dhruva

A Ryan LLC Affiliate

IMPORTANCE OF TAX RESIDENCY

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INTRODUCTION

Singapore, as a globally recognized financial hub, aligns its tax framework closely with international standards. The definition of a tax resident under section 2(1) of the Singapore Income Tax Act ("SITA") 1947 is centered on where effective management and control of a business is exercised. As tax residency has gained increasing prominence alongside discussions on double taxation, BEPS, and dual residency, the OECD has responded with a suite of measures - including the Principal Purpose Test, the Multilateral Instrument, and the Pillar Two global minimum tax regime - each designed to deny treaty benefits to arrangements that lack genuine substance.

At the domestic level, Inland Revenue Authority of Singapore ("IRAS") has taken corresponding steps to sharpen its determination of Singapore tax residency. Updated guidelines on virtual board meetings, the introduction of section 10L of the SITA targeting foreign asset disposal gains where economic substance is absent, and tightened Certificate of Residence ("COR") requirements from 2025 - encouraging the physical presence of an executive director or key employee in Singapore - all reflect a deliberate move toward greater rigor. The COR, which must be renewed annually for each Year of Assessment, has become the principal instrument through which IRAS tests and evidences a company's residency position.

The message from both the OECD and IRAS is consistent: tax residency is no longer a matter of form. Companies must ensure that control and management is not merely claimed, but demonstrable and supported by the physical presence of key decision-makers, sound governance structures, and robust contemporaneous documentation.

HOW TO DETERMINE TAX RESIDENCY

In accordance with the SITA, a company is usually tax resident of Singapore when its control and management is exercised in Singapore. The IRAS defines 'Control and management' as the making of decisions on strategic matters, such as those concerning the company's policy and strategy.

In most cases, IRAS would consider the following factors:

1. Whether there is any board of directors' meetings held in Singapore
2. Whether any strategic decisions are made at the board of directors' meetings held in Singapore
3. Whether the directors are based in or outside Singapore
4. Whether any strategic decisions are made by the local director in Singapore
5. Whether there are key employees based in Singapore

Where the Board of Directors meetings are virtual, IRAS would deem a company as a tax resident if the following conditions were met:

- At least 50% of the directors (with the authority to make strategic decisions) are physically in Singapore during the meetings; or
- Chairman of the Board of Directors (if the company has such an appointment) is physically in Singapore during the meeting.

Foreign Owned Investment Holding Company and Non-Singapore Incorporated Companies are generally considered non tax residents unless they are able to prove that "control and management" is duly exercised in Singapore.

BENEFITS OF BEING A TAX RESIDENT IN SINGAPORE

Despite being taxed in the same manner, tax residents in Singapore, among others, enjoy the following benefits:

- Tax exemption on specified foreign income such as foreign-sourced dividends, foreign branch profits, and foreign-sourced service income under Section 13(8) of the Income Tax Act 1947
- Exemption or reduction in tax imposed on specified foreign income that is derived in the jurisdiction that has an Avoidance of Double Taxation Agreement ("DTA") with Singapore
- Foreign tax credit for the taxes paid in the foreign jurisdiction against the Singapore tax payable on the same income.
- Tax exemption for new start-up companies subject to qualifying conditions.

APPLYING FOR A COR

A COR can be typically be applied for:

- The current calendar year
- Up to 4 back calendar years

The company may also apply for a COR for one advance calendar year starting from Oct of the current calendar year. COR is typically granted for that calendar year only if the Company is able to meet the criteria to substantiate that control and management of the business for that particular year is exercised in Singapore. IRAS may request the documents to substantiate the claim.

HOW CAN DHRUVA HELP?

- Tax residency health checks
- Review of control and management arrangements
- Recommendations to strengthen Singapore tax residency claims
- Guidance and review of documentation to demonstrate tax residency claims
- Assistance with COR applications
- Supporting in addressing IRAS queries

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