

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2025

MODULE 2.08 – SINGAPORE OPTION

SUGGESTED SOLUTIONS

PART A

Question 1

Identification of Key Legal Issues

Correctly identifies Singapore's territorial tax system and the importance of source rules.

Recognises that Singapore taxes income sourced in Singapore and foreign income received in Singapore (subject to exemptions).

Identifies that PE considerations under domestic law and DTA are relevant.

Notes the relevance of the Multilateral Instrument (MLI) affecting the DTA between Singapore and Z.

Source Rules Analysis

Discusses the potential Singapore source of sales income due to customer base and online platform serving Singapore. *Comptroller of Income Tax v HY* [2006] SGCA 7

Notes that generally, income is sourced where contracts are made or where business operations generating income are performed.

Identifies that manufacturing and shipment from W could point to foreign source, but strong marketing and infrastructure in Singapore (e.g., server and consultant) could localise source partially to Singapore.

Recognises that partial sourcing (divisible source concept) could apply *CIR v Hang Seng Bank Ltd* [1991] 1 AC 306. Mentions that foreign-sourced income might not be taxed unless received in Singapore (s10(25) Income Tax Act 1947), but questions whether business is partly carried on in Singapore.

Permanent Establishment (PE) under Domestic Law

Explains that Singapore does not tax foreign enterprises unless they have a PE in Singapore (s2, Income Tax Act).

Considers whether the leased server constitutes a fixed place PE (refers to IRAS e-Tax Guide on PEs and OECD Commentary).

Considers if the Singapore-based consultant creates an agency PE under domestic law (e.g., habitual exercise of authority to conclude contracts).

Discusses whether hosting an e-commerce platform (without inventory or fulfillment functions) meets the "place of business" threshold.

Application of DTA Provisions

Explains how the Singapore-Z DTA may restrict Singapore's taxing rights to only income attributable to a PE in Singapore (Article 7 of DTA).

Considers fixed place PE under Article 5(1) and whether the server constitutes a PE (refers to OECD Commentary, noting that servers may create PEs if the enterprise has control over it).

Discusses dependent agent PE under Article 5(5), especially in light of MLI Article 12 (expanding scope for agents creating PEs even without formal contract conclusion authority).

Identifies that consultant's role may fall within expanded DAPE rules under MLI if consultant habitually plays a principal role leading to contracts being concluded.

Considers anti-fragmentation rule (MLI Article 13) that may prevent artificial splitting of activities to avoid PE.

Other Relevant Issues

Notes that W has no DTA with Singapore, so no treaty protection applies to operations from W.

Discusses Singapore's unilateral tax exemption for foreign-sourced income remitted by companies under certain conditions (s13(9) Income Tax Act).

Uncertainties and Need for Further Information

Highlights uncertainty regarding control over the Singapore server (leased or fully operated?).

Notes lack of clarity on the scope of the consultant's authority and role in the sale process.

Queries whether there is any other presence in Singapore (e.g., back-office functions, fulfillment center).

Notes possible need for financial data to assess whether profits attributable to any Singapore PE would be significant.

Legal References (Clear and Accurate Use)

References to Singapore Income Tax Act (s2, s10, s13, etc.).

References to the Singapore-Z DTA (based on OECD 2010 Model).

References to MLI provisions (Article 12, Article 13).

References to OECD Commentary and IRAS e-Tax Guidelines.

Question 2

Identification of Core Issues

Correctly identifies that this is a group structure involving Singapore and foreign subsidiaries.

Recognises Singapore's territorial tax system, DTA relevance, transfer pricing concerns, and potential PE issues.

Identifies that the subsidiaries' tax consequences in their respective countries must also be analysed.

Flags the informal nature of intercompany dealings, raising transfer pricing and documentation risks.

Singapore Taxation of Lionheart Ltd

Explains that Lionheart is Singapore tax resident (s2, Income Tax Act) due to central management and control in Singapore.

Applies Singapore's territorial tax rules: foreign-sourced income is taxable if received or deemed received in Singapore (s10(25) Income Tax Act).

Notes income from sales to subsidiaries is likely foreign-sourced but will be taxed when remitted to Singapore unless an exemption (e.g., s13(9)) applies.

Mentions source of income likely arises outside Singapore due to manufacturing and assembly occurring abroad, despite contract negotiations occurring via Singapore directors.

Mentions possibility of foreign withholding taxes on sales income, depending on Country A and B rules and DTAs.

Transfer Pricing Analysis

Explains the requirement under s34D of Singapore Income Tax Act to apply arm's length pricing in transactions with related parties.

