Answer-to-Question-_3_

Residential Status

As per Section 2 of the Income Tax Act, in case the control and management of the company is based in Singapore, the company is considered as resident of Singapore.

As per the given information,Links's all directors live in Singapore. Therefore, it is assumed that Links in a resident of Singapore since the control and management of the company would rest in Singapore.

Likewise, it is assumed that Rebt is resident of Country R.

Also, it is assumed that Sync is resident of Country S.

Taxation of individual transactions

As per Section 10 of Income Tax Act, income accrued, derived from Singapore and received in Singapore from outside Singapore is taxable in Singapore.

The same includes income from dividend, interest, royalty, etc.

Therefore, it is relevant to assess each type of income received by Links from Rebt and Synch separately.

Income received from Rebt Ltd

It is given that as per domestic law of Country R, dividend,

royalty and interest is taxable as locally sourced income.

Country has corporate tax rate of 20% and has DTA with Singapore.

1. Dividend

Dividend received by Links from Rebt will be subject to section 13(8) of the Income Tax.

There are 3 conditions given in Section 13(9) for the income to be exempt:
(a) income is subject to tax in foreign territory
(b) highest tax rate in foreign territory is 15%
(c) controller is satisfied that exemption would be beneficial to Person.

Since, conditions a and b above are satisfied, it is concluded that dividend will be exempt from tax in Singapore.

It is irrelevant whether dividend is received in Links' bank account in Country S or in Singapore.

As per Article 10 of DTA as well, dividend will not be taxable in Singapore.

2. Interest

As per Section 10 and 12 of Income tax act, interest income received from Rebt will be taxable in Singapore. Therefore, only interest income received in Singapore bank account will be taxable in Singapore. Since the same will be already subject to

tax in Rebt, tax credit under section 50A will be applicable.

However, as per DTA, interest income will be taxable in Country R.

3. Royalty

Similar to interest, as per DTA, Royalty income will be taxable in Country R.

Income received from Sync

1. Dividend

Since there is no DTA and tax rate in country S is 5%, dividend income will be taxable in Singapore. Sync will not satisfy conditions laid down in Section 13(9).

2. Royalty and Interest

As per Section 10 and 12, interest and royalty income received from Rebt will be taxable in Singapore. Therefore, only interest income received in Singapore bank account will be taxable in Singapore.

Since the same will be already subject to tax in Rebt, tax credit under section 50A will be applicable.

Answer-to-Question-_1_

Residential Status

Logi has 4 directors, out of which 3 are based in Singapore and 1 is based in Country X. Also, it is given that directors hold face to face meetings in Singapore each year.

Considering criteria of residency of company in Section 2, it is concluded that since the management and control of Logi is in Singapore, Logi is a company resident of Singapore.

Also, as per section 2, permanent establishment means a fixed place of business and includes a factory. Similar definition is also mentioned in Article 5 of DTA. Therefore, it can be concluded that Logi has a permanent establishment in Country X. It is noted that Country X has DTA with Singapore.

As per Section 10 of Income Tax Act, income accrued, derived from Singapore and received in Singapore from outside Singapore is taxable in Singapore.

Business profits in Country X

As mentioned above, Logi has permanent establishment in Country X. Since Country X has DTA with Singapore, Article 7 will be applicable to the profits derived in Country X. Profits attributed to Country X will be taxed at 20% in Country X. The

same will be exempt in Singapore.

Attribution using relevant articles of DTA has to be done to arrive at profits of the permanent establishment.

As per income tax act as well, under Section 12(1), in case of non-resident, profits attributable to operations carried out outside Singapore, will not be taxable in Singapore.

Sale of products in Singapore

It is mentioned that sale contracts with wholesalers are result of marketing operations conducted in Singapore and sales contracts concluded in Singapore.
Therefore, it is assumed that significant activities for sale of products are done in Singapore, even though manufacturing is done in Country X.

Profit from sale of products in Singapore will be taxed in Singapore at 17%.

As per DTA as well, using Article 7, profits from sale of products in Singapore, will be taxed in Singapore.

Sale of products in Country Y

Country Y has a 5% tax rate on profits sourced in Country Y. Further Country Y does not have DTA with Singapore.

Since contracts were concluded in Singapore, it can be argued that there can be no permanent establishment of Logi in Country Y.

As mentioned above, it is assumed that signiicant activities for sale of products like marketing are done in Singapore, even though manufacturing is done in Country X and Sale in Country Y.

Therefore, the profits from of products in Country y will be taxed in Singapore at 17%. However, tax credit under section 50A will be available to Logi.

Answer-to-Question- _2_

As mentioned in Question, likely Corporate Income Tax consequences are analysed below:

Year 1 - 1 Jan'22 to 31 Dec'22

Residential Status

Pogo is incorporated in Country A. Two directors (also shareholders) of Pogo are based in Country A. Based on Section 2 of the Income Tax Act, since control and management of Pogo is based in Country A, it is resident of Country A.

Taxability of services provided

Services provided by employees based in Singapore to clients in Singapore - income from the same would be taxable in Singapore since it could be considered as branch of Pogo in Singapore (as per Section 2 of the Income tax act as well as DTA).

