

Income Tax (Amendment) Bill

Bill No. 19/2006.

Read the first time on 8th November 2006.

A BILL

intituled

An Act to amend the Income Tax Act (Chapter 134 of the 2004 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1.—(1) This Act may be cited as the Income Tax (Amendment) Act 2006.

5 (2) Section 2(*g*) shall be deemed to have come into operation on 10th December 2002.

(3) Sections 3(*b*) and (*c*), 21 (in relation to section 34A) and 26(*f*), (*g*), (*h*) and (*j*) shall be deemed to have come into operation on 1st January 2005.

10 (4) Section 9 shall be deemed to have come into operation on 18th February 2005.

(5) Sections 3(*d*) and (*e*), 13, 14, 15, 18, 26(*a*) and 29 shall be deemed to have come into operation on 1st January 2006.

15 (6) Sections 2(*k*), 6(*a*), (*e*) (in relation to section 13(1)(*zi*)) and (*h*), 8, 10 (in relation to sections 13Q and 13R), 16(*a*), 17, 21 (in relation to section 34B), 28, 31, 32, 34, 35 (in relation to section 43V), 36 and 44(*f*) (in relation to section 43V) shall be deemed to have come into operation on 17th February 2006.

20 (7) Sections 2(*a*) to (*f*) (except in relation to the addition of “19A” in the definition of “A” under section 10(4)(*a*) for the purpose of section 13A), 10 (in relation to section 13S), 35 (in relation to section 43W) and 44(*f*) (in relation to section 43W) shall be deemed to have come into operation on 1st March 2006.

(8) Sections 2(*h*), (*i*) and (*j*) and 23 shall be deemed to have come into operation on 1st April 2006.

25 (9) Sections 33 and 44(*a*) and (*e*) shall be deemed to have come into operation on 1st November 2006.

30 (10) Sections 6(*e*) (in relation to section 13(1)(*zj*)) and (*i*), 19(*b*) (except in relation to subsections (6) and (8)(*d*)), (*c*), (*d*), (*e*) (except in relation to subsections (3)(*d*) and (8)(*d*)), (*f*) and (*l*) (in relation to the definition of “insurer”) and 30(*d*)), (*e*) and (*f*) shall have effect for the year of assessment 2005 and subsequent years of assessment.

(11) Section 19(*b*) (in relation to subsections (6) and (8)(*d*)) and (*e*) (in relation to subsections (3)(*d*) and (8)(*d*)) shall have effect for the year of assessment 2005.

(12) Sections 6(f) and 19(a), (g) to (k), (l) (except in relation to the definition of “insurer”) and (m) to (p) shall have effect for the year of assessment 2006 and subsequent years of assessment.

5 (13) Sections 2(b) (in relation to the addition of “19A” in the definition of “A” under section 10(4)(a) for the purpose of section 13A), 7, 11 (except in relation to section 14P(8)), 24, 25, 26(b), (c), (d), (e), (i) and (k) and 43 shall have effect for the year of assessment 2007 and subsequent years of assessment.

10 (14) Sections 5 (except in relation to the addition of the words “or professional” to section 11(2) to apply that provision to professional associations), 10 (in relation to section 13T), 22 (in relation to section 35(16)(b)), 27, 30(a) (in relation to section 43(2A)(b)), 35 (in relation to section 43X), 38 and 44(f) (in relation to section 43X) shall have effect for the year of assessment 2008 and subsequent years of assessment.

15 **Amendment of section 10**

2. Section 10 of the Income Tax Act (referred to in this Act as the principal Act) is amended —

20 (a) by inserting, immediately after the words “section 13A” in the 2nd line of subsection (4)(a), the words “or by an approved shipping investment enterprise within the meaning of section 13S”;

(b) by deleting the 8th to 11th lines of subsection (4)(a) and substituting the following words:

25 “where A is the amount of allowances under section 19 or 19A made to the enterprise in respect of the Singapore ship against any income exempt from tax under section 13A or 13S;”;

30 (c) by deleting the words “would be income of a shipping enterprise within the meaning of section 13A or income of an approved international shipping enterprise within the meaning of section 13F” in the 2nd, 3rd and 4th lines of subsection (4)(b) and substituting the words “is exempt from tax under section 13A or 13F, or the income derived from the chartering or finance leasing of which is exempt from tax under section 13S”;

35 (d) by deleting the words “or 13F” in the 12th line of subsection (4)(b) and substituting the words “, 13F or 13S”;

(e) by inserting, immediately after the words “section 13F” in subsection (5), the words “or the income derived from the chartering or finance leasing of which is exempt from tax under section 13S”;

5 (f) by inserting, immediately after subsection (5), the following subsection:

“(5A) In subsections (4) and (5), “finance leasing” has the same meaning as in section 13S(20).”;

10 (g) by inserting, immediately after subsection (6), the following subsection:

“(6A) For the avoidance of doubt, section 10(5) in force immediately before 10th December 2002 shall continue to apply to any gains or profits directly or indirectly derived by the exercise, assignment or release of any right or benefit to acquire shares (including stocks) in a company granted to a person before 1st January 2003, whether in his name or in the name of his nominee or agent, where the right or benefit was obtained by that person by reason of any office or employment held by him.”;

20 (h) by deleting the words “from a person carrying on in Singapore the business of publishing, of recording music or of producing cinematograph films, choreographic works or plays” in the 4th, 5th and 6th lines of subsection (14);

25 (i) by deleting subsection (16) and substituting the following subsection:

30 “(16) For the purposes of subsection (1)(a) and (f), the income derived by an individual who is the inventor, author, proprietor, designer or creator (as the case may be) of an approved intellectual property or approved innovation, or by any company in which he beneficially owns all the issued shares, from any royalties or other payments received as consideration for the assignment of or the rights in the approved intellectual property or approved innovation shall be deemed to be —

(a) the amount of the royalties or other payments remaining after the deductions allowable under Parts V and VI have been made; or

(b) an amount equal to 10% of the gross amount of royalties or other payments,

whichever is the less.”;

(j) by deleting the definition of “rights in the approved invention or approved innovation” in subsection (18) and substituting the following definition:

“rights in the approved intellectual property or approved innovation” means the rights relating to any patent, copyright, trade mark, industrial design, layout-design of integrated circuit, or know-how of an approved intellectual property or approved innovation, where a substantial part of the work in producing the approved intellectual property or innovation is undertaken in Singapore.”; and

(k) by deleting paragraph (f) of subsection (20A) and substituting the following paragraph:

“(f) discount from —

(i) qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or

(ii) qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008; and”.

Amendment of section 10C

3. Section 10C of the principal Act is amended —

(a) by deleting “\$25,000” in subsection (1)(b) and substituting the words “the specified amount”;

(b) by deleting subsection (7);

- (c) by deleting the words “subsection (7) shall apply, with the necessary modifications,” in subsection (8) and substituting the words “subsection (1)(b) shall apply”;
- 5 (d) by deleting “\$5,000” in paragraph (a) of the definition of “relevant amount” in subsection (12) and substituting “\$4,500”;
- (e) by deleting “\$85,000” in paragraph (b) of the definition of “relevant amount” in subsection (12) and substituting “\$76,500”; and
- 10 (f) by inserting, immediately after the definition of “relevant employer” in subsection (12), the following definition:
- “ “specified amount” means —
- (a) in relation to the year 2005, the difference between \$85,000 and the total ordinary wages paid to the employee in that year; and for this purpose, any amount of ordinary wages paid to the employee for any month in the year in excess of \$5,000 shall be disregarded;
- 15 (b) in relation to the year 2006 and every subsequent year, the difference between \$76,500 and the total ordinary wages paid to the employee in that year; and for this purpose, any amount of ordinary wages paid to the employee for any month in the year in excess of \$4,500 shall be disregarded;”.
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Amendment of section 10J

- 25 **4.** Section 10J(1) of the principal Act is amended by deleting the words “whether to hold as treasury shares or otherwise,” and substituting the words “and such shares are deemed cancelled under section 76B of the Companies Act (Cap. 50),”.

Amendment of section 11

- 30 **5.** Section 11 of the principal Act is amended by deleting subsections (2) and (3) and substituting the following subsections:

“(2) Where a body of persons, whether corporate or unincorporate, carries on a trade or professional association in such circumstances that more than half of its receipts by way of entrance fees and

subscriptions from Singapore members are claimed or claimable as allowable deductions for the purposes of section 14 —

- (a) the body of persons shall be deemed to carry on a business;
- (b) the whole of its income from transactions with Singapore members and persons who are not members (including entrance fees and subscriptions) shall be deemed to be receipts from a business; and
- (c) the body of persons shall be chargeable in respect of the profits from the business.

(3) For the purposes of subsection (2), “body of persons” includes a company limited by guarantee approved by the Minister or such person as he may appoint, subject to such conditions as he may impose.

(4) In this section —

“members”, in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs;

“Singapore members” means members that are —

- (a) persons, other than companies, resident in Singapore;
- (b) companies incorporated in Singapore (excluding branches or offices located outside Singapore); or
- (c) in the case of companies incorporated outside Singapore, the branches or offices of the companies located within Singapore.”.

Amendment of section 13

6. Section 13 of the principal Act is amended —

(a) by deleting paragraph (aa) of subsection (1) and substituting the following paragraph:

“(aa) subject to subsection (2A) and such conditions as may be prescribed by regulations, the discount from any qualifying debt securities —

- (i) issued during the period from 27th February 2004 to 16th February 2006 which mature within

one year from the date of issue of those securities; or

(ii) issued during the period from 17th February 2006 to 31st December 2008,

5 by —

(A) any person who is not resident in Singapore and who does not have any permanent establishment in Singapore; or

10 (B) any person who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore where the funds used by that person to acquire the qualifying debt securities are not obtained from the operation;”;

15 (b) by deleting the word “including” in subsection (1)(ze)(v) and substituting the word “excluding”;

(c) by inserting, immediately before the word “offered” in subsection (1)(ze)(v), the words “the units of which are”;

(d) by deleting the word “and” at the end of subsection (1)(zf);

20 (e) by deleting paragraph (zg) of subsection (1) and substituting the following paragraphs:

“(zg) any distribution made by any trustee-manager of a registered business trust;

25 (zh) any distribution made by any trustee of a real estate investment trust of any income of the kinds referred to in section 43(2A)(a)(i), (ii) and (iii) to an individual, except where such distribution is derived by the individual through a partnership in Singapore or is derived from the carrying on of a trade, business or profession;

30 (zi) the following income derived from Singapore on or after 17th February 2006 by any individual:

(i) any discount from debt securities;

(ii) any distribution made by any restricted authorised scheme out of income derived from Singapore or received in Singapore on or after 17th February 2006, that is income or deemed to be income of the individual, except distribution made out of Singapore dividends from which tax is deducted or deductible under section 44,

except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession; and

(zj) any income derived from Singapore by an individual from any structured product offered by a financial institution on or after 7th October 2004, except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession.”;

(f) by deleting the definition of “deposit” in subsection (16) and substituting the following definition:

“ “deposit” means —

(a) in relation to any standard savings, current or fixed deposit account referred to in subsection (1)(zc), any deposit of moneys, but does not include —

(i) any deposit of moneys the interest from which is determined by the performance of any securities or by the fluctuations in currency exchange rates or by any combination thereof; or

(ii) any other prescribed deposit; or

(b) in relation to any deposit of moneys referred to in subsection (1)(t) or (zd) which is made on or after 7th October 2004 and which matures on or after 2nd June 2005, a deposit which falls within the meaning of deposit in section 4B of the Banking Act (Cap. 19) and is treated as such by the Monetary Authority of Singapore for the purposes of that section.”;

(g) by inserting, immediately after the definition of “qualifying debt securities” in subsection (16), the following definitions:

““real estate investment trust” has the same meaning as in section 43(10);

5 “registered business trust” and “trustee-manager” have the same meanings as in the Business Trusts Act (Cap. 31A);”;

(h) by inserting, immediately after the definition of “related party” in subsection (16), the following definition:

10 ““restricted authorised scheme” means a collective investment scheme constituted as a unit trust authorised under regulations made under the Securities and Futures Act (Cap. 289) for the purpose of section 305 of that Act;”;

15 (i) by deleting the full-stop at the end of the definition of “Singapore Government securities” in subsection (16) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

20 ““structured product” means a sum of money paid on terms under which —

(a) it may not be repaid in full and the return from which is, partly or wholly, determined by the performance of any embedded derivative instrument; and

25 (b) its repayment may be in money or money’s worth.”.

