

Factors to Consider For Foreign Tax Credit Pooling

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This article highlights the various factors a Singapore tax resident company may consider in determining the most suited tax treatment option for the remittance of its foreign-sourced income.

Foreign-sourced income is subject to Singapore income tax to a company when remitted or deemed remitted into Singapore (unless specifically exempt under the Singapore Income tax Act (SITA)). Currently, subject to conditions, a Singapore tax resident company may have the following choices when it remits foreign-sourced income into Singapore:

1. Claim Section 13(8) tax exemption for qualifying foreign-sourced income (i.e. foreign-sourced dividend, branch profits and service income).
2. Apply for Section 13(12) tax exemption for income falling under specified scenarios if the foreign-sourced income does not qualify for Section 13(8) tax exemption. Section 13(12) tax exemption application is required to be made before the foreign-sourced income is remitted into Singapore.
3. Claim foreign tax credit on foreign tax paid against Singapore tax payable on the foreign-sourced income.

The amount of foreign tax credit claimable is computed on a source-by-source and country-by-country basis, for each particular type of foreign income remitted to Singapore. The foreign tax credit granted is capped at the lower of foreign tax paid and the Singapore tax payable on the particular type of remitted foreign-sourced income. Any excess of foreign tax paid over the Singapore tax payable for the specific type of foreign income cannot be used to reduce the Singapore tax payable on other types of remitted foreign income.

With effect from Year of Assessment 2012 (i.e. relating to the financial year ended 2011), the newly introduced **Foreign Tax Credit Pooling System** (“FTC Pooling System”) allows a Singapore tax resident company to consolidate the foreign tax paid for set off against the Singapore tax payable on the same foreign sourced income.

The amount of foreign tax credit to be granted will be based on the lower of the pooled foreign taxes paid on the foreign sourced income and the pooled Singapore tax payable on the same foreign sourced income. A Singapore tax resident company also has the option to elect for the FTC Pooling System for selected foreign-sourced income on a yearly basis. The current source-by-source and country-by-country basis will continue to apply where the Singapore tax resident company does not elect for FTC Pooling System or where the foreign-sourced income does not qualify for FTC Pooling System.

A Singapore tax resident company can elect for the FTC Pooling System if the following conditions are met:

- i. Foreign income tax is paid on the foreign-sourced income in the foreign jurisdiction from which the foreign-sourced income is derived;

- ii. The headline tax rate of the foreign jurisdiction from which the foreign-sourced income is derived is at least 15% at the time the foreign-sourced income is received in Singapore; and
- iii. Singapore tax is payable on the foreign-sourced income and the taxpayer is entitled to claim a foreign tax credit on that foreign-sourced income under the SITA.

From a tax planning perspective, a Singapore tax resident company might be able to reduce its Singapore tax liability by choosing the new FTC Pooling System over the Section 13(8) tax exemption to bring more foreign tax into the pool for set off against Singapore tax payable on the relevant foreign-sourced income.

It may also be possible for a Singapore tax resident company to plan and time the remittance of different types of foreign-sourced income into Singapore to optimise the company's foreign tax credit claim.

Therefore, some relevant considerations that a Singapore tax resident company should take into account are as follows:

- Should the company remit its foreign-sourced income back into Singapore? If so, which are the types that should be remitted?
- When should the company bring the unremitted foreign-sourced income back to Singapore?
- Would the foreign sourced income not physically brought back to Singapore be deemed remitted under the SITA?
- Does the company have a pool of foreign sourced income that meets the conditions to qualify for tax exemption under Section 13(8) and foreign tax credits when they are remitted or deemed remitted into Singapore?
- Should the company elect for Section 13(8) tax exemption or foreign tax credits in respect of foreign-sourced income remitted or deemed remitted into Singapore?
- Should the company elect for the new FTC Pooling System for all or only selected qualifying foreign-sourced income?
- Are there expenses to be allocated to the foreign sourced income?

The answers to the above questions vary as each company's facts and circumstances are different and it is important that all relevant facts are considered in order to optimize the foreign tax credit claim. It is also important that as far as the Year of Assessment 2012 claim is concerned, the analysis is completed before the end of your 2011 financial year.

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