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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXEMPTION OF INCOME OF APPROVED SECURITISATION COMPANY) REGULATIONS 2008

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred by section 13P 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 (Exemption of Income of Approved Securitisation Company) Regulations 2008 and shall be deemed to have come into operation on 27th February 2004.

Definitions

2. In these Regulations —

“originator”, in relation to an approved securitisation company, means —

- (a) any person who transfers assets or risks to the approved securitisation company in an asset securitisation transaction; or

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- (b) unless excluded by the Minister or such person as he may appoint, any person who sets up or instructs the setting up of the approved securitisation company on his behalf or on behalf of his related party, where —
- (i) the approved securitisation company acquires assets or risks similar to those which the person or any of his related parties is in the business of acquiring;
 - (ii) the assets or risks acquired by the approved securitisation company are for purposes of an asset securitisation transaction under which the approved securitisation company issues to the person or related party on whose behalf the approved securitisation company has been set up qualifying debt securities that are backed by income from those assets or risks; and
 - (iii) the asset securitisation transaction results in less tax payable in Singapore by the person or related party referred to in sub-paragraph (ii) on the income derived by the person or related party from the qualifying debt securities, as compared to the tax which would be payable in Singapore by the person or related party on income derived from the person or related party holding the assets or risks directly (if the person or related party, instead of the approved securitisation company, had acquired those assets or risks);

“qualifying debt securities” and “related party” have the same meanings as in section 13(16) of the Act;

[S 121/2020 wef 24/02/2020]

“Special Purpose Reinsurance Vehicle” has the same meaning as in regulation 2 of the Insurance (General Provisions and Exemptions for Special Purpose Reinsurance Vehicles) Regulations 2018 (G.N. No. S 837/2018).

[S 121/2020 wef 24/02/2020]

Conditions of exemption under section 13P of Act

3. The conditions prescribed for the purposes of section 13P(1) of the Act are —

(a) unless otherwise approved by the Minister or any person appointed by the Minister, the issued share capital of the approved securitisation company —

(i) in the case where it is a Special Purpose Reinsurance Vehicle that is approved as an approved securitisation company on or after 20 December 2018 — must be at least \$20,000; or

(ii) in any other case — must not exceed \$10,000;

[S 121/2020 wef 24/02/2020]

(b) all of the issued shares of the approved securitisation company shall be held by a trust administered by a trust company in Singapore for the benefit of one or more organisations or institutions established for charitable, benevolent or philanthropic purposes;

(c) the approved securitisation company shall not have a profit-making motive;

(d) the approved securitisation company shall not carry out any activity other than the asset securitisation transaction in respect of which it has been granted approval as an approved securitisation company, and activities ancillary to the asset securitisation transaction;

(e) the approved securitisation company shall not carry out the asset securitisation transaction in respect of which it has been granted approval as an approved securitisation company with tax avoidance as its main purpose or as one of its main purposes;

(f) all transactions entered into by the approved securitisation company shall be entered into at arm's length;

(g) any cross-currency or interest rate swap carried out by the approved securitisation company shall be transacted with a swap counterparty in Singapore;

- (h) all of the debt securities issued before 16th February 2008 by the approved securitisation company shall be qualifying debt securities;

[S 229/2009 wef 16/02/2009]

- (i) unless otherwise approved by the Minister or such person as he may appoint, the total amount of all qualifying debt securities issued by the approved securitisation company in relation to the asset securitisation transaction in respect of which it has been granted approval as an approved securitisation company shall not be less than S\$20 million;

- (j) unless otherwise approved by the Minister or such person as he may appoint, the total amount of the issued qualifying debt securities beneficially held or funded, directly or indirectly, at any time during the life of the issue, by every originator of the approved asset securitisation company and every related party of an originator shall be less than 30% of those securities which are outstanding at any time during the life of the issue;

[S 512/2014 wef 04/08/2014]

- (k) the approved securitisation company shall, in relation to any basis period or part thereof in respect of which the exemption is claimed, furnish a declaration to the Comptroller —

- (i) in such form as the Comptroller or the Monetary Authority of Singapore may specify;
- (ii) together with its return of income for the year of assessment relating to that basis period;
- (iii) within the period specified under section 62 of the Act for its return of income; and
- (iv) stating that, for the basis period or part thereof in respect of which the exemption is claimed —
 - (A) the approved securitisation company was resident in Singapore;
 - (B) the approved securitisation company was a company incorporated in Singapore; and

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- (C) the conditions specified in paragraphs (a) to (j) were satisfied; and
- (l) the exemption shall not apply in respect of any income derived by the approved securitisation company which comprises any Singapore dividend from which tax is deducted or deductible under section 44 of the Act.

Deduction of certain losses not allowed

4. No deduction shall be allowed under the Act to any approved securitisation company in respect of any loss arising from any transaction that would have been exempted from tax under section 13P of the Act had it resulted in a profit.

Revocation of approval

5. For the avoidance of doubt, where the approval of any company as an approved securitisation company is revoked, the exemption from tax under section 13P of the Act shall cease in respect of income derived by the company on or after the revocation of the approval.

Made this 22nd day of February 2008.

TEO MING KIAN
*Permanent Secretary,
Ministry of Finance,
Singapore.*

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