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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR GLOBAL TRADING COMPANIES) REGULATIONS 2016

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
 2. Definitions
 3. Approved global trading company
 4. Concessionary rate of tax
 5. Determination of income chargeable to tax
 6. Revocation and savings of past approvals
- The Schedule
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In exercise of the powers conferred by section 43P of the Income Tax Act, the Minister for Finance makes the following Regulations:

Citation and commencement

1. These Regulations are the Income Tax (Concessionary Rate of Tax for Global Trading Companies) Regulations 2016 and come into operation on 21 July 2016.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“appointed person” means a person appointed by the Minister for the purposes of section 43P of the Act;

“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 the appointed person, and includes

a global trading company which is treated under regulation 6(3) as an approved global trading company;

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

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

“commodity futures trading” means trading in commodity futures contracts, or options, in any commodity on an exchange in accordance with the rules and regulations, or customs and practices, of the exchange;

“exchange-traded freight derivatives” means derivatives the payoffs of which are linked wholly to the payoffs or performance of the underlying freight rates, and that are traded on any exchange in accordance with the rules and regulations, or customs and practices, of the exchange;

“exchange-traded specified derivative instrument” means any specified derivative instrument that is traded on any exchange in accordance with the rules and regulations, or customs and practices, of the exchange;

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

“financial sector incentive (derivatives market) company” means —

(a) any company which is approved before 1 January 2014 under section 43Q of the Act as —

(i) a financial sector incentive (derivatives market) (exchange-traded commodity derivatives) company;

(ii) a financial sector incentive (derivatives market) (financial, over-the-counter and exchange-traded commodity derivatives) company;

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- (iii) a financial sector incentive (derivatives market) (over-the-counter commodity derivatives) company; or
 - (iv) a financial sector incentive (derivatives market) (over-the-counter and exchange-traded commodity derivatives) company; or
- (b) any company which is approved on or after 1 January 2014 under section 43Q of the Act as a financial sector incentive (derivatives market) company;

“over-the-counter commodity derivatives” means commodity swaps or options (including caps, collars, floors and swap options) that are traded over the counter, where the consideration or other payment in the transaction is calculated on the basis of the price of any commodity;

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

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

“physical trading” means trading in any commodity on a spot or forward basis, where —

- (a) the commodity is purchased by the approved global trading company in question from any of the following entities and sold to any of the following entities:
 - (i) a specified entity;
 - (ii) a person who carries on the business of refining petroleum in Singapore;
 - (iii) a petrochemical manufacturing company in Singapore which is approved for the purposes of this definition by the Minister or such person as the Minister may appoint;

(iv) any other company in Singapore which is approved for the purposes of this definition by the Minister or such person as the Minister may appoint; and

(b) 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,

but excludes —

(A) 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;

(B) any transaction in which any petroleum or petroleum product is purchased from, and sold to, any petrochemical manufacturing company mentioned in paragraph (a)(iii); and

(C) any transaction in which the commodity is purchased from, and sold to, any company mentioned in paragraph (a)(iv);

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

“specified derivative instrument” means any derivative instrument other than one the payoffs of which are linked wholly to the payoffs or performance of —

(a) the freight rates underlying the instrument; or

(b) any commodity underlying the instrument;

“specified entity” means any of the following entities:

(a) a person who —

(i) is not a resident of Singapore; and

(ii) does not have a permanent establishment in Singapore through which the trade or transaction in question is carried out;

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- (b) a branch office outside Singapore of a company resident in Singapore;
 - (c) an approved global trading company;
 - (d) a financial sector incentive (derivatives market) company.

(2) In these Regulations, a commodity is specified for an approved global trading company if it is specified under regulation 3(1)(b) for the company.

Approved global trading company

3.—(1) The Minister or the appointed person may, in writing —

- (a) approve any global trading company for the purposes of section 43P of the Act for a period not exceeding 5 years from and including the date of the approval or such date as may be specified in the approval; and
- (b) specify the commodities for the company in relation to the approval.

(2) The Minister or the appointed person may, in any particular case, extend the period mentioned in paragraph (1) in writing for such further periods, not exceeding 5 years at any one time, as the Minister or that person thinks fit.

Concessionary rate of tax

4.—(1) For the year of assessment 2016 and subsequent years of assessment, and subject to paragraphs (3) and (4), tax is payable at the rate of 10% on any income of an approved global trading company from —

- (a) profits from physical trading carried out by the company in the commodities specified for the company;
- (b) profits from commodity futures trading carried out —
 - (i) by the company, where the company is a member of the exchange on which such trade is executed; or

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- (ii) by a person executing the trade on behalf of the company, the person being a member of the exchange on which the trade is executed;
 - (c) profits from trading in exchange-traded freight derivatives, or any exchange-traded specified derivative instrument on any exchange —
 - (i) by the company, where the company is a member of the exchange; or
 - (ii) by a person executing the trade on behalf of the company, the person being a member of the exchange;
 - (d) profits from trading in over-the-counter commodity derivatives or over-the-counter specified derivative instruments carried out by the company with —
 - (i) a specified entity;
 - (ii) an Asian Currency Unit of a financial institution;
 - (iii) a person who carries on the business of refining petroleum in Singapore;
 - (iv) a financial sector incentive company which is a bank licensed under the Banking Act (Cap. 19) or a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186); or
 - (v) any other person, if the trade is cleared through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited;
 - (e) profits from trading in over-the-counter freight derivatives carried out by the company, with —
 - (i) a specified entity;
 - (ii) an Asian Currency Unit of a financial institution;
 - (iii) a person who carries on the business of refining petroleum in Singapore;
 - (iv) a shipping enterprise;

