

Income Tax (Amendment) Bill

Bill No. 23/2010.

Read the first time on 15th September 2010.

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) and to make consequential amendments to the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86 of the 2005 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 2010.

5 (2) Section 18(*a*) shall be deemed to have come into operation on 1st January 2004.

(3) Section 5 shall be deemed to have come into operation on 1st September 2007.

(4) Section 28(*b*) shall be deemed to have come into operation on 1st January 2010.

10 (5) Sections 4(*a*), (*c*) and (*d*), 6, 36 and 49 shall be deemed to have come into operation on 22nd February 2010.

(6) Sections 19 to 22, 26, 27, 54(*a*), (*b*), (*c*), (*e*), (*f*) and (*g*) and 55(*a*), (*b*) and (*c*) shall be deemed to have come into operation on 23rd February 2010.

15 (7) Sections 28(*d*) and 33 shall be deemed to have come into operation on 1st March 2010.

(8) Sections 8, 10, 34, 38(*a*) and (*b*), 47, 54(*d*) and 55(*d*) shall be deemed to have come into operation on 1st April 2010.

20 (9) Section 42 shall be deemed to have come into operation on 21st May 2010.

(10) Section 9 shall be deemed to have come into operation on 7th July 2010.

(11) Sections 28(*a*) and (*c*) and 43 shall come into operation on 1st January 2011.

25 (12) Sections 7(*b*) and (*c*), 44(*b*), 45(*b*) and 46(*b*) shall come into operation on 1st March 2011.

(13) Sections 14(*g*), (*h*) and (*i*) and 29(*d*) shall have effect for the year of assessment 2009 and subsequent years of assessment.

30 (14) Sections 2(*b*), 35(*a*) to (*g*) and (*j*) to (*q*) and 53 shall have effect for the year of assessment 2010 and subsequent years of assessment.

(15) Sections 12, 13(*b*) and (*c*), 14(*b*) to (*f*), 15(*b*), 16, 17, 18(*b*), 24(*a*), (*b*), (*d*), (*e*) and (*g*), 25(*a*) to (*g*) and (*i*) to (*l*), 29(*c*), 31, 35(*r*), (*s*) and (*t*) and 55(*e*) shall have effect for the year of assessment 2011 and subsequent years of assessment.

Amendment of section 2

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

- 5 (a) by inserting, immediately after the word “sections” in the definition of “Comptroller” in subsection (1), “37J(5),”; and
- (b) by inserting, immediately after subsection (3), the following subsection:
 - 10 “(4) In this Act, for the avoidance of doubt, a reference to the spouse of a person means a spouse who is of the opposite sex to that person.”.

Amendment of section 13

3. Section 13(1) of the principal Act is amended by inserting, immediately after “2009” in paragraph (zn), the words “or 2010”.

Amendment of section 13A

15 4. Section 13A of the principal Act is amended —

- (a) by inserting, immediately after subsection (1B), the following subsection:
 - 20 “(1C) The income of a shipping enterprise referred to in this section shall include income derived on or after 22nd February 2010 by the shipping enterprise from the provision of ship management services to any qualifying company in respect of Singapore ships owned or operated by the qualifying company.”;
- 25 (b) by inserting, immediately after the words “from Singapore” in paragraph (b) of the definition of “operation” in subsection (16), the words “, or is only within the limits of the port of Singapore”;
- (c) by inserting, immediately after the definition of “operation” in subsection (16), the following definition:
 - 30 “ “qualifying company”, in relation to a shipping enterprise, means a company at least 50% of the total number of the issued ordinary shares of which are beneficially and directly owned by the enterprise;”; and

(d) by inserting, immediately before the definition of “shipping enterprise” in subsection (16), the following definition:

“ “ship management services” means any of the following activities in respect of a ship:

- 5 (a) making a purchase or sale of it, or a decision regarding its ownership;
- (b) deciding on its flag and registry;
- (c) sourcing for and deciding on financing for its acquisition;
- 10 (d) awarding contracts, entering into alliances or deciding on pooling in respect of it;
- (e) securing its employment or its cargo;
- (f) planning its route and tonnage;
- (g) appointing a ship manager or ship agent for it;
- 15 (h) collecting freight in exchange for its use;
- (i) arranging insurance for it;
- (j) undertaking crew related matters such as the appointment of a crew manager;
- (k) arranging dry-docking or ship repairs or overhaul;
- 20 (l) ensuring that it is adequately equipped with supplies, provisions, spares and stores;
- (m) supervising its construction, conversion or registration;
- 25 (n) liaising with the relevant competent authorities or bodies on ship safety and manning requirements and other similar matters;”.

Amendment of section 13C

5. Section 13C of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

30 “(2) The Minister may by regulations —

- (a) make such transitional and savings provisions as he may consider necessary or expedient in relation to the repeal of

section 13C in force immediately before 1st September 2007;

- (b) provide for the determination of the amount of income of the trustee of any prescribed trust fund to be exempt from tax; and
- (c) make provision generally for giving full effect to or for carrying out the purposes of this section.”.

Amendment of section 13F

6. Section 13F of the principal Act is amended —

- (a) by deleting the full-stop at the end of paragraph (d) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(e) on or after 22nd February 2010 from the provision of ship management services to any qualifying special purpose vehicle in respect of ships owned or operated by the qualifying special purpose vehicle.”;

- (b) by deleting the words “the business of carriage or charter” in subsection (4) and substituting the words “any operation, activity or service”; and

- (c) by deleting the full-stop at the end of the definition of “international shipping enterprise” in subsection (6) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

““qualifying special purpose vehicle”, in relation to an approved international shipping enterprise, means —

- (a) an approved company —

- (i) which is incorporated and resident in Singapore; and

- (ii) at least 50% of the total number of the issued ordinary shares of which are beneficially owned, whether directly or indirectly, by the approved international shipping enterprise;

(b) an approved company —

(i) which is incorporated outside Singapore;
and

(ii) at least 25% of the total number of the
issued ordinary shares of which are
beneficially owned, whether directly or
indirectly, by the approved international
shipping enterprise; or

(c) an approved partnership —

(i) which is registered or formed outside
Singapore; and

(ii) of which the approved international
shipping enterprise is a partner and is
entitled to at least 25% of its income;

“ship management services” has the same meaning as in
section 13A(16).”.

Amendment of section 13S

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

(a) by deleting the words “28th February 2011” in subsection (2)
and substituting the words “31st March 2016”;

(b) by deleting subsection (3) and substituting the following
subsection:

“(3) The approval under subsection (2) shall be subject to
such conditions as the Minister may specify, and shall —

(a) where the approval is granted during the period
between 1st March 2006 and 28th February 2011, be
for such period not exceeding 10 years, as the
Minister may specify; and

(b) where the approval is granted during the period
between 1st March 2011 and 31st March 2016, be for
such period not exceeding 5 years, as the Minister
may specify,

except that the Minister may extend the period so specified for
such further periods as he thinks fit.”; and

- (c) by inserting, immediately after subsection (19), the following subsection:

5 “(19A) In this section, a reference to the leasing of a sea-going ship by a shipping investment enterprise approved on or after 1st March 2011 excludes the leasing of a sea-going ship which has been treated as though it had been sold pursuant to regulations made under section 10D(1).”.

Amendment of section 13V

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

15 “(2A) No approval under this section shall be granted to any law practice which is approved on or after 1st April 2010 as a development and expansion company under Part IIIB of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) in respect of international services that qualify for zero-rating under section 21(3) of the Goods and Services Tax Act (Cap. 117A).”.

Amendment of section 13X

- 9.** Section 13X of the principal Act is amended —

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

“(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 —

- 25 (a) an approved person arising from funds managed in Singapore by a fund manager; or
- 30 (b) a company, a trustee of a trust fund or a partner of a limited partnership, where the company, trust fund or partnership is the approved master fund or an approved feeder fund of an approved master-feeder fund structure, arising from funds of the master fund or any feeder fund of that structure that are managed in Singapore by a fund manager.”;

(b) by deleting the words “subsection (1)” in subsection (2) and substituting the words “subsection (1)(a)”;

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

5 “(2A) Approval under subsection (1)(b) may be granted during the period from 7th July 2010 to 31st March 2014 (both dates inclusive).”;

(d) by inserting, immediately after the words “approved person” in subsections (3) and (4)(a) and (b), the words “or company, trustee or partner referred to in subsection (1)(b)”;

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(e) by deleting the word “and” at the end of paragraph (c) of subsection (4), and by inserting immediately thereafter the following paragraphs:

15 “(ca) provide for the recovery of tax from a company or a trustee of a trust fund referred to in subsection (1)(b) in a case where the exemption ought not to have been allowed to the company or trustee due to non-compliance with any condition imposed on the approved master-feeder fund structure;

20 (cb) provide for the recovery of tax from a partner of a limited partnership referred to in subsection (1)(b) 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 approved master-feeder fund structure, 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”;

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(f) by inserting, immediately after the definition of “designated unit trust” in subsection (5), the following definitions:

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 ““feeder fund” means a company, trust fund or limited partnership that invests its funds substantially and directly through only one master fund;

 “master-feeder fund structure” means one or more feeder funds and the master fund through which the funds of

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the feeder fund or funds are substantially and directly invested;

“master fund” means a company, trust fund or limited partnership that enables investors to invest funds in one or more underlying investments that are managed by a fund manager;” and

(g) by deleting the words “of approved persons” in the section heading.

