
Singapore

International Estate Planning Guide

IBA Private Client Tax Committee

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Updated 6/2026

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1. Wills and disability planning documents

A. Will formalities and enforceability of foreign wills

1. FORMAL REQUIREMENTS

A will is properly executed according to Singapore law if:

- it is in writing;
- it is signed at the bottom by the testator as their will in the presence of two or more witnesses who are present at the same time; and
- those witnesses add their signatures to the will in the presence of the testator.

According to the Wills Act 1838, the inclusion of an attestation clause is not necessary. In practice, however, a will should include an attestation clause, so as to avoid having to obtain affidavits from the witnesses to prove that the will was properly executed.

It is important to note that any gifts given to an attesting witness or their spouse will be null and void.

Singapore law also recognises wills that have been properly executed in accordance with the applicable law in force, namely a will that is valid:

- in the territory where it was executed;
- in the territory where the testator was domiciled at the time the will was executed or at the time of their death;
- in the territory where the testator was habitually resident when the will was executed or at the time of their death; or
- in the state of which the testator was a national at the time the will was executed or at the time of their death.

A will is revoked in the following circumstances:

- by marriage, unless it is made in contemplation of marriage;
- by a subsequent will or codicil;
- by a declaration in writing declaring the intention to revoke it and that is executed in the manner in which a will is required to be properly executed; or
- by the testator burning, tearing or otherwise destroying the will or another person conducting such activities in their presence and at their direction, with the intention of revoking the will.

2. TESTAMENTARY CAPACITY

The statutory age of testamentary capacity is 21 years.

The Singapore High Court has adopted the English requirements related to testamentary capacity as follows:

- the testator must understand the nature of the act and what the consequences are;
- they must know the extent of their property which is being disposed;

- they must know who their beneficiaries are and appreciate their claims to their property; and
- they are free from an abnormal state of mind that might distort their feelings or judgments relevant to making the will.

In other words, for a will to be valid, the testator must be 21 years old and above and have the mental capacity to make a will, have the knowledge and be able to approve the contents of the will and be free from undue influence or the effects of fraud.

3. PROBATE OF FOREIGN WILLS

A will has a foreign connection if it is not governed by Singapore law and was made outside Singapore by a person who was not domiciled or habitually resident in Singapore.

It is possible for a foreign will to be subject to an application for a grant of probate in Singapore. An affidavit of foreign law by a qualified person, or a certificate by a notary in relation to foreign law, will have to be provided. The affidavit or certificate should state:

- who is entrusted with the administration of the estate by the court with jurisdiction over probate matters at the place where the deceased died domiciled, or who is entitled to administer the estate by the law of the place where the deceased died domiciled; and
- whether the will was properly executed in accordance with the Wills Act 1838.

B. Will substitutes

There are other ways in which property can pass from one to another apart from by operation of a will. These mechanisms may be used to help bypass the probate process, thereby ensuring a smoother transition or succession of assets.

1. JOINTLY TENANTED PROPERTIES/JOINT BANK ACCOUNTS

Rule of survivorship

Immovable property held under joint tenancy is subject to the rule of survivorship, whereby the deceased joint tenant's interest is extinguished by the operation of law and the property remains in the hands of the surviving joint tenant or joint tenants. This is the case notwithstanding any applicable provisions contained in the will.

There is a rebuttable presumption as to the rule of survivorship in the context of joint bank accounts in Singapore. While the documents related to bank account opening would usually assume the applicability of the rule of survivorship, this position may be defeated if it is proven that this is not what the parties intended.

Presumption of resulting trust

Where the deceased contributed a disproportionately greater amount of funds to a bank account held jointly with the survivor (or, indeed, funding in relation to a property that is jointly tenanted by the survivor) and the objective evidence suggests that the deceased, nevertheless, did not intend to benefit the survivor in this way, a presumption of resulting trust may arise. This presumption means that the survivor, rather than inheriting the joint account and its contents (or the jointly tenanted property), instead holds those assets in trust as part of the deceased's estate, to be distributed to the deceased's testamentary legatees or in accordance with intestacy law.