Amendment of section 13A

7. Section 13A of the principal Act is amended —

30 (a) by inserting, immediately after the words “income of a shipping enterprise” in subsections (3) and (5A), the words “from the operation of Singapore ships or foreign ships”;

(b) by inserting, immediately after “19,” in subsections (3)(a) and (11), “19A,”; and

- (c) by deleting the definitions of “income of a shipping enterprise” and “operation of Singapore ships” in subsection (16) and substituting the following definition:

“ “operation” means —

- 5 (a) in relation to a Singapore ship —
- (i) the carriage of passengers, mails, livestock or goods outside the limits of the port of Singapore;
- (ii) towing or salvage operations outside the limits of the port of Singapore;
- 10 (iii) the charter of the ship for use outside the limits of the port of Singapore; or
- (iv) for the year of assessment 2007 and subsequent years of assessment, the use outside the limits of the port of Singapore of the ship as a dredger, seismic ship or vessel used for offshore oil or gas activity; and
- 15
- (b) in relation to a foreign ship, the carriage of passengers, mails, livestock or goods shipped in Singapore, except where such carriage arises solely from transshipment from Singapore;”.
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Amendment of section 13G

8. Section 13G of the principal Act is amended —

- 25 (a) by deleting the word “or” at the end of subsection (2)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (2) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:
- 30 “(c) being any other person, is neither resident in Singapore nor constituted or registered under any written law in Singapore; or
- (d) is a trustee of another foreign trust specified under subsection (1).”;

(c) by inserting, immediately after subsection (2), the following subsection:

“(2A) Where any income of a foreign trust is exempt from tax under regulations made under subsection (1) in any year of assessment, the share of such income that a foreign account of a philanthropic purpose trust is entitled to receive for that year of assessment shall also be exempt from tax.”; and

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

“(4) In this section —

“foreign account” and “philanthropic purpose trust” have the same meanings as in section 130;

“trustee company” has the same meaning as in section 43J(2).”.

15 **Amendment of section 130**

9. Section 130 of the principal Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Regulations made under subsection (1) may provide for the deduction of expenses, allowances, losses and donations relating to a foreign account of a philanthropic purpose trust or an eligible holding company established for the purposes of a philanthropic purpose trust, otherwise than in accordance with this Act.”;

(b) by deleting paragraph (b) of the definition of “foreign account” in subsection (2) and substituting the following paragraph:

“(b) companies each of which —

(i) is neither incorporated nor resident in Singapore;

(ii) does not have a permanent establishment in Singapore other than a trustee company referred to in subsection (1)(a);

(iii) does not carry on a business in Singapore;

(iv) does not beneficially own more than 20% of the total number of the issued shares of any company incorporated in Singapore;

5 (v) does not have 20% or more of the total number of its issued shares beneficially owned, directly or indirectly, by a company which —

(A) has a permanent establishment in Singapore other than a trustee company referred to in subsection (1)(a);

10 (B) carries on a business in Singapore; or

(C) beneficially owns more than 20% of the total number of the issued shares of any company incorporated in Singapore; and

(vi) has —

15 (A) if it has no more than 50 shareholders, all of its issued shares beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; or

20 (B) if it has more than 50 shareholders, not less than 95% of the total number of its issued shares beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore;” and

25

(c) by inserting, immediately after subsection (2), the following subsection:

30 “(3) The Minister or such person as he may appoint may in any particular case waive any requirement referred to in paragraph (b)(ii) to (v) of the definition of “foreign account” in subsection (2).”.

New sections 13Q to 13T

10. The principal Act is amended by inserting, immediately after section 13P, the following sections:

“Exemption of relevant income of prescribed locally administered trust

13Q.—(1) There shall be exempt from tax all relevant income of —

(a) such locally administered trust as the Minister may by regulations prescribe; and

(b) a holding company established for the purposes of such trust, as the Minister may by regulations prescribe.

(2) Where any relevant income of a prescribed locally administered trust is exempt from tax under subsection (1) in any year of assessment, the share of such income to which any beneficiary of the locally administered trust is entitled to receive for that year of assessment shall also be exempt from tax.

(3) In this section —

“locally administered trust” means a trust administered by a trustee company in Singapore —

(a) every settlor of which is an individual;

(b) every beneficiary of which is an individual or a charitable institution, trust or body of persons established for charitable purposes only; and

(c) at least one of the beneficiaries of which is not a settlor of the trust;

“relevant income” means —

(a) any income of the kinds referred to in section 13(1)(zd), (ze), (zf), (zh), (zi) or (zj) accrued in or derived from Singapore on or after 17th February 2006; or

(b) any income of the kinds referred to in section 13(7A) received in Singapore on or after 17th February 2006 excluding, in respect of a prescribed locally administered trust, any dividend received by the trust from a prescribed holding company not resident in Singapore, if the dividend is paid out of income that is not the relevant income of the holding company;

“trustee company” has the same meaning as in section 43J(2).

Exemption of income of company incorporated and resident in Singapore arising from funds managed by fund manager in Singapore

5 **13R.**—(1) There shall be exempt from tax such income as the Minister may by regulations prescribe of a company incorporated and resident in Singapore and approved by the Minister or such person as he may appoint (referred to in this section as an approved company), arising from funds managed —

(a) in Singapore by such fund manager as may be prescribed; or

10 (b) by such person as may be approved by the Minister or by a person appointed by him, subject to such conditions as the Minister may impose.

(2) Regulations made under subsection (1) may provide for the determination of the amount of the income of an approved company to be exempted and for the deduction of losses otherwise than in accordance with section 37.

15 (3) No approval shall be granted under subsection (1) after 16th February 2011.

20 (4) The Comptroller shall, for each year of assessment for which the income of an approved company is exempt from tax under subsection (1), issue to the company a statement showing the amount of income exempt from tax, and Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if such statement were a notice of assessment.

25 (5) Subject to subsection (6), where any statement issued to an approved company under subsection (4) has become final and conclusive, the amount of income shown therein shall not form part of the statutory income of the company for the year of assessment to which the statement relates and shall be exempt from tax.

30 (6) The Comptroller may, before any such statement has become final and conclusive, treat a specified amount of the income of an approved company as exempt from tax pending such statement becoming final and conclusive.

35 (7) As soon as any amount of the income of an approved company has been exempted under subsection (1), the amount of the income

exempted shall be credited to a special account (referred to in this section as the account) to be kept by the company for the purpose of this section.

5 (8) Where the account of an approved company is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

10 (9) So much of the amount of any dividends debited to the account under subsection (8) as is received by a shareholder of an approved company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

15 (10) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the approved company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.

(11) Section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section.

20 (12) Where an amount of dividends exempt from tax under this section has been received from an approved company by a shareholder, then, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders, and section 44 shall not apply to any such dividend or part thereof.

25 (13) Notwithstanding subsections (9) and (12), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.

30 (14) An approved company shall deliver to the Comptroller a statement of the account made up to any date specified by him whenever called upon to do so by notice in writing.

(15) Notwithstanding anything in this section, where it appears to the Comptroller that —

- 35 (a) any income of an approved company which has been exempted from tax under subsection (1); or
- (b) any dividend which has been exempted from tax in the hands of any shareholder,

ought not to have been so exempted for any year of assessment, the Comptroller may, at any time within 6 years after the expiration of that year of assessment —

- 5 (i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to make good any loss of tax; or
- (ii) direct the company to debit the account with such amount as the circumstances require.

10 (16) Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if an assessment or a direction under subsection (15) were a notice of assessment.

Exemption of income of shipping investment enterprise

15 **13S.**—(1) Subject to subsection (4), there shall be exempt from tax the income derived by an approved shipping investment enterprise from the chartering or finance leasing of —

20 (a) any sea-going ship for use outside the limits of the port of Singapore and acquired during the period of approval of the shipping investment enterprise referred to in subsection (3) to —

- (i) a person who is neither resident in nor a permanent establishment in Singapore; or
- (ii) an approved international shipping enterprise; or

25 (b) any sea-going Singapore ship for use outside the limits of the port of Singapore and acquired during such period of approval to a shipping enterprise within the meaning of section 13A.

30 (2) The Minister or such person as he may appoint may, at any time between 1st March 2006 and 28th February 2011, approve a shipping investment enterprise for the purposes of subsection (1).

(3) The approval under subsection (2) shall be subject to such conditions, and shall be for such period not exceeding 10 years, as the Minister may specify; except that the Minister may extend the period so specified for such further periods as he thinks fit.

(4) The Minister or such person as he may appoint may, in respect of any sea-going ship or class of sea-going ships, specify the period during which the income of the sea-going ship or class of sea-going ships may be exempted from tax under subsection (1) not exceeding —

- (a) in the case of any ship used for the carriage of goods or passengers, towage or salvage, a period of 30 years; or
- (b) in the case of any dredger, seismic ship or any ship used for offshore oil or gas activity, a period of 40 years.

(5) In determining the amount of the income of an approved shipping investment enterprise from the chartering or finance leasing of sea-going ships which is exempted under subsection (1), the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21, 22 and 23, other than allowances made to a lessee of a sea-going ship under regulations made under section 10D —

- (a) shall be taken into account notwithstanding that no claim for those allowances has been made; and
- (b) shall only be deducted against the income referred to in subsection (1), and the balance of those allowances shall not be available as a deduction against any other income, except that any balance remaining unabsorbed at the end of the tax exempt period of the enterprise shall be available as a deduction against any other income for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 23.

(6) Where an approved shipping investment enterprise incurs a loss during the tax exempt period of the enterprise in respect of activities referred to in subsection (1), that loss —

- (a) shall be deducted in accordance with section 37; and
- (b) shall only be deducted against the income referred to in subsection (1), and the balance of the loss shall not be available as a deduction against any other income, except that any balance remaining unabsorbed at the end of the tax exempt period of the enterprise shall be available as a deduction against any other income for the year of

assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 37.

5 (7) The Comptroller shall for each year of assessment for which the income of an approved shipping investment enterprise is exempt from tax under subsection (1) issue to the enterprise a statement showing the amount of income exempt from tax under subsection (1); and Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary
10 modifications, as if such statement were a notice of assessment.

(8) Subject to subsection (9), where any statement issued to an approved shipping investment enterprise under subsection (7) has become final and conclusive, the amount of income shown therein shall not form part of the statutory income of the enterprise for the
15 year of assessment to which the statement relates and shall be exempt from tax.

(9) The Comptroller may, before any such statement has become final and conclusive, treat a specified amount of the income of an approved shipping investment enterprise as exempt from tax pending
20 such statement becoming final and conclusive.

(10) As soon as any amount of the income of an approved shipping investment enterprise, being a company, has been exempted from tax under subsection (1), the amount of the income exempted shall be credited to a special account (referred to in this section as the
25 account) to be kept by the enterprise for the purpose of this section.

(11) Where the account of an approved shipping investment enterprise is in credit at the date on which any dividends are paid by the enterprise out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall
30 be debited to the account.

(12) So much of the amount of any dividends debited to the account under subsection (11) as is received by a shareholder of an approved shipping investment enterprise shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the
35 shareholder.

(13) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the approved shipping

investment enterprise or any particular class of the shareholders in accordance with the proportion of their shareholdings in the enterprise.

5 (14) Section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section.

10 (15) Where an amount of dividends exempt from tax under this section has been received from an approved shipping investment enterprise by a shareholder, then, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 44 shall not apply to any such dividend or part thereof.

15 (16) Notwithstanding subsections (12) and (15), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.

(17) An approved shipping investment enterprise shall deliver to the Comptroller a statement of the account made up to any date specified by him whenever called upon to do so by notice in writing.

20 (18) Notwithstanding anything in this section, where it appears to the Comptroller that —

(a) any income of an approved shipping investment enterprise which has been exempted from tax under subsection (1); or

25 (b) any dividend which has been exempted from tax in the hands of any shareholder,

ought not to have been so exempted for any year of assessment, the Comptroller may, at any time within 6 years after the expiration of that year of assessment —

30 (i) make such assessment or additional assessment upon the enterprise or any such shareholder as may appear to be necessary in order to make good any loss of tax; or

(ii) direct the enterprise to debit the account with such amount as the circumstances may require.

35 (19) Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary

modifications, as if an assessment or a direction under subsection (18) were a notice of assessment.

