



THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2016

PAPER 2.08 – SINGAPORE OPTION

Suggested Solutions

PART A

Question 1

Candidates should:

- Note that Mango is a tax resident.
- Note that resident companies are taxable on Singapore source income plus income remitted to Singapore.
- Give legal reference for this.
- Note that foreign source branch profits are not taxable with legal reference (s13).
- Should note the importance of determining source of sales profit.
- Should discuss common law on source and business profits.
- Should emphasise that the location of the orchards, the activities in Singapore on contracting and possibly foreign sales activity will result in source being split in multiple jurisdictions including Singapore.
- Note that apportionment of source between Singapore and the foreign jurisdictions might take some form of independent entity approach but uncertain.
- Note that with Singapore source income there is no issue of it being excluded – fully taxable. It does not matter where the cash is.
- Note that with the foreign source income, if it is not exempt as branch profits, it will only be taxed if remitted.
- Note that with the DTA country, the profits attributable to the PE would be taxed in the foreign country and are likely to correspond with the foreign source portion.
- Note that there is only a PE in Country B.
- Note dividend likely exempt as non-portfolio and headline rate of tax is 20%.
- Note that Pawpaw's income is not Mango's at all.
- Note that there may be a transfer pricing issue with Pawpaw and Mango.

Question 2

Candidates should:

- State that David will be resident in Singapore under domestic law with reasons, the most critical being his lengthy stay.
- Note that David will be a dual resident under DTA.
- Note the likely allocation to Singapore by DTA as it appears his home is here, but debate the issue.
- Note that, if allocated to Singapore, Gorath can only tax his salary if he is in Gorath for a half year or if paid by a Gorath entity.
- Note that both the above do not appear to be the case, so Gorath cannot tax any of his salary.
- Note that Gorath can only tax him on interest from Gorath account.
- Note that Gorath cannot tax interest because of DTA.
- Note that, if allocation is otherwise, then Gorath will tax it all and give credit for Singapore tax on Singapore source income.
- Note that Singapore will only seek to tax David on his Singapore source income.
- Consider whether this extends to the income from the work in Gorath and Santomino.
- Note that Singapore will exempt the interest sourced in Singapore and will not pursue the other income.
- Give legal references.
- Good answer will consider the not ordinarily resident regime.

PART B

Question 3

Candidates should:

- Identify that Bico is trying to access Singapore's DTA with Milovia.
- Note that, if successful, this will bring the tax on dividends paid by Mico down from the 30% to a much lower rate due the DTA dividend article.
- Note that, if successful, Singapore will not tax the dividend received at all as it will fall within the exemption for non-portfolio dividends. This is because of the corporate tax rate in Milovia and the fact that the dividend was taxed.
- Note that no tax will be imposed by Singapore on any dividend paid by the new subsidiary either.
- Discuss Singapore's substance requirements for residence and how this may cause a problem.
- Raise general anti-avoidance but see that there are problems applying it
- Discuss the issue of beneficially owning dividends for DTA purposes and how this has been debated in the context of conduit companies.
- Note that the outcome is not clear cut but with more substance to the Singapore operation, it is more likely to succeed.

PART C

Question 4

Candidates should:

- Identify that Jono is tax resident. This is because its central management and control are in Singapore.
- Demonstrate this using case law.
- Identify that Jono is taxable on Singapore source income.
- Identify that Jono may be taxable on foreign source income that is remitted.
- Identify that while there may be no branch, foreign source service income is exempt anyway under the exemption (s13).
- Explain the conditions for exemption in relation to 'subject to tax' and headline rate.
- Identify that the source of the income does not necessarily correspond to location of customer or banking of income.
- Note that if remittance was at issue, the above is relevant as it must be foreign source income. However, the big debate is whether any of this income is foreign source.
- Note that the source of the income must be fully analysed. If it is arguable, then all sourced in Singapore. If it is sourced in Singapore, it is taxable.
- Note that a DTA will restrict any foreign taxation if there is no PE

Question 5

Candidates should:

- Note that Polly is tax resident, and give reasons.
- Note that Polly is taxable on her salary.
- Note that Polly's Singapore dividends are exempt.
- Note that Polly's foreign dividends are likely exempt as well, with different legal reasons, regardless of remittance.
- Note that Polly's gain on the goodwill is likely a capital gain.
- Analyse fully why this is the case with case law and reasons. If it is a capital gain, it is not taxable as Singapore does not tax capital gains.
- Note that Polly's overseas work is likely foreign source.
- Give reasons why this is the case, and fully explore.
- Note that, as foreign source salary income, Polly is likely to be exempt from tax on it in Singapore.

Question 6

Candidates should:

- Explain the general principles of GST imposition.
- Explain that Jam is likely to have to be part of this system.
- Explain the idea of zero rating and how it works and what its implications are.
- Identify that international services under Section 21(3) of the GST Act are zero rated.
- Analyse what makes an international service.
- Note that this includes service to an overseas person.
- Note that the critical issue for accounting, etc, services under this heading is that the person is an overseas person. It does not matter if the person is actually overseas when receiving the service.
- Note that the exclusion does not apply when the contract relates to land in Singapore.
- On the above basis note that the first two supplies to ROM are likely zero rated.
- Note that the third is not as it involves land.
- Note that the service to Lopsi is not zero rated as Lopsi is not an overseas person even if the plans relate to overseas.

Question 7

Candidates should:

- Explore the BEPS project generally.
- Consider its focus on harmful tax practices.
- Note its focus on transparency issues.
- Note its focus on substance issues.
- Note with examples how Singapore is well regarded in relation to transparency.
- Note Singapore's push for substance in arrangements.
- Note however Singapore's strong involvement in offshore business.
- Note that the BEPS actions points on treaty shopping and CFC regimes may indeed pose a risk to Singapore's regime.
- Conclude that it will remain to be seen in the details.