

Income Tax (Income from Funds Managed for Foreign Investors) Regulations 2003

Table of Contents

Enacting Formula

1 Citation and commencement

2 Definitions

3 Exemption

4 No deduction in respect of loss arising from designated investments

5 Application

6 Revocation

No. S 640

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (INCOME FROM FUNDS MANAGED FOR FOREIGN INVESTORS) REGULATIONS 2003

In exercise of the powers conferred by section 13C 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 (Income from Funds Managed for Foreign Investors) Regulations 2003 and shall be deemed to have come into operation on 3rd May 2002.

Definitions

2.—(1) In these Regulations —

“Approved Securities Company” has the same meaning as in the Income Tax (Concessionary Rate of Tax for Derivatives Activities) Regulations 2003 (G.N. No. S 637/2003);

“approved start-up fund manager” means a start-up fund manager approved under paragraph (4);

[S 785/2005 wef 18/02/2005]

“commodity derivatives” means derivatives, whether traded over-the-counter or on an exchange, the payoffs of which are linked in whole to the payoffs or performance of the underlying commodity;

[S 627/2007 wef 15/02/2007]

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

[S 591/2005 wef 27/02/2004]

“designated investments” means —

- (a) stocks and shares denominated in any foreign currency of companies which are neither incorporated in Singapore nor 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 which are neither incorporated in Singapore nor resident in Singapore;
- (c) futures contracts 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 any approved bank as defined in section 13(16) of the Act;
- (h) foreign currency deposits with financial institutions outside Singapore;

[S 591/2005 wef 01/01/2004]

- (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 which are incorporated in Singapore and resident in Singapore;
 - (j) Singapore Government securities;
 - (k) foreign exchange transactions;
 - (l) interest rate or currency contracts on a forward basis, interest rate or currency options, interest rate or currency swaps, and swaps, forwards and option contracts relating to any designated investment or financial index, with —
 - (i) an Asian Currency Unit of a financial institution, or an Approved Securities Company, before 1st January 2004;
 - (ii) a financial sector incentive company which is —
 - (A) a bank licensed under the Banking Act (Cap. 19);
 - (B) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
or
 - (C) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) to deal in securities or a company exempted under that Act from holding such a licence,
on or after 1st January 2004;
 - (iii) a person who is neither a resident of nor a permanent establishment in Singapore; or
 - (iv) a branch office outside Singapore of a company resident in Singapore;
- [S 591/2005 wef 01/01/2004]*
- (m) units in any unit trust which invests wholly in designated investments;
 - (n) qualifying debt securities that are discount securities which mature within one year from the date of issue of those securities and are issued during the period from 27th February 2004 to 31st December 2008 (both dates inclusive);
- [S 627/2007 wef 15/02/2007]*

- (o) securities (including bonds, notes, certificates of deposits and treasury bills, but excluding stocks and shares) issued by supranational bodies;
[S 591/2005 wef 27/02/2004]
- (p) loans that are —
 - (i) granted by the foreign investor to any company incorporated outside Singapore which is neither a resident nor permanent establishment in Singapore, where no interest, commission, fee or other payment in respect of the loan is deductible against any income of that company accruing in or derived from Singapore; or
 - (ii) granted by a person other than the foreign investor but traded by the foreign investor;
[S 627/2007 wef 15/02/2007]
- (q) commodity derivatives; and
[S 627/2007 wef 15/02/2007]
- (r) physical commodities if —
 - (i) the trading of those physical commodities by the foreign investor in the basis period for any year of assessment is done in connection with and is incidental to its trading of commodity derivatives (referred to in this paragraph as related commodity derivatives) in that basis period; and
 - (ii) the trade volume of those physical commodities traded by the foreign investor in that basis period does not exceed 15% of the total trade volume of those physical commodities and related commodity derivatives traded by the foreign investor in that basis period;
[S 627/2007 wef 15/02/2007]

“designated person” means —

- (a) the Government of Singapore Investment Corporation Pte. Ltd.;
- (b) any statutory board; or
- (c) 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;

“financial sector incentive company” has the same meaning as in section 43Q of

the Act;

[S 591/2005 wef 01/01/2004]

“foreign investor” —

- (a) in relation to an individual, means an individual who is neither a citizen of Singapore nor resident in Singapore and who is the beneficial owner of the funds managed by any fund manager in Singapore;
- (b) in relation to a company, means a company not resident in Singapore where —
 - (i) in the case where the company is incorporated before 15th February 2007, not more than 20% (excluding the total percentage owned directly by designated persons) of the total number of its issued shares are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore; or
 - (ii) in the case where the company is incorporated on or after 15th February 2007, not more than 20% (excluding the total percentage owned directly by designated persons) of the total value of its issued securities are 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);

[S 627/2007 wef 15/02/2007]

“issued securities” means —

- (a) debentures, stocks or shares;
- (b) any right, option or derivative in respect of any such debentures, stocks or shares;
- (c) 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 any such debentures, stocks or shares;