

Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) (Amendment) Regulations 2010

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No. S 54

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (CONCESSIONARY RATE OF TAX FOR FINANCIAL SECTOR
INCENTIVE COMPANIES) (AMENDMENT) REGULATIONS 2010**

In exercise of the powers conferred by section 43Q of the Income Tax Act, the

Minister for Finance hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) (Amendment) Regulations 2010 and shall, subject to paragraphs (2) to (6), come into operation on 3rd February 2010.

(2) Regulations 2(*d*) and (*i*) and 4(*a*) and (*b*) shall be deemed to have come into operation on 15th February 2007.

(3) Regulations 2(*a*), (*e*) (in relation to the definition of “non-qualifying investor”) and (*f*), 4(*c*) to (*f*), 5, 6 and 8(*f*) shall be deemed to have come into operation on 1st September 2007.

(4) Regulation 2(*e*) (in relation to the definitions of “offshore credit facility” and “offshore guarantee facility”), (*g*) and (*h*), 7(*a*) to (*e*) and (*g*), 8(*e*) and 9 shall be deemed to have come into operation on 16th February 2008.

(5) Regulations 2(*b*) and (*c*), 3(*a*), (*b*), (*c*) and (*d*) and 7(*f*) shall be deemed to have come into operation on 1st April 2008.

(6) Regulation 8(*a*) to (*d*) shall be deemed to have come into operation on 1st January 2009.

Amendment of regulation 2

2. Regulation 2 of the Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) Regulations 2005 (G.N. No. S 735/2005) (referred to in these Regulations as the principal Regulations) is amended —

- (*a*) by deleting the words “Income Tax (Income from Funds Managed for Foreign Investors) Regulations 2003 (G.N. No. S 640/2003)” in the definition of ““designated investments” and “designated person”” in paragraph (1) and substituting the words “Income Tax (Exemption of Income of Non-residents Arising From Funds Managed by Fund Manager in Singapore) Regulations 2010 (G.N. No. S 6/2010)”;
- (*b*) by inserting, immediately after the definition of “financial sector incentive (credit facilities syndication) company” in paragraph (1), the following definition:

““financial sector incentive (debt capital market) company”
means a company approved as such under section 43Q of
the Act;”;

- (c) by inserting, immediately after the definition of “financial sector incentive (headquarter services) company” in paragraph (1), the following definition:

“ “financial sector incentive (Islamic finance) company” means a company approved as such under section 43Q of the Act;”;

- (d) by inserting, immediately after the words “derivatives of a buy-sell nature” in the definition of “issued securities” in paragraph (1), the words “for funding purpose”;

- (e) by deleting the definition of ““offshore credit facility” and “offshore guarantee facility”” in paragraph (1) and substituting the following definitions:

“ “non-qualifying investor”, in relation to a prescribed person or an approved company as at the last day of its basis period for any year of assessment, means —

- (a) a relevant owner referred to in section 13CA or 13R of the Act, as the case may be;
- (b) a relevant beneficiary referred to in section 13CA of the Act; or
- (c) a person referred to in section 13CA(6) or 13R(5) of the Act that has equity interest in the prescribed person or approved company, as the case may be,

who is liable to pay a penalty as determined in accordance with section 13CA or 13R of the Act as the case may be, which is based on the income of the prescribed person or approved company for its basis period relating to the same year of assessment;

“offshore credit facility” means —

- (a) any facility where —
 - (i) loans, advances or funds are made available to a person referred to in paragraph (a) of the definition of “specified person”;
 - (ii) the loans, advances or funds made available are to be used outside

Singapore; and

- (iii) no interest, commission, fee or other payment in respect of the 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;

(b) any facility where —

- (i) loans, advances or funds are made available to a person referred to in paragraph (b) of the definition of “specified person”;
- (ii) the loans, advances or funds made available are to be used outside Singapore; and
- (iii) no interest, commission, fee or other payment in respect of the facility is deductible against any income of that person accruing in or derived from Singapore;

(c) any facility where —

- (i) guarantees or letters of credit are made available to, and issued in favour of, a non-resident person (other than 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; and

- (ii) no interest, commission, fee or other payment in respect of the 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;
- (d) any facility where —
 - (i) the issue of bonds, notes, certificates of deposit or other instruments of indebtedness is provided to a person referred to in paragraph (a) of the definition of “specified person”;
 - (ii) the funds raised from the issue of such bonds, notes, certificates of deposit or other instruments of indebtedness are to be used outside Singapore; and
 - (iii) no interest, commission, fee or other payment in respect of the 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
- (e) any facility where —
 - (i) the issue of bonds, notes, certificates of deposit or other instruments of indebtedness is provided to a person referred to in paragraph (b) of the