

Income Tax (Exemption of Interest and Other Payments on Economic and Technological Development Loans and Finance Leases) (No. 4) Notification 2016

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No. S 636

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(EXEMPTION OF INTEREST AND OTHER PAYMENTS
ON ECONOMIC AND TECHNOLOGICAL DEVELOPMENT
LOANS AND FINANCE LEASES) (NO. 4) NOTIFICATION 2016**

In exercise of the powers conferred by section 13(4) of the Income Tax Act, the Minister for Finance makes the following Notification:

Citation and commencement

1. This Notification is the Income Tax (Exemption of Interest and Other Payments on Economic and Technological Development Loans and Finance Leases) (No. 4) Notification 2016 and is deemed to have come into operation on 17 February 2012.

[S 338/2021 wef 24/02/2015]

General definitions

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

“approved container investment enterprise” has the same meaning as in section 43ZA of the Act, and includes a partnership approved by the Minister (or such person as the Minister may appoint) under section 43ZA of the Act as applied by section 36 of the Act;

“Authority” means the Maritime and Port Authority of Singapore established by section 4 of the Maritime and Port Authority of Singapore Act (Cap. 170A);

[S 338/2021 wef 24/02/2015]

“container” and “intermodal equipment” have the same meanings as in section 43ZA(7) of the Act;

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

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“original container” means any of the containers mentioned in paragraph 3(2)(a), (b), (ba), (bb) or (c) or 5(1), but excludes a container that replaces another container under the terms of the agreement for the applicable loan or applicable finance lease (as the case may be) after that other container is disposed of or lost at sea;

[S 338/2021 wef 24/02/2015]

“qualifying payment”, in relation to an applicable loan or applicable finance lease, means any of the following payments made in connection with the applicable loan or applicable finance lease:

(a) either —

(i) in the case of an applicable loan — interest; or

(ii) in the case of an applicable finance lease — any payment liable to be made by the lessee to the lessor under the finance lease that is not attributable to the repayment of principal;

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

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“specified person”, in relation to an applicable loan or applicable finance lease, means a person who —

- (a) is not resident in Singapore; and
- (b) either —
 - (i) does not (alone or in association with others) carry on a business in Singapore, and does not have a permanent establishment in Singapore; or
 - (ii) 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 or applicable finance lease is made or performed through that business or that permanent establishment.

[S 338/2021 wef 24/02/2015]

Meaning of “applicable loan”

3.—(1) In this Notification, an applicable loan is a loan (or other arrangement similar to a loan) obtained on or before 31 May 2021 by an approved container investment enterprise —

- (a) that is obtained solely for a purpose specified in sub-paragraph (2); or
- (b) where the purposes for which it is obtained include any one or more purposes specified in sub-paragraph (2).

[S 338/2021 wef 17/02/2012]

[S 338/2021 wef 24/02/2015]

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

- (a) the acquisition by the enterprise of one or more containers;
- (b) the acquisition by the enterprise of all the shares of a special purpose vehicle that has sole legal and beneficial ownership of one or more containers;

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(ba) the acquisition by the enterprise of all the shares issued by a special purpose vehicle (called in this paragraph the additional shares) where —

- (i) the enterprise has sole legal and beneficial ownership of all the shares of the special purpose vehicle immediately before the additional shares are issued;
- (ii) the acquisition of the additional shares is for the purpose of financing the acquisition by the special purpose vehicle of one or more containers; and
- (iii) the special purpose vehicle has sole legal and beneficial ownership of each container mentioned in sub-paragraph (ii);

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(bb) the grant of a loan by the enterprise to a special purpose vehicle where —

- (i) the enterprise has sole legal and beneficial ownership of all the shares of the special purpose vehicle;
- (ii) the loan is granted by the enterprise for the purpose of financing the acquisition by the special purpose vehicle of one or more containers; and
- (iii) the special purpose vehicle has sole legal and beneficial ownership of each container mentioned in sub-paragraph (ii); or

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(c) the financing of qualifying payments on a previous loan that is obtained by the enterprise solely for any of the following purposes, or where the purposes for which it is obtained by the enterprise include any one or more of the following:

- (i) the acquisition of one or more containers;
- (ii) the acquisition of all the shares of a special purpose vehicle that has sole legal and beneficial ownership of one or more containers;

- (iii) the acquisition of the additional shares mentioned in sub-paragraph (ba) for the purpose of financing the acquisition of one or more containers mentioned in that sub-paragraph in the circumstances mentioned in sub-paragraph (ba)(i), (ii) and (iii);
- (iv) the grant of a loan by the enterprise in connection with the acquisition of one or more containers mentioned in sub-paragraph (bb) in the circumstances mentioned in sub-paragraph (bb)(i), (ii) and (iii).

[S 338/2021 wef 24/02/2015]

(2A) For the purposes of sub-paragraph (2)(b), (ba), (bb) and (c)(ii), any treasury share in a special purpose vehicle is to be disregarded when determining whether an approved container investment enterprise —

- (a) has sole legal and beneficial ownership of all the shares in the special purpose vehicle; or
- (b) acquires all the shares issued by the special purpose vehicle.

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(3) A reference to the acquisition of one or more containers in the provision in the first column of the following table includes any one or more of the activities mentioned in sub-paragraph (3A) if (and only if) the circumstance in the second column of the table corresponding to that provision exists:

<i>First column</i>	<i>Second column</i>
(a) Sub-paragraph (2)(a) or (c)(i)	The loan or previous loan (as the case may be) obtained by the container investment enterprise is for both the acquisition of the container or containers by the enterprise and the activity or activities
(b) Sub-paragraph (2)(ba)(ii) or (c)(iii)	The acquisition by the container investment enterprise of the additional shares in the special purpose vehicle is for both the acquisition of the container or containers by the special purpose vehicle and the activity or activities
(c) Sub-paragraph (2)(bb)(ii) or (c)(iv)	The loan granted by the container investment enterprise to the special purpose vehicle is for both the acquisition of the container or containers by the special purpose vehicle and the activity or activities.

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(3A) For the purposes of sub-paragraph (3), the activities are as follows: