

**LEGAL SYSTEMS IN ASEAN – SINGAPORE**  
**CHAPTER 5 – BUSINESS LAW (PART 5):**  
**TAXATION OF BUSINESSES; LISTING ON THE STOCK EXCHANGE**

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**A. TAXATION OF BUSINESSES IN SINGAPORE**

***Introduction***

With various tax incentives and low corporate income tax rates, Singapore is an attractive city-state for investments. The single-tier territorial-based flat-rate corporate income tax system is a further draw for investors; shareholders' dividends are exempted from further taxation once a company has paid its chargeable income tax.<sup>1</sup>

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<sup>1</sup> 'Dividends' (Inland Revenue Authority of Singapore (hereafter IRAS) website, 19 Jan 2018) <<https://www.iras.gov.sg/IRASHome/Individuals/Locals/Working-Out-Your-Taxes/What-is-Taxable-What-is-Not/Dividends/>> accessed 31 May 2018.

It is important to be aware at the outset that a company's taxable income is different from its net income. The former is restricted to income accrued in or derived from Singapore and income received in Singapore from outside Singapore.<sup>2</sup>

### ***Corporate Income Tax Rates***

Corporate income is assessed on a preceding financial year basis.<sup>3</sup> For example, in the Year of Assessment (hereafter YA) 2018, the company will be filing corporate tax returns for its financial year of 2017. With effect from YA 2010, companies are taxed at a flat rate of 17% on their chargeable income regardless of whether they are resident<sup>4</sup> or non-resident companies.<sup>5</sup>

### ***Tax Scheme for Local Companies***

Generally, local companies are eligible for a partial tax exemption – they enjoy a 75% exemption on the first \$10,000 of normal chargeable income and a further 50% exemption on the next \$290,000 of chargeable income. The taxable income beyond this sum of \$300,000 is then subject to the headline corporate tax rate of 17%.<sup>6</sup>

New locally incorporated companies enjoy 0% tax on the first taxable \$100,000 and a 50% tax rate on the next \$200,000 for each of the first three YAs.<sup>7</sup> This is subject to the requirement that the company has no more than 20 shareholders.<sup>8</sup> However, this will change from YA 2020 onwards.<sup>9</sup>

### ***Incentives for Local Companies***

Every year, Singapore resident companies are eligible for a one-time corporate income tax rebate. In YA 2018, the rebate was 40%, capped at \$15,000.<sup>10</sup> There are also specific incentives such as further tax exemptions for Singapore

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<sup>2</sup> Income Tax Act (Chapter 134, 2014 Revised Edition) (hereafter ITA) section 10.

<sup>3</sup> 'Overview of Corporate Income Tax' (IRAS website, 19 February 2018) <<https://www.iras.gov.sg/irashome/businesses/companies/learning-the-basics-of-corporate-income-tax/overview-of-corporate-income-tax/>> accessed 30 May 2018.

<sup>4</sup> A Singapore resident company is one where the management and control of its business is exercised in Singapore.

<sup>5</sup> 'Corporate Tax Rates, Corporate Income Tax Rebates, Tax Exemption Schemes and SME Cash Grant' (IRAS website, 19 February 2018) <<https://www.iras.gov.sg/irashome/Businesses/Companies/Learning-the-basics-of-Corporate-Income-Tax/Corporate-Tax-Rates--Corporate-Income-Tax-Rebates--Tax-Exemption-Schemes-and-SME-Cash-Grant/>> accessed 30 May 2018.

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

<sup>8</sup> 'Common Tax Reliefs that Help Reduce the Tax Bills' (IRAS website, 19 February 2018) <<https://www.iras.gov.sg/irashome/Businesses/Companies/Learning-the-basics-of-Corporate-Income-Tax/Common-Tax-Reliefs-That-Help-Reduce-The-Tax-Bills/>> accessed 30 May 2018.

<sup>9</sup> 75% exemption on the first \$100,000 of normal chargeable income and another 50% exemption on the next \$200,000 of normal chargeable income.

