

**INCOME TAX ACT
(CHAPTER 134, SECTION 43C)**

**INCOME TAX (CONCESSIONARY RATE OF TAX FOR
APPROVED OFFSHORE LIFE INSURERS) REGULATIONS**

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[5th May 1995]

Citation

1. These Regulations may be cited as the Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) Regulations and shall have effect for the year of assessment 1996 and subsequent years of assessment.

[S 81/2009, wef Y/A 2005 & Sub Ys/A]

Definitions

2. In these Regulations —

“approved captive insurer” means any captive insurer approved under regulation 3A;

“approved insurer” means any insurer approved under regulation 3;

[S 81/2009, wef Y/A 2005 & Sub Ys/A]

“approved takaful insurer” means any insurer approved under regulation 3B;

“capital allowances” means the allowances under section 19, 19A, 20, 21, 22 or 23 of the Act;

“captive insurer” has the same meaning as in section 1A of the Insurance Act (Cap. 142);

“interest from ACU deposits” means interest derived from deposits with an Asian Currency Unit in Singapore;

“offshore captive insurance business” means the offshore life business in relation to the risks of related companies, including third party offshore risks underwritten in the course of and incidental to the captive insurance business;

“offshore investments” means —

- (a) stocks and shares denominated in any foreign currency of companies not incorporated and not resident in Singapore;
- (b) securities, other than stocks and shares, denominated in any foreign currency (including bonds, notes, certificates of deposit and treasury bills) issued by foreign governments, foreign banks outside Singapore and companies not incorporated and not resident in Singapore;
- (c) futures contracts denominated in any foreign currency made in any futures exchange;
- (d) any immovable property situated outside Singapore;

- (e) certificates of deposit, notes and bonds issued by Asian Currency Units in Singapore;
- (f) Asian Dollar Bonds approved under section 13(1)(v) of the Act; and
- (g) foreign currency deposits with financial institutions outside Singapore;

“offshore life business”, “offshore life policies” and “participating fund” have the same meanings as in section 26(12) of the Act;

“participating policy” has the same meaning as in paragraph 6A of the First Schedule to the Insurance Act ;

[S 81/2009, wef Y/A 2006 & Sub Ys/A]

[S 748/2010 wef 01/04/2008]

“qualifying return in lieu of interest” means any return in lieu of interest from investing in products endorsed by any Shari’ah council or body, or by any committee formed for the purpose of providing guidance on compliance with Shari’ah law.

Approval of insurer

3.—(1) The Minister or such person as he may appoint may, upon application by any insurer registered under the Insurance Act (Cap. 142) to carry on life insurance business only and if he considers it expedient in the public interest to do so, during the period from 1st April 2010 to 31st March 2015, approve the insurer as an approved insurer for the purposes of these Regulations.

(2) Any approval under paragraph (1) shall be for such period not exceeding 10 years as the Minister or such person as is appointed under paragraph (1) may specify.

[S 103/2011 wef 01/04/2010]

Previously approved insurers

3AA.—(1) Where an insurer registered under the Insurance Act (Cap. 142) was, on 31st March 2010, an approved insurer under regulation 3 as in force before 1st April 2010, it shall remain approved

as an approved insurer under regulation 3 until 1st August 2010 unless —

- (a) the insurer makes an application to the Minister, or such other person as he may appoint, on or before 31st July 2010 to continue to be an approved insurer, supported by a declaration made by the insurer in a form determined by the MAS; and
- (b) the Minister or that other person, if he considers it expedient in the public interest to do so, approves the insurer as an approved insurer under regulation 3.

(2) Any approval under paragraph (1) shall be for such period not exceeding 10 years starting from 1st April 2010 as the Minister or the other person referred to in that paragraph may specify, and shall be subject to such terms and conditions as the Minister or that person may think fit to impose.

(3) In this regulation, “MAS” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186).

[S 103/2011 wef 01/04/2010]

Approval of captive insurer

3A.—(1) The Minister or such person as he may appoint may, upon application by any captive insurer and if he considers it expedient in the public interest to do so, during the period from 17th February 2006 to 31 March 2018, approve the insurer as an approved captive insurer.

[S 320/2016 wef 16/02/2011]

(2) Any approval under subsection (1) shall be for such period not exceeding 10 years as the Minister or such person as he may appoint may specify.

