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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION AND CONCESSIONARY TAX RATE FOR INCOME FROM GENERAL INSURANCE BUSINESS) (AMENDMENT) REGULATIONS 2017

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 (Exemption and Concessionary Tax Rate for Income from General Insurance Business) (Amendment) Regulations 2017 and, except for regulations 2(c), 3, 5(c) and 10(b), are deemed to have come into operation on 1 April 2016.

(2) Regulation 3 is deemed to have come into operation on 1 April 2015.

(3) Regulations 2(c), 5(c) and 10(b) come into operation on 26 October 2017.

Amendment of regulation 2

2. Regulation 2 of the Income Tax (Exemption and Concessionary Tax Rate for Income from General Insurance Business) Regulations (Rg 26) (called in these Regulations the principal Regulations) is amended —

- (a) by deleting the definition of “offshore qualifying specialised insurance risks” in paragraph (1) and substituting the following definition:

““offshore qualifying specialised insurance risk” means a qualifying specialised insurance risk that is an offshore risk;”;

- (b) by deleting the full-stop at the end of the definition of “qualifying return in lieu of interest” in paragraph (1) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

““qualifying specialised insurance business” means the business of insuring and reinsuring one or more qualifying specialised insurance risks;

“qualifying specialised insurance risk” means any of the following risks:

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

- (c) by deleting paragraph (2) and substituting the following paragraph:

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

Amendment of regulation 3

3. Regulation 3(1) of the principal Regulations is amended by deleting the words “1st April 2010 to 31st March 2015,” and substituting the words “1 April 2010 to 31 March 2020 (both dates inclusive)”.

Amendment of regulation 4

4. Regulation 4 of the principal Regulations is amended —
- (a) by deleting the words “31st March 2016” in paragraph (2) and substituting the words “31 March 2020”; and
 - (b) by deleting paragraph (3) and substituting the following paragraph:
 - “(3) Any approval granted under paragraph (1) is for —
 - (a) such period not exceeding 10 years as the Minister or such person as the Minister may appoint may specify, if the approval is granted before 1 April 2016; or
 - (b) a period of 5 years, if the approval is granted on or after 1 April 2016.”.

Amendment of regulation 4A

5. Regulation 4A of the principal Regulations is amended —
- (a) by deleting the words “17th February 2006 to 31st March 2018,” in paragraph (1) and substituting the words “17 February 2006 to 31 March 2020 (both dates inclusive)”;
 - (b) by deleting paragraph (2) and substituting the following paragraph:
 - “(2) Any approval granted under paragraph (1) is for —
 - (a) such period not exceeding 10 years as the Minister or such person as the Minister may appoint may specify, if the approval is granted before 1 April 2018; or
 - (b) a period of 5 years, if the approval is granted on or after 1 April 2018.”; and
 - (c) by deleting paragraph (3) and substituting the following paragraph:

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

- (a) either or both of the following:
 - (i) ensuring compliance with any requirement or any direction, notice or other document issued under the Insurance Act (Cap. 142);
 - (ii) ensuring compliance with any requirement or any direction, notice or other document issued under the Monetary Authority of Singapore Act (Cap. 186);
- (b) ensuring 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.”.

Amendment of regulation 4B

6. Regulation 4B of the principal Regulations is amended —

- (a) by inserting, immediately after paragraph (1), the following paragraph:

“(1A) The Minister or such person as the Minister may appoint may, upon application by any insurer underwriting one or more qualifying specialised insurance risks (whether or not an offshore qualifying specialised insurance risk), and if the Minister or the person considers it expedient in the public interest to do so, during the period from

1 September 2016 to 31 August 2021 (both dates inclusive) approve the insurer as an approved specialised insurer.”; and

- (b) by inserting, immediately after paragraph (2), the following paragraph:

“(3) Any approval granted under paragraph (1A) is for a period of 5 years.”.

Amendment of regulation 5B

7. Regulation 5B of the principal Regulations is amended —

- (a) by deleting the words “this regulation” in paragraph (1) and substituting the words “this paragraph”; and
- (b) by deleting paragraph (2) and substituting the following paragraphs:

“(2) Paragraph (1) applies to an approved marine hull and liability insurer —

- (a) who had, at any time before 19 February 2011, been approved as an approved marine hull and liability insurer under regulation 4 and the approval had since expired;
- (b) who had been approved again as an approved marine hull and liability insurer under regulation 4 between 19 February 2011 and 31 March 2016 (both dates inclusive); and
- (c) who does not satisfy the qualifying conditions which the Minister or such person as the Minister may appoint imposes for the purposes of regulation 7.