Presumption of advancement

A presumption of advancement can displace the presumption of resulting trust, although this will only operate where there is no direct evidence that may reveal the parties' intentions. The Singapore courts have accepted that the presumption of advancement typically arises in the context of certain pre-existing relationships between the parties, where the contributor, typically the deceased, is regarded as morally obliged to provide for the person benefitting (the survivor). If the presumption of advancement applies, the legal and beneficial ownership of the assets and monies in the joint account or jointly tenanted property will devolve to the survivor. Some examples of such relationships include spousal relationships and parent-child relationships.

2. INTER VIVOS TRUSTS

Please refer to section 3 (trusts, foundations and other planning structures) below for our discussion on trusts.

C. Powers of attorney, directives and similar disability documents

There is no statute or enacted law in Singapore that fixes the age of majority across the board. The age of majority under common law is 21 years. However, several statutes fix a lower age of legal capacity (for example, under the Civil Law Act 1909, a minor who has reached 18 years old can enter into certain contracts and bring or defend a legal action in their own name). Other statutes mirror the common law position (for example, under the Wills Act 1838, a will made by any person under the age of 21 years old is invalid).

Under the Mental Capacity Act 2008, a person is regarded as lacking capacity in relation to a matter if they are unable to make a decision for themselves in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. A person is considered unable to make a decision for themselves if, at the time, they are unable to understand the information relevant to the decision, to retain that information, to use or weigh that information as part of the decision-making process or to communicate their decision (whether by talking, using sign language or by any other means).

1. LASTING POWER OF ATTORNEY

An adult can draw up a lasting power of attorney (LPA) while they have the mental capacity to do so. The LPA must be registered with the Office of the Public Guardian in order to be valid. Only LPAs registered in Singapore will be recognised for Singapore purposes.

Under an LPA, the adult drawing up the instrument (ie, the donor) can appoint one or more donees (including professional and/or corporate donees) and empower them to make decisions on their behalf when the donor loses their mental capacity. These decisions may relate to the donor's personal welfare and/or their property and affairs. Examples of decisions involving a donor's personal welfare include deciding where the donor should live, day-to-day care decisions and decisions relating to the donor's healthcare and medical treatment. Examples of decisions involving a donor's property and affairs include operating the donor's bank accounts, dealing with the donor's interests in any immovable property and paying the relevant household expenses.

2. COURT DECISIONS/COURT-APPOINTED DEPUTYSHIP

Where an adult loses their mental capacity without having made an LPA (ie, the principal) in relation to their personal welfare and/or their property and affairs, the Singapore courts may, in response to application, make a decision on the principal's behalf or appoint one or more deputies to make decisions on the principal's behalf. Professional deputies may also be appointed.

3. ADVANCE MEDICAL DIRECTIVE

An adult can also draw up an advance medical directive (AMD) to govern their end-of-life decisions. An AMD is a legally binding expression of an individual's wish that they do not wish to receive any extraordinary

life-sustaining treatment to prolong their life in the event they become terminally ill or unconscious. Any doctor who provides treatment to the patient is obligated to act in accordance with the patient's wishes under the AMD. In terms of formalities, the AMD must be registered with the Registrar of Advance Medical Directives in order to be valid.

The donee of an LPA or a court-appointed deputy is barred from making an AMD on behalf of their donor under the Mental Capacity Act 2008. An AMD should, therefore, be a priority while the individual has the mental capacity to act and is interested in preserving their control over their end-of-life decisions.

2. Estate administration

A. Overview of administration procedures

The responsibility for administering a deceased's estate rests with the deceased's personal representatives, ie, the executor(s) appointed in the deceased's will or, where the deceased died without a will (ie, died intestate) or died without any person being validly appointed as executor in the deceased's will, the administrator(s).

Applications for the grant of probate of a will or, in the case of intestacy, the grant of letters of administration (both grants are generally referred to as 'grants of representation') are made to the family justice courts, namely the Family Division of the High Court and the family courts. The family courts have probate jurisdiction over estates valued up to and including SGD 5m. The Family Division of the High Court has probate jurisdiction over estates valued above SGD 5m.

Alternatively, grants of representation issued by the courts of probate in any Commonwealth country and Hong Kong may be re-sealed in the Family Division of the High Court. The re-sealing of foreign grants of representation gives them force and effect in Singapore, as if they had been granted in Singapore.

