



TAX EXEMPTION FOR SINGAPORE RESIDENT FUNDS*

A PwC news bulletin on the Monetary Authority of Singapore's circular issued on 1 November 2006

Currently, foreign funds that meet certain criteria are exempt from Singapore taxation, even if these funds are managed on a discretionary basis by a Fund Management Company (FMC) in Singapore. The tax exemption applies in respect of specified income derived from designated investments. Until now, if the foreign fund in question was a company, it had to be resident outside Singapore for tax purposes in order to take advantage of the tax exemption scheme.

It was recognised that this non-residency condition was not conducive to the development of the asset servicing sector in Singapore, since funds were being set up, and serviced outside Singapore despite the fact that the fund management operations were being carried on from Singapore. In the 2006 Budget, it was announced that a scheme would be put in place to grant exemption for Singapore resident funds, as was available to foreign funds.

On 1 November 2006, the Monetary Authority of Singapore (MAS) issued a circular setting out the qualifying conditions for the new scheme. The new initiative is a welcome one and adds flexibility for funds to take advantage of Singapore's infrastructure without the need to involve a host of overseas service providers.

However, as a general proposition, there is still a need to dispense with the 80:20 rule [refer point 3(c) below] and 'Regulation 5(d)' restriction [refer point 4(b) below], as it is arbitrary and inherently full of uncertainty for the investor.

There is also a need, in our view, to extend the new scheme to cover other forms of fund entities, such as partnerships, limited partnerships or trusts so as to offer the investors the additional flexibility.

KEY ELEMENTS OF THIS NEW SCHEME

1. The scheme will grant tax exemption to a fund approved by the MAS between 17 February 2006 to 16 February 2011 (an 'Approved Fund'), for specified income from any designated investments for the life of the fund.
2. Additionally, a financial sector incentive company deriving income from managing funds of an Approved Fund or from providing investment advisory services to such a fund would be subject to tax at a concessionary rate of 10%.
3. To be approved for this scheme, a fund must undertake to meet the conditions set out below. The fund must:
 - (a) be a company incorporated in Singapore;
 - (b) be a tax resident of Singapore where the control and management is exercised in Singapore;
 - (c) not have more than 20% (excluding the total percentage owned directly by designated persons or Approved Funds) of the total number of its issued shares beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore (the "80:20 rule");
 - (d) use a Singapore-based fund administrator;
 - (e) be managed or advised directly by an FMC, including an FMC set up as a branch in Singapore, where the FMC holds a capital markets services licence for fund management under the Securities and Futures Act (Cap 289) (SFA) or is exempt from the requirement to hold such a licence under the SFA, or as otherwise approved by the Finance Minister or such other persons as he may appoint;
 - (f) incur at least S\$200,000 expenses in each financial year;
- (g) not change its investment objective/strategy after being approved for the scheme; and
- (h) not be a person previously carrying on a business in Singapore, where such business generated income that would not have been tax-exempted.
4. The new scheme does not apply where the Approved Fund:
 - (a) beneficially owns more than 20% of the total number of issued shares of any company incorporated in Singapore; or
 - (b) has 20% or more of the total number of its issued shares beneficially owned, directly or indirectly, by a company (other than a designated person or an Approved Fund) which:
 - falls within paragraph 4(a) above;
 - has a permanent establishment in Singapore (other than a fund manager); or
 - carries on a business in Singaporeunless approval is granted by the Finance Minister or such person as he may appoint.
5. An Approved Fund is required to submit an annual declaration to the Financial Centre Development Department of the MAS and the Comptroller of Income Tax, Corporate Tax Division, within 2 months from the end of each of its financial years confirming that the conditions set out in the relevant tax legislation and the scheme are met.
6. The MAS has also released application forms for seeking Approved Fund status that require details for the fund and the FMC.

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