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Singapore
Tax Disputes

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This country-specific Q&A provides an overview of tax disputes laws and regulations applicable in Singapore.

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Singapore: Tax Disputes

1. Is it necessary for a taxpayer to register with the tax authority? Are separate registrations required for corporate income tax and value added tax/sales tax?

It is not necessary for a taxpayer to register for corporate income tax with the tax authority, unless the foreign taxpayer has no presence in Singapore.

A person is required to register for goods and services tax ("GST") (the value added tax in Singapore) if the total value of that person's taxable supplies made in Singapore either exceeds S$1 million at the end of the calendar year, or there are reasonable grounds to believe that the value of such supplies will exceed S$1 million in the next 12 months.

In addition, under the overseas vendor regime, an overseas person which supplies remote services and/or low-value goods to non-GST registered customers in Singapore will be required to register for GST if the total value of that person's taxable supplies and supplies outside Singapore exceeds S$1 million and the total value of remote services and/or low-value goods supplied to non-GST registered customers in Singapore exceeds S$100,000, or there are reasonable grounds to believe that such values will exceed S$1 million and S$100,000 respectively in the next 12 months.

2. In general terms, when a taxpayer files a tax return, does the tax authority check it and issue a tax assessment – or is there a system of self-assessment where the taxpayer makes their own assessment which stands unless checked?

There is a system of self-assessment where the taxpayer makes its own assessment. Where the taxpayer's tax affairs are straightforward, the taxpayer's self-assessment will be accepted by the tax authority with little or no adjustment. On the other hand, where the taxpayer's tax affairs are more complex, the tax authority will first raise estimated assessments based on the taxpayer's self-assessment before conducting an in-depth review of the same. The tax authority will identify key areas of compliance risks among taxpayers and adopt both risk-based approach and random audits on taxpayers across all industries.

3. Can a taxpayer amend the taxpayer's return after it has been filed? Are there any time limits to do this?

Individual taxpayers who filed their income tax return online may re-file it once, within 7 days of their original filing or by 18 April of that year of assessment, whichever is earlier. Corporate taxpayers cannot amend their returns after filing but can submit a revised return any time within 4 years after the end of the year of assessment.

After a taxpayer files its GST return, the taxpayer can file GST Form 7 to correct any errors if (a) the net GST amount payable in error (i.e. the difference between the additional output tax to be paid in Box 6 and the additional input tax to be claimed in Box 7) for all effected prescribed accounting period does not exceed S$3,000, and (b) the total amount in error for all boxes except Box 6, 7 and 12 (pre-registration input tax claims) for each of the affected accounting period(s) is not more than 5% of the total value of supplies (Box 4) declared in the submitted GST return. Where there was no supply made in the affecting accounting period, the 5% rule applies to the total value of the taxable purchases (Box 5).

If a notice of assessment has already been issued, taxpayers may file amendments within 30 days (for individual or GST taxpayers) / 2 months (for corporate taxpayers) from the date of the notice.

Alternatively, a taxpayer can make a written application to the tax authority for relief where, inter alia, an income tax assessment is excessive by reason of some error or mistake in the taxpayer's return. This must be done within 4 years after the end of the year of assessment within which the assessment concerned was made. In relation to GST, a claim for GST refund should be made within 5 years from the end of the relevant accounting periods to which the claim relates.

4. Please summarise the main methods for a tax authority to challenge the amount of tax a taxpayer has paid by way of an initial assessment/self-assessment.

As part of the tax authority's compliance review of a taxpayer's self-assessment, the tax authority will request for additional information from the taxpayer. Upon completion of the tax authority's review, if adjustments are to be made to the taxpayer's self-assessment, a notice of additional assessment stating the additional tax payable will be issued to the taxpayer, or in the event of overpayment, a notice of amended assessment.

5. What are the time limits that apply to such challenges (disregarding any override of these limits to comply with obligations to relief from double taxation under a tax treaty)?

The statutory time limit for the tax authority to raise an assessment or additional assessment for income tax is four years after the end of the year of assessment within which the assessment concerned was made, unless fraud is involved, in which case, there is no time limit. The statutory time limit for GST, on the other hand, is five years from the end of the relevant accounting period(s) to which the claim for the GST refund relates.

