
First published in the Government *Gazette*, Electronic Edition, on 1st April 2009 at 5:00 pm.

No. S 414

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF INCOME ARISING FROM FUNDS MANAGED BY FUND MANAGER IN SINGAPORE) REGULATIONS 2010

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In exercise of the powers conferred by section 13X 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 (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 and shall be deemed to have come into operation on 1st April 2009.

[S 295/2012 wef 07/07/2010]

Definitions

2. In these Regulations —

“committed funds”, in relation to a company, limited partnership or trust fund which is a private equity fund, a real estate fund or an infrastructure fund, means the funds which, by a written contractual agreement between investors and the company, limited partnership or trust fund, the investors are obliged to contribute to the company, limited partnership or trust fund;

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“designated investments” and “specified income” have the same respective meanings as in the Income Tax (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 6/2010), with references to “prescribed person” therein modified to refer to “approved person”.

Exemption from tax under section 13X(1)(a) of Act

3.—(1) Subject to the conditions in paragraph (2) and regulations 4, 5 and 6, there shall be exempt from tax, pursuant to section 13X(1)(a) of the Act, for any year of assessment —

- (a) any specified income derived by an approved person, other than a partner of an approved limited partnership, from funds managed in Singapore by a fund manager in respect of designated investments; and
- (b) in the case of a partner of an approved limited partnership, the share to which he is entitled in any specified income derived by the approved limited partnership from funds managed in Singapore by a fund manager in respect of designated investments.

[S 295/2012 wef 07/07/2010]

(2) The conditions referred to in paragraph (1) are —

- (a) throughout the basis period for that year of assessment, the funds are managed in Singapore by a fund manager;
- (b) at the time of the application for approval of the company, limited partnership or trust fund as an approved company,

approved limited partnership or approved trust fund for the purposes of section 13X of the Act —

- (i) the amount of its funds; or
- (ii) if the company, limited partnership or trust fund is a private equity fund, a real estate fund or an infrastructure fund, the amount of its committed funds,

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managed in Singapore by a fund manager in Singapore is at least \$50 million;

- (c) for that year of assessment, no part of the income of the approved company or approved limited partnership or trustee of the approved trust fund (other than any income derived before the approved company, approved limited partnership or approved trust fund was approved as such) —

- (i) is exempt from tax under section 13C, 13CA, 13G, 13H, 13O, 13P, 13Q, 13R, 13W or 13Y of the Act;

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- (ii) is subject to a concessionary rate of tax under section 43E, 43G or 43Q of the Act; or

- (iii) is entitled to any tax relief or concessionary rate of tax under Part III or IIIB of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);

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- (d) the investment strategy remains unchanged from the date the company, limited partnership or trust fund is so approved as an approved company, approved limited partnership or approved trust fund, as the case may be, unless the effective date for the change in the strategy is before 1 April 2019, and the Minister or the Monetary Authority of Singapore is satisfied that the change is made for a *bona fide* commercial purpose; and

[S 645/2013 wef 08/10/2012]

[S 382/2016 wef 01/04/2014]

- (e) conditions specified in the letter of approval issued by the Monetary Authority of Singapore approving the company, limited partnership or trust fund, as the case may be, as an approved company, approved limited partnership or approved trust fund under section 13X of the Act.

Exemption from tax under section 13X(1)(b) of Act

3A.—(1) Subject to the conditions in paragraph (2) and regulations 4, 5 and 6, there shall be exempt from tax, pursuant to section 13X(1)(b) of the Act, for any year of assessment —

- (a) in the case of a company or trustee of a trust fund where the company or trust fund is the approved master fund or an approved feeder fund of an approved master-feeder fund structure, any specified income derived by the company or trustee arising from funds of the master fund or the feeder fund that are managed in Singapore by a fund manager in respect of designated investments; and
 - (b) in the case of a partner of a limited partnership where the partnership is the approved master fund or an approved feeder fund of an approved master-feeder fund structure, the share to which the partner of the partnership is entitled in any specified income derived by the partnership arising from funds of the master fund or the feeder fund that are managed in Singapore by a fund manager in respect of designated investments.
- (2) The conditions referred to in paragraph (1) are —
- (a) throughout the basis period for that year of assessment, the funds of the company, trust fund or limited partnership, as the case may be, are managed in Singapore by a fund manager;
 - (b) at the time of the application for approval of the master-feeder fund structure —
 - (i) where no feeder fund carries on any income-deriving activities at that time, the aggregate amount of —

