

# GMS Flash Alert

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## Singapore – COVID-19: More Scrutiny by Tax Authority to Concessions

As the coronavirus pandemic continues to evolve around the world, remote working arrangements seem to have become the new norm among the global workforce. But with many coronavirus-related tax reliefs coming to an end in several jurisdictions, Singapore's tax authority, IRAS, has also become increasingly stringent in granting tax exemptions in respect of employment income relating to work performed remotely in Singapore on behalf of overseas employers. Indeed, from 1 July 2021, concessions will only be allowed on a case-by-case basis upon the IRAS' review of the individual's circumstances.<sup>1</sup>

There are also implications for Central Provident Fund ("CPF") exemptions and employer/employee obligations for those working remotely from Singapore.

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### WHY THIS MATTERS

With more stringent requirements to qualify for a tax exemption from 1 July 2021, Singaporean / Singapore Permanent Resident ("SPR") employees who have been working in Singapore remotely for an overseas employer since 2020 due to the coronavirus pandemic are likely to be subjected to individual income tax in Singapore. This could potentially give rise to double taxation issues for these individuals if their income is also subject to tax in their country of employment. While mitigation of double taxation may be sought through double taxation agreements (if applicable) between Singapore and other countries, the additional administrative procedures could inevitably increase compliance costs for individuals and employers.

With the requirement to contribute to CPF for those on remote working arrangements that do not meet the criteria for exemption, this would also lead to additional costs for their employers. Notably, the overseas employer would need to undergo additional administrative procedures to register itself as an employer for CPF contribution purposes before it is able to make mandatory CPF contributions in respect of its employees working remotely from Singapore. This is on top of the social security costs that it may have already incurred in its local jurisdiction.

## Singaporeans / SPRs Working Remotely in Singapore up to 30 June 2021

For Singaporeans / SPRs who have been exercising employment overseas but worked remotely from Singapore in 2020 due to coronavirus measures limiting mobility and one's ability to freely cross borders, as part of the support measures to assist taxpayers in mitigating tax exposure, the IRAS is prepared to treat the individuals as not exercising employment in Singapore. Their income during the period of remote work will not be taxable in Singapore. (For related coverage, see [GMS Flash Alert 2020-184](#), 20 April 2020.) This is provided that:

- (a) there is no change to the contractual terms governing the individual's employment overseas before and after the return to Singapore; and
- (b) this is a temporary work arrangement due to COVID-19.

If the individual's stay in Singapore has extended to 2021, the IRAS will continue to grant an exemption for the period of his/her extended stay up to 30 June 2021, provided that the following additional conditions are satisfied:

- (c) the work performed by the individual during the stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19;
- (d) the individual will leave Singapore as soon as he/she is able to do so by 30 June 2021; and
- (e) his/her employment income earned during the stay in Singapore from 1 January 2021, is subject to tax in the country of the overseas employer.

The tax exemption from 1 January 2021 to 30 June 2021, is only applicable to employees who returned to Singapore in 2020 and not to employees who returned to Singapore in 2021. The exemption is granted automatically if the conditions are fully satisfied. Nonetheless, the employer and employee are required to provide supporting documents to substantiate that the above conditions are satisfied, if requested by the IRAS.

## Singaporeans / SPRs Working Remotely in Singapore from 1 July 2021

If the Singaporean / SPR employee's remote working arrangement in Singapore extends beyond 30 June 2021, the income relating to the remote working days from 1 July 2021 (assuming income up to 30 June 2021 qualifies for exemption) will be subject to tax in Singapore. However, the IRAS will consider extending the tax exemption on such income on a case-by-case basis if:

- the individual is unable to leave Singapore due to a travel ban in the country of employment, or he/she is unable to travel due to the unavailability of flights or other modes of transport; and
- the individual will leave Singapore as soon as he/she is able to do so.

An application for the IRAS to review the individual's case would have to be submitted. Besides having to satisfy conditions (a) to (e) mentioned above, the individual is also required to provide the following information:

- (i) The individual's name and NRIC number.
- (ii) Date on which the individual started to work remotely from Singapore.