New section 13Y

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

“Exemption of certain income of prescribed sovereign fund entity and approved foreign government-owned entity

13Y.—(1) There shall be exempt from tax such income as the Minister may by regulations prescribe of —

(a) a prescribed sovereign fund entity arising from its funds that are managed in Singapore by an approved foreign government-owned entity; and

(b) an approved foreign government-owned entity arising from its funds that are managed in Singapore, and from managing in Singapore the funds of a prescribed sovereign fund entity.

(2) The Minister or such person as he may appoint may, at any time between 1st April 2010 and 31st March 2015 (both dates inclusive), approve a foreign government-owned entity for the purpose of subsection (1).

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

(a) provide for the period of each approval, and conditions to which the exemption from tax under that subsection is subject;

(b) provide for the determination of the amount of income of a prescribed sovereign fund entity or an approved foreign government-owned entity that is exempt from tax;

(c) provide for the deduction of expenses, allowances, losses and donations of a prescribed sovereign fund entity or an

approved foreign government-owned entity otherwise than in accordance with this Act; and

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

5 (4) In this section —

“foreign government-owned entity” means an entity wholly and beneficially owned, whether directly or indirectly, by the government of a foreign country and whose principal activity is to manage its own funds or the funds of a prescribed sovereign fund entity;

“prescribed sovereign fund entity” means a sovereign fund entity that satisfies such conditions as may be prescribed;

“sovereign fund entity” means the government of a foreign country or an entity wholly and beneficially owned by such government, whose funds (which may include the reserves of that government and any pension or provident fund of that country) are managed by an approved foreign government-owned entity.”.

Amendment of section 14

20 **11.** Section 14(1) of the principal Act is amended by deleting the comma at the end of sub-paragraph (G) of proviso (i) to paragraph (e) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

“(H) commencing on or after 1st September 2010 shall not exceed 15%;

(I) commencing on or after 1st March 2011 shall not exceed 15½%,”.

Amendment of section 14A

12. Section 14A of the principal Act is amended —

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

“(1) Subject to this section, where a person carrying on a trade or business has incurred —

- (a) patenting costs during the period from 1st June 2003 to the last day of the basis period for the year of assessment 2010; or
- (b) qualifying intellectual property registration costs during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive),

for the purposes of that trade or business, there shall be allowed to him a deduction of the amount of such costs.

(1A) For the purpose of ascertaining the income of any person carrying on a trade or business during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), there shall be allowed in respect of all his trades and businesses, in addition to any deduction allowed under subsection (1), a deduction of 150% of the lower of the qualifying intellectual property registration costs incurred for the purposes of those trades and businesses during the basis period and \$300,000.

(1B) For the year of assessment 2011 and the year of assessment 2012, instead of the deduction under subsection (1A) in respect of each year of assessment, a person shall be allowed a deduction computed in accordance with the formula

$$A \times 150\%,$$

where A is —

- (a) for the year of assessment 2011, the lower of —
 - (i) the qualifying intellectual property registration costs incurred during the basis period for that year of assessment; and
 - (ii) \$600,000; and
- (b) for the year of assessment 2012, the lower of —
 - (i) the qualifying intellectual property registration costs incurred during the basis period for that year of assessment; and

- (ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

(1C) For the purposes of subsections (1A) and (1B), where an individual carrying on a trade or business through 2 or more firms (excluding partnerships) has incurred qualifying intellectual property registration costs during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in respect of such firms for the purposes of his trade or business, the deduction that may be allowed to him for those costs in respect of all his trades and businesses shall not exceed the amount computed in accordance with subsection (1A) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (1B)(a) and (b), respectively.

(1D) For the purposes of subsections (1A) and (1B), where a partnership carrying on a trade or business has incurred qualifying intellectual property registration costs during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) for the purposes of its trade or business, the aggregate of the deductions that may be allowed to all the partners of the partnership for those costs in respect of all the trades and businesses of the partnership shall not exceed the amount computed in accordance with subsection (1A) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (1B)(a) and (b), respectively.”;

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

“(2) The claim for deduction under subsection (1), (1A) or (1B) shall be allowed to a person only if —

- (a) there is an undertaking by the person that he would be the proprietor of the patent or registered trade mark, the registered owner of the registered design or the grantee of the plant variety, as the case may be, when the patent is granted, the trade mark or design is

registered or the plant variety is granted protection;
and

- 5 (b) the claim is made by the person in such manner and
subject to such conditions as the Comptroller may
require.”;
- (c) by inserting, immediately after the words “patenting costs”
wherever they appear in subsections (3), (4) and (5), the words
“or qualifying intellectual property registration costs, as the case
may be,”;
- 10 (d) by deleting the words “this section” wherever they appear in
subsection (4) and (5) and substituting in each case the words
“subsection (1)”;
- (e) by inserting, immediately after subsection (5), the following
subsection:
- 15 “(5A) Where —
- (a) a deduction has been made to any person under
subsection (1A) or (1B) in respect of any qualifying
intellectual property registration costs; and
- (b) the person sells, transfers or assigns all or any part of
20 the qualifying intellectual property rights or the
application for the registration or grant of the
qualifying intellectual property rights for which such
costs were incurred, within a period of one year from
the date of filing of the application,
- 25 the deduction allowed under subsection (1A) or (1B) (as the
case may be) shall be deemed as income of the person for the
year of assessment relating to the basis period in which the
sale, transfer or assignment occurs.”;
- (f) by deleting the words “or elsewhere” in paragraph (a) of the
30 definition of “patenting costs” in subsection (6) and substituting
the words “or an equivalent registry outside Singapore”;
- (g) by inserting, immediately after the definition of “patenting costs”
in subsection (6), the following definitions:
- 35 “ “qualifying intellectual property registration costs” means
the fees paid to —

(a) the Registry of Patents, Registry of Trade Marks, Registry of Designs or Registry of Plant Varieties in Singapore or an equivalent registry outside Singapore for the —

- 5 (i) filing of an application for a patent, for registration of a trade mark or design, or for the grant of protection of a plant variety;
- (ii) search and examination report on the application for a patent;
- 10 (iii) examination report on the application for grant of protection of a plant variety; or
- (iv) grant of a patent; and

(b) any person acting as an agent for —

- 15 (i) applying for any patent, for the registration of a trade mark or design, or for the grant of protection of a plant variety, in Singapore or elsewhere;
- (ii) preparing specifications or other documents for the purposes of the Patents Act (Cap. 221), the Trade Marks Act (Cap. 332), the Registered Designs Act (Cap. 266), the Plant Varieties Protection Act (Cap. 232A) or the intellectual property law of any other country relating to patents, trade marks, designs or plant varieties; or
- 25 (iii) giving advice on the validity or infringement of any patent, registered trade mark, registered design or grant of protection of a plant variety;

30 “qualifying intellectual property right” means the right to do or authorise the doing of anything which would, but for that right, be an infringement of any patent, registered trade mark or design, or grant of protection of a plant variety;”;

35 (h) by inserting, immediately after subsection (6), the following subsection:

“(7) In this section, “patenting costs” and “qualifying intellectual property registration costs” exclude any expenditure to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.”; and

- 5 (i) by deleting the words “patenting costs” in the section heading and substituting the words “costs for protecting intellectual property”.

Amendment of section 14D

13. Section 14D of the principal Act is amended —

- 10 (a) by deleting “2013” in subsection (1)(aa) and (c) and substituting in each case “2015”;

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

15 “(1A) The expenditure or payment referred to in subsection (1) shall not include any such expenditure or payment to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.”; and

- 20 (c) by inserting, immediately after the words “or payments” in subsection (4)(a) and in the definition of “A” within the definition of “specified amount” in subsection (5), the words “(after deducting any amount in respect of which an election for a cash payout has been made under section 37I)”.

Amendment of section 14DA

14. Section 14DA of the principal Act is amended —

- 25 (a) by deleting “2013” in subsection (1) and substituting “2015”;

- (b) by inserting, immediately after subsection (1), the following subsections:

30 “(1A) For the purpose of ascertaining the income of any person carrying on a trade or business during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), there shall be allowed in respect of all his trades and businesses, in addition to the deductions allowed under

section 14D and subsection (1), a deduction of the lower of \$300,000 and the aggregate of —

(a) the qualifying expenditure referred to subsection (1)(a); and

5 (b) the qualifying amount of the payments referred to in subsection (1)(b).

(1B) For the year of assessment 2011 and the year of assessment 2012, instead of the deduction under subsection (1A) in respect of each year of assessment, a person
10 shall be allowed a deduction of —

(a) for the year of assessment 2011, the lower of —

(i) the aggregate of the qualifying expenditure referred to in subsection (1)(a) incurred and the qualifying amount of the payments referred to in
15 subsection (1)(b) made during the basis period for that year of assessment; and

(ii) \$600,000; and

(b) for the year of assessment 2012, the lower of —

(i) the aggregate of the qualifying expenditure referred to in subsection (1)(a) incurred and the qualifying amount of the payments referred to in
20 subsection (1)(b) made during the basis period for that year of assessment; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph
25 (a)(i) and (ii).

(1C) For the purposes of subsections (1A)(b) and (1B)(a)(i) and (b)(i), the qualifying amount of the payments referred to in subsection (1)(b) is —

30 (a) where more than 60% of all such payments are qualifying expenditure, the actual amount of qualifying expenditure;

(b) in all other cases, 60% of such payments.