(A) the funds of the master fund and all feeder funds of that structure managed in Singapore by the fund manager in Singapore; or

(B) if the master-feeder fund structure is a private equity fund, a real estate fund or an infrastructure fund, the committed funds of the master fund and all feeder funds of that structure managed in Singapore by the fund manager in Singapore,

is at least \$50 million; or

(ii) where any feeder fund carries on any income-deriving activities at that time, the aggregate amount of —

(A) the funds of the master fund and all feeder funds of that structure managed in Singapore by the fund manager in Singapore; or

(B) if the master-feeder fund structure is a private equity fund, a real estate fund or an infrastructure fund, the committed funds of the master fund and all feeder funds of that structure managed in Singapore by the fund manager in Singapore,

is at least an amount which is computed in accordance with the following formula:

$$A \times B,$$

where A is the aggregate number of the master fund and feeder funds in that structure which are carrying on income-deriving activities at that time; and

B is \$50 million;

(c) for that year of assessment, no part of the income of the approved master fund or any approved feeder fund of the approved master-feeder fund structure (other than any

income derived before the approved master-feeder fund structure was approved as such) —

- (i) is exempt from tax under section 13C, 13CA, 13G, 13H, 13O, 13P, 13Q, 13R, 13W or 13Y of the Act;
 - (ii) is subject to a concessionary rate of tax under section 43E, 43G or 43Q of the Act; or
 - (iii) is entitled to any tax relief or concessionary rate of tax under Part III or IIIB of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);
- (d) the investment strategy remains unchanged from the date the master-feeder fund structure is approved as an approved master-feeder fund structure, unless the effective date for the change in the strategy is before 1 April 2019, and the Minister or the Monetary Authority of Singapore is satisfied that the change is made for a *bona fide* commercial purpose; and

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[S 382/2016 wef 01/04/2014]

- (e) conditions specified in the letter of approval issued by the Monetary Authority of Singapore approving the master-feeder fund structure under section 13X of the Act.

[S 295/2012 wef 07/07/2010]

Notice of change in investment strategy

3B. For the purpose of regulation 3(2)(d) or 3A(2)(d) —

- (a) the approved person referred to in regulation 3(1), in the case of regulation 3(2)(d); or
- (b) the company, trustee of the trust fund or limited partnership referred to in regulation 3A(1), in the case of regulation 3A(2)(d),

shall give notice of the change in investment strategy, together with such particulars of the change as may reasonably be required, to the Minister or the Monetary Authority of Singapore before the effective date for the change in the strategy.

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No deduction in respect of loss arising from designated investments

4. Notwithstanding anything in these Regulations, no deduction shall be allowed under the Act to an approved person, or a company, trustee or partner referred to in section 13X(1)(b) of the Act, as the case may be, in respect of any loss arising from —

- (a) the sale, maturity, redemption or transfer of both legal and beneficial ownership (other than sale or by way of a securities lending and repurchase arrangement) of any designated investments if any gains or profits realised from such sale, maturity, redemption or transfer would have been exempt from tax under regulation 3 or 3A, as the case may be; and
- (b) any transactions other than those falling under paragraph (a) in respect of any designated investments if any gains or profits from such transactions would have been exempt from tax under regulation 3 or 3A, as the case may be.

[S 295/2012 wef 07/07/2010]

Determination of income exempted from tax

5. In determining the income of an approved person, or a company, trustee or partner referred to in section 13X(1)(b) of the Act, that is to be exempt from tax under regulation 3 or 3A, the following shall apply:

- (a) there shall be deducted from that income any expenses allowable under the Act which are attributable to that income; and the following shall be disregarded:
 - (i) any balance of the expenses; or
 - (ii) in the case of —
 - (A) an approved person that is a partner of an approved limited partnership; or
 - (B) a partner of a limited partnership referred to in section 13X(1)(b) of the Act,

any excess of his share of the expenses over his share of the specified income of the partnership;

[S 513/2013 wef Y/A 2013 subs Ys/A]

(b) there shall be deducted from that income any allowances under section 19, 19A, 20, 21 or 22 of the Act attributable to that income notwithstanding that no claim for those allowances has been made; and the following shall be disregarded:

(i) any balance of the allowances; or

(ii) in the case of —

(A) an approved person that is a partner of an approved limited partnership; or

(B) a partner of a limited partnership referred to in section 13X(1)(b) of the Act,

any excess of his share of the allowances over his share of the specified income of the partnership.