Executors are generally not required to provide security for the administration of the estate, but applicants for letters of administration must file an administration bond and, as a rule, find two other persons to stand surety for an amount up to the value of the estate, where:

- the value of the estate exceeds SGD 5m (ie, when the application is to the Family Division of the High Court);
- there are minor beneficiaries (ie, beneficiaries under the age of 21 years old);
- there are life interests in the estate;
- there are beneficiaries who lack mental capacity;
- the grantee is a creditor; or
- the court stipulates such a requirement.

B. Intestate succession and forced heirship

1. TESTATE SUCCESSION

A testator has full testamentary freedom and only has to appreciate who might expect to inherit the deceased's assets. However, they may deliberately disappoint those expectations. Generally, it is not possible for disappointed beneficiaries to challenge the adequacy of their inheritance.

That said, if the deceased was domiciled in Singapore, the Inheritance (Family Provision) Act 1966 allows certain family members, namely a spouse, an unmarried daughter, a minor son or a child not able to maintain themselves owing to a disability, to apply to the courts for reasonable provision for their maintenance to be provided from the estate. Such provision will generally be in the form of periodical payments that, taken

together, are not greater than the income of the estate. Factors determining whether or not such an award will be granted and, if warranted, the amount of the provision include:

- whether the deceased made adequate provision for the family member during their lifetime;
- whether, prior to their death, the deceased was making a substantial contribution to the applicant (other than payment for work or services rendered);
- whether the applicant has any other sources of capital or income;
- the conduct of the applicant in regard to the deceased and vice versa; and
- other circumstances relevant or material in relation to the applicant and the other persons interested in the estate.

2. INTESTATE SUCCESSION

Intestate succession is governed by the Intestate Succession Act (ISA). The ISA provides that inheritance of movable property is governed by the law of the country in which the deceased was domiciled at the time of their death. Inheritance of immovable property in Singapore is governed by the ISA, irrespective of the deceased's domicile.

Under the ISA, the distribution rules for a non-Muslim person domiciled in Singapore are broadly as follows:

- where a person dies leaving a spouse and children, the spouse will be entitled to a half-share and the children will be entitled to the remaining half, distributed equally among the children;
- where a person dies leaving a spouse and parents, but no children, the spouse will be entitled to a half-share and, the parents will be entitled to the remaining half, distributed equally among the parents;
- where a person dies leaving no spouse, children or parents, the person's siblings will be entitled to the whole estate, distributed equally among them; and
- if the person has no siblings either, then the person's grandparents will be entitled to equal shares and, if the person has no grandparents either, then the person's aunts and uncles will be entitled to equal shares.

The ISA has thus far not been interpreted to recognise 'spouse' as including partners in civil partnerships or same-sex marriages. 'Child' is defined to mean a legitimate child.

The Inheritance (Family Provision) Act 1966 mentioned above applies in regard to intestacy, just as it does in regard to testate succession.

3. FORCED HEIRSHIP

Singapore has specific legislation recognising Muslim law (Shari'a law) in the form of the Administration of Muslim Law Act 1966. Muslim law is also expressly recognised in respect of inheritance matters by the Probate and Administration Act 1934. In the case of any Muslim person domiciled, resident or a citizen of Singapore who dies intestate, the individual's estate and effects shall be distributed according to Muslim law. Even when a Muslim person has made a will, their estate will have to devolve in accordance with Muslim law and cannot be entirely freely disposed of according to the will. However, properties gifted into a trust during the donor's lifetime are generally not treated as part of the donor's estate. The Shari'a court determines issues arising in respect of Muslim law and has the power to make pronouncements on Islamic law in the form of binding rulings (*Fatwa*). An application to the court for letters of representation may need to be accompanied by an inheritance certificate issued by the president of the Shari'a court, which will set out the manner and order of inheritance. The person applying for the ruling will also have to state the school

of Muslim law which the deceased belonged to, as this affects the manner and order related to the distribution of a Muslim person's estate.

