Answer-to-Question-_1_

Facts

Locus PL managed and controlled in Handia

Handia no income tax and DTAs

Plan to manufacture and sales in Xeno through subsiiary company.

Xeno 30% and has DTA with singapore

Locus PL intend to build subsidiary in Singapore, providing accounting, manufacturing, finance, insurance, marketing to subsidiary in Xeno.

Market value will be charged by Singapore subsidiary for all the services.

Singapore subsidiary will own shares in Xeno.

Locus PL will own all shares in Singapore subsidiary

We assume that the DTA follows OECD MOdel

No 1

Handia has no DTA network with Xeno hence the implications are:

- Handia and Xeno can not enjoy tariff stipulated in DTA.
- Xeno has susbtantial income tax that is 30%, Handia does not have income tax. Hence there is no possibility of double tax.
- Handia and Xeno can not apply tax credit in DTA.

Singaore tax resident we shall look upon control and management of the company. It is also mentioned in De Beer Case Consolidated Mines Ltd vs Hower that control and management is question of facts.

In this case, the management will be conducted in Singapore. Hence there is possibility to argue control and management in SIngapore.

By having subsidiary in Singapore will have tax impact as follows:

- The transaction can apply DTA and enjoy tariff under DTA Singapore- Xeno.
- Dividends paid by Xeno to Singapore will be reduced rate to 5% if Singapore is proven act as beneficial owner.
- Dividend paid to Singapore may be exempted under Section 13 (8) and 13 (9) ITA, or obtaining tax credit under DTA, or implementing unilateral credit under Section 50 ITA.

No 2

Locus PL is considering establishing Singapore subsidiary because by having subsidiary in Singapore will have tax impact as follows:

- The transaction can apply DTA and enjoy tariff under DTA Singapore- Xeno.
- Dividends paid by Xeno to Singapore will be reduced rate to 5% if Singapore is proven act as beneficial owner.
- Dividend paid to Singapore may be exempted under Section 13 (8) and 13 (9) ITA. As Xeno has 30% income tax, it is likely the dividend payment will be exempted. Or alternatively, the transaction may obtain tax credit under DTA, or implement unilateral credit under Section 50 ITA.
- Singapore office will be taxed in 17%, while if management team is established in Xeno will be taxed with a 30% income tax rate.
- When purchasing the shares, it will be considered as capital gain in Singapore, and it is important to highlight that Singapore does not charge capital gain. Even though, the

transaction shall be fulfil the requirement of badges of trades to consider whether it is taxable under Section 10 (1) ITA that are nature of subject matter, length of ownership, frequency of transaction, supplementary work, mode of financing, motive. However, as this is one off transaction, it is likely to be considered as capital gain.

- The management fee expense paid by Xeno is possibly become tax deduction in Xeno, as long as it fulfils arm's length principle under Article 9 DTA, which can reduce their taxable income considering relatively high rate in Xeno.

-Dividend paid in Singapore to Locus PL is not taxed if it fulfil one tier system. Further, Handia also does not charge any income tax.

No 3

Risk of structure

- Resident Status of subsidiary in Singapore:

Singaore tax resident we shall look upon control and management of the company. It is also mentioned in De Beer Case Consolidated Mines Ltd vs Hower that control and management is question of facts.

Pertaining to foreign owner company, IRAS may still issue CoR if company can show (1) control and management in Singapore (2) there is valid reason setting up office in Singapore.

In this case, the management will be conducted in Singapore, however, there is unclear the intention of setting up the office in Singapore other than having lower tax in group.

- Beneficiary ownership: BO shall be interpreted broadly considering the purpose of the transaction. BO must have rights to all income without any obligation to pass the income to third

party. This is not only cover trustees and nominees but also conduit arrangements. Therefore, the new entity most likely will not be considered as Beneficial Owner as 100% of the share of SIngapore subsidiary owned by Locus PL, hence all of Singapore subsidiary income will be passed to Locus PL. Therefore it is hard to prove Singapore subsidiary is the beneficial owner.

