# Substance requirements beyond section 10L

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Economic substance has become the universal condition of Singapore tax planning, and digital-asset structures feel it from three directions at once. Section 10L requires it for the foreign-gains exclusion. The fund incentives require it in the form of local business spending and investment professionals (Chapter IV). The DTA network requires it in the form of residence by place of effective management, without which a Singapore company cannot obtain a certificate of residence from IRAS and cannot claim treaty benefits in Switzerland or elsewhere (Chapter IX).[1] A token treasury company with a nominee director and no staff fails all three.

The reason matters as much as the rule. Singapore accepted section 10L to keep off the EU list of non-cooperative jurisdictions. The government has since treated substance as the price of the territorial system. A client who wants Singapore's tax results must be prepared to put people in Singapore and to make decisions there. That is the same conclusion that MAS reached on the regulatory side when it introduced the DTSP regime for firms that used Singapore as a brass plate (see Part K, Chapter V). Both arms of government now reward presence and penalise its absence.

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## Cross-border perspective

A Swiss-headquartered group that wants a Singapore entity to hold Asian investments should give that entity at least one full-time employee and an office lease in its own name. The board should have a majority resident in Singapore and should meet in Singapore, with minutes that say so. The same facts satisfy section 10L, the certificate-of-residence test and the "mind and management" test for Swiss purposes, so that Switzerland does not treat the Singapore company as Swiss-resident under Art. 50 of the Direct Federal Tax Act. One set of facts serves three tax systems. The cost is typically S$ 150,000 to S$ 250,000 a year and the figure should be compared with the tax at stake.

# Notes

1. IRAS, *Applying for a Certificate of Residence*, criteria for companies (control and management exercised in Singapore; board meetings held in Singapore; non-nominee directors). ↩

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