

**Income Tax (Exemption of Income of Approved Companies Arising from Funds
Managed by Fund Manager in Singapore) Regulations 2010**

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**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(EXEMPTION OF INCOME OF
APPROVED COMPANIES ARISING FROM FUNDS
MANAGED BY FUND MANAGER IN SINGAPORE)
REGULATIONS 2010**

In exercise of the powers conferred by section 13R of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Exemption of Income of Approved Companies Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 and, subject to paragraph (2), shall be deemed to have come into operation on 1st September 2007.

(2) No liability to pay any penalty under section 13R of the Act shall arise in respect of any exemption from tax prior to 7th January 2010.

Definitions

2.—(1) In these Regulations —

“bona fide entity” means an entity that is not a non-bona fide entity;

“designated investments” and “specified income” have the same meanings as in the Income Tax (Exemption of Income of Prescribed Persons Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 6/2010), with references to “prescribed person” therein modified to refer to “approved company”;

[S 383/2016 wef 11/04/2016]

“designated person” has the same meaning as in the Income Tax (Exemption of Income of Prescribed Persons Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010;

[S 383/2016 wef 11/04/2016]

“prescribed percentage”, in relation to an approved company, means —

(a) where the approved company has less than 10 relevant owners, 30%;
or

(b) where the approved company has at least 10 relevant owners, 50%;

“Singapore person”, in relation to an approved company, means a person who is a Singapore citizen, resident in Singapore or permanent establishment in Singapore, but does not include —

(a) a designated person;

[S 345/2012 wef 01/04/2009]

(b) another approved company under section 13R of the Act and which, at all times during the basis period for the year of assessment for which the income of the approved company is exempt from tax under

section 13R of the Act —

- (i) beneficially owns directly, 100% of the value of issued securities of the approved company; and
 - (ii) satisfies the conditions in regulation 3(2); or
[S 345/2012 wef 01/04/2009]
[S 345/2012 wef 01/09/2007]
- (c) an approved person under section 13X of the Act and which, at all times during the basis period for the year of assessment for which the income of the approved company is exempt from tax under section 13R of the Act —
- (i) beneficially owns directly 100% of the value of issued securities of the approved company; and
 - (ii) satisfies the conditions in regulation 3(2) of the Income Tax (Exemption of Income Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 414/2010).

[S 345/2012 wef 01/04/2009]
[S 383/2016 wef 07/07/2010]

(2) For the purposes of section 13R of the Act and these Regulations, issued securities include —

- (a) any right under a contract for differences, or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations, in —
 - (i) the value or price of issued debentures, stocks or shares;
 - (ii) the value or price of any group of any such debentures, stocks or shares; or
 - (iii) an index of any such debentures, stocks or shares; and
- (b) derivatives of a buy-sell nature for funding purpose,

but does not include —

- (A) futures contracts which are traded on a futures market;
- (B) bills of exchange;
- (C) promissory notes; or

(D) certificates of deposit issued by a bank or finance company.

(3) Any reference in section 13R of the Act and these Regulations to the value of issued securities of a company of the type described in paragraph (2), where the relevant day is before 1 April 2014, is a reference to the value of those securities —

- (a) at the time of their issue by the company; or
- (b) in the case of derivatives of a buy-sell nature, at the time of their buy-sell transaction.

[S 383/2016 wef 01/04/2014]

(4) Any reference in these Regulations to the value of issued securities of a company of the type described in paragraph (2), where the relevant day is on or after 1 April 2014, is a reference to the net asset value of those securities on the relevant day.

[S 383/2016 wef 01/04/2014]

(5) In paragraphs (3) and (4), “relevant day”, in relation to a company, is the last day of the basis period of the company for the year of assessment in question.

[S 383/2016 wef 01/04/2014]

Exemption from tax of income under section 13R of Act

3.—(1) Subject to the conditions in paragraph (2) and regulation 4, there shall be exempt from tax the specified income derived by an approved company from funds managed in Singapore by any fund manager in respect of designated investments.

(2) The conditions referred to in paragraph (1) are —

- (a) at all times during the basis period for the year of assessment in question, the aggregate value of the approved company’s issued securities beneficially owned (directly or indirectly) by Singapore persons is less than 100%;

[S 383/2016 wef 01/09/2007]

- (b) the investment strategy remains unchanged from the date the company is approved as an approved company, unless the effective date for the change in the strategy is before 1 April 2019, and the Minister or the Monetary Authority of Singapore is satisfied that the change is made for a *bona fide* commercial purpose;

[S 646/2013 wef 08/10/2012]

[S 383/2016 wef 01/04/2014]

- (c) the income of the approved company is not derived from investments which have been transferred (other than by way of a sale on market terms and conditions) from a person carrying on a business in Singapore where the income derived by that person from those investments was not, or would not have been if not for their transfer, exempt from tax; and

- (d) such conditions as specified in the letter of approval issued by the Monetary Authority of Singapore on approving a company as an approved company under section 13R of the Act.

(3) For the purpose of paragraph (2)(b), the approved company shall give notice of the change in investment strategy, together with such particulars of the change as may reasonably be required, to the Minister or the Monetary Authority of Singapore before the effective date for the change in the strategy.

[S 646/2013 wef 08/10/2012]

No deduction in respect of loss arising from designated investments

4. Notwithstanding anything in these Regulations, no deduction shall be allowed under the Act to —

- (a) any approved company in respect of any loss arising from —
 - (i) 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; and
 - (ii) any transaction, other than those falling under sub-paragraph (i), in respect of any designated investments if any gains or profits from such transaction would have been exempt from tax under regulation 3; and

[S 345/2012 wef 01/09/2007]

- (b) any relevant owner of any approved company in respect of any loss arising from sales or transactions of the types described in paragraph (a) which are otherwise attributable to such relevant owner.

Persons exempted from application of certain provisions

5.—(1) Section 13R(3) of the Act shall not apply to a relevant owner who is —

- (a) an individual;
- (b) a bona fide entity not resident in Singapore who does not have a permanent establishment in Singapore (other than a fund manager) and does not carry on a business in Singapore;
- (c) a bona fide entity not resident in Singapore (excluding a permanent establishment in Singapore) who carries on an operation in Singapore through a permanent establishment in Singapore where the funds used by the entity to invest directly or indirectly in the approved company are not obtained from such operation;