



**MARITIME AND PORT AUTHORITY OF SINGAPORE**  
**SHIPPING CIRCULAR**  
**NO. 16 OF 2018**

MPA Shipping Division  
460 Alexandra Road  
#21-00, PSA Building  
Singapore 119963  
Fax: 6375-6231  
<http://www.mpa.gov.sg>

12 December 2018

**Applicable to:** This circular should be brought to the attention of all Singapore-flagged ship owners that are assessed under Section 13A of the Singapore Income Tax Act.

**ENHANCEMENT OF THE MARITIME SECTOR INCENTIVE – SHIPPING ENTERPRISE (SINGAPORE REGISTRY OF SHIPS) (MSI-SRS)**

1 The shipping industry has continuously evolved over the years to adapt to the changing business landscape and market dynamics. In recent years, changes have also been made to accounting standards to provide greater transparency for users of the financial statements. In particular, the introduction of the Financial Reporting Standards (FRS) 115 and 116 and the corresponding FRS 115 and 116 tax treatments in Singapore have impacted the shipping sector.

2 To keep pace with industry developments, provide greater tax certainty and to ease the administrative burden for the shipping sector, we are pleased to inform that the following enhancements will be made to the MSI-SRS:

- a. the scope of withholding tax exemption for charter payments for ships and container lease payments will be expanded to cover finance lease payments. The expanded scope will only be available to MSI companies;
- b. the scope of income tax exemption under the MSI-SRS will be expanded to cover finance lease income from leasing of ships; and
- c. MSI-SRS companies may make an irrevocable option to adopt a simplified tax treatment for MSI-SRS income. Upon election, the MSI-SRS company shall, on a bundled basis, (i) rely on the FRS 116 accounting classification of sublease income and does not need to reclassify the qualifying sublease based on the underlying asset for tax purposes for ships and containers; and (ii) does not need to classify lease expenses and capital allowance claims in respect of qualifying assets for tax purposes as these claims will be disregarded.

3 We have also taken the opportunity to provide clarification on the FRS 115 tax treatment for shipping companies in this circular.

4 Please refer to **Annexes A and B** for details of the above enhancements and clarification.

5 Any queries regarding this circular should be directed to the International Maritime Centre (IMC) Division (Email: [imc\\_mpa@mpa.gov.sg](mailto:imc_mpa@mpa.gov.sg); Tel: +65 6375 1927/1766).

**CAPT DAKNASH GANASEN  
DIRECTOR OF MARINE  
MARITIME AND PORT AUTHORITY OF SINGAPORE**

## Annex A – Enhancements to the MSI-SRS

### a) Expansion in scope of withholding tax (WHT) exemption

- 1 Under Singapore's tax regime, WHT exemption is available on:
  - i. payments to non-residents (excluding permanent establishments in Singapore<sup>1</sup>) for the charter of any ship under agreements/arrangements classified as operating leases for tax purposes; and
  - ii. rents or other payments to non-residents (excluding permanent establishments in Singapore<sup>1</sup>) for the use of qualifying containers for the carriage of goods by sea under agreements entered into on or before 31 December 2022 and classified as operating leases for tax purposes.
- 2 In addition to the above, MSI-SRS companies also enjoy automatic WHT exemption on qualifying payments made in respect of qualifying financing arrangements, including charter arrangements which are classified as finance lease treated as sale<sup>2</sup> for tax purposes, entered into on or before 31 May 2021 to finance the purchase or construction of Singapore ships, subject to conditions.
- 3 To keep pace with industry developments and to simplify the WHT exemption regime **for MSI companies**, the scope of WHT exemption under paragraph 1 will be expanded for MSI companies to include arrangements classified as finance leases (regardless of whether it is a finance lease treated as sale or not) for tax purposes with effect from **12 December 2018**. No separate application is required to enjoy the exemption. Effectively, this means that MSI companies will no longer need to submit self-declaration forms to avail themselves of the WHT exemption on qualifying charter payments under arrangements classified as finance lease treated as sale for tax purposes (including hire purchase).