-Section 33 ITA serves as GAAR in relation to possibility of tax avoidance through this transaction, the Comptroller may consider that the structure is not allowed. This is also violate BEPS Action plans that is treaty shopping.

The relevant case of Section 33 ITA implementation is Wee Teng Yau Case.

- Transfer pricing issue: Singapore subsidiary controls through shares ownership. Hence, management fee paid by Xeno Subsidiary to Singapore Subsidiary shall fulfil transfer pricing regulation that is based on arm's length principle. It is stated that services will be paid based on market value fee, this payment shall be examined through Transfer pricing Documentation.

Answer-to-Question-2

Facts

Kudo PL incorporatedin Singapore, director live and work in Singapore.

It has rented factory in Lodo

It has design studio in Singapore

It has marketing and management office in SIngapore

It has shop in Singapore

It has shop in Zaro

It has website hosted in zero tax jurisdiction.

The overall volume of Kodo splits into 1/3 between 2 shopsand website.

1/3 sales tsent directly to SG and Zaro shop from factory

Sales through website and Zaro shope banked in offshore bank, sometimes remitted in Singapore

Lodo and Zaro has DTA with Singapore, both levy income tax of 20%

Kudo PL Tax Residence

Tax resident

According to Section 2 ITA, to be considered as tax resident we shall look upon control and management of the company. It is also mentioned in De Beer Case Consolidated Mines Ltd vs Hower that control and management is question of facts.

In this case, Kudo PL is centrally managed and controlled in Singapore, it is proven by facts:

-director live and work in Singapore

-marketing and management office in SIngapore

Hence, Kudo PL will be subjected to Singapore domestic tax.

Tax Implication

Singapore merely tax income source in Singapore and foreign income remitted in Singapore.

We assume that the DTA follows OECD MOdel

Office in Singapore

For activity of

- design studio in Singapore
- marketing and management office in SIngapore
- shop in Singapore

is subject to Section 10 (1) of ITA as it is business profit of Singapore source income. Therefore it will be subjected to 17% corporatee income tax.

Factory in Lodo

According to Article 5 (2) DTA, in order to classify as Permanent Establishment, includes establishment of factory. We aware that there is rented factory in Lodo where the clothing is manufactured. Hence it fulfills the criteria of PE under DTA. The consequence is as per Article 7(1)DTA, any income arising from PE shall be taxed in respective countries, which in this case Lodo. Hence Singapore has no right to tax any income from PE in Lodo.

Shop in Zaro

According to Article 5 (2) DTA, in order to classify as Permanent Establishment, includes establishment of branch. We aware that there is shop in Zaro where they sale the product. Hence it fulfills the criteria of PE under DTA.

The consequence is as per Article 7(1)DTA, any income arising from PE shall be taxed in respective countries, which in this case Zaro. Hence Singapore has no right to tax any income from PE in Zaro.

Webhost in zero tax jurisdiction countries
There is no further explanation on activity in zero tax jurisdiction countries other than hosting. Therefore, there is likely no PE established in zero tax countries as it does not fulfill criteria of PE as it is mre website. Therefore, the income arise in zero tax jurisdiction countries will be taxed in Singapore. Even there is no DTA with SIngapore, it will cause no issue as the countries does not tax the income, hence there is no issue in doble taxation.

It has to be noted, where the cash is banked is not relevant as per CIR vs Hang Seng Bank Limited, which mainly focused on what Taxpayer has conducted to earn profit.

Issue of remittance
We note that Sales through website and Zaro shop banked in offshore bank, sometimes remitted in Singapore.
As per Section 10 (25) ITA, any income from outside remitted in Singapore will be subject to Singapore income tax.
However, the income remitted may fall under exemption Section 13 (8) and 13 (9) ITA if fulfils 3 requirements:
- subject to tax in other country
- headline tax mininum of 15%
- beneficiary owner
There is no explanation on beneficary owner issue, hence we assume that it has fulfiled such criteria.

Further, we note that Zaro has income tax of 20%. Hence it is possible that the income remitted is exempted under Section 13 (8) and 13 (9) ITA.
While for sales from website, as per mentioned above, it is consider as Singapore source.Further, the other jurisdiction is 0% rate (not subject to tax in other country).
Hence when it is remitted, it will be taxed in Singapore and does not fulfil the criteria of exemption under Section 13 (8) and 13 (9) ITA.

