# Advance Ruling Summary No. 14/2022 Published on 1 Aug 2022

## 1. Subject:

## Whether:

- a. the Tender Premium (as defined in paragraph 2e below) would be exempt from withholding tax when paid or deemed paid by the Issuer to Noteholders (as defined in paragraph 2c below) who are not known to the Issuer to be tax resident in Singapore under section 45A(2B)(a) of the Income Tax Act 1947 (2020 Revised Edition) ("ITA");
- Noteholders would be entitled to the Qualifying Debt Securities ("QDS") tax concessions and exemptions in respect of the Tender Premium under sections 13(1)(ba) and 43H of the ITA; and
- c. Individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income under section 13(1)(zk) of the ITA.

## 2. Relevant background and facts:

- a. The Issuer is a company incorporated in Singapore and listed on the Singapore Exchange Securities Trading Limited.
- b. The Issuer had issued a tranche of notes (the "Existing Notes") under its multicurrency debt issuance programme. The Existing Notes are QDS for the purposes of the ITA.
- c. The Issuer invited the holders of the Existing Notes ("Noteholders") to offer to sell for cash to the Issuer all or some of the outstanding Existing Notes held by the Noteholders at the Purchase Consideration (as defined in paragraph 2d below) subject to and upon the terms and conditions of the invitation memorandum.
- d. The consideration payable by the Issuer for the purchase of the Existing Notes ("Purchase Consideration") is 10x% of the principal amount of the Existing Notes in addition to accrued interest.
- e. The Tender Premium refers to the excess of the Purchase Consideration over the principal amount of the purchased Existing Notes less the accrued interest.

f. The commercial rationale for the payment of the Tender Premium is to compensate Noteholders for any loss or liability incurred by them in connection with the early redemption of the Existing Notes.

### 3. Relevant legislative provisions:

- Income Tax Act 1947 (2020 Revised Edition) Section 13(16) a.
- b. Income Tax (Qualifying Debt Securities) Regulations

### 4. The rulings:

- The Tender Premium falls within the definition of the term "break cost" a. under section 13(16) of the ITA. Therefore, subject to satisfying the governing conditions under the Income Tax (Qualifying Debt Securities) Regulations, sections 13(2F) and 43H of the ITA, where applicable:
  - Noteholders deriving the Tender Premium would be entitled to the tax exemptions and concessions available under sections 13(1)(ba) and 43H of the ITA, and individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income pursuant to section 13(1)(zk) of the ITA; and
  - The Tender Premium would not be subject to withholding tax when paid by the Issuer to non-resident Noteholders under the QDS scheme.

#### 5. Reasons for the decision:

The Tender Premium falls within the definition of "break cost" under a. section 13(16) of the ITA as it represents the amount payable to Noteholders to compensate Noteholders for the loss incurred by them in connection with such early redemption of the Existing Notes.

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