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No. S 204

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR APPROVED GLOBAL TRADING COMPANIES) REGULATIONS 2003

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred by section 43P of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Concessionary Rate of Tax for Approved Global Trading Companies) Regulations 2003 and shall be deemed to have come into operation on 1st June 2001.

Definitions

2. In these Regulations, unless the context otherwise requires —
- “approved commodity derivatives trading company” means an approved commodity derivatives trading company referred to in section 43S of the Act;

[S 189/2008 wef Y/A 2006 & Sub Ys/A]

“approved commodity exchange” means any commodity exchange which is approved for the purposes of these Regulations by the Minister or such person as he may appoint;

“approved global trading company” means a global trading company which is approved for the purposes of section 43P of the Act by the Minister or such person as he may appoint;

“approved international commodity trading company” means an international commodity trading company which is approved for the purposes of section 43H of the Act by the Minister or such person as he may appoint;

“approved oil trading company” means an oil trading company which is approved for the purposes of section 43F of the Act by the Minister or such person as he may appoint;

“carbon credit” means the right to emit an amount of any greenhouse gas having the same global warming potential as one tonne of carbon dioxide;

[S 593/2009 wef 24/05/2007]

“commodity” means any of the commodities specified in the First Schedule;

“commodity futures trading” means trading in commodity futures contracts or options in any commodity —

(a) if the income is derived before the basis period relating to the year of assessment 2006, on any exchange specified in the Second Schedule or on any approved commodity exchange carried out by an approved global trading company in accordance with the rules and regulations or customs and practices of that exchange with —

- (i) a person who is neither a resident of nor a permanent establishment in Singapore;
- (ii) a branch office outside Singapore of a company resident in Singapore;
- (iii) an Asian Currency Unit of a financial institution;
- (iv) a futures member of the Singapore Exchange;

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- (v) a member of the Singapore Commodity Exchange;
 - (vi) an approved oil trading company;
 - (vii) an approved international commodity trading company; or
 - (viii) another approved global trading company;
- (b) if the income is derived at any time between the beginning of the basis period relating to the year of assessment 2006 and 26th February 2009, on any exchange carried out by an approved global trading company in accordance with the rules and regulations or customs and practices of that exchange with —
- (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) a branch office outside Singapore of a company resident in Singapore;
 - (iii) an Asian Currency Unit of a financial institution;
 - (iv) a futures member of the Singapore Exchange;
 - (v) a member of the Singapore Commodity Exchange;
 - (vi) an approved oil trading company;
 - (vii) an approved international commodity trading company;
 - (viii) another approved global trading company;
 - (ix) an approved commodity derivatives trading company; or
 - (x) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19); or

(B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186); or

[S 150/2013 wef 20/12/2011]

(c) if the income is derived on or after 27th February 2009, on any exchange carried out by an approved global trading company in accordance with the rules and regulations or customs and practices of that exchange, where the company is a member of the exchange, or where the trade is executed through another person who is a member of the exchange on behalf of the company;

[S 150/2013 wef 20/12/2011]

(d) *[Deleted by S 150/2013 wef 20/12/2011]*

“exchange-traded freight derivatives” means derivatives that are transacted on an exchange, the payoffs of which are linked wholly to the payoffs or performance of the underlying freight rates;

[S 189/2008 wef 26/05/2005]

“exchange-traded specified derivative instrument” means any specified derivative instrument that is transacted on an exchange;

[S 150/2013 wef 20/12/2011]

“financial sector incentive company” has the same meaning as in section 43Q of the Act;

[S 593/2009 wef Y/A 2006 & Sub Ys/A]

“financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company” means a company approved as such under section 43Q of the Act;

[S 26/2011 wef 27/02/2009]

“financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company” means a company approved as such under section 43Q of the Act;

[S 26/2011 wef 27/02/2009]

“financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company” means a company approved as such under section 43Q of the Act;

[S 26/2011 wef 27/02/2009]

“financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company” means a company approved as such under section 43Q of the Act;

[S 26/2011 wef 27/02/2009]

“over the counter freight derivatives” means derivatives that are transacted over the counter, the payoffs of which are linked wholly to the payoffs or performance of the underlying freight rates;

[S 189/2008 wef 26/05/2005]

“over the counter hedging transaction” has the meaning given to it in regulation 4;

“over the counter specified derivative instrument” means any specified derivative instrument that is transacted over the counter;

[S 150/2013 wef 20/12/2011]