6. How is tax fraud defined in your law?

A person who commits tax fraud is one who, wilfully with intent to evade or to assist any other person to evade tax, inter alia, (a) omits from a return made under the Income Tax Act 1947 ("ITA") any income which should be included, (b) makes any false statement or entry in any return made under the ITA, or (c) gives any false verbal or written answer to any question or request for information asked or made in accordance with the ITA.

Serious fraudulent income tax evasion includes any person who, wilfully with intent to evade or to assist any other person to evade tax, (a) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records, or (b) makes use of any fraud, art or contrivance or authorising the use of the same.

A person commits GST evasion if they, wilfully with intent to evade or assist any other person to evade tax, (a) omit or understate any output tax or overstate any input tax in any GST return, (b) make any false statement or entry in any return, claim or application made under the Goods and Services Tax Act 1993 ("GSTA"), (c) give any false written or verbal answer to any question or request for information asked or made in accordance with the GSTA, (d) prepare or maintain or authorise the preparation or maintenance of any false books of account or other records or falsify or authorise the falsification of any books of account or records, or (e) make use of any fraud, art or contrivance or authorising the use of the same.

The key requirement under both the ITA and GSTA is the wilful intent to evade or to assist another person to evade tax.

7. How is tax fraud treated? Does the tax authority conduct a criminal investigation with a view to seeking a prosecution and custodial sentence?

The tax authority will conduct a criminal investigation before deciding whether to exercise its discretion to prefer charges against taxpayers and / or any relevant persons (such as officers, accountants, directors, etc.) for tax evasion. The discretion to prosecute depends largely on the state of evidence.

If a person is convicted of income tax evasion or serious fraudulent income tax evasion, the person may be imprisoned for a term not exceeding 3 or 5 years respectively. Where the person is convicted for 3 or more income tax evasion or serious fraudulent income tax evasion offences, the imprisonment term will be at least 6 months. If a person is convicted of GST tax evasion, the person may be imprisoned for a term not exceeding 7 years.

The Singapore courts have established a sentencing framework based on harm and culpability for tax evasion offences and have made it clear that it is only in very exceptional circumstances that an offender is only fined, without custodial sentence.

8. In practice, how often is a taxpayer audited after a return is filed? Does a tax authority need to have any justification to commence an audit?

There are no publicly available statistics on how often a taxpayer is audited after a tax return is filed. The tax authority adopts a risk-based approach in auditing the taxpayer. The tax authority does not need any justification to commence an audit as the tax authority has broad statutory powers to obtain information and to make assessment to the best of the tax authority's judgment.

9. Does the tax authority have to abide by any standards or a code of conduct when carrying out audits? Does the tax authority publish any details of how it in practice conducts audits?

There are no publicly available standards or codes of conduct in which the tax authority has to abide by when carrying out audits. The tax authority conducts risk-based and random audits across all industries by using data analytics, artificial intelligence and other tools to profile taxpayers according to their compliance risk. The upcoming and ongoing areas of focus for audits include withholding tax, claiming of private or non-deductible expenses, and taxpayers with business model revolving around digital economy (e.g. content creators and social media influencers).

10. Does the tax authority have the power to compulsorily request information? Does this extend to emails? Is there a right of appeal against the use of such a power?

The tax authority has broad statutory powers to compulsorily request information from any person, including access to emails. However, a person is not obliged to disclose any information that they are under a statutory obligation to observe secrecy for (subject to certain exceptions), or any information subject to legal privilege. There is no right of appeal against the tax authority's use of such power.

11. Can the tax authority have the power to compulsorily request information from third parties? Is there a right of appeal against the use of such a power?

The tax authority has the statutory power to compulsorily request information from third parties, subject to the exception mentioned in question 10, without the third party having a right to appeal against the tax authority's use of such power.

The tax authority also has the right to require the third party to keep any such request for information confidential.

