
First published in the Government *Gazette*, Electronic Edition, on 1st August 2016 at 5:00 pm.

No. S 384

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(EXEMPTION OF INCOME OF NON-RESIDENTS
ARISING FROM FUNDS MANAGED
BY FUND MANAGER IN SINGAPORE)
(AMENDMENT) REGULATIONS 2016

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

Citation and commencement

1.—(1) These Regulations are the Income Tax (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) (Amendment) Regulations 2016 and, except for regulations 2, 3(b), (c), (d), (e), (g), (h) and (i), 4 and 6(b), are deemed to have come into operation on 21 February 2014.

(2) Regulation 3(b) and (c) is deemed to have come into operation on 1 September 2007.

(3) Regulations 3(e) and 4 are deemed to have come into operation on 7 July 2010.

(4) Regulation 3(d), (g), (h) and (i) is deemed to have come into operation on 1 April 2014.

(5) Regulation 2 is deemed to have come into operation on 11 April 2016.

Amendment of regulation 1

2. Regulation 1(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) (called in these Regulations the principal Regulations) is amended by deleting the

word “Non-residents” and substituting the words “Prescribed Persons”.

Amendment of regulation 2

3. Regulation 2 of the principal Regulations is amended —

(a) by deleting paragraph (b) of the definition of “designated investments” in paragraph (1) and substituting the following paragraphs:

“(b) in relation to income derived between 17 February 2012 and 20 February 2014 (both dates inclusive), investments specified in Part A of the Second Schedule; and

(c) in relation to income derived on or after 21 February 2014, investments specified in Part A of the Third Schedule;”;

(b) by deleting sub-paragraph (iv) of paragraph (b) of the definition of “prescribed person” in paragraph (1) and substituting the following sub-paragraph:

“(iv) has, in aggregate, less than 100% of the value of its issued securities beneficially owned (directly or indirectly) by Singapore persons; and”;

(c) by deleting the words “less than 100% of the value thereof is beneficially held, directly or indirectly, by Singapore persons collectively” in paragraph (c) of the definition of “prescribed person” in paragraph (1) and substituting the words “the aggregate value of that fund held beneficially (directly or indirectly) by Singapore persons is less than 100%”;

(d) by deleting the definition of “prescribed person” in paragraph (1) and substituting the following definition:

“prescribed person” —

- (a) in relation to an individual, means an individual who, at all times during the basis period for the year of assessment —
- (i) is neither a Singapore citizen nor resident in Singapore; and
 - (ii) is the beneficial owner of funds managed in Singapore by any fund manager;
- (b) in relation to a company, means a company in relation to which all the following are satisfied at all times during the basis period for the year of assessment:
- (i) the company is not resident in Singapore;
 - (ii) the company does not have a permanent establishment in Singapore (other than a fund manager);
 - (iii) the company does not carry on any business in Singapore;
 - (iv) the aggregate value of the company's issued securities beneficially owned (directly or indirectly) by Singapore persons is less than 100%;
 - (v) the income of the company is not derived from any tax-exempt investment; and
- (c) in relation to a trustee of a trust fund, means a trustee of a trust fund in relation to whom all the conditions in

sub-paragraph (i) or (ii) (as the case may be) are satisfied at all times during the basis period for the year of assessment:

- (i) in the case of income derived in a basis period that ends at any time before 1 April 2014 —
 - (A) the trustee is not a resident in Singapore, a Singapore citizen or a permanent establishment in Singapore;
 - (B) the trustee does not, in its capacity as trustee of the trust fund, have a permanent establishment in Singapore (other than a fund manager for that trust fund);
 - (C) the trustee does not, in its capacity as trustee of the trust fund, carry on any business in Singapore apart from acting as such trustee;
 - (D) the income derived by the trustee in its capacity as trustee of the trust fund is not derived from any tax-exempt investment; and
 - (E) the aggregate value of the trust fund beneficially held (directly or indirectly) by Singapore persons is less than 100%;

-
-
- (ii) in the case of income derived in a basis period other than that mentioned in sub-paragraph (i) —
- (A) the trustee does not, in its capacity as trustee of the trust fund, have a permanent establishment in Singapore (other than a fund manager for that trust fund);
 - (B) the trustee does not, in its capacity as trustee of the trust fund, carry on any business in Singapore apart from acting as such trustee;
 - (C) the income derived by the trustee in its capacity as trustee of the trust fund is not derived from any tax-exempt investment; and
 - (D) the aggregate value of the trust fund beneficially held (directly or indirectly) by Singapore persons is less than 100%;
- (e) by deleting the words “of Approved Persons” in paragraph (c)(ii) of the definition of “Singapore person” in paragraph (1);
- (f) by deleting paragraph (b) of the definition of “specified income” in paragraph (1) and substituting the following paragraphs:

-
-
- “(b) in relation to income derived between 17 February 2012 and 20 February 2014 (both dates inclusive), income specified in Part B of the Second Schedule; and
- (c) in relation to income derived on or after 21 February 2014, income specified in Part B of the Third Schedule;”;
- (g) by inserting, immediately after the definition of “structured product” in paragraph (1), the following definition:

“ “tax-exempt investment” —

- (a) in the case of paragraph (b) of the definition of “prescribed person”, means an investment transferred to the company mentioned in that paragraph (other than by way of a sale on market terms and conditions) from a person carrying on business in Singapore, where the income derived by that person from that investment was not, or would not have been if not for the transfer, exempt from tax; and
- (b) in the case of paragraph (c) of the definition of “prescribed person”, means an investment transferred to the trustee of the trust fund mentioned in that paragraph in the trustee’s capacity as such trustee (other than by way of a sale on market terms and conditions) from a person carrying on business in Singapore, where the income derived by that person from that investment was not, or would not have been if not for the transfer, exempt from tax;”;

-
-
- (h) by inserting, immediately after the words “described in paragraph (5)” in paragraph (6), the words “, where the relevant day is before 1 April 2014,”; and
- (i) by inserting, immediately after paragraph (6), the following paragraphs:

“(6A) Any reference in these Regulations to the value of issued securities of a company of the type described in paragraph (5), where the relevant day is on or after 1 April 2014, is a reference to the net asset value of those securities on the relevant day.

(6B) In paragraphs (6) and (6A), “relevant day”, in relation to a company, is the last day of the basis period of the company for the year of assessment in question.”.

Amendment of regulation 5

4. Regulation 5 of the principal Regulations are amended by deleting the words “of Approved Persons” in paragraphs (1)(f)(ii) and (2)(f)(ii).

Amendment of Part A of Second Schedule

5. Part A of the Second Schedule to the principal Regulations is amended by deleting the Part heading and substituting the following Part heading:

“DESIGNATED INVESTMENTS IN RELATION TO
INCOME DERIVED BETWEEN 17 FEBRUARY 2012 AND
20 FEBRUARY 2014 (BOTH DATES INCLUSIVE)”.

Amendment of Part B of Second Schedule

6. Part B of the Second Schedule to the principal Regulations is amended —

- (a) by deleting the Part heading and substituting the following Part heading:

“SPECIFIED INCOME IN RELATION TO
INCOME DERIVED BETWEEN 17 FEBRUARY 2012

AND 20 FEBRUARY 2014 (BOTH DATES
INCLUSIVE)”; and

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

“(e) income or gain —

- (i) derived or deemed to be derived from Singapore; and
- (ii) paid out of income of a publicly-traded partnership, being income on which tax is paid or payable in Singapore.”.

New Third Schedule

7. The principal Regulations are amended by inserting, immediately after the Second Schedule, the following Schedule:

“THIRD SCHEDULE

Regulation 2(1)

PART A

DESIGNATED INVESTMENTS IN RELATION TO INCOME DERIVED ON OR AFTER 21 FEBRUARY 2014

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 those 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 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;
- (e) any immovable property situated outside Singapore;
- (f) deposits held in Singapore with any approved bank as defined in section 13(16) of the Act;
- (g) foreign currency deposits held outside Singapore 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 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;
 - (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 (called in this paragraph 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;
 - (u) publicly-traded partnerships that do not carry on any trade, business, profession or vocation in Singapore;

-
-
- (v) any loan granted to a trustee of a trust constituted outside Singapore, where —
 - (i) the trustee is neither resident in Singapore nor a permanent establishment in Singapore; and
 - (ii) for the year of assessment in question, no interest, commission, fee or other payment in respect of the loan is deductible under the Act against any income of the trust accruing in or is derived from Singapore;
 - (w) membership or similar interests in a company formed under the laws of any state of the United States of America as a limited liability company, or under the laws of any other foreign country as a limited liability company or its equivalent;
 - (x) bankers' acceptances.

PART B

SPECIFIED INCOME DERIVED ON OR AFTER 21 FEBRUARY 2014

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) to (f) of this Part;
- (b) interest and other payments that fall within the ambit of section 12(6) of the Act other than the following:
 - (i) interest derived from deposits held in Singapore 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;
 - (ii) interest from qualifying debt securities;
 - (iii) discounts from qualifying debt securities issued on or after 17 February 2006;
 - (iv) prepayment fees, redemption premiums and break costs from qualifying debt securities issued on or after 15 February 2007;
 - (v) amounts payable from any Islamic debt securities issued on or after 22 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;
 - (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 the Act from being registered or regulated; or
 - (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 whose income is exempt from tax under section 13C, 13G, 13O or 13X of the Act;
- (e) income or gain —
- (i) derived or deemed to be derived from Singapore; and

-
-
- (ii) paid out of income of a publicly-traded partnership, being income on which tax is paid or payable in Singapore;
- (f) income or gain —
- (i) derived or deemed to be derived from Singapore; and
- (ii) paid out of income of a company formed under the laws of any state of the United States of America as a limited liability company, or under the laws of any other foreign country as a limited liability company or its equivalent, being income on which tax is paid or payable in Singapore.”.

*[G.N. Nos. S 498/2010; S 346/2012; S 262/2013;
S 644/2013; S 83/2014]*

Made on 27 July 2016.

LIM SOO HOON
*Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.*

[MF R32.19.0004 Vol. 45; AG/LEGIS/SL/134/2015/4 Vol. 2]