# Choosing a home for the family office: practical and legal considerations

Your global tax partner

In establishing (or relocating) a single family office, numerous factors must be assessed: immigration law; taxation of the family office team (which may include family members with high value assets and complex holding structures); taxation of the family office; choice of entity; transfer pricing; costs to implement; and so on. In addition to tax and other legal issues, qualitative factors must also be considered, such as political and economic stability; ease of travel; ease of hiring educated local staff; quality of life; and whether the country is welcoming to immigrants who move to the country as a part of the family office team.

1 **SINGAPORE**. A diamond-shaped island city-state 31 miles across and 17 miles north-to-south with 6 million residents.

2 **Location.** Established by the British East India Company in 1819 for its situation in the heart of Asia on the Malacca Straits, Singapore is the world's second-busiest container port. Most shipping between Europe and the Far East (China, Japan, Korea) passes through the Straits of Malacca.

3 Imperial Airways began flying from London to Singapore in 1933. A year later in 1934, Qantas Empire Airways extended the service from Singapore to Brisbane, Australia. Singapore Changi Airport holds the title of the world's best airport. The airport is the sixth busiest international airport; it serves more than 100 airlines flying to 400 cities. On arrival, one can reasonably expect to go from aircraft through Immigration, baggage pick-up and Customs to the taxi stand within 30 minutes.

4 **Reassuringly expensive.** Singapore has the highest cost of living of any city in the world.

5 **Language and education.** *International schools*. There are any number of international schools in Singapore, including:
- Australian International School Singapore
- Canadian International School
- Lycée Français de Singapour
- German European School Singapore
- Global Indian School Singapore
- Yuvabharathi International School
- Singapore American School
- Singapore Korean International School
- Swiss School in Singapore
- Japanese School Singapore
- Waseda Shibuya Senior High School in Singapore
- Hollandse School
- United World College of South-East Asia

6 *Local education.* English is the medium of instruction in local Singapore schools. Local schools offer 'O' Levels, 'A' Levels and the International Baccalaureate.

7 The tertiary education system retains the distinction between polytechnics offering diplomas and university offering degrees. There are five local polytechnics and six universities in Singapore; as well as a diploma-granting institute of technical education with three colleges. There are also two arts institutes granting diplomas and degrees.

8 **Government.** Singapore has a perfect record of political stability: the same party has formed the Government for 60 years since the country became self-governing in 1959. Only the North Korean Workers' Party and the Chinese Communist Party have been in government without interruption for longer.

9 Of 89 MPs in Parliament, the ruling party has 82 and the opposition seven MPs.

10 **Low crime or no crime**. Singapore holds the title of the world's safest country, and it is ranked first for order and security.

*No country for silly walks.*

11 **Law.** Singapore law should be easily comprehensible because it has both English common law and statutory roots. UK and Commonwealth laws continue to provide raw material for post-independence legislation. Eg, the Income Tax Act has its roots in the Britain's Model Income Tax Ordinance for the colonies; the GST Act in New Zealand GST and UK VAT; the Trustees Act in the UK Trustees Acts 2000 and 1925; and the Stamp Duties Act in the English Stamp Act 1891.

12 **TAX SYSTEM.** *Gains.* There is no capital gains tax. But beware the "badges of trade"; as nature abhors a vacuum, so the tax man is inclined to treating gains as trading profits.

13 **Income.** Income tax is territorial, meaning that foreign-sourced income is outside the scope of income tax unless and until it is received in Singapore. This embodies the British principle of colonial taxation, which was follows:

SCOPE OF INCOME TAX

> [T[he most appropriate scheme for the Colonies generally is one which imposes tax upon income which either has its origin in the Colony, or, while having its origin outside the Colony, is received in the Colony. The adoption of this straightforward rule does not result in anything more than the taxation of income that comes within the Colonial jurisdiction; moreover, it not only avoids the various difficulties inherent in an Income Tax code under which the amount to be charged depends in part upon whether the person is resident or non-resident, but also reduces the problems arising out of double taxation of income to comparatively small dimensions.

14 *Individual taxpayers.* In principle, foreign-sourced income is subject to tax when and if it is remitted to Singapore. However, individuals enjoy a blanket tax exemption on any and all foreign-sourced income that they remit. The exemption applies equally to residents as it does to non-residents. In essence, for individual taxpayers, Singapore has a remittance basis of taxation accompanied by exemption on remittance. Thus a family member in Singapore will pay no tax on foreign-sourced gains or returns on investment of any kind or distributions from offshore trusts remitted to Singapore.

