

Singapore continues to expand its exchange of information agreements relating to taxes

Executive summary

Singapore continues to increase the number of jurisdictions with which it has exchange of information agreements relating to taxes. The exchange of tax information between jurisdictions increases transparency, fosters international tax compliance and ultimately aims to reduce key global issues such as tax avoidance.

For example, Singapore signed a Tax Information Exchange Agreement (TIEA or the Agreement) on 13 November 2018 with the United States of America (US). Once ratified, the TIEA will allow Singapore and the US to provide assistance to each other through exchange of information relevant to the administration and enforcement of certain taxes (see Table 1 below).

Additionally, Singapore and the US can negotiate procedures for Automatic Exchange of Information (AEOI) and Spontaneous Exchange of Information (SEOI) for specific tax-related information.

Details of the TIEA

Under the TIEA, Singapore and the US can request from each other information that is foreseeably relevant to the determination, assessment and collection of taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters.

The Agreement as it currently stands will be applicable to the taxes imposed by Singapore and the US in Table 1. However, it will also apply to identical or substantially similar taxes imposed after the date of signature of the TIEA.

Table 1: Applicable taxes covered under the Agreement

US
▶ All federal taxes
Singapore
▶ Income tax
▶ Property tax
▶ Goods and services tax
▶ Stamp duties

When making a request for tax information, the competent authority requesting the information should outline (amongst other items) the following:

- ▶ Identity of the person or group under examination
- ▶ A statement outlining the information required and period of time for which the information is requested
- ▶ Grounds for believing the information is relevant to the administration or the enforcement of a tax claim
- ▶ A statement confirming the request is in accordance with the law and administrative practices of the jurisdiction

However, the request for information should not be discriminatory against a national of the requested party. A request will be considered to be discriminatory if it is more burdensome to a national of the requested party than with respect to a national of the requesting party, under the same circumstances. The TIEA went on to clarify that a national of the requesting jurisdiction subject to worldwide taxation is not considered to be in the same circumstances as a national of the requested jurisdiction who is not subject to worldwide taxation. Thus, such a request will not be considered discriminatory.

Additionally, the competent authorities of Singapore and the US would not be required to obtain or provide information that they would not be able to obtain under their own laws for the purpose of the administration or enforcement of their own tax laws.

The Agreement also specifically excludes the obligation to supply information that would disclose any trade, business, industrial, commercial or professional secret or trade process. Further, information that would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative are excluded from the Agreement.

Implications and actions required

The TIEA as it stands currently provides only for Singapore and the US to transfer tax information upon request. However, it states that the AEOI and SEOI procedures can be agreed, allowing tax information to flow automatically or spontaneously between both countries.

In this connection, it is noted from the list of jurisdictions as of 20 February 2019 that Singapore has activated bilateral AEOI relationships for Country-by-Country reports (CbC reports) with 60 jurisdictions.¹ However, an agreement with the US has not yet been agreed.

The Ultimate Parent Entity of Singapore Multinational Enterprise groups (Singapore MNE groups) with subsidiaries in the US and Singapore should watch this space for further developments, in view of the possible negotiation between Singapore and the US for the AEOI of CbC reports between the two countries.

Further, once the SEOI is agreed between Singapore and the US, potentially other tax-related information may be shared including tax rulings, tax incentive arrangements, permanent establishment (PE) rulings and advance pricing agreements (APAs).

The ratification of the TIEA in Singapore will determine when the Agreement will come into effect.

The Agreement enters into force one month from the date of Singapore's written notification to the US that Singapore has completed its internal procedures, and will be effective for requests made from the date of entry into force, concerning information for taxes from 1 January of the calendar year immediately following the year of entry into force.

¹ <https://www.iras.gov.sg/irashome/Quick-Links/International-Tax/Country-by-Country-Reporting--CbCR/>

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