Approval of takaful insurer

3B.—(1) The Minister or such person as he may appoint may, upon application by any insurer registered under the Insurance Act (Cap. 142) to carry on life takaful business and if he considers it expedient in the public interest to do so, during the period from

1st April 2008 to 31st March 2013, approve the insurer as an approved takaful insurer for the purposes of these Regulations.

(2) Any approval under paragraph (1) shall be for such period not exceeding 5 years as is specified by the Minister or the person appointed under paragraph (1).

Concessionary rate of tax for approved insurer

4.—(1) Subject to regulations 4A and 5A, tax shall be payable at the rate of 10% on the following income derived by an approved insurer:

(a) the amount referred to in section 26(7)(a)(i) of the Act (but excluding the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund established under the Insurance Act relating to offshore life policies);

[S 81/2009, wef Y/A 2006 & Sub Ys/A]

(b) the dividends and interest derived from outside Singapore, the gains or profits realised from the sale of offshore investments, and interest from ACU deposits derived from —

(i) subject to paragraph (2), the investment of its insurance fund established and maintained under the Insurance Act for the offshore life business; and

(ii) the investment of its shareholders' funds established in Singapore which are used to support the offshore life business as ascertained under regulation 5.

(2) Where the Comptroller is satisfied that any part of the insurance fund referred to in sub-paragraph (b)(i) of paragraph (1) is not required to support the offshore life business of an approved insurer, he may adopt such reduced amount of the dividends, interest and gains or profits under that sub-paragraph as appears to him to be reasonable in the circumstances.

[S 81/2009, wef Y/A 2005 & Sub Ys/A]

Concessionary rate of tax for income of approved takaful insurer

4A.—(1) Notwithstanding regulation 4 and subject to regulation 5A, tax shall be payable at the rate of 5% on the following income derived by an approved takaful insurer:

- (a) the amount referred to in section 26(7)(a)(i) of the Act in respect of offshore life takaful (but excluding the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund established under the Insurance Act relating to offshore life takaful contracts); and
- (b) the dividends and qualifying return in lieu of interest derived from outside Singapore, the gains or profits realised from the sale of offshore investments, and qualifying return in lieu of interest from ACU deposits derived from —
 - (i) subject to paragraph (2), the investment of its insurance fund established and maintained under the Insurance Act (Cap. 142) for the offshore life takaful business; and
 - (ii) the investment of its shareholders' funds established in Singapore which are used to support the offshore life takaful business as ascertained under regulation 5C.

(2) Where the Comptroller is satisfied that any part of the insurance fund referred to in sub-paragraph (b)(i) of paragraph (1) is not required to support the offshore life takaful business of an approved takaful insurer, he may adopt such reduced amount of the dividends, qualifying return in lieu of interest and gains or profits under that sub-paragraph as appears to him to be reasonable in the circumstances.

Calculation of dividends, interest and gains from sale of offshore investments for approved insurer

5.—(1) Subject to regulation 5C, the dividends and interest under regulation 4(1)(b)(ii) derived by an approved insurer for the basis

period for any year of assessment shall be ascertained by the formula —

$$\left(\frac{P_o}{P_o + P_i} \times I \right) - X$$

where P_o is the amount of the gross premiums received or receivable during the basis period in respect of policies underwritten by the approved insurer in the course of carrying on its business in Singapore from the offshore life business;

P_i is the amount of the gross premiums received or receivable during the basis period in respect of policies underwritten by the approved insurer in the course of carrying on its business in Singapore from the life insurance business other than offshore life business;

I is the total amount of dividends and interest derived from Singapore and elsewhere by the approved insurer during the basis period from the investment of its shareholders' funds established in Singapore less any expenses directly attributable to the production of such dividends and interest allowable under the Act;

X is —

(a) nil, if $\left(\frac{P_i}{P_o + P_i} \times I \right)$,

is equal to or greater than Y ; or

(b) $\left(Y - \frac{P_i}{P_o + P_i} \times I \right)$,

if Y is greater than $\left(\frac{P_i}{P_o + P_i} \times I \right)$,

where Y is the total amount of dividends and interest derived from Singapore (but excluding interest from ACU deposits) by the approved insurer during the basis period from the investment of its shareholders' funds established in Singapore, less any expenses directly attributable to the production of such dividends and

interest allowable under the Act.

