
First published in the *Government Gazette*, Electronic Edition, on 29th November 2011 at 5.00 pm.

No. S 638

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(CONCESSIONARY RATE OF TAX FOR
FINANCIAL SECTOR INCENTIVE COMPANIES)
(AMENDMENT) REGULATIONS 2011

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

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) (Amendment) Regulations 2011.

(2) Regulations 2(a) and (b), 3, 4, 5(b), 6, 7(a) and (b), 8, 9, 10 and 11 shall be deemed to have come into operation on 1st January 2011.

Amendment of regulation 2

2. Regulation 2 of the Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) Regulations 2005 (G.N. No. S 735/2005) (referred to in these Regulations as the principal Regulations) is amended —

(a) by inserting, immediately after the definition of “commodity derivatives” in paragraph (1), the following definition:

““corporate futures member” means a futures member of the Singapore Exchange whose membership is of a class or description known as “corporate membership””;

(b) by inserting, immediately after the definition of “foreign bond or loan stock issue” in paragraph (1), the following definitions:

““foreign business trust” means a business trust that is registered, licensed or approved outside Singapore, or exempted from such registration, licensing or

approval, under any written law administered by the agency tasked with the regulation of such a business trust;

“foreign collective investment scheme” means a collective investment scheme that —

- (a) is constituted outside Singapore (excluding any permanent establishment it may have in Singapore);
 - (b) is not resident in Singapore (other than by virtue of a trustee in Singapore in its capacity as a trustee of that collective investment scheme);
 - (c) has its units denominated in any currency other than the Singapore dollar; and
 - (d) is not carrying on any business in Singapore other than issuing units of that collective investment scheme;”;
- (c) by deleting sub-paragraphs (i) and (ii) of paragraph (b) of the definition of “foreign investor” in paragraph (1) and substituting the following sub-paragraphs:
- “(i) which is incorporated before 15th February 2007 and where the percentage, determined in accordance with the formula specified in paragraph (1A), of the total number of the issued shares of the company that are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore, does not exceed 20%; or
 - (ii) which is incorporated on or after 15th February 2007 and where the percentage, determined in accordance with the formula specified in paragraph (1A), of the total value of the issued securities of the company that are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore, does not exceed 20%; or”;
- (d) by deleting paragraph (c) of the definition of “foreign investor” in paragraph (1) and substituting the following paragraph:
- “(c) a trust fund where the percentage, determined in accordance with the formula specified in paragraph (1A), of the value of the fund that is beneficially held,

-
-
- directly or indirectly, by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, does not exceed 20%,”;
- (e) by deleting the definition of “foreign mutual fund corporation” in paragraph (1) and substituting the following definition:

“ “foreign mutual fund corporation” means a mutual fund corporation where the percentage, determined in accordance with the formula specified in paragraph (1A), of the total number of the issued shares of the corporation that are beneficially owned, directly or indirectly, by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of the definition of “foreign investor”, does not exceed 20%,”; and

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

“(1A) For the purposes of the definitions of “foreign investor” and “foreign mutual fund corporation” in paragraph (1), the relevant percentage shall be determined in accordance with the formula

$$\frac{A - B}{C - B} \times 100\%$$

where A is (a) in the case of paragraph (b)(i) of the definition of “foreign investor”, the total number of the issued shares that are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore;

(b) in the case of paragraph (b)(ii) of the definition of “foreign investor”, the total value of the issued securities that are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore;

(c) in the case of paragraph (c) of the definition of “foreign investor”, the total value of the trust fund that is beneficially held, directly or indirectly, by persons

-
-
- who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of that definition; and
- (d) in the case of the definition of “foreign mutual fund corporation”, the total number of the issued shares that are beneficially owned, directly or indirectly, by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of the definition of “foreign investor” in paragraph (1);
- B is the total number of the issued shares, the total value of the issued securities, or the total value of the trust fund, as the case may be, beneficially owned or held, directly or indirectly, by designated persons; and
- C is the total number of the issued shares, the total value of the issued securities or the total value of the trust fund, as the case may be.”.

