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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (PAYMENTS BY
APPROVED AIRCRAFT LEASING ENTITIES
UNDER LOANS AND FINANCE LEASES —
SECTION 13(4) EXEMPTION) NOTIFICATION 2020

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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:

PART 1
PRELIMINARY

Citation and commencement

1.—(1) This Notification is the Income Tax (Payments by Approved Aircraft Leasing Entities under Loans and Finance Leases — Section 13(4) Exemption) Notification 2020.

(2) Part 3 is deemed to have come into operation on 1 May 2012.

PART 2
EXEMPTION OF QUALIFYING PAYMENTS FOR
APPLICABLE LOANS

Definitions of this Part

2. In this Part, unless the context otherwise requires —

“approved aircraft leasing company” means an aircraft leasing company as defined in section 43Y of the Act and approved under that section, and includes a partnership approved under section 43Y of the Act as applied by section 36(1A) of the Act;

“qualifying payment”, in relation to an agreement for a loan, means any of the following payments made in connection with the loan:

- (a) interest;
- (b) agency fees;
- (c) arrangement fees;
- (d) commitment fees;
- (e) currency swap payments;
- (f) exposure fees;
- (g) front-end fees;
- (h) interest rate swap payments;
- (i) retainer fees;

- (j) security trustee fees;
- (k) underwriting fees;

“specified date”, in relation to a qualifying payment liable to be made by an approved aircraft leasing company under an agreement for a loan, means the latest of the following dates:

- (a) 12 November 2020;
- (b) the date on which the approved aircraft leasing company is approved as such;
- (c) either of the following dates, whichever is applicable:
 - (i) if the declaration mentioned in paragraph 4(4) is made by the approved aircraft leasing company on or before the 15th day of a month and the qualifying payment is liable to be made at any time in the month immediately before the firstmentioned month — the date the qualifying payment is liable to be made;
 - (ii) in any other case — the date on which the declaration is made;

“specified person”, in relation to an agreement for an applicable loan, means a person who is not resident in Singapore and either —

- (a) does not (alone or in association with others) carry on a business in Singapore and does not have a permanent establishment in Singapore; or
- (b) carries on a business in Singapore (alone or in association with others) or has a permanent establishment in Singapore, but no arrangement, management or service relating to the applicable loan is made or performed in the course of carrying on that business or through that permanent establishment.

Meaning of “applicable loan”

3.—(1) In this Part, an applicable loan is a loan or other arrangement similar in nature to a loan, that is obtained on or before 31 December 2022 by an approved aircraft leasing company for one or both of the purposes specified in sub-paragraph (2), whether or not in addition to any other purpose.

(2) The purposes in sub-paragraph (1) are —

- (a) the acquisition by the approved aircraft leasing company of one or more aircraft or aircraft engines; and
- (b) the financing of qualifying payments under an agreement for a previous loan obtained by the approved aircraft leasing company for the acquisition of one or more aircraft or aircraft engines.

Exemption in relation to applicable loan

4.—(1) Subject to sub-paragraphs (2) to (6) and the conditions imposed by the Minister under section 13(4) of the Act, a qualifying payment that an approved aircraft leasing company is liable to make on or after the specified date to a specified person under an agreement for an applicable loan, is exempt from tax.

(2) The exemption in sub-paragraph (1) applies only to the amount of the qualifying payment derived by the formula

$$\frac{(A - B)}{A} \times C,$$

where —

- (a) A is the principal of the applicable loan;
- (b) B is that part of the principal of the applicable loan that is not attributable to a purpose specified in paragraph 3(2) (including the part of the principal that is capitalised interest); and
- (c) C is the qualifying payment.

(3) Sub-paragraph (1) does not apply in relation to any loan obtained before 1 May 2012 and which is already the subject of another exemption under the Act.

(4) Sub-paragraph (1) only applies if the approved aircraft leasing company makes a declaration, in relation to the applicable loan, to the Economic Development Board established by section 3 of the Economic Development Board Act (Cap. 85) —

- (a) regarding the satisfaction by the approved aircraft leasing company of the requirements and conditions for the exemption; and
- (b) in the form specified by the Economic Development Board.

(5) Sub-paragraph (1) does not apply to any qualifying payment liable to be made at any time from (and including) the date of occurrence of the earliest of the following events:

- (a) the approved aircraft leasing company disposes of the aircraft or aircraft engine (as the case may be) in respect of which the applicable loan is obtained;
- (b) the approval of the approved aircraft leasing company as such is revoked or withdrawn;
- (c) the approved aircraft leasing company fails to satisfy any condition mentioned in sub-paragraph (1).