<sup>10</sup> 'Corporate Tax Rates, Corporate Income Tax Rebates, Tax Exemption Schemes and SME Cash Grant' (n 5).

companies in specific sectors such as the research and development (R&D) industry.<sup>11</sup>

Further, Singapore has signed various avoidance of double taxation agreements with other countries, with the aim that foreign-sourced income will not be taxed twice. Once foreign-sourced income has been taxed in the overseas jurisdiction, it will be exempted from tax here in Singapore. This is available only to Singapore tax resident companies.<sup>12</sup>

### *Tax Scheme for Foreign Companies*

For foreign branch companies operating in Singapore, any Singapore-sourced income or overseas income received here<sup>13</sup> will be subject to tax at the rate of 17%.<sup>14</sup> For foreign companies (non-resident companies) which carry on part of their business in Singapore, the gains or profits of the business not directly attributable to that part of the operations carried on outside Singapore will be deemed to be derived from Singapore.<sup>15</sup> This portion of income will then be subjected to 17% tax. Hence, foreign companies should classify their income carefully into portions attributable to a Singapore source and portions not attributable to a Singapore source.

### *Incentives for Foreign Companies*

If the foreign business is not operating in Singapore and the income source is from a foreign source, the income will not be subjected to tax. This encourages foreign businesses to remit their foreign income to Singapore, making use of Singapore's banking facilities.

### **Goods and Services Tax**

Goods and services tax (hereafter GST) is a consumption tax charged on the import of goods and almost all goods and services supplied in Singapore. The Second Schedule of the Goods and Services Tax Act determines what is, or is to be treated as, a supply of goods or services.<sup>16</sup> Goods and services exempted from GST are financial services, the sale and lease of residential properties, and both the import and local supply of investment precious metals.<sup>17</sup>

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<sup>11</sup> 'Applying for Tax Incentives' (IRAS website, 17 April 2018) <<https://www.iras.gov.sg/IRASHome/Schemes/Businesses/Applying-For-Tax-Incentives/>> accessed 30 May 2018.

<sup>12</sup> 'Avoidance of Double Taxation Agreements (DTAs)' (IRAS website, 23 October 2017) <<https://www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Companies-Receiving-Foreign-Income/Avoidance-of-Double-Taxation-Agreements--DTAs-/>> accessed 30 May 2018.

<sup>13</sup> The ITA (n 2) s 10(25) determines when income is considered received in Singapore.

<sup>14</sup> 'Taxable and Non-taxable Income' (IRAS website, 2 August 2017) <<https://www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Taxable-and-Non-taxable-Income/>> accessed 30 May 2018.

<sup>15</sup> ITA (n 2) s 12(1).

<sup>16</sup> Goods and Services Tax Act (Cap 117A, 2005 Rev Ed) s 10

<sup>17</sup> 'Goods and Services Tax (GST): What It Is and How It Works' (IRAS website, 12 February 2018) <<https://www.iras.gov.sg/irashome/GST/GST-registered-businesses/Learning-the-basics/Goods-and-Services-Tax--GST---What-It-Is-and-How-It-Works/>> accessed 30 May 2018.

Businesses with a taxable turnover exceeding S\$1 million at the end of each calendar quarter have to register for GST. A GST-registered business collects GST on behalf of the Government. Thus, registering for GST means the business will need to charge and account for GST on its supply of goods and services.<sup>18</sup> However, it should be noted that the requirement for businesses to register for GST will change from 2019 onwards with the taxable turnover being computed on a calendar year basis rather than at the end of the calendar quarter.<sup>19</sup> The GST return – the company’s tax liability towards the Inland Revenue Authority of Singapore (hereafter IRAS) which is calculated based on the income of the company – has to be submitted to the IRAS one month after the end of each prescribed accounting period.<sup>20</sup>

