

NAVIGATING THE BUSINESS TERRAIN OF SINGAPORE AND INDIA



DOING BUSINESS IN SINGAPORE



SCOPE

Singapore primarily applies tax on the basis of source. Tax is imposed on income sourced in Singapore, as well as foreign-sourced income received in Singapore, subject to specified exemptions. Singapore's tax system effectively provides for a participation exemption:

- Singapore dividends are exempt in the hands of the shareholders. In addition, certain foreign-sourced income, such as dividends and foreign branch profits, can be exempt from tax, subject to certain conditions.
- Singapore does not have a capital gains tax regime. However, revenue gains are taxable. The determination of whether a gain is of a revenue (taxable) or capital (exempt) nature is based on the facts and can be subjective. However, a safe harbour rule deems gains on the disposal of equity investments as capital in nature, if the divesting company maintains a minimum 20% shareholding for a minimum period of 24 months immediately before the disposal.
- Singapore has no controlled foreign corporation ("CFC") rules.

TAX RESIDENCY

A company is regarded as a resident of Singapore if the management and control of its business are exercised in Singapore. The Inland Revenue Authority of Singapore ("IRAS") assess the de facto existence of management and control in Singapore, especially for foreign invested enterprises, before issuing a Certificate of Tax Residence.

TRANSFER PRICING

Singapore's transfer pricing regime adheres to the arm's length principle, ensuring that transactions between related parties are priced as if they were between independent entities.

Companies are required to maintain contemporaneous transfer pricing documentation, with penalties of up to S\$10,000 for non-compliance. A 5% surcharge is applied on transfer pricing adjustments that do not align with the arm's length standard. Additionally, multinational enterprises with annual revenues exceeding S\$1.125 billion must comply with Country-by-Country Reporting ("CbCR").

Advance Pricing Arrangements ("APA")¹ are available for companies seeking certainty on their transfer pricing positions. Notably, Singapore does not have thin capitalization rules, meaning there are no specific restrictions on the debt-to-equity ratio for interest expense deductions.

Recently, IRAS issued revised Transfer Pricing ("TP") Guidelines (Seventh Edition) ("7th Edition") on 14 June 2024. Notable changes in the 7th Edition include a step up in TP audit, along with stricter conditions for

surcharge remission. There is also added emphasis on commercial rationality and substance of related party ("RP") transactions, as well as adequacy of TP documentation and contemporaneous supplementary analyses in a TP audit. The MAP process has been tightened to include a more detailed evaluation step before IRAS accepts a MAP application.

TAX TREATY NETWORK

Singapore resident companies can benefit from the country's extensive tax treaty network; as of writing, Singapore has concluded more than 100 comprehensive bilateral tax treaties. The treaty benefits include nil or reduced withholding tax rates on certain classes of income (e.g. dividends, interest, royalties and profits from international shipping and air transport) derived from a treaty country. Singapore tax resident companies can also avail credits for foreign taxes suffered against their Singapore tax liability. Singapore is also a signatory of the multilateral agreement ("MLI") and is implementing the minimum standard on the prevention of treaty abuses. The MLI has come into force for Singapore treaties from 2019 onwards and has already amended over 50 tax treaties.

ADVANCE RULING

It is possible to obtain an advance ruling in Singapore. It is a written interpretation of the Singapore Income Tax Act 1947 on how certain issues that arise from a proposed arrangement are to be treated for tax purposes.

1. An APA is a dispute prevention facility provided under the MAP Article in the Singapore's DTAs and domestic tax law. There are 3 types of APAs: unilateral, bilateral and multilateral APAs.

WITHHOLDING TAX

Certain payments made to non-residents are subject to withholding tax in Singapore. The default withholding tax rate is the prevailing corporate tax rate (currently 17%), which is reduced to 10% or 15% for certain types of income under domestic law (as mentioned below). The rate could be higher for individual and other non-corporate payees. The rate may be further reduced under specific incentives or an applicable Double Tax Agreement ("DTA").

