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## No. S 922

### INCOME TAX ACT 1947

#### INCOME TAX (EXEMPTION OF FOREIGN INCOME — REITS AND OTHER SPECIAL CASES) (AMENDMENT) ORDER 2022

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.—(1) This Order is the Income Tax (Exemption of Foreign Income — REITs and Other Special Cases) (Amendment) Order 2022 and, except for paragraphs 3(a) and 4, comes into operation on 1 December 2022.

(2) Paragraph 3(a) is deemed to have come into operation on 31 December 2021.

(3) Paragraph 4 is deemed to have come into operation on 30 May 2014.

#### **Amendment of paragraph 2**

2. In paragraph 2 of the Income Tax (Exemption of Foreign Income — REITs and Other Special Cases) Order 2006 (G.N. No. S 435/2006) (called in this Order the principal Order), replace sub-paragraph (2) with —

“(2) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore, which are set out and explained for general information in the edition of the e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published by the Inland

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Revenue Authority of Singapore, that is in force on the date the income concerned is received in Singapore.”.

### **Amendment of paragraph 3**

3. In paragraph 3 of the principal Order —

(a) in sub-paragraphs (1) and (3), replace “(Cap. 289)” with “2001”;

(b) in sub-paragraph (1)(a)(A), delete “or” at the end;

(c) in sub-paragraph (1)(a), replace sub-paragraph (B) with —

“(B) in the basis period for the year of assessment 2024 or a subsequent year of assessment, by a trustee, who is resident in Singapore, of a sub-trust of a real estate investment trust where all rights or interests in the property of the sub-trust are held for the benefit of the beneficiaries of the real estate investment trust;

(C) during the period starting on 31 May 2006 and ending on the last day of the basis period for the year of assessment 2023, by a company incorporated and resident in Singapore which share capital is 100% owned directly by a trustee of a real estate investment trust; or

(D) in the basis period for the year of assessment 2024 or a subsequent year of assessment, by a company incorporated and resident in Singapore which share capital is 100% owned (whether directly or indirectly) by a trustee of a real estate investment trust;”;

(d) in sub-paragraph (1), replace sub-paragraph (b) with —

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- “(b) any Tokumei-Kumiai distribution received in Singapore in the basis period for the year of assessment 2024 or a subsequent year of assessment, by a trustee mentioned in sub-paragraph (1)(a)(A) or (B), or a company mentioned in sub-paragraph (1)(a)(D); and
- (c) any profits derived from any territory outside Singapore that are received in Singapore by a company incorporated and resident in Singapore, if —
- (i) the profits are derived through a branch of that company that operates in any territory outside Singapore; and
  - (ii) the share capital of that company is —
    - (A) in the case of profits received in Singapore during the period starting on 22 February 2012 and ending on the last day of the basis period for the year of assessment 2023 — 100% owned directly by a trustee of a real estate investment trust who is resident in Singapore; or
    - (B) in the case of profits received in Singapore in the basis period for the year of assessment 2024 or a subsequent year of assessment — 100% owned (whether directly or indirectly) by a trustee of a real estate investment trust who is resident in Singapore.”; and

(e) replace sub-paragraph (2) with —

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“(2) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore, which are set out and explained for general information in the edition of the e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published by the Inland Revenue Authority of Singapore, that is in force on the date the income concerned is received in Singapore.”.

#### **New paragraph 4**

4. After paragraph 3 of the principal Order, insert —

**“Exemption of dividends, etc., derived from any territory outside Singapore and received by certain entities**

4.—(1) Subject to sub-paragraphs (3), (5) and (6), the descriptions of income in sub-paragraph (2) derived from any territory outside Singapore, and received by any of the following (called in this paragraph *X*), are exempt from tax:

- (a) a company incorporated and resident in Singapore and listed on any exchange in Singapore;
- (b) the trustee-manager that is resident in Singapore of a business trust —
  - (i) registered under section 4(1) of the Business Trusts Act 2004; and
  - (ii) listed on any exchange in Singapore,for and on behalf of the unitholders of the business trust;
- (c) a company resident in Singapore, the shares of which are wholly owned by —
  - (i) a company mentioned in sub-paragraph (a); or
  - (ii) the trustee-manager of a registered business trust mentioned in sub-paragraph (b).

