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## No. S 731

### INCOME TAX ACT (CHAPTER 134)

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

##### ARRANGEMENT OF REGULATIONS

###### Regulation

1. Citation and commencement
2. Definitions
- 2A. Association
3. Approved qualifying company
4. Concessionary rate of tax
5. Determination of income chargeable to tax  
The Schedule

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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 that holds a licence under section 7 or 79 of the Banking Act (Cap. 19);  
*[S 480/2021 wef 01/07/2021]*
    - (C) a merchant bank that holds a merchant bank licence, or is treated as having been

granted a merchant bank licence, under the Banking Act;

*[S 480/2021 wef 01/07/2021]*

(D) a bank outside Singapore; or

(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) a bank that holds a licence under section 7 or 79 of the Banking Act;

*[S 480/2021 wef 01/07/2021]*

(BA) a merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;

*[S 480/2021 wef 01/07/2021]*

(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) For the purposes of section 43P(1)(b) of the Act, the Minister or a person appointed by the Minister (called in these Regulations the appointed person) may —

- (a) approve a qualifying company as an approved qualifying company for any income of the company specified in

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regulation 4 to be chargeable with tax at the rate of 5% or 10%; and

- (b) specify the prescribed qualifying structured commodity financing activities, prescribed treasury activities and prescribed advisory services in relation to mergers and acquisitions, for the approved qualifying company in relation to the approval.

*[S 853/2021 wef 08/11/2021]*

(1A) The approval mentioned in paragraph (1) is for a period not exceeding 5 years starting on a date specified by the Minister or appointed person.

*[S 853/2021 wef 08/11/2021]*

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

*[S 853/2021 wef 08/11/2021]*

### **Concessionary rate of tax**

4.—(1) Tax at the rate of 5% is levied and must be paid for each year of assessment on the income of a qualifying company that has been approved for that rate from the carrying on of any of the following activities or services that has been specified for the company by the Minister or appointed person:

- (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 10% is levied and must be paid for each year of assessment on the income of a qualifying company that has been approved for that rate from the carrying on of any activity or service mentioned in paragraph (1) that has been specified for that company by the Minister or appointed person.

*[S 853/2021 wef 08/11/2021]*

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**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]*

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THE SCHEDULE — *continued*

(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 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.

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

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