---

<sup>1</sup> Payers do not need to withhold tax on charter / container lease payments made to a permanent establishment in Singapore. The permanent establishment has to declare the charter fees / container lease income received in its annual income tax return and will continue to be assessed to tax on such fees.

<sup>2</sup> Refers to a finance lease of a ship that is treated as sold by the lessor to the lessee pursuant to Regulation 4(1) of the Section 10D Regulations.

4 The expanded scope of WHT exemption for charter payments for ships and container lease payments, and the effective period of the WHT exemption is summarised in the table below:

**Table 1:** Summary of WHT Exemption for Charter of Ships and Container Lease Payments

WHT Exemption	Operating Lease	Finance Lease
	All taxpayers	MSI-SRS
<b><i>Charter payments for ships</i></b>		
Application / Self-declaration Form Required?	No	No
Qualifying Agreements/ Arrangements	No restriction on date of agreements/ arrangements entered into	Agreements/ arrangements entered into on or before 31 December 2023
Flag Restriction?	No	Singapore-flagged ships only
Tenure of WHT Exemption	No restriction	Payments made on or after <b>12 December 2018</b> till end of charter agreement/ arrangement
Cessation of WHT Exemption	N.A.	Earlier of: (i) End of charter agreement/ arrangement; or (ii) Date of deregistration or suspension of ship from SRS.
<b><i>Container lease payments</i></b>		
Application / Self-Declaration Form Required?	No	No
Qualifying Agreements	Agreements entered into on or before:	
	31 December 2022	31 December 2023
Tenure of WHT Exemption	Till end of agreement	Payments made on or after <b>12 December 2018</b> till end of agreement
Cessation of WHT Exemption	N.A.	Earlier of: (i) End of lease agreement; or (ii) Date that the company ceases to own or operate any Singapore-flagged ships

## Annex A – Enhancements to the MSI-SRS (Cont'd)

### b) Expansion in scope of tax exemption of charter income to include finance leases

1 Currently, MSI-SRS companies enjoy, amongst others, tax exemption on income derived from the charter of Singapore flagged ships plying in international waters under operating lease arrangements.

2 To keep pace with industry developments and to provide greater tax certainty, with effect from **12 December 2018**, the scope of qualifying income under paragraph 1 will be expanded to include that derived from arrangements classified as finance leases for tax purposes.

3 Please note that the expanded scope of exemption does **NOT** apply to income derived from incidental container leasing activities undertaken by MSI-SRS companies [i.e. Section 13A(1CG) of the Income Tax Act refers]. Incidental container leasing income derived under finance lease arrangements will continue to be assessed based on the prevailing Singapore corporate income tax rate.

4 The scope of the expanded tax exemption of qualifying income is summarised in the table below:

Table 2: Summary of Scope of Tax Exemption for Charter Income

	Operating Lease	Finance Lease
Tax Exemption on Charter Income	Yes	Yes, if income is derived on or after <b>12 December 2018</b>
Flag Restriction	Singapore-flagged ships only	
Restriction on Date of Agreement Entered into?	No	
Application Required?	No. Company has to report qualifying income under Section 13A of the Income Tax Act when filing income tax returns for the relevant Year of Assessment.	

