



GES NewsFlash

Singapore - Updates on Individual Tax Filing Requirements for Frequent Business Travelers (FBTs) and Clarification on Individual Tax Treatment

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Clarification on individual tax filing requirements for FBTs (updated)

Generally, an employer is required to notify the Inland Revenue Authority of Singapore (IRAS) by filing the Form IR21 (Notification of a noncitizen employee's cessation of employment or departure from Singapore) for its employee who is neither a Singapore citizen nor Singapore Permanent Resident (SPR) (under immigration rules) or is an SPR who is leaving Singapore permanently (including on overseas posting for a period of more than three months) on cessation of employment in Singapore, at least one month before the expected date of cessation of employment or departure from Singapore, whichever is earlier.

In addition, the employer is required to withhold all monies due and payable to such employee until the expiry of 30 days after the receipt by the IRAS of such notification, or until tax clearance is obtained from the IRAS, whichever is earlier.

Where the employee's tax liability is fully borne by the company, the IRAS will grant a two-month extension of time from the cessation date to file the Form IR21 and the withholding of monies may not be required.

In view of the practical issues faced by employers in meeting the tax clearance filing timelines for foreign employees who have employment bases outside Singapore (i.e. exercising employment outside of Singapore) but are required to make frequent business trips to Singapore (i.e. FBTs) and as additional time may be required to obtain the Certificate of Residence (COR) from the relevant countries for FBTs that may claim for tax exemption under an Avoidance of Double Taxation Agreement, the IRAS has clarified the timeline for the filing of the tax clearance returns for the FBTs as follows:

Category of FBT	Submission Deadlines
The work has ended and the FBT will not be making further business trips to Singapore [with or without work pass obtained]	Two months from the date of last business visit. <i>Example:</i> <i>Date of last business visit: 30 November 2015</i> <i>Due date to submit Form IR21: 31 January 2016</i>
The company cancels the work pass of the	Two months from the date of cancellation or expiry of the work pass, whichever is earlier.

<p>FBT or the work pass expires</p>	<p><u>Example:</u> <i>Date of cancellation: 30 November 2015</i> <i>Expiry of work pass: 31 December 2015</i></p> <p><i>Due date to submit Form IR21: 31 January 2016</i></p>
<p>FBTs with no work pass obtained</p>	<p>The company has until 31 January of the following year to complete an annual review of the travel days of the FBT to Singapore.</p> <p>The company has to file the Form IR21 by 31 March (i.e. two months from 31 January of the following year).</p> <p>Update: The IRAS has indicated that where the Form IR21 cannot be filed by 31 March, an extension of time would be granted until 30 June (i.e. five months from 31 January of the following year).</p> <p><u>Example:</u> <i>The FBT made five business trips to Singapore during the year 2015 and is still required to make three business trips to Singapore during the year 2016.</i></p> <p><i>Extended due date to submit Form IR21 for the year 2015: 30 June 2016 (updated)</i></p> <p><i>Due date to submit Form IR21 for the year 2016: Two months from the date of last business visit in the year 2016</i></p>
<p>FBTs whose business trips straddle over more than a year and work pass is obtained</p>	<p>The company is required to prepare the Employer Return of Employee Remuneration (Form IR8A) and provide the same to the FBT by 1 March of the following year. If the company is under the Auto Inclusion Scheme (AIS), the company is required to electronically transmit the same to the IRAS (via submission of Form 8E) by 1 March of the following year.</p> <p>The FBT is required to file his Singapore tax return (Form B1/Form M) by 15 April of the following year or e-file by 18 April of the following year.</p>

Example:

The FBT made five business trips to Singapore during the year 2015 and is still required to make three business trips to Singapore during the year 2016.

Due date to prepare Form IR8A/e-file Form 8E for the year ended 31 December 2015: 1 March 2016

Due date to submit/e-file Form B1 for the Year of Assessment 2016 (income year 2015): 15 April 2016 (paper filing)/18 April 2016 (e-filing)

Due date to submit Form IR21 for the year 2016: Two months from the date of last business visit in the year 2016

Please note that the above tax clearance filing timelines apply to FBTs who have exercised employment in Singapore for more than 60 days in the calendar year.

For FBTs who have made business trips to Singapore for not more than 60 days during the calendar year, they may be treated as short-term nonresident visiting employees and may be exempt from tax in respect of income from employment of not more than 60 days under Section 13(6) of the Singapore Income Tax Act. However, please note that Section 13(6) does not apply to income derived by a director of a company.

Please note that the extension of time until 30 June to file the Form IR21 is not extended to FBTs with work passes.

