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No. S 435

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF FOREIGN INCOME — REITS AND OTHER SPECIAL CASES) ORDER 2006

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

Citation and commencement

1. This Order may be cited as the Income Tax (Exemption of Foreign Income — REITs and Other Special Cases) Order 2006 and shall be deemed to have come into operation on 31st May 2006.

Exemption of dividends, etc., derived from any territory outside Singapore and received by resident in Singapore

2.—(1) Subject to sub-paragraph (2), there shall be exempt from tax —

- (a) any dividend derived from any territory outside Singapore;
- (b) any profit derived from any trade or business carried on by a branch in any territory outside Singapore of a company resident in Singapore; and

- (c) any income derived from outside Singapore from any professional, consultancy or other services rendered in any territory outside Singapore,

which is received in Singapore by a person resident in Singapore and which is not exempt from tax under section 13(8) of the Act.

(2) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore on 13th January 2006 and 1st December 2011, which are set out and explained for general information in the IRAS e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published on 22nd February 2012 by the Inland Revenue Authority of Singapore, and such other IRAS e-tax guides supplementary thereto as may be issued.

[S 605/2012 wef 22/02/2012]

Exemption of dividends, etc., derived from any territory outside Singapore and received by trustee of real estate investment trust resident in Singapore, etc.

3.—(1) Subject to sub-paragraph (2), there shall be exempt from tax the following income which is paid out of income derived from activities permitted in relation to real estate investment trusts under the Code on Collective Investment Schemes issued by the Monetary Authority of Singapore pursuant to section 284 of the Securities and Futures Act 2001:

- (a) any —
- (i) dividend derived from any territory outside Singapore which is not exempt from tax under section 13(8) of the Act;
 - (ii) interest derived from any territory outside Singapore;
or
 - (iii) distribution made by a trustee of a trust who is not resident in Singapore,

received in Singapore —

- (A) by a trustee of a real estate investment trust who is resident in Singapore; or
 - (B) by a company incorporated and resident in Singapore the share capital of which is 100% owned by a trustee of the real estate investment trust; and
- (b) any profits derived from any territory outside Singapore through a branch operating in any territory outside Singapore, of a company incorporated and resident in Singapore the share capital of which is 100% owned by a trustee of a real estate investment trust who is resident in Singapore, received in Singapore by the company.

[S 605/2012 wef 22/02/2012]

[S 922/2022 wef 31/12/2021]

(2) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore on 9th January 2006, 14th February 2006 and 13th December 2011, which are set out and explained for general information in the IRAS e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published on 22nd February 2012 by the Inland Revenue Authority of Singapore, and such other IRAS e-tax guides supplementary thereto as may be issued.

[S 605/2012 wef 22/02/2012]

(3) In this paragraph, “real estate investment trust” means a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act 2001 and offered to the public for subscription, and that invests or proposes to invest in immovable property and immovable property-related assets.

[S 922/2022 wef 31/12/2021]

Exemption of dividends, etc., derived from any territory outside Singapore and received by certain entities

4.—(1) Subject to sub-paragraphs (3), (5) and (6), the descriptions of income in sub-paragraph (2) derived from any territory outside

Singapore, and received by any of the following (called in this paragraph *X*), are exempt from tax:

- (a) a company incorporated and resident in Singapore and listed on any exchange in Singapore;
 - (b) the trustee-manager that is resident in Singapore of a business trust —
 - (i) registered under section 4(1) of the Business Trusts Act 2004; and
 - (ii) listed on any exchange in Singapore, for and on behalf of the unitholders of the business trust;
 - (c) a company resident in Singapore, the shares of which are wholly owned by —
 - (i) a company mentioned in sub-paragraph (a); or
 - (ii) the trustee-manager of a registered business trust mentioned in sub-paragraph (b).
- (2) The descriptions of income are the following:
- (a) interest from any loan granted by *X* to a related party of *X* (called in this sub-paragraph *XI*), or from any debt securities issued by a related party of *X* (also called in this sub-paragraph *XI*) to *X*, where —
 - (i) the date of the grant of the loan or the issue of the debt securities falls in the period between 30 May 2014 and 31 December 2025 (both dates inclusive) (called in this paragraph the applicable period);
 - (ii) the proceeds from the loan or debt securities were used in the applicable period by *XI* solely for the purpose of acquiring, developing or investing in an offshore infrastructure asset or project; and
 - (iii) the interest is paid out of income derived by *XI* from owning or operating the offshore infrastructure asset or project;

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- (b) dividends in respect of shares in a company (called in this sub-paragraph *Y*) that is not resident in Singapore and the shares of which are wholly owned by *X*, which are paid out of interest from any loan granted to a related party of *X* (called in this sub-paragraph *XI*), or from any debt securities issued by a related party of *X* (also called in this sub-paragraph *XI*), where —
- (i) the date of the grant of the loan or the issue of the debt securities falls in the applicable period;
 - (ii) the proceeds from the loan or the debt securities were used in the applicable period by *XI* solely for the purpose of acquiring, developing or investing in an offshore infrastructure asset or project; and
 - (iii) the interest is paid out of income derived by *XI* from owning or operating the offshore infrastructure asset or project.
- (3) For the purpose of sub-paragraph (2)(a) and (b), the offshore infrastructure asset or project —
- (a) must be situated outside Singapore; and
 - (b) must be of a kind prescribed in regulation 5 of the Income Tax (Qualifying Project Debt Securities) Regulations 2008 (G.N. No. S 315/2008) for the purposes of paragraph (b) of the definition of “qualifying project debt securities” in section 13(16) of the Act.
- (4) For the purpose of sub-paragraph (2)(b), dividends are treated as paid out of interest as described in that provision if —
- (a) they are paid out of such interest directly; or
 - (b) they are paid out of other dividends in respect of shares in another company that are wholly owned (directly or indirectly) by *X*, that are paid out of such interest directly, or are (through one or more applications of this sub-paragraph) treated as paid out of such interest.
- (5) The exemption in sub-paragraph (1) only applies if *X* has made a declaration in relation to the income in sub-paragraph (2) and

submitted it to the Comptroller in the form and manner, and by the date, determined by the Comptroller.

(6) The exemption under sub-paragraph (1) is subject to the conditions specified by the Minister to the Inland Revenue Authority of Singapore, which are set out and explained for general information in the edition of the e-tax guide “Income Tax: Tax Exemption under Section 13(12) for Specified Scenarios, Real Estate Investment Trusts and Qualifying Offshore Infrastructure Project/Asset” published by the Inland Revenue Authority of Singapore, that is in force on the date the income concerned is received in Singapore.

(7) In this paragraph, “related party” —

(a) in relation to a company — means any person —

(i) who directly or indirectly, controls the company;

(ii) who is being controlled, directly or indirectly, by the company; or

(iii) who, together with the company, is directly or indirectly under the control of a common person; or

(b) in relation to a trustee-manager of a business trust — means a person who is directly or indirectly controlled by the trustee-manager, where the control is to be exercised for and on behalf of the unitholders of the business trust.

(8) In this paragraph, shares are owned directly or indirectly by *X*, being the trustee-manager of the business trust mentioned in sub-paragraph (1)(b), if (and only if) they are held by the trustee-manager for and on behalf of the unitholders of the business trust.

[S 922/2022 wef 30/05/2014]

Made this 17th day of July 2006.

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

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