Income Tax (Amendment) Bill

Bill No. 17/2009.

Read the first time on 14th September 2009.

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act (Chapter 134 of the 2008 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 2009.

(2) Section 35 shall be deemed to have come into operation on 1st April 2008.

(3) Section 5(*a*) shall be deemed to have come into operation on 1st October 2008.

(4) Sections 7(*c*), 20 and 23 shall be deemed to have come into operation on 22nd January 2009.

(5) Section 14 shall be deemed to have come into operation on 1st April 2009.

(6) Sections 2 and 27 shall be deemed to have come into operation on 4th May 2009.

(7) Sections 25 and 33(*c*), (*d*) and (*e*) shall be deemed to have come into operation on 1st July 2009.

(8) Sections 10, 11, 12 and 15 shall come into operation on 1st January 2010.

(9) Sections 22 and 33(*i*) and (*j*) shall have effect for the year of assessment 2006 and subsequent years of assessment.

(10) Sections 21, 26, 28(*b*), 29 (except in relation to section 37E(4A) and (8A)) and 30 (except in relation to section 37F(9A)) shall have effect for the years of assessment 2009 and 2010.

(11) Section 5(*c*) shall have effect for the year of assessment 2009 and subsequent years of assessment.

(12) Sections 3, 32, 33(*a*), (*b*), (*f*) and (*k*), 34, 36(*a*), 37, 39 and 40 shall have effect for the year of assessment 2010 and subsequent years of assessment.

(13) Section 31 shall have effect for the year of assessment 2011 and subsequent years of assessment.

Amendment of section 2

2. Section 2(1) of the Income Tax Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of "limited liability partnership", the following definition:

" "limited partnership" means a limited partnership registered or formed under any law in force in Singapore or elsewhere;".

Amendment of section 10

3. Section 10 of the principal Act is amended —

(*a*) by deleting paragraphs (*d*) and (*e*) of subsection (6) and substituting the following paragraph:

"(*d*) notwithstanding paragraphs (*a*) and (*c*), any gains or profits derived by him by any exercise of a right or benefit to acquire shares in any company listed on the Singapore Exchange shall be computed in accordance with the following formula:

$$A - B,$$

where A is —

(i) if the shares are not treasury shares, the price of the shares in the open market at the last transaction on the date on which the shares are first listed on the Singapore Exchange after the acquisition of the shares by him; and

(ii) if the shares are treasury shares, the price of the shares in the open market at the last transaction on the date an appropriate entry is made in the Depository Register by the Central Depository (Pte) Ltd to effect the acquisition of the treasury shares by him; and

B is the amount paid for such shares;"; and

(*b*) by deleting subsection (11).

New section 10F

4. The principal Act is amended by inserting, immediately after section 10E, the following section:

"**Ascertainment of income from certain public-private partnership arrangement**

10F.—(1) Where —

(*a*) a contract is entered into on or after the date of commencement of section 4 of the Income Tax (Amendment) Act 2009 between the Government or any approved statutory body and any person under a public-private partnership arrangement; and

(*b*) the contract is or contains a finance lease recognised as such by the lessor in accordance with FRS 17 read with INT FRS 104, the Government or the approved statutory body being the lessee and the person being the lessor,

then —

(i) notwithstanding any provisions under Part VI, the allowances under section 16, 17, 19, 19A, 20, 21, 22 or 23 in respect of any industrial building or structure, or any machinery or plant, which is a subject of that finance lease, shall not be made to the person, but to the Government or the approved statutory body, as the case may be; and

(ii) the person shall not be assessed to tax on that part of the lease payment under that finance lease that is attributable to repayment of principal.

(2) In this section —

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

"FRS 17" and "INT FRS 104" mean the financial reporting standards known as Financial Reporting Standard 17 (Leases) and Interpretation of Financial Reporting Standard 104 (Determining whether an arrangement contains a lease), respectively, issued by the Accounting Standards Council under the Accounting Standards Act (Cap. 2B).".

Amendment of section 10L

5. Section 10L of the principal Act is amended —

(*a*) by inserting, immediately after subsection (6), the following subsections:

"(6A) Where an SRS member —

(*a*) made his first withdrawal under subsection (3)(*b*); and

(*b*) subsequently made one or more contributions to his SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive),

then —

(i) any withdrawal made under subsection (3)(*b*) prior to the date of the first of his contributions referred to in paragraph (*b*) shall be disregarded for the purpose of determining the period referred to in subsection (5); and

(ii) the date of his first withdrawal made under subsection (3)(*b*) after the date of the first of his contributions referred to in paragraph (*b*) shall be deemed to be the date he made his first withdrawal under subsection (3)(*b*) for the purpose of determining the period referred to in subsection (5).

(6B) Where an SRS member —

(*a*) had made one or more withdrawals under subsection (3)(*b*) of all the funds standing to his SRS account and had closed his SRS account (referred to in this subsection as the first SRS account); and

(*b*) subsequently opened another SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive) (referred to in this subsection as the second SRS account),

then —

(i) the reference to the date he made his first withdrawal under subsection (3)(*b*) for the purpose of determining the period referred to in subsection (5) shall be read as a reference to the date he makes his first withdrawal after he opened the second SRS account; and

(ii) for the purposes of subsection (1) and section 39(2)(*o*), both the first SRS account and the second SRS account shall be deemed to be the same account as if the first SRS account had never been closed.";

(*b*) by deleting the words "and closed" in subsection (13) and substituting the words "and subsequently closed"; and

(*c*) by inserting, immediately after subsection (13), the following subsection:

"(14) In this section, unless the context otherwise requires —

(*a*) a reference to an SRS member making a contribution to his SRS account includes his employer making a contribution to that account on his behalf; and

(*b*) a reference to a contribution of an SRS member to his SRS account includes a contribution by his employer to that account on his behalf.".

Amendment of section 12

6. Section 12 of the principal Act is amended —

(*a*) by inserting, immediately after subsection (6), the following subsection:

"(6A) Subsection (6) shall not apply to any payment for —

(*a*) any arrangement, management or service relating to any loan or indebtedness, where such arrangement, management or service is performed outside Singapore for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a non-resident person who —

(i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and

(ii) in any event —

(A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or

(B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the arrangement, management or service is not performed through that business carried on in Singapore or that permanent establishment; and

(*b*) any guarantee relating to any loan or indebtedness, where the guarantee is provided for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a guarantor who is a non-resident person who —

(i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and

(ii) in any event —

(A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or

(B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the giving of the guarantee is not effectively connected with that business carried on in Singapore or that permanent establishment.”; and

(*b*) by inserting, immediately after subsection (7), the following subsection:

“(7A) Subsection (7) shall not apply to any payment for —

(*a*) the rendering of assistance or service in connection with the application or use of scientific, technical, industrial or commercial knowledge or information, where such rendering of assistance or service is performed outside Singapore for or on behalf of a

person resident in Singapore or a permanent establishment in Singapore by a non-resident person who —

(i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and

(ii) in any event —

(A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or

(B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the rendering of assistance or service is not performed through that business carried on in Singapore or that permanent establishment; and

(*b*) the management or assistance in the management of any trade, business or profession, where such management or assistance is performed outside Singapore for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a non-resident person who —

(i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and

(ii) in any event —

(A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or

(B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the management or

assistance is not performed through that business carried on in Singapore or that permanent establishment.".

Amendment of section 13

7. Section 13 of the principal Act is amended —

(*a*) by deleting the word "and" at the end of subsection (1)(*zl*);

(*b*) by deleting the full-stop at the end of paragraph (*zm*) of subsection (1) and substituting the word "; and", and by inserting immediately thereafter the following paragraph:

"(*zn*) any Government cash grant payable to an employer in 2009 under the Jobs Credit Scheme."; and

(*c*) by inserting, immediately after subsection (8), the following subsections:

"(8A) There shall be exempt from tax —

(*a*) any income derived on or before 21st January 2009 from any source outside Singapore and received in Singapore during the period from 22nd January 2009 to 21st January 2010 (both dates inclusive) (referred to in this subsection as the specified period) by —

(i) any person, not being an individual, resident in Singapore; or

(ii) any individual resident in Singapore through a partnership in Singapore; and

(*b*) any dividend received in Singapore during the specified period, being dividend paid during the specified period by a company not resident in Singapore out of any income derived by that company on or before 21st January 2009, by —

(i) any person, not being an individual, resident in Singapore who —

(A) is not a partner of a limited liability partnership in Singapore; and

(B) beneficially owns directly more than 50% of the total number of issued ordinary

shares of that non-resident company as at 21st January 2009;

(ii) any individual resident in Singapore who beneficially owns directly more than 50% of the total number of issued ordinary shares of that non-resident company as at 21st January 2009, being dividend he receives through a partnership in Singapore (other than any limited liability partnership) of which he is a partner; or

(iii) any person, whether or not an individual, who is a partner of a limited liability partnership in Singapore and whose effective ownership through the limited liability partnership (by virtue of section 36A) of the issued ordinary shares of that non-resident company as at 21st January 2009 is more than 50% of the total number of those shares.

(8B) For the purpose of subsection (8A)(*b*)(iii), the effective ownership of the partner of a limited liability partnership of the issued ordinary shares of the non-resident company as at 21st January 2009 shall be ascertained in accordance with the formula

A x B,

where A is the percentage of the income of the limited liability partnership to which the partner is entitled as at 21st January 2009; and

B is the percentage of the total number of issued ordinary shares of that non-resident company as at 21st January 2009 beneficially owned directly by that limited liability partnership.

(8C) No exemption from tax shall be granted to any person under subsection (8A) unless the Comptroller is satisfied that the exemption would be beneficial to the person resident in Singapore.