The domestic withholding tax rate is as below

15%	10%	10%
Interest, commission, fee or other payment in connection with any loan or indebtedness	Royalty or other lump sum payment for the use of movable property	Payment for the use of or the right to use scientific, technical, industrial or commercial knowledge or Information
15%	17%	15%
Rent or other payments for the use of movable property	Technical assistance and management fees for services rendered in Singapore by non-resident companies	Payments made to public entertainers and non-resident professionals who perform services in Singapore

COMPLIANCE REQUIREMENTS

Compliance requirements under the Singapore Income Tax Act ("SITA") can be categorised as follows:

- Submission of Estimated Chargeable Income ("ECI")
- Payment of tax on ECI
- Filing of Corporate Income tax return and paying the final tax
- Filing of withholding tax in respect of payment to non-residents
- Filing of statutory reports such as financial statements, transfer pricing study report, etc.

There are various due dates prescribed under the SITA for each of the above compliances. Apart from the above, there may be other incentive linked specific compliances that may be required to be fulfilled in case of companies availing such incentives.

KEY TAX INCENTIVES

Prevailing corporate tax rate in Singapore is 17% which is applicable to both resident and non-resident entities. The effective tax rate is reduced due to partial tax exemption, which applies for the first S\$200,000 of income taxable at the prevailing corporate tax rate (w.e.f. YA 2020).

Enterprise Innovation Scheme ("EIS")

EIS provides enhanced tax deductions for businesses working on qualifying activities to boost innovation. The EIS is available from YA 2024 to YA 2028 enables businesses engaged in research and development (R&D), innovation and capability development activities to claim tax deductions of up to 400% for five categories of qualifying activities. In addition to the enhanced tax deductions, a cash conversion option is also available under the scheme.

The five categories of qualifying activities are:

1. Qualifying R&D projects undertaken in Singapore
2. Qualifying costs for intellectual property registration
3. Acquisition and licencing of Intellectual Property Rights
4. Qualifying training expenditure
5. Innovation projects carried out with Polytechnics, the Institute of Technical Education or other qualified partners

Following are the key tax concessions and further deductions available to encourage substantial investment in the Singapore economy. The tax incentives are administered by various government agencies, including Singapore Economic Development Board ("EDB"), International Enterprise Singapore ("IE Singapore"), Maritime and Port Authority of Singapore ("MPA") and Monetary Authority of Singapore ("MAS"):

Category	Targeted Business Activities	Possible Tax Benefits
Manufacturing / Services	<ul style="list-style-type: none"> • HQ activities • New products or technology • Shipping • Research and development (R&D) 	<ul style="list-style-type: none"> • Tax holidays/ reduced tax rates / tax incentives • Investment allowance on fixed assets • Further deduction for qualifying R&D expenses • Reduced or nil withholding tax on certain approved royalty payments
Trade	<ul style="list-style-type: none"> • Trading in commodities 	<ul style="list-style-type: none"> • Reduced tax rates
Finance	<ul style="list-style-type: none"> • Banking • Insurance • Treasury • Fund management 	<ul style="list-style-type: none"> • Reduced tax rates and withholding tax exemption • Tax exemption for funds and reduced tax rate for fund managers
Intellectual Property ("IP")	<ul style="list-style-type: none"> • IP Development 	<ul style="list-style-type: none"> • Reduced tax rates for qualifying IP income

While the following provides further details on key Singapore tax incentives, companies need to undertake a careful evaluation of their Singapore business plans in context of global business operations, before approaching the authorities for incentive awards. Interest payments on loans from non-resident banks as well as non-resident approved network companies.



Pioneer Incentive and Development and Expansion Incentive ("DEI")

The Pioneer Incentive entails a complete tax exemption on the income covered by incentives for a specified period of time. The incentive is awarded on a case-by-case basis depending on new & substantive economic contributions, which must include commitments in significant incremental capital expenditure, business spending and skilled jobs in Singapore, as well as anchoring leading-edge technology. Relevant factors also include the significance of the proposed investment to the development of the industries in Singapore, contributions to the growth of R&D and innovation capabilities, as well as potential spin-off to the rest of the economy.

