
First published in the *Government Gazette*, Electronic Edition, on 21st October 2005 at 5:00 pm.

No. S 672

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR
APPROVED COMMODITY DERIVATIVES TRADING
COMPANIES) REGULATIONS 2005

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Definitions
 3. Approved commodity derivatives trading company
 4. Concessionary rate of tax
 5. Determination of income chargeable to tax
-

In exercise of the powers conferred by section 43S of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Income Tax (Concessionary Rate of Tax for Approved Commodity Derivatives Trading Companies) Regulations 2005.

Definitions

2. In these Regulations —

“approved global trading company” means a global trading company approved under section 43P of the Act;

“approved international commodity trading company” means an international commodity trading company approved under section 43H of the Act;

“approved oil trading company” means an oil trading company approved under section 43F of the Act;

“approved petrochemical manufacturing company” means a petrochemical manufacturing company in Singapore which is approved —

(a) under paragraph (e) of the definition of “physical trading” in regulation 2 of the Income Tax (Concessionary Rate of Tax for Approved Oil Trading Companies) Regulations (Rg 15); or

(b) under paragraph (g) of the definition of “physical trading” in regulation 2 of the Income Tax (Concessionary Rate of Tax for Approved Global Trading Companies) Regulations 2003 (G.N. No. S 204/2003);

“exchange-traded commodity derivatives” means derivatives that are transacted on an exchange, the payoffs of which are linked in whole to the payoffs or performance of the underlying commodity;

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

“freight derivatives” means derivatives, whether traded over-the-counter or on an exchange, the payoffs of which are linked in whole to the payoffs or performance of the underlying freight rates;

“incidental physical trading” means —

(a) trading on or after 27th February 2004 by an approved standard commodity derivatives trading company in any commodity with any specified person on a spot or forward basis in connection with and incidental to the trading on or after 27th February 2004 by that approved standard commodity derivatives trading company in any over-the-counter commodity derivatives with that or any other specified person; or

-
-
- (b) trading on or after 18th February 2005 by an approved enhanced commodity derivatives trading company in any commodity with any specified person on a spot or forward basis in connection with and incidental to the trading on or after 18th February 2005 by that approved enhanced commodity derivatives trading company in any over-the-counter commodity derivatives or exchange-traded commodity derivatives with that or any other specified person,

where the intention of the parties at the time of the transaction in relation to the commodity is that actual delivery of the commodity is required, whether or not the delivery is actually made, but does not include any transaction in which —

- (i) the commodity is purchased for the purposes of consumption in Singapore or for the supply of fuel to aircraft or vessels within Singapore; or
- (ii) any petroleum or petroleum product is both purchased from and sold to an approved petrochemical manufacturing company;

“over-the-counter commodity derivatives” means commodity derivatives that are transacted over-the-counter, the payoffs of which are linked in whole to the payoffs or performance of the underlying commodity;

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

“specified person” means —

- (a) a financial sector incentive company which is —
- (i) a bank licensed under the Banking Act (Cap. 19);
or
- (ii) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
- (b) an approved global trading company;
- (c) an approved commodity derivatives trading company;

- (d) a person who is neither a resident of nor a permanent establishment in Singapore;
- (e) a branch office outside Singapore of a company resident in Singapore;
- (f) a member of the Singapore Commodity Exchange;
- (g) an approved oil trading company;
- (h) an approved international commodity trading company;
- (i) a person who carries on the business of refining petroleum in Singapore; or
- (j) an approved petrochemical manufacturing company.

Approved commodity derivatives trading company

3.—(1) For the purposes of section 43S of the Act and these Regulations, “approved commodity derivatives trading company” means any commodity derivatives trading company which is approved, by the Minister or such person as he may appoint, as —

- (a) an approved standard commodity derivatives trading company; or
- (b) an approved enhanced commodity derivatives trading company.

(2) The period of approval of any commodity derivatives trading company shall be for such period not exceeding 5 years as the Minister or person may specify.

(3) No approval under section 43S of the Act shall be granted to any company on or after 27th February 2009.