12. Is it possible to settle an audit by way of a binding agreement, i.e. without litigation?

There is an enhanced taxpayer relationship programme where the senior management of large companies will regularly meet with the tax authority to, inter alia, resolve specific issues that may arise from an audit. Where both parties agree on a specific tax treatment under the programme, the specific issue under audit will be settled without litigation.

13. If a taxpayer is concerned about how they are being treated, or the speed at which an audit is being conducted, do they have any remedies?

The tax authority sets out certain service standards. If a taxpayer is concerned about the conduct of any officer, or the speed at which an audit is concluded, the taxpayer may lodge a complaint to the relevant quality service manager.

The tax authority will usually complete its audit at the soonest possible and depending on the information / documents provided, an audit may take up to two years (from experience) for the year of assessment in question. For example, for a tax return filed by 30 November 2022 for the year of assessment 2022, the tax authority's audit will generally be completed by 31 March 2025 except for a small number of very complex cases. For taxpayers in the enhanced taxpayer relationship programme with the tax authority, the taxpayer can engage the tax authority in agreeing on the speed in which an audit is being conducted.

14. If a taxpayer disagrees with a tax assessment, does the taxpayer have a right of appeal?

For income tax, a taxpayer can submit a notice of objection within 30 days (for individual taxpayers) or 2 months (for corporate taxpayers) of the date of the notice of assessment. The tax authority will then review the grounds of objection and issue a decision. If the tax authority does not agree with the taxpayer, the tax authority will issue a notice of refusal to amend, in which case, the taxpayer can exercise their right to appeal to the Income Tax Board of Review by filing a notice of appeal within 30 days from the date of the notice of refusal to amend, and a petition of appeal within 30 days thereafter.

Taxpayers who disagree with their GST assessments also have the right to appeal against such assessments through similar procedures.

15. Is the right of appeal to an administrative body (independent or otherwise) or judicial in nature (i.e. to a tribunal or court)?

The taxpayer's right to appeal is to the Income Tax Board of Review ("ITBR") and the Goods and Services Tax Board of Review ("GSTBR"). The ITBR and GSTBR are constituted under the ITA and GSTA respectively and are judicial in nature.

16. Is the hearing in public? Is the decision published? What other information about the appeal can be accessed by a third party/the public?

Proceedings before the ITBR and the GSTBR are generally closed to the public. Either party may apply for the proceedings to be heard in public, although this is hardly done. Decisions of the ITBR and GSTBR are published with the taxpayer anonymised and other identifying details redacted. No other information about such appeals can be accessed by third parties / the public.

17. Is the procedure mainly written or a combination of written and oral?

The procedure is generally a combination – parties generally file their arguments in the form of written submissions before the hearing and make oral submissions to the Board during the hearing.

18. Is there a document discovery process?

There is no explicit document discovery process. The Boards of Review have the power to direct the production of documents and parties may make the relevant applications if necessary.

19. Are witnesses called to give evidence?

Yes. Both expert witnesses and witnesses of fact may be called to file affidavits and give evidence on the stand, depending on the nature of the case.

20. Is the burden on the taxpayer to disprove the assessment the subject of the appeal?

Yes, the burden of proving that the assessment is excessive or erroneous lies with the taxpayer.

21. How long does an appeal usually take to conclude?

The timeline for each case varies depending on the directions of the relevant Board and courts. From our experience, most cases take about 2 years to conclude.

22. Does the taxpayer have to pay the assessment pending the outcome of the appeal?

Yes, the taxpayer still has to pay the assessment according to the notice of assessment. Penalties will apply for late payment.

23. Are there any restrictions on who can conduct or appear in the appeal on behalf of the taxpayer?

The taxpayer may represent themselves or engage an advocate and solicitor to appear on their behalf. They may also engage an accountant to appear on their behalf before the ITBR and GSTBR.

24. Is there a system where the "loser pays" the winner's legal/professional costs of an appeal?

Yes, the losing party may be ordered to pay the winner's costs, although they are rarely ordered to pay the full amount of legal / professional costs. In making the order, regard to all relevant circumstances must be had, including:

a. efforts made by the parties at amicable resolution;
b. the complexity of the case and the difficulty or novelty of the questions involved;
c. the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor;
d. the urgency and importance of the action to the parties;
e. the number of solicitors involved in the case for each party;
f. the conduct of the parties;
g. the principle of proportionality; and
h. the stage at which the proceedings were concluded.

