

# BDO Tax Alert

## Maintaining Tax Residency in Singapore

Singapore has long been recognised as a strategic hub for investment holdings, in respect of both domestic and international investments. From a tax perspective, Singapore offers numerous advantages, provided the holding structure is managed properly.

To ensure the holding structure works effectively, one of the key considerations should be the company's tax residency. Establishing and maintaining tax residency in Singapore is essential, as failure to meet the tax residency criteria can result in significant tax liabilities. Numerous cases have demonstrated the adverse consequences of investment holding companies failing the tax residency test, highlighting the importance of proper tax management.

### *Why must a company maintain its tax resident status in Singapore?*

- ▶ In a typical investment holding structure, the investment holding company is expected to receive investment income such as dividend and interest income, as well as capital gains from future divestment. Within the Singapore tax framework, a Singapore investment holding company is entitled to the following benefits:
  - Tax exemption on foreign dividend income when received in Singapore (subject to conditions)
  - Available of foreign tax credit for foreign tax to reduce Singapore tax payable on the same foreign income
  - No Singapore capital gains tax on future divestment if conditions are met
  - Potential exemption or reduction in foreign withholding tax rate on various income derived from tax treaty countries
  - Potential mitigation of capital gains tax in the foreign jurisdictions
- ▶ All of these benefits can only be realised if the company has established itself as a tax resident in Singapore.

### *Practical tips to ensure tax resident in Singapore*

- ▶ Under the Singapore Income Tax Act, the term "resident" in relation to a company refers to a company "whose control and management of business is exercised in Singapore".
- ▶ As tax residency is a crucial factor in determining eligibility of tax benefits under international tax treaties, most countries have introduced stringent conditions to ensure tax benefits are given to real beneficial owners. Singapore has likewise tightened the requirements to align with the evolving global tax landscape.

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- ▶ In practice, the Inland Revenue Authority of Singapore (IRAS) has provided the following guidance to establish tax residency of a company in Singapore:
  1. Ensure the control and management of a business is indeed exercised in Singapore:
    - The Board of director's meeting is physically held in Singapore
    - Strategic decisions are made at the board of directors' meetings held in Singapore
    - Directors are based in Singapore
    - Any strategic decisions are made by the local directors in Singapore
    - There are key employees based in Singapore
  2. If the board meetings involve the use of virtual meeting technology, at least 50% of the directors or chairman of the board of directors are physically in Singapore
  3. For foreign-owned investment holding companies, in addition to practices under (1) above, the following should also be observed:
    - Valid commercial reasons for setting up office in Singapore
    - Have related companies in Singapore that are tax resident of Singapore or have business actives in Singapore
    - Receive support or administrative services from a related company in Singapore
    - Have at least 1 director based in Singapore who holds executive position and who is not a nominee director; or
    - Have at least 1 key employee based in Singapore
- ▶ IRAS will only issue a Certificate of Residence (COR), upon application by the taxpayer, if the above criteria are satisfied. Without a valid COR, taxpayer may face higher withholding tax in foreign jurisdictions and risk losing tax benefits previously granted to the company as a tax resident.
- ▶ If you have merely set up an investment holding company in Singapore for your investment and rely solely on virtual board meetings to meet regulatory requirements, it is crucial to address this matter proactively to avoid significant tax implications.

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