

INCOME TAX ACT
(CHAPTER 134, SECTION 13C)

INCOME TAX (INCOME FROM
FUNDS MANAGED FOR FOREIGN INVESTORS)
REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

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[2nd September 1988]

Citation

1. These Regulations may be cited as the Income Tax (Income from Funds Managed for Foreign Investors) Regulations.

Definitions

2. In these Regulations —

“approved fund manager” means any Asian Currency Unit or fund manager approved under section 13C or 43A of the Act;

“approved securities company” means a company approved under section 43A (1) (c) of the Act;

“designated investments” means —

- (a) stocks and shares denominated in any foreign currency of companies not incorporated and not resident in Singapore, excluding stocks and shares of companies incorporated in Malaysia which are listed on the

Singapore Exchange or on the Kuala Lumpur Stock Exchange;

- (b) securities (other than stocks and shares) denominated in any foreign currency, including bonds, notes, certificates of deposit and treasury bills issued by foreign governments, foreign banks outside Singapore and companies not incorporated and not resident in Singapore;
- (c) futures contracts denominated in any foreign currency held in any futures exchange;
- (d) any immovable property situated outside Singapore;
- (e) certificates of deposit, notes and bonds issued by Asian Currency Units in Singapore;
- (f) Asian Dollar Bonds approved under section 13 (1) (v) of the Act;
- (g) deposits in Singapore with banks approved under section 13 (13) of the Act;
- (h) foreign currency deposits with financial institutions outside Singapore;
- (i) stocks, shares, bonds and other securities listed on the Singapore Exchange or on the Kuala Lumpur Stock Exchange and other stocks, shares, bonds and securities issued by companies incorporated and resident in Singapore;
- (j) Singapore Government securities;
- (k) foreign exchange transactions in currencies other than Singapore dollars;
- (l) transactions in currencies other than Singapore dollars carried out on or after 1st April 1993 in interest rate or currency contracts on a forward basis, interest rate or currency options and interest rate or currency swaps with —
 - (i) an Asian Currency Unit of a financial institution;
 - (ii) a person who is neither a resident of nor a permanent establishment in Singapore; or

- (iii) a branch office outside Singapore of a company resident in Singapore; and
- (m) units in any unit trust which invests wholly in designated investments;

“designated person” means the Government of Singapore Investment Corporation Pte. Ltd., any statutory board or any company which is wholly owned, directly or indirectly, by the Minister (in his capacity as a corporation established under the Minister for Finance (Incorporation) Act (Cap. 183)) and which is approved by the Minister or such person as he may appoint;

“foreign investor” —

- (a) in relation to an individual, means an individual who is not resident in Singapore and not a citizen of Singapore and who is the beneficial owner of the funds managed by an approved fund manager;
- (b) in relation to a company, means a company not resident in Singapore where not more than 20% (excluding the total percentage owned directly by designated persons) of its issued share capital is beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore; and
- (c) in relation to a trust fund, means a trust fund where not more than 20% (excluding the total percentage held directly by designated persons) of the value of the fund is beneficially held, directly or indirectly, by persons who are not foreign investors referred to in paragraph (a) or (b);

“specified income” means —

- (a) interest and dividends derived from outside Singapore and received in Singapore in respect of any designated investments;
- (b) interest derived from deposits with and certificates of deposit issued by banks approved under section 13 (13) of the Act and from Asian Dollar Bonds approved under section 13 (1) (v) of the Act;

- (c) gains or profits realised from the sale of any designated investments;
- (d) gains from foreign exchange transactions in currencies other than Singapore dollars carried out in or after the basis period for the year of assessment 1992;
- (e) gains from transactions referred to in paragraph (l) of the definition of “designated investments”; and
- (f) for the purposes of regulation 3, “specified income” includes any fee or compensatory payment received in respect of any loan to —

- (i) an Asian Currency Unit of a financial institution;
or

- (ii) an approved securities company,

of designated securities under a securities lending arrangement in writing where —

“compensatory payment” means a payment in lieu of any interest, dividend or right to purchase warrants, options or additional securities which a lender in a securities lending arrangement would have received in respect of the designated securities relating to such arrangement had it not been for such arrangement;

“designated securities” means —

- (a) stocks, shares, bonds and other securities, denominated in any foreign currency, issued by a company which is not incorporated in Singapore and which is not resident in Singapore; or

- (b) bonds denominated in any foreign currency issued by any foreign government;

“unit” means a right or interest (whether described as a unit, a sub-unit or otherwise) which may be acquired under a unit trust;

“unit trust” means any trust established for the purpose, or having the effect, of providing facilities for the participation by persons as beneficiaries under a trust, in profits or income arising from the acquisition, management or disposal of securities or any other property.

Exemption

3. Subject to regulations 5 and 6, there shall be exempt from tax the specified income derived by a foreign investor —

- (a) after 1st May 1983 from funds managed by an Asian Currency Unit specially approved by the Minister or such person as he may appoint in respect of any designated investments specified in paragraphs (a) to (h) of the definition of “designated investments”; and
- (b) after 7th March 1986 from funds managed by an Asian Currency Unit or other fund manager approved by the Minister or such person as he may appoint in respect of any designated investments.

Exemption of income of headquarters company and Finance and Treasury Centre

4.—(1) Subject to regulations 5 and 6, there shall be exempt from tax the specified income derived —

- (a) in or after the basis period for the year of assessment 1991, from funds managed by a headquarters company approved under section 43E of the Act, by any of its associated companies outside Singapore approved under that section which satisfies the condition in paragraph (2) in respect of any designated investments; and
- (b) in or after the basis period for the year of assessment 1991, from funds managed by a Finance and Treasury Centre approved under section 43G of the Act, by any of its associated companies approved under that section which satisfies the condition in paragraph (2) in respect of any designated investments.

(2) The condition mentioned in paragraph (1) is that not less than 80% of the issued share capital of the associated company is beneficially owned, directly or indirectly, by persons who are not citizens of Singapore and not resident in Singapore.

(3) The Minister or such person as he may appoint may waive the condition mentioned in paragraph (2).

No deduction in respect of loss arising from designated investments

5. Notwithstanding anything in these Regulations, no deduction shall be allowed under the Act to any associated company referred to in regulation 4 or any foreign investor in respect of any loss arising —

- (a) from the sale of any designated investments if any gains or profits realised from the sale of such investments would have been exempt from tax under regulation 3 or 4;
- (b) from any foreign exchange transaction in currencies other than Singapore dollars carried out in or after the basis period for the year of assessment 1992; and
- (c) from transactions referred to in paragraph (l) of the definition of “designated investments”.

Application

6. These Regulations shall not apply where the foreign investor (other than an individual) or the associated company referred to in regulation 4, as the case may be —

- (a) has a permanent establishment in Singapore (other than an approved fund manager, headquarters company or Finance and Treasury Centre approved under section 43E or 43G of the Act);
- (b) carries on a business in Singapore;
- (c) beneficially owns more than 20% of the issued share capital of any company incorporated in Singapore; or
- (d) has 20% or more of its issued share capital beneficially owned, directly or indirectly, by a company which falls within paragraph (a), (b) or (c),

unless approval is granted by the Minister or such person as he may appoint.

[G.N. Nos. S 234/88; S 14/89; S 495/92; S 501/93;
S 57/95; S 178/96; S 481/99]
