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No. S 731

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR APPROVED QUALIFYING COMPANIES) REGULATIONS 2013

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In exercise of the powers conferred by section 43P 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 (Concessionary Rate of Tax for Approved Qualifying Companies) Regulations 2013 and shall be deemed to have come into operation on 21st May 2010.

Definitions

2. In these Regulations, unless the context otherwise requires —
- “approved qualifying company” means an approved qualifying company mentioned in section 43P of the Act;
- “AT1 instrument” means a security (not being a stock or a share) commonly known as Additional Tier 1 capital instrument;

“collective investment scheme” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“prescribed advisory services in relation to mergers and acquisitions” means advisory services provided by an approved qualifying company to its associated company in relation to any merger and acquisition that involves the associated company or another associated company of the approved qualifying company;

“prescribed qualifying structured commodity financing activities” means any of the activities specified in the Schedule;

“prescribed treasury activities” means —

- (a) the provision of services in relation to the consolidation, management and distribution of funds by an approved qualifying company to any of its associated companies; and
- (b) the following activities carried out by an approved qualifying company on its own account:
 - (i) transacting or investing in stocks and shares of any company;
 - (ii) transacting or investing in certificates of deposit, notes, bonds, treasury bills, commercial papers, AT1 instruments and collective investment schemes (excluding any collective investment scheme constituted as a unit trust) issued or operated by —
 - (A) the Government or any foreign government;
 - (B) a bank licensed under the Banking Act (Cap. 19);
 - (C) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - (D) a bank outside Singapore; or

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- (E) a company;
 - (iii) investing in deposits held in Singapore with any financial institution in Singapore, or in deposits held outside Singapore with any financial institution outside Singapore;
 - (iv) foreign exchange transactions;
 - (v) re-invoicing activities for its associated companies;
 - (vi) providing credit facilities to its associated companies;
 - (vii) transactions involving derivatives (including transactions involving interest rate or currency swaps and transactions in financial futures contracts or options) entered into with —
 - (A) any bank outside Singapore;
 - (B) any bank licensed under the Banking Act or merchant bank approved under section 28 of the Monetary Authority of Singapore Act;
 - (C) its associated companies; or
 - (D) a member of any exchange;
 - (viii) transacting or investing in units in any unit trust, where the manager of the unit trust engages wholly in one or more of the activities set out in sub-paragraph (i), (ii), (iii), (iv) or (vii);

“unit” and “unit trust” have the same meanings as in section 10B of the Act.

[S 236/2017 wef 25/03/2016]

Association

2A.—(1) For the purposes of these Regulations, a company (*X*) is associated with an approved qualifying company (*Y*) if any of the

requirements relating to the control of operations in paragraph (2), or to beneficial ownership of issued shares in paragraph (3), are satisfied.

(2) The requirements relating to the control of operations for the purpose of paragraph (1) are any of the following:

- (a) *X* controls or can control the operations of *Y*;
- (b) *Y* controls or can control the operations of *X*;
- (c) one other person, or 2 or more other persons together control or can control the operations of both *X* and *Y*.

(3) The requirements relating to beneficial ownership of issued shares for the purpose of paragraph (1) are any of the following:

- (a) *X* beneficially owns at least 25% of the total number of the issued shares of *Y*;
- (b) *Y* beneficially owns at least 25% of the total number of the issued shares of *X*.

(4) For the purposes of paragraphs (2) and (3), the control or beneficial ownership may be direct or indirect, or both direct and indirect.

[S 236/2017 wef 25/03/2016]

Approved qualifying company

3.—(1) The Minister or such person as he may appoint (referred to in these Regulations as the appointed person) may for the purposes of section 43P(1)(b) of the Act approve any qualifying company for such period not exceeding 5 years from such date and for such prescribed qualifying structured commodity financing activities, prescribed treasury activities, or prescribed advisory services in relation to mergers and acquisitions, as he or that person may specify in writing.

[S 236/2017 wef 25/03/2016]

(2) The Minister or the appointed person may, in any particular case, extend the period of approval specified in paragraph (1) for such further periods, not exceeding 5 years at any one time, as he or that person thinks fit.

Concessionary rate of tax

4.—(1) For the purposes of section 43P(1)(b) of the Act and subject to paragraph (2), tax is payable at the rate of 10% for each year of assessment on the income of an approved qualifying company derived from the carrying on of such of the following activities or services as the Minister or the appointed person may specify:

- (a) prescribed qualifying structured commodity financing activities;
- (b) prescribed treasury activities;
- (c) prescribed advisory services in relation to mergers and acquisitions.

(2) Tax at the rate of 5% is payable for each year of assessment upon any income mentioned in paragraph (1) of an approved qualifying company which satisfies all conditions that are imposed by the Minister or the appointed person.

[S 236/2017 wef 25/03/2016]

Determination of income chargeable to tax

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

- (a) the income chargeable to tax of an approved qualifying 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; and
- (b) the manner and extent to which any losses arising from the activities specified in regulation 4 may be deducted under the Act in ascertaining the chargeable income of an approved qualifying company.

THE SCHEDULE

Regulation 2

PRESCRIBED QUALIFYING STRUCTURED COMMODITY FINANCING ACTIVITIES

1. The following activities which relate to structured commodity financing:

- (a) prepayment;
- (b) factoring;
- (c) forfaiting;
[S 236/2017 wef 21/05/2010]
- (d) countertrade;
- (e) warehouse receipt financing;
- (f) export receivable financing;
- (g) project finance;
- (h) Islamic trade finance which is —
 - (i) endorsed by any Shari’ah council or body, or by any committee formed for the purpose of providing guidance on compliance with Shari’ah law; and
 - (ii) structured in accordance with Murabaha, Musharaka, Istisna or Salam;
- (ha) streaming financing;
[S 236/2017 wef 25/03/2016]
 - (i) subject to paragraph 2, transacting in derivatives (for example, futures, options or swaps), to hedge against the risks relating to any of the activities referred to in sub-paragraphs (a) to (ha);
[S 236/2017 wef 25/03/2016]
 - (j) advisory services in relation to any of the activities referred to in sub-paragraphs (a) to (ha).
[S 236/2017 wef 25/03/2016]

2. For the purposes of qualifying as a prescribed qualifying structured commodity financing activity under paragraph 1(i), an approved qualifying company’s transaction in derivatives must be carried out to hedge against its own risks relating to any of the activities referred to in paragraph 1(a) to (ha).

[S 236/2017 wef 25/03/2016]

3. For the avoidance of doubt, to qualify as a prescribed qualifying structured commodity financing activity under paragraph 1(j), an approved qualifying

THE SCHEDULE — *continued*

company is not required to perform any of the activities referred to in paragraph 1(a) to (ha) relating to the advisory services it provides.

[S 236/2017 wef 25/03/2016]

Made this 20th day of November 2013.

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