(1D) For the purposes of subsections (1A) and (1B), where an individual carrying on a trade or business through 2 or more firms (excluding partnerships) has incurred qualifying expenditure referred to in subsection (1)(a) or made payments referred to in subsection (1)(b) during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in respect of such firms, the deduction that may be allowed to him for those expenditure or payments in respect of all his trades and businesses shall not exceed the lower amount referred to in subsection (1A) or, in the case of the year of assessment 2011 and the year of assessment 2012, the lower amounts referred to in subsection (1B)(a) and (b), respectively.

(1E) For the purposes of subsections (1A) and (1B), where a partnership carrying on a trade or business has incurred qualifying expenditure referred to in subsection (1)(a) or made payments referred to in subsection (1)(b) during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), the aggregate of the deductions that may be allowed to all the partners of the partnership for those expenditure or payments in respect of all the trades and businesses of the partnership shall not exceed the lower amount referred to in subsection (1A) or, in the case of the year of assessment 2011 and the year of assessment 2012, the lower amounts referred to in subsection (1B)(a) and (b), respectively.”;

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

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

“(a) a reference to the amount of the expenditure or payments (after deducting any amount in respect of which an election for a cash payout has been made under section 37I) is a reference to —

(i) the percentage of the expenditure or payments referred to in subsection (1)(a) or (b); or

(ii) the amount determined to be deducted under subsection (1A) or (1B),

as the case may be, after deducting any amount in respect of which an election for a cash payout has been made under section 37I; and”;

(e) by deleting the definition “A” in subsection (2)(b) and substituting the following definition:

“A is —

(i) the percentage of the expenditure or payments referred to in subsection (1)(a) or (b); or

(ii) the amount determined to be deducted under subsection (1A) or (1B),

as the case may be, after deducting any amount in respect of which an election for a cash payout has been made under section 37I;”;

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

“(2A) No deduction shall be allowed to a company under subsection (1A) or (1B) for any year of assessment if a deduction for any expenditure has been allowed under section 37G for that year of assessment.”;

(g) by deleting the comma at the end of paragraph (c) of the definition of “qualifying expenditure” in subsection (3) and substituting a semi-colon;

(h) by deleting the words “but does not include any expenditure to the extent it is subsidised by Government grants or subsidies;” in the definition of “qualifying expenditure” in subsection (3); and

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

“(4) In this section, a reference to qualifying expenditure or to payment made by a person to a research and development organisation for undertaking research and development in Singapore on his behalf excludes any such expenditure or payment, as the case may be, to the extent that it is subsidised

by grants or subsidies from the Government or a statutory board.”.

Amendment of section 14E

15. Section 14E of the principal Act is amended —

- 5 (a) by deleting “2013” in subsection (1)(aa) and substituting “2015”;
and
- (b) by inserting, immediately after subsection (3A), the following
subsection:

10 “(3AA) No deduction shall be allowed to any person under
this section in respect of any expenditure for which a deduction
has been allowed under section 14DA(1A) or (1B).”.

Amendment of section 14I

16. Section 14I(7) of the principal Act is amended —

- 15 (a) by deleting the word “or” at the end of paragraph (b) of the
definition of “securities”; and
 - (b) by deleting the full-stop at the end of paragraph (c) of the
definition of “securities” and substituting a semi-colon, and by
inserting immediately thereafter the following paragraphs:
- 20 “(d) units in a registered business trust within the meaning
of section 36B;
 - (e) any right or option in respect of any unit in a
registered business trust within the meaning of
section 36B; or
 - 25 (f) units in a real estate investment trust within the
meaning of section 43(10).”.

New sections 14R, 14S and 14T

17. The principal Act is amended by inserting, immediately after
section 14Q, the following sections:

“Deduction for qualifying training expenditure

- 30 **14R.**—(1) Subject to this section, for the purpose of ascertaining
the income of a person carrying on any trade or business during the
basis period for any year of assessment between the year of

assessment 2011 and the year of assessment 2015 (both years inclusive), there shall be allowed in respect of all his trades and businesses, in addition to a deduction under section 14, a deduction of 150% of the lower of the qualifying training expenditure incurred for the purposes of those trades and businesses during the basis period and \$300,000.

(2) No deduction shall be allowed to a person under this section in respect of any expenditure which is not allowed as a deduction under section 14.

(3) For the year of assessment 2011 and the year of assessment 2012, instead of the deduction under subsection (1) in respect of each year of assessment, a person shall be allowed a deduction computed in accordance with the formula

$$A \times 150\%,$$

where A is —

(a) for the year of assessment 2011, the lower of —

(i) the qualifying training expenditure incurred during the basis period for that year of assessment; and

(ii) \$600,000; and

(b) for the year of assessment 2012, the lower of —

(i) the qualifying training expenditure incurred during the basis period for that year of assessment; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

(4) For the purposes of subsections (1) and (3), where an individual carrying on a trade or business through 2 or more firms (excluding partnerships) has incurred qualifying training expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in respect of such firms for the purposes of his trade or business, the deduction that may be allowed to him for that expenditure in respect of all his trades and businesses shall not exceed the amount computed in accordance with subsection (1) or, in the case of the year of assessment 2011 and the year of assessment

2012, the amounts computed in accordance with subsection (3)(a) and (b), respectively.

(5) For the purposes of subsections (1) and (3), where a partnership carrying on a trade or business has incurred qualifying training expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) for the purposes of its trade or business, the aggregate of the deductions that may be allowed to all the partners of the partnership for that expenditure in respect of all the trades and businesses of the partnership shall not exceed the amount computed in accordance with subsection (1) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (3)(a) and (b), respectively.

(6) In this section, “qualifying training expenditure” means —

(a) any training expenditure incurred directly in providing —

(i) a Workforce Skills Qualification (WSQ) training course which is accredited by the Singapore Workforce Development Agency and conducted by a WSQ in-house training provider;

(ii) a course approved by the Institute of Technical Education (ITE) under the ITE Approved Training Centre scheme; or

(iii) on-the-job training by an on-the-job training centre which is certified by the ITE,

for employees and includes any salary and other remuneration paid to in-house trainers for conducting such courses and training (based on the hours spent in conducting the courses and training), but excludes salaries and other remuneration of any employee attending or providing administrative support to the courses and training, and imputed overheads like rental and the cost of utilities;

(b) course fees for employees paid (whether directly or in the form of reimbursement) to an external training provider, including —

(i) registration or enrolment fees;

(ii) examination fees;

(iii) tuition fees; and

(iv) aptitude test fees; and

(c) rental of training facilities for any course or training referred to in paragraph (a) or (b), expenditure for meals and refreshments provided during any such course or training, and expenditure for training material and stationery used for any such course or training,

but excludes any accommodation, travelling or transportation expenditure incurred in respect of employees attending or conducting the course or training, or any expenditure to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.

Deduction for qualifying design expenditure

14S.—(1) Subject to this section, for the purpose of ascertaining the income of any person carrying on a trade or business during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), there shall be allowed in respect of all his trades and businesses, the following deductions for qualifying design expenditure incurred for the purposes of those trades and businesses during each basis period:

(a) where such qualifying design expenditure is allowable as a deduction under section 14, a deduction of 150% of the lower of the qualifying design expenditure incurred and \$300,000, in addition to the deduction allowed under that section; and

(b) where such qualifying design expenditure is not allowable as a deduction under section 14, a deduction of 250% of the lower of the qualifying design expenditure incurred and \$300,000.

(2) For the year of assessment 2011 and the year of assessment 2012, instead of the deduction under subsection (1) in respect of each year of assessment, a person shall be allowed a deduction computed in accordance with the formula:

(a) $A \times 150\%$, in the case of subsection (1)(a); or

(b) $A \times 250\%$, in the case of subsection (1)(b),

where A is —

(i) for the year of assessment 2011, the lower of —

(A) the qualifying design expenditure incurred during the basis period for that year of assessment; and

(B) \$600,000; and

(ii) for the year of assessment 2012, the lower of —

(A) the qualifying design expenditure incurred during the basis period for that year of assessment; and

(B) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (i)(A) and (B).

(3) For the purposes of subsections (1) and (2), where an individual carrying on a trade or business through 2 or more firms (excluding partnerships) has incurred qualifying design expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in respect of such firms for the purposes of his trade or business, the deduction that may be allowed to him for that expenditure in respect of all his trades and businesses shall not exceed the amount computed in accordance with subsection (1) or, in the case of the year of assessment 2011 or the year of assessment 2012, the amount computed in accordance with subsection (2) for that year of assessment.

(4) For the purposes of subsections (1) and (2), where a partnership carrying on a trade or business has incurred qualifying design expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) for the purposes of its trade or business, the aggregate of the deductions that may be allowed to all the partners of the partnership for that expenditure in respect of all the trades and businesses of the partnership shall not exceed the amount computed in accordance with subsection (1) or, in the case of the year of assessment 2011 or the year of assessment 2012, the amount computed in accordance with subsection (2) for that year of assessment.

(5) For the purpose of this section, any expenditure incurred by a person prior to the commencement of his trade or business shall be

deemed to have been incurred by that person on the first day on which he carries on that trade or business.

