KPMG

Tax alert

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Changes to exemption on mandatory overseas pension/provident fund contributions

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The Inland Revenue Authority of Singapore (IRAS) recently announced the withdrawal of the administrative concessionary tax exemption on employers' contributions to mandatory overseas pension/provident funds with effect from the year of assessment (YA) 2025[1].

This follows the removal of the concession for partial tax exemption on employers' contributions towards a non-mandatory overseas pension/provident fund with effect from YA 2025 due to the abolishment of the Not Ordinarily Resident (NOR) scheme. The scheme was phased out after 2020, although existing NOR taxpayers who continue to meet relevant conditions will be allowed to retain it until YA 2024.

Why these changes matter

Any employer contributions towards an overseas pension/provident fund will be fully taxable from YA 2025, regardless of whether they are made towards a mandatory or non-mandatory fund and whether the costs of such contributions are recharged to the Singapore entity. However, the employer may claim a corporate tax deduction on the contributions in accordance with normal tax rules with effect from YA 2025.

Under many international assignment policies, Singapore income taxes relating to the employer's overseas pension/provident funds are typically borne by the employer and hence tax gross-ups would have to be accounted for when computing the taxable benefit. With the removal of the tax concessions, the tax costs to employers relating to this benefit for international assignees to Singapore may increase significantly. This will also increase the personal tax burden of employees who have to bear their own tax.

Since the contributions will be taxable on the employees, regardless of whether the costs will be recharged to the Singapore entity's accounts and/or whether a corporate tax deduction will be claimed, companies may consider recharging the relevant costs to Singapore and claiming a corporate tax deduction where applicable.

Background

International assignees based in Singapore are generally kept on their home country pension/provident fund schemes during their international assignment to avoid disruption in retirement benefit accumulation. Some of the schemes may be mandatory even when the employees are working abroad, while others may be non-mandatory.

Under Singapore tax laws, any contributions made to an overseas pension or provident fund by the employer, in respect of an employee working in Singapore, is deemed to be income of the employee in the year of contribution.

However, certain tax concessions are available to mitigate the tax due on such contributions.

[1] See IRAS I Salary, bonus, director's fee, commission and others

Current rules

Employers' contributions towards mandatory overseas pension/provident funds

An employer's contributions to a mandatory overseas pension/ provident fund may be tax-exempt under an administrative concession, provided all the following conditions are satisfied:

1. contributions are made under a social security scheme regulated and supervised by the home government;

2. participation in the social security scheme is mandatory/required by law even though the employee is working outside the home country;

3. the contributions are not borne by, or no deduction is claimed against the profits of, any permanent establishment/company in Singapore; and

4. the employer is not an investment holding company, a tax-exempt body, a representative office, a foreign company not registered in Singapore, or a service company that adopts the "cost plus mark-up" basis of tax assessment.

Employers' contributions towards non-mandatory overseas pension/provident funds

One of the concessions available under the NOR scheme to a qualifying NOR taxpayer is the partial tax exemption of the employer's contribution to the non-mandatory overseas pension/provident fund, subject to meeting the following conditions:

1. the employee is not a Singapore citizen or Singapore permanent resident;

2. the employee's employment income for the year concerned must be at least $160,000; and

3. the employer must not claim a corporate tax deduction on the contributions up to a capping limit.

If the employer is an investment holding company or service company adopting the "cost plus markup" basis of tax assessment, the above concession cannot be claimed.

New rules

The administrative tax concession for mandatory overseas pension/provident funds will be withdrawn with effect from YA 2025. The partial tax exemption concession under the NOR scheme for non-mandatory overseas pension/provident fund will also lapse from YA 2025 with the abolishment of the NOR scheme.

Our insights

Historically, employers in Singapore may have inadvertently not reported the overseas pension/provident funds contributions on their employees' Form IR8A, a mandatory form that contains information on employees' earnings, or possibly faced challenges in obtaining such information from the relevant overseas entities. The tax impact of under-reporting the income may have been partly mitigated by the availability of the above tax concessions.

However, with the withdrawal of the tax concessions, employers in Singapore must ensure that complete and accurate details relating to their contributions towards all overseas pension/provident funds are obtained for tax reporting purposes.

If an employer submits an incorrect IR8A/IR21 without intention to evade taxes, the employer may be subject to penalties of up to 200% of the tax under-charged; and other enforcement actions may arise, such as fines and imprisonment.

Over the years, the Government has progressively withdrawn or scaled down expatriate tax concessions such as those relating to housing/hotel accommodation and home leave passages.

With the abolishment of the NOR scheme and the latest withdrawal of the administrative tax concession on mandatory overseas pension/provident fund contributions, such changes have and will continue to result in increased costs of hiring expatriate staff if the tax is borne by the employer. This may, however, be more aligned with the Government's policy to encourage companies to hire local staff. Going forward, companies would have to continue weighing the total increased costs of assignments.

Implications from a corporate tax perspective

The contributions made to overseas pension/provident funds by a company in Singapore, in its capacity as the employer of expatriate staff, should generally qualify for a tax deduction for corporate income tax purposes, subject to Section 14(1)(e) of the Income Tax Act 1947.

This is provided:

- the relevant employees are engaged in activities relating to the production of income of the employer; and
- the employer is obliged to make the contribution by reason of (i) any contract of employment or (ii) any provision in the rules or constitution of the relevant overseas pension/provident fund.

However, companies may at present choose to forgo their tax deduction on the mandatory overseas pension/provident fund contributions made, so that their expatriate staff receiving the contributions would not be subject to tax under the current IRAS administrative concession.

With the withdrawal of the administrative concession, companies in their capacity as the employer of expatriate staff, may claim tax deductions on expenses pertaining to contributions made to mandatory overseas pension/provident funds, in accordance with normal tax rules.

In this regard, multinational corporate groups which previously have not been (re)charging such expenses to their group entities in Singapore may consider doing so henceforth. Notwithstanding the additional tax deduction claims by Singapore companies in respect of mandatory overseas pension/provident fund contributions, after the withdrawal of the administrative concession, the overall tax collection by the IRAS is expected to increase.

This is in view that the additional individual income tax collected, in respect of the employers' overseas pension fund contributions for the expatriate staff (assuming they are in the top marginal individual income tax bracket of 24% with effect from YA 2024), is expected to exceed the corporate income tax collection forgone as a result of the tax deduction claims (based on the prevailing corporate income tax rate of 17%).

Please contact your local KPMG representative if you would like to discuss the topics above in more detail.

You may also reach out to the authors of this tax alert to further explore the implications of these changes on your business.

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