

Interesting times for tax advisors in Singapore

Executive summary

Vikna Rajah, Partner and Head of Tax, Trust and Private Clients at Rajah & Tann talks about an increase in the net inflow of wealth into Singapore Banks in the lead-up to the implementation of the Common Reporting Standard this September, as well as an increase in tax structuring out of the country. He attributes this to the fact that Singapore is viewed as an extremely safe and independent jurisdiction, with generous incentives for trust structures and strong rule of law and regulations. Rajah also talks about the new scrutiny with which the Inland Revenue Authority of Singapore looks at tax planning structures, to see if they fall within the ambit of the general anti-avoidance rules found in section 33 of the Income Tax Act.



VIKNA RAJAH
Rajah & Tann

RAJAH & TANN ASIA IS SOUTH-EAST ASIA'S **LARGEST LAW** firm, employing 700 lawyers and fee earners across the region, with between 350 and 360 lawyers in its Singapore office. Vikna Rajah is a partner at the firm, and heads its Tax, Trust and Private Client practice.

Rajah advises multinational corporations (MNCs) and sovereign funds on the complexities of tax structuring, and his team's particular area of expertise is in tax disputes. He provides an example: "If tax authorities assess you to more tax than you think you should be paying based on your interpretation of the law; say if deductions are not being allowed for expenses in relation to royalties on the basis that the transaction represents a transfer of ownership, we can represent you to make submissions to the IRAS (Inland Revenue Authority of Singapore). If you have a legitimate legal argument which IRAS does not accede to, we could bring them to court."



In its Private Client practice, the firm works closely with the most affluent families in the region with succession planning and bespoke tax structures, to help them maintain wealth within the family across generations. “We help ensure the fabric, the moral fibre of the family by ensuring that its values are in place, helping to outline family constitutions which govern the way the family handle their affairs.” Within the firm’s Trust practice, Rajah also works with trustees on issues in administering trusts, as well as bespoke tax structures.

Common Reporting Standard and inflow of wealth

Rajah notes that with the Common Reporting Standard (CRS) being implemented in September this year, it

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has been interesting for him to perceive that there has been no increase in net outflow of capital from Singapore, although he is waiting for official figures to be released by the Monetary Authority of Singapore. On the contrary, there has been an increase in net inflow from certain jurisdictions into the country, and an increase in new tax structuring out of Singapore.

Rajah believes that this is because Singapore is seen as an extremely safe and independent jurisdiction, with strong rule of law and regulations. The city also has generous incentives for trust structures, and for these reasons it is considered a ‘perfect’ banking hub. From a convenience and practical point of view, many clients also like to have their banks and trustees in the same jurisdiction.

He adds: “As you know, Singapore gained its independence in the mid-1960s, and since then, a lot of wealth has been generated in this country. We are now beginning to see the first generation handing off businesses to the second generation. That is also something we have been assisting with.”

New scrutiny

A recent development in Singapore is the new scrutiny with which the IRAS looks at tax planning structures to see if they fall within the ambit of the general anti-avoidance rules (GAAR) found in section 33 of the Income Tax Act. According to Rajah, it was following the only income tax avoidance case in Singapore in recent decades (Comptroller of Income Tax v AQQ and another appeal (2014) SGCA 15) and the principles outlined by the Court of Appeal decision in this case, that the IRAS has begun to ‘look more rigorously’ at tax structures to ascertain if they fall within the ambit of the GAAR.

Thus, Rajah notes that MNCs and other companies structuring out of Singapore need to ensure that the structures are ‘not too aggressive’ and that they fall out of the ambit of the GAAR and remain within the boundaries of the law. ■