(6) Subject to sub-paragraph (5), sub-paragraph (1) continues to apply to a qualifying payment liable to be made even after the expiry of the approval of the approved aircraft leasing company as an approved aircraft leasing company (other than by way of revocation or withdrawal), and any reference in this paragraph to an approved aircraft leasing company is to be construed accordingly.

PART 3

EXEMPTION OF QUALIFYING PAYMENT FOR
FINANCE LEASE TREATED AS SALE

Definitions of this Part

5.—(1) In this Part, unless the context otherwise requires —

“approved aircraft leasing company” means an aircraft leasing company as defined in section 43Y of the Act and approved under that section, and includes a partnership approved under section 43Y of the Act as applied by section 36(1A) of the Act;

“finance lease”, in relation to an aircraft or aircraft engine, means a lease of the aircraft or aircraft engine (including any arrangement or agreement in connection with the lease) which has the effect of transferring substantially the obsolescence, risks or rewards incidental to ownership of the aircraft or aircraft engine to the lessee;

“qualifying payment”, in relation to a finance lease treated as a sale, means any of the following payments made in connection with the finance lease:

- (a) interest;
- (b) agency fees;
- (c) arrangement fees;
- (d) commitment fees;
- (e) currency swap payments;
- (f) exposure fees;
- (g) front-end fees;
- (h) interest rate swap payments;
- (i) retainer fees;
- (j) security trustee fees;
- (k) underwriting fees;

“specified date”, in relation to a qualifying payment liable to be made by an approved aircraft leasing company under a finance lease treated as a sale, means the latest of the following dates:

- (a) 1 May 2012;
- (b) the date on which the approved aircraft leasing company is approved as such;
- (c) either of the following dates, whichever is applicable:
 - (i) if the declaration mentioned in paragraph 6(4) is made by the approved aircraft leasing company on or before the 15th day of a month and the qualifying payment is liable to be made at any time in the month immediately before the firstmentioned month — the date the qualifying payment is liable to be made;
 - (ii) in any other case — the date on which the declaration is made;

“specified person”, in relation to a finance lease treated as a sale, means a person who is not resident in Singapore and either —

- (a) does not (alone or in association with others) carry on a business in Singapore, and does not have a permanent establishment in Singapore; or
- (b) carries on a business in Singapore (alone or in association with others) or has a permanent establishment in Singapore, but no arrangement, management or service relating to the finance lease is made or performed in the course of carrying on that business or through that permanent establishment.

(2) In this Part, a finance lease is one that is treated as a sale if it is so treated under regulations made under section 10D(1) of the Act.

Exemption in relation to finance lease treated as sale

6.—(1) Subject to sub-paragraphs (2) to (6) and the conditions imposed by the Minister under section 13(4) of the Act, a qualifying

payment that an approved aircraft leasing company is liable to make on or after the specified date to a specified person for the lease of one or more aircraft or aircraft engines under a finance lease treated as a sale entered into by the approved aircraft leasing company on or before 31 December 2022, is exempt from tax.

(2) The exemption in sub-paragraph (1) applies only to the amount of the qualifying payment derived by the formula

$$\frac{(A - B)}{A} \times C,$$

where —

- (a) A is the sum of all payments that are attributable to the principal repayments under the finance lease treated as a sale;
- (b) B is that part of the payments mentioned in A that are not attributable to the lease of one or more aircraft or aircraft engines; and
- (c) C is the qualifying payment.

(3) Sub-paragraph (1) does not apply in relation to any finance lease treated as a sale entered into before 1 May 2012 and which is already the subject of another exemption under the Act.

(4) Sub-paragraph (1) only applies if the approved aircraft leasing company makes a declaration, in relation to the finance lease treated as a sale, to the Economic Development Board —

- (a) regarding the satisfaction by the approved aircraft leasing company of the requirements and conditions for the exemption; and
- (b) in the form specified by the Economic Development Board.

(5) Sub-paragraph (1) does not apply to any qualifying payment liable to be made at any time from (and including) the date of occurrence of the earliest of the following events:

- (a) the finance lease treated as a sale is discharged or ceases to be one treated as a sale;

- (b) the finance lease ceases to be a finance lease;
- (c) the approval of the approved aircraft leasing company as such is revoked or withdrawn;
- (d) the approved aircraft leasing company fails to satisfy any condition mentioned in sub-paragraph (1).

(6) Subject to sub-paragraph (5), sub-paragraph (1) continues to apply to a qualifying payment liable to be made even after the expiry of the approval of the approved aircraft leasing company as an approved aircraft leasing company (other than by way of revocation or withdrawal), and any reference in this paragraph to an approved aircraft leasing company is to be construed accordingly.

Made on 11 November 2020.

TAN CHING YEE
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Ministry of Finance,
Singapore.

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