

IRAS SUPPLEMENTARY CIRCULAR

**SIMPLIFICATION OF
INCOME TAX RULES AND PROCEDURES –
ASSESSMENT OF NON-TRADE INCOME AND
DEDUCTION OF APPROVED DONATIONS
ON AN ACCOUNTING YEAR BASIS**



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

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INTRODUCTION

The revised tax treatment of allowing non-trade income to be assessed and approved donations to be deducted on an accounting year basis was explained in paragraphs 4 to 8 of the IRAS Circular on “Simplification of Income Tax Rules and Procedures – Assessment of Non-trade Income and Deduction of Approved Donations on an Accounting Year Basis” dated 21st July 2004 (hereinafter referred to as “the main circular”).

2 To recapitulate, the revised tax treatment was put in place to simplify the process for calculating and reporting non-trade income and approved donations for entities with an accounting year ending other than 31st December. With the revised tax treatment, all such entities may elect for their non-trade income (excluding Singapore-franked dividends derived prior to 1st January 2008) and approved donations¹ to be assessed or allowed on an accounting year basis during the period that the law has yet to be changed for this purpose i.e. for the Year of Assessment (YA) 2005 to YA 2008.

3 As a corollary to this change, changes to the requirements for furnishing estimated chargeable income (ECI) were also made and explained in paragraph 10 of the main circular. Therefore, all such entities that elect for the revised tax treatment would be required to furnish the ECI in respect of their trade and non-trade income (excluding Singapore-franked dividend net of expenses) within 3 months after the end of their accounting period relating to that YA.

4 Paragraph 12 of the main circular explains that for YA 2005 to YA 2008, the revised tax treatment and the corollary requirements to furnish ECI will be effected under an administrative concession. For YA 2009 and thereafter, legislation will be passed to provide for the revised tax treatment.

5 The proposed amendments to the Income Tax Act to effect the revised tax treatment and filing of ECI requirements have been prepared and they form part of the draft Income Tax (Amendment) Bill 2007 which has been put out for public consultation² during the period from 15th June 2007 to 14th July 2007. The full text of the proposed amendments is attached at Annex 1.

¹ Except in the case of partners and sole-proprietors, income and approved donations personal to the partners or sole-proprietors (such as employment income and approved donations made out of personal assets of the partners or sole-proprietors) will continue to be assessed on the calendar year basis.

² The objective of the consultation is to seek feedback on areas of draft legislation that require greater clarity or would facilitate compliance by taxpayers. The draft Bill can be downloaded from the Ministry of Finance website www.mof.gov.sg.

- 6 The purpose of this supplementary circular is to explain:
- (a) the legislation introduced/amended to effect the revised treatment;
 - (b) the legislation introduced/amended to effect the revised requirements for furnishing ECI, as well as to provide details of the entities that would be waived from having to comply with the requirement to furnish ECI; and
 - (c) the transitional rule which is applicable when reporting non-trade income and submitting ECI on an accounting year basis for the first time.

LEGISLATION TO EFFECT THE REVISED TAX TREATMENT FOR ASSESSMENT OF NON-TRADE INCOME AND DEDUCTION OF APPROVED DONATIONS ON AN ACCOUNTING YEAR BASIS

7 The proposed amendment to section 35(4) and the introduction of section 37(10A) (see Annex 1) would put into legal effect the revised tax treatment. With these changes, all entities with accounting year ending other than on 31st December will have their non-trade income assessed and approved donations allowed on an accounting year basis. However, the sole exception to this treatment, which is applicable to partners and sole-proprietors (see footnote 1 above), remains valid.

8 Consequential proposed amendments have also been made to sections 35(6) and (7), as a result of the proposed amendment to section 35(4).

REVISED REQUIREMENTS FOR FURNISHING ECI AND WAIVER FROM THE REQUIREMENT TO FURNISH ECI

9 Proposed amendments to sections 63 and 71 (see Annex 1) have also been made to enact into law the corollary requirements to furnish ECI that have arisen with the revised tax treatment, as explained in paragraph 3 above.