(8D) A person shall furnish to the Comptroller, in such form and manner and within such reasonable time as the

Comptroller may determine, such information relating to income exempted under subsection (8A) as the Minister may direct the Comptroller to obtain for any statistical or research purpose.".

Amendment of section 13C

8. Section 13C of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

"(3) This section shall not apply to —

(*a*) a trustee of a trust fund that is constituted on or after 1st April 2014; or

(*b*) a trustee of a trust fund that —

(i) is constituted before 1st April 2014; and

(ii) is not a prescribed trust fund at any time before that date.".

Amendment of section 13CA

9. Section 13CA of the principal Act is amended —

(*a*) by deleting subsection (6) and substituting the following subsections:

"(6) Notwithstanding subsections (2) and (4), where —

(*a*) income of any prescribed person, being a company or the trustee of a trust fund, has been exempt from tax under subsection (1) in any year of assessment;

(*b*) a person, either alone or together with his associates, beneficially owns on the relevant day —

(i) if the prescribed person is a company, any issued securities of the prescribed person; or

(ii) if the prescribed person is the trustee of a trust fund, any part of the trust fund; and

(*c*) the person mentioned in paragraph (*b*) is a non-bona fide entity,

then the person mentioned in paragraph (*b*) shall not be liable to pay the penalty referred to in subsection (2) or (4); but a person (referred to in this section as the liable person) who —

(i) beneficially owns on the relevant day equity interests of the person mentioned in paragraph (*b*); and

(ii) is not himself a non-bona fide entity,

shall be liable to pay to the Comptroller, in such manner and within such reasonable time as may be determined by the Comptroller, a penalty to be computed in accordance with the formula specified in subsection (6A) if, and only if, the total of —

(A) the value of the equity interests of the prescribed person or of the trust fund for which the prescribed person is the trustee (as the case may be) that are beneficially owned by the liable person on the relevant day; and

(B) the value of the equity interests of the prescribed person or of the trust fund for which the prescribed person is the trustee (as the case may be) that are beneficially owned by the associates of the liable person on the relevant day,

exceeds the prescribed percentage of the total value of all the equity interests of the prescribed person or of the trust fund (as the case may be) on that day.

(6A) The formula for the penalty referred to in subsection (6) shall be as follows:

$$A \times B \times C,$$

where A is the percentage which the value of the equity interests of the prescribed person or of the trust fund for which the prescribed person is the trustee (as the case may be) beneficially owned on the relevant day by the liable person bears to the total value of all equity interests of the prescribed person or of the trust fund on the relevant day;

B is the amount of income of the prescribed person as reflected in the audited account of the prescribed person for the basis period relating to that year of assessment; and

C is the tax rate applicable to that year of assessment as specified in section 43(1)(*a*) (if the prescribed person is a company) or 43(1)(*c*) (if the prescribed person is a trustee of a trust fund).

(6B) Subsection (3) or (5) (whichever is applicable) shall apply, with the necessary modifications, to the liable person as it applies to a relevant owner or relevant beneficiary as if the reference to subsection (2) or (4) (as the case may be) is a reference to subsection (6).";

(*b*) by deleting the words "subsection (6)" in subsection (7) and substituting the words "subsections (6)(i), (A) and (B) and (6A)";

(*c*) by inserting, immediately after subsection (7), the following subsection:

"(7A) Subsection (7) shall also have effect for the purpose of determining, under subsections (6)(A) and (B) and (6A), the beneficial ownership of a person in the equity interests of a trust fund for which a prescribed person is a trustee, with the following modifications:

(*a*) the reference in subsection (7)(*b*) to the equity interests of another person (when applied to that trust fund) shall be read as the equity interests in that fund;

(*b*) the reference in the definition of B under subsection (7) to the value of equity interests of the second level entity beneficially owned by the first level entity (when applied to that trust fund) shall be read as the value of the part of the trust fund beneficially owned by the first level entity;

(*c*) the reference in the definition of B under subsection (7) to the total value of all equity interests of the second level entity (when applied to that trust fund) shall be read as the total value of the trust fund.";

(*d*) by deleting the word "or" at the end of paragraph (*a*) of the definition of "equity interest" in subsection (9) and by inserting immediately thereafter the following paragraph:

"(*aa*) in relation to a trust fund for which a prescribed person is a trustee, any part of the trust fund; or";

(*e*) by deleting the words "subsection (2) or (4)" in the definition of "relevant day" in subsection (9) and substituting the words "subsection (2), (4) or (6)"; and

(*f*) by inserting, immediately after subsection (9), the following subsection:

"(10) This section shall not apply to —

(*a*) a company or trustee of a trust fund, as the case may be, that is incorporated or constituted on or after 1st April 2014; or

(*b*) a company or trustee of a trust fund, as the case may be, that —

(i) is incorporated or constituted before 1st April 2014; and

(ii) is not a prescribed person at any time before that date.".

Amendment of section 13J

10. Section 13J(10) of the principal Act is amended by deleting paragraph (*a*) of the definition of "qualifying employee" and substituting the following paragraph:

"(*a*) is committed to work —

(i) where the time of the grant is before 1st January 2010 —

(A) at least 30 hours per week for the company; or

(B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and

(ii) where the time of the grant is on or after 1st January 2010 —

(A) at least the number of hours per week referred to in section 66A(1) of the Employment Act (Cap. 91) for the company; or

(B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and".

Amendment of section 13L

11. Section 13L(5) of the principal Act is amended by deleting the definition of "part-time employee" and substituting the following definition:

" "part-time employee" means an employee of a company who is committed to work —

(*a*) where the time of grant is before 1st January 2010, for not more than 30 hours per week (including any time he would be required to work but for injury, any official leave or such other similar events) for the company; or

(*b*) where the time of grant is on or after 1st January 2010, for not more than the number of hours per week referred to in section 66A(1) of the Employment Act (Cap. 91) (including any time he would be required to work but for injury, any official leave or such other similar events) for the company;".

Amendment of section 13M

12. Section 13M(7) of the principal Act is amended by deleting paragraph (*a*) of the definition of "qualifying employee" and substituting the following paragraph:

"(*a*) is committed to work —

(i) where the time of the grant is before 1st January 2010 —

(A) at least 30 hours per week for the company; or

(B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and

(ii) where the time of the grant is on or after 1st January 2010 —

(A) at least the number of hours per week referred to in section 66A(1) of the Employment Act (Cap. 91) for the company; or

(B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and".

Amendment of section 13R

13. Section 13R of the principal Act is amended —

(*a*) by deleting the words "16th February 2011" in subsection (2) and substituting the words "31st March 2014";

(*b*) by deleting subsection (5) and substituting the following subsections:

"(5) Notwithstanding subsection (3), where —

(*a*) income of any approved company has been exempt from tax under subsection (1) in any year of assessment;

(*b*) a person, either alone or together with his associates, beneficially owns on the relevant day any issued securities of the approved company; and

(*c*) the person mentioned in paragraph (*b*) is a non-bona fide entity,

then the person mentioned in paragraph (*b*) shall not be liable to pay the penalty referred to in subsection (3); but a person (referred to in this section as the liable person) who —

(i) beneficially owns on the relevant day equity interests of the person mentioned in paragraph (*b*); and

(ii) is not himself a non-bona fide entity,

shall be liable to pay to the Comptroller, in such manner and within such reasonable time as may be determined by the Comptroller, a penalty to be computed in accordance with the formula specified in subsection (5A), if, and only if, the total of —

(A) the value of the equity interests of the approved company beneficially owned by the liable person on the relevant day; and

(B) the value of the equity interests of the approved company beneficially owned by the associates of the liable person on the relevant day,

exceeds the prescribed percentage of the total value of all the equity interests of the approved company on that day.

(5A) The formula for the penalty referred to in subsection (5) shall be as follows:

A x B x C,

where A is the percentage which the value of the equity interests of the approved company beneficially owned on the relevant day by the liable person bears to the total value of all equity interests of the approved company on the relevant day;

B is the amount of income of the approved company as reflected in the audited account of the approved company for the basis period relating to that year of assessment; and

C is the tax rate applicable to that year of assessment as specified in section 43(1)(*a*).

(5B) Subsection (4) shall apply, with the necessary modifications, to the liable person as it applies to a relevant owner as if the reference to subsection (3) is a reference to subsection (5).";

(*c*) by deleting the words "subsection (5)" in subsection (6) and substituting the words "subsections (5)(i), (A) and (B) and (5A)"; and

(*d*) by deleting the words "subsection (3)" in the definition of "relevant day" in subsection (8) and substituting the words "subsection (3) or (5)".

New section 13X

14. The principal Act is amended by inserting, immediately after section 13W, the following section:

"**Exemption of income of approved persons arising from funds managed by fund manager in Singapore**

13X.—(1) Subject to such conditions as may be prescribed by regulations, there shall be exempt from tax such income as the Minister may by regulations prescribe of any approved person arising from funds managed in Singapore by any prescribed fund manager.

(2) Approval under subsection (1) may be granted during the period from 1st April 2009 to 31st March 2014 (both dates inclusive).

(3) Where the income of any approved person is not exempt from tax under this section, sections 13C, 13CA and 13R shall not apply to that income notwithstanding anything in those provisions.

(4) Regulations made under subsection (1) may —

(*a*) provide for the determination of the amount of income of any approved person to be exempt from tax;

(*b*) provide for the deduction of expenses, allowances, losses and donations of any approved person otherwise than in accordance with this Act;

(*c*) where the approved person is a partner of an approved limited partnership, provide for the recovery of tax from him in a case where the exemption ought not to have been allowed to that partner due to non-compliance with any condition imposed on the partnership, including the deeming of a specified amount as income of the partner for the year of assessment in which the Comptroller discovers the non-compliance of the condition; and

(*d*) make provision generally for giving full effect to or for carrying out the purposes of this section.