In *Shafeeg v Fatimah* [2010] SGCA 2011, the deceased had, during his lifetime, purchased a property and registered it in his name and that of his wife as joint tenants under the Land Titles Act. Both were Muslim. The administrators applied for a declaration that the estate was entitled to a half-share of the property. The Court of Appeal (the highest court in Singapore) refused the application, holding that the property was not part of the estate and, as such, not subject to Muslim inheritance law. By making his wife a joint tenant of the property, the husband had given his wife an immediate interest in the entire property during his lifetime. Upon his death, there was, in law, no interest capable of transmission; rather, the husband's interest as joint tenant was extinguished upon his death and the widow became the sole absolute owner according to the right of survivorship.

Even if the statutory right of survivorship in a joint tenancy of registered land was contrary to Muslim law, the statute prevailed. There was no room in the legislative intention to derogate from the secular written law governing the rights and interests in immovable property in order to accommodate the deceased's personal law.

C. Marital property

There is no community property concept in Singapore. In the context of divorce proceedings, matrimonial assets are defined under the Women's Charter 1961 as:

- any asset acquired before the marriage by one party or both parties to the marriage:
 - ordinarily used or enjoyed by both parties or one or more of their children while the parties are residing together for shelter or transportation or for household, education, recreational, social or aesthetic purposes; or
 - which has been substantially improved during the marriage by the other party or by both parties to the marriage; and
 - any other asset of any nature acquired during the marriage by one party or both parties to the marriage,
- but does not include any asset (not a matrimonial home) that has been acquired by one party at any time, gift or inheritance and that has not been substantially improved during the marriage by the other party or by both parties to the marriage.

The Singapore courts have the power to order the division or sale of any matrimonial assets, with the sale proceeds divided between the parties, in such proportions as the court deems just and equitable. Some factors the courts will take into account in such circumstances include:

- the extent of the contributions made by each party in the form of money, property or work towards acquiring, improving or maintaining the matrimonial assets;
- any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child from the marriage;
- the needs of the children (if any) from the marriage;
- the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of either party;
- any agreement between the parties with respect to the ownership and division of the matrimonial assets made in contemplation of divorce;

- any period of rent-free occupation or other benefit enjoyed by one party in the matrimonial home to the exclusion of the other party;
- the giving of assistance or support by one party to the other party (whether or not of a material kind), including any assistance or support that aids the other party in the carrying on of their occupation or business; and
- any other relevant factors, including the financial resources the parties have or are likely to have in the foreseeable future.

D. Tenancies, survivorship accounts and payable on death accounts

These principles in relation to joint tenancies and survivorship are discussed in the section on will substitutes. There is no concept of 'payable on death accounts' in Singapore.

E. Trusts, foundations and other planning structures

1. COMMON TECHNIQUES

The law on trusts in Singapore has the same roots as and fundamentally still follows the law on trusts in England. The Application of English Law Act 1993 explicitly stipulates that 'the common law of England (including the principles and rules of equity) so far as it was part of the law of Singapore immediately before 12 November 1993, shall continue to be part of the law of Singapore'. Singapore has had a long history of formally receiving English laws because of the country's colonial origin, although the Application of English Law Act 1993 might be the last of its kind. Over and above the formalities of statute and the doctrine of precedent, English case law is, for practical purposes, highly persuasive because of the enduring effect of the historical association.

Other relevant statutes concerning trustees and trusts in the private client context are:

- the Trustees Act 1967 (TA), which concerns the general power of investment, the statutory duty of care and other duties and powers of the trustees (including personal representatives, where the context permits them); and
- the Trust Companies Act 2005, which concerns the trust business licensing regime, regulated by the Monetary Authority of Singapore.

The Trust Companies Act 2005 and its subsidiary legislation regulate the following business activities:

- the provision of services for the creation of express trusts;
- acting as a trustee in relation to express trusts;
- arranging for any person to act as a trustee in relation to an express trust; and
- the provision of trust administration services in relation to express trusts.

There are three main types of trusts:

- fixed trusts;
- discretionary trusts; and
- unit trusts.