DEI provides a concessionary corporate tax rate of 5% or 10% or 15% for a specified period of time, subject to fulfillment of certain conditions. The cases not attaining Pioneer Status may still be covered by DEI depending on the merits of the case.

IHQ Incentive

The International Headquarters Award provides a concessionary corporate tax rate of 5% or 10% or 15% on incremental income from qualifying activities. Applicants are required to submit plans for substantive global headquarters activities to be carried out in Singapore, including proposed commitments in incremental business spending and creation of professional employment.

Finance & Treasury Centre ("FTC") Incentive

The FTC Incentive provides a reduced tax rate of 8% or 10% on fees, interest and gains from qualifying activities for a specified period of time, subject to

certain conditions. It also provides a withholding tax exemption on interest payments on loans from non-resident banks as well as non-resident approved network companies.

Global Trader Programme ("GTP")

GTP provides a concessionary tax rate of 5% or 10% or 15% on qualifying trading income for five years, subject to certain conditions. Qualifying trading income includes income from physical trading, brokering of physical trades, derivative trading income and income from structured commodity financing activities.

Intellectual Property Development Incentive ("IDI")

The IDI scheme (i.e. the Singapore equivalent of the 'patent box' regime available in other countries) stimulates the use and commercialization of intellectual property rights ("IPR") arising from research and development ("R&D") activities carried out in Singapore. The IDI is compliant with the OECD's modified nexus approach for patent box regime. The scheme is administered by the EDB. Approved taxpayers would enjoy concessionary tax rate (5% or 10% or 15%) on qualifying IP income for five years qualifying period.

Mergers & Acquisitions ("M&A")

Singapore domestic tax law provides for a specific tax framework for corporate amalgamations. The framework provides for income tax, GST and stamp duty relief subject to certain conditions and administrative procedures. Subject to conditions, companies seeking to grow through acquisition may qualify for M&A allowance of 25% of acquisition value (maximum allowance capped at S\$10 million)



over 5 years. The M&A allowance scheme expires on 31 December 2025 (unless extended).

Tax incentive schemes for funds

To promote the fund management industry, Singapore provides for various tax incentive schemes for funds as well as fund managers. Qualifying funds managed by Singapore based fund managers will avail complete tax exemption on 'specified income' derived from 'designated investments' under one of these incentive schemes:

- Offshore fund scheme ("13D Scheme");
- Singapore Resident Fund scheme ("13O Scheme" or "13OA Scheme"); or
- Enhanced-Tier Fund scheme ("13U Scheme").

The above qualifying funds are also eligible for GST remission, which allows them to reclaim a major part (currently, 90%) of the input GST paid on their local expenses including fund management fees.

For this refund, the funds do not have to register for GST purposes and have the flexibility to claim the refund at quarterly or half-yearly or annual interval.

Registered or licensed Singapore fund managers meeting the relevant conditions may enjoy concessionary tax rate of 10% on income from qualifying fund management and investment advisory activities under the financial sector incentive for fund managers ("FSI-FM Scheme").

The fund incentive schemes and FSI-FM Scheme are administered by the Monetary Authority of Singapore ("MAS"). The introduction of the VCC Structure, which offers advantages such as segregated portfolios within a single legal entity and flexibility to distribute

dividends out of capital, further cements Singapore's attractiveness as an investment fund management hub. VCC structure will also be eligible for the incentives highlighted above.

