the M&A allowance), the M&A allowance shall continue to be given to the acquiring company but on a pro-rated basis to reflect the corresponding reduction in shareholding.

Dilution of ordinary shareholding in target company

Where the shareholding of an acquiring company or acquiring subsidiary, as the case may be, in a target company is subsequently diluted due to the issuance of new ordinary shares by the target company, the M&A allowance shall continue to be available to the company without pro-ration if it continues to own more than 50% of the total number of ordinary shares of the target company.

This is to allow greater flexibility to the acquiring company in raising funds after the share acquisition, including through the issuance of new ordinary shares of the target company, for further expansion and growth of the group's business. However, where the dilution results in the acquiring company or acquiring subsidiary, as the case may be, owning 50% or less of the total number of ordinary shares of the target company, the M&A allowance shall cease to be given from the year of assessment to which the dilution of shareholding relates.

Substantial change of shareholders in acquiring company

Where there is a substantial change of ultimate shareholders in an acquiring company, the M&A allowance shall cease to be given from the year of assessment in which the change of shareholders occurs unless the shareholding requirement is waived. This seeks to prevent any abusive arrangement entered into with one of its main purposes as creating M&A allowance.

Group relief, carry back and carry forward of unabsorbed M&A allowance

The M&A allowance and stamp duty relief are not available for transfer under the group relief system. This is because the M&A allowance scheme is intended to directly benefit a Singapore-based acquiring company which carries on substantive business operations in Singapore and is seeking growth through M&A.

Any unabsorbed M&A allowance is also not available for carry back to offset the acquiring company's assessable income for preceding year(s). The unabsorbed M&A allowance, however, may be carried forward to offset the acquiring company's future income subject to meeting the continuity of substantial shareholding test in accordance with the provisions under s 23(4) of the ITA.

Abusive tax practices

Where it appears that an acquiring company or acquiring subsidiary has entered into an arrangement with the main purpose of creating or inflating the M&A allowance, the arrangement shall be disregarded under s 33 of the ITA. Any M&A allowance previously given to the acquiring company shall be withdrawn. The statutory time limits to raise additional assessments or make