



GES Newsflash

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Greetings from your Tax & Legal team at Deloitte Singapore. We are pleased to update you on the following:

Singapore: Updates on tax exemption of employer's contribution to non-mandatory overseas pension fund or social security scheme under the Not Ordinarily Resident (NOR) scheme

On 19 October 2018, the Inland Revenue Authority of Singapore (IRAS) updated its website to remove the requirement that the employer's contributions made on or after 1 January 2014, to an overseas non-mandatory pension or social security scheme must be charged or recharged to a Singapore entity and the claim for corporate tax deduction forgone, to enable the individual taxpayer to avail to the tax exemption of an employer's contribution to a non-mandatory overseas pension fund or social security scheme under the NOR scheme.

Currently, an individual who qualifies for the NOR status may apply for the tax exemption of an employer's contribution to a non-mandatory overseas pension fund or social security scheme, subject to meeting all of the following conditions:

1. The individual is neither a Singapore citizen nor a Singapore permanent resident;
2. The individual's employment income is at least S\$160,000; and
3. The employer must not claim a corporate tax deduction on the contributions made to the non-mandatory overseas

pension or provident funds and social security schemes up to the NOR exemption cap.

Previously, the IRAS has ruled that condition 3. above would not be satisfied if the employer's contributions to the non-mandatory overseas pension or provident funds were not charged or recharged to a Singapore entity. The IRAS has now clarified that condition 3. above would be satisfied in the scenarios below, as no corporate tax deduction on the contributions would be taken by the employer in Singapore:

- The contribution is borne by a foreign company and is not charged or recharged to the Singapore employer; or
- The employer is a tax-exempt body or representative office that is not required to file a tax return.

The removal of the above requirement would not have an impact on employees of investment holding companies or service companies. Employees of investment holding companies would not be able to enjoy the NOR tax concession on the employer's contributions made to any non-mandatory overseas pension or social security scheme on or after 1 January 2014.

Beginning from the year of assessment (YA) 2016 (i.e., for accounting periods ending 2015), employees of service companies can only enjoy the NOR tax concession if the company prepares its tax computation on a "normal trading company" (NTC) basis. Employees of service companies that adopt the "cost plus mark-up" (CM) basis of tax assessment will no longer be able to enjoy the NOR tax concession after YA 2015 (i.e., for accounting periods ending in 2014).

For individual taxpayers with the NOR status who previously did not claim the tax exemption of an employer's contribution to a non-mandatory overseas pension fund or social security scheme due to such contributions not being charged or recharged to a Singapore entity, there is now an opportunity to claim the exemption retrospectively and seek reassessment. The request for reassessment is available for YAs 2017 and 2018 (income years 2016 and 2017). Taxpayers who wish to avail to the tax concession retrospectively may submit the NOR application forms to the IRAS for review and reassessment within four years from the year that the assessment is raised. For example, if the assessment for YA 2017 was raised on 22 September 2017, the taxpayer would have until 31 December 2021 (i.e., four years from the year ended 31 December 2017), to submit a request for reassessment.

Deloitte Singapore's view

The above was a 360-degree turn to the original position which was accepted by the IRAS on the claim for the tax exemption of an employer's contribution to a non-mandatory overseas pension fund or social security scheme under the NOR scheme. Accordingly, for taxpayers who have previously qualified for the tax exemption on an employer's contributions that were not charged or recharged to a Singapore entity, they should review whether or not to claim the exemption for YAs 2017 and 2018 (income years 2016 and 2017). The application for reassessment should be made as soon as possible, as this is subject to IRAS agreement.

Taxpayers should consider the following factors in deciding to pursue the reassessment:

- The potential NOR tax savings on pension exemption versus the administrative costs of seeking reassessment.
- The impact of amending the Singapore tax assessment on any foreign tax credit claims in the employee's home-country/third-country tax returns (e.g., United States), where applicable and whether the retrospective application for the NOR pension concession would yield an overall tax advantage.
- For taxpayers whose Singapore tax liabilities are borne by the employer, there will be added administrative steps to request for tax refunds arising from NOR tax savings, to be made directly to the employer.

Contact

Should you have any comments or questions arising from this newsletter, please contact either the listed contacts below, your usual contact in Deloitte, or any member of the **Deloitte Singapore Tax & Legal team**.

Jill Lim

Southeast Asia GES Leader
Deloitte Singapore

+65 6530 5519

jilim@deloitte.com

Christina Karl

GES Partner
Deloitte Singapore

+65 6800 3997

ckarl@deloitte.com

Sabrina Sia

Singapore GES Leader
Deloitte Singapore

+65 6216 3186

ssia@deloitte.com

Lisa Alton

GES Partner
Deloitte Singapore

+65 6800 2880

lialton@deloitte.com

Michele Chao

GES Partner
Deloitte Singapore

+65 6216 3387

micchao@deloitte.com

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