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No. S 128

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF FOREIGN INCOME OF APPROVED INTERNATIONAL SHIPPING ENTERPRISES) ORDER 2018

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement
 2. Exemption
 3. Shipping income
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In exercise of the powers conferred by section 13(12) of the Income Tax Act, the Minister for Finance makes the following Order:

Citation and commencement

1. This Order is the Income Tax (Exemption of Foreign Income of Approved International Shipping Enterprises) Order 2018 and comes into operation on 8 March 2018.

Exemption

2.—(1) The following income received by an AISE in Singapore is exempt from tax:

- (a) shipping income of an approved branch of the AISE outside Singapore;
- (b) dividends or partnership profits from an ARE (called in this Order the 1st ARE) of the AISE that are paid out of or derived from —

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- (i) shipping income of the 1st ARE, including an approved branch of the 1st ARE; or
 - (ii) dividends or partnership profits of the 1st ARE that are paid out of or derived from shipping income of, or from dividends or partnership profits that are directly or indirectly paid out of or derived from shipping income of —
 - (A) another ARE (called in this Order the 2nd ARE) of the AISE, including an approved branch of the 2nd ARE; or
 - (B) a related AISE of the AISE, including an approved branch of the related AISE.

(2) In this paragraph —

“AISE” or “approved international shipping enterprise” means a company approved as an approved international shipping enterprise under section 13F of the Act;

“approved” means approved by the Minister or a person appointed by the Minister;

“ARE” or “approved related entity”, in relation to an AISE, means an approved foreign entity at least 25% of the equity interests of which are beneficially owned by the AISE;

“entity” means a company or a partnership;

“equity interest”, in relation to an entity, means —

- (a) if the entity is a company, an issued share of the company that is not a treasury share; or
- (b) if the entity is a partnership, the proportion of its profits that a partner is entitled to;

“foreign entity” means —

- (a) a company incorporated outside Singapore; or
- (b) a partnership registered or formed outside Singapore;

“related AISE”, in relation to another AISE, means an AISE at least 50% (or such other percentage as may be approved for that other AISE at the time of the approval of that other AISE) of the equity interests of which are beneficially owned by that other AISE.

(3) For the purposes of the definitions of “ARE” and “related AISE” in sub-paragraph (2), if —

- (a) an entity (called in this sub-paragraph the subject entity) beneficially owns (including by reason of one or more applications of this paragraph) equity interests in another entity (called in this sub-paragraph a 1st level entity); and
- (b) the 1st level entity beneficially owns equity interests in another entity (called in this sub-paragraph a 2nd level entity),

then the subject entity is taken to beneficially own a percentage of equity interests in the 2nd level entity that is computed according to the formula $N \times O$, where —

- (i) N is the percentage which the value of equity interests in the 1st level entity beneficially owned by the subject entity bears to the total value of all equity interests in the 1st level entity; and
- (ii) O is the percentage which the value of equity interests in the 2nd level entity beneficially owned by the 1st level entity bears to the total value of all equity interests in the 2nd level entity.

Shipping income

3.—(1) In paragraph 2, the shipping income of an approved branch of the AISE, its related AISE, an approved branch of the related AISE, the 1st ARE, an approved branch of the 1st ARE, the 2nd ARE, or an approved branch of the 2nd ARE, is income derived on or after the date of approval of that entity or branch (as the case may be), or 8 March 2018 (whichever is later), from any of the following activities:

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- (a) the carriage by a foreign ship of passengers, mail, livestock or goods from outside the limits of the port of Singapore;
 - (b) the carriage by a foreign ship of passengers, mail, livestock or goods shipped in Singapore, except where such carriage arises solely from transshipment from Singapore, or is only within the limits of the port of Singapore;
 - (c) the carriage by a foreign ship of passengers, mail, livestock or goods to Singapore solely for the purpose of transshipment;
 - (d) the carriage by a Singapore ship of passengers, mail, livestock or goods outside the limits of the port of Singapore;
 - (e) the charter of a foreign ship for the carriage of passengers, mail, livestock or goods outside the limits of the port of Singapore;
 - (f) the charter of a foreign dredger, foreign seismic ship, or any foreign ship used for offshore oil or gas activity to any person for an operation outside the limits of the port of Singapore;
 - (g) the charter of a foreign ship for towage and salvage operations outside the limits of the port of Singapore;
 - (h) the charter of a Singapore ship for use outside the limits of the port of Singapore;
 - (i) the charter of a foreign ship for offshore renewable energy activity or offshore mineral activity to any person, where such ship is used by the person for the person's operation outside the limits of the port of Singapore;
 - (j) the use of any ship for towing or salvage operations outside the limits of the port of Singapore;
 - (k) the operation outside the limits of the port of Singapore of any dredger, seismic ship or any ship used for offshore oil or gas activity;
 - (l) the use of any ship outside the limits of the port of Singapore for offshore renewable energy activity, or

offshore mineral activity, outside the limits of the port of Singapore;