(20) In this section —

“approved international shipping enterprise” means an international shipping enterprise approved by the Minister or such person as he may appoint, subject to such conditions as he may impose;

“finance leasing” means the leasing of any sea-going ship which has the effect of transferring substantially the obsolescence, risks or rewards incidental to ownership of the sea-going ship to the lessee;

“international shipping enterprise” has the same meaning as in section 13F(6);

“registered business trust” has the same meaning as in the Business Trusts Act (Cap. 31A);

“sea-going ship” includes any dredger, seismic ship or any vessel used for offshore oil or gas activity;

“shipping investment enterprise” means —

(a) a company incorporated and resident in Singapore; or

(b) a registered business trust;

“Singapore ship” has the same meaning as in section 13A(16);

“tax exempt period”, in relation to an approved shipping investment enterprise, means the period from the date the enterprise first acquires, during the period of approval of the enterprise, a sea-going ship for use outside the limits of the port of Singapore to the date where no income of any sea-going ship of the enterprise is eligible for exemption from tax under subsection (1).

Exemption of trust income to which beneficiary is entitled

13T.—(1) Where any beneficiary of a trust who is resident in Singapore is entitled to any share of the statutory income of the trust, that share shall be exempt from tax in his hands if it would have been exempt from tax under any provision of this Part had it been derived or received directly by the beneficiary rather than the trustee.

(2) This section shall not apply to —

- (a) any income of a real estate investment trust within the meaning of section 43(10);
- (b) any income of a unit trust designated under section 35(14);
- 5 (c) any income of an approved CPF unit trust within the meaning of section 35(14);
- (d) any income of a trust arising from funds managed in Singapore by a fund manager prescribed under section 13C;
- (e) any income of a foreign trust specified under section 13G; or
- 10 (f) any income of a locally administered trust prescribed under section 13Q.”.

New section 14P

11. The principal Act is amended by inserting, immediately after section 14O, the following section:

15 **“Deduction for treasury shares transferred under employee equity-based remuneration scheme**

14P.—(1) Where a company transfers, in the basis period for the year of assessment 2007 or any subsequent year of assessment, treasury shares held by it to any person under a stock option scheme or a share award scheme by reason of any office or employment held in Singapore by that person, there shall be allowed a deduction to that company for that year of assessment.

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(2) Subject to subsection (8), the amount of deduction to be allowed to a company under subsection (1) shall be the cost to the company of acquiring the treasury shares transferred to the person less any amount payable by that person for the treasury shares.

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(3) For the purpose of subsection (2), the cost to the company of acquiring the treasury shares transferred to any person shall, at the election of the company, be determined —

- 30 (a) on the basis that treasury shares acquired by the company at an earlier point in time are deemed to be transferred first;
- (b) in accordance with the formula

$$\frac{A}{B} \times C,$$

5 where A is the number of treasury shares transferred by the company to the person;

B is the total number of treasury shares held by the company immediately before the transfer to the person; and

10 C is the total cost of acquiring all the treasury shares held by the company immediately before the transfer to the person; or

(c) on the basis of the aggregate cost of all treasury shares transferred to all persons within each regular interval under subsection (1) computed in accordance with the formula

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$$\frac{D}{(E + F)} \times (G + H),$$

20 where D is the total number of treasury shares transferred under subsection (1) by the company to all persons within that interval;

E is the total number of treasury shares held by the company at the end of the interval immediately preceding that interval;

25 F is the total number of treasury shares acquired by the company within that interval;

G is the total cost of acquiring all the treasury shares held by the company at the end of the interval immediately preceding that interval; and

30 H is the total cost of acquiring all the treasury shares by the company within that interval.

(4) Any election for determining the cost of acquiring treasury shares under subsection (3) or for the length of any regular interval made by a company shall be irrevocable.

35 (5) Where any amount payable by a person for any treasury shares transferred to him exceeds the cost to the company of acquiring the

treasury shares transferred as determined under subsection (3), the amount of the excess shall be credited to an account to be kept by the company for the purpose of this section.

5 (6) Where there is any balance in the account kept by the company under subsection (5) and any treasury shares are subsequently transferred by the company to any person under subsection (1), the cost to the company of acquiring the treasury shares as determined under subsection (3) shall be reduced —

10 (a) where the amount of the balance is equal to or exceeds the amount of the cost, to zero; or

(b) where the amount of the balance is less than the amount of the cost, by the amount of the balance,

and the amount of the reduction shall be debited to the account.

15 (7) For the purpose of this section, a company transfers treasury shares held by it to a person when the person acquires the legal and beneficial interest in the treasury shares.

20 (8) Where a holding company transfers treasury shares held by it to any person employed at any time by a subsidiary company of the holding company under a stock option scheme or a share award scheme —

(a) no deduction shall be allowed to the holding company under subsection (1);

25 (b) if any amount is paid or payable by the subsidiary company to the holding company for the transfer of the treasury shares, there shall be allowed to the subsidiary company, on the date of the transfer of the shares or of the payment to the holding company for the shares, whichever is the later, a deduction under subsection (1) for the amount, or an amount equal to the cost to the holding company of acquiring the treasury shares transferred to that person as determined under subsection (3) less any amount payable by that person for the treasury shares, whichever is the less; and

30 (c) subsections (5) and (6) shall not apply to a company to which this subsection applies.

35 (9) In this section —

“holding company” and “subsidiary company” have the same meanings as in section 5 of the Companies Act (Cap. 50);

“regular interval”, in relation to a company, means an interval in a number of equal periods where —

- 5 (a) the period of each interval is elected by the company;
and
 (b) the aggregate period of all intervals in a basis period would be equal to the basis period.”.

Amendment of section 15

10 **12.** Section 15 of the principal Act is amended —

- (a) by deleting the word “and” at the end of subsection (1)(o);
(b) by deleting the full-stop at the end of paragraph (p) of subsection (1) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

15 “(q) any outgoings and expenses, whether directly or in the form of reimbursements, incurred by any company in respect of any right or benefit granted to any person, by reason of any office or employment held in Singapore by that person, to acquire shares (other than treasury shares) of a holding company of
20 that company.”; and

- (c) by inserting, immediately after subsection (2), the following subsection:

25 “(3) In this section, “holding company” has the same meaning as in section 5 of the Companies Act (Cap. 50).”.

Amendment of section 16

13. Section 16 of the principal Act is amended —

- (a) by inserting, immediately after the words “capital expenditure incurred” in subsection (4), the words “before 1st January 2006”;
30 (b) by deleting the words “that expenditure” in subsection (4) and substituting the words “the total capital expenditure incurred by that person on the construction of that building or structure”;

- (c) by inserting, immediately after the words “this Act” in the 2nd line of subsection (5), the words “and before 1st January 2006”;
- (d) by deleting the words “any expenditure” in the 3rd line of subsection (5) and substituting the words “any capital expenditure incurred before that date on the construction of that building or structure”;
- (e) by deleting the word “No” in subsection (6) and substituting the words “In the case referred to in subsection (4), no”;
- (f) by inserting, immediately after subsection (6), the following subsections:

“(6A) Where any person is, at the end of the basis period for any year of assessment, entitled to an interest in a building or structure which is an industrial building or structure, and that interest is the relevant interest in relation to —

(a) any capital expenditure incurred by him on or after 1st January 2006 on the construction of that building or structure; or

(b) a sale or purchase agreement entered into for that building or structure on or after that date, whether or not the building or structure was previously used as an industrial building or structure,

an annual allowance determined under subsection (6B) shall be made to him for that year of assessment.

(6B) The annual allowance under subsection (6A) shall be equal to —

(a) in the case referred to in subsection (6A)(a), 3% of the total capital expenditure incurred by the person on the construction of the building or structure; or

(b) in the case referred to in subsection (6A)(b), 3% of the capital expenditure incurred by the person on the purchase of the building or structure.”;

- (g) by deleting the words “and (5)” in subsections (7), (8)(b) and (9)(b) and substituting in each case the words “, (5) and (6B)”;
- (h) by inserting, immediately after the words “capital expenditure” in subsection (12), the words “before 1st January 2006”; and

- (i) by inserting, immediately after subsection (12), the following subsection:

“(12A) For the purposes of subsection (1), where a person has incurred capital expenditure on or after 1st January 2006 on the purchase of an industrial building or structure which has not previously been used by any person, he shall be deemed to have incurred expenditure on the construction of that industrial building or structure equal to the capital expenditure incurred by him on the purchase of that industrial building or structure if —

(a) the person claiming the initial allowance by virtue of this subsection purchased the industrial building or structure from the person who constructed that building or structure; and

(b) no initial allowance has been granted under subsection (1) in respect of that industrial building or structure to the person who constructed that building or structure.”.

Amendment of section 17

14. Section 17 of the principal Act is amended —

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

“(1) Where any of the events referred to in subsection (1A) occurs while a building or structure is an industrial building or structure or after it has ceased to be one and —

(a) any capital expenditure has been incurred on the construction of the building or structure before 1st January 2006; or

(b) either —

(i) any capital expenditure has been incurred on the construction of the building or structure on or after 1st January 2006; or

(ii) a sale and purchase agreement for the building or structure was entered into on or after that date,

then an allowance or charge, to be known as a “balancing allowance” or a “balancing charge” shall, in the circumstances mentioned in this section, be made to or, as the case may be, on the person entitled to the relevant interest immediately before that event occurs for the year of assessment in the basis period for which that event occurs.

(1A) The events referred to in subsection (1) are —

- (a) the relevant interest in the building or structure is sold;
 - (b) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon;
 - (c) the building or structure is demolished or destroyed or, without being demolished or destroyed, ceases altogether to be used.”;
- (b) by deleting the word “No” in subsection (2) and substituting the words “In the case referred to in subsection (1)(a), no”; and
- (c) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:
- “(a) on the sale of the relevant interest in the building or structure unless the person proves to the satisfaction of the Comptroller that the value of the building or structure to the person is less than —
 - (i) in the case referred to in subsection (1)(a), the amount of the capital expenditure incurred on the construction of the building or structure reduced by the amount of any initial and annual allowances made (including an amount of 3% of the capital expenditure for each year in which no initial or annual allowance was made); or
 - (ii) in the case referred to in subsection (1)(b), the amount of the capital expenditure incurred by him on the construction or purchase of the building or structure (as the case may be) reduced by the amount of any initial and annual allowances made (including an amount of 3% of

the capital expenditure for each year in which no initial or annual allowance was made); and”.

Amendment of section 18

5 **15.** Section 18 of the principal Act is amended by deleting subsections (7) and (8) and substituting the following subsections:

“(7) Where part of a building or structure is, and part thereof is not, an industrial building or structure, and —

10 (a) in a case where capital expenditure is incurred on the construction of the building or structure before 1st January 2006, the capital expenditure incurred on the construction of the second-mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure; or

(b) in a case where —

15 (i) capital expenditure is incurred on the construction of the building or structure on or after 1st January 2006; or

(ii) a sale and purchase agreement was entered into for the building or structure on or after that date,

20 the capital expenditure incurred on the construction or purchase (as the case may be) of the second-mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction or purchase of the whole building or structure,

25 then the whole building or structure and every part thereof shall be treated as an industrial building or structure.

30 (7A) Where the Comptroller is satisfied that it is not reasonably practicable to determine the capital expenditure incurred on the second-mentioned part of the building or structure under subsection (7), the whole building or structure and every part thereof may be treated as an industrial building or structure if —

(a) the floor area of the part of the building or structure that is not an industrial building or structure is not more than one-tenth of the total floor area of the whole building or structure; or

(b) the Comptroller is otherwise satisfied that it is just and proper to do so.

(8) In this section and sections 16 and 17 —

“capital expenditure”, in relation to the purchase of a building or structure, means the net price paid for the building or structure, but does not include the cost of land as determined to the satisfaction of the Comptroller;

“relevant interest” means —

(a) in relation to any capital expenditure incurred on the construction of a building or structure, the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it; and

(b) in relation to a sale and purchase agreement for a building or structure, the interest in that building or structure to which the purchaser was entitled when he entered into the agreement;

“residue of expenditure” means —

(a) in relation to any capital expenditure incurred on the construction of a building or structure before 1st January 2006, the amount of the capital expenditure incurred on such construction reduced by —

(i) the amount of any initial allowance made;

(ii) any annual allowance made; and

(iii) any balancing allowances granted,

and increased by any balancing charges made; or

(b) in relation to any capital expenditure incurred on the construction or purchase of a building or structure on or after 1st January 2006, the amount of the capital expenditure incurred on such construction or purchase (as the case may be) reduced by —

(i) the amount of any initial allowance made; and

(ii) any annual allowance made.”.

