Capital gains

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Article 13 allocates gains from the alienation of immovable property to the state where the property is situated. Gains from the alienation of movable property forming part of a permanent establishment go to the state of the permanent establishment and gains from ships and aircraft to the state of effective management. All other gains go to the state of residence of the alienator. Swiss treaties of the period usually include a clause giving the situs state the right to tax gains on shares of real-estate companies. The 2011 agreement should be checked for it.[1]

The residual rule is what matters for tokens. A gain on the disposal of tokens is a gain on movable property outside a permanent establishment and is taxable only in the state of residence of the seller. For a Singapore-resident seller that means Singapore, which taxes the gain if the seller is a trader and otherwise not at all. Switzerland may not tax it even if the tokens are held with a Swiss custodian or the counterparty is Swiss. For a Swiss-resident seller it means Switzerland, which exempts the gain if the seller is a private investor and taxes it if he is a professional trader or a company. Singapore may not tax it even if the sale is executed on a Singapore exchange. The treaty therefore adds nothing for the investor in either direction and simply confirms the domestic position. Its practical value is in the permanent establishment exception. A Singapore trading company whose tokens are attributable to a Swiss permanent establishment loses the Singapore-only allocation for those tokens and is taxed in Switzerland on the gains. The same applies in reverse.

The absence of a capital gains tax in Singapore creates one asymmetry that clients notice. A Swiss-resident company that sells tokens pays Swiss profit tax and the treaty does not help. A Singapore-resident company that sells the same tokens pays nothing if the gain is capital, while the treaty confirms that Switzerland has no claim. Over a cycle in which a group's token treasury appreciates significantly the location of the treasury company therefore produces a large difference, which is why the "Singapore treasury, Zug foundation" pattern of Part P, Chapter IV exists. The pattern survives section 10L (Chapter II of this Part) only if the Singapore treasury company has substance. It survives the place-of-effective-management rule above only if its decisions are taken in Singapore.

Type of income	Article	Taxing right	Effect for tokens
Business profits	Art. 7	Residence state unless PE	Trading profit taxed where the trader is resident or has a PE
Dividends	Art. 10	Source up to 5 % / 15 %; residence	Tokenised shares follow the share

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Type of income	Article	Taxing right	Effect for tokens
Interest	Art. 11	Source up to 5 %; residence	Tokenised bonds and some lending returns
Royalties	Art. 12	Source up to 5 %; residence	Licence fees for protocol IP paid in tokens
Capital gains	Art. 13	Residence, except immovable property and PE assets	Token gains taxed only in residence state
Employment	Art. 15	Where work is performed, with 183-day exception	Token grants to staff working across the hubs
Other income	Art. 21	Residence	Protocol fee distributions, airdrops

Notes

1. Singapore–Switzerland DTA 2011, Art. 13 (capital gains; residual rule allocating gains to the state of residence of the alienator).

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