(m) any of the following:

- (i) the sale of a Singapore ship or a ship that is provisionally registered under the Merchant Shipping Act (Cap. 179);
- (ii) the assignment to another of all the rights of the related AISE, the 1st ARE or the 2nd ARE as the buyer under a contract for the construction of a ship that, at the time of the assignment, is intended to be registered or is provisionally registered under the Merchant Shipping Act;
- (iii) the sale of all of the issued ordinary shares in a special purpose company of the related AISE, the 1st ARE or the 2nd ARE where, at the time of the sale of the shares, the special purpose company —
 - (A) owns a Singapore ship or a ship that is provisionally registered under the Merchant Shipping Act; or
 - (B) is the buyer under a contract for the construction of a ship that, at that time, is intended to be registered or is provisionally registered under the Merchant Shipping Act,and the special purpose company does not at that time own any foreign ship;

(n) any of the following:

- (i) the sale of a foreign ship used for offshore renewable energy activity or offshore mineral activity;
- (ii) the assignment to another of all the rights of the related AISE, the 1st ARE or the 2nd ARE as the buyer under a contract for the construction of a ship for offshore renewable energy activity or offshore mineral activity that, at the time of assignment, is

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- intended to be a foreign ship to be used for that activity or any prescribed purpose;
- (iii) the sale of all of the issued ordinary shares in a special purpose company of the related AISE, the 1st ARE or the 2nd ARE where, at the time of the sale of the shares, the special purpose company —
- (A) owns a foreign ship that is used for offshore renewable energy activity or offshore mineral activity; or
 - (B) is the buyer under a contract for the construction of a foreign ship for that activity and that is intended to be used for that activity or any prescribed purpose;
- (o) any of the following:
- (i) the sale of a foreign ship used for a prescribed purpose;
 - (ii) the assignment to another of all the rights of the related AISE, the 1st ARE or the 2nd ARE as the buyer under a contract for the construction of a ship for a prescribed purpose that, at the time of assignment, is intended to be a foreign ship to be used for that or any other prescribed purpose;
 - (iii) the sale of all of the issued ordinary shares in a special purpose company of the related AISE, the 1st ARE or the 2nd ARE where, at the time of the sale of the shares, the special purpose company —
 - (A) owns a foreign ship that is used for a prescribed purpose;
 - (B) is the buyer under a contract for the construction of a foreign ship for a prescribed purpose that is intended to be used for that or any other prescribed purpose;

(C) owns a Singapore ship or a ship that is provisionally registered under the Merchant Shipping Act; or

(D) is the buyer under a contract for the construction of a ship that, at the time of the sale, is intended to be registered or is provisionally registered under the Merchant Shipping Act;

(p) either of the following:

(i) any mobilisation or holding of any ship used or to be used for offshore oil or gas activity outside the limits of the port of Singapore;

(ii) the demobilisation of any ship after it has been so used,

where the mobilisation, holding or demobilisation is undertaken by the AISE (through its approved branch), the related AISE (directly or through its approved branch), the 1st ARE (directly or through its approved branch), or the 2nd ARE (directly or through its approved branch) (as the case may be) using any ship;

(q) either of the following:

(i) any mobilisation or holding of any ship owned or operated by the AISE (through its approved branch), the related AISE (directly or through its approved branch), the 1st ARE (directly or through its approved branch), or the 2nd ARE (directly or through its approved branch) (as the case may be), and used or to be used for offshore oil or gas activity outside the limits of the port of Singapore;

(ii) the demobilisation of such ship after it has been so used;

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- (r) the leasing of a container (other than finance leasing) carried out in connection with the operation of ships by the AISE (through its approved branch), the related AISE (directly or through its approved branch), the 1st ARE (directly or through its approved branch), or the 2nd ARE (directly or through its approved branch) (as the case may be), and that is incidental to such operation;
- (s) either of the following:
- (i) any mobilisation or holding of any ship used or to be used for offshore renewable energy activity, or offshore mineral activity, outside the limits of the port of Singapore;
 - (ii) the demobilisation of any ship after it has been so used,

where the mobilisation, holding or demobilisation is undertaken by the AISE (through its approved branch), the related AISE (directly or through its approved branch), the 1st ARE (directly or through its approved branch), or the 2nd ARE (directly or through its approved branch) (as the case may be) using any ship;

