

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2023

MODULE 2.08 – SINGAPORE OPTION

SUGGESTED SOLUTIONS

PART A

Question 1

Consider if resident company

Highlight the directors and their meetings

Note the one outside Singapore not likely critical

- Give case law and section reference

Core tax claim identification

- Note taxable on Singapore source income
- Plus, Foreign source income remitted
- But excluding exempt establishment profits
- Section for claim, exemption and remittance

Analyse source of income

- Note the core relevance of causes behind profit
- Manufactures outside Singapore
- Some sales in Singapore, some out
- Elements of business in Singapore – marketing etc
- Conclude some foreign source and some Singapore source
- Suggest manner to apportion
- Cases law refs

Consider if branch/ establishment exemption available for Country X

- Is there a branch?
- Does Country X meet requirements for tax rate etc
- Explain that Corporate tax counted for minimum rate
- Conclude that these profits likely exempt and remittance doesn't matter
- Give sections for all aspects

Note that Country X allowed to tax under DTA as there is a PE

Consider Country Y for same

- Is it a branch? Seems not
- Does tax system qualify?
- Seems not – reasons and references

Then say that whatever is sourced in Y is only taxable if remitted to Singapore and discuss if this happened.

- Distinguish remittance form source issues

Question 2

Consider if resident company

Highlight the directors and their meetings

Note likely to rest with Holly and Harald

- Give case law and section reference

Note that H & H move to Singapore could trigger Pogo residence change to Singapore. This is confirmed by the COR.

Note that this may allow Pogo to benefit from Singapore's DTAs

- Discuss why under DTA
- Mention Singapore's controls on this issue
- Consider issue of residence registration

If this all works, the residence change will allow the benefit of DTA between Country B and Singapore. This will constrain Country B taxing rights if they had made a claim to the income

Consider Singapore claim to income sourced in Singapore before and after residence change

- Give references for this
- Analyse what this might be
- What does POGO do in Singapore
- Discuss employee visits
- Discuss head office activity after residence change

Consider if Pogo had a PE in Singapore before residence change and how this impacts Singapore tax claim if any

Consider if it had PE in X after residence change – yes and how this allowed X to tax

Consider the issue of foreign source income and remittance to Singapore after residence change

Consider if branch/ establishment exemption available for Country X

- Is there a branch?
- Does Country X meet requirements for tax rate etc
- Explain that Corporate tax counted for minimum rate
- Conclude that these profits likely exempt and remittance doesn't matter

Consider if branch/ establishment exemption available for Country X

- Is there a branch?
- Does Country X meet requirements for tax rate etc
- Explain that Corporate tax counted for minimum rate
- Conclude that these profits likely exempt and remittance doesn't matter

Consider if branch/ establishment exemption available for Country B

- Is there a branch? No?
- Does Country B meet requirements for tax rate etc – yes
- B cannot tax and probably not exempt in Singapore

Still is it remitted?

PART B

Question 3

Consider if resident company

Highlight the directors and their meetings give legal reference

Core tax claim identify

- Note taxable on Singapore source income
- Plus, Foreign source income remitted
- But excluding exempt dividends
- Section for claim, exemption and remittance

Discuss the parameters of Section 13(8) of the Income Tax Act 1947

- Especially for dividends
- Note requirements for country tax system
- Requirements for dividends
 - Country R yes
 - Country S no
- Note that non dividend income would need to be business income
- Not likely to apply to Royalties and interest

Discuss remittance and its application

Discuss foreign tax credit

Mention DTA and foreign country taxing rights for Country R

Could mention possibility of tax incentive

Question 4

Discuss if Corina is a Singapore tax resident and when this would happen

Mention the two arms of the law

Conclude that she is likely to become one

Discuss dual residence and DTA

Discuss allocation to Singapore under tie breaker test of DTA

Discuss how DTA constrains Country C taxing rights once Corina is Singapore resident

Give references through to law and articles

Explain Singapore tax claim with section references

Note that individual residents generally exempt on foreign source income except small category of partnership income

So Corina only taxed on Singapore source income

Discuss source rules with case references

Discuss what his Singapore source income is by analysing each type of income mentioned for source

Discuss employment benefits in Singapore

Discuss that DTA stops Country C taxing income for Country D, and Singapore does not tax those amounts

Full analysis of source with case references

PART C

Question 5

Question open to different discussion approaches

But must highlight that it deals with tax avoidance

Also touches on issues of evasion

Discuss what tax avoidance is

Discuss what evasion is

Discuss the statutory context of avoidance in Singapore

Discuss issues with pinpointing avoidance

Discuss case facts

Discuss outcome

Conclude on what the case has added to understanding tax and tax avoidance in Singapore

Question 6

Question open to different discussion approaches

Discuss BEPS in general

Discuss Pillar 2 and its context

Contextualise Singapore in BEPS debate

Contextualise Singapore in Pillar 2

Discuss Singapore's approach to BEPS

Discuss Singapore's approach to Pillar 2

Discuss the impact Pillar 2 is having and will have on Singapore tax approach

Especially it being a financial centre

Question 7

Discuss nature of income

Reference to case law and badges of trade

Discuss how one-off gains from converting an asset to cash are not seen as income with case law

Discuss how a business profit is income

Including a simple profit-making scheme

Apply discussion to Billy

Note how first sale is unlikely to be income because he simply sold what he had

Discuss how he moved towards a profit-making scheme or business

Highlight his planning and seeking for a quick profit

Discuss how it may become taxable as income

Question 8

Discuss the GST

Discuss what the GST seeks to tax

Discuss how it applies to particular transactions

And particular business

Consider the tax rules that connect transactions and operations to Singapore's GST regime (that is, jurisdictional nexus rules)

Apply analysis to Jaco in relation activities outside Singapore

Discuss how it applies to different aspects of business and how these impact one another

Mention relating inputs to taxable supplies