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No. S 685

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (TAX INCENTIVES FOR PARTNERSHIPS) REGULATIONS 2012

ARRANGEMENT OF REGULATIONS

In exercise of the powers conferred by section 36(1A), (1B) and (1C) of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Tax Incentives for Partnerships) Regulations 2012 and shall, with the exception of regulation 4, be deemed to have come into operation on 1st April 2008.

(2) Regulation 4 shall come into operation on 28th December 2012.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

"adjustment factor", in relation to any year of assessment, means the factor ascertained in accordance with the formula —

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

where A is the concessionary rate of tax that the Minister, or such person as he may appoint, specifies under section 43Y or 43ZA; and

B is the rate of tax specified in section 43(1)(*a*);

[S 629/2019 wef 29/12/2016]

"approved partnership" means a partnership approved by the Minister or a person appointed by him under section 13H, 13S, 43Y or 43ZA, as the case may be;

"share of divisible income", in relation to a partner of an approved partnership, means the income of that approved partnership to which that partner is entitled.

(2) A reference in these Regulations to a section is a reference to a section of the Act.

(3) A reference in these Regulations to section 13H, 13S, 14E, 19B, 19C, 43Y or 43ZA or any provision thereof is a reference to that section or provision as applied to a partnership under section 36(1A), (1B) or (1C), as the case may be.

Manner in which concessionary rate of tax may be accorded to individual partner

3. Where a concessionary rate of tax is specified under section 43Y or 43ZA for an approved partnership, the share of the applicable divisible income of a partner of that approved partnership being an individual to be assessed to tax shall be that share of the divisible income (after making the necessary deductions required by the

relevant provisions of these Regulations) multiplied by the adjustment factor.

[S 629/2019 wef 29/12/2016]

Changes in composition of partnership or approved partnership

4. The precedent partner of —

(*a*) a partnership claiming a deduction under section 14E or an allowance under section 19B or 19C; or

(*b*) an approved partnership,

shall give written notice to the Minister or such person as he may appoint for the purpose of these Regulations, of any change in the composition of the partnership or approved partnership, immediately after the change or within such longer period as may be allowed by the Minister or such person as he may appoint.

Application of section 13H

5.—(1) Section 13H shall apply to the share of divisible income of a partner of an approved partnership derived from making any approved investments as it applies to the income of an approved venture company derived from making any approved investment, with the modifications and exceptions set out in this regulation.

[S 629/2019 wef 29/12/2016]

(2) For the purpose of paragraph (1) —

(*a*) any reference in section 13H(6) and (7) to an approved venture company is a reference to a partner of an approved partnership;

[S 629/2019 wef 01/01/2014]

(*b*) any reference in section 13H(15) to an approved venture company is a reference to an approved partnership; and

(*c*) paragraphs (3), (4) and (8) apply instead of section 13H(4) and (5).

[S 629/2019 wef 29/12/2016]

(3) In determining the share of divisible income of a partner of an approved partnership derived from making any approved investments for any year of assessment (referred to in this paragraph as the

"share") to be exempt from tax under regulations made under section 13H, there shall be deducted therefrom —

(*a*) any expenses in respect of such approved investments and donation of the approved partnership, allowable under the Act for that year of assessment which is apportioned to that share;

(*b*) any loss of the approved partnership for that year of assessment arising from the disposal of any approved investment in Singapore or elsewhere which is apportioned to that share;

(*c*) any allowances for that year of assessment under section 19, 19A, 20, 21 or 22 which are apportioned to that share notwithstanding that no claim for the allowance has been made; and

(*d*) any balance of the expenses, losses and allowances referred to in sub-paragraphs (*a*), (*b*) and (*c*) which have not been deducted in determining the share of divisible income of the partner from making any approved investment for any previous year of assessment.

(4) Any expenses, donations, allowances or losses referred to in paragraph (3) which are apportioned to the share of divisible income of a partner of an approved partnership derived from making any approved investment —

(*a*) shall only be deducted against the income of the partner that is exempt from tax under regulations made under section 13H; and

(*b*) shall not be available as a deduction against any other income of the partner, except that any balance of the expenses, donations, allowances or losses remaining unabsorbed at the end of the period specified under section 13H(2A) shall be available as a deduction against any other income of the partner for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of

assessment in accordance with section 23 or 37, as the case may be.

