



# Payments that are Subject to Withholding Tax

A person must withhold tax when a payment of a specified nature has been made to non-resident companies. The rate of withholding tax depends on the nature of the payment.

## Types of Payment

The following types of payment are subject to withholding tax when paid to non-resident companies:

- Interest, commissions or fees in connection with any loan or indebtedness
- Royalties or other payments for the use of or the right to use any movable property
- Payments for the use of or the right to use scientific, technical, industrial or commercial knowledge or information or for the rendering of assistance or service in connection with the application or use of such knowledge or information
- Payments of management fees
- Rent or other payments for the use of any movable property
- Payments for the purchase of real property from a non-resident property trader
- Payments made from structured products (other than payments which qualify for tax exemption under Section 13(1)(zj) of the Income Tax Act)
- Distributions from a real estate investment trust (REIT)

You may refer to this [flowchart](#) (PDF, 101KB) for an overview of the withholding tax implications for such payments.

## Withholding Tax Treatment of Specific Payments

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### Interest Payments



Withholding tax is applicable on any interest paid to a non-resident company in connection with any loan or indebtedness. Examples include interest on overdue trade accounts and interest on credit terms provided by a supplier. This tax applies even if the interest is treated as part of the seller's trade income (e.g. interest charged on late payment of the sale price of goods).

The exceptions to withholding tax being applicable on interest payments are:

- [Interest and other Section 12\(6\) payments made to Singapore branches of non-resident companies](#)
- [Interest and other Section 12\(6\) payments made by banks, finance companies and certain approved entities to non-residents, where the payments are made for the purpose of the trade or business of the specified entities](#)

- Interest paid to a non-resident for a loan obtained from outside Singapore for acquiring an overseas immovable property, provided that the interest is not deductible against any income accruing in or derived from Singapore.

## Payments for Software & Payments for Use of or Right to Use Information & Digitised Goods

IRAS uses a rights-based approach to characterise payments for software<sup>1</sup> and payments for the use of or right to use information<sup>2</sup> and digitised goods<sup>3</sup> based on the nature of the rights transferred in consideration for the payment. It draws a distinction between the transfer of a 'copyright right' and the transfer of a 'copyrighted article' from the owner to the payer.

### Payments for Copyright Right

A transaction involves the transfer of a copyright right if the payer is allowed to commercially exploit the copyright. The term 'commercially exploit' means to be able to:

- Reproduce, modify or adapt and distribute the software, information or digitised goods; or
- Prepare derivative works based on the copyrighted software program, information or digitised goods for distribution.

Where a payment is made to a copyright owner for the transfer of **partial rights** in the copyright (e.g. licensing of copyright to be commercially exploited by the payer), the payment is a **royalty**. Such payments to non-residents are subject to withholding tax at 10% or the reduced rate as provided for in an [Avoidance of Double Taxation Agreement](#) (DTA).

If the payment is made to the copyright owner for the **complete alienation of his copyright**, the transaction is a **sale of the copyright**. In the hands of the copyright owner, any gains derived from such a sale constitute either his business income or capital gains. The sale proceeds paid to a non-resident are not subject to withholding tax.

### Payments for Copyrighted Article

Payments for software or digitised goods that do not involve the transfer of the copyright rights embedded in the goods are considered payments for copyrighted articles and are not subject to withholding tax.

For example, if a person purchases software for personal use or for use within his business operations, the payment he makes is a payment for a digitised product. Thus, withholding tax is not applicable.

However, withholding tax may apply on payments for additional services physically performed in Singapore such as subsequent software maintenance, user training, customisation of software or information, and development of add-on applications, which are not within the scope of the rights-based approach.

Learn more about the [rights-based approach for characterising software payments and payments for the use of or the right to use information and digitised goods](#) (PDF, 82KB).