Amendment of regulation 4

3. Regulation 4 of the principal Regulations is amended —
- (a) by inserting, immediately after the words “1st January 2004” in paragraph (1), the words “but before 1st January 2011”;
 - (b) by deleting the words “income or loss derived” in paragraph (2)(b) and substituting the words “income derived or loss incurred before 1st January 2011”;
 - (c) by inserting, immediately after the words “15th February 2007” in paragraph (2E), the words “but before 1st January 2011”;
 - (d) by inserting, immediately after the words “1st September 2007” in paragraph (2F), the words “but before 1st January 2011”;
 - (e) by inserting, immediately after the words “1st April 2009” in paragraph (2G), the words “but before 1st January 2011”;
 - (f) by deleting the words “specified income or the specified loss, as the case may be” in the definition of “qualifying base” in paragraph (4) and substituting the words “specified income

derived or the specified loss incurred, as the case may be, before 1st January 2011”; and

- (g) by inserting, immediately after the word “company” in the regulation heading, the words “derived before 1st January 2011”.

New regulation 4A

4. The principal Regulations are amended by inserting, immediately after regulation 4, the following Regulation:

“12% tax payable on qualifying income of financial sector incentive (standard tier) company derived on or after 1st January 2011

4A.—(1) Subject to this regulation and regulation 7A, tax shall be payable at the rate of 12% on the income of a financial sector incentive (standard tier) company derived on or after 1st January 2011, being —

- (a) income from any of the activities specified in the Fourth Schedule; and
- (b) interest from any deposit held by the company as a corporate futures member as a margin for any transaction in relation to any activity referred to in sub-paragraph (i), (k) or (l) of the Fourth Schedule.

(2) The concessionary rate of tax referred to in paragraph (1) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to —

- (a) any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2013 (both dates inclusive);
- (b) any discount from any qualifying debt securities issued during the period from 17th February 2006 to 31st December 2013 (both dates inclusive);
- (c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2013 (both dates inclusive); and

-
-
- (d) any prepayment fee, redemption premium or break cost from qualifying debt securities issued during the period from 15th February 2007 to 31st December 2013 (both dates inclusive),

where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such income is derived by —

- (i) any financial sector incentive (standard tier) company which is a related party of the issuer of those securities; or
- (ii) any financial sector incentive (standard tier) company where the funds used by such company to acquire those securities are obtained, directly or indirectly, from any related party of the issuer of those securities.

(3) The concessionary rate of tax referred to in paragraph (1) shall not apply to any income derived by a financial sector incentive (standard tier) company from any qualifying debt securities issued during the relevant period referred to in paragraph (2), where the issuer of such securities, or such other person as the Comptroller may direct, has not furnished to the Comptroller in respect of the issue of the debt securities —

- (a) a return on those securities within such period as the Comptroller may specify; and
- (b) such other particulars in connection with those securities as the Comptroller may require.

(4) In this Regulation, “break cost”, “prepayment fee”, “redemption premium” and “related party” have the same meanings as in section 13(16) of the Act.”.

Amendment of regulation 7

5. Regulation 7 of the principal Regulations is amended —

- (a) by deleting the words “persons who are not referred to in paragraphs (a) and (b)” wherever they appear in paragraph (1)(a), (aa) and (b) and substituting in each case the words “persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be,”; and

- (b) by deleting the words “income of financial sector incentive company from” in the regulation heading and substituting the words “income of financial sector incentive (standard tier) company derived before 1st January 2011 and of financial sector incentive (fund management) company from”.