(5) In this section —

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

"approved CPF unit trust" has the same meaning as in section 35(14);

"approved person" means any approved company, any partner of an approved limited partnership or any trustee of an approved trust fund;

"designated unit trust" means any unit trust designated under section 35(14);

"real estate investment trusts" has the same meaning as in section 43(10);

"trust fund" does not include any trust that is a pension or provident fund approved by the Comptroller under section 5, approved CPF unit trust, designated unit trust and real estate investment trust.".

Amendment of section 14J

15. Section 14J of the principal Act is amended by inserting, immediately after subsection (5), the following subsection:

"(5A) No approval or extension of approval shall be granted under this section on or after 1st January 2010.".

Amendment of section 14Q

16. Section 14Q of the principal Act is amended by inserting, immediately after subsection (3), the following subsections:

"(3A) Notwithstanding subsection (3), for the purposes of subsection (1) and subject to subsections (7), (8) and (9), where the renovation or refurbishment expenditure is incurred during the basis period relating to the year of assessment 2010 or 2011, a deduction is allowed for the year of assessment 2010 or 2011, as the case may be, for the full amount of the renovation or refurbishment expenditure so incurred, unless a person elects for the deduction to be allowed in accordance with subsection (3).

(3B) An election made by a person under subsection (3A) shall be irrevocable.".

Amendment of section 18

17. Section 18(1) of the principal Act is amended by deleting the words "sections 16 and 17" and substituting the words "sections 10F, 16 and 17".

Amendment of section 19

18. Section 19(3) of the principal Act is amended by inserting, immediately after the words "section 19A(1)" wherever they appear, the words "or (1B)".

Amendment of section 19A

19. Section 19A of the principal Act is amended —

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

"(1B) Notwithstanding subsection (1), where a person carrying on a trade, profession or business incurs, during the basis period relating to the year of assessment 2010 or 2011, capital expenditure on the provision of machinery or plant for the purposes of that trade, profession or business, he may, in lieu of the allowances provided by subsection (1) or section 19, elect to be entitled for any 2 years of assessment to the following:

(*a*) for the year of assessment relating to the basis period in which the capital expenditure was incurred or any subsequent year of assessment (referred to in this subsection as the first year), an allowance of 75% in respect of the capital expenditure incurred; and

(*b*) for any year of assessment subsequent to the first year, an allowance of 25% in respect of the capital expenditure incurred.

(1C) Where a person carrying on a trade, profession or business enters into a hire-purchase agreement during the basis period relating to the year of assessment 2010 or 2011 in respect of machinery or plant provided for the purposes of that trade, profession or business, subsection (1B) shall apply to each instalment paid by that person under that hire-purchase

agreement, whether the instalment is paid during or after the basis period relating to the year of assessment 2010 or 2011.

(1D) An election made by a person under subsection (1B) shall be irrevocable.";

(*b*) by inserting, immediately after the words "subsection (1)" wherever they appear in subsections (2) to (9A), (10A) and (10B), the words "or (1B)"; and

(*c*) by inserting, immediately after the words "3 years" in the section heading, the words "or 2 years".

Amendment of section 19B

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

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

"(2C) Notwithstanding subsections (1) and (2), where a company that is an approved media and digital entertainment company carrying on a trade or business has acquired on or after 22nd January 2009 approved intellectual property rights pertaining to films, television programmes, digital animations or games, or other media and digital entertainment contents, for use in that trade or business, writing-down allowances in respect of the capital expenditure incurred in acquiring those rights —

(*a*) shall be made to it during a writing-down period of 2 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred; and

(*b*) for each such year of assessment shall be an amount equal to 50% of the capital expenditure incurred.";

(*b*) by deleting the words "subsection (1)" wherever they appear in subsections (4), (5), (10) and (10A) and substituting in each case the words "subsections (1) and (2C)";

(*c*) by inserting, immediately before the definition of "capital expenditure" in subsection (11), the following definition:

" "approved" means approved by the Minister or such person as he may appoint, subject to such conditions as he may impose;"; and

(*d*) by inserting, immediately after the definition of "intellectual property rights" in subsection (11), the following definition:

" "media and digital entertainment company" means a company whose principal trade or business is to provide media and digital entertainment in Singapore;".

Amendment of section 23

21. Section 23(3) of the principal Act is amended by deleting the words "section 37E" and substituting the words "section 37E(1) or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be".

Amendment of section 26

22. Section 26(12) of the principal Act is amended by deleting the full-stop at the end of the definition of "Singapore life policy" and substituting a semi-colon, and by inserting immediately thereafter the following definition:

" "surplus account", in relation to a participating fund of a life insurer, means the surplus account established and maintained under section 17(6)(*a*) of the Insurance Act as part of that fund.".

New section 34C

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

"**Amalgamation of companies**

34C.—(1) This section shall only apply to a qualifying amalgamation.

Interpretation

(2) In this section —

"first 2 years of assessment", in relation to an amalgamating company, means the year of assessment relating to the basis

period during which the company is incorporated and the year of assessment immediately following that year of assessment;

"FRS 38" and "FRS 103" mean the financial reporting standards known as Financial Reporting Standard 38 (Intangible Assets) and Financial Reporting Standard 103 (Business Combinations), respectively, issued by the Accounting Standards Council under the Accounting Standards Act (Cap. 2B);

"qualifying amalgamation" means —

(*a*) any amalgamation of companies where the notice of amalgamation under section 215F of the Companies Act (Cap. 50) or a certificate of approval under section 14A of the Banking Act (Cap. 19) is issued on or after 22nd January 2009; and

(*b*) such other amalgamation of companies as the Minister may approve.

(3) For the purpose of this section, the date of amalgamation of companies is —

(*a*) the date shown on the notice of amalgamation under section 215F of the Companies Act;

(*b*) the date of lodgment mentioned in section 14A(4) of the Banking Act; or

(*c*) such date as specified in the letter of approval issued under paragraph (*b*) of the definition of "qualifying amalgamation" in subsection (2),

as the case may be.

Election for section to apply

(4) An amalgamated company in a qualifying amalgamation shall, within 90 days from the date of amalgamation or such further period as the Comptroller may allow, elect for this section to apply to it and all the amalgamating companies in the qualifying amalgamation.

(5) An election under subsection (4) shall be made by an amalgamated company by notice in writing to the Comptroller and shall be irrevocable.

(6) Upon such election, the trades and businesses carried on in Singapore of all the amalgamating companies shall be treated as carried on in Singapore by the amalgamated company beginning from the date of amalgamation and —

(*a*) any property on revenue account of each amalgamating company shall, subject to subsection (14), be treated as property on revenue account of the amalgamated company; and

(*b*) any property on capital account of each amalgamating company shall, subject to subsection (16), be treated as property on capital account of the amalgamated company,

and the amalgamated company shall be treated as having acquired the property on the date on which the amalgamating company acquired it for an amount that was incurred by the amalgamating company in respect of that property.

Effect of cancellation of shares

(7) Where an amalgamating company (referred to as the first-mentioned company) holds shares in another amalgamating company (referred to as the second-mentioned company), and the shares of the second-mentioned company are cancelled on the amalgamation, the following provisions shall apply:

(*a*) the first-mentioned company is treated as having disposed of the shares in the second-mentioned company immediately before the amalgamation for an amount equal to the cost of the shares to the first-mentioned company;

(*b*) if —

(i) the first-mentioned company has borrowed money to acquire shares in the second-mentioned company; and

(ii) the liability arising from the money borrowed referred to in sub-paragraph (i) is transferred to and becomes the liability of the amalgamated company,

no deduction shall be given for any interest or other borrowing costs incurred by the amalgamated company on or after the date of amalgamation on such liability.

Transfer of property

(8) Where there is a transfer of property from any amalgamating company to the amalgamated company on the date of amalgamation in respect of which allowances or writing-down allowances have been made to the amalgamating company under sections 16 to 21, the amalgamating company and the amalgamated company shall, subject to section 24(4), be deemed to have made an election under section 24(3), and section 24(3)(*a*) to (*e*) shall apply, with the necessary modifications, whether or not the amalgamated company is a company over which the amalgamating company has control, or the amalgamating company is a company over which the amalgamated company has control, or both the amalgamating company and amalgamated company are companies under the control of a common person.

(9) In the application of section 24(3)(*a*) to (*e*) under subsection (8) —

(*a*) a reference in that provision to a buyer is a reference to the amalgamated company; and

(*b*) a reference in that provision to a seller is a reference to the amalgamating company.

(10) Where —

(*a*) there is a transfer of property, being intellectual property rights in respect of which writing-down allowances have been made to an amalgamating company under section 19B, from that amalgamating company to the amalgamated company on the date of amalgamation; and

(*b*) before the transfer in the case of that amalgamating company and from any time on or after the transfer in the case of that amalgamated company, the property is used in the production of income chargeable under the provisions of this Act,

the following provisions shall, subject to subsection (18), apply:

(i) section 19B(4) and (5) shall not apply to the amalgamating company;

(ii) the writing-down allowances under section 19B shall continue to be available to the amalgamated company as if no transfer had taken place;

(iii) the charge under section 19B(4) and (5) shall be made on the amalgamated company on any event occurring on or after the date of amalgamation as would have fallen to be made on the amalgamating company if the amalgamating company had continued to own the intellectual property rights and had done all such things and been allowed all such allowances as were done by or allowed to the amalgamated company.

