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## **No. S 158**

### **INCOME TAX ACT (CHAPTER 134)**

#### **INCOME TAX (INTERNATIONAL TAX COMPLIANCE AGREEMENTS) (COMMON REPORTING STANDARD) (AMENDMENT) REGULATIONS 2017**

In exercise of the powers conferred by section 105P of the Income Tax Act, the Minister for Finance makes the following Regulations:

#### **Citation and commencement**

1. These Regulations are the Income Tax (International Tax Compliance Agreements) (Common Reporting Standard) (Amendment) Regulations 2017 and come into operation on 4 April 2017.

#### **Amendment of regulation 7**

2. Regulation 7(3) of the Income Tax (International Tax Compliance Agreements) (Common Reporting Standard) Regulations 2016 (G.N. No. S 621/2016) (called in these Regulations the principal Regulations) is amended by deleting the words “legally or beneficially owned, or legally and beneficially owned, by the person” in sub-paragraph (c) and substituting the words “in which the person has a non-debt, direct interest, namely, a direct interest that does not arise from any debt owed to the person”.

#### **Amendment of regulation 8**

3. Regulation 8 of the principal Regulations is amended by inserting, immediately after the words “Insurance Act (Cap. 142)”, the words “that issues, or is obligated to make payments with respect to, one or more cash value insurance contracts or annuity contracts”.

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**Amendment of regulation 11**

4. Regulation 11(2) of the principal Regulations is amended by deleting the words “one of the following conditions” in sub-paragraph (j) and substituting the words “all of the following conditions”.

**Amendment of regulation 14**

5. Regulation 14 of the principal Regulations is amended —

(a) by deleting paragraph (7) and substituting the following paragraph:

“(7) A reporting Singaporean financial institution must, before or as soon as is practicable after opening for a person a new account that is not a pre-existing account mentioned in regulation 15(13)(b), take all reasonable efforts to determine —

- (a) in a case where the person is a passive NFE, whether any controlling person of the passive NFE is a reportable person; and
- (b) in any other case, whether the person is a reportable person.”;

(b) by deleting paragraph (9) and substituting the following paragraph:

“(9) Where a reporting Singaporean financial institution is charged with an offence under paragraph (8) for a contravention of paragraph (7), it is a defence for the institution to prove, on a balance of probabilities, that the institution obtained, within 90 days after opening for the account holder a new account that is not a pre-existing account mentioned in regulation 15(13)(b) —

- (a) in a case where the account holder is a passive NFE, one or more valid self-certifications to determine whether the controlling person or each of the controlling persons (as the case may be)

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of the account holder is a reportable person;  
and

(b) in any other case, a valid self-certification to determine whether the account holder is a reportable person.”;

(c) by inserting, immediately after the definition of “pre-existing account” in paragraph (11), the following definition:

““public agency” means —

(a) any ministry or department of the Government, or any statutory body, or any board, commission, committee or similar body, whether corporate or unincorporate, established under a public Act for a public purpose; and

(b) an authority of any foreign country or territory, or any board, commission, committee or similar body, whether corporate or unincorporate, established under the law of any foreign country or territory for a public purpose;”; and

(d) by deleting the definitions of “self-certification” and “valid self-certification” in paragraph (11) and substituting the following definitions:

““self-certification”, in relation to a financial account opened with a reporting Singaporean financial institution, means a statement containing information —

(a) relating to the account;

(b) reasonably required by the institution for the purpose of complying with this regulation and regulation 16; and

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(c) provided by —

- (i) in a case where the account holder is a passive NFE and the statement only contains information of the residences for a tax purpose of a controlling person of the account holder, the account holder or the controlling person; and
- (ii) in any other case, the account holder;

“specified particulars”, in relation to an account holder, means the following particulars:

- (a) if the account holder is an individual —
  - (i) the individual’s name;
  - (ii) the individual’s residential address;
  - (iii) all of the individual’s residences for a tax purpose;
  - (iv) if applicable, the individual’s taxpayer identification number (TIN) with respect to each of the residences in sub-paragraph (iii); and
  - (v) the individual’s date of birth;
- (b) if the account holder is an entity that is a passive NFE —
  - (i) the NFE’s name;
  - (ii) the NFE’s address that is registered with any public agency or the address at which

