

Income Tax (Income from Syndicated Offshore Credit and Underwriting Facilities) (Amendment) Regulations 2009

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No. S 236

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (INCOME FROM SYNDICATED OFFSHORE CREDIT AND UNDERWRITING FACILITIES) (AMENDMENT) REGULATIONS 2009

In exercise of the powers conferred by section 43A 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 (Income from Syndicated Offshore Credit and Underwriting Facilities) (Amendment) Regulations 2009 and shall, with the exception of regulation 5, be deemed to have come into operation on 17th January 2008.

(2) Regulation 5 shall come into operation on 28th May 2009.

Amendment of regulation 2

2. Regulation 2 of the Income Tax (Income from Syndicated Offshore Credit and Underwriting Facilities) Regulations (Rg 4) (referred to in these Regulations as the principal Regulations) is amended —

- (a) by inserting, immediately after the definition of “approved securities company”, the following definition:

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

- (b) by inserting, immediately after the definition of “financial institution”, the following definitions:

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

“impairment loss” means an impairment loss recognised under FRS 39;”.

Amendment of regulation 4

3. Regulation 4 of the principal Regulations is amended —

- (a) by deleting the words “capital allowances attributable to” in paragraph (2) and substituting the words “capital allowances or donations attributable to”;
- (b) by deleting the words “or capital allowances” in paragraph (2) and substituting the words “, capital allowances or donations”; and
- (c) by deleting paragraphs (3) to (6) and substituting the following paragraphs:

“(3) For the purposes of paragraphs (1) and (2) —

- (a) the deduction of donations shall only be made after the deduction of capital allowances and losses;
- (b) a donation made on an earlier date shall be deducted in priority over a donation made on a later date; and
- (c) the deduction of the donations shall as far as possible be made against the income to be exempted from tax for the year of assessment relating to the year in which the donations were made and, so far as the deduction cannot be so

made, then against the income to be exempted from tax for the subsequent year of assessment, and so on; except that any balance of the donations not deducted against the income to be exempted from tax for the fifth year of assessment after the year of assessment relating to the year in which the donations were made shall be disregarded.

(4) Where the income to be exempted from tax under regulation 3(2) is income referred to in regulation 5(5)(b) or 6(6)(b), then the income to be so exempted shall be further reduced by the amount of deemed income referred to in regulation 5(5) or 6(6).”

New regulations 5 and 6

4. The principal Regulations are amended by inserting, immediately after regulation 4, the following regulations:

“Deduction of unabsorbed losses, capital allowances and donations

5.—(1) Any balance of the losses, capital allowances and donations referred to in regulation 4 remaining unabsorbed on the day the financial institution or approved securities company permanently ceases to provide any approved syndicated offshore credit or underwriting facility or syndicated guarantee facility, or any syndicated offshore credit or guarantee facility to which the corresponding Regulations apply, shall be available as a deduction —

- (a) for the year of assessment which relates to the basis period in which the institution or company permanently ceases to provide such facility, against the following income of the institution or company and in the following order:
 - (i) any income subject to tax at the rate of tax of 5%;
 - (ii) any income subject to tax at a rate of tax other than 5% or the rate of tax specified in section 43(1)(a) of the Act;
 - (iii) any income subject to tax at the rate of tax specified in section 43(1)(a) of the Act;
- (b) so far as the deduction cannot be allowed under sub-paragraph (a), for any subsequent year of assessment against any income of the institution or company referred to in sub-paragraph (a)(i), (ii) and (iii) and in the order specified therein.

(2) Capital allowances may be deducted under paragraph (1) only if the financial institution or approved securities company continues to carry on the same trade or business in respect of the gains or profits of which the allowances falls to be made, and the allowances shall be disregarded if the institution or company has ceased to do so.

(3) Section 37B of the Act shall apply to any deduction under sub-paragraphs (a) and (b) of paragraph (1) as if the balance of losses, capital allowances and donations available as a deduction under those sub-paragraphs were unabsorbed losses, capital allowances and donations in respect of income subject to tax at the rate of tax of 5%.

(4) Sections 23(4) to (8) and 37(12) to (17) of the Act shall apply, with the necessary modifications, to any deduction under paragraph (1)(a) or (b).

(5) Where —

- (a) a deduction has been allowed under paragraph (1)(a) or (b) to a financial institution or an approved securities company for the year of assessment relating to any basis period (referred to in this paragraph as the initial basis period); and
- (b) the institution or company derives exempt income in any basis period subsequent to the initial basis period (referred to in this paragraph as the subsequent basis period),

then an amount equal to the lower of the following shall be deemed to be income derived by the institution or company in the subsequent basis period and chargeable to tax at the rate of tax of 5% for the year of assessment relating to that basis period:

- (i) the amount of the deduction allowed under paragraph (1)(a) or (b), less any amount or amounts deemed to be income of the institution or company by virtue of one or more earlier applications of this paragraph; and
- (ii) the amount of the exempt income derived in the subsequent basis period.

(6) In paragraph (5), “exempt income” means income that is exempt from tax under regulation 3(2), or regulation 4(1) of the corresponding Regulations.

Deduction of bad debt, provision for doubtful debt and impairment loss

6.—(1) Any bad debt, provision for doubtful debt or impairment loss in respect