The net GST payable to the IRAS by a GST-registered business or refunded by IRAS to the business is the difference between the business’s output tax and input tax. Output tax refers to the GST charged by the business on all goods and services supplied to its customers, while input tax refers to GST paid by the business on all purchases it has made from GST-registered suppliers or when businesses import goods into Singapore. Businesses that do not have to register for GST, and thus have not in fact done so, cannot claim a refund of the GST incurred on their purchases (their input tax).<sup>21</sup>

## **B. LISTING ON THE SINGAPORE STOCK EXCHANGE**

### ***Introduction***

The Singapore Stock Exchange (hereafter SGX-ST) maintains two boards – the Mainboard and the Catalist.<sup>22</sup> They differ largely in terms of the quantitative requirements and the initial public offering (hereafter IPO) approval process. The main difference between the two boards is that the Catalist offers more flexibility than the Mainboard, and was set up to provide aspiring companies, with strong potential for growth, an easy and efficient access to growth capital.<sup>23</sup>

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<sup>18</sup> ‘Responsibilities of GST-Registered Businesses’ (IRAS website, 20 October 2017) <<https://www.iras.gov.sg/irashome/GST/GST-registered-businesses/Learning-the-basics/How-to-implement-GST/Responsibilities-of-GST-Registered-Businesses/>> accessed 31 May 2018.

<sup>19</sup> ‘Do I Need to Register for GST’ (IRAS website, 30 May 2018) <<https://www.iras.gov.sg/IRASHome/GST/Non-GST-registered-businesses/Registering-for-GST/Do-I-Need-to-Register-for-GST/>> accessed 31 May 2018.

<sup>20</sup> ‘Responsibilities of GST-Registered Businesses’ (IRAS website, 20 October 2017) <<https://www.iras.gov.sg/irashome/GST/GST-registered-businesses/Learning-the-basics/How-to-implement-GST/Responsibilities-of-GST-Registered-Businesses/>> accessed 31 May 2018.

<sup>21</sup> *ibid.*

<sup>22</sup> ‘Mainboard and Catalist: Requirements’ (Singapore Exchange Limited website) <[http://sgx.com/wps/portal/sgxweb/home/regulation/listing/listing\\_mainboard\\_catalist!/ut/p/a/1/04\\_Sj9CPykssyOxPLMnMzovMAfGjzOKNHB1NPAycDSwNTIHYoSduodnUo8DQJcgAqCAST4JAc0Pi9BvgAI4GhPSH6ofhVWJsil8B2ImoCvzDDMwNPEP9nYKDW8IMA12NoQrwOLIgNzTCINMzHQAAhery/dl5/d5/L2dBISEvZoFBIS9nQSEh/?WCM\\_PORTLET=PC\\_Z7\\_2AA4HoCo905090A0UAC5101JG1017268\\_WCM&WCM\\_GLOBAL\\_CONTEXT=/wps/wcm/connect/sgx\\_en/home/regulation\\_v2/SA\\_Listing/SA\\_Mainboard\\_and\\_catalist/SA\\_Requirements](http://sgx.com/wps/portal/sgxweb/home/regulation/listing/listing_mainboard_catalist!/ut/p/a/1/04_Sj9CPykssyOxPLMnMzovMAfGjzOKNHB1NPAycDSwNTIHYoSduodnUo8DQJcgAqCAST4JAc0Pi9BvgAI4GhPSH6ofhVWJsil8B2ImoCvzDDMwNPEP9nYKDW8IMA12NoQrwOLIgNzTCINMzHQAAhery/dl5/d5/L2dBISEvZoFBIS9nQSEh/?WCM_PORTLET=PC_Z7_2AA4HoCo905090A0UAC5101JG1017268_WCM&WCM_GLOBAL_CONTEXT=/wps/wcm/connect/sgx_en/home/regulation_v2/SA_Listing/SA_Mainboard_and_catalist/SA_Requirements)> accessed 30 May 2018.

<sup>23</sup> ‘News Release: SGX Catalist Celebrates a Decade of Supporting Business Growth’ (Singapore Exchange Limited website, 26 October 2017) <<http://infopub.sgx.com/FileOpen/>

Regardless of what is being listed and on which board, ultimately the SGX Listing Manual must be followed.

