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Real Estate Going Global Singapore

Tax and legal aspects of real estate investments around the globe

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Contents

All information used in this content, unless otherwise stated, is up to date as of 18 June 2012.

Real Estate Tax Summary – Singapore

General

Foreign investors may invest in the Singaporean commercial property market with little or no restriction.

Residential property is divided into three main groups, as follows:

- Private apartment blocks and condominium units.
- Public housing developed by the authorities.
- Landed property, or houses.

Foreign investors are generally limited to investing in private apartment blocks and condominium units. They are prohibited from purchasing the following property:

- Singaporean residential landed property; and
- all the apartments within a building or all the units in an approved condominium development, unless an approval is obtained from the relevant authority.

Foreign investors are also generally prohibited from investing in Singaporean public housing.

Loan financing

Generally, banks in Singapore will not finance the full acquisition price of Singaporean commercial property. When purchasing a Singapore residential property, it is possible to finance up to 80% of the market valuation of the property. Interest payments made to Singaporean banks on borrowings to directly acquire an investment property are deductible against rental income. However, certain restrictions can apply to losses and excess tax depreciation (see 'Tax depreciation and losses' below).

Withholding tax of 15% applies to interest paid to a foreign lender. This rate may be reduced through the application of double taxation treaties. Interest payments made are deductible for income tax purposes against rental income subject to the restrictions outlined above.

Singapore does not have formal thin capitalisation rules and as a result it is possible to structure a Singaporean property acquisition with considerable tax efficiency. However, attention should be paid to the application of general anti-avoidance provisions and specific conditions under the relevant double taxation agreements.

Rental income

Net rental income is taxable at the corporate tax rate of 17% (for accounting period ending in 2009 and onwards) in the case of a company. In the case of individuals, the net rental income is taxable at the rate of 20% if they are non-resident, and at the tax rate, ranging from 0% to 20% if they are resident.

In calculating net rental income, landlords are able to deduct all related outgoings and expenses incurred, including any interest payable on loans taken out to buy the property, property taxes payable, and repairs and maintenance costs.

Commercial property landlords must also charge Goods and Services Tax (GST), currently at 7%, on all rental income (see '*Goods and Services Tax*' below).

Tax depreciation and losses

Tax depreciation on plant, furniture, fixtures and fittings is only available to those taxpayers who are carrying on a trade, profession or business. The Inland Revenue Authority of Singapore (IRAS) regards property leasing as a non-business activity in some cases, such that tax depreciation is not available.

For taxpayers who are regarded as carrying on a trade, profession or business, tax depreciation claims can generally be made straight-line over three years. However, where the business is one of 'making investments', which includes the business of letting immovable properties, tax losses and excess tax depreciation cannot be carried forward or set off against any other income. What defines 'making investments' is a grey area.

Industrial building allowances (IBA) can also be claimed in respect of capital expenditure on the construction or purchase of an industrial building. Office buildings and residential properties do not qualify. An initial allowance of 25% is available, together with an annual allowance of 3% where the building is purchased new. Where it is purchased second-hand, only the annual allowance is available. However, IBA has been phased out with effect from 22 February 2010. With the phase-out, IBA will not be allowed on capital expenditures on the construction or purchase of industrial buildings or structures incurred after 22 February 2010, except in specified scenarios.

Capital expenditure which is incurred on or after 23 February 2010 up to the date of the completion of the construction or renovation/extension of an approved building or structure may qualify for Land Intensification Allowance (LIA). Generally, industry sectors with large land takes and low gross plot ratios may qualify for this LIA incentive. To enjoy the benefits under the LIA incentive, an applicant should obtain approval from the Economic Development Board from 1 July 2010 to 30 June 2015. Approved LIA recipients will enjoy an initial allowance of 25% and an annual allowance of 5% on qualifying capital expenditure incurred on or after 23 February 2010.