[S 81/2009 wef Y/A 2005 & Sub Ys/A]

[S 748/2010 wef 01/04/2008]

(2) The gains or profits from the sale of offshore investments under regulation 4(1)(b)(ii) derived by an approved insurer for the basis period for any year of assessment shall be ascertained by the formula —

$$\frac{P_o}{P_o + P_i} \times K$$

where P_o and P_i have the same meanings as in paragraph (1); and

K is the amount (after deducting losses from the gains or profits) realised during the basis period from the sale of offshore investments acquired by the approved insurer using its shareholders' funds established in Singapore less any expenses directly attributable to the production of such gains or profits allowable under the Act.

[S 81/2009 wef Y/A 2005 & Sub Ys/A]

[S 320/2016 wef 19/02/2011]

(3) For the purposes of paragraphs (1) and (2), where the Comptroller is satisfied that any part of the shareholders' funds of the approved insurer is not required to support its offshore life business, he may adopt such reduced amount of I or K as appears to him to be reasonable in the circumstances.

[S 81/2009, wef Y/A 2005 & Sub Ys/A]

Income of approved captive insurer exempt from tax

5A.—(1) There shall be exempt from tax the following income derived by an approved captive insurer (including one who is also an approved insurer) for the basis period for any year of assessment —

(a) income derived from accepting offshore life insurance as computed in accordance with section 26(7)(a)(i) of the Act, excluding —

(i) amounts derived from offshore life policies covering third parties which are not underwritten in the course

of, nor incidental to, its captive insurance business;
and

- (ii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund established under the Insurance Act (Cap. 142) relating to offshore life policies;

[S 81/2009, wef Y/A 2005 & Sub Ys/A:2009-SL-134-RG-81]

- (b) such part of the income referred to in regulation 4(1)(b) as is ascertained by the formula —

$$\frac{P_c}{P_o} \times A,$$

where P_c is the amount of the gross premiums received or receivable during the basis period in respect of offshore life policies underwritten by the approved captive insurer in the course of carrying on its offshore captive insurance business in Singapore (excluding amounts received or receivable in respect of offshore life policies covering third parties which are not underwritten in the course of, nor incidental to, its captive insurance business);

P_o has the same meaning as in regulation 5(1), with the reference to the approved insurer in that provision modified to refer to the approved captive insurer; and

A is the total amount of the income referred to in regulation 4(1)(b) of the approved captive insurer for the basis period less any expenses directly attributable to the production of such income allowable under the Act.

[S 320/2016 wef 19/02/2011]

(2) Where the Comptroller is satisfied that any part of the insurance fund or the shareholders' funds referred to in regulation 4(1)(b) of the approved captive insurer (including one who is also an approved insurer) is not required to support the offshore captive insurance

business of such insurer, he may adopt such reduced amount of the income under paragraph (1)(b) as appears to him to be reasonable in the circumstances.

Determination of income exempted from tax

5B.—(1) In determining the income of an approved captive insurer to be exempted from tax under regulation 5A —

- (a) the Comptroller shall have regard to such expenses, capital allowances and donations allowable under the Act as are, in his opinion, to be deducted in ascertaining such income;
- (b) there shall be deducted from that income any capital allowances attributable to that income notwithstanding that no claim for those allowances has been made;
- (c) any balance of the allowances mentioned in sub-paragraph (b) and any losses incurred in respect of its offshore captive insurance business (which, had they been income, would have been exempted from tax under regulation 5A) shall only be deducted against income to be exempted under regulation 5A, and any balance of such allowances and losses shall not be deducted against any other income; and
- (d) any balance of the allowances and losses referred to in sub-paragraph (c) remaining unabsorbed as at the end of the period in which its approval under regulation 3A expires or is withdrawn shall, subject to paragraph (2), be available as a deduction against any other income of the insurer for the year of assessment which relates to the basis period in which that approval expires or is withdrawn and any subsequent year of assessment in accordance with section 23 or 37 of the Act, as the case may be.

(2) Section 37B of the Act shall apply to any amount of the allowances and losses available as a deduction against any other income as provided under paragraph (1)(d) as if they were unabsorbed allowances or losses in respect of the income of a company subject to tax at a lower rate of tax under that section, and for this purpose the

rate of tax shall be taken to be the concessionary rate of tax under regulation 4(1).

