

INCOME TAX ACT
(CHAPTER 134, SECTION 43C)

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

ARRANGEMENT OF 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;

[S 81/2009 wef 17/02/2006]

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

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

[Deleted by S 320/2016 wef 01/04/2013]

“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);

[S 81/2009 wef 17/02/2006]

“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;

[S 81/2009 wef 17/02/2006]

“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;

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

“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.

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

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.

[S 81/2009 wef 17/02/2006]

3B. [*Deleted by S 320/2016 wef 01/04/2013*]

Concessionary rate of tax for approved insurer

4.—(1) 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.

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

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

[S 320/2016 wef 01/04/2013]

(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]

4A. [*Deleted by S 320/2016 wef 01/04/2013*]

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

5.—(1) 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 —

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

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 —

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

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]

[S 320/2016 wef 01/04/2013]

(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]

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

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

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.

[S 81/2009 wef 17/02/2006]

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 and capital allowances allowable under the Act as are, in his opinion, to be deducted in ascertaining such income;

[S 519/2013 wef Y/A 2013 Ys/A]

(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).

[S 81/2009 wef 17/02/2006]

[S 81/2009 wef 25/02/2009]

5C. *[Deleted by S 320/2016 wef 01/04/2013]*

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 —

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

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) Despite paragraph (1), where an approved insurer is also an approved captive insurer under regulation 3A, any item of expenditure not directly attributable to the offshore captive insurance business or the offshore life business of such insurer, as well as any capital allowances and donations allowable to such insurer under the Act, are to 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 is to be ascertained by using the fraction —

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

- (b) the portion attributable to offshore life business, other than offshore captive insurance business, is to be ascertained by using the fraction —

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

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

P_o and P_i have the same meaning as in regulation 5(1).

[S 320/2016 wef 01/04/2013]

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) 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.

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

[S 320/2016 wef 01/04/2013]

(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.

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

[G.N. No. S 212/95]

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

This Legislative History is provided for the convenience of users of the Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) Regulations. It is not part of these Regulations.

1. G. N. No. S 212/1995 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurance Companies) Regulations 1995

Date of commencement : 5 May 1995

2. 1996 Revised Edition — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurance Companies) Regulations

Date of operation : 15 May 1996

3. G. N. No. S 81/2009 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) (Amendment) Regulations 2009

Date of commencement : 2 June 2005

4. G. N. No. S 81/2009 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) (Amendment) Regulations 2009

Date of commencement : 17 February 2006

5. G. N. No. S 748/2010 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) (Amendment) Regulations 2010

Date of commencement : 1 April 2008

6. G. N. No. S 81/2009 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) (Amendment) Regulations 2009

Date of commencement : 25 February 2009

7. G. N. No. S 103/2011 — Income Tax (Concessionary Rate of Tax for Approved Offshore Life Insurers) (Amendment) Regulations 2011

Date of commencement : 1 April 2010

**8. G.N. No. S 519/2013 — Income Tax (Concessionary Rate of Tax for
Approved Offshore Life Insurers)
(Amendment) Regulations 2013**

Date of commencement : 13 August 2013