



# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2015

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## **PAPER 2.08 – SINGAPORE OPTION**

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**ADVANCED INTERNATIONAL TAXATION  
(JURISDICTION)**

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TIME ALLOWED – 3¼ HOURS

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Suggested Solutions

### Question 1

Holly will be a resident of Singapore for Singapore tax purposes – give statute and case law. She will be a dual resident for treaty purposes.

Under the tie-breaker she will be allocated to Singapore for DTA purposes – candidates should give references.

Candidates should state the reason: As Holly has a home in Singapore and none in her home country.

As a result the DTA will prevent Blaavos from taxing her salary as it is not for work done in Blaavos.

It will also prevent Blaavos from taxing her interest income from Singapore and Pentos as this does not arise in Blaavos.

Singapore will tax her salary – candidates should give statute.

An excellent answer may mention the possibility of the not ordinary resident scheme although this is not likely to apply.

Singapore will not tax her foreign source income; candidates should explain the legal basis for this.

Singapore will not tax her local interest.

## Question 2

### Ms Lang

For Ms Lang, the question is whether the Royalty is taxable in Singapore and how. Candidates should identify that the amount is a royalty with reasons.

Candidates should identify that Ms Lang is only likely to be taxed if the royalty has a Singapore source.

Candidates should discuss the uncertainty around the common law source rule.

Candidates should consider the source rule in s12(7) of the tax Act and consider whether this covers this Royalty – this is likely given the nature. Therefore should be taxable.

Candidates should discuss whether it falls within the reduced rate of tax under s10(16), etc.

Candidates should note that the payment of the royalty would be deductible to Prinz as a business expense.

### Sales profits of Prinz

Candidates should note the importance of determining source of sales profit.

Candidates should discuss common law on source and business profits.

Candidates should emphasise that even with sales that occur outside Singapore, some part of the income is Singapore sourced as product manufactured in Singapore.

Candidates should note that with sales outside Singapore, there will be an apportionment of source between Singapore and the foreign jurisdiction. This might take some form of independent entity approach but uncertain.

Candidates should note that with Singapore source income related to offshore branches, there is no issue of it being excluded – fully taxable.

Candidates should 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.

Candidates should discuss the treatment of the foreign source income.

Candidates should note the issue of remittance.

Candidates should note the exemption for comparably taxed branch profits – not applicable to Besquoia.

### Question 3

This answer must at the least highlight the following issues:

- Generally resident individuals are no longer taxable on foreign source income even when it is remitted. Give legal reference.
- There are very minor classes of foreign source income that are subject to tax for residents. Give examples and law – some forms of partnership income.
- Even these minor amounts are not taxed if they are not remitted.
- Therefore it can be said that in this respect residence is not really of relevance.
- However, residence does entitle persons to some different allowances and tax rates.
- It allows access to the 'not ordinary resident' scheme.
- Critically residence allows access to Singapore's DTAs. It is very important for this reason.

An excellent answer may make a critical comment on this outcome.

#### Question 4

The interest paid by MaxxedOut will be taxable with a foreign tax credit to the extent that it is remitted. Law must be given for the FTC and assessment along with an explanation.

Candidates should mention the allowance for pooling FTC under 50C.

Remittance needs to be explored in the context of the capitalised portion.

The dividend tax needs to be explored explaining basic taxability and the issue of remittance. Again the payment into the Australian bank account needs highlighting.

S13(8) and its conditions need detailed consideration.

This may possibly exempt the dividend paid to Singapore.

Law requires both that the income be from a country that has an acceptable headline tax rate and that it has been taxed.

Facts state that Australia has a 30% tax rate.

However, due to the conduit income regime s13(8)'s, the second condition appears problematic.

However, the IRAS concessionary position on this says that it will consider an untaxed amount as subject to tax if part of an incentive regime by the foreign country to encourage substantive business activity. This should be debated in the answer even though no clear cut answer on it can be expected.

### Question 5

The candidate should show that there are significant problems with this plan.

First, it is unlikely that the shares are beneficially held by Klak and therefore the reduction in tax under a DTA dividend article is not likely to apply. This article requires beneficial ownership.

Second, Singapore will not issue a Certificate of Residence for Klak due to the structure. So there will be difficulty with Ghis authorities when seeking the reduced rate of tax even if the first point is ignored. The IRAS practice should be mentioned.

As to the Singapore tax treatment, candidates should identify that the shares are held on trust and that the trust rules are the most likely to apply.

As a standard trust arrangement, either the beneficiary or the trustee will be the possible focus of taxation. This cannot be finally determined in the scenario and a brief mention is all that is expected.

The dividend may be exempt in Singapore even if it falls within a resident's income due to 13(8). This may be mentioned by candidates.

### Question 6

Lola's salary is taxable as Singapore source income. Relevant legal references would be expected.

The Singapore rent is also income subject to taxation. Give brief reference/ explanation.

The foreign rental is no longer taxable in Singapore even if it is remitted. It is essential that this is identified by the candidate with references.

The sales profit on the first apartment appears to be a capital gain. Give reasons. Capital gains are not taxable in Singapore.

The second transaction, while dealing with real estate, is not likely to be a capital gain as it has a strong profit making intention and short time frame. It is likely to be taxable in Singapore.

A good answer would fully explore why the amount would not be a capital gain. An excellent answer may explore whether Lola's full property activities could make her first transaction an income gain.

The dividends of the sort identified earned by individuals are exempt from taxation.

### Question 7

The answer should highlight that s33 is the anti-avoidance provision and discuss its scope.

- Discuss when the section can be applied;
- Meaning of a “arrangement”; and
- The exclusion for bona fide commercial purpose.

The answer should point out that while the taxpayer did win, this was not because the arrangement did not fall under the section.

It was because of the poor approach taken by Singapore revenue authorities.

The arrangement would have fallen within the section but the tax authorities took the wrong approach.

The answer should give reasons why it would have.