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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR
APPROVED OFFSHORE COMPOSITE INSURERS)
(AMENDMENT) REGULATIONS 2016

In exercise of the powers conferred by section 43C of the Income Tax Act, the Minister for Finance makes the following Regulations:

Citation and commencement

1.—(1) These Regulations are the Income Tax (Concessionary Rate of Tax for Approved Offshore Composite Insurers) (Amendment) Regulations 2016.

(2) Regulations 3(*b*), (*e*) and (*f*) and 10 are deemed to have come into operation on 25 February 2013.

(3) Regulations 3(*a*), 5, 11(*a*) and 12 are deemed to have come into operation on 1 April 2013.

(4) Regulations 4 and 9 are deemed to have come into operation on 5 August 2014.

Amendment of regulation 1

2. Regulation 1 of the Income Tax (Concessionary Rate of Tax for Approved Offshore Composite Insurers) Regulations (Rg 27) (called in these Regulations the principal Regulations) is amended by deleting the words “Concessionary Rate of Tax for Approved Offshore Composite Insurers” and substituting the words “Exemption and Concessionary Tax Rate for Income from Composite Insurance Business”.

Amendment of regulation 2

3. Regulation 2 of the principal Regulations is amended —

- (a) by deleting the definition of “approved takaful insurer”;
- (b) by inserting, immediately after the definition of “captive insurer”, the following definition:

“catastrophe excess of loss policy” means an insurance policy where the insurer is liable for any amount above an amount stated in the policy in respect of any loss arising from a natural catastrophe;”;

- (c) by inserting, immediately after the words “derived from deposits” in the definition of “interest from ACU deposits”, the word “held”;
- (d) by inserting, immediately after the word “deposits” in paragraph (g) of the definition of “offshore investments”, the words “held outside Singapore”;
- (e) by deleting the definition of “offshore qualifying specialised insurance risks” and substituting the following definition:

“offshore qualifying specialised insurance risks” means any of the following risks that are offshore risks:

- (a) terrorism risks;
 - (b) political risks;
 - (c) energy risks;
 - (d) aviation and aerospace risks;
 - (e) agriculture risks;
 - (f) risks arising from a natural catastrophe;”;
- and

- (f) by renumbering the regulation as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) In these Regulations, a reference to insuring, reinsuring or underwriting an offshore qualifying specialised insurance risk that is a risk arising from a natural catastrophe is a reference to insuring, reinsuring or underwriting (as the case may be) such risk by means of a catastrophe excess of loss policy.”.

Amendment of regulation 4A

4. Regulation 4A of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraph:

“(3) No approval under paragraph (1) may be given unless, at the time of such approval, at least one aspect of each of the following functions of the captive insurer is undertaken by a company incorporated in Singapore, or by personnel located in Singapore who are employed by a company incorporated outside Singapore:

- (a) compliance with any requirement, and with any direction, notice or other document issued, under the Insurance Act (Cap. 142) and the Monetary Authority of Singapore Act (Cap. 186);
- (b) compliance with any requirement relating to financial accounting, auditing and reporting under the Companies Act (Cap. 50);
- (c) the day-to-day management of the captive insurer’s business.”.

Deletion of regulations 4C, 5A and 6A

5. The principal Regulations are amended by deleting regulations 4C, 5A and 6A.

Amendment of regulation 5

6. Regulation 5 of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraph:

“(3) For the year of assessment 2012 and subsequent years of assessment, a reference in this regulation to interest includes a reference to a qualifying return in lieu of interest.”.

Amendment of regulation 5B

7. Regulation 5B of the principal Regulations is amended by inserting, immediately after paragraph (3), the following paragraph:

“(4) For the year of assessment 2012 and subsequent years of assessment, a reference in this regulation to interest includes a reference to qualifying return in lieu of interest.”.

Amendment of regulation 6

8. Regulation 6 of the principal Regulations is amended by inserting, immediately after paragraph (3), the following paragraph:

“(4) For the year of assessment 2012 and subsequent years of assessment, a reference in this regulation to interest includes a reference to qualifying return in lieu of interest.”.