New regulation 7A

6. The principal Regulations are amended by inserting, immediately after regulation 7, the following Regulation:

“Computation of income of financial sector incentive (standard tier) company derived on or after 1st January 2011 from managing funds of certain foreign investors and approved companies

7A.—(1) In respect of services provided to a foreign investor under sub-paragraph (m), (r) or (y) of the Fourth Schedule, where the foreign investor is —

- (a) a company referred to in paragraph (b)(i) of the definition of “foreign investor” in regulation 2(1) where —
- (i) a designated person is a shareholder of the company; and
 - (ii) more than 20% of the total number of the issued shares in the company are beneficially owned, directly or indirectly —
 - (A) by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of that definition; and
 - (B) by designated persons;
- (b) a company referred to in paragraph (b)(ii) of the definition of “foreign investor” in regulation 2(1) where —
- (i) a designated person is a shareholder of the company; and
 - (ii) more than 20% of the total value of the issued securities of the company are beneficially owned, directly or indirectly —
 - (A) by persons who are not individuals or companies referred to in paragraph (a) or

(b), as the case may be, of that definition;
and

(B) by designated persons; or

(c) a trust fund referred to in paragraph (c) of the definition of “foreign investor” in regulation 2(1) where —

(i) a designated person is a beneficiary of the fund;
and

(ii) more than 20% of the value of the fund is beneficially held, directly or indirectly —

(A) by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of that definition;
and

(B) by designated persons,

the amount of fees and commissions which is chargeable with tax at the concessionary rate of 12% shall be computed in accordance with the formula

$$\frac{A + (20\% \times B)}{B} \times C$$

where A is the number of issued shares of the company referred to in sub-paragraph (a), the value of issued securities of the company referred to in sub-paragraph (b) or the value of the trust fund referred to in sub-paragraph (c), as the case may be, which are not beneficially owned or held, directly or indirectly, by persons who are not individuals or companies referred to in paragraph (a) or (b), as the case may be, of the definition of “foreign investor” in regulation 2(1) or by designated persons;

B is the total number of issued shares of the company referred to in sub-paragraph (a), the total value of issued securities of the company referred to in sub-paragraph (b) or the total value of the trust fund referred to in sub-paragraph (c), as the case may be; and

C is the amount of fees and commissions derived from the provision of the services referred to in sub-paragraph (m), (r) or (y) of the Fourth Schedule to the foreign investor.

(2) In respect of services provided to a trustee of a prescribed trust fund under sub-paragraph (p), (s), (w) or (z) of the Fourth Schedule, where —

- (a) any designated person is a beneficiary of that trust fund; and
- (b) more than 20% of the total value of that trust fund is beneficially held, directly or indirectly —
 - (i) by persons who are citizens of Singapore or resident in Singapore; and
 - (ii) by designated persons,

the amount of fees and commissions which is chargeable with tax at the concessionary rate of 12% shall be computed in accordance with the formula

$$\frac{D + (20\% \times E)}{E} \times F$$

where D is the value of the trust fund which is not beneficially held, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore or by designated persons;

E is the total value of the trust fund; and

F is the amount of fees and commissions derived from the provision of the services referred to in sub-paragraph (p), (s), (w) or (z) of the Fourth Schedule to the trustee of the trust fund.”.

Amendment of regulation 8

7. Regulation 8(1) of the principal Regulations is amended —

- (a) by inserting, immediately after the words “regulation 4(1)(a)” in sub-paragraph (h), the words “or sub-paragraph (a) of the Fourth Schedule”;
- (b) by deleting the words “regulation 4(1)(m), (2E) or (2F)” in sub-paragraph (i) and substituting the words “regulation 4(1)(l) or (m), (2E), (2F) or (2G) or sub-paragraph (m), (n), (o), (p), (q), (r), (s), (u), (v), (w), (x), (y) or (z) of the Fourth Schedule”; and

(c) by deleting the words “from incidental physical trading; except” in sub-paragraphs (k)(v), (l)(v) and (m)(ii) and substituting in each case the words “incidental physical trading; except”.

Amendment of regulation 9

8. Regulation 9 of the principal Regulations is amended by inserting, immediately after the words “regulations 4”, “, 4A”.