### ***Types of Listing***

There are mainly two types of listing – primary and secondary. Primary listing generally refers to a company trying to raise funds from capital markets by listing its shares on its home exchange through an initial public offering. Secondary listing takes place when, subsequent to or at the same time as the primary listing, the company seeks to list its shares on another exchange. In the context of Singapore, a secondary listing on SGX is premised on a company having a primary listing elsewhere on an overseas exchange market.<sup>24</sup>

### ***Ways of Listing***

Companies can list by offering securities or by introduction. ‘Securities’ generally refer to debentures or stocks issued, and any rights, options or derivatives in respect of such debentures, stocks and shares.<sup>25</sup> Corporate securities can be offered on both the Mainboard and Catalist. In contrast, listing by introduction is only permitted on the Mainboard, and no funds are raised through subscription of the company’s securities.<sup>26</sup> This is often chosen when the company has already met its shareholder spread requirements for the listing criteria, usually because it is already listed on another stock exchange, and now requires a certain percentage of shares to be held by the public.<sup>27</sup>

### ***Process and Requirements for Listing on the Mainboard***

#### ***Key Steps***

For listing on the SGX-ST’s Mainboard, a company must first appoint advisors including the issue manager, underwriters, legal advisers, auditors, experts such as valuers who can compile market research reports and public relations consultants. The issue manager is the entity that SGX-ST will look to for the necessary diligence to ensure that the company is suitable for listing.<sup>28</sup> The underwriter is especially important; it underwrites the transaction and help to

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[20171026 SGX Catalist celebrates a decade of supporting business growth.ashx?App=Announcement&FileID=475418](http://www.sgx.com/20171026_SGX_Catalist_celebrates_a_decade_of_supporting_business_growth.ashx?App=Announcement&FileID=475418)> accessed 31 May 2018.

<sup>24</sup> ‘Mainboard and Catalist: Secondary Listings’ (SGX-ST website) <[http://sgx.com/wps/portal/sgxweb/home/regulation/listing/listing\\_mainboard\\_catalist!/ut/p/c5/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os3gjRocTDwNnAosDUyB2NAh1dDb1NDBoCTIAykfilA8oNySg2os\\_KjonPwloj59Hfm6qfkFuRKWjo6LiAK8qK2s!/dl3/d3/LolDUolKSWdraoEhIS9JTLJBQUlpQ2dBek15cUEhL1CSlAxTkMxTktfMjd3ISEvN18yQUEoSDBDMDkwNTA5MEEwVUF DNukwMUpHMQ!!/?WCM\\_PORTLET=PC\\_Z7\\_2AA4HoC0905090AoUAC5I01JG1017268\\_WCM&WCM\\_GLOBAL\\_CONTEXT=/wps/wcm/connect/sgx\\_en/home/regulation\\_v2/SA\\_Listing/SA\\_Mainboard\\_and\\_catalist/SA\\_Secondary\\_Listings](http://sgx.com/wps/portal/sgxweb/home/regulation/listing/listing_mainboard_catalist!/ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gjRocTDwNnAosDUyB2NAh1dDb1NDBoCTIAykfilA8oNySg2os_KjonPwloj59Hfm6qfkFuRKWjo6LiAK8qK2s!/dl3/d3/LolDUolKSWdraoEhIS9JTLJBQUlpQ2dBek15cUEhL1CSlAxTkMxTktfMjd3ISEvN18yQUEoSDBDMDkwNTA5MEEwVUF DNukwMUpHMQ!!/?WCM_PORTLET=PC_Z7_2AA4HoC0905090AoUAC5I01JG1017268_WCM&WCM_GLOBAL_CONTEXT=/wps/wcm/connect/sgx_en/home/regulation_v2/SA_Listing/SA_Mainboard_and_catalist/SA_Secondary_Listings)> accessed 30 May 2018.