Amendment of regulation 7A

9. Regulation 7A of the principal Regulations is amended —

- (a) by deleting the words “for the basis period for any year of assessment” in paragraph (1) and substituting the words “in a basis period for any period of assessment that ends at any time before 5 August 2014”; and
- (b) by inserting, immediately after paragraph (1), the following paragraphs:

“(1A) The income mentioned in paragraph (1)(a), (b) and (c), that is derived by an approved captive insurer (including one who is also an approved insurer) in a basis period for any year of assessment, other than one mentioned in paragraph (1), is exempt from tax if —

- (a) in the case of a basis period that commences on or after 5 August 2014, the requirement in paragraph (1B) is satisfied at all times during that basis period; and

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- (b) in the case of a basis period in which 5 August 2014 falls (but not one whose commencement date is that date), the requirement in paragraph (1B) is satisfied at all times between 5 August 2014 and the last day of that basis period (both dates inclusive).

(1B) The requirement mentioned in paragraph (1A) is that at least one aspect of each of the following functions of the approved captive insurer is undertaken by a company incorporated in Singapore, or by personnel located in Singapore who are employed by a company incorporated outside Singapore:

- (a) compliance with any requirement, and with any direction, notice or other document issued, under the Insurance Act and the Monetary Authority of Singapore Act;
- (b) compliance with any requirement relating to financial accounting, auditing and reporting under the Companies Act;
- (c) the day-to-day management of the captive insurer's business.”.

Amendment of regulation 7B

10. Regulation 7B of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraph:

“(3) For the purposes of paragraph (1)(b), a policy for risks arising from a natural catastrophe is to be regarded as a policy for offshore qualifying specialised insurance risks only if it is a catastrophe excess of loss policy, and the reference to “offshore qualifying specialised insurance business” in paragraph (2) is to be read accordingly.”.

Amendment of regulation 8

11. Regulation 8 of the principal Regulations is amended —

(a) by deleting paragraph (2) and substituting the following paragraph:

“(2) Despite paragraph (1) and subject to paragraph (3), where an approved insurer is also an approved marine hull and liability insurer under regulation 4, an approved captive insurer under regulation 4A or an approved specialised insurer under regulation 4B, any item of expenditure not directly attributable to the marine hull and liability business, the offshore captive insurance business, the offshore qualifying specialised insurance business, the offshore general insurance business or the offshore life business of such insurer, as well as capital allowances and donations allowable to such insurer under the Act, are to be apportioned between such business and the other insurance business of such insurer in the following manner:

(a) the portion attributable to marine hull and liability business is to be ascertained by using the fraction —

$$\frac{P_m + P_n}{P_o + P_i + P_{oL} + P_{iL}};$$

(b) the portion attributable to offshore captive insurance business is to be ascertained by using the fraction —

$$\frac{P_c}{P_o + P_i + P_{oL} + P_{iL}};$$

(c) the portion attributable to offshore qualifying specialised insurance business is to be ascertained by using the fraction —

$$\frac{P_s}{P_o + P_i + P_{oL} + P_{iL}};$$

- (d) the portion attributable to offshore life business and offshore general insurance business, other than offshore marine hull and liability business, offshore captive insurance business and offshore qualifying specialised insurance business, is to be ascertained by using the fraction —

$$\frac{P_o + P_{oL} - P_m - P_c - P_s}{P_o + P_i + P_{oL} + P_{iL}},$$

where P_m , P_n , P_o , P_i , P_{oL} and P_{iL} have the same meanings as in regulation 5B(1)(b), with the references to the approved marine hull and liability insurer in that provision modified to refer to the approved insurer;

P_c has the same meaning as in regulation 7A(1); and

P_s has the same meaning as in regulation 7B(1).

”; and

- (b) by deleting paragraph (3) and substituting the following paragraph:

“(3) The Comptroller may apply any alternative method of apportionment in place of any of the prescribed fractions in paragraphs (1) and (2) if the Comptroller is satisfied that the alternative method is reasonable in the circumstances of the business of the approved insurer.”.

Amendment of regulation 10

12. Regulation 10(1) of the principal Regulations is amended by deleting the words “or by an approved takaful insurer for any year of assessment taxable at the rate of 5% in accordance with regulation 5A(1)(b) and (c)(i)”.

*[G.N. Nos. S 659/2004; S 80/2009; S 224/2009;
S 747/2010; S 102/2011; S 212/2013; S 518/2013]*

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