#### Notes

##### <sup>1</sup> **Payments for Software**

*These include payments for downloadable software, software bundled with hardware, software licences (e.g. site, enterprise, network), limited duration licensed software and software products with online elements.*

##### <sup>2</sup> **Payments for the Use of or Right to Use Information**

*These include subscriptions to Bloomberg, Reuters, Lexis-Nexis and other similar subscriptions. They exclude payments for the use or the right to use patents, trademarks, registered designs, geographical indications, the layout design of integrated circuits, plant varieties and trade secrets.*

##### <sup>3</sup> **Payments for the Use of or Right to Use Digitised Goods**

*These include payments for online or downloadable ring tones, music videos, books and other similar goods.*

## Payments for Technical Services Under Section 12(7)(b) & Management Services Under Section 12(7)(c) of the Income Tax Act

## Payments for Services Rendered

The following rules apply to payments for services rendered:

- Where payment is made to a non-resident company for the installation of equipment, technical support services, training, consultancy or other services provided by the non-resident company, withholding tax is applicable on the service fees **attributable to the work done in Singapore**.
- If the payer pays for the monthly allowances of the non-resident company's employees who are sent to Singapore to perform the services, withholding tax is applicable on the allowances as the monthly allowances are considered additional service fees paid to the non-resident company.
- However, if the non-resident company provides the services via electronic means from overseas (e.g. internet presentation, email and telephone) without sending staff to Singapore, the services are rendered outside Singapore and withholding tax is not applicable.
- Where cost reimbursement payment is made to a non-resident related party for services rendered in Singapore under a cost-pooling arrangement, and the cost-pooling conditions stated in the e-Tax Guide on [Transfer Pricing Guidelines](#) (PDF, 1.48MB) have been satisfied, withholding tax is not applicable on such payment.

For services performed in Singapore, withholding tax is to be imposed at the prevailing Corporate Income Tax rate of 17% on the gross service fees. This is not the final tax. If the non-resident company wishes to claim deduction for the expenses incurred in deriving the service income, it must submit the certified accounts and tax computation for IRAS' examination. When the net income and tax have been determined, any tax withheld in excess of the tax on the net income will be refunded.

Include the following information with your tax computation:

- Full name of payer
- Tax reference number of the payer
- Nature of payment
- Date of payment to non-resident
- Period the payment covers
- Gross amount of payment
- Amount of tax deducted and accounted to IRAS

If the company is a resident of a jurisdiction with which Singapore has an [Avoidance of Double Tax Agreement \(DTA\)](#), the DTA may provide for relief from double taxation, depending on the provision of the DTA.

### Relief from Double Taxation under the DTA

Whether the DTA provides relief from double taxation of payments for technical services depends on the tax treatment of such services as provided for in the DTA. Generally, the payments are subject to withholding tax if the non-resident company has a permanent establishment in Singapore. The concept of permanent establishment is used in a DTA between 2 Contracting States to determine whether a person resident in a Contracting State has a taxable/ business presence in another Contracting State. Each DTA has its own definition of permanent establishment.

#### Example

Under Article 7 of the Singapore-United Kingdom (UK) DTA, the profit of a UK resident company is not subject to tax in Singapore if it does not carry on business in Singapore through a permanent establishment in Singapore. Article 5 of the Singapore-UK DTA provides the definition of permanent establishment in respect of this particular DTA. For example, if the non-resident company has a fixed place of business in Singapore, it is regarded as having a permanent establishment in Singapore.

- If the UK Company has a permanent establishment in Singapore, tax has to be withheld at the prevailing Corporate Income Tax rate (i.e. 17%) on the gross fees attributable to the work done in Singapore. The withholding tax at 17%

is not the final tax. If the UK company wishes to claim deduction for the expenses incurred, it must submit the certified financial accounts and tax computation for IRAS' examination. When the net income and tax have been determined, any tax withheld in excess of the tax on the net income will be refunded.

- If the UK Company does not have a permanent establishment in Singapore, the income is not subject to tax in Singapore and withholding tax does not apply. In this case, the UK company is required to submit the Certificate of Residence (COR) to the local payer (i.e. its Singapore customer) for onward submission to IRAS to substantiate that it is a tax resident of UK and qualifies for the DTA benefits. The local payer is still required to submit the withholding tax form (Form IR37) to IRAS even though withholding tax is not applicable.

In some of our DTAs (specifically those with Australia<sup>1</sup>, Pakistan, Republic of Korea<sup>2</sup>, Sweden and Taiwan), specific payments, such as payments for labour or personal services, are excluded from the Business Profits Article because the definition of 'profits of an enterprise' does not include such payments. In such cases, the fees attributable to the services performed in Singapore are subject to withholding tax regardless of whether the non-resident has a permanent establishment in Singapore.