The formalities for the declaration of a trust must be complied with in order for the trust to be valid and enforceable. Therefore, the trust must be properly constituted and the trust property must be properly vested in the trustee. There must also be certainty of intention to create a trust, certainty of subject matter and

certainty as to the objects of the trust. The terms of the trust must not infringe the rules against perpetuity and inalienability unless it is a charitable trust. The statutory perpetuity period of a trust is 100 years or any shorter period as is stipulated in the trust instrument.

Settlor reserved power trusts are formally recognised. The TA provides that no trust or settlement of any property on trust shall be invalid by reason only of the person creating the trust or making the settlement reserving for themselves any or all powers of investment or asset management functions under the trust or settlement.

A common structure used for family estate planning includes an inter vivos or living trust being set up to hold assets either directly or through an asset-holding company. The beneficiaries typically include the settlor and their family members. It is also common for the investment management functions to be reserved for the settlor and/or their family members. If the assets are held by an underlying company, the settlor or their family members are usually the directors of that company, ie, the level at which investment management decisions are made. If a trust is a qualifying foreign trust, its income may be tax exempt if it falls within the scope of the specified list of designated income. If a trust is a qualifying locally administered trust, its income may be tax exempt if it falls within the scope of the list of relevant income.

If the assets being managed are substantial, some high-net-worth individuals or their families may consider applying for a fund tax exemption from the Monetary Authority of Singapore and setting up a family office to manage the assets. Income that falls within the specified list of designated income is tax exempt. This list is much broader than the relevant income list for a qualifying locally administered trust.

F. Fiduciary duties (trustee, board members, directors, etc)

1. TRUSTEES' FIDUCIARY DUTIES

Broadly, a trustee owes the beneficiaries:

- a duty of loyalty to act in their best interests with honesty and diligence and not to deviate from the terms of the trust; and
- a duty not to put themselves in a position of receiving interests, not to put the beneficiaries' interests above their own and not to engage in self-dealing without the beneficiaries' informed consent.

Under the TA, a trustee must exercise such care and skill as is reasonable in the circumstances, having regard, in particular:

- to any special knowledge or experience that they have or claim they have; and
- if they act as a trustee in the course of a business or profession, to any special knowledge or experience that may reasonably be expected of a person acting in the course of that kind of business or profession.

A statutory standard of care applies to a trustee when exercising their powers in relation to:

- investments;
- the acquisition of land;
- agents, nominees and custodians;
- compounding of liabilities;
- insurance; and
- reversionary interests, valuations and audits.

2. COMPANY DIRECTORS' DUTIES

Likewise, a director has to adhere to the general standards of loyalty, good faith and avoidance of any conflicts of duty and self-interest. Broadly, a director has the following duties:

- to act in the company's interests;
- to avoid conflicts of interests or adherence to the duty to disclose if they have personal interests that may conflict with that of the company;
- to use the company's assets properly for the purposes that they were intended; and
- not to bind or fetter their discretion to act in regard to a particular matter.

Under the Companies Act 1967, a director must always act honestly and use reasonable diligence in the discharge of their duties.

G. Treatment of foreign trusts and foundations

Singapore is not a signatory to the Hague Convention on the Law Applicable to Trusts and on their Recognition.

3. Taxation

A. Domicile and residency

1. INDIVIDUALS

The residency of an individual is relevant in determining their income tax liability. There is a qualitative and quantitative test used to determine whether an individual is resident in Singapore, as follows:

- The qualitative test – whether a person can be said to reside in Singapore except for such temporary absences as may be reasonable and that are not inconsistent with this conclusion. According to the relevant case law, the word reside may be taken as meaning 'to dwell permanently or for a considerable time, to have one's settled or usual abode, to live in or at a particular place'.
- The quantitative test – an individual who is physically present or who exercises employment (other than as a director of a company) in Singapore for 183 days or more during the calendar year preceding the year of assessment is deemed to be resident in Singapore. The Inland Revenue Authority of Singapore (IRAS) also has various administrative concessions that can apply if an individual fails to meet the quantitative test for residency. For example, an individual who stays or works in Singapore continuously for three years, but does not satisfy the quantitative test for the first and/or third year, may nevertheless be treated as resident in Singapore for all three years.