GLOBE RULES

On 15 October 2024, the Singapore Parliament passed the Multinational Enterprise (Minimum Tax) Bill and the Income Tax (Amendment) Bill to introduce the Multinational Enterprise Top-Up Tax ("MTT") and the Domestic Top-up Tax ("DTT") in line with the Pillar Two GloBE Rules' Income Inclusion Rule ("IIR") and Qualifying Domestic Minimum Top-Up Tax ("QDMTT") respectively for in-scope multinational enterprises ("MNEs"). In-scope MNEs are the MNE groups with annual revenues of at least €750 million, based on the consolidated financial statements of the ultimate parent entity (UPE), for at least two out of the preceding four financial years. The legislation applies to financial years beginning on or after 1 January 2025. It includes a refundable investment credit ("RIC") scheme that allows qualifying companies² to claim credits on certain categories of expenditures. Each RIC award will have a qualifying period of up to 10 years. The credits are to be offset against Corporate Income Tax payable. Any unutilised credits will be refunded to the company in cash within four years from when the company satisfies the conditions for receiving the credits.

To the extent an in-scope MNE enjoys tax exemption or a concessionary tax rate (e.g. tax rate of 5%, 10%, 15%) in Singapore, the implementation of the MTT and DTT, may negate the benefits of such tax exemption and concessionary tax rates which otherwise the large in-scope MNEs may have enjoyed in Singapore through such tax incentives awarded.

2. RIC will be awarded on an approval basis through the Singapore Economic Development Board ("EDB") and Enterprise Singapore ("EnterpriseSG").

DOING BUSINESS IN INDIA



CHOICE OF INVESTMENT VEHICLE

One of the critical aspects of investment in India is choosing the right vehicle for investment – branch office (“BO”) / liaison office (“LO”) / project office (“PO”) or a company or a limited liability partnership (LLP) – each vehicle will determine how the funds are infused and the options for repatriation of profits/ capital back to the investor.

A BO’s permissible activities include export/ import of goods/ services, R&D, rendering technical support etc. A LO on the other hand represents the parent company in India, promotes imports/ exports, promotes technical/ financial collaboration etc. A PO is a project specific office in India, which can be set up with Reserve Bank of India (“RBI”) approval. With respect to corporate vehicles, a company can engage in the activities as provided in its Memorandum which is duly approved by the Registrar of Companies (“RoC”). An LLP on the other hand is a vehicle regulated by the RoC in which the partners pool in their contribution

and undertake business activities as defined in the partnership deed. While the umbrella consideration in all forms will be the RBI regulations specific to each investment vehicle care needs to be taken for applicability of other laws such as corporate laws, partnership acts, stamp duty, taxes and reporting/ compliance requirements.

TAXATION

Direct taxes in India are governed by the provisions of the Income-tax Act, 1961 (“the Act”), the provisions of which are amended annually by the Central Government. The tax is levied for a 12-month period commencing on 1st April and ending on 31st March. A domestic Indian company is regarded as a “resident” of India and is subjected to taxation on its worldwide income. The Government of India has introduced a slew of measures to support the Make-in-India initiative and bolster foreign investment (especially in the manufacturing sector) that have significantly reduced the corporate tax rates across the board.

A snapshot of the corporate tax rates in India and their salient features is discussed below:

Section	Applicability*	Tax rate**	Key conditions
New regime - Section 115BAA	All domestic companies	25.17%	<ul style="list-style-type: none"> Not entitled to claim other specified deductions / incentives available under the Act including the losses of earlier years pertaining to such deductions / incentives Provisions of MAT will not be applicable for companies opting for tax under this regime
Existing regime (applicable in case a company does not opt for new regime as mentioned above)	<ul style="list-style-type: none"> Domestic companies where turnover did not exceed INR 4000 mn in FY 2018-19 Domestic companies where turnover exceeded INR 4000 mn in FY 2018-19 	<ul style="list-style-type: none"> 29.12% 34.94% 	<ul style="list-style-type: none"> All deductions / incentives under the Act are available Provisions of MAT to apply

* subject to fulfilment of the specified conditions

** includes the highest rate of surcharge and cess

It is pertinent to note that the income of an LLP is taxable at the rate of 34.94%. The new concessional tax regime (as tabulated above) is applicable only to a company and does not apply to an LLP.

