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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF INCOME ARISING FROM FUNDS MANAGED BY FUND MANAGER IN SINGAPORE) (AMENDMENT) REGULATIONS 2017

In exercise of the powers conferred by section 13X of the Income Tax Act, the Minister for Finance makes the following Regulations:

Citation and commencement

1. These Regulations are the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) (Amendment) Regulations 2017 and are deemed to have come into operation on 1 April 2015.

Amendment of title

2. The Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 414/2010) (called in these Regulations the principal Regulations) are amended by deleting the words “BY FUND MANAGER IN SINGAPORE” in the title and substituting the words “IN SINGAPORE BY FUND MANAGER”.

Amendment of regulation 1

3. Regulation 1 of the principal Regulations is amended by deleting the words “by Fund Manager in Singapore” and substituting the words “in Singapore by Fund Manager”.

Amendment of regulation 2

4. Regulation 2 of the principal Regulations is amended —
- (a) by deleting the words “which is a private equity fund, a real estate fund or an infrastructure fund” in the definition of “committed funds”; and
 - (b) by deleting the full-stop at the end of the definitions of “designated investments” and “specified income” and substituting a semi-colon, and by inserting immediately thereafter the following definition:
 - “ “income-deriving activity” means an activity that is capable of generating income that is exempt from tax under section 13X of the Act.”.

Amendment of regulation 3

5. Regulation 3(2) of the principal Regulations is amended by deleting the words “fund manager in Singapore” in sub-paragraph (b) and substituting the words “fund manager”.

Amendment of regulation 3A

6. Regulation 3A(2) of the principal Regulations is amended —
- (a) by deleting the words “any income-deriving activities” in sub-paragraph (b)(i) and (ii) and substituting in each case the words “any income-deriving activity”;
 - (b) by deleting the words “fund manager in Singapore” in sub-paragraph (b)(i)(A) and (B) and (ii)(A) and (B) and substituting in each case the words “fund manager”; and
 - (c) by inserting, immediately after the words “which are carrying on” in the definition of “A” in sub-paragraph (b)(ii), the words “one or more”.

Deletion of regulations 3B, 4, and 5 and new regulations 3B, 3C, 3D, 4 and 5

7. Regulations 3B, 4 and 5 of the principal Regulations are deleted and the following regulations substituted therefor:

“Exemption from tax under section 13X(1)(c) of Act

3B.—(1) For the purpose of section 13X(1)(c) of the Act, subject to the conditions in paragraph (2) and regulations 4, 5 and 6, the following income is exempt from tax for any year of assessment:

- (a) in the case of a company which is the approved master fund or an approved feeder fund of an approved master-feeder fund-SPV structure, any specified income derived by the company from funds of the company managed in Singapore by a fund manager in respect of designated investments;
- (b) in the case of a trustee of a trust fund which is the approved master fund or an approved feeder fund of an approved master-feeder fund-SPV structure, any specified income derived by the trustee from funds of the trust fund managed in Singapore by a fund manager in respect of designated investments;
- (c) in the case of a partner of a limited partnership which is the approved master fund or an approved feeder fund of an approved master-feeder fund-SPV structure, the share to which the partner is entitled in any specified income derived by the partnership from funds of the partnership managed in Singapore by a fund manager in respect of designated investments;
- (d) in the case of an approved 1st tier SPV of an approved master-feeder fund-SPV structure, any specified income derived by the approved 1st tier SPV from funds of the approved master fund or an approved feeder fund of that structure managed in Singapore by a fund manager in respect of designated investments;
- (e) in the case of an approved 2nd tier SPV of an approved master-feeder fund-SPV structure, any specified income derived by the approved 2nd tier SPV from funds of the approved master fund or an approved feeder fund of that structure managed in Singapore by a fund manager in respect of designated investments.