## Annex A – Enhancements to the MSI-SRS (Cont'd)

- c) Irrevocable election to opt-in, on a bundled basis, to (i) dispense with the need to reclassify income derived from the subleasing of ships and containers based on the underlying asset; AND (ii) NOT claim tax deduction and/or capital allowance on the lease of qualifying assets

### Background

1 FRS 116 introduces changes to lease accounting, while the FRS 116 tax treatment retains the existing tax treatment for leases. The table below summarises the relevant changes to lease accounting under FRS 116 and the corresponding FRS 116 tax treatment:

Table 3: Summary of Accounting and Tax Treatments under FRS 116

	FRS 116 Accounting Treatment	FRS 116 Tax Treatment
<b>Intermediate lessor (IL)</b>	A sublease <sup>3</sup> would be classified as an operating lease (OL) or finance lease (FL) by reference to the Right-of-Use (ROU) asset arising from the head lease, unless (i) the underlying lease is a short-term lease or of low value; and (ii) the IL has elected to treat the head lease as a short-term lease. For such exceptions, the sublease shall be classified as an OL.	An IL is required to reclassify the sublease by reference to the <b>underlying asset</b> before applying the relevant income tax treatment.  If the reclassified sublease is regarded as an OL or FL not treated as sale (FLNTAS), the IL would be taxed on the lease income; if the reclassified sublease is regarded as a FL treated as sale (FLTAS), the IL would be taxed on interest income on an accrual basis.
<b>Lessee</b>	Unless exemption applies, (i) an ROU asset representing the rights to use underlying leased assets; and (ii) a lease liability representing the obligation to make lease payments, would be recognised. Subject to an election by the lessee, short-term leases and leases for which the underlying asset is of low value may be exempted from the requirement.	A lessee is allowed tax deduction on the contractual lease payments incurred under arrangements classified as OL or FLNTAS for tax purposes. Where lease arrangements are classified as FLTAS for tax purposes, the lessee is eligible to claim capital allowance (except for subleases under FRS 116) and interest expense instead of contractual lease payments.

Adapted from IRAS' e-Tax Guide – Tax Treatment Arising from Adoption of FRS 116 or Singapore Financial Reporting Standard (International) 16 – Leases (First Edition published on 8 Oct 2018)

<sup>3</sup> A sublease is a transaction for which the underlying asset is re-leased by a lessee (the IL), and the lease between the head lessor and the IL (head lease) remains in effect.

2 Arising from feedback from the shipping industry on the compliance burden, the following measures would be introduced to ease the administrative burden for MSI-SRS companies.

#### FRS 116 election

3 An MSI-SRS company would be given the option to make an election (herein after known as the “FRS 116 election”) to:

- (i) **dispense with the need to reclassify qualifying income derived from the subleasing of ships and containers based on the underlying asset**, and instead would adopt the accounting classification of the sublease based on the ROU asset from the head lease before applying the appropriate tax treatment<sup>4</sup>; **AND**
- (ii) **NOT claim** tax deduction on (i) contractual lease payments; (ii) interest expense; and (iii) capital allowances, as the case may be, in respect of the **lease of qualifying assets**. Qualifying assets refer to (i) ships and on-board equipment that are integral to the operation of the ships; and (ii) containers, intermodal equipment and other equipment that are integral for the operation of containers, which are used to derive incentivised income.

4 The FRS 116 election which may be made **at any time during the MSI-SRS company’s incentive period** will apply to qualifying income derived and lease payments incurred **on or after the 12 December 2018 or the first day of the Year of Assessment (YA) in which the election is made, whichever is later**. Once made, the election is **irrevocable** throughout the MSI-SRS company’s incentive period. Appeals for a revocation of the option exercised earlier will not be considered under any circumstances. Should the MSI-SRS company cease to own or operate any Singapore flagged ships, the normal tax rules shall apply for all leases going forward (regardless of when such leases are entered into).

5 Specifically, the following tax treatment will apply to an MSI-SRS company upon election:

#### Scope of election

- a) the MSI-SRS company will **not** be required to:
  - (i) reclassify qualifying income derived from the subleasing of ships and containers based on the underlying asset; and
  - (ii) classify lease payments on qualifying assets as OL or FL for tax purposes<sup>5</sup> by agreeing to disregard its claims for such lease payments;
- b) for (ii), the election will apply to **all** qualifying assets that are leased in by the MSI-SRS company, including existing assets and assets used to derive both incentivised and non-incentivised income. The MSI-SRS company **cannot** selectively choose to apply the treatment to the incentivised tax category only. With the election, the claim on the relevant share of expenses/capital allowances attributable to the non-incentivised tax category will also be disregarded;

<sup>4</sup> An MSI-SRS company that makes the FRS 116 election will still be required to classify the subleases that are FLs into FLTAS and FLNTAS.