INDIA-SINGAPORE TAX TREATY

India has a Limitation of Benefits ("LOB") clause in its DTAA with Singapore, which provides objective tests for invoking the tax treaty by Singapore residents.

Inter-corporate dividends, royalty and fees for technical or included services are taxable at concessional rates in the tax treaty as below:-

Nature of Income	Taxability
Royalty	Taxable at 10% in India
Fees for Technical Services	Taxable at 10% in India
Dividend	Taxable at 10% (if the shareholder holds at least 25% stake in the Indian company); otherwise, taxable at 15%
Capital Gains	<ul style="list-style-type: none"> Not taxable in India if shares in Indian company are acquired before 1 April 2017 Taxable in India if shares in Indian company are acquired on or after April 1, 2017

The recipient must be a 'beneficial owner' of the income in order to be eligible for a lower tax rate. Also, the Principal Purpose Test ("PPT") pursuant to the enactment of the Multilateral Convention would need to be satisfied. Lastly, it must also be ensured that the arrangement or transaction is not hit by the provisions of the domestic General Anti-Avoidance Rule ("GAAR").



TRANSFER PRICING IN INDIA

The Indian government's consistent efforts to reduce transfer pricing litigation have yielded positive results, gaining global recognition in recent years. The Government has taken the following steps as alternate dispute resolution mechanisms:-

- Focus on Advance Pricing Agreement ("APA")
- Resolution through Mutual Agreement Procedure ("MAP")
- Revision of Safe Harbour Rules

The introduction of the APA program in 2012 and the Safe Harbor Rules ("SHR") in 2013 marked a significant shift, providing a forward-looking approach to managing transfer pricing risks. On the other hand, MAP focused on resolving past disputes.

SHRs lay down circumstances in which income tax authorities can accept the transfer price declared by the taxpayer for certain specific nature of transactions, such as SDS, ITeS, KPO, contract R&D for SDS / generic pharmaceutical drugs, corporate guarantee, low value-added intra-group services, manufacture and export of core / non-core auto components and intra-group loan transactions.

THIN CAPITALISATION RULES

These rules limit the amount of deductible interest expenditure (in respect of amount lent by a non-resident related party or a third-party debt guaranteed by a related party) to 30% of Earnings before Interest Tax, Depreciation and Amortisation ("EBITDA"). Excess interest, if any, is allowed to be carried forward up to eight successive years.

WITHHOLDING TAX OBLIGATIONS

As per the Act, an Indian company making payments to residents and non-residents need to withhold tax at source. Some of the payments that require the withholding of tax at source are as follows:

- Salaries
- Interest
- Dividend
- Rent
- Contractual payments
- Commission / Brokerage
- Fees for professional / technical services

In case of payments made to non-residents, tax is required to be deducted / withheld only when the payment is chargeable to tax in India.

Failure to comply with withholding tax obligations could lead to disallowance of expenditure along with recovery of taxes with interest and penal consequences.

ANTI-ABUSE PROVISIONS

The Act contains anti-avoidance provisions in the form of GAAR, which provides extensive powers to the tax authority to declare an arrangement entered by a taxpayer to be an Impermissible Avoidance Arrangement ("IAA"). If the arrangement is declared as an IAA, the consequences include denial of tax benefit either under the provisions of the Act or the applicable tax treaty. The provisions can be invoked for any step in or part of an arrangement entered, and the arrangement or step may be declared an IAA. However, the provisions of GAAR only apply if the "main purpose" of the arrangement or the step is to obtain a tax benefit. Therefore, what constitutes "main purpose" so as to attract the provisions of GAAR would depend upon the facts and circumstances of each case.

COMPLIANCE REQUIREMENTS

Compliance requirements under the Act can be categorized under the following categories:

- Deduction and payment of tax at source to the Government treasury
- Payment of corporate advance taxes and self-assessment taxes
- Filing of withholding tax statements in respect of taxes deducted at source
- Filing of statutory reports such as tax audit report, transfer pricing study report, etc.
- Filing of corporate income-tax return
- Compliance with assessment notices

There are various due dates prescribed under the Act for each of the above compliances. Apart from the above, there may be other deduction / incentive linked specific compliances that may be required to be

fulfilled in case of companies availing such incentives.

