SINGAPORE BRIEFING

Taxation of Trusts in Singapore

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The tax treatment of trusts is dependent on the residency of the trust. Where there is residency in Singapore, and an exemption does not apply (exemptions applying to foreign trusts and locally administered trusts are considered in this article), income derived by trusts will be either taxed at the trustee level or in the hands of the beneficiaries. In any case, only one level of tax will be suffered.

Trust carrying on a trade or business in Singapore

Income derived from a trade or business carried on by the trustee in Singapore is subject to final tax at the trustee level. Whether the trustee is carrying on a trade or business is a question of fact, and the badges of trade test will be applied to determine the existence of a trade. In this regard, should the Trust be seen to be trading in investments, Singapore tax will be applicable at the corporate tax rate in the absence of a tax incentive.

A trust that is not carrying on a trade or business in Singapore may seek tax exemption via the Qualifying Foreign Trust (Section 13F) exemption or the Locally Administered Trust (Section 13N) exemption if requisite conditions are met. The Section 13F and Section 13N will apply to trusts constituted before 1 January 2025.

Qualifying Foreign Trusts (QFTs) - Section 13F

A QFT is a trust where, generally, neither the settlor nor beneficiaries are Singapore residents, citizens or Singapore resident companies and is administered by a licensed Singapore trust company. A QFT and its underlying (overseas incorporated and overseas tax resident) holding company are exempt from Singapore tax on certain "specified income" from "designated investments". The exemption is in line with that available under the fund incentives; Sections 13D, 13O and 13U.

Identifying "specified income" is complex, it broadly includes interest, dividends, rental income and gains derived from outside Singapore relating to certain investments as well as specific locally sourced investment income.

For the purposes of the tax exemption, the trust will continue to be a QFT where a settlor or beneficiary subsequently becomes a citizen or resident of Singapore, subject to certain detailed conditions.

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Locally Administered Trusts (LATs) - Section 13N

Briefly, to qualify, the trust must be administered by a licensed Singapore trust company. Every settlor must be an individual, every beneficiary must be an individual and at least one beneficiary must not be a settlor, the trust must be created in writing and not be arising from a will. A LAT and its underlying holding company (regardless of jurisdiction of incorporation/residence) are exempt from Singapore tax on certain "relevant income" where the holding company is solely trading or making investments for the purpose of the trust.

"Relevant income" includes specific Singapore-sourced investment income, dividend income and foreign-sourced income.

The beneficiaries

Income not derived from the trade or business of a trust is afforded tax transparency, i.e. is subject to tax in the hands of the beneficiaries, where they are **resident in Singapore** and **entitled** to the trust income.

Entitlement to the trust income can be established by examination of the trust deed. It should be noted that where the trust income is distributed to the beneficiaries within the same year in which the trust income is derived, the beneficiaries are treated as entitled to that income. The beneficiaries are subject to tax on their entitlement to the share of the trust income when they become absolutely entitled, even where it is not immediately distributed. The trust income retains its underlying nature, meaning the beneficiaries are entitled to any concessions, exemptions, credits etc.

In the case of a QFT and a LAT, where exemption from tax on income is applied at the trust level, distribution to the beneficiary will also be exempt from tax in the hands of the beneficiary.

Rate of taxation and filings

The default is the corporate tax rate with exemptions, concessions and relief available, currently at a headline rate of 17%. Typically, this will apply when income is taxed at the trustee level. Where the income is taxed on the beneficiaries, the applicable rate of income tax for the individual and reliefs available to the individual are applied.

The necessary Form T and/or annual declaration of exemption should be submitted to the Comptroller of Income Tax by 15 April annually, late filing fees apply.

Issues to consider

A trust which meets the definition of a QFT but for the holding company being incorporated or tax resident in Singapore cannot rely on the Section 13F exemption.

Under Section 13N, uncertainty could prevail over a trade of investments being viewed as a trade or business being carried on in Singapore and therefore subject to income tax. For such trusts, the Section 13O tax incentive could be explored.

How Rawlinson & Hunter can help

Rawlinson & Hunter (Singapore) Pte Ltd provides accounting, tax and corporate services and can assist in establishing and structuring around the tax position of the trust as well as all aspects of compliance. We can assist with application of incentives to the MAS and work with our trust company to provide wide-ranging services. R&H Trust Co. (Singapore) Pte Ltd is a fully licensed trust company providing a comprehensive suite of services including the creation of trusts, provision of trustees, and ongoing administration. The appointment of R&H Trust Co. (Singapore) Pte Ltd as trustee (and in certain other capacities) results in the trust being considered locally administered under Sections 13F and 13N.

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