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(2) The descriptions of income are the following:

- (a) interest from any loan granted by *X* to a related party of *X* (called in this sub-paragraph *XI*), or from any debt securities issued by a related party of *X* (also called in this sub-paragraph *XI*) to *X*, where —
- (i) the date of the grant of the loan or the issue of the debt securities falls in the period between 30 May 2014 and 31 December 2025 (both dates inclusive) (called in this paragraph the applicable period);
  - (ii) the proceeds from the loan or debt securities were used in the applicable period by *XI* solely for the purpose of acquiring, developing or investing in an offshore infrastructure asset or project; and
  - (iii) the interest is paid out of income derived by *XI* from owning or operating the offshore infrastructure asset or project;
- (b) dividends in respect of shares in a company (called in this sub-paragraph *Y*) that is not resident in Singapore and the shares of which are wholly owned by *X*, which are paid out of interest from any loan granted to a related party of *X* (called in this sub-paragraph *XI*), or from any debt securities issued by a related party of *X* (also called in this sub-paragraph *XI*), where —
- (i) the date of the grant of the loan or the issue of the debt securities falls in the applicable period;
  - (ii) the proceeds from the loan or the debt securities were used in the applicable period by *XI* solely for the purpose of acquiring, developing or investing in an offshore infrastructure asset or project; and
  - (iii) the interest is paid out of income derived by *XI* from owning or operating the offshore infrastructure asset or project.

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(3) For the purpose of sub-paragraph (2)(a) and (b), the offshore infrastructure asset or project —

- (a) must be situated outside Singapore; and
- (b) must be of a kind prescribed in regulation 5 of the Income Tax (Qualifying Project Debt Securities) Regulations 2008 (G.N. No. S 315/2008) for the purposes of paragraph (b) of the definition of “qualifying project debt securities” in section 13(16) of the Act.

(4) For the purpose of sub-paragraph (2)(b), dividends are treated as paid out of interest as described in that provision if —

- (a) they are paid out of such interest directly; or
- (b) they are paid out of other dividends in respect of shares in another company that are wholly owned (directly or indirectly) by *X*, that are paid out of such interest directly, or are (through one or more applications of this sub-paragraph) treated as paid out of such interest.

(5) The exemption in sub-paragraph (1) only applies if *X* has made a declaration in relation to the income in sub-paragraph (2) and submitted it to the Comptroller in the form and manner, and by the date, determined by the Comptroller.

(6) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore, which are set out and explained for general information in the edition of the e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published by the Inland Revenue Authority of Singapore, that is in force on the date the income concerned is received in Singapore.

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(7) In this paragraph, “related party” —

(a) in relation to a company — means any person —

- (i) who directly or indirectly, controls the company;
- (ii) who is being controlled, directly or indirectly, by the company; or
- (iii) who, together with the company, is directly or indirectly under the control of a common person; or

(b) in relation to a trustee-manager of a business trust — means a person who is directly or indirectly controlled by the trustee-manager, where the control is to be exercised for and on behalf of the unitholders of the business trust.

(8) In this paragraph, shares are owned directly or indirectly by *X*, being the trustee-manager of the business trust mentioned in sub-paragraph (1)(b), if (and only if) they are held by the trustee-manager for and on behalf of the unitholders of the business trust.”.

### **Transitional provision for certain income in basis period for year of assessment 2024**

5.—(1) This paragraph applies to any income described in paragraph 2(1), 3(1) or 4(1) of the principal Order received in Singapore during the period between the date of the first day of the basis period for the year of assessment 2024 and 1 December 2022 (both dates inclusive).

(2) Despite paragraphs 2(2), 3(2) and 4(6) of the principal Order, a reference in those provisions to the edition of the e-tax guide described in those provisions, is to the e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” (Ninth Edition) published on 1 December 2022 by the Inland Revenue Authority of Singapore.

Made on 27 November 2022.

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Ministry of Finance,  
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