



The CCS Newsletter

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GLOBAL INVESTOR PROGRAMME (“GIP”)

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The GIP eases the way for foreigners to set up and operate businesses in Singapore. It was created by Singapore Economic Development Board (“EDB”) to attract global talent to invest, work and live in Singapore. Contact Singapore, an alliance of the Singapore Economic Development Board and Ministry of Manpower, assists by linking up entrepreneurs and investors with local business networks as well as facilitating a range of immigration processes for their entry and stay in Singapore.

Under the GIP, investors have different options for investing into industries in biomedical sciences, clean energy, infocomms and media, among others.



The applicant may choose among any of the following options:

Assessment criteria for GIP application	Current Rules	New Rules
For applicants with entrepreneurial and business track record	Must have a company turnover of: a) at least S\$10 million per annum in the most recent year; and b) at least S\$10 million per annum on average for the last 3 years	With effect from 1 October 2010, must have a company turnover of:- a) at least S\$30 million per annum in the most recent year; and b) at least S\$30 million per annum on average for the last 3 years

Investment Options	Current Rules	New Rules
In addition, applicants must make an investment and their options are as follows:	Option A: Invest at least S\$1 million in a new business start-up or expansion of an existing business operation. Option B: Invest at least S\$1.5 million in a new business start-up or expansion of an existing business operation or in a GIP-approved fund. Option C: Invest at least S\$2 million in a new business start-up or expansion of an existing business operation or in a GIP-approved fund. Up to 50% of the amount can be used to purchase residential property occupied by the applicant.	With effect from 1 January 2011: Option A: Invest at least S\$2.5 million in a new business start-up or expansion of an existing business operation. Option B: Invest at least S\$2.5 million in a GIP-approved fund. The option of partial investment in residential property for owner occupancy would no longer be available.



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“With effect from 1 January 2011, parents and parents-in-law are not eligible to be included in the main applicant’s GIP application for PR status.”

Provisions for Entrepreneur’s family	Current Rules	New Rules
An entrepreneur who incorporates a company in Singapore via the programme gains eligibility for their spouse and children (below 21 years old) to apply for Singapore Permanent Residence (“PR”) under the investor’s own residence application. Male dependants will then be liable for Singapore National Service. An investor’s unmarried children over 21 years old are eligible to apply for the renewable 5-year Long Term Visit Pass, subject to the investor’s re-entry permit validity.	Parents and parents-in-law of applicants are eligible for PR at an additional investment of S\$300,000 per person	With effect from 1 January 2011, parents and parents-in-law are not eligible to be included in the main applicant’s GIP application for PR status. Instead, they can apply for a 5-year Long Term Visit Pass (LTVP), which is renewable and tied to the validity of the main applicant’s re-entry permit.

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TRANSFER PRICING IN SINGAPORE

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Transfer Pricing

Transfer pricing refers to the prices at which related entities (eg: parent corporations, subsidiaries and associated companies) set the prices that they pay each other for goods, services, use of funds, intangible assets and similar transactions.

Taxation authorities have been stepping up audit efforts to verify the transfer pricing of cross border related party transactions, including related party loans, credit guarantees, cash pools etc as there are concerns that transfer pricing is used to shift income from higher tax to lower tax jurisdictions.

Taxpayers need to monitor and control transfer pricing. If related party transactions are found not to have complied with the arm’s length principle, adjustments may be made to their profits and tax liabilities. Aside from having to pay back taxes, interest and penalties, a further risk is that of double taxation, where one tax jurisdiction will insist that more income is attributable to their tax jurisdiction, while the other tax jurisdiction may disagree.

Transfer Pricing in Singapore

The Inland Revenue Authority of Singapore (“IRAS”) has issued e-Tax guides setting out the Transfer Pricing Guidelines for Singapore taxpayers on 23 February 2006 and 23 February 2009.