(5) [*Deleted by S 629/2019 wef 29/12/2016*]

(6) [*Deleted by S 629/2019 wef 29/12/2016*]

(7) [*Deleted by S 629/2019 wef 29/12/2016*]

(8) In this regulation, "approved investment" and "approved venture company" have the same meanings as in section 13H.

Application of section 13S

6.—(1) Section 13S applies to the share of divisible income of a partner of an approved partnership derived —

(*a*) during the period between 1 April 2008 and 24 March 2016 (both dates inclusive) from the qualifying activities mentioned in paragraphs (*a*), (*b*) and (*c*) of the definition of "qualifying activities" in paragraph (6);

(*b*) on or after 1 June 2011 from the qualifying activities mentioned in paragraphs (*d*), (*e*) and (*f*) of the definition of "qualifying activities" in paragraph (6); and

(*c*) on or after 25 March 2016 from the qualifying activities mentioned in paragraphs (*g*) and (*h*) of the definition of "qualifying activities" in paragraph (6),

as it applies to the income of an approved shipping investment enterprise from the activities mentioned in section 13S(1)(*a*), (*b*), (*c*), (*ca*), (*cb*) and (*d*), with the modifications and exceptions set out in this regulation.

[S 457/2017 wef 25/03/2016]

(2) For the purposes of paragraph (1) —

(*a*) a reference in section 13S(2) to a shipping investment enterprise is a reference to a partnership registered under any written law in Singapore;

(*b*) a reference in section 13S to the approval of a shipping investment enterprise is a reference to the approval of the partnership under section 13S(2);

(*c*) a reference in section 13S(7), (8) and (18) to an approved shipping investment enterprise is a reference to a partner of the approved partnership;

[S 457/2017 wef 01/01/2014]

(*d*) a reference in section 13S(17) to an approved shipping investment enterprise is a reference to the approved partnership;

(*e*) a reference in section 13S to a sea-going ship acquired, chartered or leased by an approved shipping investment enterprise is a reference to a sea-going ship acquired, chartered or leased by the approved partnership; and

(*f*) paragraphs (3), (3A), (4), (5) and (5B) apply in lieu of section 13S(1A), (1AA), (5), (6) and (6A), and section 13S(1B) is to be construed accordingly.

[S 457/2017 wef 01/06/2011]

(3) Section 13S(1) shall continue to apply to —

(*a*) a partner of a partnership the approval of which has expired or been withdrawn, but which continues to derive income from qualifying activities in relation to a sea-going ship acquired before or during the period of the approval, provided that the partnership has by the date of the expiry or before the withdrawal, fulfilled all the conditions referred to in section 13S(3); and

(*b*) any reference in section 13S and these Regulations to an approved partnership shall be construed accordingly.

(3A) Section 13S(1)(*d*) does not apply to —

(*a*) any income of an approved partnership as a lessor of a sea-going ship under a finance lease that is treated as a sale under section 10D; or

(*b*) any income of an approved partnership from carrying on a business of trading in sea-going ships or of constructing sea-going ships for sale.

[S 457/2017 wef 01/06/2011]

(4) In determining the share of divisible income of a partner of an approved partnership from qualifying activities which is exempt from

tax under section 13S(1), the allowance provided for in sections 16, 17, 18, 18B, 18C, 19, 19A, 20, 21, 22 and 23 as apportioned to that share, other than allowances made to a lessee of a sea-going ship under regulations made under section 10D —

(*a*) shall be taken into account notwithstanding that no claim for the allowance has been made; and

(*b*) shall only be deducted from the share of income of the partner derived from the qualifying activities, and the balance of those allowances shall not be available as a deduction against any other income of the partner; except that any balance remaining unabsorbed at the end of the tax exempt period of the approved partnership shall be available as a deduction against any other income of the partner for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 23.

(5) Where an approved partnership incurs a loss during the tax exempt period of the partnership in respect of qualifying activities, that loss as apportioned to each partner of the partnership —

(*a*) shall be deducted against the income of the partner from the qualifying activities in accordance with section 37; and

(*b*) shall only be deducted against the income of the partner from the qualifying activities, and the balance of the loss shall not be available as a deduction against any other income of the partner, except that any balance remaining unabsorbed at the end of the tax exempt period of the partnership shall be available as a deduction against any other income of the partner for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 37.