Identifies potential transfer pricing risk due to informal pricing policy based on historical prices without formal benchmarking.

Recognises that Singapore follows OECD Transfer Pricing Guidelines (IRAS Transfer Pricing Guidelines).

Mentions requirement for contemporaneous documentation to avoid penalties (s34F of Income Tax Act) and that Singapore TP rules apply regardless of whether subsidiaries are foreign.

Flags potential risk of secondary adjustments (e.g., deemed dividend treatment) if transfer pricing is not at arm's length.

Taxation in Country A and Country B

Country A and B will tax their resident subsidiaries (Greenhouse Ltd and Oceanview Ltd) on worldwide income under domestic law.

PE issues for Lionheart Ltd in Country A and B:

- Considers whether Lionheart's activities (assembly and storage in Country B, manufacturing subcontracting in Country A) could amount to a PE (OECD Model Art. 5(1) and 5(4)).
- Recognises that Lionheart owns distribution facilities in Country B, which could likely constitute a fixed place PE unless preparatory or auxiliary under Article 5(4) of DTA.
- Considers whether subcontracted manufacturing in Country A creates a PE (less likely if Lionheart does not control the factory or have personnel there).

Taxation of subsidiaries on sales to local customers will be taxed under domestic rules, with profits allocated according to transfer pricing principles.

DTA Application

Singapore-Country A and Singapore-Country B DTAs likely limit taxing rights over Lionheart Ltd to profits attributable to a PE (Article 7 of OECD Model).

If no PE exists, Lionheart should be protected under treaty from non-resident taxation in Countries A and B. Notes DTAs provide relief for withholding taxes (e.g., reduced rates on business profits or interest remitted).

Other Considerations & Uncertainties

Notes uncertainty over control of the distribution facility in Country B (who manages daily operations?).

Asks whether Lionheart staff travel to Countries A or B regularly, which could enhance PE risk.

Highlights uncertainty around degree of commercial risk assumed by subsidiaries (who bears inventory risk, sets prices to local supermarkets?).

Uncertainty around local tax incentives or exemptions in Countries A and B not mentioned.

Legal References

Singapore Income Tax Act (s2, s10(25), s13(9), s34D, s34F).

Relevant articles from the OECD Model Convention (Articles 5, 7, 9).

IRAS e-Tax Guide on Transfer Pricing and Permanent Establishments.

DTAs between Singapore and Country A/B (general OECD-based provisions assumed).

PART B

Question 3

Part 1

Income Tax Residency Status

Identifies that Orchid is Singapore tax resident based on incorporation and management/control being in Singapore (s2 Income Tax Act (ITA)).

Notes that as a resident, Orchid is taxed on both Singapore-sourced and foreign-sourced income under Singapore's territorial system.

Source of Income Analysis

Singapore Property Rental Income: clearly Singapore-sourced, taxable under s10(1)(a) ITA.

Country Z Property Rental Income:

- Foreign-sourced income, but because income is received in Singapore (banked into Singapore account), it is taxable under s10(25) ITA (foreign income received in Singapore).
- Notes that Singapore adopts the "receipts basis" for foreign-sourced passive income (including rents).

Potential Exemption for Foreign-Sourced Income

Considers potential for foreign-sourced income exemption under s13(9) ITA. Foreign income may be exempt if:

- Subject to tax in Country Z;
- At least 15% headline tax rate in Country Z; or
- Exemption is beneficial to Orchid.

Student may flag that further info is needed (e.g., confirmation that the income was taxed in Country Z).

Permanent Establishment (PE) Considerations

Notes that owning immovable property generally constitutes a PE under Article 5(2) of OECD Model (i.e., "immovable property PE").

Recognises that Orchid likely has a PE in Country Z by virtue of property ownership.

Rental profits attributable to the PE may be taxed in Country Z under Article 6 or Article 7 of the DTA.

Double Taxation Relief

Identifies that DTA between Singapore and Country Z provides relief through either:

- Exemption under s13(9) if applicable; or
- Foreign tax credit under s50 ITA, subject to documentation and cap at Singapore tax payable on the same income.

Part 2

Explains that if Orchid is not a Singapore tax resident, it will only be taxed in Singapore on Singapore-sourced income (s10(1)(a) ITA).

Rental income from the Singapore property is still Singapore-sourced, taxable.

Rental income from the Country Z property is foreign-sourced and not taxable in Singapore, even if remitted, as foreign-sourced income of a non-resident is not taxed.