Amendment of section 19B

16. Section 19B of the principal Act is amended —

(a) by inserting, immediately after subsection (2A), the following subsection:

5 “(2B) The Minister or such person as he may appoint may in any particular case waive the requirement under subsection (2A) in respect of any intellectual property rights acquired on or after 17th February 2006, subject to such conditions as he may impose.”; and

10 (b) by deleting subsection (10) and substituting the following subsection:

 “(10) No writing-down allowance under subsection (1) shall be made for any capital expenditure incurred in respect of intellectual property rights acquired after 31st October 2008.”.

Amendment of section 19C

17. Section 19C of the principal Act is amended —

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

20 “(1) Subject to this section, where a person carrying on a trade or business has incurred expenditure under any cost-sharing agreement entered into and approved on or after 17th February 2006, in respect of research and development activities for the purposes of that trade or business (referred to in this section as the relevant trade or business), he shall, subject to such conditions as may be imposed by the Minister or such person as he may appoint, be entitled to a writing-down allowance of 100% of that expenditure in the year of assessment relating to the basis period in which that expenditure was incurred.”;

30 (b) by deleting subsection (4);

(c) by deleting the words “therefor shall, so far as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes” in the 15th, 16th and 17th lines of subsection (6) and substituting the words “shall be treated”;

(d) by deleting subsection (7) and substituting the following subsection:

“(7) For the purpose of subsection (6), the amount or value of the consideration to be treated as a trading receipt shall not exceed the amount of writing-down allowance made under this section.”;

(e) by deleting subsection (9);

(f) by deleting the words “the event referred to in subsection (6)(d)” in subsection (11B) and substituting the words “an event referred to in subsection (6)(a), (b), (c) or (d)”;

(g) by inserting, immediately after subsection (11B), the following subsection:

“(11C) Notwithstanding the provisions of this section, section 19C in force immediately before 17th February 2006 shall continue to apply and have effect in relation to any approved cost-sharing agreement entered into before that date in respect of research and development activities.”.

Amendment of section 24

18. Section 24(3) of the principal Act is amended by deleting sub-paragraph (i) of paragraph (a) and substituting the following sub-paragraph:

“(i) in the case of an industrial building or structure, for a sum equal to the residue of expenditure on the construction or purchase (pursuant to a sale and purchase agreement entered into on or after 1st January 2006) of that building or structure immediately before the sale, computed in accordance with section 17;”.

Amendment of section 26

19. Section 26 of the principal Act is amended —

(a) by deleting the word “This” in subsection (1) and substituting the words “Subject to section 34A, this”;

(b) by deleting the words “insurance company” wherever they appear in subsections (1) to (9) and substituting in each case the word “insurer”;

- (c) by deleting the words “*Insurance companies*” in the heading of subsection (3) and substituting the word “*Insurers*”;
- (d) by deleting the words “*insurance companies*” in the headings of subsections (3), (5), (6) and (9) and in the section heading and substituting in each case the word “*insurers*”;
- (e) by deleting the word “company” wherever it appears in subsections (3)(b) and (d), (8)(a), (b), (c) (7th, 13th and penultimate lines) and (d) and (9) and substituting in each case the word “insurer”;
- (f) by deleting the word “company” in the 4th and 6th lines of subsection (8)(c) and substituting the words “insurer (being a company)”;
- (g) by deleting paragraph (d) of subsection (3) and substituting the following paragraph:
- “(d) from the net amount so arrived at, deducting the actual losses (less the amount recovered in respect thereof under reinsurance), the distribution expenses and management expenses incurred in the production of the income referred to in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office.”;
- (h) by deleting subsection (6) and substituting the following subsection:
- “(6) In the case of a life insurer, whether mutual or proprietary, the gains or profits on which tax is payable shall be ascertained by taking the aggregate of —
- (a) in the case of insurance funds established and maintained for Singapore policies, the amount computed in the following manner:
- (i) taking the amount allocated out of the participating fund by way of bonus to the participating policies in accordance with section 17(6)(b) of the Insurance Act (Cap. 142);
- (ii) adding thereto the amount allocated to the surplus account of the participating fund in

accordance with section 17(6)(c) or (7) of the Insurance Act;

(iii) deducting from the balance so arrived at any receipt of the participating fund which is not chargeable to tax and adding thereto any expense of the participating fund which is not deductible for the purposes of this Act;

(iv) adding thereto the amount relating to investment income earned on assets representing the balance in the surplus account, after deducting any receipt which is not chargeable to tax and not allowing as a deduction any expense which is not deductible for the purposes of this Act; and

(v) adding thereto the balance so arrived at the life insurance surplus in relation to the non-participating fund and the investment-linked fund;

(b) in the case of shareholders' fund established in Singapore, the income therein less any expenses (including management expenses) incurred in the production of such income; and

(c) in the case of insurance funds established and maintained for offshore policies, the amount computed in the following manner:

(i) taking the amount allocated out of the participating fund by way of bonus to the participating policies in accordance with section 17(6)(b) of the Insurance Act (Cap. 142);

(ii) adding thereto the amount allocated to the surplus account of the participating fund in accordance with section 17(6)(c) or (7) of the Insurance Act;

(iii) deducting from the balance so arrived at any receipt of the participating fund which is not chargeable to tax and adding thereto any expense

of the participating fund which is not deductible for the purposes of this Act;

(iv) adding thereto the amount relating to investment income earned on assets representing the balance in the surplus account, after deducting any receipt which is not chargeable to tax and not allowing as a deduction any expense which is not deductible for the purposes of this Act;

(v) adding thereto the offshore life insurance surplus in relation to the non-participating fund and the investment-linked fund; and

(vi) deducting from the balance so arrived at such income that is subject to tax at the concessionary rate of tax prescribed by regulations made under section 43C.”;

(i) by deleting paragraph (a) of subsection (7) and substituting the following paragraph:

“(a) only such part of the following income as may be specified in those regulations shall be included:

(i) the amount in relation to insurance funds established and maintained for offshore policies, computed in the following manner:

(A) taking the amount allocated out of the participating fund by way of bonus to the participating policies in accordance with section 17(6)(b) of the Insurance Act (Cap. 142);

(B) adding thereto the amount allocated to the surplus account of the participating fund in accordance with section 17(6)(c) or (7) of the Insurance Act;

(C) deducting from the balance so arrived at any receipt of the participating fund which is not chargeable to tax and adding thereto any expense of the participating fund

which is not deductible for the purposes of this Act;

5 (D) adding thereto the amount relating to investment income earned on assets representing the balance in the surplus account, after deducting any receipt which is not chargeable to tax and not allowing as a deduction any expense which is not deductible for the purposes of this Act; and

10 (E) adding thereto the offshore life insurance surplus in relation to the non-participating fund and the investment-linked fund; and

15 (ii) the income of the shareholders' fund established in Singapore as is attributable to the offshore life business; and”;

(j) by deleting paragraph (d) of subsection (8) and substituting the following paragraph:

20 “(d) in a case where, immediately before the life insurer ceases business permanently without transferring the business to any person in Singapore, there is an amount remaining in the participating fund which is not allocated by way of bonus to any participating policy, the Comptroller may make such adjustment to the tax liability of the life insurer as he thinks fit.”;

25 (k) by inserting, immediately after subsection (9), the following subsections:

“(9A) For the purposes of this section, the Minister may make regulations —

30 (a) to provide for such transitional, supplementary and consequential matters as he may consider necessary or expedient; and

(b) generally to give effect to or for carrying out the purposes of this section.

35 (9B) Notwithstanding the amendment of this section by the Income Tax (Amendment) Act 2006, section 26 in force

immediately before the amendment shall apply to the income of an insurer derived before the year of assessment 2006.”;

- (l) by inserting, immediately after the definition of “income of the shareholders’ fund” in subsection (10), the following definitions:

5 “insurer” means —

(a) a company registered under the Insurance Act (Cap.142) to carry on insurance business in Singapore; or

10 (b) a person (including a partnership) permitted under the Insurance Act to carry on insurance business in Singapore under a foreign insurer scheme;

“investment-linked fund” means an insurance fund for investment-linked policies established and maintained under section 17(1A) of the Insurance Act;

15 “investment-linked policies”, “non-participating policies” and “participating policies” have the same meanings as in the First Schedule to the Insurance Act;”;

- (m) by deleting the definition of “life insurance surplus” in subsection (10) and substituting the following definition:

20 “life insurance surplus”, in relation to the non-participating fund and the investment-linked fund of an insurer, means the amount ascertained —

(a) by taking the aggregate of —

25 (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from Singapore non-participating and Singapore investment-linked policies of any life insurance fund established and maintained under the Insurance Act (less any premiums returned to the insured and premiums paid or payable on reinsurance);

30 (ii) the net decrease between the beginning and ending values of the policy liabilities of any life insurance fund established and

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5 maintained under the Insurance Act relating to Singapore non-participating and Singapore investment-linked policies of the period for which the gains or profits are ascertained, both values being determined in accordance with that Act; and

- 10 (iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund established and maintained under the Insurance Act relating to Singapore non-participating and Singapore investment-linked policies; and

15 (b) by deducting from that aggregate —

- 20 (i) distribution expenses and management expenses incurred in the production of the income referred to in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office;

- 25 (ii) policy moneys paid or payable in respect of Singapore non-participating and Singapore investment-linked policies (less any amount recovered or recoverable in respect thereof under reinsurance);

- (iii) moneys paid or payable on the surrender of Singapore non-participating and Singapore investment-linked policies; and

- 30 (iv) the net increase between the beginning and ending values of the policy liabilities of any life insurance fund established and maintained under the Insurance Act relating to Singapore non-participating and Singapore investment-linked policies of the period for which the gains or profits are
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ascertained, both values being determined in accordance with that Act;”;

(n) by inserting, immediately after the definition of “life policy” in subsection (10), the following definition:

5 ““non-participating fund” means an insurance fund established and maintained under section 17(2) of the Insurance Act (Cap. 142) which comprises wholly of non-participating policies;”;

10 (o) by deleting the definition of “offshore life insurance surplus” in subsection (10) and substituting the following definition:

 ““offshore life insurance surplus”, in relation to the non-participating fund and the investment-linked fund of an insurer, means the amount ascertained —

 (a) by taking the aggregate of —

15 (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from offshore non-participating and offshore investment-linked policies of any life insurance fund established and maintained under the Insurance Act (less any premiums returned to the insured and premiums paid or payable on reinsurance);

20 (ii) the net decrease between the beginning and ending values of the policy liabilities of any life insurance fund established and maintained under the Insurance Act relating to offshore non-participating and offshore investment-linked policies of the period for which the gains or profits are ascertained, both values being determined in accordance with that Act; and

25 (iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life

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insurance fund established and maintained under the Insurance Act relating to offshore non-participating and offshore investment-linked policies; and

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(b) by deducting from that aggregate —

(i) distribution expenses and management expenses incurred in the production of the income referred to in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office;

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(ii) policy moneys paid or payable in respect of offshore non-participating and offshore investment-linked policies (less any amount recovered or recoverable in respect thereof under reinsurance);

(iii) moneys paid or payable on the surrender of offshore non-participating and offshore investment-linked policies; and

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(iv) the net increase between the beginning and ending values of the policy liabilities of any life insurance fund established and maintained under the Insurance Act (Cap. 142) relating to offshore non-participating and offshore investment-linked policies of the period for which the gains or profits are ascertained, both values being determined in accordance with that Act;” and

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(p) by inserting, immediately after the definition of “offshore risk” in subsection (10), the following definitions:

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““participating fund” means an insurance fund established and maintained under section 17(2) of the Insurance Act which comprises wholly or partly of participating policies;

5 “policy liabilities”, in relation to the non-participating fund and the investment-linked fund of an insurer, means liabilities in respect of policies for which the non-participating fund and investment-linked fund are established and maintained under section 17 of the Insurance Act;”.

New section 26A

20. The principal Act is amended by inserting, immediately after section 26, the following section:

10 **“Ascertainment of income of member of Lloyd’s syndicate**

26A.—(1) Where a business of insuring and reinsuring risks is carried on by any member of Lloyd’s through a syndicate formed to carry on the business in Singapore —

15 (a) the income of the member of Lloyd’s from the syndicate in the basis period for any year of assessment shall be deemed to be the share to which he was entitled during that period in the income of the syndicate; and

20 (b) the statutory income of the member of Lloyd’s from the syndicate shall be computed in accordance with section 35 by treating his share of the income of the syndicate as if it were income of a trade, business, profession or vocation carried on or exercised by him.