(5A) Paragraphs (3) and (5) apply only in respect of income from the qualifying activities in paragraphs (*a*), (*b*), (*c*), (*g*) and (*h*) of the definition of "qualifying activities" in paragraph (6).

[S 457/2017 wef 25/03/2016]

(5B) Where an approved partnership incurs a loss on any sale or assignment mentioned in paragraph (*d*), (*e*) or (*f*) of the definition of "qualifying activities" in paragraph (6) in any basis period falling, in whole or in part, within the tax exempt period, that loss may only be deducted against the gains derived from another sale or assignment mentioned in paragraph (*d*), (*e*) or (*f*), as the case may be, in that basis period, and the balance of the loss is not available as a deduction against any other income.

[S 457/2017 wef 01/06/2011]

(6) In this regulation —

"approved international shipping enterprise", "finance leasing", "international shipping enterprise", "shipping investment enterprise", "Singapore ship" and "tax exempt period" have the same meanings as in section 13S, as modified (where applicable) by paragraph (2);

[S 457/2017 wef 11/04/2016]

"qualifying activities" means —

(*a*) the chartering or finance leasing of any sea-going ship, acquired by the approved partnership before or during the period of its approval referred to in section 13S(3) to —

(i) a person who is neither resident in Singapore nor a permanent establishment in Singapore; or

(ii) an approved international shipping enterprise,

for use outside the limits of the port of Singapore;

(*b*) the chartering or finance leasing of any sea-going Singapore ship, acquired by the approved partnership before or during the period of its approval referred to in section 13S(3), to a shipping enterprise within the meaning of section 13A for use outside the limits of the port of Singapore;

[S 457/2017 wef 01/06/2011]

(*c*) in respect of income for the year of assessment 2009 and subsequent years of assessment, the foreign exchange and risk management activities which are

carried out in connection with and incidental to the activities referred to in paragraphs (*a*) and (*b*);

[S 457/2017 wef 01/06/2011]

(*d*) the sale of a sea-going ship;

[S 457/2017 wef 01/06/2011]

(*e*) the assignment to another of all the rights of the approved partnership as the buyer under a contract for the construction of a sea-going ship;

[S 457/2017 wef 25/03/2016]

[S 457/2017 wef 01/06/2011]

(*f*) the sale of all of the issued ordinary shares in a special purpose company of the approved partnership where, at the time of the sale of the shares, the special purpose company owns any sea-going ship or is the buyer under a contract for the construction of any sea-going ship;

[S 457/2017 wef 01/06/2011]

(*g*) the chartering or finance leasing of any sea-going ship acquired by the approved partnership before or during the period of its approval mentioned in section 13S(3), for use outside the limits of the port of Singapore; and

[S 457/2017 wef 25/03/2016]

(*h*) foreign exchange and risk management activities that are carried out in connection with and incidental to any activity mentioned in paragraph (*g*);

[S 457/2017 wef 25/03/2016]

"ship" has the same meaning as in section 13S;

[S 457/2017 wef 11/04/2016]

"special purpose company", in relation to an approved partnership, means a company that is wholly owned by the partnership and whose only business or intended business is the chartering or finance leasing of sea-going ships.

[S 457/2017 wef 01/06/2011]

Application of section 19B

7.—(1) Section 19B shall apply for the purpose of making writing-down allowance to any partner of a partnership with the modifications and exceptions set out in this regulation.

(2) For the purpose of paragraph (1) —

(*a*) any reference to a company in section 19B is a reference to the partnership or, in relation to the making of a writing-down allowance or a charge, to the partners of the partnership;

(*b*) the writing-down allowance and charge shall be apportioned to each partner of the partnership according to that partner's share of the divisible income of the partnership;

(*c*) a reference in section 19B to a trade or business of a company is a reference to a trade or business of the partnership;

(*d*) a reference in section 19B to the carrying on of a trade or business by a company is a reference to the carrying on of a trade or business by a partnership;

(*e*) a reference to the company in section 19B(2A)(*a*), (*b*) and (*c*) is a reference to the partnership;