2. COMPANIES

The residency of a company is relevant in determining its income tax liability. Under section 2 of the Income Tax Act 1947 (ITA), a company is a resident of Singapore for tax purposes if its business is controlled and managed in Singapore. The Singapore courts have held that the geographical location of the control and management of a company is the place where the directors come together to make decisions regarding the management of the company.

3. TAXATION ON EXIT

There are no exit taxes applicable in Singapore.

B. Gift, estate and inheritance taxes

1. ESTATE AND INHERITANCE TAXES

There are no estate or inheritance taxes in Singapore.

2. GIFT TAX

There is effectively gift tax in Singapore in the form of stamp duty. Stamp duties are payable on two classes of assets, namely stocks and shares and immovable property. Voluntary conveyances inter vivos (ie, during the owner's lifetime) of stocks and shares in Singapore companies and immovable property in Singapore are subject to stamp duty, as if they were conveyances on sale. This applies to absolute gifts, as well as to settlements on trust.

On the other hand, the passing on of these assets through a will or intestate succession is outside the scope of stamp duty. As already mentioned, there are no estate or inheritance taxes in Singapore.

The rate of stamp duty on stocks and shares in Singapore companies is 0.2 per cent of their value. Stocks and shares held in the Central Depository System are excluded. Thus, stamp duty does not apply to gifts of public-listed stocks and shares (since as a rule these are held in the Central Depository), but only to stocks and shares that are in certificated form (effectively, unlisted stocks and shares).

Stamp duties on gifts of immovable property in Singapore (whether absolutely or in trust) are complex. In brief, the applicable details are outlined below.

There is buyer's (or transferee's) stamp duty (BSD), which is applied at the following rates:

Value of the property	BSD rate for residential property	BSD rate for non-residential property
First SGD 180,000	1 per cent	1 per cent
Next SGD 180,000	2 per cent	2 per cent
Next SGD 640,000	3 per cent	3 per cent
Next SGD 500,000	4 per cent	4 per cent
Next SGD 1,500,000	5 per cent	5 per cent
Remaining amount	6 per cent	5 per cent

There is additional buyer's (or transferee's) stamp duty (ABSD) due on residential property that is chargeable at a progressive rate, which depends on the transferee's nationality and/or the number of residential properties already owned by the transferee:

Buyer's profile	ABSD rate for residential property
Singapore citizens	
First residential property	Not applicable
Second residential property	20 per cent
Third and subsequent residential properties	30 per cent
Singapore permanent residents	
First residential property	5 per cent
Second residential property	30 per cent
Third and subsequent residential properties	35 per cent

Foreigners*	
Any residential property	60 per cent
Entities	
Any residential property	65 per cent
Housing developers	
Any residential property	35 per cent (plus an additional non-remittable 5 per cent)

* Under the respective free trade agreements, the following categories of foreign individuals will be accorded the same stamp duty treatment as Singapore citizens:

- nationals and permanent residents of Iceland, Liechtenstein, Norway or Switzerland; and
- nationals of the United States.

Seller's (or transferor's) stamp duty (SSD) may apply depending on how long the transferor has owned the property:

Holding period	SSD rate for sale of residential property	SSD rate for sale of industrial property
If transferred within one year	16 per cent	15 per cent
If transferred after one year but within two years	12 per cent	10 per cent
If transferred after two years but within three years	8 per cent	5 per cent
If transferred after three years but within four years	4 per cent	No SSD payable
If transferred after four years	No SSD payable	No SSD payable

Over and above the usual 0.2 per cent share transfer stamp duty, additional conveyance duties (ACD) apply to gifts of shares in property-holding companies whose primary tangible assets are Singapore residential properties.

The transferee of the shares is subject to ACD for buyers of one per cent to six per cent, according to the value of the underlying residential properties plus 65 per cent on the value of the shares.

If shares are gifted within three years or within four years (whichever is applicable) of the acquisition, the transferor of the shares is subject to either 12 per cent or 16 per cent ACD for sellers on the value of the shares.

As a whole, indirect gifts are more expensive than direct gifts of Singapore residential property in terms of the stamp duty applicable.

C. Taxes on income and capital

Taxation of income in Singapore is governed by the provisions contained within the ITA. The Singapore taxation system is semi-territorial in nature. Tax is payable on:

- income accruing in or derived from Singapore (that is to say, Singapore-sourced income); and

- income received in Singapore from outside Singapore (that is to say, foreign-sourced income when and if it is remitted to Singapore).

