

Income Tax (Amendment) Bill

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Bill No: 17/1996

Read the first time: 21st May 1996

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Income Tax (Amendment) Bill

Bill No. 17/1996

Read the first time on 21st May 1996.

An Act to amend the Income Tax Act (Chapter 134 of the 1996 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of

Singapore, as follows:

Short title

1. This Act may be cited as the Income Tax (Amendment) Act 1996.

New sections 10F and 10G

2. The Income Tax Act (referred to in this Act as the principal Act) is amended by inserting, immediately after section 10E, the following sections:

“Gains from short-term real property transactions

10F.—(1) Where any person has disposed of any real property (with or without any change in use, improvement or development after its acquisition) on or after 15th May 1996 before the expiration of the period of 3 years from the date on which he acquired the real property, then, notwithstanding any other provisions of this Act but subject to this section, the relevant amount of any gain arising from the disposal of the real property shall be deemed to be income of the person chargeable to tax under section 10(1)(g).

(2) Where any loss arises from the disposal of any real property referred to in subsection (1), the relevant amount of such loss shall be available as a deduction in accordance with subsection (3).

(3) The relevant amount of any loss incurred by any person from the disposal of any real property to which subsection (1) applies during the basis period for any year of assessment shall only be available as a deduction against any income of the person which is chargeable to tax by virtue of subsection (1) or section 10G for that year of assessment and any balance of such loss shall not be available as a deduction against any income of the person for any subsequent year of assessment.

(4) Where any person disposes of any real property otherwise than in a transaction at arm's length, the disposal of the real property by that person shall be deemed to have been made for a consideration equal to the market value of the real property as at the date of disposal.

(5) Where any person disposes of any real property in pursuance of an option or agreement, this section shall have effect as if the person had disposed of the real property on the date on which the option was exercised or the agreement entered into, as the case may be.

(6) Where a person entitled to any real property by way of security or to the benefit of a charge or incumbrance on any real property deals with the real property for the purpose of enforcing or giving effect to the security, charge or incumbrance, his dealings with it shall be treated for the purpose of this section as if they were done through him as nominee by the person entitled to it subject to the

security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver and manager as it applies to the dealings of the person so entitled.

(7) In this section —

“acquire” includes acquire by way of purchase, grant, exchange, gift, settlement or otherwise; and “acquisition” shall be construed accordingly;

“consideration” means consideration in money or money’s worth;

“disposal”, in relation to any real property, means the sale, conveyance, transfer, assignment, settlement or other alienation of the real property, whether by agreement or otherwise, and includes the creation of a trust in respect of the real property and any transfer by way of a distribution of the real property by a private company to the transferee in his capacity as a shareholder in the company but excludes any disposal —

- (a) upon the death of the owner of the real property;
- (b) as a result of bankruptcy, dissolution, receivership or winding-up of the owner of the real property, other than a voluntary winding-up;
- (c) as a result of compulsory acquisition of the real property under the Land Acquisition Act [Cap. 152];
- (d) by way of a lease or an agreement for a lease of the real property for a term not exceeding 7 years without the option of renewal or purchase;
- (e) by force of law; or
- (f) subject to subsection (6), by way of security (including a retransfer of the real property on redemption of the security);

“gain” means any gain other than gain or profit chargeable to or exempted from tax under any other provisions of this Act;

“land” includes land of any tenure wherever situated in Singapore, whether or not held apart from the surface, and buildings or parts thereof (whether completed or otherwise and whether divided horizontally, vertically or in any other manner) and tenements and hereditaments, corporeal and incorporeal, and any estate or interest therein;

“real property” means any land and any interest, option or other right in or over any land not being trading stock of the owner of the land;

“relevant amount”, in relation to any gain or loss arising from the disposal of any real property —

- (a) where the disposal occurs within one year from the date of acquisition of the real property, is 100% of the amount of gain or loss;
- (b) where the disposal occurs more than one year but not more than 2 years from the date of acquisition of the real property, is $66\frac{2}{3}\%$ of the amount of gain or loss;
- (c) where the disposal occurs more than 2 years but not more than 3 years from the date of acquisition of the real property, is $33\frac{1}{3}\%$ of the amount of gain or loss.

(8) For the purposes of this section —

- (a) a reference to an option or agreement includes a reference to an option or agreement that is not enforceable by legal proceedings whether or not it was intended to be so enforceable;
- (b) a reference to a disposal of any real property includes, unless the context otherwise requires, a reference to a part disposal of any real property;
- (c) a reference to a private company is a reference to a company other than a company the shares in which are listed on any stock exchange in Singapore or elsewhere;
- (d) an arrangement or understanding, whether formal or informal and whether express or implied, shall be deemed to be an agreement;
- (e) if a real property is disposed of or acquired in pursuance of an option or agreement, the date on which the option is exercised or agreement is made, as the case may be, shall be deemed to have been the date on which the real property is disposed of or acquired;
- (f) in the case of a disposal of any real property owned by 2 or more persons as joint owners, the amount of gain or loss shall be presumed, until the contrary is proved, to be shared by the joint owners in equal shares.

(9) The Minister may make regulations to provide —

- (a) for the computation of the amount of gain or loss arising from the disposal of any real property;
- (b) for the deduction of losses and expenditure allowable in relation to the disposal of any real property;
- (c) for the exemption of any real property or class of real property or any person or class of persons from the provisions of this section; and
- (d) generally for giving full effect to or for carrying out the purposes of the provisions of this section.

(10) This section shall not apply to any gain arising from the disposal of any real property which is chargeable to tax under section 10(1)(a).

Gains from short-term transactions of shares in private real property companies

10G.—(1) Where —

- (a) any person has disposed of any shares in a private company on or after 15th May 1996 before the expiration of the period of 3 years from the date on which he acquired the shares; and
- (b) at the time of the disposal of the shares the company is a relevant company,

then, notwithstanding any other provisions of this Act but subject to this section, the relevant amount of any gain arising from the disposal of the shares shall be deemed to be income of the person chargeable to tax under section 10(1)(g).

(2) Where —

- (a) any person has disposed of any shares in a private company on or after 15th May 1996 after the expiration of the period of 3 years from the date on which he acquired the shares;
- (b) the private company had, during the period of 3 years prior to the disposal of the shares by the person referred to in paragraph (a), acquired any real property which continued to be held by the private company at the date of the disposal of the shares by such person; and
- (c) the private company is a relevant company at the time of the disposal of the shares by such person,