

Singapore well-placed to serve HNWIs

Singapore is consistently recognised as one of the best cities in the world for business. It is ranked the third most competitive economy by the World Competitiveness Yearbook 2009, the second most preferred place for business by a recent Bloomberg Global Poll of investors, and first in corporate governance standards in Asia by the World Economic Forum's Global Competitiveness Report 2009. Washington-based risk consultancy agency, Business Environment Risk Intelligence (BERI), has rated Singapore's work force as the world's best workers every year since 1980. It has a well-established and diversified financial infrastructure, providing a gateway to opportunities in Asia and beyond. Among its achievements – one of the top five most active foreign exchange trading centres in the world, the second largest over-the-counter derivatives trading centre in Asia, and the only Asian country with a 'AAA' sovereign debt (reaffirmed by Fitch in 2009). Financial institutions in Singapore can trade around-the-clock with Asia-Pacific centres, as well as European and American centres, making Singapore a convenient hub for 24-hour trading in foreign exchange and securities.

Singapore tax system

Singapore has a business-friendly tax regime, which, although not tax-free, offers attractive corporate and personal tax rates, a one-tier tax system and extensive double tax treaties with 60 countries.

Taxation is on a territorial basis where companies and individuals are taxed on Singapore sourced income. Non tax-exempt foreign sourced income including profits and dividends is taxed when it is remitted or deemed remitted into Singapore unless the income was already subjected to taxes in a jurisdiction with headline tax rates of at least 15%.

Singapore continues to reduce corporate income tax rates and introduce tax incentives to attract HNWIs and global wealth:

- a. **Income tax** Chargeable on income of individuals and companies. The

corporate tax rate is capped at 17%, down from 18% in 2009. Singapore follows a single-tier corporate tax system, where tax paid by a company on its profits is not imputed to the shareholders (dividends are tax free). Individual tax rates start at 0% and are capped at 20% (above S\$320,000) for residents. For non-residents, a flat rate of 15% is levied or the applicable resident rate, whichever results in a higher tax liability.

- b. **Capital gains tax** Gains derived from the sale of property, shares and financial instruments in Singapore are not taxable as they are capital gains. Capital losses are likewise not allowed as deductions. However, the gains from the sale of property in Singapore is income and it is taxable. As to whether a person is deemed to be carrying on a trade, it depends on the circumstances of that individual.
- c. **Goods and Services Tax (GST)** GST is a tax on consumption. The tax is paid when money is spent on goods or services, including imports. This kind of indirect tax is known as Value Added Tax (VAT) in other countries. It was introduced in 1994 and the rate is currently 7%.
- d. **Stamp Duty** This is a tax on executed documents relating to properties or interest in properties and shares, or interest in shares. These include documents relating to lease, sales and purchase, mortgage and other transactions described in the First Schedule to the Stamp Duties Act (Cap 312). Stamp duty is not a tax on transactions. Liability arises once the document is executed. Hence, even if the transaction has been aborted, stamp duty is still payable on the document.
- e. **Estate duty** There is no estate duty payable for deaths on and after 15 Feb 2008. Income distribution from an estate is taxable on its beneficiaries.
- f. **Tax treatment of stock options** Stock option gains in general are taxed as

ABOUT THE AUTHOR

Keon Chee,
Heritage Trust Group

employment income. For example, an employee who is granted share options by an employer is subject to tax on any gains or profits arising from the exercise of the share option. However, there are various schemes available to reduce the tax burden.

Exchange of information for tax purposes

In March 2009, Singapore announced its endorsement of the OECD Model Tax Convention. This is a standard for providing bilateral assistance among countries in the exchange of information (EOI) for tax purposes. The United Nations Committee of Experts on International Cooperation in Tax Matters endorsed the Standard in October 2008.

Singapore's commitment is in line with its role as a world-class finance centre that supports sound regulatory policies for the international cooperation of tax matters. It is also in line with the commitment provided by other major financial centres.

