

# FEATURED PERSPECTIVES

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## Singapore: Home for Billionaires and Superstars

by Linda L. Ng, Steve Towers, and Li Mei Liew

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Singapore is a wealthy tropical island paradise at the equatorial crossroads of Asia. Residents include legendary American investor Jim Rogers<sup>1</sup> (who co-founded the Quantum Fund with George Soros), billionaires on *Forbes'* list, Hollywood movie superstars, and approximately 100 Americans who renounced U.S. citizenship in Singapore last year (almost double the 58 who did so in 2009), according to data from the U.S. Embassy in Singapore.<sup>2</sup> Perhaps not coincidentally, Singapore also has one of the most attractive tax systems in the world. Why is it enticing for individuals?

### Domestic Tax System

#### Territorial Tax System

One of Singapore's biggest attractions is that individuals generally enjoy a territorial tax system, unlike U.S. citizens and resident aliens who are subject to U.S. income tax on their worldwide income.<sup>3</sup>

Although Singapore generally has a quasi-territorial tax system that imposes income tax on the income of any person accrued in or derived from Singapore and on income that is received in Singapore from outside

Singapore,<sup>4</sup> section 13(7A) of the Income Tax Act exempts foreign-source income received in Singapore by any individual who is not resident in Singapore. It also exempts foreign-source income received in Singapore on or after January 1, 2004, by any individual who is resident in Singapore if the Comptroller of Income Tax is satisfied that the tax exemption would be beneficial to the individual, but it excludes such income received through a partnership in Singapore. Thus, unlike companies, individuals generally are taxed only on their Singapore-source income, and all their foreign-source income is exempt, even if it is remitted to Singapore.

ITA section 2 defines the term "resident in Singapore" regarding an individual to mean:

a person who, in the year preceding the year of assessment, resides in Singapore except for such temporary absences therefrom as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore, and includes a person who is physically present or who exercises an employment (other than as a director of a company) in Singapore for 183 days or more during the year preceding the year of assessment.

#### Low Tax Rates

Resident individuals enjoy low marginal income tax rates ranging up to 20 percent. The threshold for applying the top marginal income tax rate is relatively high

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<sup>1</sup>Jim Rogers has kindly given his approval for the reference to him.

<sup>2</sup>See Shibani Mahtani, "Asia's Lighter Taxes Provide a Lure," *Wall St. J.*, May 17, 2012, at C3.

<sup>3</sup>U.S. Internal Revenue Code, sections 1 and 61; *Cook v. Tait*, 165 U.S. 42 (1924).

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<sup>4</sup>ITA section 10(1).

— only chargeable income above SGD 320,000 (about \$250,000) is subject to the highest marginal rate of 20 percent.<sup>5</sup>

**No Capital Gains Tax**

There is no capital gains tax in Singapore. However, gains of a revenue nature are taxed at ordinary income tax rates. To determine whether a gain is capital or revenue in nature, the Inland Revenue Authority of Singapore generally will look at the taxpayer’s intention and consider factors such as the holding period of the asset being sold, the frequency of similar transactions, the reason for the sale, the method and manner of financing the purchase, and whether the investment yielded any income during the period of ownership.

**Tax Incentives**

The Singapore government offers attractive tax incentives, some of which are specifically designed to lure individuals. For example, it introduced the not ordinarily resident (NOR) scheme in the 2002 budget to attract talent to relocate to Singapore.<sup>6</sup> An individual can qualify for the NOR scheme from any year of assessment from 2003 in which the individual first meets the following criteria:

- the individual is a resident of Singapore for income tax purposes for that year of assessment; and
- the individual is not a resident of Singapore for income tax purposes for the three consecutive years of assessment immediately before that year of assessment.