For individual taxpayers, a very significant aspect of the tax regime is that:

- non-resident individuals are exempt from tax on foreign-sourced income remitted to Singapore; and
- resident individuals are exempt from tax on foreign-sourced income remitted to Singapore apart from foreign-sourced income received through a partnership in Singapore.

Income tax does not apply to gains of a capital nature. Therefore, there is no capital gains tax as such in Singapore. The corollary is that whether profits and gains from the sale of assets are (non-taxable) capital or (taxable) income is, in principle, a question of all the facts in any particular case according to the 'badges of trade' enunciated by the Royal Commission on the Taxation of Profits and Income in the UK in 1955. The relevant considerations include, but are not limited to: (1) the length of ownership; (2) the frequency of similar transactions made by the taxpayer; (3) the circumstances around the sale; and (4) whether the taxpayer was motivated by profit in regard to the transaction.

The tax rates applicable to resident individuals are as follows:

Chargeable income	Marginal rate	Tax payable	Effective rate
On the first SGD 20,000	0 per cent	0	
On the next SGD 10,000	2 per cent	SGD 200	
On the first SGD 30,000	-	SGD 200	0.7 per cent
On the next SGD 10,000	3.5 per cent	SGD 350	
On the first SGD 40,000	-	SGD 550	1.4 per cent
On the next SGD 40,000	7 per cent	SGD 2,800	
On the first SGD 80,000	-	SGD 3,350	4.2 per cent
On the next SGD 40,000	11.5 per cent	SGD 4,600	
On the first SGD 120,000	-	SGD 7,950	6.6 per cent
On the next SGD 40,000	15 per cent	SGD 6,000	
On the first SGD 160,000	-	SGD 13,950	8.7 per cent
On the next SGD 40,000	18 per cent	SGD 7,200	
On the first SGD 200,000	-	SGD 21,150	10.6 per cent
On the next SGD 40,000	19 per cent	SGD 7,600	
On the first SGD 240,000	-	SGD 28,750	12.0 per cent
On the next SGD 40,000	19.5 per cent	SGD 7,800	
On the first SGD 280,000	-	SGD 36,550	13.1 per cent
On the next SGD 40,000	20 per cent	SGD 8,000	
On the first SGD 320,000	-	SGD 44,550	13.9 per cent
On the next SGD 180,000	22 per cent	SGD 39,600	
On the first SGD 500,000	-	SGD 84,150	16.8 per cent
On the next SGD 500,000	23 per cent	SGD 115,000	
First SGD1,000,000 In excess of SGD 1,000,000	- 24 per cent	SGD 199,150	

The tax rates applicable to non-resident individuals are as follows:

Taxpayer	Tax rate
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Employees	The higher of 15 per cent (with no personal reliefs) or resident rates
Partners, directors and sole proprietors	24 per cent
Professionals (eg, consultants and trainers)	15 per cent on gross income (with no personal reliefs) or 24 per cent on net income
Property traders	15 per cent on gross income
Public entertainers and sports people	15 per cent on gross income (excluding airfares and accommodation; with no personal reliefs)

The corporate income tax rate is 17 per cent. Three-quarters of the first SGD 10,000 and one-half of the next SGD 190,000 of a company's chargeable income is exempt. So, the 17 per cent rate is only payable on SGD 97,500 of the first SGD 200,000 of chargeable income. This is effectively a starting corporate income tax rate of 8.3 per cent.

The tax rate applicable to trustees is 17 per cent. The tax payable by a trustee is a final tax. Beneficiaries are not taxable on any distributions. Having said that, income to which a resident beneficiary is entitled under the terms of the trust and income which is not accumulated but distributed to a resident beneficiary is treated as the income of the beneficiary, rather than the trustee. An individual enjoys a wider range of exemptions from tax than a trustee.

Alternatively, a trust that is administered either by a licensed trustee company (eg, a professional trustee company) or an exempt trustee company (eg, a private trust company) in Singapore and the underlying holding company of the trust can benefit from many of the exemptions that are available to individual taxpayers.