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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (FINANCE LEASE OF CONTAINER — SECTION 13(4) EXEMPTION) NOTIFICATION 2020

ARRANGEMENT OF PARAGRAPHS

Paragraph

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

Citation and commencement

1. This Notification is the Income Tax (Finance Lease of Container — Section 13(4) Exemption) Notification 2020 and is deemed to have come into operation on 12 December 2018.

Definitions

2. In this Notification —

“approved container investment enterprise” —

- (a) means an approved container investment enterprise mentioned in section 43ZA of the Act; and
- (b) includes a partnership approved by the Minister (or a person appointed by the Minister) under

section 43ZA of the Act as applied by section 36 of the Act;

“approved international shipping enterprise” means an approved international shipping enterprise mentioned in section 13F of the Act;

“container”, “container investment enterprise” and “intermodal equipment” have the meanings given by section 43ZA(7) of the Act;

“finance lease”, in relation to any container or intermodal equipment, means a lease of the container or intermodal equipment (including any arrangement or agreement made in connection with the lease) that has the effect of transferring substantially the obsolescence, risks or rewards incidental to ownership of the container or intermodal equipment to the lessee;

“international shipping enterprise” has the meaning given by section 13F(6) of the Act;

“shipping enterprise” means any company that owns or operates one or more Singapore ships;

“Singapore ship” —

(a) means a ship in respect of which a certificate of registry has been issued under the Merchant Shipping Act (Cap. 179) and whose registry is not closed or deemed to be closed or suspended; and

(b) includes a ship that is provisionally registered under the Merchant Shipping Act.

Exemption for payment under finance lease of container by shipping enterprise

3.—(1) Subject to this paragraph, any payment that a shipping enterprise is liable to make on or after 12 December 2018 to a person resident outside Singapore (called in this Notification a non-resident person) under a finance lease entered into on or before 31 December 2023 of at least one container for the carriage of goods by sea and

intermodal equipment (if it is included in the finance lease of the container or containers), is exempt from tax.

(2) Sub-paragraph (1) does not apply to —

(a) any payment liable to be made under the finance lease that is derived from any operation carried on by the non-resident person through the person's permanent establishment in Singapore;

(b) any payment liable to be made under the finance lease after the day that the container or (where more than one container is the subject of the finance lease) one or more of the containers is or are disposed of or lost at sea (called in this sub-paragraph disposed container or containers), unless the terms of the finance lease —

(i) require that the disposed container or containers (as the case may be) be replaced, if the value or the total value of the disposed container or containers exceeds a sum stipulated in the finance lease; or

(ii) require the repayment of that part of the finance lease attributable to the cost of acquiring the disposed container or containers (as the case may be), if the value or the total value of the disposed container or containers exceeds a sum stipulated in the finance lease; or

(c) any payment liable to be made under the finance lease on or after the date that the shipping enterprise ceases to own or operate any Singapore ship.

(3) Where the shipping enterprise mentioned in sub-paragraph (1) owns or operates only one ship, and that ship is provisionally registered under the Merchant Shipping Act, the exemption is subject to the condition that the ship subsequently obtains a certificate of registry under that Act.

Exemption for payment under finance lease of container by approved international shipping enterprise or approved container investment enterprise

4.—(1) Subject to this paragraph, any payment that an approved international shipping enterprise or approved container investment enterprise is liable to make to a non-resident person on or after 12 December 2018 under any finance lease entered into on or before 31 December 2023 of at least one container for the carriage of goods by sea and intermodal equipment (if it is included in the finance lease of the container or containers), is exempt from tax.

(2) Sub-paragraph (1) does not apply to —

- (a) any payment liable to be made under the finance lease that is derived from any operation carried on by the non-resident person through the person's permanent establishment in Singapore;
- (b) any payment liable to be made under the finance lease after the day that the container or (where more than one container is the subject of the finance lease) one or more of the containers is or are disposed of or lost at sea (called in this sub-paragraph disposed container or containers), unless the terms of the finance lease —
 - (i) require that the disposed container or containers (as the case may be) be replaced, if the value or the total value of the disposed container or containers exceeds a sum stipulated in the finance lease; or
 - (ii) require the repayment of that part of the finance lease attributable to the cost of acquiring the disposed container or containers (as the case may be), if the value or the total value of the disposed container or containers exceeds a sum stipulated in the finance lease; or
- (c) any payment liable to be made under the finance lease on or after the date that the approval of the approved international shipping enterprise or approved container investment enterprise is revoked or withdrawn.

(3) Sub-paragraph (1) continues to apply to an international shipping enterprise or a container investment enterprise the approval of which has expired, but that remains liable to make any payment under the finance lease on or after the date of the expiry of the approval.

(4) For the purposes of sub-paragraph (3), a reference in sub-paragraphs (1) and (2) to an approved international shipping enterprise or approved container investment enterprise is to an international shipping enterprise or a container investment enterprise, as the case may be.

Made on 3 September 2020.

TAN CHING YEE
*Permanent Secretary,
Ministry of Finance,
Singapore.*

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