An individual who satisfies the above qualifying criteria would be accorded the NOR status for five consecutive years of assessment, starting from the year of assessment in which the individual first satisfies the criteria. An NOR taxpayer can enjoy the tax concessions under the NOR scheme in any year of assessment during the five-year qualifying period only if the NOR taxpayer is a resident under ITA section 2(1) for that year and the qualifying criteria under each tax concession is met for that year of assessment. Under the time apportionment concession, a resident NOR taxpayer who is a Singapore employee would not be subject to tax, subject to a prescribed limit, on the portion of the taxpayer’s employment income that corresponds to the number of days the taxpayer has spent outside Singapore for business reasons under the taxpayer’s Singapore employment, if the taxpayer satisfies the qualifying criteria for the tax concession.<sup>7</sup>

Under the area representative scheme, an individual who works for a foreign employer and operates from a base in Singapore to discharge his regional functions and duties may enjoy time apportionment of employment income if the individual satisfies the qualifying conditions. An area representative will be taxed on the amount of his remuneration attributable to the number of days spent in Singapore. However, benefits-in-kind provided in Singapore are fully taxable. The qualifying conditions are as follows:

- the individual must be employed by a nonresident employer;
- the individual is based in Singapore for geographical convenience;
- the individual is required to travel outside Singapore in the course of his duties; and
- the individual’s remuneration is paid by his foreign employer and is not charged directly or indirectly to the accounts of a permanent establishment in Singapore.<sup>8</sup>

The angel investors tax deduction scheme is an incentive scheme to encourage individuals to invest in start-up companies and help the companies grow through their management expertise, business networks, or other forms of assistance. The tax incentive is granted to approved angel investors who invest in qualifying start-up companies between March 1, 2010, and March 31, 2015. To enjoy a tax deduction, an approved angel investor must:

- invest at least SGD 100,000 of qualifying investment in a qualifying start-up company within 12 months from the date of his first investment in that company; and
- hold such investment for a continuous period of two years from the date of the last qualifying investment.

The tax deduction is given for the year of assessment relating to the basis period in which the last day of the two-year period falls. The amount of tax deduction for each year of assessment is based on 50 percent of the cost of qualifying investment, subject to a cap of SGD 500,000 (about \$400,000) of investment costs — that is, a deduction cap of SGD 250,000 (about \$200,000). The qualifying deduction will be offset against the individual’s total taxable income. Any unused deduction in any year of assessment will be disregarded.<sup>9</sup>

<sup>5</sup>ITA section 42(1) and Part A of the Second Schedule.  
<sup>6</sup>See Budget Statement 2002, para. 4.21-4.25 and Annex 7, available at [http://www.mof.gov.sg/budget\\_2002/downloads.html](http://www.mof.gov.sg/budget_2002/downloads.html).  
<sup>7</sup>See IRAS Circular, “Not Ordinarily Resident Scheme,” published on July 7, 2008, as updated on August 29, 2008, available at [http://www.iras.gov.sg/irasHome/uploadedFiles/Quick\\_Links/e-Tax\\_Guides/NOR%20Circular\\_07.07.08%20.pdf](http://www.iras.gov.sg/irasHome/uploadedFiles/Quick_Links/e-Tax_Guides/NOR%20Circular_07.07.08%20.pdf).  
<sup>8</sup>See IRAS, “Area Representative Scheme,” available at <http://www.iras.gov.sg/irasHome/page04.aspx?id=134>.  
<sup>9</sup>See IRAS, “Angel Investors Tax Deduction Scheme,” available at <http://www.iras.gov.sg/irasHome/page04.aspx?id=11986>.  
 (Footnote continued in next column.)

at [http://www.iras.gov.sg/irasHome/uploadedFiles/Quick\\_Links/e-Tax\\_Guides/NOR%20Circular\\_07.07.08%20.pdf](http://www.iras.gov.sg/irasHome/uploadedFiles/Quick_Links/e-Tax_Guides/NOR%20Circular_07.07.08%20.pdf).  
<sup>8</sup>See IRAS, “Area Representative Scheme,” available at <http://www.iras.gov.sg/irasHome/page04.aspx?id=134>.  
<sup>9</sup>See IRAS, “Angel Investors Tax Deduction Scheme,” available at <http://www.iras.gov.sg/irasHome/page04.aspx?id=11986>.