- (iii) Name and address of the overseas employer and the individual's designation.
- (iv) The number of staff under the individual's supervision, if any, and where they are currently based.
- (v) The name and designation of the individual's reporting officer and where he/she is currently based.
- (vi) The individual's nature and scope of work, before and after he/she returned to Singapore, together with supporting documents.
- (vii) Whether the overseas employer has any related entities in Singapore and if so, the name of each entity.
- (viii) Whether any of the individual's work performed/to be performed in Singapore is for clients in Singapore and/or business activities of any entities in Singapore, regardless of whether they are related to the overseas employer. Relevant details would have to be provided if the individual answers "yes" to this question.
- (ix) Whether the work performed/to be performed by the individual during the stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19.
- (x) Documents to support that the individual has made every effort to leave for the country of overseas employment but was unable to do so.
- (xi) Documents to support that the employment income earned during the stay in Singapore is subject to tax in the country of the overseas employer.

## CPF Requirement

Contributions to the CPF are required for a Singaporean / SPR employee working in Singapore. In respect of an employee who has been working remotely in Singapore for an overseas employer since 2020 due to the pandemic, except for tax-related conditions, the CPF Board ("CPFB") has generally adopted the IRAS' guidelines in granting exemptions from CPF contributions. Specifically, the conditions are that:

- (a) there is no change in the contractual terms governing the employee's employment overseas before and after his/her return to Singapore in 2020; and
- (b) this is a temporary work arrangement due to COVID-19.

Additional conditions for exemption from CPF contributions while working remotely in Singapore from 1 January 2021 to 30 June 2021:

- (c) the work performed by the employee during his/her stay in Singapore would have been performed overseas if not for the travel restrictions caused by COVID-19; and
- (d) the employee will leave Singapore as soon as he/she is able to do so.

The CPF exemption from 1 January 2021 to 30 June 2021, is only applicable to employees who returned to Singapore in 2020 and not to employees who returned to Singapore in 2021.

For extended remote working arrangements in Singapore beyond 30 June 2021, the CPF exemption will only be granted on a case-by-case basis upon writing to the CPFB and subject to the CPFB's review of the individual's circumstances.<sup>2</sup> Essentially, in addition to declaring that conditions (a) to (d) mentioned above are satisfied, proof would have to be submitted to substantiate that the individual is unable to leave Singapore due to a travel ban imposed in the overseas employment location, or due to the unavailability of flights or other modes of transport.

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## KPMG NOTE

### What Does This Mean from a Corporate Tax Perspective?

The tax concessions in relation to a company's **tax residence status** and **permanent establishment ("PE")** remain in place for Year of Assessment ("YA") 2022, subject to meeting the relevant conditions.

To recap, from a tax residence perspective, this means that companies with **directors** based overseas may still be considered as tax residents in Singapore even if they are not able to hold board meetings in Singapore due to travel restrictions. From a PE perspective, employees of a foreign company who remain in Singapore due to travel restrictions may not result in the creation of a PE in Singapore for the foreign company.

While it is comforting for companies to see the above concessions extended to cover YA 2022 (financial years ending in 2021), cross-border remote working arrangements are likely to result in corporate tax consequences for the employer if such arrangements become a permanent feature after travel restrictions ease. The KPMG International member firm in Singapore is already starting to see some countries challenge overseas remote working arrangements and seek to impose local taxes on foreign companies. As borders reopen, we expect to see more tax authorities taking a stricter approach on this issue.

### Tracking Employees and Staying Compliant in Terms of Income Tax and Social Security

With the evolving challenges caused by COVID-19, amongst other considerations, it is imperative that employers are able to track the work locations of their employees and are aware of the associated tax and social security exposures that may arise, both at the individual and corporate levels, as their employees carry out their work duties remotely.

Remote working is also emerging as a new norm to attract and retain talent in a competitive global labour market. This poses more challenges for companies to stay compliant due to the complexities of cross-border tax issues that may arise from remote working arrangements. Any breach of an employer's obligations may result in penalties and reputational repercussions for the employer.

To manage the additional tax risks, employers will need to make sure they have robust processes in place to track how long employees spend in Singapore compared to other countries, and the nature of the work they perform while they are in Singapore.

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## FOOTNOTES:

1 See [IRAS, Working Remotely from Singapore due to COVID-19](#).

2 See [CPF Board, Are CPF contributions payable for my employee who is on overseas employment but working remotely from Singapore as a temporary arrangement due to COVID-19 situation?](#).

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