Subsequent to Singapore's endorsement of the standard, the Ministry of Finance (MOF) introduced the Income Tax (Amendment) (Exchange of Information) Bill. This Bill proposed amendments to the Income Tax Act that will allow Singapore to implement the internationally agreed Standard for the exchange of information for tax purposes upon request. The legislation allows the Singapore tax authority (IRAS) to obtain information from any person in Singapore in order to satisfy a request for information by a foreign tax authority, including information that is protected

from unauthorised disclosure under Singapore's Banking Act and Trust Companies Act. Strong safeguards, however, will be put in place to protect taxpayers' rights and they include:

- Requests for information apply only to requests made through its existing double tax agreements (DTAs) that have been prescribed by the MOF for the purpose of EOI.
- Requests for information must be specific, detailed and relevant. They cannot be frivolous or spurious or amount to "fishing expeditions."
- Foreign jurisdictions must demonstrate that they have exhausted domestic means to acquire the requested information before they approach Singapore.
- Foreign jurisdictions are not allowed to take advantage of the information system of another jurisdiction if it is wider than their own system.
- Singapore is not obliged to exchange trade secrets or information that is subject to legal privilege.
- IRAS has to apply to the High Court to access such protected information.

The Bill was passed by Parliament in October 2009. On 13 November 2009, Singapore concluded its 12th agreement with France and joined the OECD white list of jurisdictions that have substantially implemented the Standard. Singapore's decision to relax its confidentiality laws is not expected to affect the flow of funds into its burgeoning wealth management industry; it has in fact reinforced the city-state's reputation for effective regulation.

Trusts and fiduciary

Singapore trusts provide a tax-efficient and safe way to protect global assets, and are an integral part of estate and succession planning for HNWIs.

According to the 2009 Pricewaterhouse Coopers' Global Private Banking Survey, estate planning, trust and fiduciary services were ranked the top two service offer-

ings for HNWIs by the private wealth management industry over the next two years.

Trust legislation

Trust business in Singapore is regulated by MAS under the Trust Companies Act (TCA) whether the trusts are established under Singapore law or other law. The Act regulates financial institutions that provide trust services for investment and wealth management purposes. The activities regulated include providing services with respect to express trusts in the areas of creation, trustee services, arranging for any person to act as trustee and trust administration.

Advisers on wills, executors and administrators of the estates of deceased persons, bare trustees, and managers and trustees of business trusts are excluded from the ambit of the TCA, as the trusts involved are not actively used for investment and wealth planning purposes.

The related Trustees Act (Cap 337) provides the legislative framework for trustees of trusts established under Singapore law. The Trustees Act provides, among others, safeguards to ensure that trustees adhere to certain minimum standards when they exercise their trustee powers, and defines a duty of care for trustees when carrying out specified duties or acts. The Trustees Act is administered by the Ministry of Law. A trust company regulated by MAS under the TCA would also have to comply with the TA if it is acting as trustee of a trust established under Singapore law.

In accordance with the Trustees Act, every Singapore trust shall have at least one trustee, and a maximum of four trustees. The trustee must be a Singapore-licensed trust company or individual.

A licensed trust company incorporated in Singapore is subject to certain continuing financial requirements. It must at all times maintain a net asset value of no less than one-quarter of its relevant annual expenditure of the financial year immediately preceding the current financial year; or three-quarters of the minimum paid-up capital of \$250,000, whichever is the

higher amount. If the licensed trust company is incorporated outside Singapore it must maintain qualifying assets in the branch in Singapore of no less than one-quarter of its relevant annual expenditure of the financial year immediately preceding the current financial year; or the minimum qualifying assets of \$250,000, whichever is the higher amount.

Benefits of a Singapore trust

A Singapore trust has many benefits, amongst them:

- a. Trust companies in Singapore are closely bound by the Trust Companies Act, the enforcement of which is supervised closely by the Monetary Authority of Singapore. Consequently, a Singapore trust is a stable, long-term asset protection option.
- b. Trust beneficiaries enjoy legal tax exemption on trust income, provided certain terms and conditions are met. One such condition is that beneficiaries (and settlors) of the trust are neither resident in nor citizens of Singapore. Dividends, interest and profits from sales of designated investments held in a Singapore trust are exempt from Singapore income tax.
- c. There are neither capital gains taxes, nor estate duty nor withholding tax imposed on income and capital distributions to the beneficiaries of a Singapore trust. Successors of a Singapore trust can be included as beneficiaries during their lifetime without any estate duty implications.
- d. A Singapore trust is not required to be registered with the Singapore Government or any other governing authority in Singapore. The terms of a Singapore trust are determined by trust deed, which contains details of beneficiaries, settlors and assets to be held in the trust. Because a Singapore trust ensures that assets are allocated as per the settlor's wishes, those assets are not subject to forced heirship or inheritance laws. ●