GUJARAT INTERNATIONAL FINANCE TEC-CITY ("GIFT CITY")

GIFT City is India's premier international financial services center ("IFSC"), offering a globally competitive environment for financial services firms and funds. It is designed to rival global hubs like Dubai, and London, providing a range of incentives for businesses, including 100% tax exemption on profits for 10 consecutive years out of 15 years.

FOREIGN INVESTMENT APPROVALS

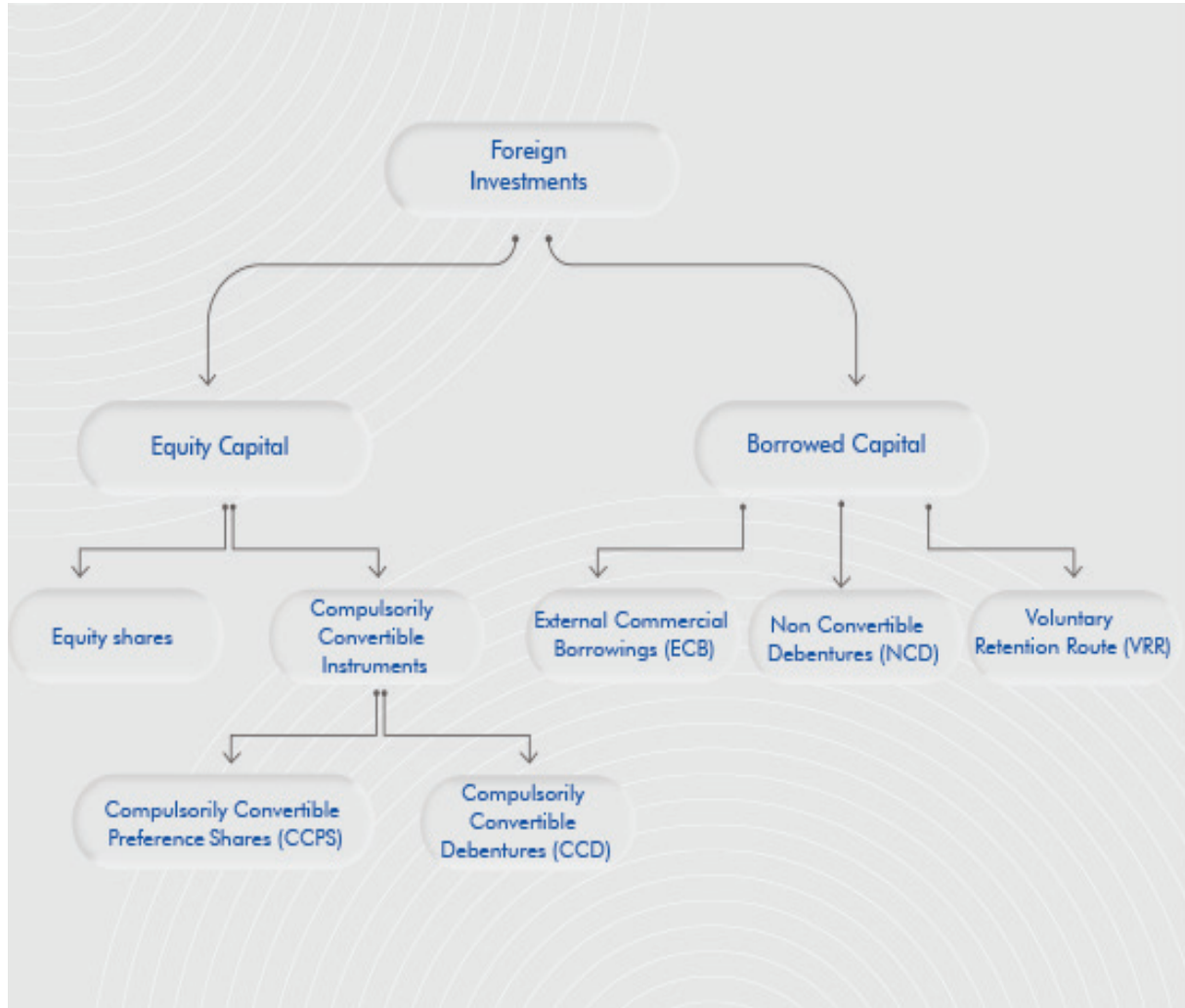
Foreign Direct Investment ("FDI") has been a significant driver of economic growth in India, offering a substantial opportunity for foreign companies to establish or expand their operations within the country and for Indian businesses to raise growth capital.

