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No. S 262

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(EXEMPTION OF INCOME OF NON-RESIDENTS
ARISING FROM FUNDS MANAGED BY
FUND MANAGER IN SINGAPORE) (AMENDMENT)
REGULATIONS 2013

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

Citation and commencement

1. These Regulations may be cited as the Income Tax (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) (Amendment) Regulations 2013 and shall be deemed to have come into operation on 17th February 2012.

Amendment of regulation 2

2. Regulation 2(1) of the Income Tax (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 6/2010) is amended —

(a) by deleting the definition of “commodity derivatives” and substituting the following definition:

““commodity derivatives” means derivatives the payoffs of which are wholly linked to the payoffs or performance of the underlying commodity;”;

(b) by deleting the definition of “designated investments” and substituting the following definition:

““designated investments” means —

- (a) in relation to income derived before 17th February 2012, investments specified in Part A of the First Schedule; and
 - (b) in relation to income derived on or after 17th February 2012, investments specified in Part A of the Second Schedule;”;
- (c) by deleting the definition of “emission derivatives” and substituting the following definitions:

““emission derivatives” means derivatives the payoffs of which are wholly linked to the payoffs or performance of the underlying emission allowances;

“financial derivatives” means derivatives the payoffs of which are linked, whether in whole or in part, to the payoffs or performance of any financial assets, securities, financial instruments or indices, but excludes derivatives the payoffs of which are wholly linked to the payoffs or performance of commodities;”;

- (d) by inserting, immediately after the definition of “financial sector incentive company”, the following definition:

““freight derivatives” means derivatives the payoffs of which are wholly linked to the payoffs or performance of the underlying freight rates;”;

and

- (e) by deleting the definition of “specified income” and substituting the following definition:

““specified income” means —

- (a) in relation to income derived before 17th February 2012, income specified in Part B of the First Schedule; and

(b) in relation to income derived on or after 17th February 2012, income specified in Part B of the Second Schedule;”.

New First and Second Schedules

3. The Income Tax (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 are amended by inserting, immediately after regulation 7, the following Schedules:

“FIRST SCHEDULE

Regulation 2

PART A

DESIGNATED INVESTMENTS IN RELATION TO INCOME DERIVED BEFORE 17TH FEBRUARY 2012

The following investments:

- (a) stocks and shares of —
 - (i) any company that is listed on the Singapore Exchange or the Kuala Lumpur Stock Exchange;
 - (ii) any company that is listed on any exchange other than the Singapore Exchange or the Kuala Lumpur Stock Exchange if the company is —
 - (A) incorporated in Singapore and resident in Singapore; or
 - (B) incorporated outside Singapore and not resident in Singapore and the stocks and shares issued by such companies are denominated in any foreign currency; or
 - (iii) any company that is not listed on a stock exchange in Singapore or elsewhere if the company is not in the business of trading or holding of Singapore immovable properties (other than the business of property development);
- (b) securities (other than stocks and shares) denominated in any foreign currency (including bonds, notes, certificates of deposit and treasury bills) issued by foreign governments, foreign banks outside Singapore and companies which are neither incorporated in Singapore nor resident in Singapore;
- (c) futures contracts held in any futures exchange;

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- (d) any immovable property situated outside Singapore;
 - (e) certificates of deposit, notes and bonds issued by Asian Currency Units in Singapore;
 - (f) Asian Dollar Bonds approved under section 13(1)(v) of the Act;
 - (g) deposits in Singapore with any approved bank as defined in section 13(16) of the Act;
 - (h) foreign currency deposits with financial institutions outside Singapore;
 - (i) bonds and other securities listed on the Singapore Exchange or the Kuala Lumpur Stock Exchange, and other bonds and securities issued by companies which are incorporated in Singapore and resident in Singapore;
 - (j) Singapore Government securities;
 - (k) foreign exchange transactions;
 - (l) interest rate or currency contracts on a forward basis, interest rate or currency options, interest rate or currency swaps, and swaps, forwards and option contracts relating to any designated investment specified in this Part or financial index, with —
 - (i) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19);
 - (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186); or
 - (C) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) to deal in securities or a company exempted under that Act from holding such a licence;
 - (ii) a person who is neither resident in Singapore nor a permanent establishment in Singapore; or
 - (iii) a branch office outside Singapore of a company resident in Singapore;
 - (m) units in any unit trust which invests wholly in designated investments specified in this Part;
 - (n) qualifying debt securities that are discount securities issued during the period from 17th February 2006 to 31st December 2013 (both dates inclusive);

