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**No. S 318**

INCOME TAX ACT  
(CHAPTER 134)

INCOME TAX  
(PRESCRIBED ISLAMIC FINANCING ARRANGEMENTS)  
(AMENDMENT) REGULATIONS 2011

In exercise of the powers conferred by section 34B(5) of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Income Tax (Prescribed Islamic Financing Arrangements) (Amendment) Regulations 2011 and shall, with the exception of regulations 2(a) to (d), 3(a) to (f) and 4(a), (b) and (c), come into operation on 8th June 2011.

(2) Regulations 2(a) and (d), 3(a), (b), (c) and (f) and 4(c) shall be deemed to have come into operation on 19th January 2009.

(3) Regulations 2(b), 3(d) and 4(a) shall be deemed to have come into operation on 7th May 2009.

(4) Regulations 2(c), 3(e) and 4(b) shall be deemed to have come into operation on 13th April 2010.

**Amendment of regulation 2**

**2.** Regulation 2 of the Income Tax (Prescribed Islamic Financing Arrangements) Regulations 2009 (G.N. No. S 474/2009) (referred to in these Regulations as the principal Regulations) is amended —

(a) by deleting the definition of “Islamic deposit based on the Murabaha concept” and substituting the following definition:

“ “Islamic deposit based on the Murabaha concept” means an Islamic deposit entered into between a person (the customer) and a bank where —

(a) for the purpose of making funds of the customer available to the bank, the customer

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- appoints the bank (or any other person) as an agent to purchase on his behalf an asset for an amount of money (the original price), in circumstances where the asset exists at the time of the purchase;
- (b) the bank purchases the asset from the customer at a price (the marked-up price) that is greater than the original price, and sells the asset, or appoints the customer (or any other person) as an agent of the bank to sell the asset on its behalf;
  - (c) the bank and the customer do not derive any gain or suffer any loss from any movement in the market value of the asset, other than the difference between the marked-up price and the original price (which represents the profit or return to the customer for making funds available to the bank); and
  - (d) the marked-up price or any part thereof is not required to be paid by the bank to the customer until after the date of sale of the asset by the bank;”;
- (b) by inserting, immediately after the definition of “Islamic deposit based on the Murabaha concept”, the following definition:
- “ “Islamic financing based on the Diminishing Musharakah concept” means an Islamic financing arrangement between a person (the customer) and a financial institution where —
- (a) the financial institution, or the financial institution’s agent, jointly purchases an asset with the customer at the request of the customer, and contributes an amount of money towards the purchase price (the contribution) for the purposes of financing the use or purchase, or both, of the asset by the customer;

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- (b) the financial institution, or the financial institution's agent —
    - (i) sells a portion of its share of the asset on a periodic basis to the customer for an amount of money determined at the start of the arrangement (the redemption amount); and
    - (ii) leases the unsold portion of its share of the asset to the customer for an amount of money determined at the start of the arrangement (the rental);
  - (c) if the asset is not in existence at the time of the joint purchase, and the financial institution, or the financial institution's agent, leases the unsold portion of its share of the asset to the customer, an amount of money (the advance payment) may be paid by the customer to the financial institution, or the financial institution's agent, for the subsequent use of that portion of the asset;
  - (d) the financial institution, or the financial institution's agent, appoints the customer (or a third party) to take on the obligations in connection with the use of the asset, including its maintenance and insurance;
  - (e) in the event of an early termination of the arrangement, the customer shall purchase from the financial institution, or the financial institution's agent, the remainder of the unsold portion of the financial institution's, or the financial institution's agent's, share of the asset at a price determined at the start of the arrangement (the early termination price);
  - (f) upon the expiry of the arrangement, the customer shall have purchased from the financial institution, or the financial institution's agent, the whole of the financial institution's, or the financial institution's agent's, share of the asset and obtained full ownership of the asset;