15 The remuneration paid by the family office to the people staffing it (whether family members or outsiders) will be, of course, subject to tax. There are 11 marginal tax rates from 0% to the top rate of 22%:

| *Chargeable income* | *Tax rate* | *Tax payable* | *Effective rate* |
|---|---|---|---|
| First $20,000 | 0% | 0 | |
| Next $10,000 | 2% | $200 | |
| First $30,000 | | $200 | 0.7% |
| Next $10,000 | 3.5% | $350 | |
| First $40,000 | | $550 | 1.4% |
| Next $40,000 | 7% | $2,800 | |
| First $80,000 | | $3,350 | 4.2% |
| Next $40,000 | 11.5% | $4,600 | |
| First $120,000 | | $7,950 | 6.6% |
| Next $40,000 | 15% | $6,000 | |
| First t $160,000 | | $13,950 | 8.7% |
| Next $40,000 | 18% | $7,200 | |
| First $200,000 | | $21,150 | 10.6% |
| Next $40,000 | 19% | $7,600 | |
| First $240,000 | | $28,750 | 12.0% |
| Next $40,000 | 19.5% | $7,800 | |
| First $280,000 | | $36,550 | 13.1% |
| Next $40,000 | 20% | $8,000 | |
| First $320,000 | | $44,550 | 13.9% |
| Above $320,000 | 22% | | |

16 In brief, the tax on S$320,000 altogether (about US$236,000) is effectively 13.9%; anything beyond that gets taxed at 22%.

17 *Social security.* There are no social security contributions on employee remuneration except in the case of Singapore permanent residents and citizens.

18 *Family office.* The usual business form is a private limited company. The typical family office is a two-company arrangement where one company is the family office proper and another company serves as the investment-holding entity.

19 *Company directors.* There are no professional or educational requirements for a person to be a director of a Singapore company.

20 *Financial services regulation*. A “related corporations” exemption from fund management and financial advisers’ licensing applies to a single family office.

21 *Company income tax.* The company tax rate is 17%. That said, every company is exempt from tax on (1) three-fourths of the first $10,000 of the income liable to tax, and (2) half of the next $190,000. Effectively, then, tax is 8.3% on the first $200,000 of income that is liable to tax, and 17% on taxable income over and above $200,000. So this would be the level of tax the family office will pay on the fees it charges for its management and advice — unless it is granted a concessionary tax rate (see next).

22 *Fund management tax incentive*. A five-year 10% tax rate (vs the standard 17%) is available to family offices on application to the Monetary Authority of Singapore (MAS). The incentive is at the MAS’s discretion, but the thresholds to qualify for consideration are that the family office:

(1) employs three or more investment professionals; and

(2) manages assets worth S$250 million (about US$185 million) or more.

23 *Investment income.* The Singapore family office may manage investments held by either an offshore or an onshore company or, indeed, both.

24 An onshore holding company will have 85 tax treaties to call on to reduce or eliminate withholding tax at source.

25 On remittance to Singapore, a company's foreign-sourced dividends are exempt from tax if the dividends (or the underlying profits) have been subject to tax at source. In other words, double taxation of corporate dividend income is eliminated by way of exemption.

26 When foreign-sourced income is remitted that does not qualify for exemption, credit is given for any tax paid/payable at source, either as relief against double-taxation under an applicable treaty or, where there is no treaty, as a unilateral tax credit.

27 *Bypassing the jurisdiction*. It is also possible to skip being subject to tax on foreign-sourced income entirely if doing so would be more beneficial. As already noted, under the territorial system, foreign-sourced income that is not received in Singapore is beyond the scope of tax. Any income, whether it is remitted to (and subject to tax in) Singapore or not, forms part and parcel of a company's distributable profits for accounting purposes. And, for Singapore tax purposes, the use of foreign-sourced income kept offshore by a company to pay dividends to its shareholders does not amount to a constructive remittance so long as the funds involved are not remitted to, transmitted or brought into to Singapore in the process.