(11) Notwithstanding section 32 but subject to subsection (18), where there is a transfer of property, being trading stock to both an amalgamating company and the amalgamated company, from that amalgamating company to the amalgamated company on the date of amalgamation —

(*a*) the net book value of the trading stock of the amalgamating company shall be deemed to be the value of the consideration given by the amalgamated company to the amalgamating company for such transfer on the date of amalgamation for the purpose of deducting the cost of trading stock to the amalgamated company as an expense in computing the gains or profits of the trade or business of the amalgamated company; and

(*b*) only the amount of provision of diminution in value computed by reference to the net book value referred to in paragraph (*a*) of the trading stock, if any, may be allowed as a deduction to the amalgamated company.

(12) Notwithstanding subsection (11), the value as reflected in the financial accounts of the amalgamated company on the date of amalgamation shall be taken as the value of the consideration given by the amalgamated company to the amalgamating company for the transfer of the trading stock on the date of amalgamation for the purpose of —

(*a*) computing the gains or profits of the trade or business of that amalgamating company; and

(*b*) deducting the cost of trading stock to the amalgamated company as an expense in computing the gains or profits of the trade or business of the amalgamated company,

if the amalgamated company has made an irrevocable election to that effect.

(13) Any gains or profits of the trade or business of the amalgamating company referred to in subsection (12) shall be chargeable to tax for the year of assessment which relates to the basis period in which the date of amalgamation falls.

(14) Where there is a transfer of property from an amalgamating company to the amalgamated company, being property on revenue account of the amalgamating company but not on revenue account of the amalgamated company, the consideration for the transfer by the amalgamating company is taken as the amount which it would have realised if the property had been sold in the open market on the date of amalgamation.

(15) The amount of consideration referred to in subsection (14) shall be used to compute the gains or profits of the trade or business of the amalgamating company and such gains or profits shall be chargeable to tax for the year of assessment which relates to the basis period in which the date of amalgamation falls.

(16) Where there is a transfer of property from an amalgamating company to the amalgamated company, being property not on revenue account of the amalgamating company but on revenue account of the amalgamated company, the consideration for the acquisition by the amalgamated company is taken as the amount which it would have incurred if the property had been purchased in the open market on the date of amalgamation or the actual amount paid, whichever is the lower.

(17) The amount of consideration referred to in subsection (16) shall be deducted as an expense in computing the gains or profits of the trade or business of the amalgamated company.

(18) Where the amalgamated company ceases to carry on the trade and business in Singapore after the date of amalgamation but instead carries on that trade and business outside Singapore —

(*a*) in the case of trading stock which has been transferred at net book value under subsection (11)(*a*), section 32(1)(*b*) shall apply as if that trade and business has been discontinued or transferred on the date of cessation of the trade and business in Singapore, and any gain shall be chargeable to tax for the year of assessment relating to the basis period in which the amalgamated company ceases to carry on that trade and business in Singapore;

(*b*) in the case of property, being intellectual property rights in respect of which subsection (10) applies, the charge under section 19B(4) or (5), as the case may be, shall be made on the amalgamated company as if the property has been sold on the date of cessation of the trade and business in Singapore; and for the purpose of computing the charge under section 19B(5), the value thereof shall be the amount which it would have realised if the property had been sold in the open market on the date of cessation of such trade and business in Singapore.

(19) Any question arising under subsections (14), (16) and (18) regarding the open market value attributable to property or trading stock, as the case may be, shall be determined by the Comptroller.

Deductions for intellectual property rights

(20) No deduction under section 19B shall be allowed to the amalgamated company for any intellectual property rights recognised in accordance with FRS 38 and FRS 103 as a result of the amalgamation but which were not in existence prior to the amalgamation.

Deductions for bad debts, expenditure, losses, etc.

(21) Where —

(*a*) an amalgamating company ceases to exist on the date of amalgamation; and

(*b*) the amalgamated company continues to carry on the trade and business of the amalgamating company and at any time —

(i) writes off as bad the amount of a debt, or provides impairment loss in respect of a debt, that it acquires from the amalgamating company on the date of amalgamation;

(ii) incurs an expenditure, other than the expenditure to which prescribed sections of this Act apply; or

(iii) incurs a loss,

the amalgamated company —

(A) shall be allowed a deduction for the amount of the debt, expenditure or loss, as the case may be, if —

(AA) the amalgamating company would have been allowed the deduction but for the amalgamation; and

(AB) the amalgamated company is not otherwise allowed the deduction; and

(B) shall be chargeable to tax on the amount of the debt recovered or impairment loss that is reversed if —

(BA) the amalgamating company would have been chargeable to tax on such amount but for the amalgamation; and

(BB) the amalgamated company is not otherwise chargeable to tax on such amount.

(22) Where —

(*a*) an amalgamating company has been allowed a deduction in respect of any debt written off as bad or impairment loss, and it ceases to exist on the date of amalgamation; and

(*b*) the amalgamated company continues to carry on the trade and business of the amalgamating company,

the amalgamated company shall be chargeable to tax on the amount of the debt recovered or impairment loss that is reversed if —

(i) the amalgamating company would have been chargeable to tax on such amount but for the amalgamation; and

(ii) the amalgamated company is not otherwise chargeable to tax on such amount.

(23) Where —

(*a*) an amalgamating company ceases to exist on the date of amalgamation; and

(*b*) the amalgamating company has any capital allowance, donation or loss remaining unabsorbed on the date of amalgamation,

sections 23 and 37 shall apply, with the necessary modifications, as if the amalgamated company is the amalgamating company for the purposes of deducting the unabsorbed capital allowance, donation or loss against the income or the statutory income, as the case may be, of the amalgamated company, subject to conditions specified in subsection (24).

(24) The conditions referred to in subsection (23) are —

(*a*) the amalgamating company was carrying on a trade or business until the amalgamation; and

(*b*) the amalgamated company continues to carry on the same trade or business on the date of amalgamation as that of the amalgamating company from which the unabsorbed capital allowance, donation or loss was transferred.

(25) Any deduction referred to in subsection (23) shall only be made against the income of the amalgamated company from the same trade or business as that of the amalgamating company immediately before the amalgamation.

Amalgamating company as qualifying person under section 34A

(26) Where any of the amalgamating companies is a qualifying person to which section 34A applies —

(*a*) the amalgamated company shall be deemed to be a qualifying person for the purpose of section 34A, and section 34A shall have effect on the amalgamated company; and

(*b*) the rules on the adjustment on change of basis of computing profits of financial instruments set out in regulations made under section 34A shall have effect on any amalgamating company which before the amalgamation is not a qualifying person to which section 34A applies, and any positive or

negative adjustment which is not of a capital nature as a result of the application of such rules shall be assessed on or allowed to the amalgamated company.

Amalgamated company as qualifying company under section 43(6A)

(27) Where all the amalgamating companies cease to exist on the date of amalgamation, and the amalgamated company is a qualifying company for the purpose of section 43(6A) in any year of assessment, then, for that year of assessment —

(*a*) in a case where the date of amalgamation does not fall within either of the basis periods of the first 2 years of assessment of any of the amalgamating companies, section 43(6) rather than section 43(6A) shall apply to the amalgamated company; and

(*b*) in a case where the date of amalgamation falls within either of the basis periods of the first 2 years of assessment of any of the amalgamating companies, section 43(6A) shall apply to the amalgamated company if, and only if, the first-mentioned year of assessment falls within such period as may be prescribed by the Minister, and if it does not, then section 43(6) shall apply to the amalgamated company.

(28) The Minister may, for different descriptions of amalgamations or companies, prescribe different periods for the purposes of subsection (27)(*b*).

Rights and obligations of amalgamated company

(29) Where any amalgamating company ceases to exist on the date of amalgamation, the amalgamated company shall comply with all obligations, meet all liabilities, and be entitled to all rights, powers and privileges, of the amalgamating company under this Act with respect to the year of assessment relating to the basis period in which the amalgamation occurs and all preceding years of assessment as if the amalgamated company is the amalgamating company.

Regulations

(30) The Minister may by regulations provide —

(*a*) for the deduction of expenses, allowances, losses, donations and any other deductions otherwise than in accordance with this Act;

(*b*) the manner and extent to which expenses, allowances, losses, donations and any other deductions may be allowed under this Act;

(*c*) the manner and extent to which any qualifying deduction may be allowed under section 37C or 37E;

(*d*) the rate of exchange to be used for the purpose of section 62B;

(*e*) for the modification and exception to any prescribed section of this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) as it applies to an amalgamated company; and

(*f*) generally for giving full effect to or for carrying out the purposes of this section.".

New section 34D

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

"**Transactions not at arm's length**

34D.—(1) Where 2 persons are related parties and conditions are made or imposed between the 2 persons in their commercial or financial relations which differ from those which would be made if they were not related parties, then any profits which would, but for those conditions, have accrued to one of the persons, and, by reason of those conditions, have not so accrued, may be included in the profits of that person and taxed in accordance with the provisions of this Act.

(2) Where a person carries on business through a permanent establishment, this section shall apply as if the person and the permanent establishment are 2 separate and distinct persons.

(3) In this section, "related party" has the same meaning as in section 13(16).".

Amendment of section 35

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

"(15A) Where a unitholder of a real estate investment trust is entitled to an amount, being a return of capital, from a trustee of the real estate investment trust, the cost of the units to the unitholder shall be reduced by the amount entitled.".

Amendment of section 36A

26. Section 36A(10) of the principal Act is amended by deleting the words "section 37E" in paragraph (*a*) of the definition of "carry-back deductions" and substituting the words "section 37E(1) or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be".