(6) In this section —

5 “approved design service provider” means any person who provides design consultancy services for any trade or business, and who is approved by the Minister or such person as he may appoint;

10 “industrial or product design” means the professional specifications of creating and developing concepts or specifications that improve or enhance the functions, value or appearance of physical products, taking into account users’ needs, marketability and production;

15 “qualified designer” means an individual with a design-related tertiary academic qualification of at least a diploma that is approved by such person as the Minister may appoint;

“qualifying design expenditure” means —

20 (a) expenditure incurred by the person on the staff costs of in-house qualified designers which are attributable to an industrial or product design project approved under subsection (7) and undertaken in Singapore directly by that person; and

25 (b) where an approved design service provider has been engaged by the person to undertake in Singapore for the trade or business in question an industrial or product design project approved under subsection (7) —

(i) where more than 60% of all payments made by the person to the approved design service provider for the project are staff costs, the actual amount of staff costs; or

30 (ii) in all other cases, 60% of those payments,

but does not include any expenditure or payment to the extent that it is subsidised by grants or subsidies from the Government or a statutory board;

35 “staff costs” means any salary, wages and other benefits whether in the form of money or otherwise (but excluding directors’

fees), paid or granted in respect of the employment of any qualified designer which are attributable to the industrial or product design project.

5 (7) The Minister or such person as he may appoint may approve an industrial or product design project for the purposes of the definition of “qualifying design expenditure” under subsection (6), and may in granting the approval impose such conditions as he thinks fit.

10 (8) Where a person fails to comply with any condition imposed under subsection (7), the aggregate of deductions allowed to him under this section shall be deemed to be his income for the year of assessment in which the Comptroller discovers such non-compliance.

Deduction for expenditure on leasing of prescribed automation equipment under qualifying lease

15 **14T.**—(1) Subject to this section, for the purpose of ascertaining the income of a person carrying on a trade or business during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), there shall be allowed in respect of all his trades and businesses, in addition to a deduction under section 14, a deduction of
20 150% of the lower of the expenditure incurred during the basis period on the leasing of one or more prescribed automation equipment under a qualifying lease or leases for the purposes of those trades and businesses and \$300,000.

25 (2) No deduction shall be allowed to a person under this section in respect of —

- (a) any expenditure which is not allowed as a deduction under section 14; and
- (b) any expenditure incurred during the basis period for a year of assessment on the leasing of any prescribed automation equipment under a qualifying lease where —
30
 - (i) the equipment is sub-leased to another person during that basis period; or
 - (ii) an allowance has been previously made to that person under section 19 or 19A in respect of the equipment.

(3) For the year of assessment 2011 and the year of assessment 2012, instead of the deduction under subsection (1) in respect of each year of assessment, a person shall be allowed a deduction computed in accordance with the formula

5 $A \times 150\%$,

where A is —

(a) for the year of assessment 2011, the lower of —

10 (i) the expenditure incurred by him on the leasing of one or more prescribed automation equipment under a qualifying lease or leases during the basis period for that year of assessment; and

(ii) \$600,000; and

(b) for the year of assessment 2012, the lower of —

15 (i) the expenditure incurred by him on the leasing of one or more prescribed automation equipment under a qualifying lease or leases during the basis period for that year of assessment; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

20 (4) Where a person has incurred expenditure on both the leasing under a qualifying lease and the provision of one or more prescribed automation equipment during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), the aggregate of the
25 deduction under subsection (1) or (3) and the allowance under section 19A(2A) or (2B) in respect of all such expenditure shall not exceed —

(a) in the case of the year of assessment 2011, 150% of the lower of —

30 (i) the aggregate of all such expenditure; and

(ii) \$600,000;

(b) in the case of the year of assessment 2012, 150% of the lower of —

(i) the aggregate of all such expenditure; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii); or

(c) in the case of any other year of assessment, 150% of the lower of —

- 5 (i) the aggregate of all such expenditure; and
- (ii) \$300,000.

(5) For the purposes of subsections (1), (3) and (4), where an individual carrying on a trade or business through 2 or more firms (excluding partnerships) has incurred expenditure on the leasing of one or more prescribed automation equipment under a qualifying lease or leases and (if applicable) the provision of one or more prescribed automation equipment, during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in respect of such firms for the purposes of his trade or business, the deductions and allowances that may be allowed to him for that expenditure in respect of all his trades and businesses shall not exceed the amount computed in accordance with subsection (1) or (4)(c) (as the case may be) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (3)(a) or (4)(a) (as the case may be), and subsection (3)(b) or (4)(b) (as the case may be), respectively.

(6) For the purposes of subsections (1), (3) and (4), where a partnership carrying on a trade or business has incurred expenditure on the leasing of one or more prescribed automation equipment under a qualifying lease or leases and (if applicable) the provision of one or more prescribed automation equipment, during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) for the purposes of its trade or business, the aggregate of the deductions and allowances that may be allowed to all the partners of the partnership for that expenditure in respect of all the trades and businesses of the partnership shall not exceed the amount computed in accordance with subsection (1) or (4)(c) (as the case may be) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (3)(a) or (4)(a) (as the case may be), and subsection (3)(b) or (4)(b) (as the case may be), respectively.

(7) In this section —

“finance lease” has the same meaning as in section 10D;

“operating lease” means a lease of any machinery or plant, other than a finance lease;

5 “prescribed automation equipment” means any prescribed automation equipment referred to in section 19A(2);

“qualifying lease” means —

(a) any operating lease; or

10 (b) any finance lease other than a lease of prescribed automation equipment which has been treated as though it had been sold pursuant to regulations made under section 10D(1).

15 (8) In this section, a reference to expenditure incurred on the leasing of prescribed automation equipment under a qualifying lease or the provision of prescribed automation equipment excludes any such expenditure to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.”.

Amendment of section 15

18. Section 15(2) of the principal Act is amended —

20 (a) by inserting, immediately after the word “section”, “14A,”; and

(b) by deleting the words “or 14Q” and substituting the words “, 14Q or 14S”.

Amendment of section 16

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

“(15) Subject to section 18B, this section shall not apply to any capital expenditure incurred on or after 23rd February 2010 on the construction or purchase of an industrial building or structure.

30 (16) Subject to subsection (18) and section 18B, no annual allowance shall be made under subsections (4), (5) and (6A) to a person who incurs capital expenditure on or before 22nd February 2010 on the construction or purchase of a building or structure which

is not an industrial building or structure on 22nd February 2010 but is an industrial building or structure on or after 23rd February 2010.

(17) Section 18(2) and (3) shall apply for the purpose of determining under subsection (16) whether a building or structure is an industrial building or structure on 22nd February 2010.

(18) Notwithstanding subsection (16), annual allowances under subsection (6A)(a) shall be made to a person who incurs capital expenditure on or before 22nd February 2010 on a building or structure which is still under construction on 22nd February 2010 and which is to be an industrial building or structure upon completion of that construction, if the person —

(a) on or before 22nd February 2010 —

(i) has been granted the option to purchase the land or has entered into a sale and purchase agreement for the land on which the industrial building or structure is to be constructed;

(ii) has entered into a lease agreement to lease the land on which the industrial building or structure is to be constructed; or

(iii) has submitted an application to the Government or any statutory board —

(A) to bid for the purchase therefrom of the land on which the industrial building or structure is to be constructed; or

(B) to lease therefrom the land on which the industrial building or structure is to be constructed; and

(b) on or before 31st December 2010, has made an application for planning permission or conservation permission to the competent authority in accordance with the Planning Act (Cap. 232) for the development of the land comprising the construction work.”.

Amendment of section 17

20. Section 17 of the principal Act is amended by inserting, immediately after subsection (7), the following subsections:

“(8) Where allowances have been made under both sections 16 and 18C in respect of any industrial building or structure, then, for the purposes of subsections (4) and (5), the sale, insurance, salvage or compensation moneys in respect of that building or structure shall be such amount of those moneys as the Comptroller determines to be reasonable in the circumstances.

(9) Where the relevant interest in a building or structure in respect of which allowances have been made under section 16 is transferred at less than the open-market price, then for the purpose of determining the amount of any balancing charge under subsection (5), the relevant interest in the building or structure shall be treated as if it had been sold for an amount equal to the open-market price of the building or structure as at the date of transfer.”.

Amendment of section 18

21. Section 18 of the principal Act is amended —

- (a) by deleting the words “and 17” in subsections (1) and (8) and in the section heading and substituting in each case the words “, 17 and 18B”;
- (b) by inserting, immediately after the word “approved” in subsection (1)(f), (i) and (j), the words “on or before 22nd May 2010”; and
- (c) by inserting, immediately after the words “such person as he may appoint” in subsection (1)(j), the words “subject to such conditions as he may impose”.

New sections 18B and 18C

22. The principal Act is amended by inserting, immediately after section 18, the following sections:

“Transitional provisions for capital expenditure incurred on industrial buildings or structures on or after 23rd February 2010

18B.—(1) Notwithstanding section 16(15) but subject to subsection (11), where a person incurs on or after 23rd February 2010 capital expenditure on the construction of a building or structure which is to be an industrial building or structure upon the completion

of the construction works, other than one referred to in subsection (2), and the person —

(a) on or before 22nd February 2010 —

5 (i) has been granted the option to purchase the land or has entered into a sale and purchase agreement for the land on which the industrial building or structure is to be constructed;

10 (ii) has entered into a lease agreement to lease the land on which the industrial building or structure is to be constructed; or

(iii) has submitted an application to the Government or any statutory board —

15 (A) to bid for the purchase therefrom of the land on which the industrial building or structure is to be constructed; or

(B) to lease therefrom the land on which the industrial building or structure is to be constructed; and

20 (b) on or before 31st December 2010, has made an application for planning permission or conservation permission to the competent authority in accordance with the Planning Act (Cap. 232) for the development of the land comprising the construction work,

25 there shall be made to that person an initial allowance and annual allowances in respect of that capital expenditure computed in accordance with section 16.

