



GES NewsFlash

Singapore tax clearance for noncitizen employees

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Summary

The Inland Revenue Authority of Singapore (IRAS) has been stepping up enforcement actions on the submission of tax clearance for non-Singapore citizen employees in recent years. In the last month, many companies have received reminders from the IRAS to submit Form IR21 (Notification of a noncitizen employee's cessation of employment or departure from Singapore) on time.

An employer is required to notify the IRAS by filing Form IR21 for its employee who is neither a Singapore citizen nor a Singapore Permanent Resident (SPR) or is a SPR who is leaving Singapore permanently (including on overseas posting for a period 3 months or more) 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 also required to withhold any money due and payable to such employee until the expiry of 30 days after the receipt by the IRAS of such notification, unless permission is granted for the release of money to the employee earlier.

The IRAS has in its reminder cautioned that in the event of late submission of the Form IR21, it will impose a composition fee of up to Singapore \$1,000 and/or summon the company to attend court for the late and/or nonsubmission of Form IR21. If the employee did not give the company advance notice prior to his/her cessation of employment, the company will need to submit Form IR21 immediately once it is aware of the employee's intention to leave and to state the reason(s) for the late notification.

Extension of time to file tax clearance

In cases where tax is wholly borne by the company, the IRAS is willing to grant an automatic 2-month extension of time from the cessation date to file the Form IR21 provided the company furnishes the estimated chargeable income (ECI) for the employee for the relevant year(s) of assessment to the IRAS before the cessation date.

The IRAS will issue an estimated assessment (NOA) upon receipt of the ECI to the relevant employee. The estimated tax assessed must be settled with the IRAS immediately, or by the due date as stated in the statement of Account issued to the employee and the Clearance Directive issued to the company.

Deloitte's view

In practice, when a company plans an international assignment transfer, there is usually very little lead time between the time the transfer date is finalized by the business units and the actual transfer date due to business and visa requirements at the receiving location. In addition, the company requires time to collate

compensation data, including benefits-in-kind paid for the foreign employee through the employment cessation date. In cases where the foreign employee has been granted shares and/or stock options during his/her Singapore employment period, which are yet to vest and/or be exercised, where applicable, the company is required to report the unvested/unexercised gains based on the open market price of the shares one month before the employment cessation date, less the acquisition price, if applicable, under the deemed exercise rule. In view of these challenges, we note that many companies are unable to comply with the filing deadline set by the IRAS.

The above two-month extension of time should alleviate the late filing. However, extension would not be granted to a company for foreign employees who pay their own taxes. This includes foreign employees whose taxes are partially paid by the company.

Tax assessments for tax clearance must be settled within the payment due date to avoid the imposition of any late payment penalty and/or the issuance of directive by the IRAS to the immigration department to stop the foreign employee from leaving Singapore.

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Mitigating considerations

To mitigate the incidence of noncompliance, we would encourage companies to look into the following:

- To prepare for tax clearance as soon as the company becomes aware of any non-Singapore citizen employee ceasing employment in Singapore
- To emphasize the importance of timeliness to parties responsible for providing information for tax clearance purposes
- To apply for the automatic two-month extension of time to file and provide the ECI to the IRAS before the cessation date where conditions for filing extension could be met
- Where less than one-month notice is given to the IRAS, to indicate the reason on the Form IR21 for IRAS consideration to waive the composition fee.

Deloitte's view

Deloitte has proposed to the IRAS to allow companies to comply with the statutory filing due date of the Form IR21 by filing a Form IR21 based on estimated information at least one month before the foreign employee's estimated transfer date and to subsequently follow up with the filing of a revised Form IR21 with actual information. The IRAS has remained silent as to whether it would accept the proposed practice.

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People to contact

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