

Income Tax (Amalgamation of Companies) Regulations 2011

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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (AMALGAMATION OF COMPANIES) REGULATIONS 2011

In exercise of the powers conferred by section 34C of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Income Tax (Amalgamation of Companies) Regulations 2011 and shall be deemed to have come into operation on 22nd January 2009.

Definitions

2. In these Regulations, references to an amalgamated company and to an amalgamating company are references to an amalgamated company and an amalgamating company, respectively, in the same qualifying amalgamation referred to in section 34C of the Act.

PART II

GENERAL MODIFICATIONS AND
EXCEPTIONS TO ACT AND
THE ECONOMIC EXPANSION INCENTIVES
(RELIEF FROM INCOME TAX) ACT

Modification or exception to Act or Economic Expansion Incentives (Relief from Income Tax) Act for deductions, allowances and writing-down allowances claimable for more than one year of assessment

3.—(1) Where —

- (a) an amalgamating company was entitled to any deduction, allowance or writing-down allowance under any provision of the Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) in respect of any expenditure incurred by the amalgamating company in relation to any

property;

- (b) the amalgamating company ceased to exist upon the amalgamation in a basis period relating to any year of assessment;
- (c) the property is transferred to the amalgamated company pursuant to the amalgamation; and
- (d) the amalgamating company would have, but for the amalgamation, continued to be entitled to any deduction, allowance or writing-down allowance under that provision of the Act or the Economic Expansion Incentives (Relief from Income Tax) Act in respect of that expenditure in any subsequent year of assessment,

then —

- (i) subject to paragraph (2), the amalgamated company shall be entitled to the deduction, allowance or writing-down allowance referred to in subparagraph (d) as if it were the amalgamating company; and
- (ii) such transfer of the property shall not —
 - (A) be considered to be a transfer, sale, disposal or assignment of the property by the amalgamating company for the purposes of that provision of the Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86); or
 - (B) be considered to have resulted in the property ceasing to belong to the amalgamating company for the purpose of section 20 of the Act,

as the case may be.

(2) Notwithstanding paragraph (1)(i), where the amalgamating company would not have been entitled to any deduction, allowance or writing-down allowance referred to in that paragraph but for any approval granted by the Minister or such person as he may appoint, the amalgamated company shall not be entitled to the deduction, allowance or writing-down allowance unless the amalgamated company itself is granted the same approval.

(3) For the avoidance of doubt, save as is provided in paragraph (1)(ii), the provision of the Act or the Economic Expansion Incentives (Relief from Income Tax) Act under which the amalgamating company was entitled to the deduction, allowance or writing-down allowance shall apply to the amalgamated company as if it were the amalgamating company.