



International Assignment News Alert

Tax Clearance for Non-Singapore Citizen Employees

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The Inland Revenue Authority of Singapore (IRAS) to tighten up on timely submission of tax clearance returns

The IRAS has recently communicated to us that it intends to tighten up on the timely submission of the Form IR21 (Notification of a Non-Citizen Employee's Cessation of Employment or Departure from Singapore – often referred to as a “tax clearance return”) by employers. Going forward, the IRAS has warned us that enforcement action may be taken against employers who do not comply with the time-limit for submitting the Form IR21 without a valid reason.

Tax clearance return filing requirements

When a non-citizen [i.e. foreigner and Singapore Permanent Resident (“SPR”)] employee ceases employment in Singapore or intends to leave Singapore for a period of more than 3 months, the employer is required to notify the IRAS and file the Form IR21, **at least one month** before the employee:-

- ceases to work in Singapore;
- is posted overseas for assignment; or
- departs Singapore for any period of 3 months or more

A shorter notice (i.e. less than 1 month) may be acceptable only if the IRAS considers the delay to be reasonable (for example, due to shorter notice period given by the employee).

The IRAS also grants an automatic 2-month extension from the date of cessation for filing of the Form IR21, if the employee's Singapore tax liability is wholly borne by the employer, provided the employer provides the employee's Estimated Chargeable Income (ECI) to the IRAS.

Where the employee's Singapore tax is not wholly borne by the employer, we would recommend that the employer should notify the IRAS of the cessation of employment and request for an extension of time to file the Form IR21 (if required) by furnishing the employee's ECI accordingly.

Please note that the IRAS may, at its discretion, grant the extension of time on a case-by-case basis.

Under Singapore tax law, the employer may be liable to a fine not exceeding S\$1,000 for failure to comply with the tax filing requirement and/or deadline, though this has not been strictly enforced in the past. Employers need to be aware that, going forward, it is anticipated that this penalty may be levied more frequently.

Please note that a tax clearance return is not required for:-

- a Singapore citizen.
- a SPR who is not leaving Singapore permanently after cessation of employment.
- a non-citizen employee who worked in Singapore for less than 60 days in the calendar year.
- a non-citizen employee is a tax resident for the relevant Year of Assessment and earned less than S\$20,000.
- a non-citizen who transfers to another company in Singapore within the group, as a result of group structuring.
- a non-citizen who is away from Singapore for training or business purposes for 3 to 6 months (excluding overseas assignment).

Tax payment

The employer is obliged to withhold all monies due to the non-citizen employee for tax clearance purposes (in instances where the employee is fully or partially responsible for settlement of the taxes), from the day:-

- the employer is aware of the employee's intention to cease employment or depart Singapore; or
- the employer decides to terminate the employee; or
- the employer decides to post the employee to an overseas location.

The monies withheld should not be released to the employee until tax clearance is given by the IRAS. The employer may be liable for settlement of the taxes, if it fails to comply with the withholding requirement without a valid reason.

Upon receipt of a Directive to Pay Tax from the IRAS, the employer is required to pay all taxes due **within 10 days** from the date of the Directive. Failure to do so may lead to imposition of late payment penalties by the IRAS.

Common difficulties and steps going forward

In view of the above IRAS communication, employers should make every effort to adhere to the Form IR21 filing and tax payment requirements / deadlines discussed above.

We have set out below the common difficulties encountered by employers leading to failure to file the Form IR21 timely and have provided suggestions on how some of these difficulties could be overcome:-

Common difficulties	Steps to consider
Payroll details is not finalised on time	<ul style="list-style-type: none"> • Prepare and file a Form IR21 based on the best estimate of the income to be reported. • Prepare and file an additional or amended Form IR21 (if required) subsequently when finalised income information is available.
Delay in provision of payroll details by home country human resource / payroll teams	<ul style="list-style-type: none"> • Communicate with the home country counterpart to ensure that the relevant teams are aware of the tax clearance filing requirements in Singapore and the potential penalties for failure to comply with such requirements. • Prepare and file a Form IR21 based on the best estimate of the income to be reported. • Prepare and file an additional or amended Form IR21 (if required) subsequently when finalised income information is available.
Unaware of employee's cessation of employment in Singapore (due to high volume of assignment movements or lack of communication)	<ul style="list-style-type: none"> • Ensure that an effective employee movement tracking system is in place. • Ensure that the employee / business unit leader (even in case where the tax is borne by the employer) is aware of the tax clearance requirements and encourage employee / business unit leader to promptly remind the employer of the impending cessation
Inadequate knowledge on tax clearance filing requirements in Singapore	<ul style="list-style-type: none"> • Provide sufficient training to the relevant human resource or payroll staff • Arrange for the staff to attend seminars conducted by tax agents and / or the IRAS

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