<sup>5</sup> Companies should still ensure that the tax computation distinguishes the different categories of incentivised and non-incentivised expenses.

Lapse of FRS 116 election

- c) the election will automatically lapse when the MSI-SRS company ceases to own or operate any Singapore-flagged ships, regardless of the reason;
- d) capital allowances in respect of qualifying assets should be claimed based on the remaining tax written down value after taking into account notional capital allowances for those YAs under election, notwithstanding that no claim for such allowances was made. Where an MSI-SRS company ceases to own or operate any Singapore-flagged ships mid-YA, the capital allowance claim for that YA should be apportioned accordingly; and

Disposal of qualifying assets

e)

Period of disposal	Tax Treatment
During MSI period	No balancing adjustments made
Upon exit from MSI scheme (i.e. MSI-SRS company ceases to own or operate any Singapore-flagged ships and the FRS116 election lapses)	Balancing adjustments apply. <ul style="list-style-type: none"><li>- The tax written down value of the asset should take into account notional capital allowances for those YA(s) under election, notwithstanding that no claim for such allowances was made.</li><li>- For balancing charge (BC), the BC will be capped at the amount of capital allowances actually claimed. In addition, if capital allowances was claimed against Section 13A previously, the BC would proportionately not be taxable, as per Section 10(4) of the Income Tax Act.</li></ul>

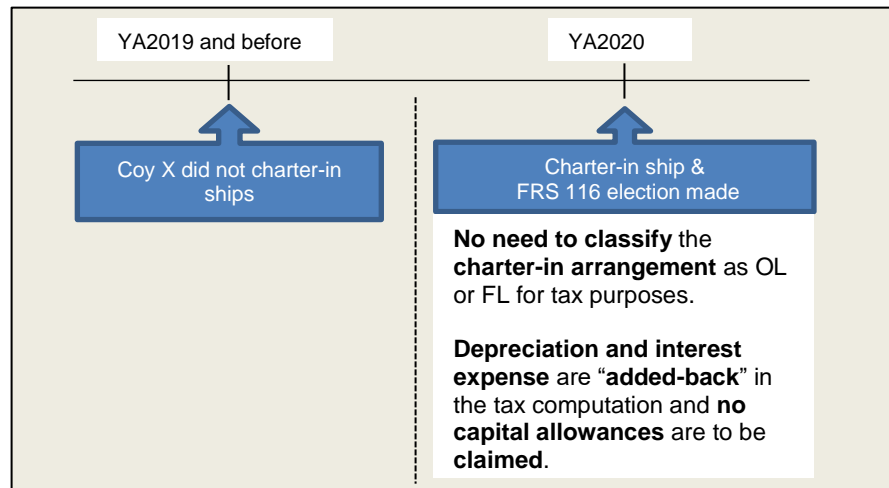
6 Please refer to **Appendix A** for illustrations on how the FRS 116 election applies and **Appendix B** for FAQs on the election.



## Appendix A – Examples to illustrate the application of the FRS 116 election to not claim tax deduction on lease payments incurred, interest expense and capital allowance on the lease of qualifying assets