Non-resident companies cannot access certain exemptions or credits (e.g., no s13(9) exemption or foreign tax credit under s50).

Highlights how DTA benefits may be limited if residency shifts (e.g., non-residents may be less able to claim DTA benefits depending on DTA wording).

Uncertainties / Further Information

Whether Country Z imposed tax on the rental income (affects exemption eligibility under s13(9)).

Confirmation of rental withholding tax obligations, if any, in Country Z.

Whether any local incentives or relief apply in Country Z.

Clarification on whether lease contracts for the Country Z property were signed in Singapore but subject to local Z commercial/property laws (may affect PE considerations).

Legal References

Singapore Income Tax Act (s2, s10(1)(a), s10(25), s13(9), s50).

OECD Model Tax Convention (Articles 5, 6, 7, 23).

DTA between Singapore and Country Z (standard OECD-based provisions assumed).

Question 4

Taxable Entity and Basis of Assessment

Recognises Evelyn operates as a sole proprietor, so business income is assessed on her personally under s10(1)(a) Income Tax Act (ITA).

Applies preceding year basis: YA 2025 is based on income earned in calendar year 2024.

Computation of Gross Income

Gross receipts of SGD 240,000 are fully taxable under s10(1)(a) as business income sourced in Singapore.

No foreign-source income issues arise.

Deductible Business Expenses

Internet, software, hosting (SGD 12,000):

- Wholly and exclusively incurred in the production of income.
- Fully deductible under s14(1) ITA.

Home office upgrades (SGD 15,000)

- Likely capital in nature (improvements to property)—hence not deductible under s15(1)(c) ITA.
- However, certain items (e.g., air-conditioning) may qualify for capital allowances under s19A ITA if regarded as "plant or machinery" and used in the trade.
- Uncertainty: Classification of some items (e.g., lighting upgrades) may be borderline between capital allowance or capital disallowed expense.

Thailand conference expenses (SGD 3,000)

- Fully deductible if attendance is wholly for business purposes
- IRAS allows deduction for overseas business conferences relevant to the trade.
- However, needs to exclude any private/leisure portion (if applicable).

Meals and entertainment (SGD 5,000)

- Entertainment directly related to client engagement is deductible under s14(1) ITA, but subject to reasonableness.
- Private/family portions would be non-deductible.

Freelance designers (SGD 18,000)

- Payments to freelancers are fully deductible as subcontracting/outsourced business expenses under s14(1) ITA.

Capital Allowances (Laptop)

Laptop is plant or machinery, eligible for capital allowances under s19A ITA (e.g., 100% write-off in one year or 3-year write-down).

Only 70% business use, so apportionment is required.

SGD 2,800 (70%) qualifies for capital allowances; the personal use portion is non-qualifying.

Private Drawings

The SGD 30,000 withdrawal for personal living expenses is not deductible—private drawings are ignored for tax purposes.

Sole proprietor's income is taxed on net business profits, not cash withdrawals.

Summary of Chargeable Income Determination

Total gross receipts = SGD 240,000.

Allowable deductions = internet/software, freelancers, conference, client meals, capital allowance for laptop (70%).

Capital disallowance for home office renovations, but potential capital allowances on some items if classified as plant.

Uncertainties / Further Information

Confirmation of mixed-use split on certain costs (e.g., air-conditioning—home vs. office use).

Whether any private element exists in the Thailand trip.

Whether Evelyn qualifies for small business tax treatments (e.g., partial tax exemption under s43 of ITA).

Legal References

Income Tax Act (Cap. 134):

s10(1)(a) (business income).

s14(1) (general deduction rule).

s15(1)(c) (non-deductibility of capital items).

s19A (capital allowances).

IRAS guidance on sole proprietorships and self-employed persons.

PART C

Question 5

Identification of Core Issues

Recognises that Singapore taxes income on a territorial basis (i.e., income sourced in Singapore or foreign income received in Singapore).

Identifies that Singapore taxes non-residents primarily on Singapore-sourced income (e.g., s10(1) ITA).

Acknowledges the key role of DTAs in limiting or clarifying taxing rights under international tax law.

Singapore Domestic Tax Law Framework

Explains that under Singapore domestic law, business profits of non-residents are only taxed if:

- The income is sourced in Singapore; AND/OR
- The non-resident carries on business in Singapore (e.g., via a PE, although the PE concept is more relevant under DTA).

Notes that Singapore generally does not tax non-residents on foreign-sourced income or foreign business profits where no Singapore activities exist.