Services provided by employees based in Singapore to clients in country A and B - considering section 12 of income tax act and DTA, the same would be taxable in Singapore.

Services provided by employees based in Country A to clients in A, Singapore and B - The same would not be taxable in Singapore, considering DTA and Section 12 of Income tax act.

Year 2 - 1 Jan'23 to 31 Dec'23

Residential Status

Directors of Pogo have permanently relocated to Singapore on 1 January 2023. This has transferred all the overall management and control of the company to Singapore. Therefore, considering Section 2, Pogo Ltd becomes resident of Singapore.

However, it is mentioned that Pogo applies and receives Certificate of Residence (CoR) of Country A. (Though it is not specifically written that CoR is obtained from Country A, from wordings, it is assumed).

Consequently, Article 4(1) states that where a company is resident of two states, the competent authorities of both countries shall determine the residential status considering following factors by mutual agreement:
- place of effective management
- place of incorporation
- other factors

It is assumed that Pogo is a resident of Singapore.

As per Section 10 of Income Tax Act, income accrued, derived from Singapore and received in Singapore from outside Singapore is taxable in Singapore.

Taxability of services provided

Services provided by employees based in Singapore to clients in Singapore - income from the same would be taxable in Singapore as per Section 10 of the Income Tax.

Services provided by employees based in Singapore to clients in country A and B - income from the same would be taxable in Singapore as per Section 10 of the Income Tax and DTA.

Services provided by employees based in Country A to clients in A, Singapore and B
- As per Section 12 read with Section 13(8) of Income tax act, the same would not be taxable in Singapore.
There are 3 conditions given in Section 13(9) for the income to be exempt:
(a) income is subject to tax in foreign territory
(b) highest tax rate in foreign territory is 15%
(c) controller is satisfied that exemption would be beneficial to Person.

- As per Article 7 of the DTA, the same would not be taxable in Singapore.

Answer-to-Question-_6_

Pillar 2 of OECD in the context of Singapore

OECD / G20 Inclusive Framework countries have proposed new taxation system in the arena of International Tax.

In the old taxation system, residential status of person and FAR analysis was more relevant for determination of country and extent of taxation.

However, as per the proposed taxation system, there is a 2 pillar approach that has been identified :

Pillar 1 - reallocation of taxing rights to market economies
Pillar 2 - global minimum tax

Pillar 2 is introduced after considering low effective tax rates of large multinational enterprises (MNEs). Due to being headquartered in tax havens, some of the companies were claiming/ enjoying significantly low effective tax rate as compared to others. Also, these companies were not having any substance in tax havens except headquarters / IPs.

To counter this challenge, it is determined that companies having turnover of more than Euro 750mn are required to have effective tax rate of 15% in each of the jurisdictions.

Following types of taxes are introduced in Pillar 2

- Qualified domestic minimum top-up tax - to be introduced by countries upto 15%
- Income Inclusion Rule - in absence of above, low taxed income will be taxed
- Under-taxed payment Rule - payments to low taxed countries will be dis-allowed
- Subject to tax Rule - treaty based rule

The same would affect following types of MNEs:

- Headquartered in Singapore
- headquartered in Singapore having subsidiaries in Singapore

Once implemented, it is relevant for companies to determine jurisdiction-wise effective tax rate.

There are many tax benefits availed by companies head-quartered as well as having subsidiaries in Singapore. Singapore is a global financial hub having many benefits. However, most of these benefits requires companies to have significant substance in Singapore.

Pillar 2 gives below substance based carve-outs for determination of effective tax rate:

- Employee cost
- Fixed asset base

It is relevant for companies enjoying tax benefits in Singapore to have required substance in Singapore to continue claiming the same.

In Budget of 2023, Finance Minister of Singapore has shown inclination of implementing Pillar 2 i.e. Qualified domestic minimum top-up tax, Income Inclusion Rule and Under-taxed payment Rule.

However, final guidelines from OECD and individual countries have been awaited.

Suppose a company having subsidiary in Singapore has effective tax rate (computed using Implementation Guide published by OECD)less that 15%, the entity will have to pay additional to-up tax to take its effective tax rate to 15%.

Considering the same countries like Singapore will have to attract foreign flows and investments using other means such as better infrastructure, ease of doing business, etc.

- Companies as well as Government of Singapore are also required to calculate additional tax that would be collected due to Pillar 2.

Answer-to-Question-_7_

Residential Status

Billy lives in Singapore and therefore is a resident of Singapore.

For the purpose of characterisation of income between trading and capital gain, following are relevant factors:
- nature of transaction
- frequency of transaction
- holding period of object
- subsequent value addition
- circumstances of transaction
- motive of transaction

From the given question statement, it is assumed that Billy has undertaken trading activity.

Vase
Billy inherited vase from grandmother. The cost of the vase be nil/ 0.

Further, since Billy sold the same to antiques shop for $10,000, entire profit will be subject to tax.

Antique vase and painting from cousins

Cost of the same for Billy is $8,000 and selling price is $1 Mn.

Billy will have to pay tax on the profit after deducting agent commission.