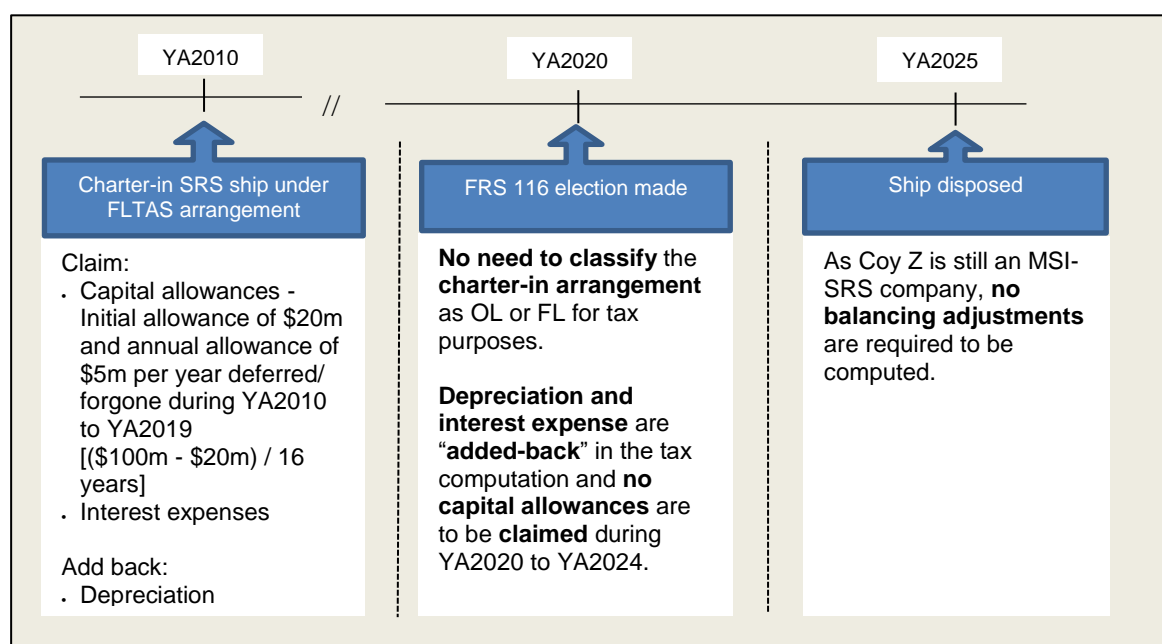
### Example 1

- Company X (Coy X) is an MSI-SRS company with a 31 December year-end that owns and operates Singapore-flagged ships
- In YA2020, Coy X chartered in a Singapore-flagged ship to complement its fleet