Concessionary rate of tax

4.—(1) Tax shall be payable at the rate of 5% for each year of assessment upon the income derived by an approved standard commodity derivatives trading company on or after 27th February 2004, or by an approved enhanced commodity derivatives trading company on or after 18th February 2005, from —

-
-
- (a) trading in over-the-counter commodity derivatives with any specified person; or
- (b) services as an intermediary in connection with transactions relating to over-the-counter commodity derivatives between any specified persons.
- (2) Tax shall be payable at the rate of 5% for each year of assessment upon the income derived by an approved enhanced commodity derivatives trading company on or after 18th February 2005 from —
- (a) trading in exchange-traded commodity derivatives with any specified person; or
- (b) services as an intermediary in connection with transactions relating to exchange-traded commodity derivatives between any specified persons.
- (3) Tax shall be payable at the rate of 5% for each year of assessment upon the income derived on or after 18th February 2005 by —
- (a) an approved standard commodity derivatives trading company; or
- (b) an approved enhanced derivatives trading company,
- from trading in freight derivatives with, or services as an intermediary in connection with transactions relating to freight derivatives between, any of the following persons:
- (i) any specified persons;
- (ii) a shipping enterprise.
- (4) Tax shall be payable at the rate of 5% for each year of assessment upon the following income derived by an approved standard commodity derivatives trading company on or after 27th February 2004:
- (a) where the volume of incidental physical trading in any year of assessment does not exceed 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives with specified persons in that year of assessment, the income derived from such incidental physical trading; or

- (b) where the volume of incidental physical trading in any year of assessment exceeds 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives with specified persons in that year of assessment, that part of the income derived from such incidental physical trading which is ascertained in accordance with the formula

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

where A is 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives with specified persons in that year of assessment;

B is the total volume of all incidental physical trading with specified persons in that year of assessment; and

C is the total income derived from all incidental physical trading with specified persons in that year of assessment.

(5) Tax shall be payable at the rate of 5% for each year of assessment upon the following income derived by an approved enhanced commodity derivatives trading company on or after 18th February 2005:

- (a) where the volume of incidental physical trading in any year of assessment does not exceed 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives and exchange-traded commodity derivatives with specified persons in that year of assessment, the income derived from such incidental physical trading; or
- (b) where the volume of incidental physical trading in any year of assessment exceeds 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives and exchange-traded commodity derivatives with specified persons in that year of assessment, that part of the

income derived from such incidental physical trading which is ascertained in accordance with the formula

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

where A is 15% of the total volume of incidental physical trading and trading in over-the-counter commodity derivatives and exchange-traded commodity derivatives with specified persons in that year of assessment;

B is the total volume of all incidental physical trading with specified persons in that year of assessment; and

C is the total income derived from all incidental physical trading with specified persons in that year of assessment.

(5A) Tax shall be payable at the rate of 5% for each year of assessment upon the income derived by —

- (a) an approved standard commodity derivatives trading company; or
- (b) an approved enhanced commodity derivatives trading company,

from trading on or after 24th May 2007 with any person in —

- (i) over-the-counter commodity derivatives; or
- (ii) over-the-counter freight derivatives,

where the trade is cleared on or after that date through the SGX AsiaClear Facility by the Singapore Exchange Derivatives Clearing Limited.

[S 156/2009 wef 24/05/2007]

(6) Paragraphs (1) to (5) shall not apply to any income attributable to activities carried out in Singapore which —

- (a) add value to the commodities by any physical alteration, addition or improvement (including refining, blending or processing) of the commodities; or

(b) relate to the storage or bulk-breaking of the commodities.

Determination of income chargeable to tax

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

- (a) the chargeable income of an approved standard commodity derivatives trading company or an approved enhanced commodity derivatives trading company having regard to such expenses, capital allowances and donations allowable under the Act as are, in his opinion, to be deducted in ascertaining such income;
- (b) the manner and extent to which any losses arising from the activities specified in regulation 4(1), (2), (3), (4), (5) or (5A) may be deducted under the Act in ascertaining the chargeable income of the approved standard commodity derivatives trading company or approved enhanced commodity derivatives trading company; and
[S 156/2009 wef 24/05/2007]
- (c) the manner and extent to which any income should be excluded under regulation 4(6).

Made this 17th day of October 2005.

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

[MF(R) 32.18.2919 V 2; AG/LEG/SL/134/2005/11 Vol. 1]