Amendment of regulation 10

9. Regulation 10 of the principal Regulations is amended by inserting, immediately after paragraph (9), the following paragraph:

“(10) A financial sector incentive (standard tier) company shall cease to apply the initial qualifying percentage or subsequent qualifying percentage on its specified income derived or specified loss incurred, as the case may be, on or after 1st January 2011.”.

Amendment of regulation 12

10. Regulation 12 of the principal Regulations is amended by inserting, immediately after paragraph (11), the following paragraphs:

“(12) A company which on or before 1st April 2010 was a corporate futures member for the purposes of the Income Tax (Concessionary Rate of Tax for Futures Members of the Singapore Exchange) Regulations (Rg 16) shall, upon submission to the approving authority of such particulars within such period as the approving authority may specify, be deemed to be approved as a financial sector incentive (standard tier) company for the purpose of these Regulations from 1st January 2011 to 31st December 2013 (both dates inclusive).

(13) A company which on or before 1st April 2010 was a member of the Corporation known as Singapore Commodity Exchange Ltd for the purposes of the Income Tax (Concessionary Rate of Tax for Members of Singapore Commodity Exchange Ltd) Regulations 2009 (G.N. No. S 316/2009) shall, upon submission to the approving authority of such particulars within such period as the approving authority may specify, be deemed to be approved as a financial sector incentive (standard tier) company for the purpose of these Regulations from 1st January 2011 to 31st December 2013 (both dates inclusive).”.

New Fourth Schedule

11. The principal Regulations are amended by inserting, immediately after the Third Schedule, the following Schedule:

“FOURTH SCHEDULE

Regulations 4A, 7A and 8

LIST OF ACTIVITIES

The income of a financial sector incentive (standard tier) company that qualifies for the rate of tax of 12%, shall be derived from any of the following activities:

- (a) where the financial sector incentive (standard tier) company is a bank licensed under the Banking Act (Cap. 19) or a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186) —
 - (i) granting loans, other than by way of bonds or debentures, in any foreign currency, the repayment of which is not in Singapore currency;
 - (ii) trading in secondary loans in any foreign currency, the repayment of which is not in Singapore currency;
 - (iii) transactions in any foreign currency with any bank or branch office in respect of any of the following:
 - (A) placement of funds;
 - (B) bankers’ acceptances on bills relating to trade transactions;
 - (C) bills relating to trade transactions;
 - (D) negotiable certificates of deposit;
 - (iv) opening, advising or confirming of letters of credit denominated in any foreign currency relating to trade transactions;
 - (v) financing or re-financing of trade transactions with or without letters of credit denominated in any foreign currency;
 - (vi) providing guarantees, performance bonds, standby letters of credit and services relating to remittances denominated in foreign currencies; and
 - (vii) providing services to any non-resident holder of a credit or charge card, in connection with the use of the card, where —
 - (A) the billing for the transactions for which the card is used is denominated in any foreign currency;
 - (B) the card is used outside Singapore for the purposes of making payments to a person outside Singapore who is neither resident in Singapore nor a permanent establishment in Singapore; and

FOURTH SCHEDULE — *continued*

- (C) the payments for such services to the financial sector incentive (standard tier) company are not borne, directly or indirectly, by a person resident in Singapore or a permanent establishment in Singapore, except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore;
- (b) trading in any debt securities;
 - (c) arranging, managing, underwriting, selling, investing in or providing services (including services as a broker, nominee or custodian) in respect of qualifying debt securities;
 - (d) arranging, managing, underwriting, selling, investing in or providing services (including services as a broker, nominee or custodian) in respect of foreign debt securities;
 - (e) granting loans of foreign debt securities under securities lending arrangements in writing;
 - (f) arranging, managing, underwriting, selling or providing other services (including services as a broker, nominee or custodian) in respect of foreign equity securities;
 - (g) granting loans of foreign equity securities under securities lending arrangements in writing;
 - (h) arranging, managing, underwriting, selling or providing services (including services as a broker, nominee or custodian) in respect of units in a foreign collective investment scheme and units in a foreign business trust;
 - (i) foreign exchange transactions;
 - (j) providing services as an intermediary in connection with transactions relating to derivatives;
 - (k) trading in derivatives;
 - (l) transactions in gold bullion, silver bullion or platinum bullion;
 - (m) managing the funds of a foreign investor for the purpose of any designated investments, or providing investment advisory services to a foreign investor in respect of designated investments, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
 - (n) managing the funds of a prescribed person for the purpose of any designated investments, provided the prescribed person has no non-qualifying investor as at the last day of the basis period of the prescribed person for the relevant year of assessment;
 - (o) managing the funds of an approved company for the purpose of any designated investments, provided the approved company has

