

COVID-19 Tax Measures on Individual Taxpayer

April 2020

BACKGROUND

The COVID-19 pandemic has forced Governments around the world to introduce unprecedented measures to slow down the spread of the virus. As countries continue to announce restrictions on international travels, many cross-border employees are unable to physically perform their duties in their country of employment.

This brings the question on what are the tax complications arising from cross-border employees who have opted to return to their home country or are currently stranded in a foreign country as they are unable to leave after a short-term business assignment and/or vacation. As an example, a Singapore-based Malaysian employee working remotely from Malaysia due to the Movement Control Order (MCO), or a Singaporean recalled back from an Italian long-term assignment to work remotely in Singapore for the benefit of the Italian company.



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FOR MORE INFORMATION



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WORKING REMOTELY IN SINGAPORE

Singapore taxes income arising from employment duties exercised in Singapore regardless of the tax residency status of the employees and where the income is paid from or paid in. Employees who are based overseas but exercise employment in Singapore will be taxed on income earned for the period they render services in Singapore.

With the Singapore Government recalling their citizens home and imposing travel restrictions, companies are concerned on what would be the tax implications arising from their overseas based employees who are working remotely in Singapore. However, companies and individuals concerned by the unplanned employee movements will be assured to know the Inland Revenue Authority of Singapore ("IRAS") is well aware of the potential tax issues.

To support the COVID-19 measures imposed by the Government, the IRAS has announced the following tax relief for the two groups of employees on 6 April 2020:

	COVID-19 Tax Relief	Conditions**
Singaporeans / Singapore Permanent Residents ("SPRs")	Employees regarded as not exercising employment in Singapore for the period from the date of the employees' return to Singapore until *30 September 2020.	<ul style="list-style-type: none"> There is no change in the contractual terms governing the employees' employment overseas before and after their return to Singapore; and
Working remotely in Singapore for the overseas employment/assignment	*date is subject to the IRAS' review on the COVID-19 situation.	<ul style="list-style-type: none"> This is a temporary work arrangement due to COVID-19.
Non-resident foreigners	Employees regarded as not exercising employment in Singapore for the period of their extended stay.	<ul style="list-style-type: none"> The period of the extended stay is not more than 60 days; and
On short-term business assignment in Singapore and are unable to leave due to COVID-19	However, where the employee is given another business assignment during his extended stay in Singapore, the employment income for the period of his whole stay in Singapore will be subject to normal tax rules.	<ul style="list-style-type: none"> The work that they have performed during the extended stay is not connected to the business assignment in Singapore and would have been performed overseas if not due to COVID-19.

*Where conditions** for these exceptions are not met, normal tax rules will apply to determine the taxability of the employment income for work performed in Singapore.*

Under normal rules, the non-resident employees' tax liabilities is determined as follows:

- Total period of employment is 60 days or less
 - Employment income for the period is exempt from tax. This rule does not apply if the employee is a director of a company, a public entertainer or a professional in Singapore.
- Total period of employment is between 61 to 182 days
 - Employment income for the period will be taxed at 15%, or the resident rates, whichever results in a higher tax amount, unless employees qualify for tax treaty exemption.

TAX RESIDENCY

Aside from the above guidelines announced by the IRAS, cross-border employees have raised concerns that their unplanned extended stay may result in them being regarded as a tax resident in two countries. Consequently, this leads to further tax implications such as not able to meet the conditions to claim for tax treaty exemption.

Although the IRAS is silent on this, the Organisation for Economic Co-operation and Development ("OECD") has assessed and acknowledged that the scenario of being a tax resident in two countries due to the current COVID-19 situation is possible. However, tax treaties would contain a tie-breaker rule which would help resolve this. The tie-breaker rule considers "habitual abode" amongst others to determine residency. As such, the temporary presence in a country due to the COVID-19 is unlikely to change the residency of an individual. In view that Singapore has tax treaties with most countries, individual tax residency should not be a cause of concern.

