

# **Income Tax (Exemption of Income of Foreign Trusts) Regulations**

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## **INCOME TAX ACT (CHAPTER 134, SECTION 13G)**

## **INCOME TAX (EXEMPTION OF INCOME OF FOREIGN TRUSTS) REGULATIONS**

[18th March 1994]

## Citation

1. These Regulations may be cited as the Income Tax (Exemption of Income of Foreign Trusts) Regulations and shall have effect for the year of assessment 1994 and subsequent years of assessment.

## Definitions

2. In these Regulations —

“administered by a trustee company” means —

- (a) the provision of services by a trustee company in its capacity as trustee of a foreign trust, including services provided as manager or administrator of an eligible holding company in relation to that foreign trust; or
- (b) the provision of services by a trustee company to a trustee of a foreign trust under a contract for services with that trustee, such services being all or any of the following:
  - (i) the establishing of a foreign trust or an eligible holding company;
  - (ii) the administration or management of a foreign trust or an eligible holding company;

*[S 350/2003 wef Y/A 2003 & Sub Ys/A]*

“compensatory payment” has the same meaning as in section 10N(12) of the Act;

*[S 590/2005 wef 27/02/2005]*

“designated investments” 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 (G.N. No. S 6/2010), with references to “prescribed person” therein modified to refer to the eligible holding company or foreign trust referred to in regulation 3, as the case may be;

*[S 263/2013 wef 17/02/2012]*

*[S 499/2010 wef 01/09/2007]*

*[S 263/2013 wef 17/02/2012]*

*[S 499/2010 wef 01/09/2007]*

*[S 150/2020 wef 11/04/2016]*

“eligible holding company” means a company —

- (a) which is incorporated outside Singapore;
- (b) which is set up to hold assets of a foreign trust administered by a trustee company in Singapore;  
*[S 590/2005 wef Y/A 2004 & Sub Ys/A]*
- (c) whose operations consist solely of trading or making investments for the purpose of the foreign trust;
- (d) which does not claim any relief under any arrangement made under section 49 of the Act or any tax credit under section 50A of the Act; and
- (e) all the shares of which are held by the trustees of the foreign trust, or by their nominee;

*[S 350/2003 wef Y/A 2003 & Sub. Ys/A]*

“foreign company” means a company which is neither incorporated nor resident in Singapore and —

- (a) where the company has not more than 50 shareholders, all of its issued shares are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; and  
*[S 95/2006 wef 30/01/2006]*
- (b) where the company has more than 50 shareholders, not less than 95% of the total number of issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore;

*[S 95/2006 wef 30/01/2006]*

*[S 350/2003 wef 02/07/2002]*

“nominee” means any person who acts as a nominee or custodian in relation to shares of an eligible holding company for and on behalf of the trustees of a foreign trust;

*[S 350/2003 wef Y/A 2003 & Sub Ys/A]*

“qualifying debt securities” has the same meaning as in section 13(16) of the Act;

*[S 590/2005 wef 27/02/2004]*

“securities lending or repurchase arrangement” has the same meaning as in section 10N(12) of the Act;

*[S 590/2005 wef 27/02/2004]*

“specified income” means —

- (a) *[Deleted by S 486/2021 wef 01/07/2021]*

- (b) *[Deleted by S 486/2021 wef 01/07/2021]*
- (c) in relation to income derived between 21 February 2014 and 8 March 2020 (both dates inclusive), income specified in Part C of the Schedule; and  
*[S 150/2020 wef 21/02/2014]*
- (d) in relation to income derived on or after 9 March 2020, income specified in Part D of the Schedule;  
*[S 150/2020 wef 21/02/2014]*

“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, holding, management or disposal of securities or any other property.

### **Foreign trust to which Regulations apply**

**2A.—**(1) Subject to paragraph (2), a trust shall be regarded as a foreign trust for the purposes of these Regulations if —

- (a) it is a trust created in writing and every settlor and every beneficiary thereof are —
  - (i) individuals who are neither citizens of Singapore nor resident in Singapore;  
*[S 694/2007 wef 17/02/2006]*
  - (ii) foreign companies;  
*[S 694/2007 wef 17/02/2006]*
  - (iii) persons (other than those mentioned in sub-paragraphs (i) and (ii)) who are neither resident in Singapore nor constituted or registered under any written law in Singapore;  
*[S 694/2007 wef 17/02/2006]*
  - (iv) trustees of other trusts which are regarded as foreign trusts for the purposes of these Regulations; or  
*[S 694/2007 wef 17/02/2006]*
  - (v) trustees of philanthropic purpose trusts where —
    - (A) if they are settlors of the trust referred to in sub-paragraph (a), funds and assets from the foreign accounts of the philanthropic purpose trusts are injected into that trust; or
    - (B) if they are beneficiaries of the trust referred to in sub-

paragraph (a), distributions from that trust accrue to the foreign accounts of the philanthropic purpose trusts; or

*[S 694/2007 wef 17/02/2006]*

(b) it is a unit trust and the whole value of the unit trust fund is beneficially held, directly or indirectly, by —

(i) individuals who are neither citizens of Singapore nor resident in Singapore;

*[S 694/2007 wef 17/02/2006]*

(ii) foreign companies; or

*[S 694/2007 wef 17/02/2006]*

(iii) persons (other than those mentioned in sub-paragraphs (i) and (ii)) who are neither resident in Singapore nor constituted or registered under any written laws in Singapore;

*[S 694/2007 wef 17/02/2006]*

(iv) trustees of other trusts which are regarded as foreign trusts for the purposes of these Regulations; or

*[S 694/2007 wef 17/02/2006]*

(v) trustees of philanthropic purpose trusts where the distributions from the unit trust accrue to the foreign accounts of those philanthropic purpose trusts.

*[S 694/2007 wef 17/02/2006]*

(2) For the purpose of paragraph (1)(a), a trust shall continue to be regarded as a foreign trust notwithstanding that any settlor or beneficiary of the trust who is an individual subsequently becomes a citizen of Singapore or resident in Singapore, if the following conditions are satisfied:

(a) in the case of a settlor who subsequently becomes a citizen of Singapore or resident in Singapore —

(i) no new assets are injected into the trust by the settlor from the day he becomes a citizen of Singapore or resident in Singapore;

(ii) the settlor neither receives nor enjoys any benefit under the trust and shall not exercise any power of appointment in favour of any person who is a citizen of Singapore or resident in Singapore; and

(iii) the settlor neither revokes the trust nor varies the terms of the trust so as to cause any benefit to be paid or otherwise made