(2A) Tax is payable at the rate of 10% on the income specified in paragraph (1)(a) and (b) that is derived by an approved marine hull and liability insurer in a basis period for any year of assessment, if the insurer’s approval is granted on or after 1 April 2016.”.

New regulations 5C and 5D

8. The principal Regulations are amended by inserting, immediately after regulation 5B, the following regulations:

“Concessionary rate of tax for income of approved captive insurer

5C.—(1) Subject to the conditions in paragraph (2), tax is payable at the rate of 10% on the income mentioned in regulation 7A(1)(a) and (b) 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.

(2) For the purposes of paragraph (1), the conditions are —

(a) the approved captive insurer’s approval is granted on or after 1 April 2018; and

(b) at all times during the basis period in which the income is derived, all the functions in the following sub-paragraphs are undertaken by the approved captive insurer, by a company incorporated in Singapore, or by personnel located in Singapore who are employed by a company incorporated outside Singapore:

(i) either or both of the following:

(A) ensuring compliance with any requirement or any direction, notice or other document issued under the Insurance Act (Cap. 142);

(B) ensuring compliance with any requirement or any direction, notice or other document issued under the Monetary Authority of Singapore Act (Cap. 186);

(ii) ensuring compliance with any requirement relating to financial accounting, auditing and reporting under the Companies Act (Cap. 50);

(iii) the day-to-day management of the approved captive insurer's business.

(3) For the purposes of paragraph (1), where the Comptroller is satisfied that any part of the insurance fund or the shareholders' funds of the approved captive insurer (being the fund or funds mentioned in regulation 5(1)(b) the income in relation to which is used to determine the value of "A" in regulation 7A(1)(b) (as applied by paragraph (1))) is not required to support the offshore captive insurance business of the insurer, the Comptroller may adopt such reduced amount of "A" as appears to the Comptroller to be reasonable in the circumstances.

Concessionary rates of tax for income of approved specialised insurer

5D.—(1) Tax is payable at the rate of 5% on the income specified in paragraph (4) that is derived by an approved specialised insurer in a basis period for any year of assessment, if the insurer's approval is granted between 1 September 2016 and 31 August 2019 (both dates inclusive), and the insurer had not been approved as such at any time before the date of the approval.

(2) Tax is payable at the rate of 8% on the income specified in paragraph (4) that is derived by an approved specialised insurer in a basis period for any year of assessment, if the insurer's approval is granted on or after 1 September 2019, and the insurer had not been approved as such at any time before the date of the approval.

(3) Tax is payable at the rate of 10% on the income specified in paragraph (4) that is derived by an approved specialised insurer in a basis period for any year of assessment, if the insurer's approval is granted on or after 1 September 2016, and the insurer had been approved as such at any time before the date of the firstmentioned approval.

(4) For the purposes of paragraphs (1), (2) and (3), the income is as follows:

- (a) the underwriting income derived from carrying on qualifying specialised insurance business;
- (b) an amount of income derived from carrying on qualifying specialised insurance business ascertained by the formula —

$$\left(\frac{P_s}{P_o} \times A \right) + \left[\frac{P_t}{P_i} \times (B - A) \right],$$

where —

- (i) P_o , P_i , A and B have the same meanings as in regulation 5B(1)(b), with the reference to the approved marine hull and liability insurer substituted with the reference to the approved specialised insurer;
- (ii) P_s is the amount of the gross premiums received or receivable during the basis period in respect of policies underwritten by the approved specialised insurer in the course of carrying on its offshore qualifying specialised insurance business; and
- (iii) P_t is the amount of the gross premiums received or receivable during the basis period in respect of policies underwritten by the approved specialised insurer in the course of carrying on its qualifying specialised insurance business (other than offshore qualifying specialised insurance business).

(5) For the purposes of paragraph (4), where the Comptroller is satisfied that any part of the insurance fund or shareholders' funds of the approved specialised insurer (being the fund or funds mentioned in regulation 5(1)(b) the income in relation to which is used to determine the value of "A" in regulation 5B(1)(b) (as applied by paragraph (4)(b)(i))) is not required to support the qualifying specialised insurance business of the insurer, the Comptroller may adopt such reduced amount

of “A” as appears to the Comptroller to be reasonable in the circumstances.

