

**Income Tax (Exemption of Income of Non-residents Arising from Funds
Managed by Fund Manager in Singapore) Regulations 2010**

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**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(EXEMPTION OF INCOME OF
NON-RESIDENTS ARISING FROM FUNDS
MANAGED BY FUND MANAGER IN SINGAPORE)
REGULATIONS 2010**

In exercise of the powers conferred by section 13CA 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 (Exemption of Income of Non-residents Arising from Funds Managed by Fund Manager in Singapore) Regulations 2010 and shall be deemed to have come into operation on 1st September 2007.

(2) No liability to pay any penalty under section 13CA of the Act shall arise in respect of any exemption from tax prior to 7th January 2010.

Definitions

2.—(1) In these Regulations —

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

“bona fide entity” means an entity that is not a non-bona fide entity;

“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;

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

“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;
- (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) 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;
 - (ii) a person who is neither resident in Singapore nor a permanent establishment in Singapore; or
 - (iii) a branch office outside Singapore of a company resident in Singapore;
- (m) units in any unit trust which invests wholly in designated investments;
- (n) qualifying debt securities that are discount securities issued during the period from 17th February 2006 to 31st December 2013 (both dates inclusive);
- (o) securities (including bonds, notes, certificates of deposits and treasury bills, but excluding stocks and shares) issued by supranational bodies;

- (p) loans that are —
 - (i) granted by the prescribed person to any company incorporated outside Singapore which is neither resident in Singapore nor a 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 prescribed person but traded by the prescribed person;
- (q) commodity derivatives; and
- (r) physical commodities if —
 - (i) the trading of those physical commodities by the prescribed person 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 prescribed person in that basis period does not exceed 15% of the total trade volume of those physical commodities and related commodity derivatives traded by the prescribed person in that basis period;

“designated person” means —

- (a) the Government of Singapore Investment Corporation Pte. Ltd.;
- (b) the Monetary Authority of Singapore; 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;

“prescribed person” —

- (a) in relation to an individual, means an individual who is neither a Singapore citizen 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 which —
- (i) is not resident in Singapore;
 - (ii) does not have a permanent establishment in Singapore (other than a fund manager);
 - (iii) does not carry on a business in Singapore;
 - (iv) at all times has less than 100% of the value of its issued securities beneficially owned, directly or indirectly, by Singapore persons collectively; and
 - (v) is not a company the income of which is derived from investments which have been transferred (other than by way of a sale on market terms and conditions) from a person carrying on a business in Singapore where the income derived by that person from those investments was not, or would not have been if not for their transfer, exempt from tax;
- (c) in relation to a trustee of a trust fund, means a trustee of that trust fund —
- (i) who is neither resident in Singapore, a Singapore citizen nor a permanent establishment in Singapore;
 - (ii) who does not have a permanent establishment in Singapore (other than a fund manager);
 - (iii) who does not carry on a business in Singapore;
 - (iv) where at all times, less than 100% of the value of that trust fund is beneficially held, directly or indirectly, by Singapore persons collectively; and
 - (v) who is not a trustee the income of which is derived from investments which have been transferred to him in his capacity as a trustee of that trust fund (other than by way of a sale on market terms and conditions) from a person carrying on a business in Singapore where the income

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