Amendment of section 36C

27. Section 36C(8) of the principal Act is amended —

(*a*) by deleting the words "section 37E" in paragraph (*a*) of the definition of "carry-back deductions" and substituting the words "section 37E(1) or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be"; and

(*b*) by deleting the definitions of "limited partner" and "limited partnership" and substituting the following definition:

" "limited partner" has the same meaning as in the Limited Partnerships Act 2008 (Act 37 of 2008);".

Amendment of section 37

28. Section 37 of the principal Act is amended —

(*a*) by inserting, immediately after subsection (3), the following subsection:

"(3A) For the purpose of subsection (3), in relation to any donation made during the period from 1st January 2009 to 31st December 2009 (both dates inclusive), any reference to "twice the value" or "twice the amount" in subsection (3)(*b*) to (*f*) shall be read as references to 2.5 times the value or 2.5 times the amount, as the case may be."; and

(*b*) by deleting the words "section 37E" in subsection (6) and substituting the words "section 37E(1) or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be".

Amendment of section 37E

29. Section 37E of the principal Act is amended —

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

"(1A) Notwithstanding subsection (1) but subject to the other provisions of this section, a person may deduct any qualifying deduction for the years of assessment 2009 and 2010 against his assessable income for the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be.

(1B) Any qualifying deduction under subsection (1A) for any year of assessment shall so far as possible be made against the person's assessable income for the third year of assessment immediately preceding that year of assessment, with any remaining balance of the qualifying deduction made —

(*a*) against his assessable income for the second year of assessment immediately preceding that year of assessment; and

(*b*) thereafter against his assessable income for the first year of assessment immediately preceding that year of assessment.

(1C) Where in any year of assessment a person is entitled to make more than one deduction under subsection (1A) or under subsections (1) and (1A) against his assessable income for that year of assessment, the assessable income for that year of assessment shall so far as possible be deducted by the amount of qualifying deduction for the earliest year of assessment the person is entitled to so deduct under subsection (1) or (1A), and any remaining balance of the assessable income for the first-mentioned year of assessment shall so far as possible be deducted by the amount of qualifying deduction for the next earliest year of assessment, and so on.";

(*b*) by inserting, immediately after subsection (3), the following subsection:

"(3A) Notwithstanding subsection (3), the amount of qualifying deduction to be deducted for the year of assessment 2009 or 2010 against the assessable income for any of the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be, is the lower of —

(*a*) an amount equivalent to the difference between the amount of qualifying deduction available for deduction for the year of assessment 2009 or 2010, as the case may be, and the aggregate amount of such qualifying deductions which had already been deducted under subsection (1A); and

(*b*) the balance of the assessable income of the person for the year of assessment after such assessable income has been deducted by the qualifying deduction for any year of assessment prior to the year of assessment 2009 or 2010, as the case may be, under subsection (1C).";

(*c*) by inserting, immediately after the words "for the immediate preceding year of assessment" wherever they appear in subsections (4) and (6), the words "or any of the 3 immediate preceding years of assessment (as the case may be)";

(*d*) by inserting, immediately after subsection (4), the following subsection:

"(4A) For the purposes of applying section 37B to the provisions of this section under subsection (4), the reference to "higher rate of tax" or "lower rate of tax" in section 37B shall be read as a reference to —

(*a*) the rate of tax under section 43(1)(*a*) applicable to the year of assessment for which the assessable income is deducted by any qualifying deduction;

(*b*) the concessionary rate of tax applicable to the year of assessment for which any allowance specified in

subsection (9)(*a*) is made to or any loss specified in subsection (9)(*b*) is incurred by a company; or

(*c*) the concessionary rate of tax applicable to the assessable income which is deducted by any qualifying deduction,

as the case may be.";

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

"(5A) Notwithstanding subsection (5), the amount of qualifying deduction to be deducted for the year of assessment 2009 or 2010 shall not exceed $200,000; and in the case of a company shall be determined by the formula

$$A + B,$$

where A is any amount deducted against assessable income subject to tax at the rate of tax specified in section 43(1)(*a*); and

B is any amount deducted against assessable income subject to tax at any concessionary rate of tax divided by the adjustment factor for that concessionary rate of tax.";

(*f*) by inserting, immediately after subsection (8), the following subsection:

"(8A) Notwithstanding subsection (8), where the Comptroller discovers that any qualifying deduction for the year of assessment 2010 made under subsection (1A) against the assessable income of any person for the year of assessment 2008 is or has become excessive, he may make an assessment on the person on the amount which, in his opinion, ought to have been charged to tax in the year of assessment 2008, within 6 years after the expiration of that year of assessment.";

(*g*) by inserting, immediately after the words "the immediate preceding year of assessment" in the 3rd and 4th lines of subsection (11) and in the 4th and 5th lines of subsection (12), the words "or any one of the 3 immediate preceding years of assessment (as the case may be)"; and

(*h*) by deleting the words "the immediate preceding year of assessment" in the penultimate and last lines of subsection (11) and in the last line of subsection (12) and substituting in each case the words "that preceding year of assessment".

Amendment of section 37F

30. Section 37F of the principal Act is amended —

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

"(1A) Notwithstanding subsection (1) but subject to the other provisions of this section, an individual may transfer any qualifying deduction for the years of assessment 2009 and 2010 to a spouse living with him or her who has claimed any qualifying deduction under this section against her or his assessable income for the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be.

(1B) Any qualifying deduction transferred to a claimant spouse under subsection (1A) for any year of assessment shall so far as possible be made against her or his assessable income for the third year of assessment immediately preceding that year of assessment, with any remaining balance of the qualifying deduction made —

(*a*) against her or his assessable income for the second year of assessment immediately preceding that year of assessment; and

(*b*) thereafter against her or his assessable income for the first year of assessment immediately preceding that year of assessment.

(1C) Where in any year of assessment a claimant spouse is entitled to make more than one deduction under subsection (1A) or under subsections (1) and (1A) against her or his assessable income for that year of assessment, the assessable income for that year of assessment shall so far as possible be deducted by the amount of qualifying deduction for the earliest year of assessment the claimant spouse is entitled to so deduct under subsection (1) or (1A), and any remaining

balance of the assessable income for the first-mentioned year of assessment shall so far as possible be deducted by the amount of qualifying deduction for the next earliest year of assessment, and so on.";

(*b*) by inserting, immediately after subsection (3), the following subsection:

"(3A) Notwithstanding subsection (3), the amount of qualifying deduction for the year of assessment 2009 or 2010 to be transferred by a transferor to a claimant spouse for any of the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be, is the lower of —

(*a*) an amount equivalent to the difference between the amount of qualifying deduction available for transfer for the year of assessment 2009 or 2010, as the case may be, and the aggregate amount of such qualifying deductions which had already been transferred under subsection (1A); and

(*b*) the balance of the assessable income of the claimant spouse for the year of assessment after such assessable income is deducted by the qualifying deduction for any year of assessment prior to the year of assessment 2009 or 2010, as the case may be, under subsection (1C).";

(*c*) by inserting, immediately after subsection (4), the following subsection:

"(4A) Notwithstanding subsection (4), the amount of qualifying deduction for the year of assessment 2009 or 2010 to be transferred by a transferor to a claimant spouse shall not exceed an amount equal to

$$\$200{,}000 - A,$$

where A is the aggregate of the amounts deducted by the transferor against his or her assessable income for the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be, under section 37E.";

(*d*) by inserting, immediately after the words "subsection (1)" in subsections (5) and (6), the words "or (1A)";

(*e*) by inserting, immediately after the words "for the immediate preceding year of assessment" in subsection (5), the words "or any of the 3 immediate preceding years of assessment (as the case may be)";

(*f*) by inserting, immediately after subsection (9), the following subsection:

"(9A) Notwithstanding subsection (9), where the Comptroller discovers that any qualifying deduction for the year of assessment 2010 transferred under subsection (1A) and made against the assessable income of the claimant spouse for the year of assessment 2008 is or has become excessive, he may make an assessment on the claimant spouse on the amount which, in his opinion, ought to have been charged to tax in the year of assessment 2008, within 6 years after the expiration of that year of assessment."; and

(*g*) by inserting, immediately after the words "for the immediate preceding year of assessment" in subsection (12), the words "or any one of the 3 immediate preceding years of assessment, as the case may be".

Amendment of section 39

31. Section 39(2) of the principal Act is amended —

(*a*) by deleting sub-paragraph (ii) of paragraph (*g*) and substituting the following sub-paragraphs:

"(ii) where the sum of —

(A) the contributions to any approved pension or provident fund or society under this paragraph; and

(B) the deduction allowed to the individual under paragraph (*q*),

does not exceed $5,000, then the total deductions allowable under this paragraph shall not exceed the difference between $5,000 and the amount of the deduction referred to in sub-paragraph (B);

(ii*a*) where the sum referred to in sub-paragraph (ii) exceeds $5,000, then no deduction shall be allowed under this paragraph, except that the contributions made to an approved pension or a provident fund or the Central Provident Fund under this paragraph shall, subject to subsections (6) to (10), be allowed as a deduction under this paragraph;"; and

(*b*) by deleting sub-paragraph (i) of paragraph (*h*) and substituting the following sub-paragraphs:

"(i) where the sum of —

(A) the contributions to any approved pension or provident fund or society under paragraph (*g*) and this paragraph; and

(B) the deduction allowed to the individual under paragraph (*q*),

does not exceed $5,000, then the total deductions allowable under paragraph (*g*) and this paragraph shall not exceed the difference between $5,000 and the amount of the deduction referred to in sub-paragraph (B);

(i*a*) where the sum referred to in sub-paragraph (i) exceeds $5,000, then no deduction shall be allowed under paragraph (*g*) in respect of premiums for life insurance;".