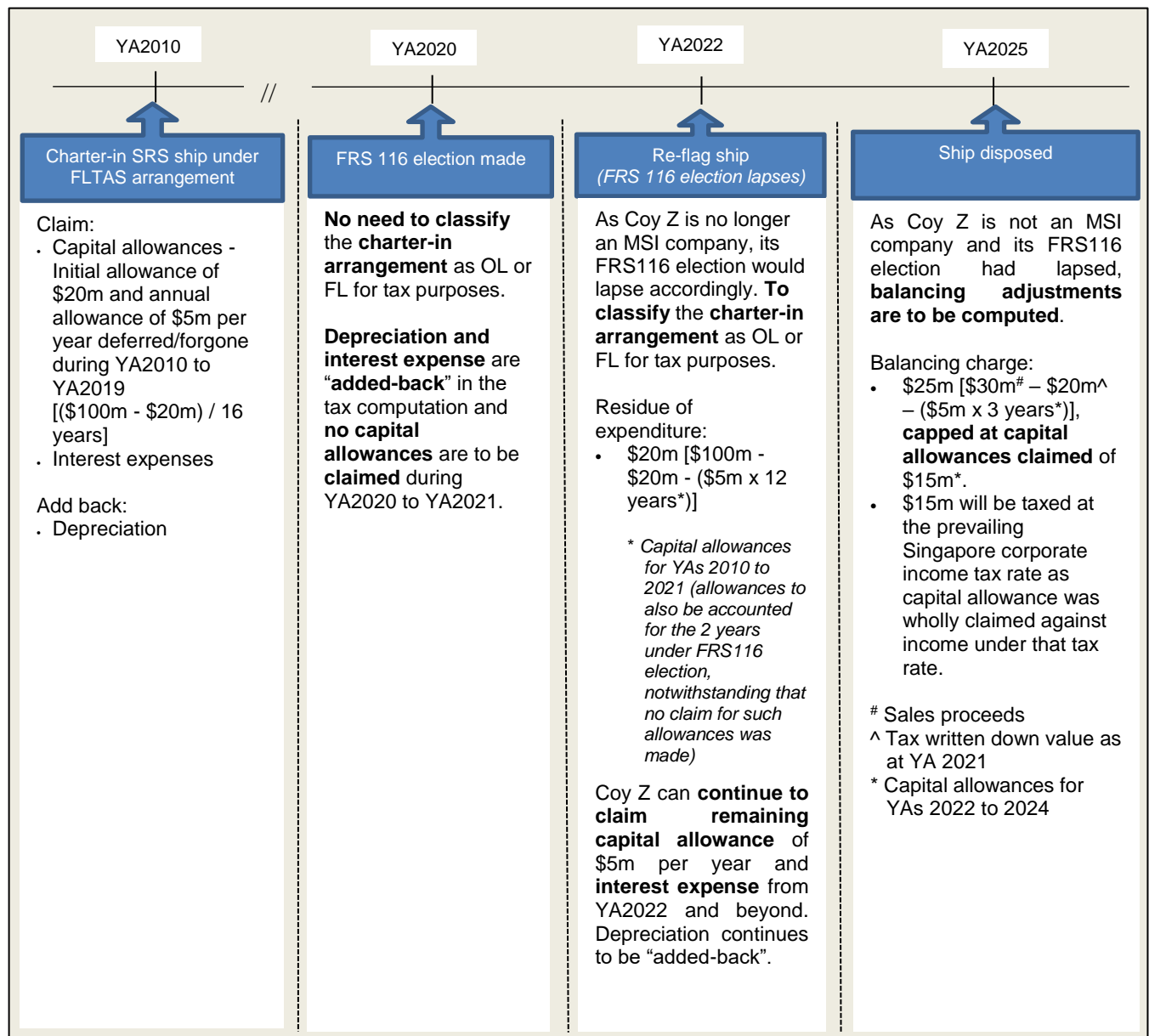
### Example 2a

- Company Z (Coy Z) is an MSI-SRS company with a 31 December year-end which owns and operates Singapore-flagged ships.
- In YA 2010, Coy Z chartered in a Singapore-flagged ship under a finance lease treated as sale arrangement (Assume asset cost of \$100m).
- Coy Z made the FRS 116 election with effect from YA 2020.
- The ship was disposed with sales proceeds of \$30m in YA2025.
- Coy Z continues to own/operate other SRS ships and remains as an MSI-SRS company.



## Example 2b

(Same as 2a, but the ship chartered in was the only ship operated by the company and it was reflagged from the Singapore Registry of Ships to a foreign ship registry on 1 January 2021 before disposal. Coy Z cannot qualify under the MSI-AIS award)



## **Appendix B – FAQs on FRS 116 election**

### **1) How can the company make the FRS 116 election?**

*Answer:* No application is required. The company has to make the necessary tax adjustments in its tax computation and provide the following disclosure in the income tax computation(s) for the YA when it first makes the election and all subsequent YAs in which the election is in effect:

*“The company is under the FRS 116 election tax treatment of the Maritime Sector Incentive with effect from <12 December 2018 or the first day of YA XX (to indicate the later date)>.”*

The company should still maintain sufficient documentation and records (e.g. lease agreements) to show that the assets are qualifying assets, should IRAS call for them as part of the audit or verification process.

### **2) Can the company move back to pre-election tax treatment?**

*Answer:* The election, once exercised, is irrevocable throughout the entire duration under the MSI. Subsequent appeals for a revocation of the election made earlier will not be considered under any circumstances. The election will automatically lapse upon exit from the MSI scheme, of which the normal tax rules shall apply for all leases going forward (regardless of when such leases are entered into).