Argues that domestic law itself already limits Singapore's taxing jurisdiction, which often aligns with treaty outcomes (hence the statement's claim of limited effect).

Role of DTAs in Modifying/Clarifying Singapore's Taxing Rights

Explains how DTAs limit Singapore's taxing rights even further, for example:

- Under Article 7 of the OECD Model (Business Profits), Singapore may only tax foreign businesses if they have a PE in Singapore.
- DTA definitions of PE may be narrower than domestic business presence tests (e.g., excluding preparatory or auxiliary activities).
- DTAs also provide mechanisms for resolving disputes (Mutual Agreement Procedures) and eliminating double taxation.

Considers recent developments under the MLI, which expand certain treaty provisions (e.g., dependent agent PEs, anti-fragmentation rules) to potentially catch more activities in Singapore.

Notes that DTAs also reduce withholding taxes on passive income streams (dividends, interest, royalties), which is outside the main issue but shows broader impact.

Critical Analysis

Critically assesses the argument:

- The statement has some validity—Singapore already limits taxation under domestic law, especially for non-residents without physical operations in Singapore.
- However, DTAs can still narrow Singapore's domestic taxing rights, for example where domestic law allows broader taxing of "businesses carried on in Singapore" without requiring PE in all cases.
- DTAs also add legal certainty for businesses by codifying definitions of PE and providing dispute resolution mechanisms.

Conclusion and Uncertainties

Provides a balanced conclusion, recognising that DTAs may have less dramatic impact in Singapore compared to jurisdictions with worldwide tax systems, but they still play a material role in shaping taxing rights, particularly regarding PE definitions and cross-border certainty.

Legal References

Singapore Income Tax Act (s10(1), s2 definition of "carrying on a trade").

OECD Model Tax Convention (esp. Article 5 (PE) and Article 7 (Business Profits)).

Singapore's general adoption of OECD principles and IRAS guidelines on PE and international tax matters.

References to MLI provisions where applicable (e.g., Article 12 DAPE rule, Article 13 anti-fragmentation).

Question 6

Tax Residency Analysis

Before moving to Singapore: James is resident in Country R (domicile and presence).

During the 2-year contract: Likely Singapore tax resident under s2(1) Income Tax Act (ITA) due to physical presence exceeding 183 days per year and having a fixed place of abode.

Dual residency issue:

- Potential for dual residence under Country R domestic rules (due to domicile tie).
- Tie-breaker clause in DTA (Article 4 OECD Model) may apply:
 - Permanent home likely in Singapore (rented apartment).
 - Centre of vital interests appears to shift to Singapore due to work and residence.

Uncertainty: Whether James maintains economic or family ties to Country R, affecting tie-breaker outcome.

Singapore Taxation of Income Streams

Employment Income:

- SGD 250,000 salary taxable as Singapore-sourced under s10(1)(b) ITA and possibly s13(1) exemption for short service rule is not applicable (since stays exceed 183 days).

Consulting Income:

- Income earned from services performed in Singapore (even if for foreign clients) is Singapore-sourced (case law: United Aircraft Corp v CIR).
- Fees earned from work done physically outside Singapore (during 9-week travel) could be foreign-sourced, unless deemed incidental to Singapore employment.

Rental Income:

- Singapore rental income taxable under s10(1)(f) ITA.
- Foreign rental income: taxable only if received in Singapore under s10(25) ITA, but could be exempt under s13(9) foreign-sourced income exemption, depending on whether taxed abroad.

Capital Gains from Property Sales:

- Singapore generally does not tax capital gains unless the gains are income in nature (e.g., frequent trading suggesting an adventure in the nature of trade).
- Query whether James' disposal of real estate reflects investment or trading activities (case-by-case).

Country R Taxation

Country R taxes residents on worldwide income.

Dual residence issue: If tie-breaker rules deem James resident in Singapore, then under the DTA Country R must grant relief from taxation on certain income (Article 23 of OECD Model).

Otherwise, James could face double taxation on overlapping income streams unless relief is available.

Country Q Income

Income (rental or consulting) from Country Q would follow Singapore's territorial system—taxable if received in Singapore (s10(25) ITA) but potentially exempt under s13(9).

No DTA with Country Q limits double taxation relief options, but unilateral tax credit under s50 ITA may be explored if foreign tax is paid.

Uncertainties and Further Information

Extent of James' ties to Country R (e.g., family, social, financial) for dual-residence tie-breaker.

Whether James actively remits foreign rental or consulting income to Singapore.

