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No. S 33

INCOME TAX ACT 1947

INCOME TAX (CONCESSIONARY RATE OF TAX FOR FOREIGN INCOME OF APPROVED CONTAINER INVESTMENT ENTERPRISE) ORDER 2023

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In exercise of the powers conferred by section 13(12) of the Income Tax Act 1947, the Minister for Finance makes the following Order:

Citation and commencement

1. This Order is the Income Tax (Concessionary Rate of Tax for Foreign Income of Approved Container Investment Enterprise) Order 2023 and is deemed to have come into operation on 12 December 2018.

Definitions

2. In this Order —

“approved container investment enterprise” or “ACIE” —

- (a) means a container investment enterprise approved under section 43ZA of the Act; and

- (b) includes a partnership approved by the Minister (or a person appointed by the Minister) under section 43ZA of the Act as applied by section 36 of the Act;

“approved related party”, in relation to an ACIE, means any company or partnership —

- (a) that is a related party of the ACIE and approved by the Minister or a person appointed by the Minister under paragraph 3(1); or
- (b) that is deemed under paragraph 3(3) to have been approved as such by the Minister or appointed person under paragraph 3(1);

“container” has the meaning given by section 43ZA(7) of the Act;

“related party”, in relation to an ACIE, means a company or partnership —

- (a) that is a related party of the ACIE in accordance with the Income Tax (Related Party of Approved Container Investment Enterprise under Section 43ZA) Rules 2021 (G.N. No. S 875/2021); or
- (b) that is approved by the Minister to be a related party of the ACIE for the purposes of section 43ZA of the Act.

[S 35/2023 wef 16/11/2021]

Approval

3.—(1) The Minister or a person appointed by the Minister may approve a related party of an ACIE as an approved related party of the ACIE for the purposes of this Order.

(2) The approval in sub-paragraph (1) may be given only if the Minister or appointed person is satisfied that —

- (a) the related party is incorporated, registered or formed outside Singapore;

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- (b) the related party carries on a business relating to the leasing of one or more containers owned by it, for the international transportation of goods, or intends to carry on that business;
 - (c) the related party carries on the business, or intends to carry on that business, from a place outside Singapore;
 - (d) the related party intends to pay dividends or partnership profits (as the case may be) derived from the business to the ACIE, and these payments will promote or enhance the economic development of Singapore; and
 - (e) the containers which the related party owns or intends to acquire, or leases or intends to lease from the ACIE or another related party, for that business are controlled and managed, or will be controlled and managed, by the ACIE.

(3) For the purposes of this Order, a company or partnership that is an approved company or approved partnership of an ACIE under paragraph 3(1) of the Income Tax (Concessionary Rate of Tax for Foreign Income of Approved Container Investment Enterprise) Order 2017 (G.N. No. S 289/2017), and which approval has not expired or been withdrawn as at 11 December 2018, is deemed to be approved by the Minister or appointed person as an approved related party of the ACIE under sub-paragraph (1).

Concessionary tax rate for income relating to leasing containers and related foreign exchange and risk management activities

4.—(1) Tax at the rate of 5% or 10% as specified under section 43ZA(1) of the Act by the Minister to an ACIE for any income of the ACIE, is levied and must be paid on the income described in sub-paragraph (2) of the ACIE that is received in Singapore during the period of its approval.

(2) Sub-paragraph (1) applies to any income comprising payment of dividends from, or partnership profits of, an approved related party of the ACIE, that is paid out of the following income derived by the approved related party during the period of the approval of the approved related party (including any period of approval that starts

before 12 December 2018 for an approved company or approved partnership mentioned in paragraph 3(3)):

- (a) income derived on or after 1 April 2008 from the leasing during the qualifying period of any container owned by the approved related party, if the container was acquired before or during the period of its approval and used for the international transportation of goods;
 - (b) income derived on or after 1 April 2008 from foreign exchange and risk management activities that are carried out in connection with and incidental to the activity mentioned in sub-paragraph (a);
 - (c) income derived on or after 12 December 2018 from the leasing during the qualifying period of any container used for international transportation of goods, if the container was —
 - (i) acquired by the ACIE or another approved related party of the ACIE, before or during the period of approval of the ACIE or the other approved party; and
 - (ii) leased by the ACIE or the other approved related party of the ACIE to the firstmentioned approved related party;
 - (d) income derived on or after 12 December 2018 from foreign exchange and risk management activities that are carried out in connection with and incidental to the activity mentioned in sub-paragraph (c).
- (3) Sub-paragraph (1) also applies to any income of the ACIE described in sub-paragraph (2) that is —
- (a) received in Singapore after the date the approval of the ACIE has expired or been withdrawn; or
 - (b) paid out of any income of an approved related party of the ACIE derived from any of the activities mentioned in sub-paragraph (2) after the date the approval of the approved related party has expired or been withdrawn,

if the ACIE has fulfilled all of the conditions specified under section 43ZA(4) of the Act for its approval by the date of expiry or before the date of the withdrawal of the approval.