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- (g) the total amount payable by the customer for the asset, comprising —
- (i) the advance payment;
  - (ii) the redemption amount;
  - (iii) the rental; and
  - (iv) the early termination price,
- is greater than the contribution, and the difference between the total amount payable and the contribution is the profit or return to the financial institution for providing such financing to the customer;
- (h) the financial institution, or the financial institution’s agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including the total loss of the asset, other than as part of the profit or return referred to in paragraph (g), except in the circumstances provided in paragraph (i); and
- (i) if the customer is unable to pay the financial institution, or the financial institution’s agent, the early termination price, the financial institution, or the financial institution’s agent, may sell the asset to a third party at a price lower than the outstanding amount payable by the customer;”;
- (c) by inserting, immediately before the definition of “Islamic financing based on the Murabaha concept”, the following definition:
- “ “Islamic financing based on the Istisna concept” means an Islamic financing arrangement between a person (the customer) and a financial institution where —
- (a) the financial institution, or the financial institution’s agent, at the request of the customer and for the purposes of financing the procurement and the use or purchase, or both, of an asset by the customer,

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- commissions the customer to construct the asset in accordance with the customer's specifications for an amount of money (the purchase price);
- (b) contemporaneously with the commissioning referred to in paragraph (a) —
- (i) the financial institution, or the financial institution's agent, and the customer enter into an Islamic mortgage based on the Ijara Wa Igtina concept where the asset is not in existence at the time the asset is leased to the customer (the lease arrangement); or
  - (ii) the customer gives an undertaking to the financial institution, or the financial institution's agent, to purchase the asset from the financial institution, or the financial institution's agent, immediately after the transfer of the ownership of the asset to the financial institution, or the financial institution's agent, by the customer under paragraph (e)(i) (the purchase undertaking);
- (c) the customer procures the construction of the asset by a third party;
- (d) the financial institution, or the financial institution's agent, makes payment of the purchase price to the customer on a periodic basis (the progress payment);
- (e) one of the following takes place:
- (i) the customer transfers the ownership of the asset to the financial institution, or the financial institution's agent, on a mutually agreed date on or after the completion of the construction of the asset by the third party;

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- (ii) the customer refunds all progress payments to the financial institution, or the financial institution's agent, and the lease arrangement or the purchase undertaking, as the case may be, is cancelled; or
  - (iii) the financial institution, or the financial institution's agent, agrees to the substitution of the asset that is the subject of the lease arrangement or the purchase undertaking with a comparable asset, and the customer transfers the ownership of the comparable asset to the financial institution, or the financial institution's agent, on a mutually agreed date;
- (f) the financial institution, or the financial institution's agent, does not take physical delivery of the asset or the comparable asset;
  - (g) at the end of the arrangement, the financial institution, or the financial institution's agent, transfers ownership of the asset, or of the comparable asset, to the customer pursuant to the lease arrangement or the purchase undertaking, except in the circumstances referred to in paragraph (e)(ii);
  - (h) the amount payable by the customer for the asset, or the comparable asset, is greater than the purchase price, and the difference between the total amount payable and the purchase price is the profit or return to the financial institution for providing such financing to the customer; and
  - (i) the financial institution, or the financial institution's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including from the total loss of the asset, other than the profit or return referred to in paragraph (h);

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(d) by inserting, immediately after the definition of “Islamic financing based on the Murabaha concept”, the following definition:

“ “Islamic inter-bank placement based on the Murabaha concept” means an Islamic inter-bank placement between banks where —

- (a) for the purpose of making funds of a bank (the first bank) available to another bank (the second bank), the first bank purchases, or appoints the second bank (or any other person) as an agent of the first bank to purchase on its behalf an asset for an amount of money (the original price), in circumstances where the asset exists at the time of the purchase;
  - (b) the second bank purchases the asset from the first bank at a price (the marked-up price) that is greater than the original price, and sells the asset, or appoints the first bank (or any other person) as an agent of the second bank to sell the asset on its behalf;
  - (c) the first bank and the second bank do not derive any gain or suffer any loss from any movement in the market value of the asset, other than the difference between the marked-up price and the original price (which represents the profit or return to the first bank for making funds available to the second bank); and
  - (d) the marked-up price or any part thereof is not required to be paid by the second bank to the first bank until after the date of sale of the asset by the second bank;”;
- (e) by inserting, immediately before the definition of “Islamic mortgage based on the Ijara Wa Igtina concept”, the following definition:

“ “Islamic inter-bank placement based on the Wakalah concept” means an Islamic inter-bank placement between 2 banks where —

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- (a) the first bank appoints the second bank as its agent to invest its funds for an expected profit;
  - (b) for a fee, the second bank invests the first bank's funds in a Shariah compliant manner to generate a profit of no less than the expected profit;
  - (c) the second bank returns the first bank's funds and the expected profit at the end of the agreement;
  - (d) the expected profit represents the profit or return to the first bank for making funds available to the second bank; and
  - (e) any profit in excess of the expected profit may be retained by the second bank;”.

### **Amendment of regulation 3**

**3.** Regulation 3 of the principal Regulations is amended —

- (a) by inserting, at the end of paragraph (a)(i), the word “or”;
- (b) by deleting the word “or” at the end of paragraph (a)(ii);
- (c) by deleting paragraph (a)(iii);
- (d) by inserting, immediately after paragraph (a), the following paragraph:

“(aa) any Islamic financing based on the Diminishing Musharakah concept that is an arrangement between —

- (i) a Singapore financial institution and any customer; or
- (ii) a non-Singapore financial institution and a customer that is resident in Singapore, is a permanent establishment in Singapore or is carrying out a business in Singapore,

where the use or purchase of the asset referred to in paragraph (a) of the definition of that financing in regulation 2 took place on or after 7th May 2009;”;

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(e) by inserting, immediately before paragraph (b), the following paragraph:

“(ab) any Islamic financing based on the Istisna concept that is an arrangement between —

(i) a Singapore financial institution and any customer; or

(ii) a non-Singapore financial institution and a customer that is resident in Singapore, is a permanent establishment in Singapore or is carrying out a business in Singapore,

where the commissioning of the customer to construct the asset referred to in paragraph (a) of the definition of that financing in regulation 2 took place on or after 13th April 2010;”;

(f) by inserting, immediately after paragraph (b), the following paragraph:

“(ba) any Islamic inter-bank placement based on the Murabaha concept that is an arrangement between banks, where the purchase of the asset referred to in paragraph (a) of the definition of that inter-bank placement in regulation 2 took place on or after 19th January 2009;”;

(g) by inserting, immediately before paragraph (c), the following paragraph:

“(bb) any Islamic inter-bank placement based on the Wakalah concept that is an arrangement between banks, where the appointment referred to in paragraph (a) of the definition of that inter-bank placement in regulation 2 took place on or after 8th June 2011;”.

#### **Amendment of regulation 4**

**4.** Regulation 4 of the principal Regulations is amended —

(a) by inserting, immediately after paragraph (a), the following paragraph:

“(aa) in the case of any Islamic financing based on the Diminishing Musharakah concept, the difference (between the total amount payable by the customer

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and the contribution) referred to in paragraph (g) of the definition of that financing in regulation 2;”;

(b) by inserting, immediately before paragraph (b), the following paragraph:

“(ab) in the case of any Islamic financing based on the Istisna concept, the difference (between the total amount payable by the customer and the purchase price) referred to in paragraph (h) of the definition of that financing in regulation 2;”;

(c) by inserting, immediately after paragraph (b), the following paragraph:

“(ba) in the case of any Islamic inter-bank placement based on the Murabaha concept, the difference (between the marked-up price and the original price) referred to in paragraph (c) of the definition of that inter-bank placement in regulation 2;”;

(d) by inserting, immediately before paragraph (c), the following paragraph:

“(bb) in the case of any Islamic inter-bank placement based on the Wakalah concept, the expected profit referred to in paragraph (a) of the definition of that inter-bank placement in regulation 2;”.

Made this 6th day of June 2011.

CHAN LAI FUNG  
*Permanent Secretary*  
*(Finance) (Performance),*  
*Ministry of Finance,*  
*Singapore.*