25 (2) Section 36 shall not apply to any Lloyd’s Scottish limited partnership carrying on a business of insuring and reinsuring risks in Singapore, and sections 35 and 43(1)(b) shall apply, with the necessary modifications, to such partnership as if it were a person (other than a company) not resident in Singapore.

30 (3) Section 53 shall apply, with the necessary modifications, to any non-resident member of Lloyd’s carrying on a business of insuring and reinsuring risks through any syndicate formed to carry on that business in Singapore as that section applies to a person not resident in Singapore.

35 (4) The tax chargeable for any year of assessment on the income of any non-resident member of Lloyd’s carrying on a business of insuring and reinsuring risks through all syndicates formed to carry

on the business in Singapore of which he is a member shall be aggregated with that of all other non-resident members of Lloyd's of those syndicates, and assessable in the name of the agent.

(5) The agent shall —

- 5 (a) when required by the Comptroller by notice published in the *Gazette* under section 62(1) or by notice in writing under section 62(3), make a return of income for the year of assessment specified in the notice and furnish such particulars as may be required for the purpose of
10 ascertaining the income, if any, for which any member of Lloyd's carrying on a business of insuring and reinsuring risks through any syndicate formed to carry on the business in Singapore, is chargeable to tax; and
- 15 (b) if a return is not made under paragraph (a) for any year of assessment, furnish to the Comptroller an estimate of the aggregate amount of chargeable income of every non-resident member of Lloyd's carrying on a business of insuring and reinsuring risks through any syndicate formed to carry on the business in Singapore, within 3 months after
20 the end of the accounting period relating to that year of assessment of that member.

(6) In this section —

- “agent” means Lloyd's of London (Asia) Pte Ltd or such other person as the Comptroller may determine;
- 25 “Council of Lloyd's” means the Council of Lloyd's established by the Lloyd's Act 1982 of the United Kingdom;
- “Lloyd's” means the society of underwriters known in the United Kingdom as Lloyd's and incorporated by the Lloyd's Act 1871 of the United Kingdom;
- 30 “Lloyd's Scottish limited partnership” means a limited partnership formed under the laws of the Scotland which is a member of Lloyd's;
- “member of Lloyd's” means a person admitted to membership of Lloyd's as an underwriting member and includes, where the
35 context so requires, any person who has ceased to be a member of Lloyd's and any administrator, administrative

receiver, committee, curator bonis, executor, liquidator, manager, personal representative, supervisor or trustee in bankruptcy, or any other person by law entitled or bound to administer the affairs of the member or former member concerned;

5

“syndicate” means a member of Lloyd’s or a group of members of Lloyd’s underwriting insurance business at Lloyd’s through the agency of a Lloyd’s underwriting agent to which member or group a particular syndicate number is assigned by or under the authority of the Council of Lloyd’s.”

10

New sections 34A and 34B

21. The principal Act is amended by inserting, immediately after section 34, the following sections:

“Adjustment on change of basis of computing profits of financial instruments

15

34A.—(1) Notwithstanding the provisions of this Act, the amount of any profit or loss (as the case may be) or expense to be brought into account for the basis period for any year of assessment in respect of any financial instrument of a qualifying person for the purposes of sections 10, 14, 14I and 37 is that which, in accordance with FRS 39, is recognised in determining any profit or loss (as the case may be) or expense in respect of that financial instrument for that year of assessment.

20

(2) Notwithstanding subsection (1), the profit or loss or expense in respect of the financial instrument referred to in the following paragraphs shall, for the purposes of sections 10, 14, 14I and 37, be computed as follows:

25

(a) where a qualifying person to whom section 10(12)(b) applies derives interest from a negotiable certificate of deposit or derives a gain or profit from the sale thereof, his income therefrom shall be treated in the manner set out in section 10(12);

30

(b) where a qualifying person derives interest from debt securities and the interest is chargeable to tax under section 10(1)(d), such interest shall be computed based on the contractual interest rate and not the effective interest rate;

35

- (c) any amount of profit or expense in respect of a loan for which no interest is payable shall be disregarded;
- (d) where the creditor and debtor of a loan agreement are not dealing with each other at arm's length, only the interest income or the interest expense based on the contractual interest rate shall be chargeable to tax or allowed as a deduction, as the case may be;
- (e) in a case where section 14(1)(a) applies, only the interest expense incurred based on the contractual interest rate shall be allowed as a deduction under section 14(1)(a);
- (f) any amount of profit or loss in respect of a hedging instrument where the underlying asset or liability is employed or intended to be employed as capital shall be disregarded;
- (g) where a bank or qualifying finance company within the meaning of section 14I is unable to make provision for the amount of impairment losses in respect of a group of financial assets in accordance with FRS 39, but is required to make such provision by the Monetary Authority of Singapore, section 14I shall apply for a period of 5 years, or such further period as the Minister may allow, beginning from the year of assessment relating to the basis period in which the bank or qualifying finance company is first required to prepare financial accounts in respect of its trade or business in accordance with FRS 39.

(3) A person who is required to prepare or maintain financial accounts in accordance with FRS 39 may, subject to such conditions as the Comptroller may specify, elect in accordance with subsection (4) not to be subject to this section; and if the person so elects, he shall not be treated as a qualifying person from the year of assessment relating to the basis period during which he is first required to prepare financial accounts in accordance with FRS 39.

(4) The election referred to in subsection (3) shall be made by the person by notice in writing to the Comptroller —

- (a) at the time of lodgment of the return of income for the year of assessment referred to in subsection (3); or

(b) such further time as the Comptroller may allow.

(5) A person who has made an election under subsection (3) may at any time revoke the election by notice in writing to the Comptroller; and if the person so revokes, he shall be treated as a qualifying person from the year of assessment relating to the basis period during which the revocation is made or such year of assessment as the Comptroller may approve.

(6) The revocation under subsection (5) shall be irrevocable.

(7) A person who is not required to prepare or maintain financial accounts in accordance with FRS 39 may apply to the Comptroller in writing for approval to be subject to this section and, if the Comptroller approves the application, that person shall be treated as a qualifying person from the year of assessment relating to the basis period during which the approval is granted or such later year of assessment as the Comptroller may approve.

(8) This section shall have effect for any basis period beginning on or after 1st January 2005.

(9) For the purposes of this section, the Minister may make regulations —

(a) to provide for such transitional, supplementary and consequential matters as he may consider necessary or expedient; and

(b) generally to give effect to or for carrying out the purposes of this section.

(10) In this section —

“contractual interest rate”, in relation to any financial instrument, means the interest rate specified in the financial instrument;

“debt securities” has the same meaning as in section 43N(4);

“FRS 39” means the financial reporting standard known as Financial Reporting Standard 39 (Financial Instruments: Recognition and Measurement) issued in May 2003 by the Council on Corporate Disclosure and Governance appointed by the Minister under section 200A of the Companies Act (Cap. 50);

“Monetary Authority of Singapore” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“qualifying person”, in relation to any year of assessment, means —

(a) a person who is required to prepare or maintain financial accounts in accordance with FRS 39 and who has not made an election under subsection (3) for that year of assessment; or

(b) a person who is treated as a qualifying person under subsection (5) or (7) for that year of assessment.

(11) Any term used in this section and not defined in this section but defined in FRS 39 shall have the same meaning as in FRS 39.

Islamic financing arrangements

34B.—(1) This section shall apply to any prescribed Islamic financing arrangement entered into on or after 17th February 2006 between any person and a financial institution.

(2) Subject to such exceptions, adaptations and modifications as may be prescribed, sections 10, 12, 13, 14, 15 and 45 and regulations made under section 43Q shall apply in relation to any prescribed Islamic financing arrangement as if a reference in any of those provisions to interest accrued, derived, received or incurred in relation to any loan, deposit or mortgage were a reference to the effective return of the arrangement.

(3) Where under a prescribed Islamic financing arrangement, an asset is sold by one party to the arrangement to the other party, the effective return of the arrangement shall be excluded in determining for the purposes of this Act the consideration for the sale and purchase of the asset.

(4) Subsection (3) does not affect the operation of any provision of this Act which provides that the consideration for a sale or purchase is to be taken for any purpose to be an amount other than the actual consideration.

(5) For the purposes of this section, the Minister may make regulations —

- (a) to prescribe anything that is required or authorised to be prescribed under this section;
- (b) to provide for such transitional, supplementary and consequential matters as he may consider necessary or expedient; and
- (c) generally to give effect to or for carrying out the purposes of this section.

(6) In this section —

“effective return”, in relation to a prescribed Islamic financing arrangement, means the prescribed return in lieu of interest that has or is accrued, derived, received or incurred under the arrangement;

“financial institution” means —

- (a) any institution in Singapore that is licensed or approved by the Monetary Authority of Singapore, or exempted from such licensing or approval, under any written law administered by the Monetary Authority of Singapore; or
- (b) any institution outside Singapore that is licensed or approved, or exempted from such licensing or approval, under any written law administered by its financial supervisory authority for the carrying on of financial activities;

“Islamic financing arrangement” means a financing arrangement which is —

- (a) endorsed by any Shari’ah council or body, or by any committee formed for the purpose of providing guidance on compliance with Shari’ah law; and
- (b) permitted under any written law in Singapore or elsewhere.”.

Amendment of section 35

22. Section 35 of the principal Act is amended by inserting, immediately after subsection (15), the following subsection:

“(16) For the purposes of subsection (15), “statutory income of the trustee” does not include —

- (a) in relation to a trustee of a real estate investment trust within the meaning of section 43(10), any income from any trade or business carried on by the trustee other than income of the kinds referred to in section 43(2A)(a)(i), (ii) and (iii); or
- 5 (b) in relation to a trustee of any other trust, any income from any trade or business carried on by the trustee.”.

Amendment of section 37

23. Section 37 of the principal Act is amended —

- 10 (a) by inserting, immediately after the word “artefact” in subsection (3)(b)(i), the words “or work of art”;
- (b) by deleting the word “or” at the end of subsection (3)(b)(i);
- (c) by deleting the words “for public display outdoors” in subsection (3)(b)(ii) and substituting the words “or work of art for public display”;
- 15 (d) by deleting the comma at the end of sub-paragraph (ii) of subsection (3)(b) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph:
- “(iii) money or services for installing or maintaining any sculpture or work of art for public display made by him
- 20 in the year preceding the year of assessment,”; and
- (e) by inserting, immediately after subsection (16), the following subsection:
- “(16A) For the purposes of subsection (3)(b), “museum” includes any institution established for the purpose of acquiring
- 25 any collection of artefacts and making them accessible to the public.”.

Amendment of section 37C

24. Section 37C(15) of the principal Act is amended —

- 30 (a) by inserting, immediately after the words “subsection (14)(a)” in paragraph (a), the words “(except in relation to allowances falling under sections 16 and 17)”;
- (b) by deleting the word “and” at the end of paragraph (b); and

(c) by deleting the full-stop at the end of paragraph (c) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(d) any company, in respect of qualifying deductions under subsection (14) relating to any income the tax on which is remitted under the provisions of this Act, unless the Minister otherwise approves.”.

Amendment of section 37E

25. Section 37E of the principal Act is amended by deleting subsection (18) and substituting the following subsection:

“(18) This section shall not apply to —

- (a) any company to which section 10E applies; or
- (b) any person, in respect of qualifying deductions under subsection (9) relating to any income the tax on which is remitted under the provisions of this Act for any year of assessment unless —
 - (i) no such remission would be given to any income in the following year of assessment; or
 - (ii) the remission is to effect a deduction for any outgoing or expense incurred by him not otherwise deductible under section 14.”.

Amendment of section 39

26. Section 39 of the principal Act is amended —

- (a) by deleting “\$28,050” wherever it appears in subsection (2)(h) and substituting in each case “\$25,245”;
- (b) by deleting paragraph (l) of subsection (2);
- (c) by deleting the words “paragraph (l)” in subsection (2)(m)(v) and (vi) and (n)(iii) and (v) and substituting in each case the words “subsection (2A) or (2B)”;
- (d) by deleting the words “paragraph (l) or (m)” in subsection (2)(n) and substituting the words “paragraph (m) or subsection (2A) or (2B)”;

(e) by inserting, immediately after subsection (2), the following subsections:

“(2A) In the case of an individual resident in Singapore in the year of assessment who was an operationally ready national serviceman and who —

- (a) had performed operationally ready national service during the relevant period; and
- (b) is certified by the proper authority as being entitled to the deduction under this subsection,

there shall be allowed —

- (i) a deduction of \$3,000 if the individual is not a NS key command and staff appointment holder at any time during the relevant period; or
- (ii) a deduction of \$5,000 if the individual is a NS key command and staff appointment holder at any time during the relevant period.