Amendment of section 42

32. Section 42 of the principal Act is amended —

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

"(1) Subject to subsection (2), there shall be levied and paid for each year of assessment upon the chargeable income of every person (other than a body of persons, a company, a person not resident in Singapore, a trustee who is not the trustee of an incapacitated person, or an executor) tax in accordance with the rates specified in Part A of the Second Schedule in respect of the chargeable income of an individual or a Hindu joint family."; and

(*b*) by deleting subsections (4) to (8).

Amendment of section 43

33. Section 43 of the principal Act is amended —

(*a*) by inserting, immediately after the word "company" in subsection (1)(*a*), the words "or body of persons";

(*b*) by deleting "18%" in subsection (1)(*a*) and (*c*) and substituting in each case "17%";

(*c*) by inserting, immediately after the words "distributed by the trustee" in subsection (2A)(*a*), the words "in cash or, if the conditions specified in subsection (2B) are satisfied, in units in the trust";

(*d*) by inserting, immediately after the words "distributed by the trustee" in subsection (2A)(*b*), the words "in cash";

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

"(2B) The conditions referred to in subsection (2A)(*a*) are —

(*a*) the distribution is made at any time from 1st July 2009 to 31st December 2010 (both dates inclusive) by the trustee of the real estate investment trust out of income specified in subsection (2A)(*a*)(i) to (iv);

(*b*) before the distribution, the trustee of the real estate investment trust has given to unitholders receiving the distribution an option to receive the same either in cash or units in the trust; and

(*c*) the trustee of the real estate investment trust has sufficient cash available on the date of such distribution to make the distribution fully in cash had no option been given to those unitholders to receive the distribution in units in the trust.";

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

"(6) Notwithstanding subsection (1) but subject to subsection (6A), there shall be levied and paid for each year of

assessment upon the chargeable income of every company or body of persons —

(*a*) in the case of a company, for the year of assessment 2008 and subsequent years of assessment; and

(*b*) in the case of a body of persons, for the year of assessment 2010 and subsequent years of assessment,

tax at the rate prescribed in subsection (1)(*a*) on every dollar of the chargeable income thereof except that —

(i) for every dollar of the first $10,000 of the chargeable income (excluding Singapore dividends), only 25% shall be charged with tax; and

(ii) for every dollar of the next $290,000 of the chargeable income (excluding Singapore dividends), only 50% shall be charged with tax.";

(*g*) by deleting the words "for each of the first 3 years of assessment, falling in or after the year of assessment 2008, of a qualifying company," in subsection (6A) and substituting the words "where, in any of the first 3 years of assessment, falling in or after the year of assessment 2008, of a company, the company is a qualifying company, then for that year of assessment";

(*h*) by deleting subsection (8) and substituting the following subsection:

"(8) The reference to 17% in subsection (1) shall —

(*a*) for the years of assessment 2005, 2006 and 2007, be read as a reference to 20%; and

(*b*) for the years of assessment 2008 and 2009, be read as a reference to 18%.";

(*i*) by inserting, immediately after the words "life insurer" in subsection (9), the words "(other than a captive insurer)";

(*j*) by inserting, immediately after the definition of "approved sub-trust" in subsection (10), the following definition:

" "captive insurer" has the same meaning as in section 1A of the Insurance Act (Cap. 142);"; and

(*k*) by deleting the definition of "qualifying company" in subsection (10) and substituting the following definition:

" "qualifying company", in relation to a year of assessment, means a company incorporated in Singapore which for that year of assessment —

(*a*) is resident in Singapore; and

(*b*) where the company —

(i) is not a company limited by guarantee, has its total share capital beneficially held directly by no more than 20 shareholders —

(A) all of whom are individuals throughout the basis period for that year of assessment; or

(B) at least one of whom is an individual holding at least 10% of the total number of issued ordinary shares of the company throughout the basis period for that year of assessment; or

(ii) is a company limited by guarantee, has members —

(A) all of whom are individuals throughout the basis period for that year of assessment; or

(B) at least one of whom is an individual throughout the basis period for that year of assessment, and the contribution of that individual under the memorandum of association of the company to the assets of the company in the event of its being wound up, amounts to at least 10% of the total contributions of the members of the company throughout the basis period for that year of assessment.".

Amendment of section 43N

34. Section 43N of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

"(5) Subsections (1)(*a*), (*aa*), (*ab*), (*ac*) and (*ad*) and (2) and regulations made thereunder shall apply to a body of persons for the year of assessment 2010 and subsequent years of assessment.".

Amendment of section 43ZD

35. Section 43ZD(1) of the principal Act is amended by deleting the words "the income" and substituting the words "such income as the Minister may specify".

Amendment of section 45

36. Section 45 of the principal Act is amended —

(*a*) by deleting "18%" in subsections (1)(*a*)(ii) and (2)(*b*) and substituting in each case "17%"; and

(*b*) by deleting subsection (1A) and substituting the following subsection:

"(1A) Notwithstanding subsection (1), tax shall be deducted at the rate of 18% on every payment (other than payment subject to tax at the rate specified in section 43(3) or (3A)) made on or after 1st January 2009 which would be assessable on the person receiving the payment for the year of assessment 2009.".

Repeal of section 48

37. Section 48 of the principal Act is repealed.

Amendment of section 71

38. Section 71 of the principal Act is amended —

(*a*) by deleting subsection (2) and substituting the following subsection:

"(2) Where —

(*a*) in the case of a limited partnership, no general partner is personally present in Singapore; or

(*b*) in the case of all other types of partnerships, no partner is personally present in Singapore,

the return shall be made and delivered by the attorney, agent, manager or factor of the firm in Singapore."; and

(*b*) by inserting, immediately after subsection (3), the following subsection:

"(4) In this section, "general partner" has the same meaning as in the Limited Partnerships Act 2008 (Act 37 of 2008).".

Amendment of Second Schedule

39. Part B of the Second Schedule to the principal Act is deleted.

Miscellaneous amendments

40. The principal Act is amended —

(*a*) by deleting the words "any relief under section 48 or" in section 10N(7);

(*b*) by deleting the words "no relief under section 48 and" in section 10N(8)(*c*);

(*c*) by deleting the words "or Commonwealth income tax within the meaning of section 48(5)," in section 29;

(*d*) by deleting paragraph (*a*) of section 40(6);

(*e*) by deleting "48," in section 40(6)(*b*);

(*f*) by deleting subsection (3) of section 49; and

(*g*) by deleting the words "tax relief under section 48 or" in section 50A(5).

Remission of tax for year of assessment 2009

41. There shall be remitted the tax payable for the year of assessment 2009 by an individual or Hindu joint family resident in Singapore an amount equal to —

(*a*) 20% of the tax payable for that year of assessment; or

(*b*) $2,000,

whichever is the lower, and the amount of such remission shall be determined by the Comptroller.

EXPLANATORY STATEMENT

This Bill seeks to implement the tax changes announced in the Government's 2009 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 2 (Interpretation) to insert a definition of "limited partnership".

Clause 3 amends section 10 (Charge of income tax) to provide for the computation of gains or profits derived by any person from the exercise of a right or benefit granted to acquire shares in any company listed on the Singapore Exchange, distinguishing between treasury and non-treasury shares.

The clause also amends section 10 to remove the income tax payable on the net annual value of any property used by or on behalf of its owner for residential purposes and not for the purposes of gain or profit.

Clause 4 inserts a new section 10F.

The new section 10F provides for the ascertainment of income derived under a contract entered into under a public-private arrangement between the Government or an approved statutory body (being the lessee) and any person (being the lessor), and which is or which contains a finance lease recognised as such by the lessor under certain financial reporting standards. Any allowances under section 16, 17, 19, 19A, 20, 21, 22 or 23 in respect of any industrial building or structure, or machinery or plant, being a subject of the finance lease, will not be made to the person but will be made to the Government or the approved statutory body. The person will, however, not be assessed to tax on that part of the lease payment under that finance lease that is attributable to the repayment of principal.

Clause 5 amends section 10L (Withdrawals from Supplementary Retirement Scheme) to disregard, for the purpose of determining the period within which all funds standing to an SRS account must be withdrawn under subsection (5), any withdrawal made under subsection (3)(*b*) by the SRS member prior to the first contribution made to the SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive). The date of the first withdrawal made after the aforementioned first contribution will be deemed to be the date he made the first withdrawal under subsection (3)(*b*) for the purpose of determining the period under subsection (5).

Where an SRS member withdrew all his SRS moneys under subsection (3)(*b*) from an earlier SRS account which is thus closed, and subsequently opened a second SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive), both SRS accounts are deemed, for the purpose of subsection (1) and section 39(2)(*o*), to be the same account as if the earlier SRS account has never been closed. For the purpose of determining the period under subsection (5), the date he makes his first withdrawal after he opened the second SRS account shall be taken as the date he made the first withdrawal under subsection (3)(*b*).

Clause 5 further amends section 10L(13) to clarify that "closed" currently referred to in that provision is a reference to the SRS account being closed within the same year after it has been opened, and inserts a new subsection (14) to clarify that references to an SRS member's contribution to his SRS account include contributions by his employer on his behalf to that account.

