



PORTCULLIS TRUSTNET

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SINGAPORE UPDATE

Singapore Enhances Tax Co-operation with India

On 24 June 2011, Singapore and India signed a Protocol to incorporate the internationally-agreed Standard for the exchange of information for tax purposes in their standing Agreement for the Avoidance of Double Taxation (“DTA”).

The Protocol replaces the previous Article 28 for exchange of information with a new Article. Under the new Article 28, information will be exchanged between the tax authorities of the two countries where it is “forseeably relevant” to the administration and enforcement of the domestic laws of the two countries.

In Singapore, Article 28 is brought into effect by the Income Tax (Amendment) (Exchange of Information) Act 2009. This Act provides the legislative framework for the Inland Revenue Authority of Singapore to obtain such information from any person who is believed to have possession or control of the information.

In instances where such information is protected from unauthorized disclosure under the Banking Act (Cap 19) or the Trust Companies Act (Cap 336), the Comptroller of Income Tax (“Comptroller”) needs to obtain a court order from the High Court of Singapore before a bank or a trust company is obliged to disclose data involving bank or trust accounts. Persons against whom the order is made or persons in relation to whom information is sought may apply to the High Court of Singapore within 7 days from the date of the order to vary or discharge the order.

Please note that the information contained herein is intended to provide general information to the client and professional contacts of Portcullis TrustNet. It does not purport to be comprehensive and is in no way intended and should not be relied upon as legal or tax advice.

Notwithstanding Singapore's obligation with treaty partners, taxpayers' rights and privacy remain of paramount importance and will continue to be respected. Spurious requests for information or "fishing expeditions" from other countries will be rejected. In particular, certain prescribed criteria¹ must be fulfilled by the requesting state before Singapore is obliged to obtain and exchange the information requested. Such criteria include the following information:

1. Purpose of the request
2. The identity of the competent authority
3. The identity of the person in relation to whom the information is requested
4. A statement of the information requested for including its nature, the relevance of the information to the purpose of the request, and the form in which the competent authority wishes to receive the information from the Comptroller
5. The grounds for believing that the information requested for is held by the Comptroller, the Comptroller of Goods and Services Tax, the Comptroller of Property Tax, the Chief Assessor or the Commissioner of Stamp Duties, or is in the possession or control of a person in Singapore
6. The name and address of any person believed to have possession or control of the information requested for
7. A statement that the request is in conformity with the law and administrative practices of the country of the competent authority, and that the competent authority is authorized to obtain the information under the laws of that country or in the normal course of administrative practice
8. A statement that the country has pursued all means available in its own territory to obtain the information including getting the information directly from the person in relation to whom the information is requested
9. The details of the period within which that country wishes the request to be met
10. Any other information required to be included with the request under the prescribed arrangement
11. Any other information that may assist in giving effect to the request

The Protocol is not yet ratified and does not have the force of law.

A copy of the Protocol can be viewed by clicking on the following link:
<http://www.iras.gov.sg/irasHome/page03a.aspx?id=12328>

¹ Eighth Schedule of Singapore Income Tax Act (Chapter 134).

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