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- (2) The conditions mentioned in paragraph (1) are —
- (a) throughout the basis period for that year of assessment, the funds of the approved master fund or approved feeder fund, as the case may be, are managed in Singapore by a fund manager;
 - (b) the approved master fund —
 - (i) if it is a company, must be incorporated in Singapore and must be resident in Singapore throughout the basis period for that year of assessment;
 - (ii) if it is a trust fund, must be constituted in Singapore and the trustee of which must be resident in Singapore throughout the basis period for that year of assessment; or
 - (iii) if it is a limited partnership, must be registered in Singapore and all the partners of which (including all limited partners) must be resident in Singapore throughout the basis period for that year of assessment;
 - (c) at the time of the application for approval of the master-feeder fund-SPV structure, the aggregate amount of —
 - (i) the funds of the master fund, all feeder funds and all SPVs of that structure managed in Singapore by the fund manager; or
 - (ii) if the master-feeder fund-SPV structure is a private equity fund, a real estate fund or an infrastructure fund, the committed funds of the master fund, all feeder funds and all SPVs of that structure managed in Singapore by the fund manager,

is at least an amount which is computed in accordance with the following formula:

$$A \times B,$$

where A is the total number of entities in that structure which are carrying on one or more income-deriving activities at that time; and

B is \$50 million;

- (d) for that year of assessment, no part of the income of the approved master fund, any approved feeder fund or any approved SPV of the approved master-feeder fund-SPV structure (other than any income derived before the approved master-feeder fund-SPV structure was approved as such) —
- (i) is exempt from tax under section 13C, 13CA, 13G, 13H, 13O, 13P, 13Q, 13R, 13W or 13Y of the Act;
 - (ii) is subject to a concessionary rate of tax under section 43E, 43G or 43Q of the Act; or
 - (iii) is entitled to any tax relief or subject to any concessionary rate of tax under Part III or IIIB of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);
- (e) the investment strategy of the master-feeder fund-SPV structure remains unchanged from the date the structure is approved as an approved master-feeder fund-SPV structure, unless —
- (i) the effective date for the change in the strategy is before 1 April 2019; and
 - (ii) the Minister or the Monetary Authority of Singapore is satisfied that the change is made for a bona fide commercial purpose; and
- (f) conditions specified in the letter of approval issued by the Monetary Authority of Singapore approving the master-feeder fund-SPV structure under section 13X of the Act.

Exemption from tax under section 13X(1)(d) of Act

3C.—(1) For the purpose of section 13X(1)(d) of the Act, subject to the conditions in paragraph (2) and regulations 4, 5 and 6, the following income is exempt from tax for any year of assessment:

- (a) in the case of a company which is the approved master fund of an approved master fund-SPV structure, any specified income derived by the company from funds of the company managed in Singapore by a fund manager in respect of designated investments;
- (b) in the case of a trustee of a trust fund which is the approved master fund of an approved master fund-SPV structure, any specified income derived by the trustee from funds of the trust fund managed in Singapore by a fund manager in respect of designated investments;
- (c) in the case of a partner of a limited partnership which is the approved master fund of an approved master fund-SPV structure, the share to which the partner is entitled in any specified income derived by the partnership from funds of the partnership managed in Singapore by a fund manager in respect of designated investments;
- (d) in the case of an approved 1st tier SPV of an approved master fund-SPV structure, any specified income derived by the approved 1st tier SPV from funds of the approved master fund of that structure managed in Singapore by a fund manager in respect of designated investments;
- (e) in the case of an approved 2nd tier SPV of an approved master fund-SPV structure, any specified income derived by the approved 2nd tier SPV from funds of the approved master fund of that structure managed in Singapore by a fund manager in respect of designated investments.

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- (2) The conditions mentioned in paragraph (1) are —
- (a) throughout the basis period for that year of assessment, the funds of the approved master fund are managed in Singapore by a fund manager;
 - (b) the approved master fund —
 - (i) if it is a company, must be incorporated in Singapore and must be resident in Singapore throughout the basis period for that year of assessment;
 - (ii) if it is a trust fund, must be constituted in Singapore and the trustee of which must be resident in Singapore throughout the basis period for that year of assessment; or
 - (iii) if it is a limited partnership, must be registered in Singapore and all the partners of which (including all limited partners) must be resident in Singapore throughout the basis period for that year of assessment;
 - (c) at the time of the application for approval of the master fund-SPV structure, the aggregate amount of —
 - (i) the funds of the master fund and all SPVs of that structure managed in Singapore by the fund manager; or
 - (ii) if the approved master fund-SPV structure is a private equity fund, a real estate fund or an infrastructure fund, the committed funds of the master fund and all SPVs of that structure managed in Singapore by the fund manager,is at least an amount which is computed in accordance with the following formula:

$$A \times B,$$

where A is the total number of entities in that structure which are carrying on one or more income-deriving activities at that time; and

