

PTCs AND SINGAPORE FOREIGN TRUSTS

Although many are aware of the tax benefits of a Singapore foreign trust, most assume that the trustee of such a trust has to be a licensed trust company in Singapore. It is in fact possible to have a private trust company (“PTC”) act as trustee provided certain conditions are satisfied.

GENERAL INFORMATION

A Singapore foreign trust is one created in writing and where every settlor and beneficiary of the trust is:

- neither a citizen of nor resident in Singapore; or
- a foreign company (i.e. neither incorporated nor resident in Singapore)

Where prescribed conditions are satisfied, a trust shall continue to be regarded as a foreign trust notwithstanding that any settlor or beneficiary of the trust who is an individual subsequently becomes a citizen of Singapore or resident there.

The trustee must be a licensed trustee company regulated by the Monetary Authority of Singapore (“MAS”) or a PTC which has entered into a contract for services with such a licensed entity and the services provided under such a contract may include *inter alia* the establishment and/or administration of the foreign trust.

PRIVATE TRUST COMPANY IN SINGAPORE

Under MAS’ guidelines, a PTC may be formed to act as trustee of a specific trust or trusts. It can only act as trustee if each beneficiary of the trust is a connected person vis-à-vis the settlor. A “connected person” is essentially one who is related to the settlor by blood, marriage or adoption. PTCs are not allowed to solicit trust business from, or provide trust business services to, the public.

A PTC is exempt from the requirement to be licensed. However, it must engage a licensed trust company to carry out trust administration services for the purposes of conducting the necessary checks to comply with any written direction issued by the MAS on the prevention of money laundering or countering the financing of terrorism.

WHAT TYPES OF INCOME ARE EXEMPT FROM SINGAPORE TAX?

There is no capital gains tax in Singapore and income is taxed only if it is Singapore-sourced or remitted into the country.

Thus, the tax exemption for foreign trusts will kick in only if the gains are of a revenue nature and are either sourced in Singapore or remitted into the country from abroad.

The following are the common types of income which qualify for tax exemption:

- Dividends derived from stocks and shares denominated in any foreign currency of companies which are neither incorporated nor resident in Singapore (excluding stocks and shares of companies incorporated in Malaysia which are listed on the Singapore Exchange or the Kuala Lumpur Stock Exchange) and gains or profits realised from the sale of such stocks and shares;

- Interest on securities denominated in any foreign currency issued by foreign governments, foreign banks outside Singapore and companies which are neither incorporated nor resident in Singapore and gains or profits realised from the sale of such securities;
- Interest derived from deposits with and certificates of deposit issued by approved banks in Singapore and from approved Asian dollar bonds;
- Rents, royalties, premiums and any other profits from property that are derived from outside Singapore and remitted into the country on or after 1st June 2003 and gains or profits from the sale of such property;
- Gains or profits realised from the sale of foreign immovable property; certificates of deposit, notes and bonds issued by Asian Currency Units in Singapore; approved Asian Dollar Bonds; deposits in Singapore with an approved bank; foreign currency deposits with financial institutions outside Singapore; and Singapore Government securities; and
- Gains or profits arising from transactions in futures contracts held in any futures exchange; foreign exchange transactions; and interest rate or currency contracts on a forward basis, interest rate or currency options, interest rate or currency swaps, forward and option contracts relating to any designated investment or financial index with approved financial institutions.

As the list is fairly comprehensive, most Singapore foreign trusts will not pay any Singapore tax.

The exemption not only applies to the trust but also to an “eligible holding company” which is defined as a company incorporated outside Singapore which is set up to hold assets of a foreign trust administered by a trustee company in Singapore and which is wholly owned by the foreign trust. Provided that the trustee is a Singapore licensed trust company or a PTC which has entered into a contract for services with a licensed entity, the “eligible holding company” itself need not be administered by a licensed entity.

REPORTING REQUIREMENTS

An annual declaration must be submitted to the Comptroller of Inland Revenue certifying that the foreign trust or eligible holding company or both of them (as the case may be) have met the conditions for tax exemption. This declaration must be submitted by a licensed trust company.

HOW MANN MADE CAN HELP

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