Clause 6 amends section 12 (Sources of income) to give legal effect to the clarification provided in a press statement issued by the Ministry of Finance on 21st December 1977 on subsections (6) and (7). The clause further extends the scope of the clarification to exclude from the scope of paragraph (*c*) of subsection (7) any payment for management or assistance in the management of any trade, business or profession performed outside Singapore by persons outside Singapore who are associated to the payers in Singapore. The exclusion is subject to the requirements of the Act, such as the transaction must be at arm's length, and it may be disregarded in accordance with section 33 (Comptroller may disregard certain transactions and dispositions).

Clause 7 amends section 13 (Exempt income) to provide for the tax exemption on any Government cash grant payable to an employer in 2009 under the Jobs Credit Scheme announced in the Government's 2009 Budget Statement.

The clause also amends section 13 to provide for the tax exemption on all types of foreign sourced income derived by resident taxpayers on or before 21st January 2009 and received in Singapore during the period from 22nd January 2009 to 21st January 2010 (both dates inclusive), subject to conditions. The Comptroller is empowered to require information relating to such exempt income to be furnished to him for any statistical or research purpose as may be directed by the Minister.

Clause 8 amends section 13C (Exemption of income of trustee of trust fund arising from funds managed by fund manager in Singapore) to provide the type of trustee of a prescribed trust fund to which the tax exemption under section 13C may apply. Only a trustee of a prescribed trust fund which is constituted on or before 31st March 2014 and which has qualified for tax exemption under section 13C on its qualifying income between the date of the constitution of the trust fund and 31st March 2014 (both dates inclusive), may qualify for tax exemption after 31st March 2014 under the section if it continues to meet the qualifying conditions for the tax exemption.

Clause 9 amends section 13CA (Exemption of income of non-resident arising from funds managed by fund manager in Singapore) to subject a person who (not being a non-bona fide entity) beneficially owns equity interests in a non-bona fide entity which in turn holds a beneficial interest in issued securities in a prescribed person or in part of the trust fund for which a prescribed person is a trustee, to a financial penalty. That person is subject to the penalty if the aggregate of the equity interests of the prescribed person or trust fund beneficially owned by the person directly or through one or more non-bona fide entities (including those owned by all his associates) exceeds the prescribed percentage of the total value of all issued securities of the prescribed person or the trust fund on the relevant day.

Before the change, the financial penalty may only be imposed on such a person, if —

(*a*) the value of the issued securities of the prescribed person (or any part of the trust fund for which the prescribed person is a trustee) beneficially owned by the non-bona fide entity, either alone or together with all its associates, exceeds the prescribed percentage of the total value of issued securities of the prescribed person or the trust fund on the relevant day; and

(*b*) the value of the equity interests of the non-bona fide entity beneficially owned by that person, exceeds a specified percentage of the total value of all equity interests of the non-bona fide entity on the relevant day.

The clause also amends section 13CA to provide for the type of prescribed person to which the tax exemption under section 13CA may apply. Only a prescribed person which is incorporated or constituted on or before 31st March 2014 and which has qualified for tax exemption under section 13CA on its qualifying income between the date of the incorporation or constitution (as the case may be) and 31st March 2014 (both dates inclusive), may qualify for tax exemption after 31st March 2014 under the section if it continues to meet the qualifying conditions for the tax exemption.

Clause 10 amends section 13J (Exemption of tax on gains or profits from equity remuneration incentive scheme (SMEs)) to provide for the minimum number of hours which an employee of a qualifying company must commit to work in order to qualify as a qualifying employee for the purpose of tax exemption under the section, to be the number of hours specified in section 66A(1) of the Employment Act (Cap. 91).

Clause 11 amends section 13L (Exemption of tax on gains or profits from equity remuneration incentive scheme) to align the definition of "part-time employee", in terms of working hours, with that in section 66A(1) of the Employment Act.

Clause 12 amends section 13M (Exemption of tax on gains or profits from equity remuneration incentive scheme (start-ups)) to provide for the minimum number of hours which an employee of a qualifying company must commit to work in order to qualify as a qualifying employee for the purpose of tax exemption under the section, to be the number of hours specified in section 66A(1) of the Employment Act.

Clause 13 amends section 13R (Exemption of income of company incorporated and resident in Singapore arising from funds managed by fund manager in Singapore) for a similar purpose to the amendment of section 13CA in respect of a case where a person, not being himself a non-bona fide entity, beneficially owns equity interests of an approved company through a non-bona fide entity.

The clause also amends section 13R to extend the end of the period by which approval may be granted under the section to 31st March 2014.

Clause 14 inserts a new section 13X.

The new section 13X provides for tax exemption on prescribed income derived by an approved company, a partner of an approved limited partnership or a trustee of an approved trust fund from funds managed in Singapore by a prescribed fund manager, subject to conditions.

Clause 15 amends section 14J (Further deduction for expenditure on research and development of new financial activities) to provide that the Minister or such person as

he may appoint may only approve or extend the approval of any financial institution, employee, consultant, course of study or training or new financial activity before 1st January 2010.

Clause 16 amends section 14Q (Deduction for renovation or refurbishment expenditure) to allow a person carrying on a trade, profession or business to deduct in the year of assessment 2010 or 2011 the full amount of qualifying renovation or refurbishment expenditure incurred by him during the basis period relating to the year of assessment 2010 or 2011, as the case may be, unless he elects for the deduction to be allowed over 3 years under subsection (3).

Clause 17 makes a consequential amendment to section 18 (Definitions for sections 16 and 17) arising from the insertion of the new section 10F by clause 4.

Clause 18 makes a consequential amendment to section 19 (Initial and annual allowances for machinery or plant) arising from the insertion of section 19A(1B) by clause 19.

Clause 19 amends section 19A (Allowances of 3 years write off for machinery and plant, and 100% write off for computer, prescribed office automation equipment and robot, etc.) to allow a person to elect for the capital expenditure incurred by him during the basis period relating to the years of assessment 2010 and 2011 on the provision of machinery or plant for the purpose of his trade, profession or business to be written off over 2 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred or any subsequent year of assessment, instead of over the working life of the machinery or plant under section 19 or over 3 years under section 19A(1) where applicable. The amount to be written off in the first and second year are 75% and 25% of the capital expenditure, respectively.

Clause 20 amends section 19B (Writing-down allowances for intellectual property rights) to allow capital expenditure incurred by an approved media and digital entertainment company in respect of the acquisition by it of approved intellectual property rights pertaining to film, television programmes, digital animations or games, or other media and digital entertainment contents, during the period from 22nd January 2009 to 31st October 2013 (both dates inclusive), to be written down over a period of 2 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred, instead of 5 years.

Clauses 21, 26 and 27 make consequential amendments to sections 23 (Carry forward of allowances), 36A (Limited liability partnership) and 36C (Limited partnership), respectively, arising from the amendment of section 37E by clause 29.

Clause 22 amends section 26 (Profits of insurers) to insert a definition of “surplus account”.

Clause 23 inserts a new section 34C to provide for the tax treatment applicable, on election, to 2 or more amalgamating companies and an amalgamated company in a qualifying amalgamation.

The new section 34C(2) defines certain terms, including the term “qualifying amalgamation”.

The new section 34C(3) defines the date of amalgamation.

The new section 34C(4) and (5) provides for an election to be made for the tax treatment in section 34C to apply.

The new section 34C(6) provides that property on revenue or capital account of each amalgamating company shall be treated as property on revenue or capital account, as the case may be, of the amalgamated company unless there is a change in intention on the date of amalgamation. Such property will be treated as having been acquired by the amalgamated company on the date the property was acquired by the amalgamating company at the original cost incurred by the amalgamating company.

The new section 34C(7) provides that no deduction shall be allowed for the interest expense or other borrowing costs incurred by an amalgamated company on any borrowing taken by an amalgamating company to purchase shares in another amalgamating company where the latter 2 companies subsequently amalgamate.

The new section 34C(8) and (9) deems an election under section 24 to be made in relation to any transfer of property from an amalgamating company to the amalgamated company, where the allowances or writing-down allowances in respect of the property have been made to the amalgamating company under sections 16 to 21.

The new section 34C(10) provides that where there is a transfer of intellectual property rights (in respect of which writing-down allowances have been made to an amalgamating company under section 19B) from an amalgamating company to the amalgamated company, the allowances under that section shall continue to be made to the amalgamated company as if no transfer had taken place.

The new section 34C(11) provides that where there is a transfer of trading stock from an amalgamating company to the amalgamated company, the amalgamating company shall be deemed to have transferred the trading stock at their net book value. Consequently, the cost of the trading stock that may be claimed as a deduction by the amalgamated company in computing the gains or profits of its business is the net book value of the trading stock transferred on the date of amalgamation.

The new section 34C(12) and (13) provides for an option to treat the trading stock transferred from an amalgamating company to an amalgamated company as being transferred at the value as reflected in the financial accounts of the amalgamated company on the date of amalgamation. Where that value exceeds the net book value of the trading stock on the date of amalgamation, the difference will be assessable to tax in the hands of the amalgamating company.

The new section 34C(14) and (15) provides for the tax treatment when assets on revenue account of an amalgamating company become assets on capital account in the accounts of the amalgamated company on the date of amalgamation.

The new section 34C(16) and (17) provides for the tax treatment when assets on capital account of an amalgamating company become assets on revenue account in the accounts of the amalgamated company on the date of amalgamation.

The new section 34C(18) provides for the tax treatment of trading stock or intellectual property rights of an amalgamated company when that company ceases to

carry on trade and business in Singapore, where such trading stock or rights were transferred to that company to which section 34C(11) or (10) applies.

The new section 34C(19) provides that where there is a dispute as to the open market value attributable to the property or trading stock, as the case may be, the value to be taken shall be such value as determined by the Comptroller.