“physical trading” means trading in any commodity on a spot or forward basis where the intention of the parties at the time of the transaction is that actual delivery of the commodity is required, whether or not it is actually made, and where the commodity is purchased by an approved global trading company from and sold to —

(a) a person who is neither a resident of nor a permanent establishment in Singapore;

(b) a branch office outside Singapore of a company resident in Singapore;

(c) *[Deleted by S 26/2011 wef 19/01/2011]*

(d) *[Deleted by S 26/2011 wef 19/01/2011]*

(e) another approved global trading company;

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- (f) a person who carries on the business of refining petroleum in Singapore;
- (g) a petrochemical manufacturing company in Singapore which is approved on or after 1st November 1996 by the Minister or such person as he may appoint;
[S 189/2008 wef 02/04/2008]
- (h) an approved commodity derivatives trading company;
[S 189/2008 wef Y/A 2006 & Sub Ys/A]
[S 26/2011 wef 27/02/2009]
- (i) a company in Singapore which is approved on or after 1st July 2006 by the Minister or such person as he may appoint ;
[S 189/2008 wef 01/07/2006]
[S 26/2011 wef 27/02/2009]
- (j) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
- (k) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
- (l) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company; or
[S 26/2011 wef 27/02/2009]
- (m) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company,
[S 26/2011 wef 27/02/2009]

but does not include —

- (i) any transaction in which the commodity is purchased for the purposes of consumption in Singapore or for the supply of fuel to aircraft or vessels within Singapore;
- (ii) any transaction in which the petroleum or petroleum product is both purchased from and sold to any petrochemical manufacturing company in Singapore

which is approved on or after 1st November 1996 by the Minister or such person as he may appoint; and

- (iii) any transaction in which the commodity is both purchased from and sold to any company in Singapore, being a company which is approved on or after 1st July 2006 by the Minister or such person as he may appoint;

[S 189/2008 wef 01/07/2006]

“qualifying transaction” means any of the following transactions:

- (a) physical trading;
- (b) commodity futures trading;
- (c) over the counter hedging transaction,

that is carried out by an approved global trading company —

- (i) if the transaction was carried out before the basis period relating to the year of assessment 2006, in a currency other than Singapore dollar; or
- (ii) if the transaction is carried out in or after the basis period relating to the year of assessment 2006, in any currency;

[S 189/2008 wef Y/A 2006 & Sub Ys/A]

“shipping enterprise” has the same meaning as in section 13A of the Act;

[S 189/2008 wef 26/05/2005]

[S 150/2013 wef 20/12/2011]

“specified derivative instrument”, in relation to any approved global trading company deriving income from trading therein, means any derivative instrument, but excludes any derivative instrument the payoffs of which are linked wholly to the payoffs or performance of the freight rates, or commodities specified pursuant to regulation 3(1) in relation to that approved global trading company, underlying the instrument.

[S 150/2013 wef 20/12/2011]

Approved global trading company

3.—(1) The Minister or such person as he may appoint may approve any global trading company for the purposes of section 43P of the Act for such period not exceeding 5 years from such date and for such commodities as he or that person may specify in writing.

(2) The Minister or such person as he may appoint may, in any particular case, extend the period so specified for such further periods, not exceeding 5 years at any one time, as he or that person thinks fit.

Over the counter hedging transaction

4.—(1) In these Regulations, “over the counter hedging transaction” means any transaction, other than a transaction carried out on any exchange, in commodity swaps or options including caps, collars, floors and swap options, where —

- (a) the consideration or other payment in the transaction is calculated on the basis of the price of any commodity;
- (b) the transaction, if it is one carried out in the basis period relating to any year of assessment before the year of assessment 2007, is in connection with and incidental to any physical trading, or the Minister or such person as he may appoint has waived this requirement under paragraph (2) in respect of that transaction; and
[S 189/2008 wef 02/04/2008]
- (c) the transaction is carried out by an approved global trading company with —
 - (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) a branch office outside Singapore of a company resident in Singapore;
 - (iii) an Asian Currency Unit of a financial institution;
 - (iv) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (v) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (vi) another approved global trading company;

