

**Income Tax (Exemption of Income from Syndicated Offshore Facilities)
Regulations 2003**

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**THE SCHEDULE Criteria for Determining Whether Facility Is A Syndicated
Facility With Syndication Work Carried Out Substantially in Singapore**

No. S 183

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (EXEMPTION OF INCOME FROM SYNDICATED OFFSHORE
FACILITIES) REGULATIONS 2003**

In exercise of the powers conferred by section 43A of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Income Tax (Exemption of Income from Syndicated Offshore Facilities) Regulations 2003.

Definitions

2. In these Regulations, unless the context otherwise requires —

“corresponding Regulations” means the Income Tax (Income from Syndicated Offshore Credit and Underwriting Facilities) Regulations (Rg 4);

[S 237/2009 wef 17/01/2008]

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

[S 237/2009 wef 17/01/2008]

“FRS 109” and “SFRS(I) 9” have the meanings given to those expressions in section 34AA(15) of the Act;

[S 55/2020 wef 12/11/2018]

“impairment loss” means an impairment loss recognised under FRS 39 or an expected credit loss recognised under FRS 109 or SFRS(I) 9, as the case may be;

[S 237/2009 wef 17/01/2008]

[S 55/2020 wef 12/11/2018]

“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 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 deductible against any income of that person accruing in or derived from Singapore;

“offshore guarantee facility” means any facility where —

- (a) guarantees or letters of credit are made available to and issued in favour of a specified financial institution for the purpose of providing or participating in a loan made to a non-resident person (other than his permanent establishment in Singapore);
- (b) the loan is to be used outside Singapore; and
- (c) no interest in respect of the loan 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;

“related party”, in relation to any specified person, means any other person who —

- (a) controls the specified person, whether directly or indirectly;
- (b) is controlled by the specified person, whether directly or indirectly; or
- (c) together with the specified person, is controlled by a common person, whether directly or indirectly;

“specified financial institution” means —

- (a) a bank that holds a licence under section 7 or 79 of the Banking Act (Cap. 19);

[S 481/2021 wef 01/07/2021]

- (b) a merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act; or

[S 481/2021 wef 01/07/2021]

- (c) a company approved under section 43A(1)(c) of the Act;

“specified person”, in relation to any offshore credit facility —

- (a) means a non-resident person (other than his permanent establishment in Singapore) or a permanent establishment outside Singapore of a person resident in Singapore in respect of any business carried on outside Singapore through that permanent establishment; and
- (b) where the agreement for the offshore credit facility is made on or after 1st April 1998, includes a 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) and a permanent establishment in Singapore.

Application

3.—(1) These Regulations shall apply to any syndicated offshore facility which is an offshore credit facility or an offshore guarantee facility where —

- (a) the agreement for the facility is made during the period from 27th February 1998 to 31st December 2003 (both dates inclusive);
- (b) the facility is a syndicated facility, as determined in accordance with paragraph 1 of the Schedule;
- (c) the syndication work in respect of the facility is carried out substantially in Singapore, as determined in accordance with paragraph 2 of the Schedule; and
- (d) in the case of a facility where the agreement for the facility is made during the period from 27th February 1998 to 13th August 1998 (both dates inclusive), the facility is in currencies other than Singapore dollars.

(2) The Minister or such person as he may appoint may in any particular case waive any requirement specified in paragraph (1) or the Schedule, subject to such conditions as he may impose.

Tax exemption

4.—(1) Subject to these Regulations, there shall be exempt from tax the income of a specified financial institution from any syndicated offshore facility.