Answer-to-Question-3

Facts

Rebecca born and raised in Vernia

Vernia has DTA with SIngapore

Vernia consider Rebecca as its tax resident, it has worlwide tax system

Rebecca has been offered working in SIngapore for at least 2 years.

Rebecca will be provided with apartment.

Rebecca intend to rent her apartment in Vernia.

We assume that the DTA follows OECD MOdel

Tax Resident if Rebecca accepted offer in Singapore.

a. Quantitative test: According to section 2 ITA, Rebecca shall fulfills minimum of 183 days or continously for 3 consecutive year. In this case, the offer is minimum of 2 years, hence Rebecca will be considered as Singapore tax resident as per ITA. However, Vernia is still consider Rebecca as its tax resident. Hence, there is dual tax resident issue, we shall assess upon qualitative test.

b. Qualitative test: As per Article 4.2 DTA, in order to determine Rebecca tax resident, we shall follow tie breaker rule as follows:

- permanent home
- central of vital interest
- habitual abode

- nationality
- MAP

We are aware that Rebecca will be provided apartment in Singapore while her apartment in Vernia will be rented. Hence she only has permanent home in Singapore and has no any accomodation in Vernia. Hence, it is likely that Vernia will be considered as Singapore tax resident.

Interest

a. Vernia

Singapore only tax income that is source in Singapore, regardless remittance for individual.

As per Article 13 (7A), any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the form of partnership.

As the interest arises in Vernia, hence Singapore will not tax the interest.

As per Article 11 (1) DTA, Vernia may be taxed the interest as well.

b. zero tax jurisdiction

Singapore only tax income that is source in Singapore, regardless remittance for individual.

As per Article 13 (7A), any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the

form of partnership.
As the interest arises in zero tax jurisdiction, hence Singapore will not tax the interest.

Dividend

a. Vernia

Singapore only tax income that is source in Singapore, regardless remittance for individual.
As per Article 13 (7A), any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the form of partnership.

As the dividend arises in Vernia, hence Singapore will not tax the dividend.
As per Article 10 (1) DTA, Vernia may be taxed the dividend as well.

b. Singapore

Dividends from Singapore companies are not taxed due to one tier tax system. Hence, the dividend received by Rebecca is not taxed in Singapore.

Rent

a. Vernia

Singapore only tax income that is source in Singapore, regardless

remittance for individual.
As per Article 13 (7A), any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the form of partnership.
As the rental income arises in Vernia, hence Singapore will not tax the rental income.

b. House in Zero tax jurisdiction
Singapore only tax income that is source in Singapore, regardless remittance for individual.
As per Article 13 (7A), any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the form of partnership.
As the rental income arises in zero tax jurisdiction, hence Singapore will not tax the rental income.

Royalty payment
The royalty obtained after Rebecca become tax resident of Singapore shall be assessed in Article 12 (1) DTA which mentioned that royalty shall be taxed in resident state that is in SIngapore.
According to Section 10 (16) ITA, it has to be assessed whether the income is the author of the intellectual property and beneficially own the intellectual property. Hence as the author of the book, the royalty payment after Rebecca become tax resident will be taxed in Singapore.

Answer-to-Question-5
Singapore has taken steps in implementing 2 pillars solutions in BEPS.

Here are brief explanation of the 2 pillars

Pillar 1: Reallocation of Profits to Market Jurisdiction
Singapore is participating in the ongoing multilateral negotiations on Pillar One at the OECD/G20.
Amount A: Allows countries to tax the largest and the most profitable MNEs based on the revenues they generate from those contries
Amount B: Allow developing countries to simplify transfer pricing.

Under pillar 1, Singapore will lose tax revenue because SIngapore have small population.