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- (v) a financial sector incentive company which is a bank licensed under the Banking Act or a merchant bank approved under section 28 of the Monetary Authority of Singapore Act; or
 - (vi) any other person, if the trade is cleared through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited; and
- (f) commission and fees from acting as a broker in any physical trading in the commodities specified for the company, carried out —
- (i) between specified entities;
 - (ii) between a specified entity and a person who carries on the business of refining petroleum in Singapore; or
 - (iii) between persons who carry on the business of refining petroleum in Singapore.

(2) For the year of assessment 2016 and subsequent years of assessment, and subject to paragraphs (3) and (4), tax is payable at the rate of 5% on any income mentioned in paragraph (1) of an approved global trading company if the company satisfies the conditions imposed by the Minister or the appointed person for the purposes of this paragraph.

(3) Paragraphs (1) and (2) do not apply to any profits from physical trading carried out by an approved global trading company in any commodity specified for the company, that are attributable to —

- (a) storage in Singapore of that commodity; or
- (b) any activity carried out in Singapore which adds value to that commodity by any physical alteration, addition or improvement to that commodity (including refining, blending, processing or bulk-breaking).

(4) Subject to paragraph (5), where liquefied natural gas is a commodity specified for an approved global trading company, then, for the year of assessment 2016 and subsequent years of assessment, tax is payable at the rate of 5% on any income of the company from profits from any qualifying transaction in liquefied natural gas.

(5) Paragraph (4) does not apply to profits from physical trading in liquefied natural gas, being income attributable to —

- (a) storage of liquefied natural gas in Singapore; or
- (b) any activity carried out in Singapore which adds value to the liquefied natural gas by any physical alteration, addition or improvement to it (including refining, blending, processing or bulk-breaking).

(6) In paragraph (4), “qualifying transaction”, in relation to an approved global trading company, means —

- (a) physical trading carried out by the company;
- (b) commodity futures trading carried out —
 - (i) by the company, where the company is a member of the exchange on which such trade is executed; or
 - (ii) by a person executing the trade on behalf of the company, the person being a member of the exchange on which the trade is executed; or
- (c) trading in over-the-counter commodity derivatives carried out by the company with —
 - (i) a specified entity;
 - (ii) an Asian Currency Unit of a financial institution;
 - (iii) a person who carries on the business of refining petroleum in Singapore;
 - (iv) a financial sector incentive company which is a bank licensed under the Banking Act or a merchant bank approved under section 28 of the Monetary Authority of Singapore Act; or
 - (v) any other person, if the trade is cleared through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited.

Determination of income chargeable to tax

5. For the purposes of regulation 4, the Comptroller may determine —

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- (a) the income of an approved global trading company chargeable to the rate of tax in regulation 4(1), (2) or (4), having regard to such expenses, donations and allowances under the Act as are, in the Comptroller's opinion, to be deducted in ascertaining such income;
 - (b) the manner and extent to which any loss arising from the activities specified in regulation 4(1), (2) and (4) may be deducted under the Act in ascertaining such income; and
 - (c) the manner and extent to which income attributable to —
 - (i) storage in Singapore of the commodities specified for the company; or
 - (ii) any activities carried out in Singapore which add value to the commodities specified for the company, by any physical alteration, addition or improvement to them (including refining, blending, processing or bulk-breaking),should be excluded from the income mentioned in regulation 4(1), (2) and (4).

Revocation and savings of past approvals

6.—(1) The Income Tax (Concessionary Rate of Tax for Approved Global Trading Companies) Regulations 2003 (G.N. No. S 204/2003) (called in this regulation the revoked Regulations) are revoked.

(2) Despite paragraph (1) and these Regulations —

- (a) regulations 5 and 6 of the revoked Regulations; and
- (b) regulations 2 and 4 of the revoked Regulations, insofar as they apply to the interpretation of regulations 5 and 6 of the revoked Regulations,

continue to apply and have effect in relation to the income of an approved global trading company for the year of assessment 2015 and prior years of assessment.

(3) Subject to paragraph (4), a company is treated as an approved global trading company if —

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- (a) the company was approved under regulation 3(1) of the revoked Regulations by the Minister or the appointed person; and
- (b) the approval (called in this regulation the original approval) is in force on 21 July 2016.
- (4) The approval of a company treated under paragraph (3) as an approved global trading company —
- (a) is in respect of the same commodities as are specified in writing in the original approval by the Minister or the appointed person;
- (b) expires on the date on which the original approval would have expired if these Regulations had not been made; and
- (c) may be extended in accordance with regulation 3(2) as if the reference in that provision to the period mentioned in regulation 3(1) were a reference to the period of the original approval.

THE SCHEDULE

Regulation 2(1)

COMMODITIES

1. Petroleum and petroleum products
2. Agriculture commodities and bulk edible products
3. Building and industrial materials
4. Consumer products
5. Industrial products
6. Machinery components
7. Minerals
8. Electronic and electrical products
9. Carbon credits

Made on 14 July 2016.

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(Finance) (Performance),
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