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Tax alert

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Updates on non-taxation of companies' gains on disposal of equity investments

The Inland Revenue Authority of Singapore (IRAS) has updated its e-Tax Guide on Certainty of Non-Taxation of Companies' Gains on Disposal of Equity Investments (Fourth Edition) (the Guide), commonly referred to as the "safe harbour" rule, to reflect enhancements to Section 13W of the Income Tax Act 1947 (ITA), as announced in Budget 2025.

In this tax alert, we highlight the key updates and provide our insights.

Background

In Singapore, gains or losses from the disposal of equity investments in a company are taxable or deductible for tax purposes only if they are (i) determined to be income in nature, or (ii) foreign-sourced disposal gains caught under the provisions of Section 10L of the ITA*. The assessment of whether a gain is income in nature is based on factors drawn from established case law principles, including the seller's motive for acquiring the shares, the holding period before disposal, the frequency of similar transactions, the reason for the sale, and the method of financing the purchase.

To facilitate corporate restructuring for growth and consolidation, which often involves the acquisition and disposal of equity investments in associates and subsidiaries, Budget 2012 introduced a scheme under Section 13W, to provide upfront certainty of non-taxation for gains derived from the disposal of ordinary shares by companies that meet specified conditions. Under the scheme, gains are exempt from tax if:

i. The divesting company maintains a minimum level of shareholding of 20% in the investee company at all times during a continuous period of at least 24 months ending on the date immediately prior to the date of disposal of any shares in the investee company ("shareholding threshold condition"); and
ii. The shares are disposed of during the period from 1 June 2012 to 31 December 2027 (both dates inclusive).

The scheme applies to investee companies incorporated in Singapore or overseas, whether listed or unlisted.

It should be noted that foreign-sourced disposal gains within the scope of Section 10L would be taxable if they are regarded as received in Singapore, irrespective of whether the conditions under Section 13W have been met.

* Our Tax Alerts on Section 10L
- Issue 17 | December 2023: IRAS new e-Tax Guide on taxation of gains from sale of foreign assets
- Issue 3 | March 2024: Section 10L and the situs of movable and immovable property

Budget 2025 Enhancements to Section 13W

The Budget 2025 announcement introduced three major enhancements to Section 13W, effective for disposal gains derived on or after 1 January 2026:

1) **Removal of sunset clause**
   The previous end date of 31 December 2027 has been removed, making the scheme permanent.

2) **Expanded scope of eligible gains**
   The scope of eligible gains is expanded to include gains from the disposal of preference shares that are accounted for as equity by the investee company under the applicable accounting principles adopted ("qualifying preference shares"). For an investee company that is not required to comply with any accounting principles when preparing its financial statements, the applicable principles refer to the International Financial Reporting Standards.

3) **Group-based assessment of shareholding threshold**
   The 20% shareholding threshold condition can now be assessed on a group basis, allowing holdings by related entities to be aggregated. However, each entity's shareholding must individually satisfy the 24-month holding period for it to be counted toward the aggregated threshold.

Application of the shareholding threshold condition for disposals of shares on or after 1 January 2026

The 20% shareholding threshold condition refers to 20% of the total paid-up share capital of ordinary shares and qualifying preference shares in an investee company. If the divesting company--excluding a registered business trust and a variable capital company--cannot meet this condition on a standalone basis, it may be assessed on a group basis for disposals of shares on or after 1 January 2026. This means that the shareholdings of both the divesting company and its related companies within the same group will be considered when determining whether the threshold is met.

When assessing the 20% shareholding threshold condition on a group basis, the Guide outlines the approach to be adopted, as presented in the following table:

Step	Description
1	Identify the date on which the divesting company disposes of its shares.
2	Establish the relevant 24-month holding period immediately prior to the date of disposal.
3	Determine if the divesting company and its related companies that hold shares in the investee company are part of the same group. They are considered part of the same group if: i. More than 50% of the issued ordinary shares in one company are beneficially held, directly or indirectly, by the other company, with one being the divesting company: or ii. More than 50% of the issued ordinary shares in each company, including the divesting company, are beneficially held, directly or indirectly, by a common company.
4	Determine if the group of companies has maintained at least 20% shareholding continuously throughout the relevant 24-month holding period.
5	Exclude from tax any gains derived from the disposal of shares that have been held continuously throughout the relevant 24-month holding period if the 20% shareholding threshold condition on a group basis has been met.

KPMG commentary

The enhancements to the Section 13W safe harbour rule help to further enhance the attractiveness of Singapore as an investment holding location, providing companies with certainty of non-taxation on a wider range of share disposals.

The inclusion of qualifying preference shares in the scheme is particularly welcome given the prevalence of preference share instruments in today's investment landscape. However, investors should take note of the condition that preference shares **must be accounted for as equity** under applicable accounting principles. Preference shares characterised as equity for tax purposes but not treated in the same way for accounting purposes will not be eligible for exemption under Section 13W. As there are often differences between the accounting treatment and tax characterisation, where commercially feasible, companies should pay careful attention to the specific terms of the instrument to ensure alignment.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

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