India allows FDI through two main routes:

- **Automatic Route:** Under this route, foreign entities do not require prior approval from the Government of India or the RBI to invest in Indian companies. Most sectors have now been opened to 100% FDI under the automatic route, which simplifies the investment process. Key sectors covered under this route include manufacturing, e-commerce (under marketplace model), construction-development (excluding real estate business) and pharmaceuticals (greenfield). However, there are certain sectors, such as insurance, pension, stock exchanges and clearing corporations, commodities and power exchanges, where 100% FDI is not permitted.
- **Government Route:** In certain sectors, foreign investments are subject to prior approval from the Government of India. These sectors include defence, broadcasting, print media, digital media, space, multi-brand retail trading, and certain areas of the financial services sector. Investments under this route are scrutinized for compliance with national security and strategic interests.

FUNDING INSTRUMENTS

In India, businesses can raise foreign capital through various modes as under:



India introduced so-called 'angel tax' in 2012 which imposed taxes on investments received by closely held Indian companies that exceed the fair market value of their shares. This provision was introduced with the aim to prevent money laundering through inflated share premiums. The scope of this section was extended to non-residents in 2023. However, this year, India has abolished this tax. This means that any premium received with effect from April 1, 2024 by companies that exceeds the fair market value of its shares will go forward not be taxable in the hands of the recipient company.



REGULATORY REFORMS – A CHANGED SUMMARY LANDSCAPE

The trend of “Reverse flipping” in India is observed lately. It is driven by several factors, including favourable valuations for exit opportunities through IPOs, evolving consumer and investor attitudes towards Indian companies, cost efficiency and much more. Some high-profile companies have undergone internalization, and many multinational enterprises (“MNEs”) are considering similar moves.

Key drivers include regulatory and tax reforms, such as the

- Corporate debt settlements under the Insolvency and Bankruptcy Code (“IBC”)
- Streamlining of capital gains tax (with long-term capital gains arising from the transfer of a long-term capital asset, being unlisted securities or shares of a closely held company, shall be taxable at 12.5%. These gains will be computed without the benefit of computing the gains in foreign exchange terms)
- Abolishment of angel tax, which enhance the ease of doing business.
- Various government incentives for startup ecosystem makes India an attractive destination for foreign investments.

Thus, for Singapore companies, investing in India is not only an opportunity to tap into one of the world’s fastest-growing economies but also a pathway to enjoy a range of tax benefits and regulatory incentives. The robust DTAA ensures tax efficiency, while simplified exchange control regulations facilitate smooth capital flows. Combined with India’s investor-friendly reforms and diverse market potential, the bilateral relationship between India and Singapore provides a solid foundation for sustainable and profitable partnerships. By strategically aligning with India’s growth trajectory, Singapore companies can position themselves as key players in South Asia’s dynamic economic landscape.

ABOUT DHRUVA ADVISORS

Dhruva Advisors LLP is a tax and regulatory services firm, working with some of the largest multinational and Indian corporate groups. Its brings a unique blend of experience, having worked for the largest investors in India, advising on the largest transactions and on several of the largest litigation cases in the tax space. We also work closely with the Government on policy issues and with our clients on advocacy matters.