- the NFE is carrying on its business;
- (iii) all of the NFE's residences for a tax purpose;
  - (iv) if applicable, the NFE's taxpayer identification number (TIN) with respect to each of the residences in sub-paragraph (iii); and
  - (v) the following particulars with respect to each controlling person of the NFE:
    - (A) the controlling person's name;
    - (B) the controlling person's residential address;
    - (C) all of the controlling person's residences for a tax purpose;
    - (D) if applicable, the controlling person's taxpayer identification number (TIN) with respect to each of the residences in sub-paragraph (C);
    - (E) the controlling person's date of birth;
- (c) if the account holder is an entity that is not a passive NFE —
- (i) the entity's name;
  - (ii) the entity's address that is registered with any public agency or the address at which

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- the entity is carrying on its business;
- (iii) all of the entity's residences for a tax purpose;
  - (iv) if applicable, the entity's taxpayer identification number (TIN) with respect to each of the residences in sub-paragraph (iii); and
  - (v) whether the entity is a financial institution or an NFE, and a description of the type of financial institution or NFE (as the case may be);

“valid self-certification” means —

- (a) in a case where the account holder is a passive NFE and the self-certification only contains information of the residences for a tax purpose of a controlling person of the account holder, a self-certification that —
  - (i) is signed or otherwise positively affirmed by the person making the self-certification or a person with authority to sign for that person;
  - (ii) states the date on which the self-certification is signed or otherwise positively affirmed by the person mentioned in sub-paragraph (i);
  - (iii) contains the following particulars of the controlling person:

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- (A) the controlling person's name;
  - (B) the controlling person's residential address;
  - (C) all of the controlling person's residences for a tax purpose;
  - (D) if applicable, the controlling person's taxpayer identification number (TIN) with respect to each of the residences in sub-paragraph (C);
  - (E) the controlling person's date of birth; and
- (b) in any other case, a self-certification that —
- (i) is signed or otherwise positively affirmed by the account holder or a person with authority to sign for the account holder;
  - (ii) states the date on which the self-certification is signed or otherwise positively affirmed by the person mentioned in sub-paragraph (i); and
  - (iii) contains the specified particulars of the account holder.”.

### **Amendment of regulation 15**

6. Regulation 15(13) of the principal Regulations is amended by deleting sub-paragraph (i) of sub-paragraph (b) and substituting the following sub-paragraph:

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“(i) as of 31 December 2016, the account holder of the financial account has a financial account with the reporting Singaporean financial institution or a local entity that is related to the institution;”.

### **Saving and transitional provisions**

7.—(1) Despite regulation 5(*b*) and (*d*) —

(*a*) regulation 14(9) of the principal Regulations in force immediately before 4 April 2017 continues to apply in relation to the opening of a financial account with a reporting Singaporean financial institution before that date; and

(*b*) in applying regulation 14(9) to a case in sub-paragraph (*a*) the reference to a valid self-certification in that provision, is a reference to a valid self-certification as defined in regulation 14(11) of the principal Regulations in force immediately before 4 April 2017, read with the definition of “self-certification” in regulation 14(11) of the principal Regulations in force immediately before that date.

(2) Despite regulation 5(*d*), the reference to a valid self-certification in regulation 16(8)(*d*) of the principal Regulations, in relation to a financial account that is opened with a reporting Singaporean financial institution before 4 April 2017, is a reference to a valid self-certification as defined in regulation 14(11) of the principal Regulations in force immediately before that date, read with the definition of “self-certification” in regulation 14(11) of the principal Regulations in force immediately before that date.

(3) Despite regulation 5(*d*), the reference to a self-certification in regulation 15(13)(*b*)(iii) of the principal Regulations, in relation to a financial account that is opened with a reporting Singaporean financial institution before 4 April 2017, is a reference to a self-certification as defined in regulation 14(11) of the principal Regulations in force immediately before that date.



Made on 31 March 2017.

TAN CHING YEE  
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Ministry of Finance,  
Singapore.*

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