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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(EXEMPTION OF INTEREST AND OTHER PAYMENTS
ON ECONOMIC AND TECHNOLOGICAL DEVELOPMENT
LOANS) (NO. 4) NOTIFICATION 2016

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement
 2. General definitions
 3. Meaning of “applicable loan”
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In exercise of the powers conferred by section 13(4) of the Income Tax Act, the Minister for Finance makes the following Notification:

Citation and commencement

1. This Notification is the Income Tax (Exemption of Interest and Other Payments on Economic and Technological Development Loans) (No. 4) Notification 2016 and is deemed to have come into operation on 17 February 2012.

General definitions

2. In this Notification —

“approved container investment enterprise” has the same meaning as in section 43ZA of the Act, and includes a partnership approved by the Minister (or such person as the Minister may appoint) under section 43ZA of the Act as applied by section 36 of the Act;

“container” and “intermodal equipment” have the same meanings as in section 43ZA(7) of the Act;

“original container” means any of the containers mentioned in paragraph 3(2)(a), (b) or (c) (whichever is applicable);

“qualifying payment”, in relation to a loan, means any of the following payments made in connection with the loan:

- (a) interest;
- (b) front-end fees;
- (c) commitment fees;
- (d) interest rate swap payments;
- (e) currency swap payments;
- (f) arranger fees;
- (g) arrangement fees;
- (h) retainer fees;
- (i) agency fees;
- (j) security trustee fees;

“specified person”, in relation to an applicable loan, means a person who —

- (a) is not resident in Singapore; and
- (b) either —
 - (i) does not (alone or in association with others) carry on a business in Singapore, and does not have a permanent establishment in Singapore; or
 - (ii) carries on a business in Singapore (alone or in association with others) or has a permanent establishment in Singapore, but no arrangement, management or service relating to the loan is made or performed through that business or that permanent establishment.

Meaning of “applicable loan”

3.—(1) In this Notification, an applicable loan is a loan or other arrangement similar in nature to a loan, that is obtained on or before 31 May 2016 by an approved container investment enterprise for any purpose specified in sub-paragraph (2).

(2) The purposes mentioned in sub-paragraph (1) are —

- (a) the acquisition by the enterprise of one or more containers;
- (b) the acquisition by the enterprise of all the shares of a special purpose vehicle that has sole legal and beneficial ownership of one or more containers; or
- (c) the financing of qualifying payments on a previous loan obtained by the enterprise for the acquisition of —
 - (i) one or more containers; or
 - (ii) all the shares of a special purpose vehicle that has sole legal and beneficial ownership of one or more containers.

(3) In sub-paragraph (2)(a) and (c)(i), a reference to the acquisition of one or more containers includes the financing of any one or more of the following payments made in connection with the acquisition if (and only if) the loan is for both the acquisition and the financing:

- (a) the payment of the cost to purchase or install equipment within or on any of the containers;
- (b) the payment of the cost to inspect any of the containers before accepting its delivery, and to obtain any report of such inspection;
- (c) the payment of the cost to purchase any intermodal equipment.

(4) In sub-paragraph (2)(b) and (c)(ii), a special purpose vehicle is a company whose only business is to own, or to both own and lease —

- (a) any container; or
- (b) any container and any intermodal equipment.

(5) In this Notification, a reference to an applicable loan obtained by an approved container investment enterprise includes a reference to a loan obtained by the enterprise before it is approved as such.

Exemption

4.—(1) Subject to sub-paragraphs (2) to (6) and the conditions imposed by the Minister under section 13(4) of the Act, a qualifying payment that an approved container investment enterprise is liable to make to a specified person under an agreement for an applicable loan is exempt from tax.

(2) For the purposes of sub-paragraph (1), a qualifying payment in relation to an applicable loan excludes interest on that part of the principal of the loan that is capitalised interest on the loan.

(3) Where an applicable loan is obtained by the enterprise for the purpose of financing qualifying payments on a previous loan mentioned in paragraph 3(2)(c), the exemption under sub-paragraph (1) does not apply to interest on any part of the principal of the applicable loan that is used to finance interest on any part of the principal of the previous loan that is capitalised interest on the previous loan.

(4) The exemption under sub-paragraph (1) does not apply in relation to any loan obtained before 17 February 2012 which is already the subject of any other exemption granted to the enterprise under the Act.

(5) The exemption under sub-paragraph (1) only applies to a qualifying payment liable to be made —

- (a) at any time on or after the date the enterprise makes a declaration, in relation to the applicable loan, to the Maritime and Port Authority of Singapore established by section 4 of the Maritime and Port Authority of Singapore Act (Cap. 170A), in the form specified by the Authority for the purposes of this sub-paragraph; or
- (b) if the declaration is made on or before the 15th day of a month, at any time on or after the first day of the previous month.

(6) The exemption under sub-paragraph (1) does not apply to any qualifying payment liable to be made —

- (a) after the day that any original container is disposed of or is lost at sea, unless the terms of the agreement for the applicable loan —
 - (i) require that all original containers disposed of and lost at sea be replaced in the event that the value of such containers exceeds a sum stipulated in the agreement; or
 - (ii) require the repayment of that part of the principal of the loan attributable to the cost of acquiring all original containers disposed of and lost at sea in the event that the value of such containers exceeds a sum stipulated in the agreement;
- (b) after the day that the enterprise disposes of any share in the special purpose vehicle, if the loan is for a purpose mentioned in paragraph 3(2)(b) or (c)(ii); or
- (c) on or after the day that the approval of the approved container investment enterprise as such is revoked or withdrawn.

(7) Where —

- (a) sub-paragraph (1) has operated to exempt from tax any qualifying payment liable to be made under an agreement for an applicable loan mentioned in that sub-paragraph; and
- (b) the term of the approval of the approved investment container enterprise as such subsequently expires,

then any qualifying payment liable to be made under that agreement by the enterprise on or after the date of the expiry to a person mentioned in that sub-paragraph, is also exempt from tax.

(8) The exemption under sub-paragraph (7) is subject to the conditions mentioned in sub-paragraph (1) and to sub-paragraphs (2) to (6), and for this purpose those sub-paragraphs apply as if a reference to an approved container investment enterprise were a reference to a container investment enterprise.

Made on 12 December 2016.

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