For DTAs which contain a separate Article on Technical Services (e.g. the Singapore-Malaysia DTA), the tax to be withheld depends on the tax rate stated in this Article. However, if the non-resident company has a permanent establishment in Singapore, the provisions of the Business Profits Article apply instead.

### Example

A company resident in Malaysia performing technical services in Singapore is subject to a withholding tax rate of 5% on the gross fees relating to services rendered in Singapore as provided for under the Technical Services Article of the DTA. The 5% rate applies only if the Malaysian company does not have a permanent establishment in Singapore.

If the Malaysian company has a permanent establishment in Singapore, the Business Profit Article applies and the withholding tax rate is 17% of the gross fees relating to the services rendered in Singapore. The withholding tax at 17% is not the final tax. If the Malaysian company wishes to claim deduction for the expenses incurred, it must submit the certified financial accounts and tax computation for IRAS' examination. When the net income and tax have been determined, any tax withheld in excess of the tax on the net income will be refunded.

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<sup>1</sup> With effect from 1 May 2018, the income derived by a non-individual (e.g. company) tax resident in Australia from the provision of services in Singapore through employees or other personnel engaged by the non-individual is considered profits of an enterprise. Articles 4 and 5 are the applicable articles. Consequently, the service income is only subject to tax in Singapore if the provision of services constitutes a permanent establishment in Singapore under the provisions of Article 4 of the Singapore-Australia DTA. This means that no withholding tax is applicable on the service income if there is no permanent establishment in Singapore. Read footnote 1 of Article 2 of the [DTA](#) (PDF, 278KB) for documentation of the mutual agreement reached by the competent authorities of Singapore and Australia.

<sup>2</sup> This refers to the DTA with Republic of Korea (ROK) signed 6 Nov 1979. There is a [revised DTA](#) (PDF, 661KB) with ROK signed on 13 May 2019 and effective from 1 Jan 2020. Under the revised DTA, profits derived by an enterprise from the performance of professional services and other activities of an independent character fall under the Business Profits Article. This means that the service income is subject to tax in Singapore only if the services are performed through a permanent establishment in Singapore.

### Administrative Concession - No Withholding Tax on the Reimbursement of Accommodation, Meals and Transportation expenses

As an administrative concession, withholding tax is not applicable for the reimbursement of accommodation, meals and transportation expenses (including airfares) paid to a non-resident company (e.g. the Singapore customer reimburses the non-resident for such costs incurred in sending employees to Singapore to provide the services) if the payer can obtain a detailed breakdown of the expenses showing that the expenses were reimbursed at the actual costs incurred, without any mark-up or profit element. The payer need not submit the breakdown/ documents to IRAS but needs to retain and submit them upon IRAS' request.

In situations where the employees of the non-resident company make multiple trips to Singapore, the payer needs to track and collate expenses for all the trips in order to avail itself of the administrative concession.

To ease the administrative burden of companies, the administrative concession is extended to the reimbursement of airfares and accommodation based on [published rates](#), provided that the following conditions are satisfied:

1. The contract with the foreign vendor provided for the reimbursement of airfares and accommodation based on the published rates;
2. The published rates used for reimbursement purposes are reflective of the prevailing market rates of the airfares and accommodation costs. The rates should be updated at least once in every 2 years if the tenure of the contract is more than 2 years; and
3. The published rates are supported with documents (e.g. booking reservations of airlines and accommodation). The payers are required to retain the relevant supporting documents and submit them upon IRAS' request.

## Payments for Management Services

Management services refer to services in the nature of management or assistance in the management of any trade, business or profession. They include routine support services as listed in Annex C of the e-Tax Guide on [Transfer Pricing Guidelines](#) (PDF, 1.48MB).

You may refer to this [flowchart](#) (PDF, 235KB) to determine whether withholding tax is applicable on fees paid to non-residents for management services performed.