(2B) In the case of an individual resident in Singapore in the year of assessment who was an operationally ready national serviceman and who —

- (a) had not performed operationally ready national service during the relevant period; and
- (b) is certified by the proper authority as being entitled to the deduction under this subsection,

there shall be allowed —

- (i) a deduction of \$1,500 if the individual is not a NS key command and staff appointment holder at any time during the relevant period; or
- (ii) a deduction of \$3,500 if the individual is a NS key command and staff appointment holder at any time during the relevant period.”;

(f) by deleting subsection (6) and substituting the following subsection:

“(6) Where in any year an individual has made contributions to the Central Provident Fund in respect of additional wages

paid to him in that year, no deduction shall be allowed for any contributions in respect of that part of his additional wages which exceeds the specified amount paid to him in that year.”;

(g) by deleting the words “, with the necessary modifications,” in subsection (7);

(h) by deleting the words “subsection (6)(a) and (b)” in subsection (8) and substituting the words “subsection (6)”;

(i) by inserting, immediately after the definition of “NOR individual” in subsection (13), the following definition:

““NS key command and staff appointment holder” means a person appointed as such by the proper authority;”;

(j) by deleting the definitions of “overseas additional wages”, “overseas ordinary wages”, “overseas total wages” and “relevant employer” in subsection (13) and substituting the following definitions:

““overseas additional wages”, “overseas ordinary wages”, “overseas total wages”, “relevant employer” and “specified amount” have the same meanings as in section 10C(12);”; and

(k) by inserting, immediately after the definition of “proper authority” in subsection (13), the following definition:

““relevant period”, in relation to any year of assessment, means the period beginning from 1st April of the year immediately preceding the year of assessment and ending on 31st March of the subsequent year;”.

Amendment of section 40

27. Section 40(6) of the principal Act is amended by deleting the words “and 50A” in paragraph (b) and substituting the words “, 50A and 50B”.

Amendment of section 42

28. Section 42 of the principal Act is amended —

(a) by deleting paragraph (b) of subsection (6) and substituting the following paragraph:

“(b) discount from —

- (i) qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or
 - (ii) qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008; and”;
- (b) by deleting paragraph (b) of subsection (7) and substituting the following paragraph:

“(b) any discount derived from —

- (i) any qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or
- (ii) any qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008; and”.

Amendment of section 42A

29. Section 42A of the principal Act is amended —

- (a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) Where an individual resident in Singapore has —

- (a) a second child of the family born to him on or after 1st January 2004 who is legitimate at the time of the birth;
- (b) an illegitimate second child of the family born to him on or after 1st January 2004 and the individual becomes lawfully married to the other natural parent of the child before the child reaches 6 years of age;
- (c) a second child of the family adopted by him under any written law relating to the adoption of children on or after 1st January 2004 and before 1st January 2006; or

- (d) a second child of the family adopted by him under any written law relating to the adoption of children on or after 1st January 2006 and before the child reaches 6 years of age,

5 then there shall, in respect of that child, be allowed for the year of assessment immediately following the year of the birth in the case of paragraph (a), the year of the marriage in the case of paragraph (b), or the year of the adoption in the case of paragraph (c) or (d), a rebate of \$10,000 against the tax payable by that individual.

10 (2) Where an individual resident in Singapore has —

- (a) a third or fourth child of the family born to him on or after 1st January 2004 who is legitimate at the time of the birth;

- 15 (b) an illegitimate third or fourth child of the family born to him on or after 1st January 2004 and the individual becomes lawfully married to the other natural parent of the child before the child reaches 6 years of age;

- 20 (c) a third or fourth child of the family adopted by him under any written law relating to the adoption of children on or after 1st January 2004 and before 1st January 2006; or

- 25 (d) a third or fourth child of the family adopted by him under any written law relating to the adoption of children on or after 1st January 2006 and before the child reaches 6 years of age,

30 then there shall, in respect of that child, be allowed for the year of assessment immediately following the year of the birth in the case of paragraph (a), the year of the marriage in the case of paragraph (b), or the year of the adoption in the case of paragraph (c) or (d), a rebate of \$20,000 against the tax payable by that individual.

35 (2A) Where more than one individual is entitled to claim the rebate referred to in subsection (1) or (2), the rebate shall be apportioned between them in such proportion as they may

agree or, in the absence of any agreement, in such manner as appears to the Comptroller to be reasonable.”;

(b) by deleting the words “subsections (1) and (2)” in subsection (3) and substituting the words “subsections (1), (2) and (2A)”;

5 (c) by inserting, immediately after the words “birth or adoption” in subsection (10)(a), the words “or the marriage of his natural parents (as the case may be)”;

10 (d) by deleting the definitions of “second child of the family”, “third child of the family” and “fourth child of the family” in subsection (11) and substituting the following definitions:

““second child of the family” means a child of the family who —

15 (a) is a citizen of Singapore at the time of his birth or adoption or the marriage of his natural parents (as the case may be), or within 12 months thereafter; and

20 (b) at the time of his birth, adoption or the marriage of his natural parents (as the case may be), has one other sibling who is a member of the same household;

“third child of the family” means a child of the family who —

25 (a) is a citizen of Singapore at the time of his birth or adoption or the marriage of his natural parents (as the case may be), or within 12 months thereafter; and

30 (b) at the time of his birth, adoption or the marriage of his natural parents (as the case may be), has 2 other siblings who are members of the same household;

“fourth child of the family” means a child of the family who —

(a) is a citizen of Singapore at the time of his birth or adoption or the marriage of his natural parents (as

the case may be), or within 12 months thereafter;
and

(b) at the time of his birth, adoption or the marriage of his natural parents (as the case may be), has 3 other siblings who are members of the same household;” and

(e) by inserting, immediately after the words “birth or adoption” in subsection (12), the words “or the marriage of his natural parents”.

10 **Amendment of section 43**

30. Section 43 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsection:

“(2A) Subsection (2) shall not apply to —

15 (a) in the case of a real estate investment trust, any income from any trade or business carried on by the trustee, other than the following income distributed by the trustee:

20 (i) rental income or income from the management or holding of immovable property but not including gains from the disposal of immovable property;

(ii) interest income ancillary to the management or holding of immovable property;

25 (iii) income of the kinds referred to in section 13(1)(zd), (ze)(i) and (zf); or

(b) in the case of any other trust, any income from any trade or business carried on by the trustee.”;

30 (b) by deleting the words “(except distribution made out of Singapore dividends) made” in subsection (3B) and substituting the words “made out of any income referred to in subsection (2A)(a)(i), (ii) and (iii)”;

(c) by deleting the words “listed on the Singapore Exchange” in subsection (3B);

- (d) by deleting the words “insurance company” in subsection (9) and substituting the word “insurer”;
- (e) by deleting the word “company” in subsection (9) and substituting the word “insurer”;
- 5 (f) by deleting the definition of “qualifying company” in subsection (10) and substituting the following definition:
 - ““qualifying company” means a company incorporated in Singapore (other than a company limited by guarantee) which for each of the first 3 years of assessment —
 - 10 (a) is resident in Singapore for that year of assessment; and
 - (b) has total share capital which is beneficially held, directly or indirectly, by no more than 20 persons all of whom are individuals throughout the basis
 - 15 period for that year of assessment;”;
 - (g) by deleting the words “offered to the public for subscription” in the definition of “real estate investment trust” in subsection (10) and substituting the words “listed on the Singapore Exchange”.

Amendment of section 43C

- 20 **31.** Section 43C(1) of the principal Act is amended by deleting the words “(other than the business of life assurance)” in paragraph (b).

Amendment of section 43J

- 32.** Section 43J of the principal Act is amended by deleting subsection (2) and substituting the following subsection:
 - 25 “(2) In this section, “trustee company” means a company that is a licensed trustee company within the meaning of the Trust Companies Act (Cap. 336), or that is exempted under that Act from holding a trust business licence within the meaning of that Act.”.

Repeal of section 43L

- 30 **33.** Section 43L of the principal Act is repealed.

Amendment of section 43N

- 34.** Section 43N of the principal Act is amended —

(a) by deleting paragraph (aa) of subsection (1) and substituting the following paragraph:

“(aa) discount derived by any company from —

(i) any qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or

(ii) any qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008;” and

(b) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:

“(b) any discount from —

(i) any qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or

(ii) any qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008; and”.

New sections 43V, 43W and 43X

35. The principal Act is amended by inserting, immediately after section 43U, the following sections:

“Concessionary rate of tax for clearing member of Singapore clearing house

43V.—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved clearing member of a Singapore clearing house derived by it on or after 17th February 2006 from the provision of over-the-counter derivatives clearing services using the Singapore clearing house.

(2) Regulations made under subsection (1) may provide for the deduction of losses otherwise than in accordance with section 37(3).

(3) The concessionary rate of tax referred to in subsection (1) shall apply to an approved clearing member of a Singapore clearing house subject to such conditions as the Minister or such person as he may appoint may impose.

5 (4) No approval shall be granted under this section after 16th February 2011.

(5) In this section —

“approved” means approved by the Minister or such person as he may appoint;

10 “clearing member of a Singapore clearing house ” means a company which holds any membership of a Singapore clearing house;

“Singapore clearing house” means a person operating a clearing facility who is designated as a designated clearing house for
15 the purposes of the Securities and Futures Act (Cap. 289).

Concessionary rate of tax for shipping investment manager

43W.—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% shall be levied and paid for each year of assessment upon such income as the Minister may
20 specify of an approved shipping investment manager derived by it on or after 1st March 2006 from —

(a) managing an approved shipping investment enterprise; or

(b) such other services or activities carried out for an approved shipping investment enterprise as may be prescribed.

25 (2) Regulations made under subsection (1) may provide for the deduction of losses otherwise than in accordance with section 37(3).

(3) The concessionary rate of tax referred to in subsection (1) shall apply to an approved shipping investment manager subject to such conditions as the Minister or such person as he may appoint may
30 impose.

(4) Approval may be granted under this section between 1st March 2006 and 28th February 2011.

(5) In this section —

“approved” means approved by the Minister or such person as he may appoint;

“shipping investment enterprise” has the same meaning as in section 13S;

5 “shipping investment manager” means any company incorporated in Singapore.

Concessionary rate of tax for trust income to which beneficiary is entitled

10 **43X.**—(1) Where any beneficiary of a trust who is resident in Singapore is entitled to any share of the statutory income of the trust, that share shall, if it would have been subject to a concessionary rate of tax under any provision of this Part had it been derived or received directly by the beneficiary rather than the trustee of the trust, be subject to the same concessionary rate of tax.

15 (2) This section shall not apply to —

- (a) any income of a real estate investment trust within the meaning of section 43(10);
- (b) any income of a unit trust designated under section 35(14);
- (c) any income of an approved CPF unit trust within the meaning of section 35(14);
- 20 (d) any income of a trust arising from funds managed in Singapore by a fund manager prescribed under section 13C;
- (e) any income of a foreign trust specified under section 13G; or
- (f) any income of a locally administered trust prescribed under section 13Q.”.

25

Amendment of section 45A

36. Section 45A of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

30 “(2) Subject to such conditions as the Minister may impose, subsection (1) shall not apply to any discount from —

- (a) any qualifying debt securities issued during the period from 27th February 2004 to 16th February 2006 which mature within one year from the date of issue of those securities; or

- (b) any qualifying debt securities issued during the period from 17th February 2006 to 31st December 2008.”.

Amendment of section 46

5 **37.** Section 46(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

“(b) applicable to the share to which any person is entitled in the income of —

- (i) a body of persons (other than trustees); or
- 10 (ii) a trust in respect of any dividend derived from Singapore from which tax is deducted or deductible under section 44;”.

New section 50B

38. The principal Act is amended by inserting, immediately after section 50A, the following section:

15 “**Tax credits for trust income to which beneficiary is entitled**

50B.—(1) Where —

- (a) a trustee of a trust receives income in Singapore from outside Singapore (referred to in this section as the income) for which a tax credit is allowable under this Part against the tax payable in respect of the income; and
- 20 (b) any beneficiary of the trust who is resident in Singapore is entitled to a share of the income,

the tax credit in respect of that share shall be given to the beneficiary instead of the trustee.