30 (2) Notwithstanding section 16(15) but subject to subsection (11), where a person incurs on or after 23rd February 2010 capital expenditure on the construction of a building or structure which is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon completion of the construction works, there shall be made to that person an initial allowance and annual allowances in respect of that capital expenditure computed in accordance with section 16.

35 (3) Notwithstanding section 16(15), where a person —

(a) on or before 22nd February 2010 —

(i) has been granted an option to purchase, or has entered into a sale and purchase agreement for, a new building or structure which is to be an industrial building or structure upon purchase other than one referred to in subsection (4); or

(ii) has been granted an option to acquire or has entered into an agreement to acquire the leasehold interest in such a building or structure; and

(b) on or after 23rd February 2010, incurs capital expenditure on the purchase of the building or structure or of the leasehold interest therein,

there shall be made to that person an initial allowance and annual allowances in respect of that capital expenditure computed in accordance with section 16.

(4) Notwithstanding section 16(15) but subject to subsection (12), where a person incurs on or after 23rd February 2010 capital expenditure on the purchase of a new building or structure (including the purchase of a leasehold interest therein), and the building or structure is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon the purchase or the completion of any renovation or refurbishment works carried out on the building or structure upon the purchase, there shall be made to that person an initial allowance and annual allowances in respect of the capital expenditure, as well as the capital expenditure incurred on such renovation or refurbishment works, both to be computed in accordance with section 16.

(5) Notwithstanding section 16(15), where a person —

(a) on or before 22nd February 2010 —

(i) has been granted an option to purchase, or has entered into a sale and purchase agreement for, a building or structure (not being a new building or structure) which is to be an industrial building or structure upon the purchase other than one referred to in subsection (6); or

(ii) has been granted an option to acquire or has entered into an agreement to acquire the leasehold interest in such a building or structure; and

(b) on or after 23rd February 2010, incurs capital expenditure on the purchase of the building or structure or of the leasehold interest therein,

there shall be made to that person annual allowances in respect of that capital expenditure computed in accordance with section 16.

(6) Notwithstanding section 16(15) but subject to subsection (12), where a person incurs on or after 23rd February 2010 capital expenditure on the purchase of a building or structure (not being a new building or structure), or of a leasehold interest therein, and the building or structure is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon the purchase or the completion of any renovation or refurbishment works carried out on the building or structure upon the purchase, there shall be made to that person, in accordance with section 16 —

(a) annual allowances in respect of the capital expenditure; and

(b) an initial allowance and annual allowances in respect of capital expenditure incurred on such renovation or refurbishment works.

(7) Notwithstanding section 16(15) and (16) but subject to subsection (11), where a person —

(a) on or after 23rd February 2010, incurs capital expenditure on extension works carried out on an existing building or structure that (together with the extension thereto) is to be an industrial building or structure, other than one referred to in subsection (8), upon the completion of the extension works;

(b) on or before 22nd February 2010, enters into a written agreement for a qualified person to carry out the extension works; and

(c) on or before 31st December 2010, makes an application for planning permission or conservation permission to the competent authority in accordance with the Planning Act (Cap. 232) for the development of the land comprising the extension works,

there shall be made to that person, computed in accordance with section 16 —

(i) an initial allowance and annual allowances in respect of the capital expenditure incurred on the extension works; and

5 (ii) where the existing building or structure is not an industrial building or structure on 22nd February 2010, annual allowances in respect of any capital expenditure incurred before 23rd February 2010 on the construction or purchase or the residue of that expenditure, as the case may be, of that
10 building or structure.

(8) Notwithstanding section 16(15) and (16) but subject to subsection (11), where a person incurs on or after 23rd February 2010 capital expenditure on extension works to an existing building or structure, not being an industrial building or structure on or at any
15 time before 22nd February 2010, that (together with the extension thereto) is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon the completion of the extension works, there shall be made to that person, computed in accordance with section 16 —

20 (a) an initial allowance and annual allowances in respect of the capital expenditure; and

(b) annual allowances in respect of any capital expenditure incurred before 23rd February 2010 on the construction or purchase or the residue of that expenditure, as the case may
25 be, of the existing building or structure.

(9) Notwithstanding section 16(15) and (16) but subject to subsection (12), where a person incurs on or after 23rd February 2010 capital expenditure on renovation or refurbishment works on an existing building or structure, and —

30 (a) the building or structure is to be an industrial building or structure, other than one referred to in subsection (10), upon the completion of the renovation or refurbishment works; and

(b) such renovation or refurbishment works are carried out pursuant to a written agreement entered into with a
35 renovation contractor on or before 22nd February 2010,

there shall be made to that person, computed in accordance with section 16 —

(i) an initial allowance and annual allowances in respect of the capital expenditure incurred on the renovation or refurbishment works; and

(ii) where the existing building or structure is not an industrial building or structure on 22nd February 2010, annual allowances in respect of the capital expenditure incurred before 23rd February 2010 on the construction or purchase or the residue of that expenditure, as the case may be, of that building or structure.

(10) Notwithstanding section 16(15) and (16) but subject to subsection (12), where a person incurs on or after 23rd February 2010 capital expenditure on renovation or refurbishment works on an existing building or structure, not being an industrial building or structure on or at any time before 22nd February 2010, that is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon the completion of the renovation or refurbishment works, there shall be made to that person, computed in accordance with section 16 —

(a) an initial allowance and annual allowances in respect of the capital expenditure; and

(b) annual allowances in respect of any capital expenditure incurred before 23rd February 2010 on the construction or purchase or the residue of that expenditure, as the case may be, of the existing building or structure.

(11) For the purposes of subsections (1), (2), (7) and (8), no allowance shall be made to a person in respect of any capital expenditure incurred on an industrial building or structure after the date of issuance of the temporary occupation permit for that building or structure or the end of the basis period for the year of assessment 2016, whichever is earlier.

(12) For the purposes of subsections (4), (6), (9) and (10), no allowance shall be made to a person in respect of any capital expenditure incurred after the completion of the renovation or refurbishment works referred to in those subsections or the end of the basis period for the year of assessment 2016, whichever is the earlier.

(13) No allowance shall be made under this section in respect of any capital expenditure incurred on the construction of a building or structure for which an allowance is made under section 18C.

(14) In this section —

5 “new building or structure” means a building or structure which —

(a) has not previously been used by any person; and

(b) was purchased by a person from another person who —

(i) constructed that building or structure; and

10 (ii) was not granted initial allowance in respect of that building or structure under section 16;

“qualified person” means —

15 (a) any person who is registered as an architect under the Architects Act (Cap. 12) and who has in force a practising certificate issued under that Act; or

(b) any person who is registered as a professional engineer under the Professional Engineers Act (Cap. 253) and who has in force a practising certificate issued under that Act.

20 **Initial and annual allowances for certain buildings and structures**

25 **18C.**—(1) Where any person proposes to incur or has incurred on or after 23rd February 2010 qualifying capital expenditure on the construction or renovation of a building or structure on industrial land for which an application for planning permission or conservation permission is made to the competent authority in accordance with the Planning Act (Cap. 232) on or after 23rd February 2010, he may apply to the Minister or such person as he may appoint, between 1st July 2010 and 30th June 2015 (both dates inclusive) for such construction or renovation to be approved for the purposes of making
30 an allowance under this section in respect of such expenditure incurred by him.

(2) Where the Minister or such person as he may appoint, on an application made to him under subsection (1), is satisfied that the construction or renovation of the building or structure on industrial

land promotes the intensified use of such land for the purposes of such trade or business as may be prescribed by regulations, he may, by notice in writing, approve the construction or renovation for the purposes of this section, which approval shall be subject to such conditions as he may impose, including the particular trade or business for which the building or structure is to be used upon completion of construction or renovation.

(3) Where in the basis period for any year of assessment the person has incurred any qualifying capital expenditure on the approved construction or approved renovation, as the case may be, there shall be made to the person for the year of assessment in the basis period for which the expenditure was incurred an allowance to be known as an “initial allowance” equal to 25% of the expenditure.

(4) Subject to subsections (5) and (6), where the person is, at the end of the basis period for any year of assessment, entitled to a relevant interest in the building or structure which is being used for the purposes of the specified trade or business and in respect of which qualifying capital expenditure is incurred, there shall be made to the person for that year of assessment an allowance to be known as an “annual allowance” equal to 5% of the qualifying capital expenditure incurred by him.

(5) No allowance shall be made under subsection (4) for any year of assessment unless more than 80% of the total floor area of the building or structure is used, at the end of the basis period for that year of assessment, by any one person or partnership for the purposes of the specified trade or business.

(6) Any annual allowance made to any person under subsection (4) in respect of an approved construction or approved renovation for any year of assessment shall not exceed the amount of qualifying capital expenditure remaining unallowed as at the beginning of the basis period for that year of assessment.

(7) For the purposes of this section, qualifying capital expenditure incurred by any person on the approved construction or approved renovation, as the case may be, prior to the commencement of his trade or business shall be deemed to have been incurred by that person on the first day he carries on that trade or business.

(8) Where the person fails to comply with any condition imposed under subsection (2) in respect of the approved construction or approved renovation, the Minister or such person as he may appoint, may, by notice in writing, revoke the approval granted under that subsection.

