

Income Tax (Concessionary Rate of Tax for Approved Commodity Derivatives Trading Companies) Regulations 2005

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No. S 672

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (CONCESSIONARY RATE OF TAX FOR APPROVED COMMODITY DERIVATIVES TRADING COMPANIES) REGULATIONS 2005

In exercise of the powers conferred by section 43S 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 (Concessionary Rate of Tax for Approved Commodity Derivatives Trading Companies) Regulations 2005.

Definitions

2. In these Regulations —

“approved global trading company” means a global trading company approved under section 43P of the Act;

“approved international commodity trading company” means an international commodity trading company approved under section 43H of the Act;

“approved oil trading company” means an oil trading company approved under section 43F of the Act;

“approved petrochemical manufacturing company” means a petrochemical manufacturing company in Singapore which is approved —

- (a) under paragraph (e) of the definition of “physical trading” in regulation 2 of the Income Tax (Concessionary Rate of Tax for Approved Oil Trading Companies) Regulations (Rg 15); or
- (b) under paragraph (g) of the definition of “physical trading” in regulation 2 of the Income Tax (Concessionary Rate of Tax for Approved Global Trading Companies) Regulations 2003 (G.N. No. S 204/2003);

“exchange-traded commodity derivatives” means derivatives that are transacted on an exchange, the payoffs of which are linked in whole to the payoffs or performance of the underlying commodity;

“financial sector incentive company” has the same meaning as in section 43Q of the Act;

“freight derivatives” means derivatives, whether traded over-the-counter or on an exchange, the payoffs of which are linked in whole to the payoffs or performance of the underlying freight rates;

“incidental physical trading” means —

- (a) trading on or after 27th February 2004 by an approved standard commodity derivatives trading company in any commodity with any specified person on a spot or forward basis in connection with and incidental to the trading on or after 27th February 2004 by that approved standard commodity derivatives trading company in any over-the-counter commodity derivatives with that or any other specified person; or
- (b) trading on or after 18th February 2005 by an approved enhanced commodity derivatives trading company in any commodity with any specified person on a spot or forward basis in connection with and incidental to the trading on or after 18th February 2005 by that

approved enhanced commodity derivatives trading company in any over-the-counter commodity derivatives or exchange-traded commodity derivatives with that or any other specified person,

where the intention of the parties at the time of the transaction in relation to the commodity is that actual delivery of the commodity is required, whether or not the delivery is actually made, but does not include any transaction in which —

- (i) the commodity is purchased for the purposes of consumption in Singapore or for the supply of fuel to aircraft or vessels within Singapore; or
- (ii) any petroleum or petroleum product is both purchased from and sold to an approved petrochemical manufacturing company;

“over-the-counter commodity derivatives” means commodity derivatives that are transacted over-the-counter, the payoffs of which are linked in whole to the payoffs or performance of the underlying commodity;

“shipping enterprise” has the same meaning as in section 13A of the Act;

“specified person” means —

- (a) a financial sector incentive company which is —
 - (i) a bank licensed under the Banking Act (Cap. 19); or
 - (ii) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
- (b) an approved global trading company;
- (c) an approved commodity derivatives trading company;
- (d) a person who is neither a resident of nor a permanent establishment in Singapore;
- (e) a branch office outside Singapore of a company resident in Singapore;
- (f) a member of the Singapore Commodity Exchange;
- (g) an approved oil trading company;
- (h) an approved international commodity trading company;
- (i) a person who carries on the business of refining petroleum in Singapore; or