25 (2) The tax credit to be given to a beneficiary under subsection (1) shall be computed in accordance with section 50 or 50A (as the case may be) as if the income had been received directly by the beneficiary rather than the trustee.

(3) This section shall not apply to —

- 30 (a) any income of a real estate investment trust within the meaning of section 43(10);
- (b) any income of a unit trust designated under section 35(14);

- (c) any income of an approved CPF unit trust within the meaning of section 35(14);
- (d) any income of a trust arising from funds managed in Singapore by a fund manager prescribed under section 13C;
- 5 (e) any income of a foreign trust specified under section 13G; or
- (f) any income of a locally administered trust prescribed under section 13Q.”.

Amendment of section 62

10 **39.** Section 62 of the principal Act is amended by deleting subsection (8).

Amendment of section 94

40. Section 94 of the principal Act is amended —

- (a) by deleting the word “Any” in subsection (1) and substituting the words “Except as provided in section 94A, any”;
- 15 (b) by deleting the words “this Act” in subsection (2) and in the 3rd line of subsection (3) and substituting in each case the words “this section”;
- (c) by deleting the words “62(1) or” in subsection (3); and
- (d) by deleting paragraphs (b), (c) and (d) of subsection (4).

20 **New section 94A**

41. The principal Act is amended by inserting, immediately after section 94, the following section:

“Penalty for failure to make return

25 **94A.**—(1) Any person who fails or neglects without reasonable excuse to comply with any provision of section 62 or 71 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and in default of payment to imprisonment for a term not exceeding 6 months.

(2) Where any person has been convicted of an offence —

- (a) for failing to comply with section 62(3) and such conviction is subsequent to a conviction for an offence for failing to comply with section 62(1);
- (b) for failing to comply with any provision of section 62 or 71 and such conviction is a second or subsequent conviction; or
- (c) for failing to comply with any provision of section 71 and such conviction is subsequent to a conviction for an offence for failing to comply with any provision of section 62,

in respect of the same year of assessment, he shall be liable to a further penalty of \$50 for every day during which the offence is continued after such conviction.

(3) Any person who fails or neglects without reasonable excuse to comply with section 62 or 71 in respect of any year of assessment for 3 years or more shall be guilty of an offence and shall be liable on conviction to —

- (a) a penalty equal to double the amount of tax which the Comptroller assesses him to be liable for that year of assessment after determining, to the best of the Comptroller's judgment, the amount of his chargeable income; and

- (b) a fine not exceeding \$1,000,

and in default of payment to imprisonment for a term not exceeding 6 months.

(4) Except in the case of a notice published in the *Gazette* under section 62 (1), no person shall be liable to prosecution for an offence under this section in respect of failure to comply with the terms of any notice issued under the provisions of this Act unless the notice has been served on him personally or by registered post.

(5) The Comptroller may compound any offence punishable under this section.”.

Amendment of section 101

42. Section 101 of the principal Act is amended by inserting, immediately after “94,” in subsections (1) and (2), “94A,”.

Amendment of Second Schedule

43. The Second Schedule to the principal Act is amended by deleting Part A and substituting the following Part:

“PART A

RATES OF TAX ON CHARGEABLE INCOME OF AN INDIVIDUAL OR A HINDU JOINT FAMILY

<i>Chargeable Income</i>		<i>Rate of Tax</i>
For every dollar of the first	\$20,000	Nil
For every dollar of the next	\$10,000	3.5%
For every dollar of the next	\$10,000	5.5%
For every dollar of the next	\$40,000	8.5%
For every dollar of the next	\$80,000	14.0%
For every dollar of the next	\$160,000	17.0%
For every dollar exceeding	\$320,000	20.0%.”.

Miscellaneous amendments

44. The principal Act is amended —

- (a) by inserting, immediately after “43L” wherever it appears in the following provisions, the word “(repealed)”:

Sections 13B(1), (2) and (8)(a), 13E(12)(b), 14C(6) (definition of “concessionary rate of tax”), 37B(7) (definition of “higher rate of tax” or “lower rate of tax”), 37E(17) (definition of “concessionary rate of tax”) and 44(20)(e)(ii);
- (b) by deleting the words “in approving each case, except that the Minister” in section 13F(2) and substituting the words “, except that the Minister or such person as he may appoint”;
- (c) by inserting, immediately after the words “The Minister” in sections 14B(3), 14E(2) and 19C(2), the words “or such person as he may appoint”;
- (d) by inserting, immediately after the words “the Minister” in section 16(7), (8), (9) and (10) (3rd line), the words “or such person as he may appoint”;

- (e) by deleting “43L,” in section 43D(3);
- (f) by deleting the words “or 43U” in the following provisions and substituting in each case the words “, 43U, 43V, 43W or 43X”:

Sections 13B(1), (2) and (8)(a), 13E(12)(b), 14C(6) (definition of “concessionary rate of tax”), 37B(7) (definition of “higher rate of tax” or “lower rate of tax”) and 37E(17) (definition of “concessionary rate of tax”);

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- (g) by deleting the words “listed on the Singapore Exchange” in section 45G(1); and

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- (h) by deleting the words “listed on Singapore Exchange” in the section heading of section 45G.

EXPLANATORY STATEMENT

This Bill seeks to implement the income tax changes announced in the Government’s 2006 Budget Statement and to make certain other amendments to the Income Tax Act (Cap. 134).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 10 (Charge of income tax) —

- (a) to exempt from tax a specified amount of balancing charge made on an approved shipping investment enterprise within the meaning of new section 13S;
- (b) to make a consequential amendment to subsection (4) arising from the amendment of section 13A(3) and (11) by clause 7(b);
- (c) to state for the avoidance of doubt that section 10(5) in force immediately before 10th December 2002 shall continue to apply to any gains or profits from any right or benefit granted to a person before 1st January 2003 to acquire shares in a company, by reason of any office or employment held by him;
- (d) to extend the tax concession under subsection (14) to cover any income derived by an author, composer or choreographer, or a company all of whose issued shares are beneficially owned by him, from the assignment or licensing of copyright in works, irrespective of the person from whom such payments are received;
- (e) to extend the tax concession under subsection (16) to cover royalties and other payments derived from the assignment or licensing of any approved

intellectual property by any company all of whose issued shares are beneficially owned by the owner of the intellectual property; and

- (f) to extend subsection (20A) (which deems certain types of income as the income of a unit holder of a designated unit trust or approved CPF unit trust if he is not a foreign investor) to a discount from qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2008 and which have a tenure of more than one year.

Clause 3 amends section 10C (Excess provident fund contributions, etc., deemed to be income) to provide that tax relief for mandatory contributions to the Central Provident Fund in respect of additional wages shall be a sum computed in a specified manner instead of a fixed sum. It also makes consequential amendments to the section arising from the change to the maximum amount of ordinary wages in respect of which mandatory contributions to the Central Provident Fund are to be made.

Clause 4 amends section 10J (Shares buyback) to make it inapplicable to a case where shares bought back by a company are held in treasury.

Clause 5 amends section 11 (Ascertainment of income of clubs, trade associations, etc.) —

- (a) to provide that a body of persons that carries on a trade or professional association shall be deemed to carry on business if more than half of its receipts from Singapore members by way of entrance fees and subscriptions are claimed or claimable as allowable deductions for the purposes of section 14;
- (b) to provide that a body of persons referred to in subsection (2) includes a company limited by guarantee approved by the Minister; and
- (c) to clarify that a body of persons referred to in subsection (2) includes a professional association.

Clause 6 amends section 13 (Exempt income) —

- (a) to extend tax exemption to a discount derived by certain non-residents from qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2008 and which have a tenure of more than one year;
- (b) to extend tax exemption to various types of income derived by individuals such as a discount from debt securities irrespective of the tenure, distribution made by a restricted authorised scheme, and income from structured products;
- (c) to restrict the tax exemption for any distribution made to certain individuals of income of a real estate investment trust to the distribution of certain types of income such as rental income and interest income ancillary to the management or holding of real property; and
- (d) to clarify the definition of “deposit” used in subsection (1)(t) and (zd).

Clause 7 amends section 13A (Exemption of shipping profits) —

- (a) to extend the tax exemption in the section to income from the use outside the limits of the port of Singapore of a Singapore registered dredger, seismic ship or vessel used for offshore oil or gas activity; and
- (b) to allow capital allowances under section 19A to be made against income exempt under section 13A.

Clause 8 amends section 13G (Exemption of income of foreign trust) —

- (a) to extend the tax exemption in the section to the share of income of a specified foreign trust of a beneficiary that is —
 - (i) any entity (not being an individual or company) that is neither a resident of Singapore nor constituted or registered under Singapore law; or
 - (ii) a trustee of another specified foreign trust; and
- (b) to provide that the share of income of a specified foreign trust that a foreign account of a philanthropic purpose trust is entitled to receive is also tax exempt.

Clause 9 redefines the expression “foreign account” in section 13O (Exemption of income of foreign account of philanthropic purpose trust) by adding further requirements which a foreign company injecting funds into such account must satisfy e.g. it must not carry on business in Singapore or beneficially own more than 20% of the issued shares of a company incorporated in Singapore.

Clause 10 inserts new sections 13Q to 13T.

The new section 13Q provides for a tax exemption on certain income of a prescribed locally administered trust and of a prescribed holding company established for the purposes of such trust. It also provides that where such income is exempt from tax, the share of such income to which any beneficiary of the trust is entitled to receive is also exempt from tax.

The new section 13R provides for a tax exemption on the prescribed income of an approved company which is incorporated and resident in Singapore, arising from funds managed in Singapore by a prescribed fund manager, or managed by an approved person.

The new section 13S provides for a tax exemption on income derived by an approved shipping investment enterprise from the chartering or finance leasing of ships for use outside the limits of the port of Singapore and acquired by the enterprise during its period of approval.

The new section 13T provides that a trust distribution in the hands of a beneficiary resident in Singapore shall be exempt from tax if it would have been exempt from tax under any provision of Part IV (Exemption from Income Tax) if derived or received directly by the beneficiary rather than the trustee. This would enable the beneficiary to enjoy a tax exemption in respect of such income even though it is not so exempt when first derived or received by the trustee. This does not apply to the income of certain

trusts such as a real estate investment trust, a designated unit trust, an approved CPF unit trust, a foreign trust and a locally administered trust as most or all of such income already enjoys separate exemptions under the Act.

Clause 11 inserts a new section 14P to allow a deduction to any company for the cost of acquiring treasury shares when it transfers such shares to any person under a stock option scheme or share award scheme by reason of any office or employment held in Singapore by that person, and to provide for the computation of such costs. Deduction would also be allowed to a company where the treasury shares are transferred by the holding company of the company to a person employed by the company at any time, if an amount is paid or payable by the company to the holding company for the transfer.

Clause 12 inserts a new section 15(1)(g) to disallow the deduction of any outgoings or expenses incurred by a company relating to the issue of shares of its holding company to any person by reason of any office or employment held in Singapore by that person.

Clause 13 amends section 16 (Initial and annual allowances for industrial buildings and structures) —

- (a) to restrict subsection (6) (which limits a claim for annual allowance to the end of the 50th year after the building was first used) to cases where the capital expenditure was incurred before 1st January 2006;
- (b) to insert new subsections (6A) and (6B) to give an annual allowance to the purchaser of a building that is used as an industrial building, based on 3% of the capital expenditure incurred by him on the purchase of the building, if the sale and purchase agreement for the building was entered into on or after 1st January 2006;
- (c) to restrict subsection (12) (which gives an initial allowance to the purchaser of an industrial building or a lease therein of at least 25 years, based on the lower of the construction cost and purchase price) to cases where capital expenditure was incurred on such purchase before 1st January 2006; and
- (d) to insert a new subsection (12A) to give, under certain circumstances, an initial allowance to a person who incurs capital expenditure on or after 1st January 2006 on the purchase of a new industrial building that is based on such capital expenditure. Unlike subsection (12), the initial allowance may be given to the purchaser in respect of a leasehold interest of less than 25 years.

Clause 14 makes consequential amendments to section 17 (Balancing allowances and charges for industrial buildings and structures) arising from the amendment of section 16 by clause 13.