(9) Notwithstanding section 74(1) and (4), where an approval has been revoked under subsection (8), the Comptroller may, at any time, for the purpose of making good any loss of tax attributable to such revocation of approval, assess the person who has utilised the allowance made under this section at such amount or additional amount as according to his judgment ought to have been charged; and this subsection shall also apply, with the necessary modifications, to any assessment which results in any unabsorbed allowances or losses.

(10) Where, in the basis period for any year of assessment, the specified trade or business for which purpose the building or structure is used, produces income that is exempt from tax as well as income chargeable to tax, the allowance for that year of assessment shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.

(11) A person who has incurred qualifying capital expenditure on the approved construction or approved renovation shall maintain and deliver to the Minister or such person he may appoint or the Comptroller, in such form and manner and within such reasonable time as the Minister, the person or the Comptroller may determine, the relevant records of the approved construction or approved renovation, and such other particulars as may be required for the purposes of this section.

(12) In this section —

“approved construction or approved renovation” means the construction or renovation, as the case may be, of a building or structure on industrial land approved under subsection (2);

“industrial land” means any land zoned for the purpose of “Business 1” or “Business 2” (other than “Business 1 White” and “Business 2 White”) under the Master Plan, and includes such other land as may be approved by the Minister;

“Master Plan” means the Master Plan as defined in the Planning Act (Cap. 232) which is effective on the date of the application for planning permission or conservation permission referred to in subsection (1);

5 “qualifying capital expenditure” means the following types of capital expenditure which are incurred in respect of an approved construction or approved renovation, between 23rd February 2010 and the date of completion of that approved construction or approved renovation (both dates inclusive):

- 10 (a) costs of feasibility study on the layout of the building or structure;
- (b) design fees of the building or structure;
- (c) costs of preparing plans for obtaining approval for the building or structure;
- 15 (d) piling, construction and renovation costs;
- (e) demolition costs of an existing building or structure for which an allowance was not made under section 16;
- (f) legal and other professional fees in relation to the approved construction or approved renovation; and
- 20 (g) stamp duties payable in respect of title of the building or structure;

“relevant interest”, in relation to any qualifying capital expenditure incurred on an approved construction or approved renovation of a building or structure, means the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it;

“specified trade or business” means the trade or business specified in a condition of approval under subsection (2) as one for which a building or structure shall be used upon completion of the approved construction or approved renovation, as the case may be.”.

Amendment of section 19

23. Section 19(8) of the principal Act is amended by deleting “2013” and substituting “2015”.

Amendment of section 19A

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

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

5 “(2A) Where a person proves to the satisfaction of the
 Comptroller that he has incurred capital expenditure during the
 basis period for any year of assessment between the year of
 assessment 2011 and the year of assessment 2015 (both years
 inclusive) on the provision of one or more prescribed
 10 automation equipment for the purposes of a trade, profession or
 business carried on by him, there shall be allowed on due claim
 in respect of all his trades, professions and businesses, in
 addition to any allowance under subsection (2), an allowance
 of 150% of the lower of the capital expenditure incurred on the
 15 provision of the prescribed automation equipment and
 \$300,000.

(2B) For the year of assessment 2011 and the year of
 assessment 2012, instead of the allowance under
 subsection (2A) in respect of each year of assessment, a person
 20 shall be allowed an allowance computed in accordance with
 the formula

$$A \times 150\%,$$

where A is —

- (a) for the year of assessment 2011, the lower of —
- 25 (i) the capital expenditure incurred during the basis
 period for that year of assessment on the
 provision of one or more prescribed automation
 equipment; and
- (ii) \$600,000; and
- 30 (b) for the year of assessment 2012, the lower of —
- (i) the capital expenditure incurred during the basis
 period for that year of assessment on the
 provision of one or more prescribed automation
 equipment; and

- (ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

(2C) Where a person proves to the satisfaction of the Comptroller that he has during or after the basis period for the year of assessment 2011 incurred capital expenditure by way of making one or more instalment payments under a hire-purchase agreement or agreements to acquire one or more prescribed automation equipment for the purposes of a trade, business or profession carried on by him, that is or are signed during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), and he makes a claim for an allowance under subsection (2A) or (2B), those subsections shall apply with the following modifications:

- (a) a reference to the capital expenditure incurred on the provision of one or more prescribed automation equipment during the basis period for a year of assessment, being the basis period in which the agreement or agreements is or are signed, is a reference to the aggregate of —

- (i) the price or prices (including capital expenditure incurred on alterations to an existing building incidental to the installation of the equipment but excluding any finance charges) at which he might have purchased the equipment or all the equipment that is the subject of the hire-purchase agreement or agreements for cash at the time of the signing of the agreement or agreements; and

- (ii) the capital expenditure incurred on the provision of any other prescribed automation equipment for the purposes of his trade, profession or business during that basis period;

- (b) a reference to the capital expenditure incurred on the provision of one or more prescribed automation equipment during the basis period for a year of assessment excludes the amount of any instalment

paid or deposit made by him under that agreement or any of those agreements during the basis period; and

- (c) the allowance referred to in subsection (2A) or (2B) in respect of each equipment that is the subject of a hire-purchase agreement shall be made to the person for the year of assessment in respect of each basis period during which he paid an instalment or instalments or made a deposit or deposits under the agreement, in the proportion which the total amount of the instalment or instalments paid, and deposit or deposits made, during that basis period for that equipment bears to the total amount of all instalments and deposits under the agreement for that equipment.

(2D) For the purposes of subsections (2A) and (2B), where an individual carrying on a trade, profession or business through 2 or more firms (excluding partnerships) has incurred capital expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) on the provision of one or more prescribed automation equipment in respect of such firms for the purposes of his trade, profession or business, the allowance that may be allowed to him for that expenditure in respect of all his trades, professions and businesses shall not exceed the amount computed in accordance with subsection (2A) or, in the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (2B)(a) and (b), respectively.

(2E) For the purposes of subsections (2A) and (2B), where a partnership carrying on a trade, profession or business has incurred capital expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) on the provision of one or more prescribed automation equipment for the purposes of its trade, profession or business, the aggregate of the allowances that may be allowed to all the partners of the partnership for that expenditure in respect of all the trades, professions and businesses of the partnership shall not exceed the amount computed in accordance with subsection (2A) or, in

the case of the year of assessment 2011 and the year of assessment 2012, the amounts computed in accordance with subsection (2B)(a) and (b), respectively.

(2F) Notwithstanding subsections (2A) and (2B), where a person has incurred capital expenditure on the provision of any prescribed automation equipment for the purpose of leasing such equipment, no allowance under those subsections shall be made to him in respect of such expenditure.

(2G) Notwithstanding subsections (2A) and (2B) —

(a) where a person who has incurred capital expenditure on the provision of any prescribed automation equipment elects to claim allowances in respect of such equipment under subsection (1) or (1B) or section 19, the allowances under subsections (2A) and (2B) shall be written down over the number of years of working life of the equipment as specified in the Sixth Schedule in the case of section 19, over 3 years in the case of subsection (1) or over 2 years in the case of subsection (1B); and

(b) if the person referred to in paragraph (a) sells, transfers or assigns the prescribed automation equipment after one year from the provision of such equipment, any allowance in respect of such equipment under subsections (2A) and (2B) remaining unallowed at the time of the sale, transfer or assignment shall be allowed to him for the year of assessment relating to the basis period in which the sale, transfer or assignment occurs.

(2H) Where any allowance has been made to any person under subsection (2A) or (2B) in respect of any prescribed automation equipment and the person sells, transfers, assigns or leases the prescribed automation equipment within the period of one year from the provision of such equipment —

(a) no allowance in respect of such equipment shall be made to that person under subsections (2A) and (2B) for the year of assessment relating to the basis period

in which the sale, transfer, assignment or lease occurs and for any subsequent year of assessment; and

- (b) any allowance made under subsection (2A) or (2B) shall be brought to charge as if the allowances were not made, and be deemed as income for the year of assessment relating to the basis period in which the sale, transfer, assignment or lease occurs.

(2I) No allowance under subsections (2A) and (2B) shall be made to any person in respect of any amount of capital expenditure incurred on the provision of prescribed automation equipment for which an investment allowance has been claimed under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

(2J) No allowance under subsections (2A) and (2B) shall be made to any person in respect of any prescribed automation equipment —

- (a) which is used for a project approved under Part XIID of the Economic Expansion Incentives (Relief from Income Tax) Act; or

- (b) for which an allowance under this section or section 19 has been previously made to that person.

(2K) No allowance under subsections (2A) and (2B) shall be made to any person in respect of any instalment paid by him under any hire-purchase agreement to acquire any prescribed automation equipment that is signed before the basis period for the year of assessment 2011.”;

- (b) by deleting the words “(other than subsections (2) to (10C))” in subsection (14B);

- (c) by deleting “2013” in subsection (14B) and substituting “2015”;

- (d) by deleting paragraph (a) of subsection (14C) and substituting the following paragraph:

“(a) a reference to the amount of the expenditure or payments (after deducting any amount in respect of which an election for a cash payout has been made under section 37I) is a reference to the amount of the allowance, after deducting any amount in respect of

which an election for a cash payout has been made under section 37I;”;

(e) by inserting, immediately after the word “allowance” in the definition of “A” in subsection (14C)(c), the words “, after deducting any amount in respect of which an election for a cash payout has been made under section 37I,”;

(f) by deleting the words “in any office or factory within the meaning of section 5 of the Workplace Safety and Health Act (Cap. 354A)” in the definition of “automation equipment” in subsection (15);

(g) by inserting, immediately after subsection (15), the following subsection:

“(16) In subsections (2A) to (2G) and (2I), a reference to capital expenditure incurred on the provision of prescribed automation equipment excludes any such expenditure to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.”; and

(h) by deleting the word “office” in the section heading.

