

Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) (Amendment) Regulations 2008

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No. S 586

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (CONCESSIONARY RATE OF TAX FOR FINANCIAL SECTOR
INCENTIVE COMPANIES) (AMENDMENT) REGULATIONS 2008**

In exercise of the powers conferred by section 43Q 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 (Concessionary Rate of Tax for Financial Sector Incentive Companies) (Amendment) Regulations 2008.

(2) Regulations 2(a), 4(a) and (b) to (d) (in relation to regulation 4(2D)), 5(a), 6(e) and (f) and 8 (in relation to regulation 4(2D)) shall be deemed to have come into operation on 17th February 2006.

(3) Regulations 2(b), (f) and (g), 3 and 7 shall be deemed to have come into operation on 1st November 2006.

(4) Regulations 2(c), (d), (e) and (h), 4(b) to (d) (in relation to regulation 4(2E)), 5(b), 6(a) to (d) and 8 (in relation to regulation 4(2E)) shall be deemed to have come into operation on 15th February 2007.

Amendment of regulation 2

2. Regulation 2 of the Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) Regulations 2005 (G.N. No. S 735/2005) (referred to in these Regulations as the principal Regulations) is amended —

(a) by inserting, immediately before the definition of “Approved Derivatives Trader” in paragraph (1), the following definition:

“ “approved company” means an approved company under section 13R of the Act;”;

(b) by inserting, immediately after the definition of “financial sector incentive (headquarter services) company” in paragraph (1), the following definition:

“ “financial sector incentive (project finance) company” means a company approved as such under section 43Q of the Act;”;

(c) by deleting paragraph (b) of the definition of “foreign investor” in paragraph (1) and substituting the following paragraph:

“(b) a company not resident in Singapore —

(i) which is incorporated before 15th February 2007 and of which not more than 20% of the total number of the issued shares are beneficially owned,

directly or indirectly, by persons who are citizens of Singapore or resident in Singapore (excluding the total percentage owned directly by any designated person); or

- (ii) which is incorporated on or after 15th February 2007 and of which not more than 20% of the total value of the issued securities are beneficially owned, directly or indirectly, by persons who are citizens of Singapore or resident in Singapore (excluding the total percentage owned directly by any designated person); or”;

- (d) by deleting paragraph (ii) of the definition of “foreign investor” in paragraph (1) and substituting the following paragraph:

“(ii) any company —

- (A) which is incorporated before 15th February 2007 and of which 20% or more of the total number of the issued shares are beneficially owned, directly or indirectly, by a company referred to in paragraph (i); or
- (B) which is incorporated on or after 15th February 2007 and of which 20% or more of the total value of the issued securities are beneficially owned, directly or indirectly, by a company referred to in paragraph (i),”;

- (e) by inserting, immediately after the definition of “initial public offering” in paragraph (1), the following definition:

“ “issued securities” means —

- (a) issued debentures, stocks or shares;
- (b) any right, option or derivative in respect of any

such debentures, stocks or shares; or

- (c) any right under a contract for differences, or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations, in —
 - (i) the value or price of any such debentures, stocks or shares;
 - (ii) the value or price of any group of any such debentures, stocks or shares; or
 - (iii) an index of any such debentures, stocks or shares,

and includes derivatives of a buy-sell nature, but does not include —

- (A) futures contracts which are traded on a futures market;
- (B) bills of exchange;
- (C) promissory notes; or
- (d) certificates of deposit issued by a bank or finance company;”;

- (f) by inserting, immediately after the definition of “offshore trade transaction” in paragraph (1), the following definition:

“ “prescribed asset or project” means an infrastructure asset or project prescribed in regulation 5 of the Income Tax (Qualifying Project Debt Securities) Regulations 2008 (G.N. No. S 315/2008);”;

- (g) by inserting, immediately after the definition of “qualifying derivatives” in paragraph (1), the following definitions:

“ “qualifying project debt securities” has the same meaning as in section 13(16) of the Act;

“qualifying project loan” means a loan which satisfies the following conditions:

- (a) the interest payment in respect of the loan is funded primarily by the cash flows from one or more prescribed assets or projects;
 - (b) the proceeds from the loan are only used to acquire, develop or invest in any prescribed asset or project or to refinance a previous loan where the previous loan is only used to acquire, develop or invest in any prescribed asset or project;
 - (c) the proceeds from the loan are used outside Singapore;
 - (d) the loan is substantially advised on and structured by a financial sector incentive (project finance) company or a financial institution in Singapore where the employees of the financial institution who are based in Singapore have a leading and substantial role in advising on and structuring the loan;
 - (e) the loan agreement takes effect any time on or after 1st November 2006 but not after 31st December 2008; and
 - (f) no interest, commission, fee or other payment in respect of the loan is deductible under the Act against any income of any person accruing in or derived from Singapore;” and
- (h) by inserting, immediately after paragraph (2), the following paragraph:
- “(3) Any reference in these Regulations to the value of issued securities of a company is a reference to the value of those securities
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- (a) at the time of their issue by the company; or
 - (b) in the case of derivatives of a buy-sell nature, at the time of their buy-sell transaction.”.