Please also note that for the FBTs to avail themselves to the respective filing extensions, the employer has to indicate that the employee is an FBT by way of a covering letter when submitting the Form IR21 to the IRAS, together with the FBT's travel schedule.

For companies who are e-filing the Form IR21 via the IRAS' External Value Network (EVN) system, please e-file the covering letter using document type "ATTREQ-TA."

IRAS acceptable rates for per diem allowances for FBTs travelling to Singapore [with effect from the year of assessment 2017 (income year 2016)]

Any income derived by FBTs in respect of employment exercised in Singapore should generally be considered Singapore-sourced and subject to tax in Singapore, unless exemption of income in Singapore is available under domestic legislation or tax treaty. This includes any per diem allowances that are given to FBTs travelling to Singapore for business purposes.

Currently, per diem allowances received by Singapore-based employees who travel outside of Singapore for business purposes pursuant to their Singapore employment will not be subject to tax in Singapore if they are below the IRAS acceptable rates published for the respective country(ies) for the relevant income year. Any per diem allowance received in excess of the IRAS acceptable rate will be subject to tax in Singapore.

To rationalise the tax treatment of per diem allowances received by FBTs travelling to and from Singapore, the IRAS has published an acceptable rate of SGD 141 per day for per diem allowance given to FBTs travelling to Singapore for business trips on or after 1 January 2016, which will be tax exempt.

The Singapore individual tax treatment and employer tax reporting requirements of the per diem allowances paid to FBTs on business trips to Singapore on or after 1 January 2016 are summarised as follows:

	Allowance not exceeding acceptable rate	Allowance above the acceptable rate
Taxable?	No	Yes
Reportable in Form IR8A/IR21?	No	Yes. To report the amount in excess of acceptable rate

The IRAS will review and publish the acceptable rate for the following year in December each year. Once the rate is published, no changes will be made so that the same rate will apply to all employees.

Please note that the IRAS acceptable rate for per diem allowances will only be applicable for FBTs on business trips to Singapore. This will not be applicable to employees who are assigned to exercise employment in Singapore, including employees on short-term assignments in Singapore. For per diem allowances received by employees on assignments in Singapore, the full amount will be subject to tax in Singapore, notwithstanding that the amount may be below the IRAS acceptable rate.

Clarification on individual tax treatment for accommodation and travelling and entertainment expenses incurred by FBTs

For FBTs on business trips to Singapore on or after 1 January 2016, the IRAS has clarified that the following expenses incurred by the employer would not be taxable in Singapore in the hands of the FBTs:

- Accommodation
- Travelling and entertainment (which have been expended for business purposes)

Where the FBT is paid a fixed cash allowance to cover business expenses during business trips to Singapore (e.g., hotel costs; travel from hotel to client's office, airport, or place of work; entertainment with clients) and the same are not reimbursed by the employer, the IRAS has clarified that the employer should ascertain the actual amounts expended for business purposes and exclude the same for tax reporting purposes. Nevertheless, where the business expenses incurred are lower than the amount of allowance paid to the FBT, the excess of the allowance is taxable and reportable by the employer accordingly. Receipts to substantiate the business expenses incurred should be retained should the IRAS requests for the same.

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Deloitte's view

With the extension of the filing deadline until 30 June for the submission of tax clearance returns for FBTs with no work passes, it appears that the IRAS has recognised the

difficulties for employers to be compliant with its tax reporting requirements in respect of FBTs into Singapore on timely basis. The extension of the filing deadline from 31 March to 30 June will give employers additional time to collate information of employment income from home country employers and obtaining the COR, if treaty exemption is applicable, from home country tax authorities. This should mitigate the risk of employer being penalised for late filing of the tax clearance returns and the enforcement action taken by the IRAS for such late filing.

It is, however, important to note that the IRAS has not extended the same 30 June filing deadline to FBTs who have obtained work passes, although similar challenges are also faced for such FBTs.

Nevertheless, it is increasingly clear that the IRAS expects companies to review their tracking mechanisms for FBTs into Singapore and also implement processes to collate the necessary compensation information required to fulfil the tax reporting requirements, to avoid penalties and enforcement actions by the IRAS.

Separately, the introduction of the IRAS acceptable rate for per diem allowances received by FBTs travelling to Singapore for business purposes should be a welcomed development for employers as this reduces the tax burden for FBTs travelling into Singapore and rationalises the tax treatment for such payments received by FBTs travelling into and from Singapore. The clarity by the IRAS on the individual tax treatment of the accommodation and travelling and entertainment expenses incurred by FBTs also seeks to provide guidance and reduce the tax burden for FBTs travelling into Singapore.

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