



Not Ordinarily Resident Schemes (UPDATES)

(compiled by Sarini Leman)

The Minister for Finance announced in his Budget Statement 2008 certain changes to the qualifying criteria of the tax concessions under the Not Ordinarily Resident ("NOR") tax incentive scheme. These changes will take effect from the Year of Assessment ("YA") 2009 for all NOR taxpayers, except for those identified under the transitional rules stated below. Details of the changes are summarised below.

Benefits of the NOR Scheme

Under the NOR scheme, an individual who is accorded the NOR status (for a qualifying 5-year period) will enjoy the following tax concessions **provided** he is a resident by virtue of Section 2(1) of the *Singapore Income Tax Act* ("the Act") in that YA **and** the qualifying criteria of each of the tax concessions are met.

- (i) Time apportionment of his Singapore employment income.
- (ii) Tax exemption of employer's contribution to a non-mandatory overseas pension fund or social security scheme.

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Resident in Singapore" is defined in Section 2(1) of the Act as follows.

*"in relation to 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, 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;...**"*

(A) Qualifying Criteria for Time Apportionment of Singapore Employment Income

The following criteria (1) and (2) for time apportionment of Singapore employment income remains unchanged. The only change to the qualifying criteria for time apportionment is the minimum income threshold requirement as stated in criteria (3) below.

Old NOR Scheme	New NOR Scheme
(1) Resident NOR Singapore employee must spend at least 90 days outside Singapore for business reasons pursuant to his Singapore employment.	
(2) Where the resident NOR Singapore employee's tax on the apportioned Singapore employment income is less than 10% of his total Singapore employment income, he would still be subject to a minimum floor tax rate of 10% on his total employment income.	
(3) His tax on his total Singapore employment income must be greater than 10% of his total Singapore employment income.	(3) His total Singapore employment income must be at least \$160,000.

(B) Qualifying Criteria for Tax Exemption of Employer's Contribution to a Non-Mandatory Overseas Pension Fund or Social Security Scheme

Similarly, the only change to the qualifying criteria for tax exemption of employer's contribution to a non-mandatory overseas pension fund or social security scheme tax concession is the minimum income threshold requirement as stated in criteria (3) below.

Old NOR Scheme	New NOR Scheme
FOR EMPLOYEE	
(1) Resident NOR Singapore employee is neither a Singapore citizen nor a permanent resident of Singapore ("SPR").	
(2) The tax exemption given to the non-Singapore citizen / non-SPR resident NOR Singapore employee must not exceed a cap. The cap is computed based on the Central Provident Fund ("CPF") capping rules as if the employer had made the contribution to the CPF for a Singapore citizen as required under the CPF Act (hereinafter referred to as the NOR cap).	
(3) Not applicable.	(3) His total Singapore employment income must meet the minimum income threshold of \$160,000 (this is also the minimum income threshold applicable to the time apportionment tax concession).

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The change for the tax deduction rules for the employer is as follows.

Old NOR Scheme	New NOR Scheme
FOR EMPLOYER	
(1) Employer is entitled to claim tax deduction on contributions made to a non-mandatory overseas contribution scheme in full, even though tax exemption granted to the non-Singapore citizen / non-SPR resident employee on such contribution is subject to the NOR cap.	(1) Employer should not claim a tax deduction on contributions made to non-mandatory overseas contribution scheme up to the NOR cap if he wishes his non- Singapore citizen / non-SPR resident employee to be eligible for the tax exemption concession up to the NOR cap. In other words, tax deduction is only allowed on the portion of the contributions that is above the NOR cap.

Transitional Rules

The changes to the NOR scheme will take effect from YA 2009 for all NOR taxpayers, **except** for the following 2 groups of NOR taxpayers:

- (a) existing NOR taxpayers who have enjoyed **only** non-mandatory overseas contribution scheme concession prior to YA 2009, **unless they opt into** the new NOR scheme.
- (b) existing NOR taxpayers who have enjoyed **either** time apportionment concession or **both** time apportionment and non-mandatory overseas contribution scheme concessions prior to YA 2009, **provided they opt out** of the new NOR scheme.

The election by existing taxpayers to opt into or opt out of the new NOR scheme, once made, is irrevocable.

This **one-time** election has to be made no later than **15 April 2009** regardless of whether the taxpayer is claiming for any NOR tax concession for the YA 2009, failing which no appeals from those who did not make the election or fail to do so by the deadline would be considered. **BSL**

“Happy are those who dream and are ready to pay the price to make them come true.”

Did You Know?

(compiled by Tan Ching Chek)

Limited Partnerships Bill 2008 – New Business Vehicle

The Limited Partnerships Bill 2008 (the “Bill”) was passed in Parliament on 18 November 2008.

A limited Partnership (“LP”) is a new business structure which consists of one or more general partners and one or more limited partners.

A general partner is liable for all the debts and obligations of the LP incurred while he is a general partner of the LP. A limited partner will not be liable for the debts and obligations of the LP beyond the amount of his agreed contribution, solely by reason of his being a limited partner.

An individual or a corporation **[defined as any body corporate formed or incorporated or existing in Singapore or outside Singapore and includes any limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A) and any foreign company]** may be a general partner.

A limited partner shall not take part in the management of the LP and will not have the power to bind the LP. If the limited partner takes part in the management of an LP, he will be liable for the debts and obligations of the LP incurred while he so takes part in the management as though he were a general partner.

The First Schedule to the Bill lists the various activities which will not be regarded as taking part in the management of the LP. Examples of these activities are investigating, reviewing, approving or advising on the accounts or affairs of the LP or exercising any rights as a limited partner of the LP, or calling, requesting, attending or participating in a meeting of the partners or limited partners of the LP.

The LP would be an attractive business structure for persons who propose to conduct business as investors but who do not wish to take an active role in the management of the business, and who prefer to entrust the management of the business to person or persons who have the expertise and skills to manage the business and to assume unlimited liability.

The Bill provides that the Accounting and Corporate Regulatory Authority will be responsible for the administration of the Bill and provides for the appointment duties of the Registrar of Limited Partnership. Where every general partner of a LP is ordinarily resident outside Singapore, the Registrar may require a local manager to be appointed.

As a LP does not constitute a separate legal entity, tax treatment of the LP for the purposes of income tax and goods and services tax will be similar to that for a general partnership.

For more information on benefits of using the LP structure and establishing a LP, including tax issues, please contact the following persons for more details:

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Writer's Caveat

These articles have merely attempted to provide a broad overview on the subject matters. It is not in any way intended to be comprehensive and no specific action should be taken on the basis of the above without consulting your professional advisors.

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