A special tax deduction is allowed for "renovation and refurbishment" expenditure incurred on certain fixtures, fittings and installations for renovations undertaken by companies. Deductions are capped at SGD 300,000 over a three year period from year of assessment 2013 onwards.

Disposal of property – tax depreciation

Where tax depreciation has been claimed on qualifying plant and machinery or qualifying industrial buildings, and that asset/property is subsequently sold, a balancing allowance or charge will be made to the vendor, depending on whether the proceeds are less than or greater than the written-down tax cost base.

Disposal of property – capital gains tax

There is no capital gains tax in Singapore, and therefore gains on the disposal of a residential or commercial property should be tax-free unless the property has been held as a trading asset, in which case the gains will be taxed at the prevailing corporate tax rate (currently 17%). The question of what is, and what is not, a trading asset is nevertheless the subject of much debate.

Tax losses

Generally, losses incurred in Singapore that are not subject to the restrictions described above may only be carried forward against future income, on the basis that they arise from the carrying on of a rental trade or business and subject to the continuity of the shareholdings test. However, with effect from year of assessment 2006 (accounting periods ending in 2005), losses of up to SGD 100,000 can be carried back one year. These provisions do not apply to a company that is in the business of making investments.

Withholding tax on dividends

There is no withholding tax on dividends paid by Singaporean companies.

Stamp duty

Stamp duty is levied on the sale or transfer of shares in a Singaporean company at the rate of 0.2% unless the shares are scripless. There are no look-through provisions for land rich companies.

Stamp duty is payable on the purchase price of Singaporean immovable property. The stamp duty rates are as follows:

- For the first SGD 180,000 – 1%.
- For the next SGD 180,000 – 2%.
- For amounts in excess of SGD 360,000 – 3%.

Leases with annual rental not exceeding SGD 1,000 are exempt from stamp duty. The above is usually borne by the purchaser (i.e. a buyer's stamp duty or BSD) unless otherwise agreed between the relevant parties.

For residential property purchases after 8 December 2011, additional buyer stamp duty is payable by the following purchasers at the corresponding rates on the total amount of consideration or value of the property, (whichever is the higher):

- Foreigners[1] and non-individuals – 10%
- Singapore permanent residents who already own one or more residential properties, whether owned wholly, partially, or jointly with others; and Singapore citizens who already own two or more residential properties, whether owned wholly, partially, or jointly with others – 3%

A Seller's stamp duty (SSD) was imposed on sellers who bought residential properties on or after 20 February 2010 and sold them within one year of acquisition. The SSD was calculated in accordance with the BSD.

Varying SSD rates will be subsequently imposed for residential properties which were acquired on or after 30 August 2010 and sold within three years of acquisition, depending on the holding period.

SSD is levied on residential properties that are acquired on or after 14 January 2011 and disposed of within a certain duration. The applicable rates are as follows:

- Holding period of 1 year: 16% of price or market value, whichever is higher.
- Holding period of 2 years: 12% of price or market value, whichever is higher.
- Holding period of 3 years: 8% of price or market value, whichever is higher.
- Holding period of 4 years: 4% of price or market value, whichever is higher.

Goods and services tax (GST)

GST, which is currently at 7%, is payable on the acquisition cost of commercial property. However, if an investor acquires commercial property with an existing rental income stream, this may be viewed as a transfer of a going concern, which is an excluded transaction and therefore not subject to GST. GST is payable on rentals derived from commercial property, but this can be recovered by the tenant if his business is registered for GST purposes.

GST is not payable on the purchase of residential property, and similarly is not levied on rentals from residential property, as these are exempt supplies.

Property tax

Property tax is payable annually, and is determined by the Property Tax Division of the IRAS. Generally, it is based on the annual rental value of the property. The prevailing property tax rate is 10% for commercial, industrial and residential properties. In the case of owner-occupied residential properties, the property tax rate is a progressive rate from 0% to 6% (from 1 January 2011 onwards).

[1] Foreigners of certain nationalities who fall within the scope of respective Free Trade Agreements will be accorded same treatment as Singapore citizens.

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