

# **THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION**

June 2021

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## **MODULE 2.08 – SINGAPORE OPTION**

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### **SUGGESTED SOLUTIONS**

## **PART A**

### Question 1

Discuss residence of company:

- Discuss rule about central management and control.
- Discuss what it means and note it is a given in the facts.

Conclude Jubba resident.

Explain Singapore's claim to tax Singapore source income:

- Identify the primary rule that Singapore will tax Singapore sourced business profits (regardless of remittance) with section.
- Identify the primary rule that Singapore will only tax foreign source income if it is remitted.

Explain scope of source with references to case law.

Source analysis is important:

- The source of business profits is not necessarily where the cash comes from or where it is banked.
- Manufacturing gives a large component of source.
- Design will play a part in determine a portion of source.
- Sales may play a part in determining source.

Consider what the taxpayer does in Singapore.

Consider what business activities the taxpayer does outside Singapore.

Explain link between these activities and source.

Ensure that not too much emphasis is given to Singapore-destined sales in discussion of source.

Discuss impact of DTA:

- Explain that company is possibly entitled to DTA protection.
- Discuss the business profits article.
- Discuss the relevance of permanent establishment.
- Discuss the issue of profits attributable.

Analyse what happens in other countries – whether they could be PEs.

Major focus here on premises, employee, core definition, dependent agent and exclusions.

Discuss whether the s13(9) conditions are met for any foreign branches:

- Review the tax imposed in the other countries.

- Consider if a branch exists in them.

Ultimately identify:

- Singapore source income.
- Exempt foreign source income.
- Non-exempt foreign source income (on this apply the remittance rule).
- Important that the remittance rule is not applied to Singapore source income.

## Question 2

### Part 1

Discuss residence rules.

Discuss Singapore taxation of Singapore source profits.

Source rule discussion with particular focus on service income.

Discuss the generous treatment of dividends received and paid.

Both in terms of domestic exemption and how foreign ones are dealt with.

Discuss DTA restrictions on Country Y in terms of dividends, interest and business income.

Discuss the possibility of a tax concession in Singapore by identifying these, what they offer and what their conditions are in general.

### Part 2

Discursive answer.

Consider that they have interposed Singapore.

They are seeking to take advantage of its low tax or no tax on the income that is directed to the Singapore company.

They are likely seeking the DTA's protections.

They are likely seeking the DTAs low withholding taxes.

Identify and explain how all the above come about in the international structure.

In terms of risks, discuss:

- BEPS debate.
- Singapore's requirements for genuineness and substance.
- Anti-avoidance rules in general – in any country.
- Treaty shopping debate.
- Note that if things are not done well they can lose tax benefits and possibly even accrue penalties.
- Will also waste a lot of money.

## **PART B**

### Question 3

Discuss when Renee becomes a resident of Singapore under domestic law, and explore the residence tests and give sections.

Conclude that she will likely become resident due to one or the other test.

Indicate that she will be a dual resident as she will remain a Country X resident.

Refer to DTA tie breaker test:

- Give the articles.
- Who is a resident for DTA purposes.
- How can you initially be in both countries.

Discuss the tests and conclude likely allocated to Singapore.

Discuss permanent home and its relevance:

- Pay attention to issue of Parent's house.
- Is this a home at all?

Discuss Singapore's tax claim before she is a resident:

- Note that it does not tax capital gains at all.
- Note that even though she seems to be trading, Singapore is generous on this feature.
- She may not be treated as taxable on the share trading as she has another employment, although there is a risk that she may.
- If she is, you need to consider if the profits are sourced in Singapore or not.
- Note that it does not tax Singapore dividends from Singapore at all.

Discuss the claim over Singapore source:

- Discuss source and individual income.
- Discuss that the subscription business income before residence is not likely to be sourced in Singapore.

After residence – Singapore only really wants Singapore source:

- Discuss new source of the subscription business income.
- Source of wage income.

Dividends, interest and capital gains still not taxable.

Not ordinary resident scheme mentioned.

DTA protection against Country X taxing income not sourced there once she comes to Singapore.

## **PART C**

### Question 4

Main marks for quality of analysis and structure:

- Build an argument.
- Give good reasons.
- Give legal backing.

The main task is to identify exactly what Singapore claims from residents.

How this differs from Singapore source income.

Note the exemption for individuals on foreign source income regardless of remittance.

Discuss the scope of the s13 exempt FSI for companies.

Discuss the scope of the remittance rule.

On the above build an analysis:

- What isn't covered by s13?
- Is it likely to come up?
- Consider in corporate groups.
- In s13 pay attention both to the types of income and:
- The conditions for exemption.

Consider the significance of what is not exempt.

Consider the ability of the taxpayer to avoid remittance.

Make a conclusion on the above basis.

Question 5

Discuss residence of company:

- Discuss rule about central management and control.
- Discuss what it means and note it is a given in the facts.

Conclude Boa not resident.

Explain Singapore's claim to tax Singapore source income:

- Identify the primary rule that Singapore will tax Singapore sourced business profits (regardless of remittance) with section.
- Identify the primary rule that Singapore will only tax foreign source income if it is remitted but this is a non-resident.

Explain scope of source with references.

Analysis business activity: sales vs. manufacturing source.

Focus on sales and when the sales might be said to be sourced in Singapore.

Discuss how this is dealt with under the domestic law in the various scenarios.

Discuss how the argument grows for some sales source.

State that without DTA, this is how it is.

With DTA, turn to Business profits article and consider PE.

No PE in the first.

In second PE likely to fall under and exclusion.

Third, likely to have a PE and Singapore permitted to tax profits attributable to this.

Contrast this with full business profits.

Only the retail portion.

Question 6

Main marks for quality of analysis and structure:

- Build an argument.
- Give good reasons.
- Give legal backing.

This turns on what a tax haven is:

Discuss what makes a tax haven a tax haven:

- Is it just about tax rates or is it about why it has the tax rates?
- Are Singapore's rates low?
- Contrast to the ultimate – zero tax that is available in many places.

Discuss in context of BEPS debate.

Discuss the difference between facilitating evasion (or avoidance) and being a financial centre.

Discuss sovereignty and the right of a country to be competitive.

It is not just about being a haven.

Discuss importance of substance and how Singapore enforces this.

Discuss role of transparency and how Singapore deals with this.

Discuss secrecy and how Singapore deals with this.

Discuss the facilities and infrastructure that Singapore offers and how this makes it an ideal centre for many activities.



Question 7

Explain the general principles of GST imposition.

Explain that Ern is likely to have to be part of this system.

Explain the idea of zero rating and how it works and what its implications are.

Identify that international services under Section 21(3) of the GST Act are zero rated.

Analyse what makes an international service.

Note that this includes service to an overseas person.

Note that the critical issue for accounting services, etc. under this heading is that the person is an overseas person.

It does not matter if the person is actually overseas when receiving the service.

Note that the exclusion does not apply when the contract relates to land in Singapore.

On the above basis note that the first two supplies to DODUM are likely zero rated.

Note that the third is not as it involves land.

Note that the service to Poppin is not zero rated as Poppin is not an overseas person even if the plans relate to overseas.