(6) For the purposes of paragraph (4), where the Comptroller is satisfied that any part of the insurance fund or shareholders’ funds of the approved specialised insurer (being the fund or funds mentioned in the definition of “B” in regulation 5B(1)(b) (as applied by paragraph (4)(b)(i))) is not required to support the qualifying specialised insurance business of the insurer, the Comptroller may adopt such reduced amount of “B” as appears to the Comptroller to be reasonable in the circumstances.

(7) For the purposes of the definitions of “P_s” and “P_t” in paragraph (4)(b)(ii) and (iii), a policy for a risk arising from a natural catastrophe underwritten by the approved specialised insurer is regarded as a policy underwritten by the insurer in the course of carrying on its offshore qualifying specialised insurance business or qualifying specialised insurance business (other than offshore qualifying specialised insurance business), as the case may be, if and only if it is a catastrophe excess of loss policy.”.

Amendment of regulation 7

9. Regulation 7(1) of the principal Regulations is amended by inserting, immediately after the words “Where an approved marine hull and liability insurer”, the words “whose approval is granted before 1 April 2016,”.

Amendment of regulation 7A

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

- (a) by inserting, immediately after the words “(including one who is also an approved insurer)” in paragraphs (1) and (1A), the words “whose approval is granted before 1 April 2018,”; and
- (b) by deleting paragraph (1B) and substituting the following paragraph:

“(1B) The requirement mentioned in paragraph (1A) is that all the functions in the following sub-paragraphs are undertaken by the approved captive insurer, by a company incorporated in Singapore, or by personnel located in Singapore who are employed by a company incorporated outside Singapore:

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

Amendment of regulation 7B

11. Regulation 7B 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 year of assessment and before 1 September 2016, if the insurer’s approval is granted before that date”; and
- (b) by inserting, immediately after paragraph (3), the following paragraphs:

“(4) The income specified in regulation 5D(4)(a) and (b) derived by an approved specialised insurer (including one who is also an approved insurer) in a basis period for any year of assessment and on or after 1 September 2016 is exempt from tax, if the insurer’s approval is granted before that date.

(5) For the purposes of paragraph (4), where the Comptroller is satisfied that any part of the insurance fund or shareholders’ funds of the approved specialised insurer (being the fund or funds mentioned in regulation 5(1)(b) the income in relation to which is used to determine the value of “A” in regulation 5B(1)(b) (as applied by paragraph (4) through the reference to regulation 5D(4)(b))) is not required to support the qualifying specialised insurance business of the insurer, the Comptroller may adopt such reduced amount of “A” as appears to the Comptroller to be reasonable in the circumstances.

(6) For the purposes of paragraph (4), where the Comptroller is satisfied that any part of the insurance fund or shareholders’ funds of the approved specialised insurer (being the fund or funds mentioned in the definition of “B” in regulation 5B(1)(b) (as applied by paragraph (4) through the reference to regulation 5D(4)(b))) is not required to support the qualifying specialised insurance business of the insurer, the Comptroller may adopt such reduced amount of “B” as appears to the Comptroller to be reasonable in the circumstances.

(7) For the purposes of the definitions of “P_s” and “P_t” in regulation 5D(4)(b)(ii) and (iii) (as applied by paragraph (4)), a policy for a risk arising from a natural catastrophe underwritten by the approved specialised insurer is regarded as a policy underwritten by the insurer in the course of carrying on its offshore qualifying specialised insurance

business or qualifying specialised insurance business (other than offshore qualifying specialised insurance business), as the case may be, if and only if it is a catastrophe excess of loss policy.”.

Amendment of regulation 8

12. Regulation 8 of the principal Regulations is amended —

- (a) by deleting the words “regulation 6” in paragraph (1) and substituting the words “regulation 6(1)”;
- (b) by deleting the words “the offshore qualifying specialised insurance business” in paragraph (2) and substituting the words “the qualifying specialised insurance business”;
- (c) by inserting, immediately after sub-paragraph (c) of paragraph (2), the following sub-paragraph:

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

$$\frac{P_s + P_t}{P_o + P_i};”;$$
 and

- (d) by deleting the definition of “P_s” in paragraph (2) and substituting the following definitions:

“P_s and P_t have the same meanings as in regulation 5D(4)(b)(ii) and (iii).”.

Amendment of regulation 9

13. Regulation 9(1) of the principal Regulations is amended by deleting the words “or the offshore qualifying specialised insurance business” in sub-paragraph (c) and substituting the words “, the offshore qualifying specialised insurance business or the qualifying specialised insurance business”.

Made on 25 October 2017.

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