

Income Tax (Income from Syndicated Offshore Credit and Underwriting Facilities) Regulations

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INCOME TAX ACT (CHAPTER 134, SECTION 43A)

INCOME TAX (INCOME FROM SYNDICATED OFFSHORE CREDIT AND UNDERWRITING FACILITIES) REGULATIONS

Rg 4

G.N. No. S 35/1986

REVISED EDITION 2001

(31st May 2001)

[14th February 1986]

Citation

1. These Regulations may be cited as the Income Tax (Income from Syndicated Offshore Credit and Underwriting Facilities) Regulations and shall have effect for the year of assessment 1984 and subsequent years of assessment.

Definitions

2. In these Regulations —

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

“Asian Currency Unit” means an operational unit that was approved by the Monetary Authority of Singapore under section 77(5) of the Banking Act (Cap. 19) as in force immediately before 1 July 2021;

[S 489/2021 wef 01/07/2021]

“corresponding Regulations” means the Income Tax (Exemption of Income from Syndicated Offshore Facilities) Regulations 2003 (G.N. No. S 183/2003);

[S 236/2009 wef 17/01/2008]

“financial institution” means —

(a) a bank that holds a licence under section 7 or 79 of the Banking Act;
or

(b) a merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;

[S 489/2021 wef 01/07/2021]

“FRS 39” has the same meaning as in section 34A of the Act;

[S 236/2009 wef 17/01/2008]

“FRS 109” and “SFRS(I) 9” have the meanings given to those expressions in section 34AA(15) of the Act;

[S 54/2020 wef 12/11/2018]

“impairment loss” means an impairment loss recognised under FRS 39 or an expected credit loss recognised under FRS 109 or SFRS(I) 9, as the case may be;

[S 236/2009 wef 17/01/2008]

[S 54/2020 wef 12/11/2018]

“specified person”, in relation to any syndicated offshore credit facility —

(a) means a non-resident person (excluding his permanent establishment

in Singapore) or a permanent establishment outside Singapore of a person resident in Singapore in respect of any business carried on outside Singapore through that permanent establishment; and

- (b) where the agreement for the credit facility is made on or after 1st April 1998, includes a person resident in Singapore (but excluding his permanent establishment outside Singapore) and a permanent establishment in Singapore;

“syndicated guarantee facility” means any syndicated facility whereby any guarantee or letter of credit is made available to any financial institution or any approved securities company where —

- (a) the facility is in currencies other than Singapore dollars;
- (b) the guarantee or letter of credit was issued in favour of an Asian Currency Unit of a financial institution or an approved securities company, as the case may be, for the purpose of providing or participating in a loan in currencies other than Singapore dollars made to a non-resident person (but excluding its permanent establishment in Singapore) and the loan is to be used outside Singapore; and
- (c) no interest in respect of the loan referred to in sub-paragraph (b) is borne, directly or indirectly, by any person resident in Singapore (except in respect of any business carried on outside Singapore by a person resident in Singapore through a permanent establishment outside Singapore) or by any permanent establishment in Singapore;

“syndicated offshore credit facility” means —

- (a) any syndicated loan or advance or any facility whereby any fund, guarantee or letter of credit is made available where —
 - (i) in the case of an agreement for a facility made before 14th August 1998, the facility is in currencies other than Singapore dollars;
 - (ii) in the case of a loan, advance or a facility whereby funds are made available, such loan, advance or facility is to be used outside Singapore;
 - (iii) in the case of a guarantee or letter of credit, such guarantee or letter of credit is made available to, and issued in favour of, a non-resident person (but excluding his permanent

establishment in Singapore) or a person resident in Singapore in respect of any business carried on outside Singapore through a permanent establishment outside Singapore;

- (iv) in the case of a loan, advance or a facility whereby funds are made available and such loan, advance or facility is made available to a person referred to in paragraph (a) of the definition of “specified person”, no interest, commission, fee or any other payment in respect of the credit facility is borne, directly or indirectly, by any person resident in Singapore (except in respect of any business carried on outside Singapore by a person resident in Singapore through a permanent establishment outside Singapore) or by any permanent establishment in Singapore;
 - (v) in the case of a loan, advance or a facility whereby funds are made available and such loan, advance or facility is made available to a person referred to in paragraph (b) of the definition of “specified person”, no interest, commission, fee or any other payment in respect of the credit facility is deductible against any income of that person accruing in or derived from Singapore; and
 - (vi) in the case of a guarantee or letter of credit, no interest, commission, fee or any other payment in respect of the credit facility is borne, directly or indirectly, by any person resident in Singapore (except in respect of any business carried on outside Singapore by a person resident in Singapore through a permanent establishment outside Singapore) or by any permanent establishment in Singapore; or
- (b) any syndicated facility for the issue of any bonds, notes, certificates of deposit or other instruments of indebtedness provided to any specified person where the agreement for the facility is made on or after 11th July 1997, and where —
- (i) in the case of an agreement for a facility made before 14th August 1998, the bonds, notes, certificates of deposit or other instruments of indebtedness are in currencies other than Singapore dollars;

- (ii) the proceeds from the issue of such bonds, notes, certificates of deposit or other instruments of indebtedness are to be used outside Singapore;
- (iii) the person to whom such syndicated facility is provided is a person referred to in paragraph (a) of the definition of “specified person”, no interest, commission, fee or any other payment in respect of the syndicated facility is borne, directly or indirectly, by any person resident in Singapore (except in respect of any business carried on outside Singapore by a person resident in Singapore through a permanent establishment outside Singapore) or by any permanent establishment in Singapore; and
- (iv) the person to whom such syndicated facility is provided is a person referred to in paragraph (b) of the definition of “specified person”, no interest, commission, fee or any other payment in respect of the syndicated facility is deductible against any income of that person accruing in or derived from Singapore;

“syndicated offshore underwriting facility” means any facility for the underwriting of bonds, notes, certificates of deposit or other instruments of indebtedness provided to a non-resident person (but excluding its permanent establishment in Singapore) or to a permanent establishment outside Singapore of a person resident in Singapore in respect of any business carried on outside Singapore through that permanent establishment where the agreement for the facility was made before 11th July 1997, and where —

- (a) the bonds, notes, certificates of deposit or other instruments of indebtedness are in currencies other than Singapore dollars;
- (b) the proceeds from the issue of such bonds, notes, certificates of deposit or other instruments of indebtedness are to be used outside Singapore; and
- (c) no interest, commission, fee payable or any other payment in respect of the underwriting facility is borne, directly or indirectly, by any person resident in Singapore (except in respect of any business carried on outside Singapore by a person resident in Singapore through a permanent establishment outside Singapore) or by any permanent establishment in Singapore.