



New Indonesia - Singapore Double Taxation Agreement (DTA)

On 11 May 2021, the President of Indonesia has issued President Regulation No.35/2021 that ratifies the new DTA between Indonesia and Singapore that was signed on 4 February 2020. The Tax Treaty will be effective on **1 January 2022** as per Article 29 of the new DTA.

Whilst most of the stipulations remains the same, the key changes on the new DTA that needs to be highlighted are as follows:

A. Reduction on Withholding Tax (WHT) Rate for Royalty

- The previous DTA stipulates that WHT Rate for Royalty on all cases is 15%.
- The current DTA stipulates that the WHT Rate for Royalty is reduced as follows:
 1. 10% on payments for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process;
 2. 8% on payments for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
- In addition, proceeds arising from the alienation of any of the above royalty-generating assets will no longer be treated as a royalty.

B. Treatment on Capital Gains

The new DTA stipulates that the right to tax “capital gains” will be limited to the jurisdiction of residency of the asset seller subject to the following qualifications:

1. Gains from the disposal of immovable property;
These gains may be taxed in the country where the property is located
2. Gains from the disposal of movable property which forms part of a Permanent Establishment (PE) or a fixed base;
These gains may be taxed in the country where the PE or the fixed base is located
3. Gains from the disposal of ships or aircraft operating in international traffic;
These gains shall be taxable only in the country where the seller is a resident
4. Gains from the disposal of non-listed shares where:
 - a. the value of the shares are more than 50% directly or indirectly derived from immovable property, and
 - b. the seller owns at least 50% of the issued shares of the company.these gains may be taxed in the jurisdiction where the immovable property is located. This is unless the gain from the disposal of these shares arises from immovable property used to carry on the alienator’s business or arises out of a corporate reorganization, merger, or a similar restructuring activity;
5. Gains from the disposal of shares listed on an Indonesian Stock Exchange.



C. Reduction on Branch Profit Tax (BPT)

- Reduction on BPT rate from 15% to 10%
- This stipulation on rate reduction is not applicable for production sharing contracts in the oil and gas sector.

D. Interest

- There is no change on the WHT Rate of 10%
- WHT exemption in respect of government-issued bonds or debentures is discontinued in the new DTA
- Stipulation that penalty charges due for late payment shall not be regarded as interest.

E. Other Income

Income not dealt with in the new treaty shall be taxable only in the jurisdiction of residence. This is unless the income arises in the other jurisdiction in which case the income may also be taxed in the other jurisdiction.

F. Remittance requirement

The new DTA repeals the stipulation on the old DTA regarding the “Limitation of Relief”. This provision previously requires that income taxable on a remittance basis (typically the case in Singapore) must be remitted to or received in the Other State in order for the treaty relief to operate.

G. Exchange of Information (EOI)

- Under the old DTA, the EOI only covers taxes covered in the DTA. Under the new DTA, the EOI covers all taxes.
- The respective jurisdictions are required to consider information requests served by either party even where the information provides no tax benefit to the information provider.
- A Contracting State cannot ignore a request for information simply because the information is held by a bank, financial institution, nominee or person acting in an agency or a fiduciary capacity etc.



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PT Solusi Dwi Satya (SDS Consulting)

Menara Anugrah 23rd Floor, Kantor Taman E3.3,
Jl. DR Ide Anak Agung Gde Agung Lot 8.6-8.7
Kawasan Mega Kuningan, Jakarta Selatan 12950.
Phone: (021) 57948845/46, 57941842

Your SDS Consulting Contacts:

Sindian Budi Siswojo

sindian.budi@sdsconsulting.co.id

Marcelia Maureen Dewi

maureen.dewi@sdsconsulting.co.id

Pritanaya Winasis

pritanaya.winasis@sdsconsulting.co.id

Ricky

ricky@sdsconsulting.co.id

www.sdsconsulting.co.id



[@sdsconsulting.co.id](https://www.instagram.com/sdsconsulting.co.id)

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