[S 629/2019 wef 25/03/2016]

(*f*) a reference to an approved media and digital entertainment company in section 19B(2C) is a reference to a partnership approved by the Minister or such person as he may appoint, whose principal trade or business is to provide media and digital entertainment in Singapore;

(*g*) any writing-down allowance brought to charge under section 19B(2E), as apportioned to each partner of the partnership according to the partner's share of divisible income of the partnership, shall be deemed as income of that partner for the year of assessment relating to the basis period in which the event referred to in section 19B(2E) occurs;

(*h*) a reference in section 19B(10A) to a related party of a partnership is a reference to —

(i) any individual who is a relative of a partner (being an individual) of that partnership;

(ii) any company which is directly or indirectly controlled by a partner (being an individual) or a relative of a partner of that partnership; or

(iii) any person who is a related party of a partner (being a person other than an individual) of that partnership; and

(*i*) for the avoidance of doubt, a reference to no writing-down allowance to a company in section 19B is a reference to no writing-down allowance to the partners of the partnership.

(3) For the purpose of section 19B(1A), (1B) and (1BAA), where a partnership carrying on a trade or business has incurred capital expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2018 (both years inclusive) in acquiring one or more intellectual property rights for use in the trade or business, the aggregate of the writing-down allowances that may be allowed to all the partners of the partnership for that expenditure in respect of all the trades and businesses of the partnership shall not exceed the amount computed in accordance with section 19B(1A), (1B) or (1BAA) (as the case may be) for that year of assessment.

[S 629/2019 wef 27/11/2014]

(4) Without prejudice to section 19B(10A), where —

(*a*) a partnership (referred to in this paragraph as the first-mentioned partnership) has acquired the intellectual property rights from another partnership (referred to in this paragraph as the second-mentioned partnership) directly or indirectly from a related party of the second-mentioned partnership; and

(*b*) a partner of the first-mentioned partnership —

(i) being an individual, is a relative of one or more of the partners of the second-mentioned partnership (being individuals) who comes within paragraph (5);

(ii) being an individual, directly or indirectly controls one or more of the partners of the second-mentioned partnership (being companies) who comes within paragraph (5); or

(iii) being a person other than an individual, is a related party of one or more of the partners of the second-mentioned partnership and that partner or those partners of the second-mentioned partnership who comes within paragraph (5),

no writing-down allowance under section 19B shall be made to the partners of the first-mentioned partnership for any capital expenditure incurred by the first-mentioned partnership in such acquisition.

(5) In paragraph (4), a partner of the second-mentioned partnership comes within this paragraph if the partner is one —

(*a*) to whom any deduction has been allowed under section 14, 14D, 14DA, 14E or 14S for any outgoing, expense or payment incurred for any activity which resulted in the creation of the intellectual property; and

(*b*) whose share of the proceeds from the sale, transfer or assignment of those intellectual property rights to the first-mentioned partnership are not chargeable to tax.

(6) In this regulation —

"capital expenditure" and "intellectual property rights" have the same meanings as in section 19B(11);

"child" includes a step-child, a child who has been de facto adopted by the partner or by the spouse of the partner, whether or not such adoption has been registered in accordance with the provisions of any written law, and a child of whom the partner has the custody or whom he maintains wholly or partly at his own expense;

"related party" has the same meaning as in section 13(16);

"relative", in relation to a partner who is an individual, means any person who is a spouse, parent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, cousin of the partner.

Application of section 43Y

8.—(1) Section 43Y shall apply to the share of divisible income of a partner of an approved partnership which is an aircraft leasing partnership, from any activity referred to in section 43Y(1) as it applies to the income of an approved aircraft leasing company with the modifications and exceptions set out in regulation 3 and this regulation.

(2) For the purpose of paragraph (1), paragraph (3) shall apply in lieu of section 43Y(5), and section 43Y(6) shall be construed accordingly.