B is \$50 million;

- (d) for that year of assessment, no part of the income of the approved master fund or any approved SPV of the approved master fund-SPV structure (other than any income derived before the approved master fund-SPV structure was approved as such) —
- (i) is exempt from tax under section 13C, 13CA, 13G, 13H, 13O, 13P, 13Q, 13R, 13W or 13Y of the Act;
 - (ii) is subject to a concessionary rate of tax under section 43E, 43G or 43Q of the Act; or
 - (iii) is entitled to any tax relief or subject to any concessionary rate of tax under Part III or IIIB of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);
- (e) the investment strategy of the master fund-SPV structure remains unchanged from the date the structure is approved as an approved master fund-SPV structure, unless —
- (i) the effective date for the change in the strategy is before 1 April 2019; and
 - (ii) the Minister or the Monetary Authority of Singapore is satisfied that the change is made for a bona fide commercial purpose; and
- (f) conditions specified in the letter of approval issued by the Monetary Authority of Singapore approving the master fund-SPV structure under section 13X of the Act.

Notice of change in investment strategy

3D.—(1) For the purpose of regulations 3(2)(d), 3A(2)(d), 3B(2)(e) and 3C(2)(e), the person mentioned in paragraph (2) must give notice of any change in the investment strategy, together with such particulars of the change as may reasonably be required, to the Minister or the Monetary Authority of Singapore before the effective date for the change.

(2) In paragraph (1), the person is —

(a) in the case of regulation 3(2)(d) —

- (i) where the approved person is a partner of an approved limited partnership, the general partner or, if the general partner is not personally present in Singapore, the attorney, agent, manager or factor of the approved limited partnership;
- (ii) where the approved person is an approved company, the approved company; and
- (iii) where the approved person is an approved trust fund, the trustee of the approved trust fund;

(b) in the case of regulation 3A(2)(d) —

- (i) where the approved master fund of the approved master-feeder fund structure is a limited partnership, the general partner or, if the general partner is not personally present in Singapore, the attorney, agent, manager or factor of the limited partnership;
- (ii) where the approved master fund of the approved master-feeder fund structure is a company, the company; and
- (iii) where the approved master fund of the approved master-feeder fund structure is a trust fund, the trustee of the trust fund;

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- (c) in the case of regulation 3B(2)(e) —
- (i) where the approved master fund of the approved master-feeder fund-SPV structure is a limited partnership, the general partner or, if the general partner is not personally present in Singapore, the attorney, agent, manager or factor of the limited partnership;
 - (ii) where the approved master fund of the approved master-feeder fund-SPV structure is a company, the company; and
 - (iii) where the approved master fund of the approved master-feeder fund-SPV structure is a trust fund, the trustee of the trust fund; and
- (d) in the case of regulation 3C(2)(e) —
- (i) where the approved master fund of the approved master fund-SPV structure is a limited partnership, the general partner or, if the general partner is not personally present in Singapore, the attorney, agent, manager or factor of the limited partnership;
 - (ii) where the approved master fund of the approved master fund-SPV structure is a company, the company; and
 - (iii) where the approved master fund of the approved master fund-SPV structure is a trust fund, the trustee of the trust fund.

No deduction in respect of loss arising from designated investment

4.—(1) Despite anything in these Regulations, no deduction in respect of any loss arising from the following is allowed to any of the persons in paragraph (2):

- (a) the sale, maturity, redemption or transfer of both legal and beneficial ownership (other than sale or by way of a securities lending and repurchase arrangement) of

any designated investments if any gains or profits realised from such sale, maturity, redemption or transfer would have been exempt from tax under regulation 3, 3A, 3B or 3C, as the case may be;

(b) any transaction (other than those falling under sub-paragraph (a)) in respect of any designated investments if any gains or profits from the transaction would have been exempt from tax under regulation 3, 3A, 3B or 3C, as the case may be.

(2) In paragraph (1), the persons are —

(a) an approved person mentioned in section 13X(1)(a) of the Act;

(b) a company, trustee or partner mentioned in section 13X(1)(b) of the Act;

(c) a company, trustee, partner, 1st tier SPV or 2nd tier SPV mentioned in section 13X(1)(c) of the Act; and

(d) a company, trustee, partner, 1st tier SPV or 2nd tier SPV mentioned in section 13X(1)(d) of the Act.

