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**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(ADJUSTMENT FOR CHANGE OF BASIS OF
COMPUTING PROFIT, LOSS OR EXPENSE OF FINANCIAL
INSTRUMENTS RESULTING FROM FRS 109 OR SFRS(I) 9)
(AMENDMENT NO. 2) REGULATIONS 2020**

In exercise of the powers conferred by sections 14I(2H) and 34AA(13) of the Income Tax Act, the Minister for Finance makes the following Regulations:

Citation and commencement

1. These Regulations are the Income Tax (Adjustment for Change of Basis of Computing Profit, Loss or Expense of Financial Instruments resulting from FRS 109 or SFRS(I) 9) (Amendment No. 2) Regulations 2020 and come into operation on 22 May 2020.

Amendment of regulation 2

2. Regulation 2(1) of the Income Tax (Adjustment for Change of Basis of Computing Profit, Loss or Expense of Financial Instruments resulting from FRS 109 or SFRS(I) 9) Regulations 2020 (G.N. No. S 4/2020) (called in these Regulations the principal Regulations) is amended —

(a) by inserting, immediately after the definition of “date of initial application”, the following definition:

““FRS 12” means the financial reporting standard known as Financial Reporting Standard 12 (Income Taxes) that is made, and amended from time to time, under Part III of the Accounting Standards Act (Cap. 2B);” and

(b) by inserting, immediately after the definition of “qualifying person”, the following definition:

““SFRS(I) 1-12” means the financial reporting standard known as Singapore Financial Reporting Standard (International) 1-12 (Income Taxes) that is made, and amended from time to time, under Part III of the Accounting Standards Act;”.

Amendment of regulation 4

3. Regulation 4 of the principal Regulations is amended by deleting the words “the Schedule” in paragraphs (2) and (2A) and substituting in each case the words “the First Schedule”.

Amendment of regulation 5

4. Regulation 5 of the principal Regulations is amended by deleting paragraph (4).

New regulations 6, 7, 8 and 9

5. The principal Regulations are amended by inserting, immediately after regulation 5, the following regulations:

“Additional amount treated as income under section 34AA(7) of Act or allowable as deduction under section 34AA(10) of Act due to capital loss or gain, where financial instrument had not been disposed of

6.—(1) The purpose of this regulation is to determine the additional amount of any other gain, loss or expense in respect of a financial instrument that is treated as income under section 34AA(7) of the Act or allowable as a deduction under section 34AA(10) of the Act (as the case may be), where the financial instrument had not yet been disposed of by the qualifying person on the last day of the basis period for the year of assessment immediately before the year of assessment in which the Comptroller makes the discovery —

(a) under section 34AA(7) of the Act, that a deduction ought not to have been allowed for a loss or expense

in respect of the financial instrument as it is capital in nature; or

- (b) under section 34AA(10) of the Act, that a gain in respect of the financial instrument ought not to have been charged with tax as it is capital in nature.

(2) The additional amount is computed using the formula specified in the second column of the Second Schedule opposite the description in the first column of that Schedule to which the financial instrument belongs.

Additional amount treated as income under section 34AA(7) of Act or allowable as deduction under section 34AA(10) of Act due to revenue gain or loss, where financial instrument had not been disposed of

7.—(1) The purpose of this regulation is to determine the additional amount of any other gain, loss or expense in respect of a financial instrument that is treated as income under section 34AA(7) of the Act or allowable as a deduction under section 34AA(10) of the Act (as the case may be), where the financial instrument had not yet been disposed of by the qualifying person on the last day of the basis period for the year of assessment immediately before the year of assessment in which the Comptroller makes the discovery —

- (a) under section 34AA(7) of the Act, that a gain in respect of the financial instrument ought to have been charged with tax as it is revenue in nature; or
- (b) under section 34AA(10) of the Act, that a deduction ought to have been allowed for a loss or expense in respect of the financial instrument as it is revenue in nature.

(2) The additional amount is computed using the formula specified in the second column of the Third Schedule opposite the description in the first column of that Schedule to which the financial instrument belongs.

Additional amount treated as income under section 34AA(7) of Act or allowable as deduction under section 34AA(10) of Act due to capital loss or gain, where financial instrument had been disposed of

8.—(1) The purpose of this regulation is to determine the additional amount of any other gain, loss or expense in respect of a financial instrument that is treated as income under section 34AA(7) of the Act or allowable as a deduction under section 34AA(10) of the Act (as the case may be), where the financial instrument —

- (a) had been disposed of by the qualifying person; or
- (b) being a debt instrument, had been disposed of by the qualifying person, had matured or had been redeemed,

on or before the last day of the basis period for the year of assessment immediately before the year of assessment in which the Comptroller makes the discovery —

- (c) under section 34AA(7) of the Act, that a deduction ought not to have been allowed for a loss or expense in respect of the financial instrument as it is capital in nature; or
- (d) under section 34AA(10) of the Act, that a gain in respect of the financial instrument ought not to have been charged with tax as it is capital in nature.

(2) Where the financial instrument (including a debt instrument) had been disposed of by the qualifying person, the additional amount is computed using the formula $B - A$, where —

- (a) A is the consideration received or receivable by the qualifying person from the disposal of the financial instrument; and
- (b) B is the cost incurred by the qualifying person in acquiring the financial instrument.

(3) Where the financial instrument is a debt instrument that had matured or had been redeemed, the additional amount is —

- (a) if the amount received or receivable by the qualifying person on the maturity or redemption of the debt instrument is equal to or greater than the amount for which the debt instrument was first issued — zero; or
- (b) if the amount received or receivable by the qualifying person on the maturity or redemption of the debt instrument is less than the amount for which the debt instrument was first issued — computed using the formula $C - D$, where —
 - (i) C is the amount for which the debt instrument was first issued; and
 - (ii) D is the amount received or receivable by the qualifying person on the maturity or redemption of the debt instrument.

Additional amount treated as income under section 34AA(7) of Act or allowable as deduction under section 34AA(10) of Act due to revenue gain or loss, where financial instrument had been disposed of

9.—(1) The purpose of this regulation is to determine the additional amount of any other gain, loss or expense in respect of a financial instrument that is treated as income under section 34AA(7) of the Act or allowable as a deduction under section 34AA(10) of the Act (as the case may be), where the financial instrument —

- (a) had been disposed of by the qualifying person; or
- (b) being a debt instrument, had been disposed of by the qualifying person, had matured or had been redeemed,

on or before the last day of the basis period for the year of assessment immediately before the year of assessment in which the Comptroller makes the discovery —