(3) In determining the share of divisible income of a partner of an approved partnership that is subject to tax at the concessionary rate of tax under section 43Y(1) —

(*a*) the allowances under sections 19, 19A, 20, 21, 22 and 23, as apportioned to that share, shall be taken into account notwithstanding that no claim for such allowances has been made;

(*b*) the allowances under sections 19, 19A, 20, 21, 22 and 23 in respect of finance leasing in any year of assessment, as apportioned to the share of divisible income of the partner from finance leasing for that year of assessment, shall be deducted against that share, and any balance of the allowances shall not, subject to sub-paragraph (*c*), be available as a deduction against any other income of the partner or be available for transfer under section 37C;

(*c*) where the approved partnership ceases to derive income from finance leasing in the basis period for any year of assessment, any balance of the allowances in respect of such finance leasing after the deduction against the share of divisible income of the partner from that finance leasing

shall be available as a deduction against any other income of the partner for that year of assessment and for any subsequent year of assessment in accordance with section 23; and

(*d*) the Comptroller shall determine the manner and extent to which —

(i) allowance under sections 19, 19A, 20, 21, 22 and 23, and any expense and donation allowable under the Act are to be deducted; and

(ii) any loss may be deducted under section 37.

(4) In this regulation, "aircraft leasing partnership" means a partnership registered under any written law in Singapore, carrying on a business of leasing aircrafts or aircraft engines within the meaning of section 43Y.

Application of section 43ZA

9.—(1) Section 43ZA shall apply to the share of divisible income of a partner of an approved partnership from qualifying activities, as it applies to the income of an approved container investment enterprise from the activities referred to in section 43ZA(1)(*a*) and (*b*), with the modifications and exceptions set out in regulation 3 and this regulation.

(2) For the purposes of paragraph (1) —

(*a*) the reference in section 43ZA(3) to a container investment enterprise is a reference to a partnership registered under any written law in Singapore;

(*b*) a reference in section 43ZA to the approval of a container investment enterprise is a reference to the approval of the partnership under section 43ZA(3);

(*c*) a reference in section 43ZA to a container acquired or leased by an approved container investment enterprise is a reference to a container acquired or leased by the approved partnership; and

(*d*) paragraphs (3) and (4) shall apply in lieu of section 43ZA(2) and (6).

(3) Section 43ZA(1) shall continue to apply to a partner of a partnership the approval of which has expired or been withdrawn, but which continues to derive income from qualifying activities in relation to a container acquired before or during the period of the approval, provided that the partnership has by the date of the expiry or before the withdrawal, fulfilled all the conditions referred to in section 43ZA(4); and any reference in section 43ZA and these Regulations to an approved partnership shall be construed accordingly.

(4) In determining the share of divisible income of a partner of an approved partnership that is subject to tax at the concessionary rate of tax under section 43ZA(1) —

(*a*) the allowances under sections 19, 19A, 20, 21, 22 and 23 (other than allowances made to the lessee under regulations made under section 10D), as apportioned to that share, shall be taken into account notwithstanding that no claim for such allowances has been made;

[S 457/2017 wef 24/02/2015]

(*b*) the allowances under sections 19, 19A, 20, 21, 22 and 23 (other than allowances made to the lessee under regulations made under section 10D) in respect of finance leasing in any year of assessment, as apportioned to the share of divisible income of the partner from finance leasing for that year of assessment, shall be deducted against that share, and any balance of the allowances shall not, subject to sub-paragraph (*c*), be available as a deduction against any other income of the partner or be available for transfer under section 37C;

[S 457/2017 wef 24/02/2015]

(*c*) where the approved partnership ceases to derive income from finance leasing in the basis period for any year of assessment, any balance of the allowances in respect of such finance leasing after the deduction against the share of divisible income of the partner from that finance leasing shall be available as a deduction against any other income

of the partner for that year of assessment and for any subsequent year of assessment in accordance with section 23; and

(*d*) the Comptroller shall determine the manner and extent to which —

(i) allowances under sections 19, 19A, 20, 21, 22 and 23, and any expenses and donations allowable under the Act are to be deducted; and

(ii) any loss may be deducted under section 37.

(5) In this regulation —

"container", "container investment enterprise" and "finance leasing" have the same meanings as in section 43ZA;

"qualifying activities" means —

(*a*) the leasing of any container owned by the approved partnership acquired before or during the period of approval of the partnership referred to in section 43ZA(4) and used for the international transportation of goods; and

(*b*) the foreign exchange and risk management activities which are carried out in connection with and incidental to the leasing referred to in paragraph (*a*).

Made this 26th day of December 2012.

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

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