(4) Sub-paragraph (1) does not apply to any income of an ACIE that is paid out of income derived by any approved related party of the ACIE —

- (a) before 24 February 2015 from the leasing of a container under a finance lease that is treated as a sale under regulations made under section 10D(1) of the Act;
- (b) on or after 12 December 2018 from the leasing of a container that is acquired by the approved related party by way of a finance lease entered into with an entity that is not the ACIE or another approved related party of the ACIE; or
- (c) from any activity carried out by the approved related party through a permanent establishment in Singapore.

(5) In sub-paragraph (2), the qualifying period of a container is the period specified under section 43ZA(5) of the Act during which income from the leasing of the container, or a class of containers to which the container belongs, is subject to a concessionary tax rate under section 43ZA(1) of the Act.

Concessionary tax rate for income relating to leasing intermodal equipment and related foreign exchange and risk management activities

5.—(1) Tax at the rate of 5% or 10% as specified under section 43ZA(1) of the Act by the Minister to an ACIE for any income of the ACIE, is levied and must be paid on the income described in sub-paragraph (2) of the ACIE that is received in Singapore during the period of its approval.

(2) Sub-paragraph (1) applies to any income comprising payment of dividends from, or partnership profits of, an approved related party of the ACIE, that is paid out of the following income derived by the approved related party during the period of the approval of the approved related party (including any period of approval that starts

before 12 December 2018 for an approved company or approved partnership mentioned in paragraph 3(3)):

- (a) income derived in the basis period for the year of assessment 2013 or a subsequent year of assessment from the leasing during the qualifying period of any intermodal equipment owned by the approved related party, that is acquired before or during the period of the approval of the approved related party, where the leasing is incidental to the activity mentioned in paragraph 4(2)(a);
 - (b) income derived in the basis period for the year of assessment 2013 or a subsequent year of assessment from foreign exchange and risk management activities that are carried out in connection with and incidental to the activity mentioned in sub-paragraph (a);
 - (c) income derived on or after 12 December 2018 from the leasing during the qualifying period of any intermodal equipment that is incidental to the activity mentioned in paragraph 4(2)(c), if the intermodal equipment was —
 - (i) acquired by the ACIE or another approved related party of the ACIE before or during the period of approval of the ACIE or the other approved party; and
 - (ii) leased by the ACIE or the other approved related party to the firstmentioned approved related party;
 - (d) income derived on or after 12 December 2018 from foreign exchange and risk management activities that are carried out in connection with and incidental to the activity mentioned in sub-paragraph (c).
- (3) Sub-paragraph (1) also applies to any income of an ACIE described in sub-paragraph (2) that is —
- (a) received in Singapore after the date the ACIE's approval has expired or been withdrawn; or
 - (b) paid out of any income of an approved related party of the ACIE derived from any of the activities mentioned in

sub-paragraph (2) after the date the approval of the approved related party has expired or been withdrawn, if the ACIE has fulfilled all the conditions specified under section 43ZA(4) of the Act for its approval by the date of expiry or before the date of the withdrawal of the approval.

(4) Sub-paragraph (1) does not apply to any income of an ACIE that is paid out of income derived by any approved related party of the ACIE —

- (a) before 24 February 2015 from the leasing of an intermodal equipment under a finance lease that is treated as a sale under regulations made under section 10D(1) of the Act;
- (b) on or after 12 December 2018 from the leasing of an intermodal equipment that is acquired by the approved related party by way of a finance lease entered into with an entity that is not the ACIE or another approved related party of the ACIE; or
- (c) from any activity carried out by the approved related party through a permanent establishment in Singapore.

(5) In this paragraph —

“intermodal equipment” has the meaning given by section 43ZA(7) of the Act;

“qualifying period”, in relation to an intermodal equipment, means the period specified under section 43ZA(5) of the Act during which income from the leasing of the equipment, or the class of intermodal equipment to which that equipment belongs, is subject to a concessionary tax rate under section 43ZA(1) of the Act.

Made on 28 January 2023.

LAI WEI LIN
*Second Permanent Secretary,
Ministry of Finance,
Singapore.*

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