Other attractive tax incentives for individuals include a full or partial tax exemption or tax deferral for income derived from employee share options or share award plans if the prescribed conditions are satisfied.<sup>10</sup>

### No Estate or Gift Tax

There is no estate tax or gift tax in Singapore. Singapore previously had an estate duty, but the government abolished estate duty for deaths occurring on or after February 15, 2008, to make Singapore a more attractive place for Singaporeans and foreigners to invest and build up wealth.<sup>11</sup>

### Tax Compliance

There is no Singapore equivalent of the U.S. Foreign Account Tax Compliance Act.<sup>12</sup> Therefore, individuals generally do not need to report their foreign bank accounts or other foreign financial assets to the Inland Revenue Authority of Singapore. Singapore income tax returns also are much simpler and easier to prepare than U.S. income tax returns. Consequently, the overall tax compliance burden on individuals in Singapore is much lighter than in the United States.

### Treaty Network

Singapore has an extensive network of 69 comprehensive income tax treaties, including with most of its major trading partners, but not with the United States. Singapore's treaties are generally based on the OECD Model Tax Convention on Income and on Capital.

Residents of Singapore may qualify for favorable treaty benefits under Singapore's tax treaties, such as reduced withholding tax rates, a tax exemption for specified capital gains, and allocation of taxing rights for business profits, employment income, pensions, and other income derived by individuals, if they satisfy the prescribed conditions.

One of the conditions for qualifying for treaty benefits is that an individual must be a resident of Singapore, as defined in the tax treaty at issue. For example, article 4(1) of the Singapore-U.K. income tax treaty defines the term "resident of a Contracting

State" to mean any person who, under the laws of that state, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation, or any other criterion of a similar nature. As discussed above, under Singapore's domestic tax law, the term "resident in Singapore" regarding an individual means a person who, in the year preceding the year of assessment, resides in Singapore except for such temporary absences therefrom as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore. It also includes a person who is physically present or who exercises an employment (other than as a director of a company) in Singapore for 183 days or more during the year preceding the year of assessment.

Singapore's tax treaties provide tiebreaker rules for determining the residence of an individual for treaty purposes, if the individual is a resident of both contracting states by reason of the general definition. Using the Singapore-U.K. treaty again as an example, such an individual's status will be determined in accordance with the following rules:

- The individual will be deemed to be a resident of the contracting state in which the individual has a permanent home available to him. If the individual has a permanent home available to him in both contracting states, the individual will be deemed to be a resident of the contracting state with which his personal and economic relations are closer (center of vital interests).
- If the contracting state in which the individual has his center of vital interests cannot be determined, or if the individual does not have a permanent home available to him in either contracting state, the individual will be deemed to be a resident of the contracting state in which he has a habitual abode.
- If the individual has a habitual abode in both contracting states or in neither of them, the individual will be deemed to be a resident of the contracting state of which he is a national.
- If the individual is a national of both contracting states or of neither of them, the competent authorities of the contracting states will settle the question by mutual agreement.<sup>13</sup>

Because individuals are generally exempt from Singapore tax on income derived from foreign jurisdictions, there is generally no need for double taxation relief. In exceptional cases when there is double taxation, Singapore generally will provide double taxation relief under any applicable comprehensive income tax treaty or a unilateral tax credit under the Singapore domestic tax law.<sup>14</sup>

