

**INCOME TAX ACT
(CHAPTER 134, SECTION 13G)**

**INCOME TAX (EXEMPTION OF INCOME OF FOREIGN
TRUSTS) REGULATIONS**

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[18th March 1994]

Citation

1. These Regulations may be cited as the Income Tax (Exemption of Income of Foreign Trusts) Regulations and shall have effect for the year of assessment 1994 and subsequent years of assessment.

Definitions

2. In these Regulations —

“administered by a trustee company” means —

- (a) the provision of services by a trustee company in its capacity as trustee of a foreign trust, including services provided as manager or administrator of an eligible holding company in relation to that foreign trust; or
- (b) the provision of services by a trustee company to a trustee of a foreign trust under a contract for services

with that trustee, such services being all or any of the following:

- (i) the establishing of a foreign trust or an eligible holding company;
- (ii) the administration or management of a foreign trust or an eligible holding company;

[S 350/2003 wef Y/A 2003 & Sub Ys/A]

“compensatory payment” has the same meaning as in section 10N(12) of the Act;

[S 590/2005 wef 27/02/2005]

“designated investments” has the same meaning as in 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), with references to “prescribed person” therein modified to refer to the eligible holding company or foreign trust referred to in regulation 3, as the case may be;

[S 263/2013 wef 17/02/2012]

[S 499/2010 wef 01/09/2007]

“eligible holding company” means a company —

- (a) which is incorporated outside Singapore;
- (b) which is set up to hold assets of a foreign trust administered by a trustee company in Singapore;
- (c) whose operations consist solely of trading or making investments for the purpose of the foreign trust;
- (d) which does not claim any relief under any arrangement made under section 49 of the Act or any tax credit under section 50A of the Act; and
- (e) all the shares of which are held by the trustees of the foreign trust, or by their nominee;

[S 350/2003 wef Y/A 2003 & Sub. Ys/A]

“foreign company” means a company which is neither incorporated nor resident in Singapore and —

- (a) where the company has not more than 50 shareholders, all of its issued shares are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; and

[S 95/2006 wef 30/01/2006]

- (b) where the company has more than 50 shareholders, not less than 95% of the total number of issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore;

[S 95/2006 wef 30/01/2006]

[S 350/2003 wef 02/07/2002]

“nominee” means any person who acts as a nominee or custodian in relation to shares of an eligible holding company for and on behalf of the trustees of a foreign trust;

[S 350/2003 wef Y/A 2003 & Sub Ys/A]

“qualifying debt securities” has the same meaning as in section 13(16) of the Act;

[S 590/2005 wef 27/02/2004]

“securities lending or repurchase arrangement” has the same meaning as in section 10N(12) of the Act;

[S 590/2005 wef 27/02/2004]

“specified income” means —

- (a) in relation to income derived before 17th February 2012, income specified in Part A of the Schedule; and
- (b) in relation to income derived on or after 17th February 2012, income specified in Part B of the Schedule;

[S 263/2013 wef 17/02/2012]

“unit trust” means any trust established for the purpose, or having the effect, of providing facilities for the participation by persons as beneficiaries under a trust, in profits or income

arising from the acquisition, holding, management or disposal of securities or any other property.

Foreign trust to which Regulations apply

2A.—(1) Subject to paragraph (2), a trust shall be regarded as a foreign trust for the purposes of these Regulations if —

(a) it is a trust created in writing and every settlor and every beneficiary thereof are —

(i) individuals who are neither citizens of Singapore nor resident in Singapore;

[S 694/2007 wef 17/02/2006]

(ii) foreign companies;

[S 694/2007 wef 17/02/2006]

(iii) persons (other than those mentioned in sub-paragraphs (i) and (ii)) who are neither resident in Singapore nor constituted or registered under any written law in Singapore;

[S 694/2007 wef 17/02/2006]

(iv) trustees of other trusts which are regarded as foreign trusts for the purposes of these Regulations; or

[S 694/2007 wef 17/02/2006]

(v) trustees of philanthropic purpose trusts where —

(A) if they are settlors of the trust referred to in sub-paragraph (a), funds and assets from the foreign accounts of the philanthropic purpose trusts are injected into that trust; or

(B) if they are beneficiaries of the trust referred to in sub-paragraph (a), distributions from that trust accrue to the foreign accounts of the philanthropic purpose trusts; or

[S 694/2007 wef 17/02/2006]

(b) it is a unit trust and the whole value of the unit trust fund is beneficially held, directly or indirectly, by —

- (i) individuals who are neither citizens of Singapore nor resident in Singapore;

[S 694/2007 wef 17/02/2006]

- (ii) foreign companies; or

[S 694/2007 wef 17/02/2006]

- (iii) persons (other than those mentioned in sub-paragraphs (i) and (ii)) who are neither resident in Singapore nor constituted or registered under any written laws in Singapore;

[S 694/2007 wef 17/02/2006]

- (iv) trustees of other trusts which are regarded as foreign trusts for the purposes of these Regulations; or

[S 694/2007 wef 17/02/2006]

- (v) trustees of philanthropic purpose trusts where the distributions from the unit trust accrue to the foreign accounts of those philanthropic purpose trusts.