### **3) What are examples of non-qualifying assets?**

*Answer:* Non-qualifying assets include office equipment (e.g. laptop, photocopier) and office space. In respect of these assets, the company is still required to classify the lease arrangements as operating leases or finance leases for tax purposes in the income tax computation.

### **4) Can the election be made on a “per qualifying asset” basis?**

*Answer:* No. Once the election is made, the tax treatment applies to all qualifying assets leased in by the MSI-SRS company.

### **5) Can a company that does not derive “sublease income” make the election?**

*Answer:* Yes. The MSI-SRS company can make the election and disregard the tax deduction and/or capital allowance claim for lease payments. Should it derive sublease income in future, the tax treatment for sublease income shall apply by default as part of the election made.

### **6) Can the company elect to adopt the “sublease income” concession without disregarding the tax deduction and/or capital allowance claim for lease expenses?**

*Answer:* No. The election is to be made as a package. If an MSI-SRS company incurs lease expense and derives sublease income, it cannot choose to apply only one out of the two measures in isolation.

**7) Why can't the company elect to adopt the "sublease income" concession without disregarding the tax deduction and/or capital allowance claim for lease expenses?**

*Answer:* The proposed concession is meant to ease the compliance burden arising from differences in tax and accounting treatment for sub-lessors and lessees. This is especially so since an MSI-SRS company can be a sub-lessor and a lessee as part of their lease transactions. A uniform application of both options as a bundled package would ensure parity treatment across all MSI recipients.

**8) Does a company that elects to opt in still need to classify the sublease income which is recorded as a finance lease for accounting purposes into finance lease treated as sale and finance lease not treated as sale in accordance with Regulation 4(1) of the Section 10D Regulations?**

*Answer:* Yes, the classification of finance leases based on Regulation 4(1) of the Section 10D Regulations and the application of the appropriate tax treatment is still required. The election only absolves the requirement to reclassify the sublease income derived into operating lease and finance lease based on the underlying asset in accordance with IRAS' e-Tax Guide: Tax Treatment Arising from Adoption of FRS 116 or Singapore Financial Reporting Standard (International) 16 - Leases.

## **Annex B – Clarification on the FRS 115 tax treatment for shipping companies**

1 Under FRS 115 – *Revenue from Contracts with Customers*, entities recognise revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration which the entity expects to be entitled in exchange of satisfactory delivery of those goods or services. FRS 115 is effective from annual periods beginning on or after 1 January 2018 and does not apply to lease contracts within the scope of FRS 116 – *Leases*, amongst others.

2 For tax purposes, the accounting revenue as determined in accordance with FRS 115 would be accepted as revenue for tax purposes, with a few exceptions.

### **Impact for shipping companies**

3 Under a time charter contract, the charterer pays a lump sum rate for the use and hire of the ship (lease component) as well as the services of the crew (service component). While the nature of the transaction remains the same, under the new accounting standards, shipping companies are required to split the transaction into two – the “lease” component will be accounted for in accordance with FRS 116, while the “service” component will be accounted for separately in accordance with FRS 115.

### **Clarification**

4 In connection with the above, this circular seeks to clarify that **both the “lease” and “service” components of the time charter contract will continue to be incentivised under the MSI** (i.e. there would not be any cut back in scope of the incentivised income) following the change in classification/presentation in the financial statements due to changes in accounting standards.

5 To facilitate IRAS’ assessment of the companies’ income tax affairs, please provide the following disclosure in the income tax computation, where relevant:

*“This service income is part of a time charter contract for which the charter meets the qualifying conditions for tax exemption under Section 13A of the Income Tax Act. This disclosure of service income as a separate component is due to the accounting requirement under FRS 115.”*

The company should maintain sufficient documentation and records (e.g. to prove that the service income relates to the time charter contract), should IRAS call for them as part of the audit or verification process.