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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF INTEREST AND OTHER PAYMENTS FOR ECONOMIC AND TECHNOLOGICAL DEVELOPMENT) (NO. 2) NOTIFICATION 2012

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In exercise of the powers conferred by section 13(4) of the Income Tax Act, the Minister for Finance hereby makes the following Notification:

Citation and commencement

1. This Notification may be cited as the Income Tax (Exemption of Interest and Other Payments for Economic and Technological Development) (No. 2) Notification 2012 and shall be deemed to have come into operation on 15th October 2010.

Definitions

2. In this Notification —

“basis period” means the basis period for any year of assessment;

“qualifying amount” means —

- (a) any interest, commission, fee or other payment; or
- (b) any income derived from loans,

which is deemed under section 12(6) of the Act to be derived from Singapore.

Exemption from tax of qualifying amount paid by trustee of prescribed trust fund referred to in section 13C of Act

3.—(1) There shall be exempt from tax any qualifying amount liable to be paid by a trustee of a trust fund to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

- (a) a basis period where all of the following conditions are satisfied throughout that basis period:
 - (i) the trust fund satisfies all the conditions in regulation 3(1) of the Income Tax (Exemption of Income of Trustee of Trust Fund Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 7/2010);
 - (ii) the funds of the trust fund are managed in Singapore by a fund manager;
 - (iii) the trustee of the trust fund (not being a trust fund referred to in regulation 3(2) of the Income Tax

(Exemption of Income of Trustee of Trust Fund Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010) does not, in its capacity as such trustee —

(A) have a permanent establishment in Singapore (other than due to its functions as such trustee, or the presence of a fund manager or any other person who acts on behalf of the trustee in carrying out its functions as such trustee); or

(B) carry on any other business in Singapore,

other than with the approval of the Minister or a person appointed by him,

being the first time that all of those conditions are satisfied throughout a basis period;

(b) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period.

(2) Sub-paragraph (1) shall not apply to a trustee of a trust fund referred to in section 13C(3) of the Act.

Exemption from tax of qualifying amount paid by prescribed person referred to in section 13CA of Act

4.—(1) There shall be exempt from tax any qualifying amount liable to be paid by a person to another person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

(a) a basis period where all of the following conditions are satisfied throughout that basis period:

(i) the first-mentioned person satisfies all the conditions in paragraph (a), (b) or (c) (whichever is applicable) of the definition of “prescribed person” in regulation 2(1) of 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);

(ii) the funds of the first-mentioned person are managed in Singapore by a fund manager,

being the first time that all of those conditions are satisfied throughout a basis period;

(b) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period.

(2) Sub-paragraph (1) shall not apply if the payer is a person referred to in section 13CA(10) of the Act.

Exemption from tax of qualifying amount paid by approved company referred to in section 13R of Act

5. There shall be exempt from tax any qualifying amount liable to be paid by an approved company within the meaning of section 13R of the Act to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

(a) a basis period where all of the following conditions are satisfied throughout that basis period:

(i) the company satisfies all the conditions in regulation 3(2) of the Income Tax (Exemption of Income of Approved Companies Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 8/2010);

(ii) the funds of the company are managed in Singapore by a fund manager, or by a person approved by the Minister or such person appointed by the Minister,

being the first time that all of those conditions are satisfied throughout a basis period;

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- (b) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period.

Exemption from tax of qualifying amount paid by approved person, etc., referred to in section 13X of Act

6.—(1) There shall be exempt from tax any qualifying amount liable to be paid by an approved person within the meaning of section 13X of the Act to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

- (a) a basis period, where all of the conditions in regulation 3(2)(a), (c), (d) and (e) of the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 414/2010) are satisfied in relation to the approved person throughout that basis period, being the first time that all of those conditions are satisfied in relation to the approved person throughout a basis period;
- (b) a basis period immediately following another basis period, where all of those conditions are satisfied in relation to the approved person throughout that other basis period.
- (2) For the purposes of sub-paragraph (1) —
- (a) the reference in regulation 3(2)(a) of the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 to the basis period for the year of assessment for which income is exempt from tax under those Regulations shall be read as a reference to the basis period referred to in sub-paragraph (1)(a) or (b), as the case may be; and
- (b) the reference in regulation 3(2)(c) of those Regulations to the year of assessment for which income is exempt from tax under those Regulations shall be read as a reference to the year of assessment to which the basis period referred to in sub-paragraph (1)(a) or (b), as the case may be, relates.

Exemption from tax of qualifying amount paid by approved master fund or feeder fund referred to in section 13X of Act

7.—(1) There shall be exempt from tax any qualifying amount liable to be paid by a company, the trustee of a trust fund or a partner of a limited partnership, where the company, trust fund or partnership is —

- (a) the approved master fund of an approved master-feeder fund structure; or
- (b) an approved feeder fund of an approved master-feeder fund structure,

within the meaning of section 13X of the Act, to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

- (i) a basis period where all of the conditions in regulation 3A(2)(a), (c), (d) and (e) of the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 414/2010) are satisfied throughout that basis period in relation to the master fund and master-feeder fund structure, or the feeder fund and master-feeder fund structure (as the case may be), being the first time that all of those conditions are satisfied throughout a basis period in relation to the master fund and master-feeder fund structure, or the feeder fund and master-feeder fund structure (as the case may be);
 - (ii) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period in relation to the master fund and master-feeder fund structure, or the feeder fund and master-feeder fund structure (as the case may be).
- (2) For the purposes of sub-paragraph (1) —
- (a) the reference in regulation 3A(2)(a) of the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 to the basis

period for the year of assessment for which income is exempt from tax under those Regulations shall be read as a reference to the basis period referred to in sub-paragraph (1)(i) or (ii), as the case may be; and

- (b) the reference in regulation 3A(2)(c) of those Regulations to the year of assessment for which income is exempt from tax under those Regulations shall be read as a reference to the year of assessment to which the basis period referred to in sub-paragraph (1)(i) or (ii), as the case may be, relates.

Exemption from tax of qualifying amount paid by sovereign fund entity referred to in section 13Y of Act

8.—(1) There shall be exempt from tax any qualifying amount liable to be paid by a sovereign fund entity within the meaning of section 13Y of the Act to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

- (a) a basis period where all of the following conditions are satisfied throughout that basis period:
- (i) the funds of the sovereign fund entity are managed by an approved foreign government-owned entity within the meaning of section 13Y of the Act as part of the funds of the foreign government;
 - (ii) the sovereign fund entity does not engage in any commercial activity in Singapore apart from that in sub-paragraph (i);
 - (iii) the approved foreign government-owned entity satisfies all the conditions specified in its letter of approval referred to in regulation 4 of the Income Tax (Exemption of Certain Income of Prescribed Sovereign Fund Entities and Approved Foreign Government-Owned Entities) Regulations 2012 (G.N. No. S 50/2012),

being the first time that all of those conditions are satisfied throughout a basis period;

- (b) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period.

(2) In this paragraph, “foreign government”, in relation to an approved foreign government-owned entity, means the foreign government that wholly and beneficially owns, whether directly or indirectly, the entity.

Exemption from tax of qualifying amount paid by approved foreign government-owned entity referred to in section 13Y of Act

9. There shall be exempt from tax any qualifying amount liable to be paid by an approved foreign government-owned entity within the meaning of section 13Y of the Act to a person who is neither resident in Singapore nor a permanent establishment in Singapore, if the payment is liable to be made on or after 15th October 2010 and during either of the following basis periods:

- (a) a basis period where all of the following conditions are satisfied throughout that basis period:

(i) the approved foreign government-owned entity satisfies all the conditions specified in its letter of approval referred to in regulation 4 of the Income Tax (Exemption of Certain Income of Prescribed Sovereign Fund Entities and Approved Foreign Government-Owned Entities) Regulations 2012 (G.N. No. S 50/2012);

(ii) the funds of the approved foreign government-owned entity are managed in Singapore,

being the first time that all of those conditions are satisfied throughout a basis period;

- (b) a basis period immediately following another basis period, where all of those conditions are satisfied throughout that other basis period.

Exemptions not applicable if loan, etc., is for non-investment activities, or payment is for tax avoidance

10.—(1) The exemption under paragraph 3, 4, 5, 6, 7, 8 or 9 only applies to a qualifying amount —

(a) in connection with any loan or indebtedness or with any arrangement, management, guarantee or service relating to any loan or indebtedness; or

(b) derived from any loan,

as the case may be, which is taken, incurred or procured for the purpose of facilitating an investment activity of the payer referred to in that paragraph.

(2) For the avoidance of doubt, the exemption under paragraph 3, 4, 5, 6, 7, 8 or 9 shall not apply to a qualifying amount —

(a) in connection with any loan or indebtedness or with any arrangement, management, guarantee or service relating to any loan or indebtedness; or

(b) derived from any loan,

as the case may be, which is taken, incurred or procured for the purpose of making a dividend payment, a distribution to any beneficiary or unitholder of a trust fund, a payment pursuant to a share buyback or share capital reduction, or other similar payment.

(3) An exemption under paragraph 3, 4, 5, 6, 7, 8 or 9 shall not apply to any payment made in connection with an arrangement referred to in section 33(1) of the Act.

Made this 16th day of November 2012.

LIM SOO HOON
Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.

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