The new section 34C(20) provides that no writing-down allowances under section 19B shall be granted to an amalgamated company in respect of intellectual property rights which are recognised under financial reporting standards but were not in existence prior to the amalgamation.

The new section 34C(21) provides for deduction to be allowed to an amalgamated company which continues to carry on the trade and business of an amalgamating company for the impairment loss, expenditure or loss arising from the activities of the amalgamating company before the amalgamation, if a deduction would have been allowed to the amalgamating company had it continued to exist. Any reversal of impairment loss or recovery of bad debt will be taxable in the hands of the amalgamated company.

The new section 34C(22) provides, where an amalgamating company ceases to exist on the date of amalgamation, that any reversal of impairment loss or recovery of bad debt will be taxable in the hands of an amalgamated company if such impairment loss or bad debt has been allowed as a deduction to the amalgamating company.

The new section 34C(23), (24) and (25) provides, where an amalgamating company ceases to exist on the date of amalgamation, for deduction of any unabsorbed capital allowance, loss or donation of the amalgamating company against the income of an amalgamated company, subject to conditions.

The new section 34C(26) provides that if any of the amalgamating companies have previously adopted the FRS 39 tax treatment under section 34A, the amalgamated company shall not be allowed to opt out of the FRS 39 tax treatment. The gains or loss, not being capital in nature, arising from the tax adjustment to the financial assets or liabilities of the amalgamating company that was on the pre-FRS 39 tax treatment shall be taxed as income of the amalgamated company or allowed as a deduction against its income.

The new section 34C(27) provides that section 43(6A) shall not apply to an amalgamated company even if it were a qualifying company, if the amalgamation does not fall within the basis periods of the first 2 years of assessment of any of the amalgamating companies. If the amalgamation falls within the basis periods of the first 2 years of assessment of any of the amalgamating companies, then section 43(6A) shall apply to the amalgamated company but only if the year of assessment in question falls within the period prescribed by regulations.

The new section 34C(28) allows different periods to be prescribed for the purposes of subsection (27) for different descriptions of amalgamations or companies.

The new section 34C(29) provides that an amalgamated company shall comply with all obligations and meet all liabilities of an amalgamating company which ceases to

exist on the date of amalgamation as if the amalgamated company is the amalgamating company.

The new section 34C(30) empowers the Minister to make regulations to provide for other tax treatments in a qualifying amalgamation.

Clause 24 inserts a new section 34D.

The new section 34D clarifies the arm's length principle. Where conditions are made or imposed between 2 related parties (including between a person and its permanent establishment) in their commercial or financial relation that are other than arm's length terms, the Comptroller may make adjustments to the profits for income tax purpose.

Clause 25 amends section 35 (Basis for computing statutory income) to provide that the cost of the units of a real estate investment trust held by any unitholder shall be reduced by the amount of any return of capital by the trustee of that trust to the unitholder, to which the unitholder is entitled.

Clause 28 amends section 37 (Assessable income) to increase the amount of deduction given to a person for donations of the types in subsection (3)(*b*) to (*f*) made during the period from 1st January 2009 to 31st December 2009 (both dates inclusive) from twice the amount of money or the value of the item donated to 2.5 times of such amount or value.

The clause also makes a consequential amendment to section 37 arising from the amendment of section 37E by clause 29.

Clause 29 amends section 37E (Carry-back of capital allowances and losses) —

(*a*) to allow qualifying deductions for the years of assessment 2009 and 2010 to be carried back and offset against any assessable income of the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be, beginning with the earliest of the 3 years of assessment immediately preceding that year of assessment, and any remaining balance of the qualifying deductions to be allowed in the next earliest year of assessment immediately preceding that year of assessment, and so on, subject to conditions;

(*b*) to increase the maximum amount of qualifying deduction for each of the years of assessment 2009 and 2010 to be carried back, from $100,000 to $200,000;

(*c*) to clarify that where —

(i) a qualifying deduction for any year of assessment (referred to as year of loss) is carried back to offset against the assessable income for a preceding year of assessment (referred to as year of offset);

(ii) there is nil or insufficient assessable income in one tax rate category but sufficient assessable income in another tax rate category in the year of offset; and

(iii) an adjustment under section 37B is to be made in the year of offset,

the rate of tax under section 43(1)(*a*) to be used, if applicable, for the purpose of applying the adjustment under section 37B in the year of offset shall be the normal tax rate applicable to that year of offset. Further, the concessionary rate of tax to be used for the purposes of applying the adjustment under section 37B in the year of offset is the concessionary rate of tax applicable to the qualifying deduction for the year of loss or the concessionary rate of tax applicable to the assessable income that is deducted by any qualifying deduction, as the case may be; and

(*d*) to enable the Comptroller to raise an assessment within 6 years after the expiration of the year of assessment 2008, where the Comptroller discovers that any qualifying deduction for the year of assessment 2010 made against the assessable income of any person for the year of assessment 2008 is excessive.

Clause 30 amends section 37F (Carry-back of capital allowances and losses between spouses) —

(*a*) to allow qualifying deductions for the years of assessment 2009 and 2010 transferred from a person to his or her spouse to be carried back and offset against the assessable income of the spouse for the 3 years of assessment immediately preceding the year of assessment 2009 or 2010, as the case may be, beginning with the earliest of the 3 years of assessment immediately preceding that year of assessment, and any remaining balance of the qualifying deductions to be allowed in the next earliest year of assessment immediately preceding that year of assessment, and so on, subject to conditions;

(*b*) to increase the maximum amount of qualifying deduction for each of the years of assessment 2009 and 2010 that can be carried back to offset against the assessable income of a person and of his or her spouse, from $100,000 to $200,000; and

(*c*) to enable the Comptroller to raise an assessment within 6 years after the expiration of the year of assessment 2008, where the Comptroller discovers that any qualifying deduction for the year of assessment 2010 made against the assessable income of the claimant spouse for the year of assessment 2008 is excessive.

Clause 31 amends section 39 (Relief and deduction for resident individual and Hindu joint family) to limit the tax relief for premiums for life insurance policy and contributions and abatements relating to widows' and orphans' pensions to the amount of the difference between $5,000 and the sum of contributions to any approved pension or provident fund or the Central Provident Fund under subsection (2)(*g*) and (*h*) and the deduction allowed to the individual under subsection (2)(*q*).

Clause 32 makes consequential amendments to section 42 (Rates of tax upon individuals) arising from the change in tax rate applicable to a body of persons. The clause also deletes subsections (4) to (8) as the concessionary tax rate of 10% currently provided in those subsections will be provided in section 43N by clause 34.

Clause 33 amends section 43 (Rate of tax upon companies and others) —

(*a*) to provide for the rate of tax for a body of persons to be the same as that upon companies under section 43, instead of graduated rates in Part B of the Second Schedule subject to a limit of effective company tax rate;

(*b*) to reduce the tax rate in subsection (1) from 18% to 17% for companies, bodies of persons, trustees (other than trustees of incapacitated persons), executors and non-resident persons who are not individuals or Hindu joint families;

(*c*) to allow, for the purpose of granting tax transparency, the distribution (out of specified income) by a trustee of a real estate investment trust to be made in the form of units of the trust instead of in cash, if certain conditions are satisfied (including that the distribution must be made during the period from 1st July 2009 to 31st December 2010 (both dates inclusive));

(*d*) to clarify that for the purpose of granting tax transparency to a trustee of a real estate investment trust or of an approved sub-trust of a real estate investment trust, any distribution out of qualifying income to unitholders has to be in cash;

(*e*) to extend the 75% and 50% tax exemptions on the first $10,000 and subsequent $290,000 of chargeable income, respectively, to bodies of persons;

(*f*) to exclude captive insurers from the type of life insurers whose income apportioned to their policyholders are subject to tax at the rate of 10% or such other prescribed rate; and

(*g*) to extend the tax exemption on the first $100,000 of the chargeable income of a qualifying company and the 50% tax exemption on the next $200,000 of the chargeable income of a qualifying company under subsection (6A) to companies limited by guarantee incorporated in Singapore which satisfy the conditions specified in the amended definition of "qualifying company".

Clause 34 amends section 43N (Concessionary rate of tax for income derived from debt securities) to extend the concessionary tax rate of 10% on qualifying income derived from qualifying debt securities to a body of persons, subject to the conditions stipulated in the section and regulations made thereunder.

Clause 35 makes a technical amendment to section 43ZD (Concessionary rate of tax for income derived from managing qualifying registered business trust or company).

Clause 36 makes a consequential amendment to section 45 (Withholding of tax in respect of interest paid to non-resident persons) arising from the reduction in tax rate to 17%.

Clause 37 repeals section 48 (Relief in respect of Commonwealth income tax) which is no longer required.

Clause 38 amends section 71 (Return to be made by partnership) to provide that where no general partner of a limited partnership is personally present in Singapore its

attorney, agent, manager or factor in Singapore must make and deliver a return of the income of the limited partnership to the Comptroller for any year when required to do so by the Comptroller.

Clause 39 amends the Second Schedule by deleting Part B. Chargeable income of a body of persons will be subject to the same rate of tax as that upon companies under section 43 by clause 33.

Clause 40 makes consequential amendments to sections 10N (Securities lending or repurchase agreement), 29 (Income from certain dividends to include tax thereon), 40 (Relief for non-resident citizens and certain other non-residents), 49 (Avoidance of double taxation arrangements) and 50A (Unilateral tax credits) arising from the repeal of section 48 by clause 37.

Clause 41 provides for the remission of 20% on tax payable, or an amount not exceeding $2,000, whichever is the lower, for the year of assessment 2009 by a resident individual or a Hindu joint family.

EXPENDITURE OF PUBLIC MONEY

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