[S 694/2007 wef 17/02/2006]

(2) For the purpose of paragraph (1)(a), a trust shall continue to be regarded as a foreign trust notwithstanding that any settlor or beneficiary of the trust who is an individual subsequently becomes a citizen of Singapore or resident in Singapore, if the following conditions are satisfied:

- (a) in the case of a settlor who subsequently becomes a citizen of Singapore or resident in Singapore —

- (i) no new assets are injected into the trust by the settlor from the day he becomes a citizen of Singapore or resident in Singapore;
- (ii) the settlor neither receives nor enjoys any benefit under the trust and shall not exercise any power of appointment in favour of any person who is a citizen of Singapore or resident in Singapore; and
- (iii) the settlor neither revokes the trust nor varies the terms of the trust so as to cause any benefit to be paid or

otherwise made available to a citizen of Singapore or resident in Singapore;

- (b) in the case of a settlor who was previously a citizen of Singapore or resident in Singapore and the trust was constituted subsequent to the settlor ceasing to be a citizen of Singapore or resident in Singapore, the settlor does not within 5 years of last ceasing to be a citizen of Singapore or resident in Singapore resume being a citizen of Singapore or resident in Singapore; and
- (c) in the case of a beneficiary who subsequently becomes a citizen of Singapore or resident in Singapore —
 - (i) the total value of all distributions made by the trustee to the beneficiaries who are citizens of Singapore or resident in Singapore is less than 20% of the cumulative value of all trust distributions made by the trustee for the trust; and
 - (ii) all beneficiaries who are citizens of Singapore or resident in Singapore are beneficially entitled to less than 20% of the assets of the trust.

[S 350/2003 wef 02/07/2002]

Exemption

3.—(1) Subject to paragraph (2) and regulations 4 and 5, there shall be exempt from tax the specified income from designated investments derived by —

- (a) an eligible holding company; or
- (b) a foreign trust,

which is administered by a trustee company in Singapore.

[S 590/2005 wef Y/A 2004 & Sub Ys/A]

(2) A trustee company shall submit an annual declaration to the Comptroller, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the foreign trust or the eligible holding company (as the case may be) has, or both the foreign

trust and the eligible holding company have, met the conditions in these Regulations.

[S 590/2005 wef Y/A 2004 & Sub Ys/A]

[S 350/2003 wef Y/A 2003 & Sub. Ys/A]

Deduction of certain losses not allowed

4. No deduction shall be allowed under the Act to any eligible holding company or foreign trust in respect of any loss arising from any transaction that would have been exempted from tax under regulation 3 had it resulted in a gain or profit.

[S 590/2005 wef 01/06/2003]

Regulations not applicable to certain foreign trusts

5. These Regulations shall not apply to a foreign trust where any settlor or beneficiary or unit holder (as the case may be) of the foreign trust is a company which —

(a) has a permanent establishment in Singapore other than a trustee company;

[S 590/2005 wef Y/A 2004 & Sub Ys/A]

(b) carries on a business in Singapore;

(c) beneficially owns more than 20% of the total number of issued shares of any company incorporated in Singapore; or

[S 95/2006 wef 30/01/2006]

(d) has 20% or more of the total number of its issued shares beneficially owned, directly or indirectly, by a company which falls within paragraph (a), (b) or (c),

[S 95/2006 wef 30/01/2006]

unless approval is granted by the Minister or such other person as he may appoint.

Keeping of records

6. Every trustee company shall keep and maintain in respect of a foreign trust such records of the particulars of every settlor and beneficiary or unit holder (as the case may be) of the foreign trust as

may be required by the Minister or such person as he may appoint for the purposes of these Regulations.

[S 590/2005 wef Y/A 2004 & Sub Ys/A]

Additional assessment on income of foreign trust or eligible holding company in certain circumstances

7.—(1) Where a trust ceases to be a foreign trust for the purposes of these Regulations for failing to satisfy the condition referred to in paragraph (2)(a)(iii) or (b) of regulation 2A, the Comptroller may assess the trustee of the foreign trust or the eligible holding company established for the purposes of that foreign trust, as the case may be, under section 74 of the Act on any income of that foreign trust or eligible holding company that was exempted from tax under these Regulations.

(2) Any amount or additional amount assessed by the Comptroller under paragraph (1) shall only be paid out of the funds of the foreign trust or eligible holding company established for the purposes of that foreign trust.