Calculation of dividends, qualifying return in lieu of interest and gains from sale of offshore investments for approved takaful insurer

5C.—(1) The dividends and qualifying return in lieu of interest under regulation 4A(1)(b)(ii) derived by an approved takaful insurer for the basis period for any year of assessment shall be ascertained by the formula —

$$\left(\frac{C_o}{P_o + P_i} \times I \right) - X,$$

where C_o is the amount of the gross contributions received or receivable during the basis period in respect of insurance contracts underwritten by the approved takaful insurer in the course of carrying on its business in Singapore from the offshore life takaful business; and

P_o , P_i , I and X have the same meanings as in regulation 5(1).

(2) The gains or profits from the sale of offshore investments under regulation 4A(1)(b)(ii) derived by an approved takaful insurer for the basis period for any year of assessment shall be ascertained by the formula —

$$\frac{C_o}{P_o + P_i} \times K,$$

where P_o and P_i have the same meanings as in paragraph (1); and

K has the same meaning as in regulation 5(2).

(3) For the purposes of paragraphs (1) and (2), where the Comptroller is satisfied that any part of the shareholders' funds of the approved takaful insurer is not required to support its offshore life

takaful business, he may adopt such reduced amount of income of I or K as appears to him to be reasonable in the circumstances..

Apportionment of expenses, allowances and donations

6.—(1) Any item of expenditure not directly attributable to the offshore life business of an approved insurer, and capital allowances and donations, allowable to the approved insurer under the Act, shall be apportioned between such business and the other life insurance business of the approved insurer; and the portion attributable to such business shall be ascertained by using the fraction —

$$\frac{P_o}{P_o + P_i} \times K$$

where P_o and P_i have the same meanings as in regulation 5.

[S 81/2009, wef Y/A 2005 & Sub Ys/A]

(2) Notwithstanding paragraph (1), where an approved insurer is also an approved captive insurer under regulation 3A or an approved takaful insurer under regulation 3B, any item of expenditure not directly attributable to the offshore captive insurance business, the offshore life tafakul business or the offshore life business of such insurer, and capital allowances and donations allowable to such insurer under the Act, shall be apportioned between such business and the other insurance business of such insurer in the following manner:

- (a) the portion attributable to offshore captive insurance business shall be ascertained by using the fraction —

$$\frac{P_c}{P_o + P_i} ;$$

- (b) the portion attributable to offshore life takaful business shall be ascertained by using the fraction —

$$\frac{C_o}{P_o + P_i} ; \text{ and}$$

- (c) the portion attributable to offshore life business, other than

offshore captive insurance business, and offshore life takaful business, shall be ascertained by using the fraction —

$$\frac{P_o - P_c - C_o}{P_o + P_i} ,$$

where P_c has the same meaning as in regulation 5A;

P_o and P_i have the same meanings as in regulation 5(1); and

C_o has the same meaning as in regulation 5C(1).

Apportionment of income between policyholders and shareholders

7.—(1) Any income derived from a participating fund in relation to offshore life business by an approved insurer for any year of assessment taxable at the rate of 10% in accordance with regulation 4(1)(a) and (b)(i) or by an approved takaful insurer for any year of assessment taxable at the rate of 5% in accordance with regulation 4A(1)(a) and (b)(i) shall, for the purposes of section 26(8)(b) and (c) of the Act, be apportioned between the policyholders and shareholders of the approved insurer in the same ratio as the amount referred to in section 26(7)(a)(i)(A) of the Act bears to the amount referred to in section 26(7)(a)(i)(B) of the Act for the basis period for that year of assessment.

(2) For the purposes of paragraph (1), where no allocation is made out of the participating fund by the approved insurer in accordance with section 17(6)(b) of the Insurance Act (Cap. 142), the income shall be deemed to be apportioned to the policyholders in accordance with —

- (a) where the articles of association of the approved insurer specify the percentage of the gains or profits of the participating fund in respect of offshore life policies that may be distributed to the policyholders, that percentage; or
- (b) where the articles of association of the approved insurer do not so specify, the difference between 100% and the maximum amount (in terms of percentage) of the fund that may be allocated to the surplus account under

section 17(6)(c)(iv) of the Insurance Act, out of the total of such amount and the amount of the fund that may be allocated to participating policies by way of bonus in accordance with section 17(6)(b) of that Act.

(3) Paragraphs (1) and (2) shall not apply to a captive insurer.

LEGISLATIVE HISTORY
INCOME TAX (CONCESSIONARY RATE OF TAX FOR
APPROVED OFFSHORE LIFE INSURANCE
COMPANIES/INSURERS) REGULATIONS
(CHAPTER 134, RG 28)