<sup>25</sup> Securities and Futures Act (Cap 289, Rev Ed 2006) s 2(1).

<sup>26</sup> *Listing Manual of Singapore Exchange: Mainboard Rules* (July 2008) rule 235.

<sup>27</sup> *ibid*, r 236.

<sup>28</sup> Hans Tjio, Wai Yee Wan and Kwok Hon Yee, ‘Mechanics of Prospectus Registration’ in *Principles and Practice of Securities Regulations in Singapore* (3rd edn, LexisNexis 2017) 447.

sell the shares to the public. Public relations consultants are needed to help promote the company's securities.

Next, there needs to be some restructuring before the IPO to decide ultimately what business the listed company will be carrying out. Any aspects that the listed company is not interested in future, should be removed at this stage.

Thereafter, due diligence needs to be carried out. This is the process of fact-finding or verification of facts of the issuer to ensure that all information a reasonable investor would expect to be given about the issuer will be accurately reflected in the prospectus.<sup>29</sup> Due diligence is especially important as the company's prospectus has to comply with the Securities and Futures Act,<sup>30</sup> otherwise there could be criminal and civil liability.<sup>31</sup> The prospectus is a document containing all the information about the company to be given to prospective investors so that they can make an informed decision about whether or not to purchase the company's securities. Once completed, the prospectus is lodged with the Monetary Authority of Singapore (MAS) for registration. Upon this being done, the company can launch its offer of securities and distribute the registered prospectus.

Finally, financial statements and documentation need to be prepared. The financial statements have to be prepared according to accepted accounting standards such as the Singapore Financial Reporting Standards.<sup>32</sup> Required documentation would include company secretarial documents, underwriting agreements, share lending agreements, lock-up undertakings, and letters of comfort from banks.<sup>33</sup>

### *Listing Criteria*

In brief, a company may seek a listing on the Mainboard of the SGX-ST if it satisfies either criterion 1, 2 or 3 below:<sup>34</sup>

(a) **Criterion 1**

- (i) The company must have a minimum consolidated pre-tax profit of at least S\$30 million for the last financial year.
- (ii) There have to be at least 500 shareholders with 25% of the shares.
- (iii) The company has to have an operating track record of, and continuity of management for, at least three years.

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<sup>29</sup> Hans Tjio, Wai Yee Wan and Kwok Hon Yee, 'Regulation of Securities Offerings' in *Principles and Practice of Securities Regulations in Singapore* (3rd edn, LexisNexis 2017) 469–70.

<sup>30</sup> Securities and Futures Act (n 25).

<sup>31</sup> Tjio, Wan and Yee (n 28) 469–78.

<sup>32</sup> Mainboard Rules (n 26) r 220.

<sup>33</sup> *ibid*, r 246.

<sup>34</sup> 'Mainboard and Catalyst: Requirements' (n 22).

- (iv) There have to be at least two Singapore-resident independent directors. Independent directors are directors who have no material or pecuniary relationship with the company, the company's related corporations or persons from the company.<sup>35</sup>

(b) **Criterion 2**

- (i) The company has to be profitable in the last financial year and have a market capitalisation of at least S\$150 million.
- (ii) There have to be at least 500 shareholders with 25% of the shares.
- (iii) The company has to have an operating track record of, and continuity of management for, at least three years.
- (iv) There have to be at least two Singapore-resident independent directors.

(c) **Criterion 3**

- (i) The company must have had operating revenue in the latest completed financial year and a market capitalisation of not less than S\$300 million.
- (ii) There have to be at least 500 shareholders with 25% of the shares.
- (iii) The company has to have an operating track record of, and continuity of management for, at least three years.
- (iv) There have to be at least two Singapore-resident independent directors.

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The views expressed in this article are that of the author alone. They do not necessarily reflect the views or opinions of the ASEAN Law Association or the organisation which the author is currently associated with.

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<sup>35</sup> Monetary Authority of Singapore, *Code of Corporate Governance* (2 May 2012), Guideline 2.3.