[S 350/2003 wef 02/07/2002]

THE SCHEDULE

Regulation 2

PART A

SPECIFIED INCOME IN RELATION TO INCOME
DERIVED BEFORE 17TH FEBRUARY 2012

The following income:

- (a) interest and dividends derived from outside Singapore and received in Singapore in respect of any designated investments;
- (b) interest derived from deposits with and certificates of deposit issued by banks approved under section 13(16) of the Act and from Asian Dollar Bonds approved under section 13(1)(v) of the Act;
- (c) rents, royalties, premiums and any other profits arising from property that are derived from outside Singapore and received in Singapore on or after 1st June 2003;

THE SCHEDULE — *continued*

- (d) gains or profits realised from the sale of any designated investments, or realised on or after 1st June 2003 from the sale of any property, the income (if any) from which falls within paragraph (c) of this Part;
- (e) gains or profits arising from transactions referred to in paragraphs (c), (k), (l), (p), (q) and (r) of Part A of the First Schedule to 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);
- (f) fees and compensatory payments derived on or after 27th February 2004 from securities lending or repurchase arrangements with —
 - (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) the Monetary Authority of Singapore;
 - (iii) a bank licensed under the Banking Act (Cap. 19);
 - (iv) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - (v) a finance company licensed under the Finance Companies Act (Cap. 108);
 - (vi) a holder of a capital markets services licence 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:
 - (A) dealing in securities (other than any person licensed under the Financial Advisers Act (Cap. 110));
 - (B) fund management;
 - (C) securities financing; or
 - (D) providing custodial services for securities;
 - (vii) a collective investment scheme or closed-end fund as defined in the Securities and Futures Act that is constituted as a corporation;
 - (viii) the Central Depository (Pte) Limited;
 - (ix) an insurer registered or regulated under the Insurance Act (Cap. 142) or exempted under that Act from being registered or regulated; or
 - (x) a trust company registered under the Trust Companies Act (Cap. 336);

THE SCHEDULE — *continued*

- (g) discounts derived from outside Singapore and received in Singapore on or after 27th February 2004;
- (h) discounts from qualifying debt securities which —
 - (i) are issued during the period from 27th February 2004 to 16th February 2006 (both dates inclusive) and which mature within one year from the date of issue of those securities; or
 - (ii) are issued during the period from 17th February 2006 to 31st December 2013 (both dates inclusive);
- (i) interest derived on or after 27th February 2004 from qualifying debt securities;
- (j) distributions from foreign unit trusts derived from outside Singapore and received in Singapore on or after 27th February 2004;
- (k) break cost, prepayment fee or redemption premium from qualifying debt securities issued during the period from 15th February 2007 to 31st December 2013 (both dates inclusive);
- (l) gains or profits realised on or after 22nd January 2009 upon the maturity, redemption or transfer of both legal and beneficial ownership (other than sale or by way of a securities lending and repurchase arrangement) of any designated investments; and
- (m) amounts payable from any Islamic debt securities issued on or after 22nd January 2009 which are qualifying debt securities.

PART B

SPECIFIED INCOME IN RELATION TO
INCOME DERIVED ON OR AFTER 17TH FEBRUARY 2012

The following income:

- (a) any income specified in Part B of the Second Schedule to 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).

[S 263/2013 wef 17/02/2012]

[G. N. No. S 92/94]

LEGISLATIVE HISTORY
INCOME TAX (EXEMPTION OF INCOME OF FOREIGN
TRUSTS) REGULATIONS
(CHAPTER 134, RG 24)

This Legislative History is provided for the convenience of users of the Income Tax (Exemption of Income of Foreign Trusts) Regulations. It is not part of these Regulations.

1. G. N. No. S 92/1994 — Income Tax (Exemption of Income of Foreign Trusts) Regulations 1994

Date of commencement : 18 March 1994

2. 1995 Revised Edition — Income Tax (Exemption of Income of Foreign Trusts) Regulations

Date of operation : 1 April 1995

3. G. N. No. S 590/2005 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2005

Date of commencement : 3 May 2002

4. G. N. No. S 350/2003 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2003

Date of commencement : 2 July 2002

5. G. N. No. S 590/2005 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2005

Date of commencement : 1 June 2003

6. G. N. No. S 350/2003 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2003

Date of commencement : 23 July 2003

7. G. N. No. S 694/2007 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2007

Date of commencement : 1 January 2004

8. G. N. No. S 590/2005 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2005

Date of commencement : 27 February 2004

9. G. N. No. S 590/2005 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2005

Date of commencement : 14 September 2005

- 10. G. N. No. S 95/2006 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2006**
Date of commencement : 30 January 2006
- 11. G. N. No. S 694/2007 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2007**
Date of commencement : 17 February 2006
- 12. G. N. No. S 694/2007 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2007**
Date of commencement : 15 February 2007
- 13. G. N. No. S 397/2008 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2008**
Date of commencement : 15 February 2007
- 14. G. N. No. S 499/2010 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2010**
Date of commencement : 1 September 2007
- 15. G. N. No. S 499/2010 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2010**
Date of commencement : 22 January 2009
- 16. G. N. No. S 499/2010 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2010**
Date of commencement : 6 September 2010
- 17. G.N. No. S 263/2013 — Income Tax (Exemption of Income of Foreign Trusts) (Amendment) Regulations 2013**
Date of commencement : 17 February 2012