10 Requirements to furnish ECI for entities not affected by the revised tax treatment (i.e. those with accounting year ending on 31st December) already existed prior to the current proposed amendments. With the addition of the new ECI requirements as explained in paragraph 3 above, sections 63 and 71 after the proposed amendments will require all entities [i.e. companies (including those that derive only non-trade income), bodies of persons (e.g. clubs, associations, charities and management corporations), partners/partnerships, sole-proprietors etc.] with accounting year ending on 31st December or otherwise to furnish ECI within 3 months after the end of their accounting period relating to any YA, if a return has not been made under section 62 of the Income Tax Act for that YA.

11 IRAS has also taken the opportunity, as part of its ongoing rules review process, to review the requirements to furnish ECI for various types of entities. As an administrative concession, IRAS will grant waiver to the following entities/items from having to furnish ECI when the law comes into effect:

- (i) partnership and sole-proprietorship businesses with accounting year ending in the months of October, November and December³;
- (ii) partnership and sole-proprietorship businesses with business turnover of less than \$500,000 in the previous YA;
- (iii) foreign ship owners or charterers for whom the Shipping Return has been or would be submitted by the local shipping agent;
- (iv) foreign universities;
- (v) designated unit trusts and approved CPF unit trusts⁴;
- (vi) real estate investment trusts that have been granted the tax treatment prescribed under section 43(2)⁵;
- (vii) bodies of persons, e.g. clubs, associations, charities and management corporations;
- (viii) any other specific case granted waiver to furnish ECI by IRAS, e.g. via an advance ruling issued.

12 For partnership and sole-proprietorship businesses that are required to furnish ECI (i.e. not covered under paragraphs 11(i) and (ii) above), it is hereby clarified that:

- (a) partners and sole-proprietors may exclude the items referred to in footnote 1 above;
- (b) in the case of partnerships, instead of requiring each individual partner to furnish ECI in respect of his share of the partnership income (both trade and non-trade) within 3 months after the end of the accounting period relating to any YA, the precedent partner will be responsible to furnish an estimate of the income of the partnership from all sources⁶ within 3 months after the end of the accounting period relating to any YA.

³ Since the partners and sole-proprietors of these partnership and sole-proprietorship businesses have to file their individual income tax return by 15th April, there is no need for the precedent partners and sole-proprietors to furnish an estimate of the partnership income or ECI by January, February or March (as the case may be).

⁴ As approved under section 35(14) of the Singapore Income Tax Act (revised edition 2004) [SITA] and for the purposes of any investment scheme under the Central Provident Fund Act (Cap. 36) respectively. For these unit trusts, the income listed under sections 35(12) and (12A) of the SITA is not taxed at the trustee level. Other income not covered by these sections is likely to be negligible and hence there is no need for these unit trusts to furnish ECI.

⁵ A real estate investment trust will be accorded the tax treatment under section 43(2) if the trustee distributes at least 90% of its taxable income to unitholders in the same year in which the income is derived by the trustee and undertakes that certain administrative procedures are complied with. For more details, please refer to the IRAS Circular dated 30th November 2006 on "Income Tax Treatment of Real Estate Investment Trusts".

⁶ Other than an estimate of the income of the partnership from all sources, the precedent partner will also be required to furnish the names and identification numbers of all the partners, as well as the amount of the share of the income to which each partner is entitled for that year.

TRANSITIONAL RULE FOR REPORTING NON-TRADE INCOME ON AN ACCOUNTING YEAR BASIS AND THE FURNISHING OF ECI

13 For entities that have elected for the revised tax treatment to apply to them from any YA during the period YA 2005 to YA 2008, the transitional rule is not applicable because the switch in tax treatment of their non-trade income and approved donations to an accounting year basis would already been completed i.e. the necessary transitional rule has already been applied in a YA prior to YA 2009.