28 *Fund tax-exemption schemes.* Moreover, Singapore has three tax-exemption schemes which are quite useful to the investment-holding arm of a family office. These are (1) the resident fund, (2) the enhanced-tier fund and (3) the offshore fund tax-exemption schemes. The benefits of these exemption schemes are that:
(1) they exempt virtually all profits and gains (not just foreign-sourced dividends, as under the normal tax regime); and, accordingly
(2) allow the use of onshore bank accounts (rather than having to keep profits and gains offshore that might otherwise be subject to tax onshore).

29 *Offshore fund.* A foreign citizen not resident in Singapore, an offshore company or a foreign trust whose funds are managed by a Singapore family office benefits automatically from the offshore fund tax-exemption scheme. There is no need to apply for the incentive. To the extent that the foreign non-resident, offshore company or foreign trustee has no income subject to tax, there is no requirement to file a Singapore tax return.

30 *Onshore fund.* A Singapore-resident investment-holding company whose funds are managed by a Singapore family office can apply to the MAS for exemption. The threshold requirements are that the fund's business spending will be S$200,000 (about US$148,000) or more a year and that the fund is able to articulate and make a commitment to the MAS with respect to its investment strategy, but approval is entirely at the discretion of the MAS.

31 *Enhanced-tier fund*. This scheme accommodates any business form (eg, companies, trusts and limited partnerships), whether onshore or offshore (although fund administration must be undertaken locally). The threshold requirements to be considered for the enhanced-tier incentive are a fund size S$50 million (about US$37 million) or larger, its business spending in Singapore will be S$200,000 or more, an investment strategy that the fund may not change except with prior approval from the MAS, and the family office as manager of the fund must employ three or more investment professionals in that role.

32 *Outbound dividends.* The dividends paid by a Singapore-resident company are exempt from tax and there is no dividend withholding tax.

33 **Executive summary.** In a nutshell, (1) the foreign-sourced dividend income exemption, (2) the ability to pay exempt dividends out of income kept offshore without triggering a constructive remittance and/or (3) the fund tax-exemption schemes, mean that there generally should not be any tax to pay on investments managed by a Singapore family office. On the contrary, the treaty network will moderate tax at source on the underlying gains and profits, and the beneficiaries will only be subject to tax (if any) at home.

34 **HIRING INTO SINGAPORE.** As of June 2018, the number of citizens and permanent residents in work in Singapore was about 2.2 million. There were about 1.3 million work passes issued to foreigners. Therefore, about 37% of the working population are non-permanent-resident foreigners. Permanent residents form 15% of the overall “resident” population, and (while I don’t have a figure) a higher percentage of the “resident” working population. If we assume, conservatively, that permanent residents are 15% of the number of citizens and permanent residents employed in Singapore, then, since permanent residents are not Singapore citizens by definition, the percentage of foreign nationals working in Singapore actually exceeds 46%.

35 **Professionals, managers and executives (PMEs).** Employment passes for PMEs are typically granted for 12 or 24 months in the first instance and renewable periodically for 24 or 36 months at a time. Labour market testing is not obligatory in the following situations:
(1) where the family office has fewer than 10 employees; or
(2) the position pays a fixed monthly remuneration of S$15,000 (about US$11,000) or more; or
(3) the individual is an intra-corporate transferee as defined by WTO GATS.

36 **Dependants.** An employment pass holder whose fixed monthly remuneration is S$6,000 (about US$4,500) or more may be accompanied by his/her spouse/partner and children. Parents are also eligible dependants if the employment pass holder’s fixed monthly remuneration is S$12,000 (about US$9,000) or more.

38 **TIMELINES.** Incorporating a company takes one day.

39 Setting up a corporate account for online Government transactions takes one week.

40 An employment pass application is decided in three weeks.

41 An application for the resident or the enhanced-tier fund tax-exemption scheme is decided in two months.

42 **GLOBAL INVESTOR PROGRAMME (GIP).** The GIP is an immigration programme granting immediate permanent residence in Singapore. The programme has a number of investment options. One option is offered to families with a net worth of S$400 million (about US$295 million) or more in exchange for commitment to a five-year business plan to:
(1) set up a single-family office with a share capital of S$2.5 million (about US$1.85 million) in Singapore;
(2) manage at least S$200 million (about US$148 million) held anywhere in the world;
(3) employ five or more people and incur S$1 million (about US$740,000) or more in business expenditure a year by its third year of operation.

43 An application for permanent residence under the GIP is decided in four to eight months.

44 **CONCLUSION.** The World Bank ranks Singapore 2nd out of 190 countries for ease of doing business.