Key differentiators:

- Strategic approach to complex problems
- In-depth, specialised and robust advice
- Strong track record of designing and implementing pioneering solutions
- Trailblazers in tax controversy management
- Long history of involvement in policy reform
- Technical depth and quality

We believe in thinking out of the box, handholding our clients in implementing complex solutions and working towards achieving results. We have offices in Mumbai, Ahmedabad, Delhi, Kolkata, Pune, Abu Dhabi, Dubai and Singapore. We advise clients across multiple sectors including financial services, IT and IT-enabled services (ITES), real estate and infrastructure, telecommunications, oil and gas, pharmaceuticals, chemicals, consumer goods, power, as well as media and entertainment.

Dhruva Advisors is a member of the WTS Alliance, a global network of selected firms represented in more than 100 countries worldwide.

Our recognitions

- Dhruva Advisors has been consistently recognised as the “India Tax Firm of the Year” at the ITR Asia Tax Awards in 2017, 2018, 2019, 2020 and 2021.
- Dhruva Advisors has also been recognised as the “India Disputes and Litigation Firm of the Year” at the ITR Asia Tax Awards 2018 and 2020.
- WTS Dhruva Consultants has been recognised as the “Best Newcomer Firm of the Year” at the ITR European Tax Awards 2020.
- Dhruva Advisors has been recognised as the “Best Newcomer Firm of the Year” at the ITR Asia Tax Awards 2016.
- Dhruva Advisors has been consistently recognised as a Tier 1 firm in India’s ‘General Corporate Tax’ and ‘Indirect Tax’ ranking tables as a part of ITR’s World Tax guide. The firm is also listed as a Tier 1 firm for India’s ‘Transfer Pricing’ ranking table in ITR’s World Transfer Pricing guide

REACH OUT TO US



Dilpreet Singh Obhan

PARTNER

dilpreet.singh@dhruvaadvisors.com

+65 9144 6415

OUR OFFICES

Singapore

NeoDhruvaConsultants Pte Ltd
#16-04, 20 Collyer Quay,
Singapore 049319
Tel: +65-9144 6415

Mumbai

1101, One World Center, 11th floor,
Tower 2B, 841 Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400 013
Tel: +91-22 6108 1000 / 1900

Ahmedabad

402, 4th Floor, Venus Atlantis,
100 Feet Road, Prahladnagar,
Ahmedabad 380 015
Tel: +91-79-6134 3434

Bengaluru

Lavelle Road, 67/1B,
4th Cross, Bangalore,
Karnataka - 560001
Tel: +91 90510 48715

Delhi/NCR

305-307, Emaar Capital Tower - 1,
MG Road, Sector 26, Gurgaon
Haryana - 122 002
Tel: +91-124-668 7000

New Delhi

1007-1008, 10th Floor,
Kailash Building,
KG Marg, Connaught Place,
New Delhi - 110001

Kolkata

4th Floor, Unit No 403,
Camac Square, 24 Camac Street,
Kolkata, West Bengal – 700016
Tel: +91-33-6637 1000

Pune

305, Pride Gateway,
Near D-Mart, Baner,
Pune - 411 045
Tel: +91-20-6730 1000

Abu Dhabi

Dhruva Consultants
1905 Addax Tower, City of Lights,
Al Reem Island,
Abu Dhabi, UAE
Tel : +971 2 678 0054

Dubai

Dhruva Consultants
Emaar Square Building 4,
2nd Floor, Office 207,
Downtown, Dubai, UAE
Tel: +971 4 240 8477

KEY CONTACTS

INDIA

Dinesh Kanabar

CEO

dinesh.kanabar@dhruvaadvisors.com

SINGAPORE

Dilpreet Singh Obhan

PARTNER

dilpreet.singh@dhruvaadvisors.com

MIDDLE EAST

Nimish Goel

PARTNER

nimish.goel@dhruvaadvisors.com

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