<sup>10</sup>See IRAS E-Tax Guide on "Equity Remuneration Incentive Scheme (ERIS)," published on July 9, 2012, available at [http://www.iras.gov.sg/irashome/uploadedfiles/e-Tax\\_Guide/ERIS\\_2012-07-09.pdf](http://www.iras.gov.sg/irashome/uploadedfiles/e-Tax_Guide/ERIS_2012-07-09.pdf); IRAS E-Tax Guide on "Tax Treatment of Employee Share Options and Other Forms of Employee Share Ownership Plans," published on June 29, 2012, available at [http://www.iras.gov.sg/irashome/uploadedfiles/e-Tax\\_Guide/Tax%20Treatment%20of%20Employee%20Share%20Options%20and%20Other%20Forms%20of%20Employee%20Share%20Ownership%20Plans\\_2012-6-29.pdf](http://www.iras.gov.sg/irashome/uploadedfiles/e-Tax_Guide/Tax%20Treatment%20of%20Employee%20Share%20Options%20and%20Other%20Forms%20of%20Employee%20Share%20Ownership%20Plans_2012-6-29.pdf).

<sup>11</sup>Estate Duty (Abolition) Act 2008 (No. 13 of 2008). See Budget Statement 2008, para. 4.71-4.79 and Annex B-4, available at [http://www.mof.gov.sg/budget\\_2008/index.html](http://www.mof.gov.sg/budget_2008/index.html).

<sup>12</sup>See IRS, "Foreign Account Tax Compliance Act (FATCA)," available at <http://www.irs.gov/businesses/corporations/article/0,,id=236667,00.html>.

<sup>13</sup>Singapore-U.K. income tax treaty, article 4(2).

<sup>14</sup>ITA sections 50, 50A, and 50B.

### Exchange of Information

Singapore is on the OECD's list of countries that have substantially implemented the internationally agreed tax standard,<sup>15</sup> and it is continuing to incorporate the internationally agreed tax standard into its tax treaty network by updating existing tax treaties and concluding new tax treaties. The internationally agreed tax standard was developed by the OECD in cooperation with non-OECD countries; it was endorsed by G-20 finance ministers at their Berlin meeting in 2004 and by the U.N. Committee of Experts on International Cooperation in Tax Matters at its October 2008 meeting. It requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law, without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.<sup>16</sup>

Singapore currently has no tax information exchange agreements. However, on December 20, 2011,

<sup>15</sup>See OECD, "A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard — Progress Made as at May 18, 2012," available at <http://www.oecd.org/dataoecd/50/0/43606256.pdf>.

<sup>16</sup>See *id.*, at footnote 1.

the Singapore government amended the ITA<sup>17</sup> to allow exchange of information under TIEAs to enable Singapore to meet its commitment to the internationally agreed tax standard. Before the amendment, the Singapore government could only exchange information for tax purposes under the exchange of information provisions of comprehensive income tax treaties.<sup>18</sup> Therefore, it could not exchange information with non-treaty countries, such as the United States. If Singapore were to conclude a TIEA with the United States, it would be good news for the U.S. IRS and bad news for U.S. tax evaders, potentially including Singapore resident individuals, because Singapore is a leading global private-wealth management center with \$512 billion in offshore assets in 2010, according to one estimate.<sup>19</sup> ◆

<sup>17</sup>ITA sections 105A-105D, as amended by Income Tax (Amendment) Act 2011 (No. 22 of 2011).

<sup>18</sup>See paragraph 9 of the "Second Reading Speech by Mrs. Josephine Teo, Minister of State for Finance and Transport on the Income Tax (Amendment) Bill 2011," available at [http://app.mof.gov.sg/newsroom\\_details.aspx?type=speech&cmpar\\_year=2011&news\\_sid=20111122934299992140#](http://app.mof.gov.sg/newsroom_details.aspx?type=speech&cmpar_year=2011&news_sid=20111122934299992140#).

<sup>19</sup>See Sanat Vallikappen, "U.S. Millionaires Told Go Away as Tax Evasion Rule Looms," Bloomberg.com, May 8, 2012, available at <http://www.bloomberg.com/news/2012-05-08/u-s-millionaires-told-go-away-as-tax-evasion-rule-looms.html>.