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- (o) securities (including bonds, notes, certificates of deposit and treasury bills, but excluding stocks and shares) issued by supranational bodies;
 - (p) loans that are —
 - (i) granted by the prescribed person to any company incorporated outside Singapore which is neither resident in Singapore nor a permanent establishment in Singapore, where no interest, commission, fee or other payment in respect of the loan is deductible against any income of that company accruing in or derived from Singapore; or
 - (ii) granted by a person other than the prescribed person but traded by the prescribed person;
 - (q) commodity derivatives;
 - (r) physical commodities if —
 - (i) the trading of those physical commodities by the prescribed person in the basis period for any year of assessment is done in connection with and is incidental to its trading of commodity derivatives (referred to in this paragraph as related commodity derivatives) in that basis period; and
 - (ii) the trade volume of those physical commodities traded by the prescribed person in that basis period does not exceed 15% of the total trade volume of those physical commodities and related commodity derivatives traded by the prescribed person in that basis period;
 - (s) units in a registered business trust;
 - (t) emission derivatives;
 - (u) liquidation claims;
 - (v) structured products; and
 - (w) investments in prescribed Islamic financing arrangements under section 34B of the Act that are commercial equivalents of any of the other designated investments specified in this Part.

PART B

SPECIFIED INCOME IN RELATION TO INCOME
DERIVED BEFORE 17TH FEBRUARY 2012

The following income:

- (a) interest and dividends in respect of designated investments specified in Part A of this Schedule derived from outside Singapore that are received in Singapore;
- (b) interest derived from deposits with and certificates of deposit issued by any approved bank as defined in section 13(16) of the Act and from Asian Dollar Bonds approved under section 13(1)(v) of the Act;
- (c) gains or profits realised from the sale of any designated investments specified in Part A of this Schedule;
- (d) gains or profits arising from transactions referred to in paragraphs (c), (k), (l), (p), (q) and (r) of Part A of this Schedule;
- (e) fees and compensatory payments derived from securities lending or repurchase arrangements with —
 - (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) a bank licensed under the Banking Act (Cap. 19);
 - (iv) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - (v) a finance company licensed under the Finance Companies Act (Cap. 108);
 - (vi) a holder of a capital markets services licence who is licensed to carry on business in the following regulated activities under the Securities and Futures Act (Cap. 289) (or a company exempted under that Act from holding such a licence):
 - (A) dealing in securities (other than any person licensed under the Financial Advisers Act (Cap. 110));
 - (B) fund management;
 - (C) securities financing; or
 - (D) providing custodial services for securities;
 - (vii) a collective investment scheme or closed-end fund as defined in the Securities and Futures Act that is constituted as a corporation;

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- (viii) the Central Depository (Pte) Limited;
 - (ix) an insurer registered or regulated under the Insurance Act (Cap. 142) or exempted under that Act from being registered or regulated; or
 - (x) a trust company registered under the Trust Companies Act (Cap. 336);
- (f) rents and any other income derived from any immovable property situated outside Singapore that are received in Singapore;
 - (g) discounts derived from outside Singapore that are received in Singapore;
 - (h) discounts from qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2013 (both dates inclusive);
 - (i) interest derived from qualifying debt securities;
 - (j) distributions from foreign unit trusts derived from outside Singapore that are received in Singapore;
 - (k) prepayment fee, redemption premium and break cost from qualifying debt securities issued during the period from 15th February 2007 to 31st December 2013 (both dates inclusive);
 - (l) gains or profits realised on or after 22nd January 2009 upon the 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 specified in Part A of this Schedule; and
 - (m) amounts payable from any Islamic debt securities issued on or after 22nd January 2009 which are qualifying debt securities.

SECOND SCHEDULE

Regulation 2

PART A

DESIGNATED INVESTMENTS IN RELATION TO INCOME
DERIVED ON OR AFTER 17TH FEBRUARY 2012

The following investments:

- (a) stocks and shares of any company, other than a company that is —
 - (i) in the business of trading or holding of Singapore immovable properties (other than the business of property development); and
 - (ii) not listed on a stock exchange in Singapore or elsewhere;
- (b) bonds, notes, commercial papers, treasury bills and certificates of deposit, but excluding in relation to specified income derived on or after 1st September 2012, any bonds, notes, commercial papers, treasury bills and certificates of deposit which are not qualifying debt securities and which are issued by any company that is —
 - (i) in the business of trading or holding of Singapore immovable properties (other than the business of property development); and
 - (ii) not listed on a stock exchange in Singapore or elsewhere;
- (c) real estate investment trusts, exchange traded funds or any other securities which are —
 - (i) denominated in foreign currency issued by foreign governments;
 - (ii) listed on any exchange;
 - (iii) issued by supranational bodies; or
 - (iv) issued by any company,

but excluding in relation to specified income derived on or after 1st September 2012, any securities which are issued by any company that is —

- (A) in the business of trading or holding of Singapore immovable properties (other than the business of property development); and
 - (B) not listed on a stock exchange in Singapore or elsewhere;
- (d) futures contracts held in any futures exchanges;