[S 295/2012 wef 07/07/2010]

Recovery of tax from partner of approved limited partnership

6.—(1) Where in any period to which the account of an approved limited partnership is made up to, the approved limited partnership fails to comply with any condition imposed under these Regulations, there shall be deemed to be income of each partner or former partner of that limited partnership who had previously enjoyed the exemption from tax for the year of assessment in which the Comptroller discovers such non-compliance —

(a) where the partner or former partner is a company, an amount equal to the aggregate of the relevant amount for every year of assessment relating to a basis period any time during which any such condition is not complied with; and

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(b) where the partner or former partner is an individual, an amount equal to the aggregate of the full amount of the partner or former partner's share of the specified income of the approved limited partnership that is exempt from tax under regulation 3 for every year of assessment relating to a

basis period any time during which any such condition is not complied with.

[S 295/2012 wef 01/04/2009]

(2) The amount of tax to be recovered from a partner or former partner which is a company shall be computed by multiplying the amount as determined under paragraph (1)(a) by the rate of tax under section 43(1)(a) of the Act for the year of assessment in which the Comptroller discovers the non-compliance.

(3) In paragraph (1)(a), the relevant amount for any year of assessment is to be ascertained in accordance with the formula

$$\frac{A}{B} \times C,$$

where A is the full amount of the partner or former partner's share of the specified income of the approved limited partnership that is exempt from tax under regulation 3 for that year of assessment;

B is the rate of tax under section 43(1)(a) of the Act applicable to the partner or former partner's share of the specified income of the approved limited partnership for that year of assessment if that share were not exempt from tax under regulation 3;

C is the rate of tax under section 43(1)(a) of the Act applicable to the partner or former partner's share of the specified income of the approved limited partnership for the year of assessment in which the Comptroller discovers the non-compliance, if that share were not exempt from tax under regulation 3.

(4) This regulation shall apply in relation to a limited partnership that is the approved master fund or approved feeder fund of an approved master-feeder fund structure, as it applies in relation to an approved limited partnership.

[S 295/2012 wef 07/07/2010]

Annual declaration

7.—(1) An approved company or the trustee of an approved trust fund, shall, within 4 months after the end of the basis period of the approved company or the trustee of the approved trust fund (in relation to his income as such trustee) or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to the Comptroller and the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the following conditions have been met for the basis period:

- (a) the conditions subject to which the company or trust fund had been approved as an approved company or trust fund for the purposes of section 13X of the Act; and
- (b) the conditions specified in regulation 3(2)(a), (c), (d) and (e).

(2) The general partner or, if he is not personally present in Singapore, the attorney, agent, manager or factor of an approved limited partnership shall, within 4 months after the end of the last day of the period to which the account of the limited partnership is made up, or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to the Comptroller and the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the following conditions have been met for the basis period:

- (a) the conditions subject to which the limited partnership had been approved as an approved limited partnership for the purposes of section 13X of the Act; and
- (b) the conditions specified in regulation 3(2)(a), (c), (d) and (e).

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(3) A company or the trustee of a trust fund, where the company or trust fund is the approved master fund of an approved master-feeder fund structure, shall, within 4 months after the end of the basis period of the company or the trustee of the trust fund (in relation to his income as such trustee) or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to

the Comptroller and the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the following conditions have been met for the basis period:

- (a) the conditions subject to which the master-feeder fund structure had been approved for the purposes of section 13X of the Act; and
- (b) the conditions specified in regulation 3A(2)(a), (c), (d) and (e).

[S 295/2012 wef 07/07/2010]

(4) The general partner or, if he is not personally present in Singapore, the attorney, agent, manager or factor of a limited partnership that is the approved master fund of an approved master-feeder fund structure, shall, within 4 months after the end of the last day of the period to which the account of the limited partnership is made up, or within such time as the Comptroller or the Monetary Authority of Singapore may specify, submit a declaration to the Comptroller and the Monetary Authority of Singapore, in such form as the Comptroller or the Monetary Authority of Singapore may specify, that the following conditions have been met for the basis period:

- (a) the conditions subject to which the master-feeder fund structure had been approved for the purposes of section 13X of the Act; and
- (b) the conditions specified in regulation 3A(2)(a), (c), (d) and (e).

[S 295/2012 wef 07/07/2010]

Made this 27th day of July 2010.

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[MFR 032.19.4 Vol. 34; AG/LLRD/SL/134/2005/54 Vol. 1]