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No. S 36

INCOME TAX ACT 1947

INCOME TAX (EXEMPTION OF FOREIGN INCOME OF APPROVED SHIPPING INVESTMENT ENTERPRISE) ORDER 2023

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In exercise of the powers conferred by section 13(12) of the Income Tax Act 1947, the Minister for Finance makes the following Order:

Citation and commencement

1. This Order is the Income Tax (Exemption of Foreign Income of Approved Shipping Investment Enterprise) Order 2023 and is deemed to have come into operation on 12 December 2018.

Definitions

2. In this Order —

“approved related party”, in relation to an ASIE, means any company or partnership —

- (a) that is a related party of the ASIE and approved by the Minister or a person appointed by the Minister under paragraph 3(1); or

(b) that is deemed under paragraph 3(3) to be approved as such by the Minister or appointed person under paragraph 3(3);

“approved shipping investment enterprise” or “ASIE” —

(a) means a shipping investment enterprise approved under section 13S of the Act; and

(b) includes a partnership approved by the Minister (or a person appointed by the Minister) under section 13S of the Act as applied by section 36 of the Act;

“qualifying period”, in relation to a seagoing ship, means the period specified under section 13S(4) of the Act during which income of that ship, or a class of seagoing ships to which that ship belongs, is exempt from tax under section 13S of the Act;

“related party”, in relation to an ASIE, means a company or partnership that is a related party of the ASIE in accordance with the Income Tax (Related Party of Approved Shipping Investment Enterprise under Section 13S) Rules 2021 (G.N. No. S 874/2021);

“ship” has the meaning given by section 2(1) of the Merchant Shipping Act (Cap. 179).

Approval

3.—(1) The Minister or a person appointed by the Minister may approve a related party of an ASIE as an approved related party of the ASIE for the purposes of this Order.

(2) The approval in sub-paragraph (1) may be given only if the Minister or appointed person is satisfied that —

(a) the related party is incorporated, registered or formed outside Singapore;

(b) the related party carries on a business relating to the chartering or finance leasing of a seagoing ship owned by it for use outside the limits of the port of Singapore, or intends to carry on that business;

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- (c) the related party carries on the business, or intends to carry on that business, from a place outside Singapore;
 - (d) the related party intends to pay dividends or partnership profits (as the case may be) derived from the business to the ASIE, and these payments will promote and enhance the economic development of Singapore; and
 - (e) the ships that the related party owns or intends to acquire, or charters or leases under a finance lease from the ASIE or another related party or intends to charter or lease under a finance lease from the ASIE or another related party, for the business are controlled and managed or will be controlled and managed by the ASIE.

(3) For the purposes of this Order, a company or partnership that is an approved company or approved partnership of an ASIE under paragraph 3(1) of the Income Tax (Exemption of Foreign Income of Approved Shipping Investment Enterprise) Order 2017 (G.N. No. S 352/2017), and which approval has not expired or been withdrawn as at 11 December 2018, is deemed to be approved by the Minister or appointed person as an approved related party of the ASIE under sub-paragraph (1).

Exemption from tax of income relating to chartering and finance leasing of ship

4.—(1) The income described in sub-paragraph (2) of an ASIE that is received in Singapore during the period of the ASIE's approval is exempt from tax.

(2) Sub-paragraph (1) applies to any income comprising payment of dividends from, or partnership profits of, an approved related party of the ASIE, that is paid out of income derived by the approved related party on or after 25 March 2016 and during the period of the approval of the approved related party (including any period of approval that starts before 12 December 2018 for an approved company or approved partnership mentioned in paragraph 3(3)), from the chartering or finance leasing to any person of an applicable seagoing ship during the qualifying period of the ship, for use outside the limits of the port of Singapore.