25. Is it possible to use alternative forms of dispute resolution – such as voluntary mediation or binding arbitration? Are there any restrictions on when this alternative form of dispute resolution can be pursued?

While there are no formal alternative forms of dispute resolution for domestic tax disputes, parties generally continue to work towards reaching a settlement right until the hearing date.

26. Is there a right of onward appeal? If so, what are all the levels of onward appeal before the case reaches the highest appellate court.

As long as the amount of tax payable, tax to be refunded or notional tax benefit exceeds $200, either party may appeal against the decision of the Board to the General Division of the High Court on any question or law or of mixed law and fact. The decision of the General Division of the High Court can be appealed to the Appellate Division of the High Court and subsequently the Court of Appeal, which is the highest appellate court.

However, if the disputed tax amount does not exceed $250,000, permission will be required to bring an appeal against a decision of the General Division of the High Court.

27. What are the main penalties that can be applied when additional tax is charged? What are the minimum and maximum penalties?

Where the Comptroller of Income Tax imposes a liability to tax or an additional amount of tax as a result of invoking the general anti avoidance provision in the ITA, a surcharge of 50% of the amount of tax or additional amount of tax imposed will be charged.

A similar 50% surcharge applies where the respective tax authorities make adjustments to counteract tax avoidance arrangements for GST or stamp duty purposes.

For carousel or missing trader fraud cases, where a taxpayer (i) is found by the Comptroller of GST to have entered into a supply that they should have known was part of such a fraudulent arrangement and (ii) makes a claim for the input tax credit on the supply, a surcharge of 10% the amount of input tax will be charged.

In relation to transfer pricing, where additional tax is charged pursuant to a transfer pricing adjustment, a surcharge of 5% of the amount of the increase in the amount of income or the reduction in the amount of deduction or loss allowed to a person will be charged.

Please note that this response does not include the penalties that attach to criminal offences.

28. If penalties can be mitigated, what factors are taken into account?

The tax authorities may remit the abovementioned surcharges in part or in whole for good cause in their sole discretion, and much depends on the specific facts of each case.

29. Within your jurisdiction, are you finding that tax authorities are more inclined to bring challenges in particular areas? If so, what are these?

The tax authorities have been conducting more audits and investigations into the issue of carousel or missing trader fraud in recent years. Such fraud involves back-to-back sale and purchase transactions, typically of small but high-value goods such as electronic products or components. The goods are eventually exported and the final trader makes a claim for input tax with the tax authorities. However, a trader in the chain absconds without accounting for output tax to the Comptroller of GST. This would result in a loss of public revenue if the tax authorities were to allow the final trader's input tax claim.

Another area of contention is the implementation of arrangements for the avoidance of stamp duty and related conduct that amounts to the obstruction of justice during audits and investigations carried out by the tax authorities, such as the provision of false and misleading information.

Separately, due to a climate of heightened vigilance following certain high-profile money laundering investigations being carried out in recent years, taxpayers should remain aware that the tax authorities will refer matters for further investigation by the police should any suspicions be raised in the course of their audits or investigations.

30. In your opinion, are there any areas which taxpayers are currently finding particularly difficult to deal with when faced with a challenge by the tax authorities?

In relation to the abovementioned carousel fraud cases, some difficulty in engaging the tax authorities arises from the quality of the supporting documents that the taxpayer has kept over the years, and the sufficiency of their business practices in satisfying themselves that the goods they are selling genuinely exist and are being exported. The taxpayer also may not have records to show that they have performed due diligence checks to confirm the identities of those they deal with, which tends to throw some suspicion on the legitimacy of the transaction.

31. Which areas do you think will be most likely to be the subject of challenges and disputes in the next twelve months?

We think these areas would mainly be the issues set out at question 29 above, i.e., carousel fraud and stamp duty avoidance arrangements.

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