

31 March 2023

Circular issued by SIAC Registrar on applicability of Withholding Tax to non-resident arbitrators

On 11 April 2022, we wrote to inform arbitrators that the Singapore Government had announced that, as part of its regular review and refinement of Singapore's tax system to keep the tax system fair and resilient while maintaining competitiveness, there will be some changes to the withholding tax regime for non-resident arbitrators (and mediators). It was announced that:

- (a) The withholding tax exemption for non-resident arbitrators and mediators will be extended for one more year, i.e., until 31 March 2023.
- (b) From 1 April 2023 to 31 December 2027, withholding tax will apply on income derived by non-resident arbitrators and mediators from arbitration and mediation work carried out in Singapore. However, this will be at a concessionary withholding tax rate of 10% on gross income, subject to conditions.

This circular sets out the approach that will be adopted by SIAC, beginning from 1 April 2023, in computing withholding tax for non-resident arbitrators in SIAC-administered cases and in cases in which SIAC provides fund-holding services:

1. No withholding tax will be applicable in respect of work carried out by an arbitrator outside of Singapore.
2. The concessionary withholding tax rate of 10% will apply prospectively, i.e., only to income derived by non-resident arbitrators in respect of work as arbitrator carried out in Singapore on or after 1 April 2023.
3. The above withholding tax will not apply to non-resident arbitrators who are eligible for relief under a Double Taxation Agreement (DTA) between Singapore and the non-resident arbitrator's country of residence. Arbitrators may use the [DTA Calculator for Non-resident Professionals](#) to check if Singapore has an existing treaty in place with the arbitrator's country of residence (under Section 1 of the calculator). Based on the parameters entered (including a record of the arbitrator's physical presence in Singapore), the calculator will indicate the tax treatment/tax rate to be applied under the "Result" section.
4. If an arbitrator is eligible for a tax exemption under the applicable DTA, Form IR586 – Claim for Tax Treaty Exemption (for services rendered by Non-Resident Professionals) will be displayed automatically for completion and submission to SIAC for SIAC's reference and records.

5. If withholding tax is applicable and no tax exemption applies, prior to processing any payment of arbitrator's fees to non-resident arbitrators, SIAC will require arbitrators to provide a declaration of the following:
 - (i) The apportionment of work done before 1 April 2023; and on or after 1 April 2023 in:
 - (a) percentages; or (b) hours; and
 - (ii) **In respect of the work done on or after 1 April 2023 only**, the further apportionment of work done in Singapore and outside of Singapore in: (a) percentages; or (b) hours.
6. An example of the manner in which arbitrators may provide the declaration above in respect of the apportionment of work is set out at **Appendix I**.
7. SIAC will work together with non-resident arbitrators to ensure the seamless implementation of the new tax regime.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Nash', written in a cursive style.

Kevin Nash
Registrar
Singapore International Arbitration Centre

Appendix I

Arbitrators may provide SIAC with the apportionment of work done in either Column X or Column Y:

	Ref	Column X	Column Y
Period of appointment as arbitrator		15 Oct 2022 to 15 Dec 2023	
Work done before 1 Apr 2023 (i.e., from 15 Oct 2022 to 31 Mar 2023)	A	50 hours	50%
Work done on or after 1 Apr 2023 (i.e., from 1 Apr 2023 to 15 Dec 2023)	B		
(a) Work done in Singapore	C	10 hours	10%
(b) Work done outside of Singapore	D	40 hours	40%
Total work done during the payment period	A+B	100 hours	100%

Note: Withholding tax will only be calculated on the basis of the 10 hours or the 10% of work done in Singapore (see Row C above).