Amendment of section 19B

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

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

“(1A) Where a company carrying on a trade or business incurs capital expenditure during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive) in acquiring one or more intellectual property rights for use in its trade or business, there shall, in addition to any writing-down allowances under subsection (1), be made in respect of all its trades and businesses a writing-down allowance equal to 150% of the lower of the capital expenditure incurred during the basis period on the acquisition of the intellectual property rights and \$300,000.

(1B) For the year of assessment 2011 and the year of assessment 2012, instead of the writing-down allowance under

subsection (1A) in respect of each year of assessment, a company shall be allowed a writing-down allowance computed in accordance with the formula

$$A \times 150\%,$$

where A is —

(a) for the year of assessment 2011, the lower of —

(i) the capital expenditure incurred during the basis period for that year of assessment on the acquisition of one or more intellectual property rights for use in its trade or business; and

(ii) \$600,000; and

(b) for the year of assessment 2012, the lower of —

(i) the capital expenditure incurred during the basis period for that year of assessment on the acquisition of one or more intellectual property rights for use in its trade or business; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

(1C) Where a company proves to the satisfaction of the Comptroller that it has during or after the basis period for the year of assessment 2011 incurred capital expenditure by way of making one or more instalment payments under an agreement or agreements in acquiring one or more intellectual property rights for use in its trade or business, that is or are signed during the basis period for any year of assessment between the year of assessment 2011 and the year of assessment 2015 (both years inclusive), and an allowance is made under subsection (1A) or (1B), those subsections shall apply with the following modifications:

(a) a reference to the capital expenditure incurred on the acquisition of one or more intellectual property rights during the basis period for a year of assessment, being the basis period in which the agreement or agreements is or are signed, is a reference to the aggregate of —

- 5 (i) the price or prices (excluding any finance charges) at which it might have purchased the right or all the rights that is or are the subject of the agreement or agreements for cash at the time of the signing of the agreement or agreements; and
- 10 (ii) the capital expenditure incurred on the acquisition of any other intellectual property rights for use in its trade or business during that basis period;
- 15 (b) a reference to the capital expenditure incurred on the acquisition of one or more intellectual property rights during the basis period for a year of assessment excludes the amount of any instalment paid or deposit made by it under that agreement or any of those agreements during the basis period; and
- 20 (c) the allowance referred to in subsection (1A) or (1B) in respect of each right that is the subject of an agreement shall be made to the company for the year of assessment in respect of each basis period during which it paid an instalment or instalments, or made a deposit or deposits, under the agreement, in the proportion which the total amount of the instalment or instalments paid, and deposit or deposits made, during that basis period for that right bears to the total amount of all instalments and deposits under the agreement for that right.”;
- 25
- (b) by deleting subsection (2) and substituting the following subsection:
- 30 “(2) The total writing-down allowances to be made to a company under subsection (1) and subsection (1A) or (1B) for any year of assessment shall be an amount equal to 20% of the aggregate of —
- 35 (a) the capital expenditure incurred by it on the acquisition of the intellectual property rights; and
- (b) the writing-down allowances under subsection (1A) or (1B).”;

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

“(2D) No writing-down allowances under subsections (1A) and (1B) shall be made in respect of any intellectual property rights in respect of which the requirement under subsection (2A) has been waived under subsection (2B), or any intellectual property rights approved under subsection (2C).

(2E) Where writing-down allowances have been made to any company under subsection (1A) or (1B) in respect of the acquisition of any intellectual property rights and any of the following events occurs within 5 years from the acquisition of such intellectual property rights:

- (a) the rights come to an end without being subsequently revived;
- (b) the company sells, transfers or assigns all or any part of those rights;
- (c) the company permanently ceases to carry on the trade or business,

the following provisions shall apply:

- (i) no writing-down allowance in respect of such intellectual property rights shall be made to that company under subsections (1A) and (1B) for the year of assessment relating to the basis period in which the event occurs and for any subsequent year of assessment; and
- (ii) if any of those events occurs within the period of one year from the acquisition of the intellectual property rights, any writing-down allowances made under subsection (1A) or (1B) shall be brought to charge as if the allowances were not made, and be deemed as income for the year of assessment relating to the basis period in which the event occurs.”;

- (d) by deleting the words “Where writing-down allowances have been made to any company under this section” in subsection (4) and substituting the words “Subject to subsection (4A), where

writing-down allowances have been made to any company under subsection (1) or (2C)”;

- (e) by deleting the words “any writing-down allowances made under subsections (1) and (2C) shall be brought to charge as if the writing-down allowances were not made, and deemed as income for the year of assessment relating to the basis period in which the event occurs.” in subsection (4) and substituting the following words:

“, where (on the occurrence of the event referred to in paragraph (b)) the price at which the rights were sold, transferred or assigned exceeds the amount of the writing-down allowances yet to be allowed on the date of the event, there shall be made on the company for the year of assessment relating to the basis period in which the event occurs a charge of an amount equal to the lower of —

(i) the excess; and

(ii) the writing-down allowances made under subsections (1) and (2C).”;

- (f) by inserting, immediately after subsection (4), the following subsection:

“(4A) Where parts of any intellectual property right are sold, transferred or assigned by the company at different times and at least one sale, transfer or assignment occurs before the end of the writing-down period, subsection (4) shall apply to each sale, transfer and assignment with the following modifications:

- (a) the reference to the amount of writing-down allowances yet to be allowed for the year of assessment relating to the basis period in which the event occurs, is a reference to an amount ascertained in accordance with the formula

$$A - B,$$

where A is the amount of writing-down allowances yet to be allowed for the intellectual property right on the date of the first of such sales, transfers or assignments; and

B is the aggregate of the prices of the parts of that right previously sold, transferred or assigned by the company,

or zero, if the amount ascertained by that formula is less than or equal to zero; and

(b) the reference to the writing-down allowances made under subsections (1) and (2C) is a reference to the balance of such allowances made under subsections (1) and (2C) in respect of that right after deducting the total amount of any charges made under this section in respect of that right.”;

(g) by deleting the words “subsections (1) and (2C)” wherever they appear in subsections (10) and (10A) and substituting in each case the words “subsections (1), (1A), (1B) and (2C)”;

(h) by deleting the words “31st October 2013” in subsection (10) and substituting the words “the last day of the basis period for the year of assessment 2015”;

(i) by deleting the words “or 14E” in subsection (10A)(a)(i) and substituting the words “, 14E or 14S”;

(j) by inserting, immediately after subsection (10B), the following subsections:

“(10C) No writing-down allowance under subsections (1A) and (1B) shall be made to any company in respect of any amount of capital expenditure incurred on the acquisition of intellectual property rights for which an investment allowance has been claimed under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

(10D) No allowance under subsections (1A) and (1B) shall be made to any company in respect of any instalment paid by it under any agreement to acquire any intellectual property right that is signed before the basis period for the year of assessment 2011.”;

(k) by inserting, immediately after the words “commercial value” in the definition of “intellectual property rights” in subsection (11), the words “, or the grant of protection of a plant variety”; and

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

5 “(12) In subsections (1A) and (1B), a reference to capital expenditure incurred on the acquisition of intellectual property rights excludes any such expenditure to the extent that it is subsidised by grants or subsidies from the Government or a statutory board.”.

Amendment of section 24

10 **26.** Section 24 of the principal Act is amended by inserting, immediately after subsection (4), the following subsections:

“(4A) No election may be made under subsection (3) for the sale of an industrial building or structure for which an option to purchase is granted or a sale and purchase agreement is entered into on or after 23rd February 2010, or which is transferred on or after that date.

15 (4B) Subsection (4A) does not apply to a transfer of property to which section 34C(8) and (9) apply.”.

Amendment of section 34C

27. Section 34C of the principal Act is amended by inserting, immediately after subsection (8), the following subsections:

20 “(8A) Where there is a transfer of a building or structure from any amalgamating company to the amalgamated company on the date of amalgamation for which an allowance has been made to the amalgamating company under section 18C, the annual allowances provided under that section shall continue to be available to the
25 amalgamated company as if it had incurred the qualifying capital expenditure that was incurred in carrying out the approved construction or approved renovation, as the case may be, referred to in that section.

30 (8B) Subsection (8A) shall not apply unless the building or structure is used before the transfer by the amalgamating company and after the transfer by the amalgamated company, in the production of income chargeable under the provisions of this Act.”.

Amendment of section 37

28. Section 37 of the principal Act is amended —

- (a) by deleting the words “subsection (2)” in subsection (3) and substituting the words “subsections (2) and (3B)”;
- (b) by deleting the words “31st December 2009” in subsection (3A) and substituting the words “31st December 2010”;
- 5 (c) by inserting, immediately after subsection (3A), the following subsection:

“(3B) No deduction shall be made under subsection (3)(c), (d), (e) or (f) to a person in respect of any donation made to an institution of a public character on or after 1st January 2011 unless he provides to the institution such information within
10 such time and in such form and manner as the Comptroller may specify.”; and
- (d) by inserting, immediately after the words “subsection (3)(a)” in subsection (7), the words “and section 37K”.