OTHER SUPPORT MEASURES BY THE IRAS

Extension of tax filing deadlines for the Year of Assessment ("YA") 2020

As part of its support for taxpayers and in light of the latest measures to manage the COVID-19 situation, the IRAS is providing an automatic extension of deadlines for tax filing for individuals. Please refer to the table below for details:

	Original Filing Deadline	Extended Filing Deadline
Income tax for individuals (including sole proprietorships and partnerships)	15 Apr 2020 (Hardcopy) 18 Apr 2020 (e-filing)	31 May 2020
Tax clearances for foreign employees*	-	30 June 2020

* Employers who are required to seek tax clearance for their non-Singapore citizen employees in the months of April and May 2020 will be given up to 30 June 2020 to file the Form IR21. The current requirement for employers to withhold all monies due and payable to employees pending the tax clearance remains. Employees will be allowed to leave the country in the meantime.

Bulk Extension for Filing of Individual Income Tax Returns for Year of Assessment ("YA") 2020

In light of the COVID-19 outbreak, the IRAS announced that they will extend the bulk extension date for tax agents to 15 August 2020. This includes applications for the Not Ordinarily Residents (NOR) scheme. The extension will be automatic for cases where extension has previously been granted till 30 June 2020.

Deferment of tax payment for individual income tax

As announced by Deputy Prime Minister and Minister for Finance, Mr Heng Swee Keat, in the Resilience Budget on 26 March 2020, the IRAS will provide deferment of tax payment to ease cash flow for taxpayers. Please refer to the table below for details:

	Support measures
Self-Employed Individuals	Automatic three-months deferment of individual income tax payments that are due in May, June and July 2020. No application is required.
Employees	Employees can opt to defer their individual income tax payments due in May, June and July 2020 by signing up for the deferment option.

Any individual who needs additional help with tax payment due to financial difficulties can write to the IRAS for special consideration.



OUR COMMENTS

The support measures introduced by the IRAS aligns with the Government's objective to reduce both tax compliance and cash flow burden for companies and employees. The tax relief introduced for cross-border employees who are stranded in Singapore provides an administrative relief as qualified employees are no longer required to seek for treaty exemption to eliminate potential double taxation.

However, it should be noted that non-resident employees who were on business trips in Singapore will continue to be taxed on the income attributable to their business assignment. Employers need to ensure that tax reporting is done in Singapore. Further, the condition "period of their extended stay in Singapore should not exceed 60 days" could be tricky to some employees considering that the COVID-19 situation is unpredictable. Nonetheless, we believe the IRAS is also monitoring the situation closely and would update the conditions if deemed necessary.

In respect of tax residency, the guidance by OECD provides a welcome assurance that the current wording of tax residency test in the tax treaties adequately provides a basis to eliminate potential tax complications arising from employees performing their duties in a country that is not of their residency. That said, for employers whose employees are currently working remotely from a country that Singapore does not have a tax treaty with, additional precaution needs to be taken as there could be potential tax complications and additional tax reporting that would need to be done or an appeal be made to the relevant tax authority.

Lastly, the automatic time extension has also given the needed time for companies and individuals facing operational difficulties arising mainly from working from home due to the circuit breaker measures.

NEXT STEPS

With the ever-changing situation of COVID-19, companies should continue to monitor any guidance issued by the IRAS to ensure adherence to the statutory reporting requirement. It is also expected that more countries would be introducing guidelines and as such, companies should regularly check for updates. Further, this may be the time for companies to review its current processes in respect of their global employees. Some questions that companies should consider include:

- Are the companies' existing processes robust enough to locate and track where their employees are working and for how long?
- Is the current mobility policy adequate to cover such a situation eg. allowances during the unexpected longer stay overseas, accommodation and air tickets or other form of supports?

At last, companies should also make sure that all employees know exactly what are they required to do from HR and reporting perspective.

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