For services performed in Singapore, withholding tax is to be imposed at the prevailing Corporate Income Tax rate of 17% on the gross service fees. This is not the final tax. If the non-resident company wishes to claim deduction for the expenses incurred in deriving the service income, it must submit the certified accounts and tax computation for IRAS' examination. When the net income and tax have been determined, any tax withheld in excess of the tax on the net income will be refunded.

Include the following information with your tax computation:

- Full name of payer
- Tax reference number of the payer
- Nature of payment
- Date of payment to non-resident
- Period the payment covers
- Gross amount of payment
- Amount of tax deducted and accounted to IRAS

If the company is a resident of a jurisdiction with which Singapore has a [DTA](#), the DTA may provide for relief from double taxation, depending on the provision of the DTA.

## Payments for the Purchase of Real Property from Non-Resident Property Traders



A buyer of a real property or his solicitor is required to withhold tax on the purchase price of that real property upon completion of the sale if the seller is a non-resident property trader.

If the buyer is unsure whether the seller is considered a property trader for Singapore income tax purposes, the buyer or his solicitor may wish to ask for a letter of confirmation (not necessarily under oath) from the seller stating that he or the company has not been treated as a property trader for Singapore income tax purposes. With the letter of confirmation from the seller, the buyer or his solicitor is not required to withhold tax on the purchase price of the real property. The buyer or his solicitor is not required to submit the letter of confirmation to IRAS but has to retain and submit it upon IRAS' request.

## Payments for Use of Movable Property Under Section 12(7)(d) of the Income Tax Act



Rent or other payments made to non-resident persons for the use of movable property are subject to withholding tax under Section 12(7)(d) of the Income Tax Act.

However, rent or other payments made for the use of movable property outside Singapore, such as cars, hand phones, laptops and other similar items where such use is incidental to overseas business trips (including overseas trade fairs or exhibitions) or for the purpose of an overseas representative office, are not payments falling within the scope of Section 12(7)(d). As such, withholding tax is not applicable for such payments.

## Payments in Respect of Interest Rate/ Currency Swap Arrangements



Withholding tax is applicable on payments in respect of interest rate/ currency swap arrangements where:

- There is a close nexus between the swap payments and the financing arrangement, for instance:
  - The swap arrangement is directly connected with a financing arrangement and the counter parties for the 2 arrangements are the same. The swap payments and interest payments together give the true economic effect of a financing arrangement; or
  - The documentation shows explicitly that the swap arrangement is entered into to hedge a borrowing by the payer of the swap payments or the interest liabilities on such borrowing.
- The economic substance of a swap arrangement is that of a loan or a financing arrangement.

Withholding tax is not applicable on payments in respect of interest rate/ currency swap arrangements where:

- The swap arrangement is not entered into in relation to any borrowing by the payer of the swap payments (unless such an arrangement is in substance a loan or a financing arrangement of the payer of swap payments)
- Exemption has been given by the Minister for Finance under Section 13(4) of the Income Tax Act
- The interest rate/ currency swap payment is **made by a bank, finance company or certain other entities in Singapore**

## Payments in Respect of Non-Financial Derivatives



Non-financial derivatives are derivatives where the payoffs are linked in whole to the payoffs or performance of the underlying non-financial assets.

Such derivatives take the form of forward, futures, swap or options. Examples include commodity, emission and freight derivatives.

Withholding tax is not applicable on payments exchanged or made in respect of non-financial derivatives when:

1. The derivative does not effectively give rise to the creation of any loan or indebtedness;
2. The payment is not effectively a return for the use of money or provision of credit; and
3. The payment made is at arm's length.

## Real Estate Investment Trust (REIT) Distributions



REIT distributions to unit-holders that are non-resident non-individuals are subject to a final withholding tax of 10% or at the prevailing Corporate Income Tax rate.

A non-resident non-individual is a person who is not a resident of Singapore and:

- Does not have a permanent establishment in Singapore; or
- Carries on an operation in Singapore through a permanent establishment in Singapore, where the funds used to acquire the units in REIT were not obtained from that operation.

Learn more about the [income tax treatment of REITs and approved sub-trusts](#) (PDF, 409KB).

## FAQs

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Interest Payments



Royalties



Services



Consultancy & Management Fees



Rent & Other Payments for the Use of Movable Property



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