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- (vii) a person who carries on the business of refining petroleum in Singapore;
- (viii) an approved commodity derivatives trading company;
[S 189/2008 wef Y/A 2006 & Sub Ys/A]
[S 593/2009 wef Y/A 2006 & Sub Ys/A]
[S 593/2009 wef 24/05/2007]
- (ix) a financial sector incentive company which is —
- (A) a bank licensed under the Banking Act (Cap. 19); or
- (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
[S 593/2009 wef Y/A 2006 & Sub Ys/A]
[S 593/2009 wef 24/05/2007]
[S 26/2011 wef 27/02/2009]
- (x) any other person on or after 24th May 2007, provided that the transaction is cleared on or after that date through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited;
[S 593/2009 wef 24/05/2007]
- (xi) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
- (xii) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
- (xiii) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company; or
[S 26/2011 wef 27/02/2009]
- (xiv) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company.
[S 189/2008 wef Y/A 2006 & Sub Ys/A]
[S 26/2011 wef 27/02/2009]

(2) The Minister or such person as he may appoint may, in any case in which he thinks fit, waive the requirement under paragraph (1)(b) for the transaction to be in connection with and incidental to any physical trading.

Concessionary rate of tax

5.—(1) Subject to paragraph (2), tax shall be payable at the rate of 10% on any income of an approved global trading company from —

- (a) profits from qualifying transactions in the commodities specified by the Minister, or such person as he may appoint, under regulation 3(1);
- (b) commission and fees from acting as a broker in physical trading in the commodities specified by the Minister, or such person as he may appoint, under regulation 3(1) between any of the following persons:
 - (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) a branch office outside Singapore of a company resident in Singapore;
 - (iii) *[Deleted by 26/2011 wef 19/01/2011]*
 - (iv) *[Deleted by 26/2011 wef 19/01/2011]*
 - (v) another approved global trading company;
 - (vi) a person who carries on the business of refining petroleum in Singapore;
 - (vii) an approved commodity derivatives trading company;
[S 189/2008 wef Y/A 2006 & Sub Ys/A]
[S 593/2009 wef 24/05/2007]
 - (viii) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
 - (ix) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]

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- (x) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company; or
[S 26/2011 wef 27/02/2009]
 - (xi) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company;
[S 26/2011 wef 27/02/2009]
- (c) income derived on or after 26th May 2005, from trading in over-the-counter freight derivatives, with any of the following persons:
- (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) a branch office outside Singapore of a company resident in Singapore;
 - (iii) an Asian Currency Unit of a financial institution;
 - (iv) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (v) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (vi) another approved global trading company;
 - (vii) a person who carries on the business of refining petroleum in Singapore;
 - (viii) an approved commodity derivatives trading company;
 - (ix) a shipping enterprise;
 - (x) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19); or
 - (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - (xi) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;

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- (xii) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;
 - (xiii) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company; or
 - (xiv) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company;
- [S 26/2011 wef 27/02/2009]*
- (ca) income derived on or after 26th May 2005 but before 27th February 2009, from trading in exchange-traded freight derivatives, with any of the following persons:
- (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - (ii) a branch office outside Singapore of a company resident in Singapore;
 - (iii) an Asian Currency Unit of a financial institution;
 - (iv) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (v) *[Deleted by S 26/2011 wef 19/01/2011]*
 - (vi) another approved global trading company;
 - (vii) a person who carries on the business of refining petroleum in Singapore;
 - (viii) an approved commodity derivatives trading company;
 - (ix) a shipping enterprise; or
 - (x) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19); or
 - (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);

[S 26/2011 wef 27/02/2009]

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- (cb) income derived on or after 27th February 2009, from trading in exchange-traded freight derivatives on any exchange carried out by an approved global trading company in accordance with the rules and regulations or customs and practices of that exchange, where the company is a member of the exchange, or where the trade is executed through another person who is a member of the exchange on behalf of the company;

[S 26/2011 wef 27/02/2009]

[S 150/2013 wef 20/12/2011]

- (cc) *[Deleted by S 150/2013 wef 20/12/2011]*

- (d) income derived on or after 24th May 2007 from trading in over the counter freight derivatives with any person, where the trade is cleared on or after that date through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited;

[S 593/2009 wef 24/05/2007]

[S 150/2013 wef 20/12/2011]

- (e) income derived in the basis period for the year of assessment 2012 or any subsequent year of assessment from trading in any over the counter specified derivative instrument, with any of the following persons:

- (i) a person who is neither a resident of nor a permanent establishment in Singapore;
- (ii) a branch office outside Singapore of a company resident in Singapore;
- (iii) an Asian Currency Unit of a financial institution;
- (iv) another approved global trading company;
- (v) a person who carries on the business of refining petroleum in Singapore;
- (vi) an approved commodity derivatives trading company;
- (vii) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19); or

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- (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
- (viii) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;
- (ix) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;
- (x) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company;
- (xi) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company; or
- (xii) any other person, provided that the transaction is cleared through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited; and
- [S 150/2013 wef 20/12/2011]*
- (f) income derived in the basis period for the year of assessment 2012 or any subsequent year of assessment from trading in any exchange-traded specified derivative instrument on any exchange carried out by the approved global trading company in accordance with the rules and regulations or customs and practices of that exchange, where the company is a member of the exchange, or where the trade is executed through another person who is a member of the exchange on behalf of the company.