- (t) either of the following:
- (i) any mobilisation or holding of any ship owned or operated by the AISE (through its approved branch), the related AISE (directly or through its approved branch), the 1st ARE (directly or through its approved branch), or the 2nd ARE (directly or through its approved branch) (as the case may be), and used or to be used for offshore renewable energy activity, or offshore mineral activity, outside the limits of the port of Singapore;
 - (ii) the demobilisation of such ship after it has been so used;

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- (u) foreign exchange and risk management activities carried out in connection with and incidental to any of the activities in sub-paragraphs (a) to (t) (other than sub-paragraphs (m), (n), (o) and (r)).

(1A) In paragraph 2, the shipping income of an approved branch of the AISE, its related AISE, an approved branch of the related AISE, the 1st ARE, an approved branch of the 1st ARE, the 2nd ARE, or an approved branch of the 2nd ARE, is income derived on or after the date of approval of that entity or branch (as the case may be), or from 12 December 2018 (whichever is later), from any of the following activities:

- (a) the finance leasing of any foreign ship to any person where the ship is used by the person for the carriage of passengers, mail, livestock or goods outside the limits of the port of Singapore;
- (b) the finance leasing of any foreign dredger, foreign seismic ship, or any foreign ship used for offshore oil or gas activity to any person where the dredger, seismic ship or ship is used by the person for the person's operation outside the limits of the port of Singapore;
- (c) the finance leasing of any foreign ship to any person where the ship is used by the person for towage and salvage operations carried out outside the limits of the port of Singapore;
- (d) the finance leasing of any Singapore ship for use outside the limits of the port of Singapore;
- (e) the finance leasing of any foreign ship for offshore renewable energy activity or offshore mineral activity to any person, where the ship is used by the person for the person's operation outside the limits of the port of Singapore;
- (f) foreign exchange and risk management activities carried out in connection with and incidental to any of the activities in sub-paragraphs (a) to (e).

[S 306/2022 wef 12/12/2018]

(2) In this paragraph —

“container” has the same meaning as in section 43ZA(7) of the Act;

“demobilisation”, “finance leasing”, “holding”, “mobilisation” and “ship” have the same meanings as in section 13A(16) of the Act;

[S 306/2022 wef 12/12/2018]

“foreign ship” means a sea-going ship other than a Singapore ship;

[S 306/2022 wef 19/02/2020]

“prescribed purpose” has the meaning given by section 13F(6) of the Act;

[S 306/2022 wef 19/02/2020]

“Singapore ship” means a ship in respect of which a permanent certificate of registry has been issued under the Merchant Shipping Act and whose registry is not closed or deemed to be closed or suspended; and —

(a) in respect of shipping income derived before 19 February 2020 — includes a ship that is provisionally registered under that Act if a permanent certificate of registry is subsequently issued under that Act in respect of it; and

(b) in respect of shipping income derived on or after 19 February 2020 — includes a ship that is provisionally registered under that Act;

[S 306/2022 wef 19/02/2020]

“special purpose company” —

(a) in relation to sub-paragraph (1)(m), has the same meaning as in section 13A(16) of the Act, with the substitution of any reference to a shipping enterprise with a reference to the related AISE, the 1st ARE or the 2nd ARE (as the case may be); and

(b) in relation to sub-paragraph (1)(n) and (o), has the same meaning as in section 13F(6) of the Act, with

the substitution of any reference to an approved international shipping enterprise with a reference to the related AISE, the 1st ARE or the 2nd ARE (as the case may be).

(3) In this paragraph, a ship is not provisionally registered under the Merchant Shipping Act if its registry under that Act is closed or deemed to be closed or suspended.

(4) The activities mentioned in sub-paragraph (1)(*m*), (*n*) and (*o*) —

(*a*) in relation to shipping income derived before 12 December 2018 — exclude both of the following:

(i) a finance lease that is treated as a sale under section 10D of the Act;

(ii) a sale made in the course of carrying on a business of trading in ships or constructing ships for sale; and

(*b*) in relation to shipping income derived on or after 12 December 2018 — exclude a sale made in the course of carrying on a business of trading in ships or constructing ships for sale.

[S 306/2022 wef 12/12/2018]

(5) Shipping income derived from any of the activities mentioned in sub-paragraph (1A)(*a*), (*b*), (*c*), (*d*) and (*e*) excludes any income derived from carrying on a business of trading in ships or of constructing ships for sale.

[S 306/2022 wef 12/12/2018]

Made on 5 March 2018.

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