FOURTH SCHEDULE — *continued*

no non-qualifying investor as at the last day of the basis period of the approved company for the relevant year of assessment;

- (p) managing the funds of a trustee of a prescribed trust fund for the purpose of any designated investments, where the payments for those services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore (other than a fund manager of, or a trustee in its capacity as the trustee of the prescribed trust fund);
- (q) managing the funds of an approved person for the purpose of any designated investments;
- (r) arranging, on behalf of a foreign investor, any loan of designated securities under a securities lending arrangement in writing to another financial sector incentive (standard tier) company or a financial sector incentive (fund management) company, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (s) arranging on behalf of a trustee of a prescribed trust fund, any loan of designated securities under a securities lending arrangement in writing to another financial sector incentive (standard tier) company or a financial sector incentive (fund management) company, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (t) providing advisory services relating to financial matters (other than investment advisory services in respect of fund management);
- (u) providing investment advisory services to a prescribed person in respect of any designated investments, provided the prescribed person has no non-qualifying investor as at the last day of the basis period of the prescribed person for the relevant year of assessment;
- (v) providing investment advisory services to an approved company in respect of any designated investments, provided the approved company has no non-qualifying investor as at the last day of the basis period of the approved company for the relevant year of assessment;
- (w) providing investment advisory services to a trustee of a prescribed trust fund in respect of any designated investments, where the payments for those services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore (other than a fund manager of, or a trustee in its capacity as the trustee of, the prescribed trust fund);
- (x) providing investment advisory services to an approved person in respect of any designated investments;

FOURTH SCHEDULE — *continued*

- (y) providing investment advisory services to a foreign investor through a fund manager outside Singapore in respect of designated investments, where the payments for those services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (z) providing investment advisory services to a trustee of a prescribed trust fund through a fund manager outside Singapore in respect of designated investments, where the payments for those services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (za) providing trustee or custodian services in its capacity as a trustee of a relevant foreign trust, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (zb) providing trustee or custodian services for or on behalf of any unit trust the trust fund of which is a foreign investor and the funds of which are invested in designated investments, where the payments for the trustee or custodian services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (zc) providing custodian services for or on behalf of any foreign mutual fund corporation, the funds of which are invested in designated investments, where the payments for the custodian services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (zd) providing trustee services in respect of foreign bond or loan stock issues, including services for monitoring loan covenants and administering loan repayments, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;
- (ze) providing trustee services in respect of the issue of units of —
 - (i) a foreign collective investment scheme; or
 - (ii) a foreign business trust,where the proceeds of the issue of units are used outside Singapore and where the payment for the trustee services is not borne directly or indirectly by a person resident in Singapore or by a permanent establishment in Singapore (excluding a trustee in Singapore in its capacity as a trustee of that collective investment scheme or foreign business trust);
- (zf) providing trust management or administration services to any trustee of a relevant foreign trust, where the payments for the services are not borne, directly or indirectly, by a person resident in Singapore or by a permanent establishment in Singapore;

FOURTH SCHEDULE — *continued*

(zg) trading in secondary loans in any foreign currency, the repayment of which is not in Singapore currency.”

[G.N. Nos. S 260/2006; S 586/2008; S 54/2010; S 835/2010]

Made this 21st day of November 2011.

CHAN LAI FUNG
Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.

[R32.18.2183V13; AG/LLRD/SL/134/2010/8 Vol. 2]