Pillar 2:
Rules were established in response to the low effective tax paid by MNEs. There are possibility the that companies put their headquarter and intellectual property in low income tax countries. To avoid such, Pillar 2 mandates that MNEs with revenues minimum of 750 million euro pays at least 15% effective tax rate from their profit.
This is to reduce harmful tax competition, reduce profit shifting, and generate more tax revenue.

Explanation of Pillar 2

-Global Anti Base Erosion (GLoBe): minimum effective rate of 15% for large MNE. If MNE has effective tax rate lower than 15% in SIngapore, other jurisdictions can collect the difference.

a.Income Inclusion RUle (IIR): it is top up tax rule that impose MNEs to pay minimum of tax in each jurisidiction operate.

b.Undertaxed thePayments Rule (UTPR):
serves as backstop to the IIR and applies to dedcuticible payments made by entity to low taxed entity.

c.Qualified Domestic Minimum Top Up Tax system: minimum tax of 15%

will be implemented in 1 January 2024.

-Subject to tax rule:allows jurisdiction to impose additional tax of up to 9% on certain payments (such as interest and royalty) that an ntity in A makes to related entities in another jurisdicition B, if that payment is taxed at less than 9% in B.

Who will be impacted:
- company that has headquarter in Singapore
- company in SIngapore that have subsidiaries in SInsgapore.

Impact of Singapore tax system:
-
Singapore already has corporate income tax of 17%, while the minimum tax is 15%. Therefore, it shall not very much affect the rate of corporate income tax in Singapore. However there is possibility that the rate is lower than 17% due to deduction and

incentive. However singapore will impose minimum of effective rate 15% in Januari 2025.
Hence, MNE impacted by this rule will be taxed minimum of 15%.

- It is question whether Singapore will be still attractive after Pillar 2. Pillar 2 is designated to reduce harmful tax competiton. Current trend is corporate income tax in nearly every countries inclines to attract foreign investor in establishing company in their countries. I believe Singapore is not very much impacted by Pillar 2 as Singapore does not merely offer relatively low income tax, however Singapore also provide good infrastructure, government stability, sufficient human capital. This is what will be needed to remian competitive after Pillar 2.0 is implemented. Therefore, it is likely that there is no significant income tax system impact.
-Singapore already showed their implementation of in Januari 2025.

Hence, Singapore income tax may impacted by BEPS, but not significantly.

Answer-to-Question-7
Individual residents is considered as Singapore tax resident if it has fulfilled qualitative and quantitive test.
a. Quantitative test: According to section 2 ITA, individual shall fulfills minimum of 183 days or continously for 3 consecutive year. Further, foreginer who has worked for a continuous period straddling 2 calendar years and total period of stay at least 183 days. This applies to employees wo entered Singapore but excludes directors of company, public entertainers, or professiobals. Temporary absences will not affect quantitative test.
b. Qualitative test: As per Article 4.2 DTA, in order to determine SIngapore tax resident, we shall follow tie breaker rule as follows:
- permanent home
- central of vital interest
- habitual abode
- nationality
- MAP

As per Article 13 (7A), it is mentioned that any income arising outside SIngapore by any individual who is resident of SIngpaore will be exempted as long as it beneficial to the invidual, unless received in the form of partnership. Therefore, any individual tax resident will not be taxed for its foreign source.

However with regards to the statement that individual resident never need to rely to DTA to prevent double taxation is not

entirely correct with following reasons:

Function DTA for tax resident

DTA is important in determining tax resident. Without tie breaker rule set in the DTA will result to dual tax resident which arise the possibility of double taxation.

After determining the tax resident, will result to several implications:

a. whether the individual will able to enjoy Singapore treaty network as the scope of treaty is only for Singapore resident.

b. different rate for Singapore tax resident (progressive rate 0-24%) and non tax resident (15% or progressive rate 0-24%, which ever higher)

c. only Singapore tax resident can enjoy personal relieve

There is possibility that foreign source income for individual is taxed in Singapore

There is possibility that the individual does not fulfill the criteria under Section 13 (7A) ITA that is received in the form of partnership and not the beneficiary owner, hence the individual is taxed under Singapore tax law with respect of their foreign income.

Therefore, DTA is still necessary to be established for individual to prevent double taxation for their foreign source.