In the 2006 e-Tax guide, the IRAS affirms the view that the arm’s length principle is the correct and most appropriate standard for determining the pricing between related party transactions. The guide provides guidance to taxpayers on application of the arm’s length principle and the recommended preparation and maintenance of documentation to demonstrate compliance with the arm’s length principle.



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Related party loans

The 2009 e-Tax guide provides guidelines for related party loans and the arm's length rate of interest for the use of borrowed funds.

A related party loan can arise in the following situations:

- (a) a domestic entity lends to, or borrows from, a related domestic entity (hereinafter referred to as "related domestic loan");
- (b) a domestic entity lends to or borrows from a related foreign entity (hereinafter referred to as "related cross border loan").

A domestic entity means any business entity that is incorporated or registered in Singapore and is carrying on a business in Singapore.

A loan arises when there is money lent in one form or another, irrespective of whether the loan is made through a written agreement or otherwise. It includes credit facilities or intercompany credit balances arising from the normal course of sales and provision of services which are left uncollected over a substantial period of time beyond which a third party trade creditor would typically allow.

Related domestic loans

Before the e-Tax guides were issued, it is common practice for taxpayers to extend / receive interest-free loans or interest-bearing loans at rates not supported by transfer pricing analysis.

The IRAS will continue to allow taxpayers to extend or receive such loans, provided that the lender is not in the business of borrowing or lending funds (such as banks or other financial institution, finance and treasury centre). With this, the IRAS will disallow deduction on a portion of the taxpayer's interest costs ("interest expense restriction") claimed on such loans.

Whilst the IRAS recognizes that the above practice does not ordinarily conform to the arm's length principle, the interest expense restriction applied at the lending entity serves as a close proxy to the arm's length principle.

Related cross border loans

Singapore entities have been allowed time to restructure their loans to reflect commercial conditions and obtain an arm's length rate of interest. With effect from 1 January 2011, all loan arrangements extended to overseas related parties require interest to be applied on arm's length basis.

Guidance on the determination of the arm's length interest

The Comparable Uncontrolled Price method is the preferred method for determining the arm's length pricing for related party loans. When conducting a comparability analysis, all relevant facts and circumstances relating to the loan must be considered. These factors include:-

- nature and purpose of the loan;
- market conditions at the time the loan is granted;
- principal amount, duration and terms of the loan;
- currency in which the loan is denominated;
- exchange risks borne by the lender or borrower;
- security offered by the borrower;
- guarantees involved in the loan;
- credit standing of the borrower;
- interest rate prevailing at the situs of the lender or borrower for comparable loans between unrelated parties.

As practical guide for the arm's length analysis, the IRAS suggests that taxpayers rely on a suitable reference rate, such as the Singapore Inter Bank Offered Rate ("SIBOR"), the London Inter Bank Offered Rate ("LIBOR"), prime rates offered by banks or specific rates quoted by banks for similar loans. Adjustments could then be made to the reference rate, based on the outcome of the comparability analysis undertaken, to arrive at the appropriate arm's length rate or range of rates.

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Conclusion

Observing the arm's length standard is part of Singapore's tax treaty obligations. The arm's length principle is also the internationally adopted standard. The adoption and compliance with this principle will reduce the incidence of transfer pricing adjustments, improve the resolution of transfer pricing disputes and hence reduce the potential for double taxation to arise for related party loans.

Taxpayers who choose to extend or receive interest free loans or interest bearing loans not supported by transfer pricing analysis should recognize that when such related cross border loans are subject to transfer pricing audits / adjustments, there may be higher risk of unresolved disagreement over the adjustments and hence double taxation.

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- Update and Maintenance of your Accounting Records and Reports
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The Division offers a broad range of both direct and indirect taxation services, providing you with up to date information and advice to achieve tax effective solutions.

- Tax Compliance Services
- Tax Advisory Services

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The Corporate Secretarial Services Division can offer the following services depending on your needs:

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- Acting as Corporate Secretaries and Secretarial Agents for private or public limited companies
- Registration of a Business Name, Limited Liability Partnership and Representative offices
- Liquidation

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