Determination of income exempt from tax

5.—(1) This regulation applies for the purpose of determining the income that is exempt under regulation 3, 3A, 3B or 3C.

(2) Any expenses allowable under the Act which are attributable to any income mentioned in paragraph (1) must be deducted from that income; and the following must be disregarded:

(a) any balance of the expenses;

(b) in the case of —

(i) an approved person that is a partner of an approved limited partnership; or

(ii) a partner of a limited partnership mentioned in section 13X(1)(b), (c)(i) or (d)(i) of the Act,

any excess of the partner's share of the expenses over the partner's share of the specified income of the partnership.

(3) Any allowances under section 19, 19A, 20, 21 or 22 of the Act must be deducted from that income, even if no claim for those allowances has been made; and the following must be disregarded:

- (a) any balance of the allowances;
- (b) in the case of —
 - (i) an approved person that is a partner of an approved limited partnership; or
 - (ii) a partner of a limited partnership mentioned in section 13X(1)(b), (c)(i) or (d)(i) of the Act,any excess of the partner's share of the allowance over the partner's share of the specified income of the partnership.”.

Amendment of regulation 6

8. Regulation 6 of the principal Regulations is amended by deleting paragraph (4) and substituting the following paragraph:

“(4) This regulation applies in relation to the following limited partnerships as it applies in relation to an approved limited partnership:

- (a) a limited partnership which is the approved master fund or an approved feeder fund of an approved master-feeder fund structure mentioned in section 13X(1)(b) of the Act;
- (b) a limited partnership which is the approved master fund or an approved feeder fund of an approved master-feeder fund-SPV structure mentioned in section 13X(1)(c) of the Act;
- (c) a limited partnership which is the approved master fund of an approved master fund-SPV structure mentioned in section 13X(1)(d) of the Act.”.

Amendment of regulation 7

9. Regulation 7 of the principal Regulations is amended by deleting paragraphs (3) and (4) and substituting the following paragraphs:

“(3) A company or the trustee of a trust fund, where the company or trust fund is the approved master fund of —

- (a) an approved master-feeder fund structure mentioned in section 13X(1)(b) of the Act;
- (b) an approved master-feeder fund-SPV structure mentioned in section 13X(1)(c) of the Act; or
- (c) an approved master fund-SPV structure mentioned in section 13X(1)(d) of the Act,

must, within 4 months after the end of the basis period of the company or the trustee of the trust fund (in relation to the trustee’s income as such trustee) or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the conditions in paragraph (5) have been met for the basis period.

(4) The general partner or, if the general partner is not personally present in Singapore, the attorney, agent, manager or factor of a limited partnership that is the approved master fund of —

- (a) an approved master-feeder fund structure mentioned in section 13X(1)(b) of the Act;
- (b) an approved master-feeder fund-SPV structure mentioned in section 13X(1)(c) of the Act; or
- (c) an approved master fund-SPV structure mentioned in section 13X(1)(d) of the Act,

must, within 4 months after the end of the period to which the account of the limited partnership is made up, or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary

Authority of Singapore may specify, that the conditions in paragraph (5) have been met for the period.

(5) For the purposes of paragraphs (3) and (4), the conditions are as follows:

- (a) where the approved master fund is the approved master fund of an approved master-feeder fund structure mentioned in section 13(1)(b) of the Act —
 - (i) the conditions subject to which the master-feeder fund structure had been approved for the purposes of section 13X of the Act; and
 - (ii) the conditions specified in regulation 3A(2)(a), (c), (d) and (e);
- (b) where the approved master fund is the approved master fund of an approved master-feeder fund-SPV structure mentioned in section 13X(1)(c) of the Act —
 - (i) the conditions subject to which the master-feeder fund-SPV structure had been approved for the purposes of section 13X of the Act; and
 - (ii) the conditions specified in regulation 3B(2)(a), (b), (d), (e) and (f);
- (c) where the approved master fund is the approved master fund of an approved master fund-SPV structure mentioned in section 13X(1)(d) of the Act —
 - (i) the conditions subject to which the master fund-SPV structure had been approved for the purposes of section 13X of the Act; and
 - (ii) the conditions specified in regulation 3C(2)(a), (b), (d), (e) and (f).”.

[G.N. Nos. S 295/2012; S 513/2013; S 645/2013; S 382/2016]

Made on 13 April 2017.

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