Frequency and pattern of property sales—trading vs. investment distinction.

Whether Country R will accept the DTA tie-breaker outcome, especially if domicile weighs heavily.

Legal References

Income Tax Act (Singapore): s2(1), s10(1)(b), s10(1)(f), s10(25), s13(9), s50.

OECD Model Convention: Article 4 (residency tie-breaker), Article 23 (elimination of double taxation).

Relevant case law: United Aircraft Corp v CIR (source of income), principles on capital vs. income distinction.

Question 7

Scenario 1

Supply of service to an overseas customer (Hong Kong-based KARPA Corp).

Service qualifies as exported services, potentially zero-rated under Section 21(3)(j) GST Act.

The service relates to market research on Thailand and Vietnam, with the benefit of the service belonging outside Singapore (i.e., KARPA's use of the report is offshore).

Conclusion: Likely zero-rated supply.

Reference: IRAS e-Tax Guide on GST: Zero-rating of International Services.

Scenario 2

Location of service physically in Singapore—presentation and advice are given in Singapore to a non-resident client.

Despite KARPA being a non-resident, the service is physically performed in Singapore and consumed in Singapore.

Therefore, the service does not qualify for zero-rating, and is standard-rated (8% GST, rising to 9% from 2024) under Section 8 GST Act and Section 21(3)(j) exception (services supplied directly in Singapore).

Conclusion: Standard-rated supply.

Scenario 3

Service relates to advice on setting up a Singapore subsidiary, which may be viewed as a service "directly in connection with" Singapore under Section 21(3)(g) GST Act.

Although provided remotely (videoconference and emails), the subject matter relates to Singapore.

Uncertainty:

- Some may argue that as the service relates to Singapore-based plans, it should be standard-rated even if the client is overseas.
- Others might argue for zero-rating, especially if KARPA does not yet have a Singapore presence and the benefit accrues outside Singapore.

Conclusion: Borderline case, but stronger argument for standard-rated as the service is "directly in connection with" Singapore.

Factors that would help resolve:

- Is KARPA deemed to have a Singapore fixed establishment during this time?
- Is KARPA acting through a Singapore agent?

Scenario 4

Local company (Singapore-based Bento Pte Ltd) receiving consulting services in Singapore.

Supply is wholly consumed in Singapore.

Standard-rated under Section 8 GST Act.

No eligibility for zero-rating (domestic transaction).

Overall Uncertainties / Further Information

Confirmation of exact place of benefit in Scenario 3 (Singapore connection test).

Is KARPA using the Singapore setup advice only to evaluate feasibility, or is it implementing the advice in Singapore?

Any evidence of a Singapore fixed establishment for KARPA during Scenario 3.

Legal References

Goods and Services Tax Act (Cap. 117A):

- Section 8 (standard-rated domestic supply).
- Section 21(3)(j) and 21(3)(g) (zero-rating provisions for international services).

IRAS e-Tax Guide on GST: Zero-rating of International Services.

Question 8

Understanding of the Exemption Framework

Explanation of Singapore's territorial basis of taxation: foreign-sourced income is not taxable unless received in Singapore (section 10(25), ITA).

Description of section 13(9) exemption scheme, covering:

- Three conditions for exemption:
 - Foreign income is subject to tax in the foreign jurisdiction;
 - Foreign headline corporate tax rate is at least 15%;
 - Comptroller is satisfied that the exemption is beneficial to the person.

Coverage of qualifying income types: foreign dividends, foreign branch profits, foreign service income.

Practical Relevance in Light of the Remittance Rule

Recognition that foreign income is not taxed if not remitted – so many companies avoid remitting non-exempt income.

Relevance of exemption scheme: Allows safe remittance without triggering tax, which is crucial when remittance is required for operational or commercial reasons (e.g. paying HQ costs or dividends).

Strategic use of exemptions to manage tax risk and business flows – especially for regional HQs, holding companies, and service providers.

Distinction between unremitted (deferred) income and remitted but exempt income.

Key Practical Challenges in Applying the Exemptions

Difficulty in establishing foreign subject-to-tax condition, especially where tax is minimal, deferred, or exempt.

Documentation burdens: proof of tax paid, effective vs headline rate, circular flows.

Uncertainty around "beneficial to the person" condition – discretionary and poorly defined.

Complexity with multi-tiered structures, hybrids, or branch consolidations.

Compliance costs and risk of post-remittance audit or denial.

Structure, Clarity, and Integration

Clear essay structure, logical progression, precise language.

Effective integration of rules, practical usage, and examples.