[S 150/2013 wef 20/12/2011]

(1A) Subject to paragraph (2), tax shall be payable at the rate of 5% on any income referred to in paragraph (1) of an approved global trading company which satisfies the conditions imposed by the Minister or such person as he may appoint.

[S 189/2008 wef 02/04/2008]

(2) Paragraphs (1) and (1A) shall not apply to —

(a) any income derived from any transaction in any commodity specified in the first column of the First Schedule carried out before the date specified opposite thereto in the second column thereof; and

(b) any income attributable to —

(i) storage in Singapore of the commodities specified by the Minister, or such person as he may appoint, under regulation 3(1); or

(ii) any activities carried out in Singapore which add value to such commodities by any physical alteration, addition or improvement (including refining, blending, processing or bulk-breaking).

[S 189/2008 wef 02/04/2008]

[S 593/2009 wef 24/05/2007]

(3) Subject to paragraph (4), where liquefied natural gas is a commodity specified by the Minister or such person as he may appoint in respect of any global trading company approved under regulation 3(1), tax shall be payable at the rate of 5% on any income derived on or after 24th May 2007 by the approved global trading company from qualifying transactions in liquefied natural gas.

[S 593/2009 wef 24/05/2007]

[S 150/2013 wef 20/12/2011]

(4) Paragraph (3) shall not apply to any income attributable to —

(a) storage in Singapore of the liquefied natural gas; or

(b) any activities carried out in Singapore which add value to the liquefied natural gas by any physical alteration, addition or improvement (including refining, blending, processing or bulk-breaking).

[S 593/2009 wef 24/05/2007]

Determination of income chargeable to tax

6.—(1) For the purposes of regulation 5, the Comptroller shall determine —

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- (a) the income chargeable to tax of an approved global trading company having regard to such expenses, donations and allowances under section 19, 19A, 20, 21, 22 or 23 of the Act as are, in his opinion, to be deducted in ascertaining such income;
- (b) the manner and extent to which any losses arising from the qualifying transactions and physical trading specified in that regulation may be deducted under the Act in ascertaining the chargeable income of an approved global trading company; and

[S 189/2008 wef 02/04/2008]

- (c) the manner and extent to which income attributable to —
- (i) storage in Singapore of the commodities specified by the Minister, or such person as he may appoint, under regulation 3(1); or
 - (ii) any activities carried out in Singapore which add value to such commodities by any physical alteration, addition or improvement (including refining, blending, processing or bulk-breaking),

should be excluded from the income referred to in regulation 5(1) and (3).

[S 593/2009 wef 24/05/2007]

(2) For the purposes of paragraph (1) —

- (a) where the income determined is in relation to any period before 3rd May 2002, the reference to section 19A of the Act shall be read as a reference to section 19A of the Act in force immediately before 3rd May 2002; and
- (b) where the income determined is in relation to any period before the basis period for the year of assessment 2003, the reference to section 23 of the Act shall be read as a reference to section 23 of the Act in force immediately before the basis period for the year of assessment 2003.

[S 189/2008 wef 02/04/2008]

FIRST SCHEDULE

Regulations 2 and 5(2)

*First column**Second column**Commodities*

1. Petroleum and petroleum products	1st June 2001
2. Agricultural commodities and bulk edible products	1st June 2001
3. Building and industrial materials	1st June 2001
4. Consumer products	1st June 2001
5. Industrial products	1st June 2001
6. Machinery components	1st June 2001
7. Minerals	1st June 2001
8. Electronic and electrical products	1st June 2001
9. Carbon credits	24th May 2007.

[S 593/2009 wef 24/05/2007]

SECOND SCHEDULE

Regulation 2

EXCHANGES

1. International Petroleum Exchange
2. New York Mercantile Exchange
3. The futures market maintained by the Singapore Exchange Limited or any of its subsidiaries.

[S 189/2008 wef Y/A 2006 & Sub Ys/A]

Made this 12th day of April 2003.

LIM SIONG GUAN
*Permanent Secretary,
Ministry of Finance,
Singapore.*

[R032.18.035.Pt. 5; AG/LEG/SL/134/2002/10 Vol. 1]