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- (e) any immovable property situated outside Singapore;
 - (f) deposits in Singapore with any approved bank as defined in section 13(16) of the Act;
 - (g) foreign currency deposits with financial institutions outside Singapore;
 - (h) foreign exchange transactions;
 - (i) interest rate or currency contracts on a forward basis, interest rate or currency options, interest rate or currency swaps, and any financial derivative relating to any designated investment specified in this Part or financial index, with —
 - (i) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19);
 - (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186); or
 - (C) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) to deal in securities or a company exempted under that Act from holding such a licence;
 - (ii) a person who is neither resident in Singapore nor a permanent establishment in Singapore; or
 - (iii) a branch office outside Singapore of a company resident in Singapore;
 - (j) units in any unit trust which invests wholly in designated investments specified in this Part;
 - (k) loans that are —
 - (i) granted by a prescribed person to any company incorporated outside Singapore which is neither resident in Singapore nor a permanent establishment in Singapore, where no interest, commission, fee or other payment in respect of the loan is deductible against any income of that company accruing in or derived from Singapore; or
 - (ii) granted by a person other than a prescribed person but traded by a prescribed person;
 - (l) commodity derivatives;

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- (m) physical commodities if —
- (i) the trading of those physical commodities by a prescribed person in the basis period for any year of assessment is done in connection with and is incidental to its trading of commodity derivatives (referred to in this paragraph as related commodity derivatives) in that basis period; and
 - (ii) the trade volume of those physical commodities traded by the prescribed person in that basis period does not exceed 15% of the total trade volume of those physical commodities and related commodity derivatives traded by the prescribed person in that basis period;
- (n) units in a registered business trust;
- (o) emission derivatives;
- (p) liquidation claims;
- (q) structured products;
- (r) investments in prescribed Islamic financing arrangements under section 34B of the Act that are commercial equivalents of any of the other designated investments specified in this Part;
- (s) private trusts that invest wholly in designated investments specified in this Part;
- (t) freight derivatives; and
- (u) publicly-traded partnerships that do not carry on any trade, business, profession or vocation in Singapore.

PART B

SPECIFIED INCOME IN RELATION TO INCOME DERIVED ON OR AFTER 17TH FEBRUARY 2012

The following income:

- (a) any income or gains derived from designated investments specified in Part A of this Schedule, but does not include any income specified in paragraphs (b), (c), (d) and (e) of this Part;
- (b) interest and other payments that fall within the ambit of section 12(6) of the Act other than —
 - (i) interest derived from deposits with and certificates of deposit issued by any approved bank as defined in section 13(16) of the Act and from Asian Dollar Bonds approved under section 13(1)(v) of the Act;

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- (ii) interest from qualifying debt securities;
 - (iii) discounts from qualifying debt securities issued on or after 17th February 2006;
 - (iv) prepayment fees, redemption premiums and break costs from qualifying debt securities issued on or after 15th February 2007;
 - (v) amounts payable from any Islamic debt securities issued on or after 22nd January 2009 which are qualifying debt securities;
 - (vi) fees and compensatory payments derived from securities lending or repurchase arrangements with —
 - (A) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (B) the Monetary Authority of Singapore;
 - (C) a bank licensed under the Banking Act (Cap. 19);
 - (D) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - (E) a finance company licensed under the Finance Companies Act (Cap. 108);
 - (F) a holder of a capital markets services licence who is licensed to carry on business in the following regulated activities under the Securities and Futures Act (Cap. 289) or a company exempted under that Act from holding such a licence:
 - (FA) dealing in securities (other than any person licensed under the Financial Advisers Act (Cap. 110));
 - (FB) fund management;
 - (FC) securities financing; or
 - (FD) providing custodial services for securities;
 - (G) a collective investment scheme or closed-end fund as defined in the Securities and Futures Act that is constituted as a corporation;
 - (H) the Central Depository (Pte) Limited;
 - (I) an insurer registered or regulated under the Insurance Act (Cap. 142) or exempted under that Act from being registered or regulated; or

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- (J) a trust company registered under the Trust Companies Act (Cap. 336);
- (c) any distribution made by a trustee of a real estate investment trust within the meaning of section 43(10) of the Act;
- (d) any distribution made by a trustee of a trust who is a resident of Singapore or a permanent establishment in Singapore, other than a distribution made by a trustee of a trust whose income is exempt from tax under section 13C, 13G, 13O or 13X of the Act; and
- (e) income or gain derived or deemed to be derived from Singapore from a publicly-traded partnership, where tax is paid or payable in Singapore on such income of the partnership by deduction or otherwise.”.

[G.N. Nos. S 498/2010; S 346/2012]

Made this 19th day of April 2013.

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(Finance) (Performance),
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Singapore.*

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