Clause 15 makes consequential amendments to section 18 (Definitions for sections 16 and 17) arising from the amendment of section 16 by clause 13. It also inserts a new subsection (7A) to provide that where, in respect of a building which is only partly an industrial building, it is not practicable for the Comptroller to determine the capital outlay for that part of the building that is not an industrial building, the whole building

may be considered as an industrial building if that part of the building is one-tenth or less of the entire floor area, or if the Comptroller is satisfied that it is just and proper to so consider.

Clause 16 amends section 19B (Writing-down allowances for intellectual property rights) —

- (a) to insert a new subsection (2B) to empower the Minister or such person as he may appoint to waive, in respect of any intellectual property rights acquired on or after 17th February 2006, the requirement under subsection (2A) that the company to which the writing-down allowance is to be made must provide an undertaking that it is the assignee of the intellectual property right, and that it must make the claim in the manner and subject to the conditions specified by the Comptroller; and
- (b) to provide that no writing-down allowances shall be made for any capital expenditure incurred in respect of intellectual property rights that are acquired after 31st October 2008.

Clause 17 amends section 19C (Writing-down allowances for approved cost-sharing agreement for research and development activities) —

- (a) to allow a one year (instead of over a period of 5 years) write off for expenditure incurred under any cost-sharing agreement entered into and approved on or after 17th February 2006; and
- (b) to provide that the amount of consideration from the sale, assignment or disposal of any rights, technology or know-how under any approved cost-sharing agreement which may be treated as a trading receipt shall not exceed the amount of writing-down allowance made under the section.

Clause 18 makes a consequential amendment to section 24 (Special provisions as to certain sales) arising from the amendment of sections 16 and 18 by clauses 13 and 15, respectively.

Clause 19 amends section 26 (Profits of insurance companies) —

- (a) to modify the basis of taxation of life insurers in light of the adoption by such insurers of a risk based capital framework. In the case of participating funds, a life insurer shall be chargeable to tax on the surplus of such funds based on allocation made to policyholders and shareholders;
- (b) to extend the application of the section to a person (including a foreign partnership) permitted under the Insurance Act (Cap. 142) to carry on insurance business in Singapore under a foreign insurer scheme;
- (c) to make consequential amendments arising from the change in the treatment of financial assets and liabilities for income tax purposes following the adoption of Financial Reporting Standard 39 (FRS 39) for accounting purposes;
- (d) to enable the Comptroller to make adjustments to the tax liability of a life insurer in a case where, immediately before the life insurer ceases business

permanently without transferring the business to any person in Singapore, there is an amount remaining in the participating fund which is not allocated by way of bonus to any participating policy;

- (e) to empower the Minister to make regulations for the purposes of the section and to provide that the tax treatment of the income of an insurer derived before the year of assessment 2006 shall be in accordance with section 26 in force immediately before the amendment to the section; and
- (f) to define or redefine certain terms used in the section.

Clause 20 inserts a new section 26A to provide for the manner of ascertaining and assessing the income from a business of insuring and reinsuring risks carried on by a member of Lloyd's through a syndicate formed to carry on such business in Singapore. It also provides that the tax chargeable on the income of a non-resident member from those syndicates of which he is a member shall be aggregated with that of other non-resident members of those syndicates, and assessable in the name of the agent who shall, among other things, make returns of income when required by the Comptroller.

Clause 21 inserts new sections 34A and 34B.

The new section 34A provides for changes to the basis of computing profits of financial instruments arising from the adoption of FRS 39 by companies in Singapore. It provides that, with certain specified exceptions, any amount to be brought into account in respect of any financial instrument of a person subject to the section is that which, in accordance with FRS 39, is recognised in determining the profit or loss or expense in respect of that financial instrument.

The section applies to all persons required to comply with FRS 39, unless he makes an election not to be subject to it. A person who so elects may subsequently revoke his election and the revocation is irrevocable. A person not required to comply with FRS 39 may apply to the Comptroller to be subject to the section.

The new section 34B provides for the tax treatment of prescribed Islamic financing arrangements. Sections 10, 12, 13, 14, 15 and 45 and regulations made under section 43Q shall apply to such arrangement as if a reference to interest were a reference to the prescribed return in lieu of interest (the effective return) under such arrangement. The effective return is to be excluded in determining the consideration for the sale and purchase of any asset under such arrangement. This is without prejudice to any provision of the Act which provides that the consideration for a sale or purchase is taken to be an amount other than the actual consideration.

Clause 22 inserts a new subsection (16) in section 35 (Basis for computing statutory income) to exclude from the statutory income of a beneficiary under a trust certain trade or business income of the trustee as such income is assessable in the hands of the trustee.

Clause 23 amends section 37 (Assessable income) to expand the types of donations qualifying for double deduction to include any approved donation of a work of art to an approved museum, a work of art to an approved recipient for public display, any sculpture to an approved recipient for public display indoors, and money or services for

installing or maintaining any sculpture or work of art for public display. It also defines museums to include collecting institutions.

Clause 24 amends section 37C (Group relief for Singapore companies) —

- (a) to allow a company to which section 10E applies to transfer under the group relief system its un-utilised industrial building allowances for the current year; and
- (b) to disallow a transfer under the group relief system of qualifying deductions relating to any income the tax on which is remitted, unless the Minister otherwise approves.

Clause 25 amends section 37E (Carry-back of capital allowances and losses) to disallow the carrying back of qualifying deductions relating to any income the tax on which is remitted, subject to certain exceptions.

Clause 26 amends section 39 (Relief and deduction for resident individual and Hindu joint family) —

- (a) to revise the limit of relief given to a self-employed individual in respect of his voluntary contributions to the Central Provident Fund;
- (b) to allow an additional tax relief of \$2,000 to an individual who is a NS key command and staff appointment holder at any time during the basis period; and
- (c) to change the basis period for determining the tax relief for operationally ready national servicemen from the preceding calendar year to a period beginning from 1st April of the year preceding the year of assessment and ending on 31st March of the subsequent year.

Clause 27 makes a consequential amendment to section 40 (Relief for non-resident citizens and certain other non-residents) arising from the insertion of new section 50B by clause 38.

Clause 28 amends section 42 (Rates of tax upon individuals) to extend the 10% concessionary tax rate under subsection (6) to a discount derived by a body of persons from qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2008 and which have a tenure of more than one year, subject to conditions.

Clause 29 amends section 42A (Rebate for second, third and fourth child of family) —

- (a) to grant a tax rebate to an individual who has an illegitimate second, third or fourth child of the family born to him on or after 1st January 2004, if the individual becomes lawfully married to the other natural parent of the child before the child reaches 6 years of age;
- (b) to provide that a tax rebate will only be granted to an individual who adopts a second, third or fourth child of the family on or after 1st January 2006 if the child is adopted before he reaches 6 years of age; and

- (c) to redefine the terms “second child of the family”, “third child of the family” and “fourth child of the family”, consequential to the extension of the tax rebate to illegitimate children, by providing the date of marriage of the natural parents of an illegitimate child as an alternative date by which he must become a Singapore citizen, and for determining the number of his siblings.

Clause 30 amends section 43 (Rate of tax upon companies and others) —

- (a) to disapply subsection (2) (which allows the Comptroller to charge a lower tax rate on, or to exempt from tax, any share of trust income which a beneficiary is entitled to) to trust income from any trade or business carried on by a trustee. This is to place the trust in the same position as any entity that engages in a similar trade or business. An exception is made in the case of certain types of income distributed by a trustee of a real estate investment trust, such as rental income and interest income ancillary to the management or holding of real property;
- (b) to restrict the application of subsection (3B) (which applies a 10% tax rate on distribution by a trustee of a real estate investment trust to certain non-resident persons) to the distribution of certain types of income such as rental income and interest income ancillary to the management or holding of real property;
- (c) to replace references to “insurance company” in subsection (9) (which specifies the tax rate for certain types of income of life insurance companies) with “insurer” to cover entities other than companies carrying on life insurance business;
- (d) to provide, for the purposes of subsection (6A) (which gives a tax exemption on the first \$100,000 of certain normal chargeable income of a qualifying company), that a company is a qualifying company only if its total share capital during the basis period for each of its first 3 years of assessment is beneficially held, directly or indirectly, by no more than 20 persons all of whom are individuals; and
- (e) to make a technical amendment to the definition of “real estate investment trust”.

Clause 31 amends section 43C (Exemption and concessionary rate of tax for insurance and reinsurance business) to enable regulations to be made for tax exemption on qualifying income derived by an approved insurer from the business of life assurance.

Clause 32 amends section 43J (Concessionary rate of tax for trustee company) to extend the definition of “trustee company” to include a company that is exempted under the Trust Companies Act (Cap. 336) from holding a trust business licence.

Clause 33 repeals section 43L (Concessionary rate of tax for art and antique dealers) which is no longer required.

Clause 34 amends section 43N (Concessionary rate of tax for income derived from debt securities) to extend the 10% concessionary tax rate under subsection (1) to a discount derived by any company from qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2008 and which have a tenure of more than one year, subject to conditions.

Clause 35 inserts new sections 43V, 43W and 43X.

The new section 43V enables regulations to be made to levy a concessionary tax rate of 5% upon specified income derived on or after 17th February 2006 by an approved clearing member of a Singapore clearing house from the provision of over-the-counter derivatives clearing services using the Singapore clearing house, subject to conditions.

The new section 43W enables regulations to be made to levy a concessionary tax rate of 10% upon specified income derived on or after 1st March 2006 by an approved shipping investment manager from managing an approved shipping investment enterprise or from other prescribed services or activities carried out for such enterprise, subject to conditions.

The new section 43X provides that a trust distribution in the hands of a beneficiary shall, if it would have been subject to a concessionary tax rate under any provision of Part XI (Rates of tax) if derived or received directly by the beneficiary rather than the trustee, be subject to the same concessionary tax rate. This would enable the beneficiary to enjoy the concessionary tax rate in respect of such income even though it is not subject to tax at that rate when first derived or received by the trustee. The section does not apply to the income of certain trusts such as a real estate investment trust, a designated unit trust, an approved CPF unit trust, a foreign trust and a locally administered trust as most or all of such income already enjoys separate concessionary rates under the Act.

Clause 36 amends section 45A (Application of section 45 to royalties, management fees, etc.) to extend the waiver (subject to conditions) of the obligation to withhold tax to a payment to a non-resident person of a discount from any qualifying debt securities which are issued during the period from 17th February 2006 to 31st December 2008 and which have a tenure of more than one year.

Clause 37 makes consequential amendments to section 46 (Tax deducted from dividends, interests, etc.) arising from the amendments of sections 13, 35 and 43 by clauses 6, 22 and 30, respectively. With the amendments made to sections 13, 35 and 43, the income is taxed either in the hands of the trustee or beneficiary and there is therefore no need to grant a tax credit (other than in respect of franked dividends derived from Singapore) to the beneficiary.

Clause 38 inserts a new section 50B which provides that where a trustee is allowed a tax credit under Part XIV (Relief against double taxation) in respect of income received from overseas, that credit shall be given to a beneficiary of the trust who is entitled to a share of the income. The credit of the beneficiary shall be computed as if the beneficiary rather than the trustee had received the income directly. The amount of the credit is thus ascertained by reference to the tax chargeable on the income of the beneficiary rather than the trustee. The section does not apply to the income of certain trusts such as a real estate investment trust, a designated unit trust, an approved CPF

unit trust, a foreign trust and a locally administered trust as most or all of such income in the hands of the beneficiary already enjoys separate exemptions or concessionary rates under the Act.

Clause 39 makes a consequential amendment to section 62 (Notice of chargeability and returns) arising from the insertion of new section 94A by clause 41.

Clause 40 makes consequential amendments to section 94 (General penalties) arising from the insertion of new section 94A by clause 41.

Clause 41 inserts a new section 94A —

- (a) to provide for the offence of failure to make a return of income; and
- (b) to enhance the penalty for failing to make a return of income for any year of assessment for 3 years or more.

Clause 42 makes a consequential amendment to section 101 (Sanction for prosecution) arising from the insertion of new section 94A by clause 41.

Clause 43 deletes and substitutes Part A of the Second Schedule to provide for the tax rates applicable to a resident individual or a Hindu joint family for the year of assessment 2007 and subsequent years of assessment.

Clause 44 makes consequential amendments to various provisions of the Act arising from the repeal of section 43L by clause 33, the insertion of sections 43V, 43W and 43X by clause 35, and the amendment of the definition of “real estate investment trust” in section 43 by clause 30. It also amends various provisions of the Act to enable the Minister to delegate the exercise of some of his powers under those provisions to a person appointed by him.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
