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No. S 341

INCOME TAX ACT (CHAPTER 134)

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

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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 that 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;

“associated company”, in relation to an approved global trading company, means a company that is associated with the approved global trading company under regulation 2A;

[S 852/2021 wef 08/11/2021]

“AT1 instrument” means a security (not being a stock or a share) commonly known as Additional Tier 1 capital instrument;

[S 852/2021 wef 08/11/2021]

“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;

“collective investment scheme” has the meaning given by section 2(1) of the Securities and Futures Act (Cap. 289);

[S 852/2021 wef 08/11/2021]

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

[S 852/2021 wef 08/11/2021]

“physical trading” means trading in any commodity on a spot or forward basis between an approved global trading company and any other entity, where the intention of the parties at the time the transaction is entered into is that actual delivery of the commodity is required, whether or not the delivery is actually made;

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“prescribed advisory services in relation to mergers and acquisitions” means advisory services provided by an approved global trading company to any of its associated companies in relation to any merger and acquisition that involves the associated company or another associated company of the approved global trading company;

[S 852/2021 wef 08/11/2021]

“prescribed qualifying structured commodity financing activities” means any activity specified in the Second Schedule;

[S 852/2021 wef 08/11/2021]

“prescribed treasury activities” means —

- (a) the provision of services in relation to the consolidation, management and distribution of funds by an approved global trading company to any of its associated companies; and
- (b) the following activities carried out by an approved global trading company on its own account:
 - (i) transacting or investing in stocks and shares of any company;
 - (ii) transacting or investing in certificates of deposits, notes, bonds, treasury bills, commercial papers, AT1 instruments and units in a collective investment scheme (excluding any collective investment scheme constituted as a unit trust) issued or operated by —
 - (A) the Government or any foreign government;
 - (B) a bank that holds a licence under section 7 or 79 of the Banking Act (Cap. 19);
 - (C) a merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;
 - (D) a bank outside Singapore; or
 - (E) a company;
 - (iii) investing in deposits held in Singapore with any financial institution in Singapore, or in deposits held outside Singapore with any financial institution outside Singapore;

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- (iv) foreign exchange transactions;
 - (v) re-invoicing activities for its associated companies;
 - (vi) providing credit facilities to its associated companies;
 - (vii) transactions involving derivatives (including transactions involving interest rate or currency swaps and transactions in financial futures contracts or options) entered into with —
 - (A) any bank outside Singapore;
 - (B) any bank that holds a licence under section 7 or 79 of the Banking Act;
 - (C) any merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;
 - (D) its associated companies; or
 - (E) a member of any exchange;
 - (viii) transacting or investing in units in any unit trust, where the manager of the unit trust engages wholly in one or more of the activities set out in sub-paragraph (i), (ii), (iii), (iv) or (vii);

[S 852/2021 wef 08/11/2021]

“unit” and “unit trust” have the meanings given by section 10B(2) of the Act.

[S 852/2021 wef 08/11/2021]

[S 235/2017 wef 21/02/2017]

(2) In these Regulations —

- (a) a commodity; or
- (b) a prescribed qualifying structured commodity financing activity, prescribed treasury activity or prescribed advisory service in relation to mergers and acquisitions,

is specified for an approved global trading company if it is specified under regulation 3(1)(b) for the company.

[S 852/2021 wef 08/11/2021]

Association

2A.—(1) In these Regulations, a company (*X*) is associated with an approved global trading company (*Y*) if the requirement relating to the control of operations mentioned in paragraph (2), or the beneficial ownership of issued shares mentioned in paragraph (3), is satisfied.

(2) The requirement relating to the control of operations is any of the following:

- (a) *X* controls or can control the operations of *Y*;
- (b) *Y* controls or can control the operations of *X*;
- (c) one other person controls or can control, or 2 or more other persons together control or can control, the operations of both *X* and *Y*.

(3) The requirement relating to the beneficial ownership of issued shares is any of the following:

- (a) *X* beneficially owns at least 25% of the total number of the issued shares of *Y*;
- (b) *Y* beneficially owns at least 25% of the total number of the issued shares of *X*.

(4) For the purposes of paragraphs (2) and (3), the control or beneficial ownership may be direct or indirect, or both direct and indirect.

[S 852/2021 wef 08/11/2021]

Approval of global trading company

3.—(1) For the purposes of section 43P(1)(a) of the Act, the Minister or appointed person may —

- (a) approve a global trading company as an approved global trading company for any income of the company specified in regulation 4 to be chargeable with tax at the rate of 5% or 10%; and

(b) specify the commodities, the prescribed qualifying structured commodity financing activities, the prescribed treasury activities and the prescribed advisory services in relation to mergers and acquisitions, for the approved global trading company in relation to the approval.