14 As for the other entities where their non-trade income has been assessed and approved donations allowed on a calendar year basis up to and including YA 2008, the transitional rule as spelt out in paragraphs 15 and 16 of the main circular will apply for YA 2009. This means that these entities will have to report their non-trade income for the period 1st January 2008 to the end of the accounting year (and not for the whole accounting year) as the non-trade income to be taxed on an accounting year basis for YA 2009. Similarly, these entities are eligible to claim a tax deduction for approved donations made in the period 1st January 2008 to the end of the accounting year (and not the whole accounting year).

ENQUIRIES

15 For enquiries on the contents of this circular, please call our following helplines:

- For Companies: 1800-356 8622
- For Sole Proprietors & Partners of a Partnership: 1800-356 8611
- Bodies of Persons: 6351 3883

Inland Revenue Authority of Singapore

AMENDMENTS TO THE RELEVANT PROVISIONS OF THE INCOME TAX ACT TO EFFECT THE REVISED TAX TREATMENT AND ECI REQUIREMENTS

Amendment of section 35 (*Note: Amendments not relating to the revised tax treatment are not included here*)

Section 35 of the principal Act is amended —

(a) by deleting subsection (4) and substituting the following subsection:

“(4) Where the Comptroller is satisfied that any person usually makes up his accounts to some day other than that immediately preceding any year of assessment, he may direct that —

- (a) where the person is not an individual or Hindu joint family, the statutory income of that person from all sources be computed on the amount of gains or profits of the year ending on that day in the year preceding the year of assessment;
- (b) where the accounts relate to a partnership, the income of the partnership be computed under section 36 on the amount of gains or profits of the year ending on that day in the year preceding the year of assessment; or
- (c) where the person is an individual or Hindu joint family, the statutory income of that person from any trade, business, profession or vocation to which the accounts relate be computed on the amount of gains or profits of the year ending on that day in the year preceding the year of assessment.”;

- (c) by deleting the words “from a trade, business, profession or vocation” in subsection (6);
- (d) by deleting the words “from the trade, business, profession or vocation” in subsection (6);
- (e) by deleting the words “in the case of any trade, business, profession or vocation” in subsection (7);

Amendment of section 37

Section 37 of the principal Act is amended by inserting, immediately after subsection (10), the following subsection:

“(10A) For the purposes of subsection (3)(a) to (f), the reference to the year preceding any year of assessment shall —

- (a) if the person making the donation is not an individual or a Hindu joint family and is one to whom a direction is made under section 35(4);
- (b) if the persons making the donation are the partners of a partnership, a direction is made under section 35(4) in relation to the income of that partnership, and the donation is made by them in the name of the partnership;
- (c) if the person making the donation is an individual or a Hindu joint family, is one to whom a direction is made under section 35(4), and the donation is made by him in the name of the trade, business or profession to which the accounts relate,

be read as a reference to the period of 12 months ending on the day the accounts of the person or the partnership (as the case may be) are made up to.”.

Amendment of section 63

Section 63 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) Every person, not being an individual or Hindu joint family, who has not made a return under section 62 for any year of assessment shall, within 3 months after the end of the accounting period relating to that year of assessment, furnish to the Comptroller an estimate of his chargeable income.

(1A) Every individual or Hindu joint family carrying on or exercising any trade, business, profession or vocation who has not made a return under section 62 for any year of assessment shall, within 3 months after the end of the accounting period relating to that year of assessment, furnish to the Comptroller an estimate of his chargeable income.”; and

(b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”.

Amendment of section 71

Section 71 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) If a return in relation to the partnership for any year of assessment has not been made, the person required to make the return under subsection (1) or (2) (as the case may be) shall, within 3 months after the end of the accounting period relating to that year of assessment, furnish to the Comptroller an estimate of the income of the partnership from all sources of the partnership, and the names and identification numbers of all the partners together with the amount of the share of the income to which each partner was entitled for that year.”.