(3) For the purpose of sub-paragraph (2), an applicable seagoing ship from which income is derived by an approved related party (*A*) of an ASIE, means a ship —

- (a) in the case of income derived by *A* before 12 December 2018 — that was acquired by *A* before or during the period of its approval; or
- (b) in the case of income derived by *A* on or after 12 December 2018 —
 - (i) that is acquired by *A* before or during the period of its approval; or
 - (ii) that is acquired by the ASIE or another related party (*B*) of the ASIE, before or during the period of approval of the ASIE or *B*, and chartered or leased under a finance lease by the ASIE or *B* (as the case may be) to *A*.

(4) Sub-paragraph (1) also applies to any income of an ASIE described in sub-paragraph (2) that is —

- (a) received in Singapore after the date the approval of the ASIE has expired or been withdrawn; or
- (b) paid out of any income that is derived by an approved related party of the ASIE from the activity mentioned in sub-paragraph (2) after the date the approval of the approved related party has expired or been withdrawn,

if the ASIE has fulfilled all the conditions specified under section 13S(3) of the Act for its approval by the date of expiry or before the date of the withdrawal of the approval.

(5) However, sub-paragraph (1) does not apply to the following income of an ASIE:

- (a) income paid out of any income of an approved related party of the ASIE that is derived as part of a business of trading in seagoing ships or constructing seagoing ships for sale;

- (b) income paid out of income derived from any activity carried out by an approved related party of the ASIE through a permanent establishment in Singapore.

Exemption from tax of income relating to foreign exchange and risk management activities

5.—(1) The income described in sub-paragraph (2) of an ASIE that is received in Singapore during the period of the ASIE’s approval is exempt from tax.

(2) Sub-paragraph (1) applies to any income of an ASIE comprising payment of dividends from, or partnership profits of, an approved related party of the ASIE, that is paid out of income derived by the approved related party on or after 25 March 2016 and during the period of the approval of the approved related party (including any period of approval that starts before 12 December 2018 for an approved company or approved partnership mentioned in paragraph 3(3)), from foreign exchange and risk management activities that are carried out in connection with and incidental to the activity mentioned in paragraph 4(2).

(3) Sub-paragraphs (4) and (5) of paragraph 4 apply to this paragraph as they apply to paragraph 4, as if the reference to the income of an ASIE in paragraph 4(2) were a reference to the income of an ASIE in sub-paragraph (2).

Exemption from tax of income relating to sale of ships, etc.

6.—(1) The income described in sub-paragraph (2) of an ASIE that is received in Singapore during the period of the ASIE’s approval is exempt from tax.

(2) Sub-paragraph (1) applies to any income comprising payment of dividends from, or partnership profits of, an approved related party of the ASIE, that is paid out of income derived by the approved related party on or after 1 June 2011 and during the period of the approval of the related party (including any period of approval that starts before 12 December 2018 for an approved company or approved partnership mentioned in paragraph 3(3)), from any of the following activities:

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- (a) the sale of a seagoing ship, or the assignment to another person of all the rights of the approved related party as the buyer under a contract for the construction of a seagoing ship;
- (b) the sale of all of the issued ordinary shares in a special purpose company of the approved related party, where, at the time of the sale of the shares, the special purpose company owns any seagoing ship or is the buyer under a contract for the construction of any seagoing ship.
- (3) Sub-paragraph (1) does not apply to income of the ASIE that is paid out of income derived from any activity mentioned in sub-paragraph (2)(a) by an approved related party of the ASIE —
- (a) in the course of carrying on a business of trading in seagoing ships or of constructing seagoing ships for sale; or
- (b) if the activity involves the leasing of a seagoing ship under a finance lease that is treated as a sale under regulations made under section 10D(1) of the Act before 12 December 2018.
- (4) In sub-paragraph (2), “special purpose company”, in relation to an approved related party of an ASIE, means a company that is wholly owned by the approved related party and whose only business or intended business is the chartering or finance leasing of seagoing ships.

Made on 28 January 2023.

LAI WEI LIN
*Second Permanent Secretary,
Ministry of Finance,
Singapore.*