(2) The approval mentioned in paragraph (1) is for a period not exceeding 5 years starting on the date of the approval or any other date specified in the approval.

(3) The Minister or appointed person may, in any particular case, extend the period mentioned in paragraph (2) by notice in writing for one or more further periods, and each extension must be a period not exceeding 5 years.

[S 852/2021 wef 08/11/2021]

Concessionary rate of tax

4.—(1) Tax at the rate of 5% is levied and must be paid for each year of assessment on the following income derived on or after 19 February 2020 by an approved global trading company that has been approved for that rate:

- (a) profits from any physical trading carried out by the company in the commodities specified for the company;
- (b) profits from any trading in any derivative instrument carried out by the company;
- (c) commission and fees from acting as broker in any physical trading in the commodities specified for the company;
- (d) income from the carrying on of any prescribed qualifying structured commodity financing activity, prescribed treasury activity or prescribed advisory services in relation to mergers and acquisitions, specified for the company.

(2) Subject to paragraph (3), tax at the rate of 10% is levied and must be paid for each year of assessment on the income mentioned in paragraph (1) of an approved global trading company that has been approved for that rate.

(3) Despite paragraph (2), tax at the rate of 5% is levied and must be paid for each year of assessment on the following income derived on or after 19 February 2020 by an approved global trading company that has been approved for tax at the rate of 10% and has liquefied natural gas as a commodity specified for it in relation to the approval:

- (a) profits from any physical trading in liquefied natural gas carried out by the company;
- (b) profits from any trading in any derivative instrument carried out by the company, where —
 - (i) the underlying commodity of the derivative instrument is liquefied natural gas; or
 - (ii) the trading is carried out for the purpose of hedging against any risk in any physical trading in liquefied natural gas carried out by the company, but only if the company —
 - (A) has in place a system to ensure that such trading and profits are separately identifiable; and
 - (B) satisfies the Minister or appointed person that it has complied with any other condition that may be imposed by the Minister or appointed person.

(4) Paragraph (3) applies only to any income derived by an approved global trading company that is approved before 1 April 2021 during the period of its approval or extended period of its approval, where the period or extended period commences before that date.

[S 852/2021 wef 08/11/2021]

Determination of income chargeable to tax

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

- (a) the income of an approved global trading company chargeable to the rate of tax in regulation 4(1), (2) or (3), 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; and
[S 235/2017 wef 21/02/2017]

- (b) the manner and extent to which any loss arising from the activities specified in regulation 4(1), (2) and (3) may be deducted under the Act in ascertaining such income.
[S 235/2017 wef 21/02/2017]

- (c) *[Deleted by S 235/2017 wef 21/02/2017]*

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 —

- (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;

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- (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 regulations 3(3) as if the reference in that provision to the period mentioned in regulation 3(2) were a reference to the period of the original approval.

[S 852/2021 wef 08/11/2021]

FIRST 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

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SECOND SCHEDULE

Regulation 2(1)

PRESCRIBED QUALIFYING STRUCTURED COMMODITY FINANCING ACTIVITIES

1. The following activities which relate to structured commodity financing:
 - (a) prepayment;
 - (b) factoring;
 - (c) forfaiting;
 - (d) countertrade;
 - (e) warehouse receipt financing;
 - (f) export receivable financing;

SECOND SCHEDULE — *continued*

- (g) project finance;
- (h) Islamic trade finance which is —
 - (i) 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; and
 - (ii) structured in accordance with Murabaha, Musharaka, Istisna or Salam;
- (i) streaming financing;
- (j) subject to paragraph 2, transacting in derivatives (for example, futures, options or swaps) to hedge against the risks relating to any of the activities mentioned in sub-paragraphs (a) to (i);
- (k) advisory services in relation to any of the activities mentioned in sub-paragraphs (a) to (i).

2. For the purposes of qualifying as a prescribed qualifying structured commodity financing activity under paragraph 1(j), an approved global trading company’s transaction in derivatives must be carried out to hedge against its own risks relating to any of the activities mentioned in paragraph 1(a) to (i).

3. To avoid doubt, to qualify as a prescribed qualifying structured commodity financing activity under paragraph 1(k), an approved global trading company is not required to perform any of the activities mentioned in paragraph 1(a) to (i) relating to the advisory services it provides.

[S 852/2021 wef 08/11/2021]

Made on 14 July 2016.

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