15 **Amendment of section 37G**

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

- (a) by deleting “2013” in subsection (3)(a) and substituting “2010”;
- (b) by deleting “\$450,000” in subsection (3)(b) and (ii) and substituting in each case “\$300,000”;
- 20 (c) by inserting, immediately after subsection (9), the following subsection:

“(9A) No deduction shall be allowed to a company under this section for any year of assessment if a deduction for that expenditure has been allowed under section 14DA(1A) or (1B) for that year of assessment.”; and
- 25 (d) by inserting, immediately after the word “Government” in paragraph (c) of the definition of “qualifying research and development expenditure” in subsection (10), the words “or a statutory board”.

30 **Amendment of section 37H**

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

- (a) by deleting “2013” in subsection (1) and substituting “2010”; and

- (b) by deleting “2013” in paragraph (b) of the definition of “qualifying start-up company” in subsection (14) and substituting “2010”.

New section 37I

- 5 **31.** The principal Act is amended by inserting, immediately after section 37H, the following section:

“Cash payout under Productivity and Innovation Credit Scheme

37I.—(1) Subject to this section, where any qualifying person is allowed one or more deductions or allowances under —

- 10 (a) section 14 (in respect of expenditure that falls within the definition of “qualifying training expenditure” under section 14R, “qualifying design expenditure” under section 14S and expenditure on the leasing of a prescribed automation equipment under a qualifying lease under
- 15 section 14T);
- (b) section 14A;
- (c) section 14D (in respect of expenditure that falls within the definition of “qualifying expenditure” under section 14DA);
- (d) section 14DA;
- 20 (e) section 14R;
- (f) section 14S;
- (g) section 14T;
- (h) section 19A(2), (2A) or (2B) (other than an allowance made in respect of a prescribed automation equipment acquired
- 25 under a hire-purchase agreement with a payment period that spans over 2 or more basis periods); or
- (i) section 19B (other than a writing-down allowance made in a case where the requirement under section 19B(2A) is waived, or a writing-down allowance made under section
- 30 19B(2C), or a writing-down allowance made in respect of any intellectual property right acquired and paid for by instalments under an agreement with a payment period that spans over 2 or more basis periods),

for any year of assessment between the year of assessment 2011 and the year of assessment 2013 (both years inclusive) (referred to in this section as a qualifying year of assessment), he may, in lieu of those deductions or allowances, or any part thereof, which exceeds \$1,500, exercise an irrevocable written election for a cash payout computed in accordance with subsection (3) or (4), as the case may be.

(2) The irrevocable written election under subsection (1) shall —

(a) be made to the Comptroller by the qualifying person at any time after the end of the basis period for any qualifying year of assessment but before the expiration of the time the qualifying person must deliver a return of his income for that year of assessment or within such extended time as the Comptroller may allow; and

(b) be accompanied by such information and supporting document to be given in such form and manner as the Comptroller may specify.

(3) For the year of assessment 2011 and the year of assessment 2012, the amount of cash payout shall be computed in accordance with the formula

$$A \times 7\%,$$

where A is —

(a) for the year of assessment 2011, the lower of —

(i) the deductions or allowances or part thereof in respect of which the election is made; and

(ii) \$600,000; and

(b) for the year of assessment 2012, the lower of —

(i) the deductions or allowances or part thereof in respect of which the election is made; and

(ii) the balance after deducting from \$600,000 the lower of the amounts specified in paragraph (a)(i) and (ii).

(4) For the year of assessment 2013, the amount of cash payout shall be computed in accordance with the formula

$$A \times 7\%,$$

where A is the lower of —

(a) the deductions or allowances or part thereof in respect of which the election is made; and

(b) \$300,000.

5 (5) For the purposes of subsections (1), (3) and (4), an individual carrying on one or more trades, professions or businesses through 2 or more firms (excluding partnerships) shall not be granted a cash payout referred to in subsection (1) that exceeds the amount computed in accordance with subsection (3)(a) in the case of the year of assessment 2011, subsection (3)(b) in the case of the year of
10 assessment 2012, or subsection (4) in the case of the year of assessment 2013.

(6) For the purposes of subsections (1), (3) and (4), the sum of the cash payouts referred to in subsection (1) that may be granted to all the partners of a partnership carrying on one or more trades,
15 professions or businesses, shall not exceed the amount computed in accordance with subsection (3)(a) in the case of the year of assessment 2011, subsection (3)(b) in the case of the year of assessment 2012, or subsection (4) in the case of the year of assessment 2013.

20 (7) Where a qualifying person has elected for a cash payout in lieu of a deduction or an allowance under section 14A, 19A(2), (2A) or (2B) or 19B, the election so made shall be treated as having been made on the full amount of the deduction or allowance allowable in respect of the capital expenditure incurred on —

25 (a) the grant or registration of each qualifying intellectual property right in each country;

(b) the provision of each prescribed automation equipment; or

(c) the acquisition of each intellectual property right,

30 as the case may be, to which the election relates, net of any grant or subsidy from the Government or a statutory board.

(8) Notwithstanding subsections (1) and (7), where a qualifying person has incurred capital expenditure on the provision of any prescribed automation equipment for the purpose of leasing such equipment, he shall not be allowed to exercise an election under
35 subsection (1) in respect of any allowance allowable on such expenditure.

(9) Where an election has been made under subsection (1) in respect of any qualifying year of assessment, any amount of the deduction or allowance referred to in subsection (7) in respect of which the election is made that is in excess of —

- (a) in the case of the year of assessment 2011, \$600,000;
- (b) in the case of the year of assessment 2012, the difference between \$600,000 and the amount of the deduction or allowance in respect of which an election was made for the year of assessment 2011; or
- (c) in the case of the year of assessment 2013, \$300,000,

shall not be available as a deduction or an allowance against the income of the qualifying person for that year of assessment, and shall be disregarded.

(10) Where a cash payout has been made under this section in lieu of —

- (a) a deduction under section 14A and the intellectual property rights or the application for the registration or grant of the rights for which the deduction is made is sold, transferred or assigned within one year from the date of filing of the application for the registration or grant of such rights; or
- (b) an allowance under section 19A(2), (2A) or (2B) and the prescribed automation equipment for which the allowance is made is sold, transferred, assigned or leased out within one year from the provision of such prescribed automation equipment,

the following provisions shall apply:

- (i) the qualifying person shall give notice in writing to the Comptroller of such sale, transfer, assignment or lease in the manner specified by the Comptroller within 30 days from the date of such sale, transfer, assignment or lease; and
- (ii) the cash payout in respect of the intellectual property rights, the application for the registration or grant of such rights, or the prescribed automation equipment shall be recoverable by the Comptroller from the qualifying person as a debt due to the Government.

(11) Where a cash payout has been made to a qualifying person under this section in lieu of a writing-down allowance under section 19B, and any of the following events occurs within 5 years from the acquisition of the intellectual property rights:

- 5 (a) the intellectual property rights for which the writing-down allowance is made come to an end without being subsequently revived;
- (b) all or any part of the intellectual property rights for which the writing-down allowance is made are sold, transferred or
10 assigned;
- (c) the qualifying person permanently ceases to carry on the trade or business for which the intellectual property rights are used,

then the following provisions shall apply:

- 15 (i) the qualifying person shall give notice in writing to the Comptroller of such event in the manner specified by the Comptroller within 30 days from the date of such event; and
- (ii) an amount computed in accordance with the following formula shall be recoverable by the Comptroller from the
20 qualifying person as a debt due to the Government:

$$\text{Amount of cash payout} \times \frac{(5 - \text{Number of complete years the intellectual property rights were held by the qualifying person})}{5}$$

(12) Where any tax, duty, interest or penalty is due under this Act, the Goods and Services Tax Act (Cap. 117A), the Property Tax Act (Cap. 254) or the Stamp Duties Act (Cap. 312) by the qualifying person to the Comptroller of Income Tax, the Comptroller of Goods and Services Tax, the Comptroller of Property Tax or the Commissioner of Stamp Duties, the amount of cash payout made by the Comptroller to the qualifying person shall be reduced by the amount so due.

(13) Any amount reduced under subsection (12) shall be deemed to be tax, duty, interest or penalty paid by the qualifying person under the relevant Act and shall (if it is due under an Act other than this Act) be paid by the Comptroller to the Comptroller of Goods and

Services Tax, the Comptroller of Property Tax or the Commissioner of Stamp Duties, as the case may be.

(14) For the purposes of sections 14, 14A, 14D, 14DA, 14R, 14S, 14T, 19A(2), (2A) and (2B) and 19B, the deductions or allowances made to a qualifying person shall be reduced by the amount in respect of which an election for a cash payout has been made under this section by the qualifying person.

(15) Where a qualifying person has received a cash payout under subsection (1) —

- (a) in respect of any deduction or allowance under any of the sections referred to under subsection (1) that is subsequently disallowed;
- (b) without having satisfied all of the requirements in this section (excluding the requirements in subsections (10) and (11)) for the payout; or
- (c) that is in excess of that which may be given to it under this section,

the amount of the cash payout or the excess amount of the cash payout, as the case may be, shall be recoverable by the Comptroller from the qualifying person as a debt due to the Government.

(16) The amount to be repaid under subsection (10), (11) or (15) shall be payable at the place stated in the notice served by the Comptroller on the qualifying person within 30 days after the service of the notice.

(17) The Comptroller may, in his discretion and subject to such terms and conditions as he may impose, extend the time limit within which payment under subsection (16) is to be made.

(18) Sections 86(1) to (6), 87(1) and (2), 89, 90 and 91 shall apply to the collection and recovery by the Comptroller of the amounts recoverable under subsections (10), (11) and (15) as they apply to the collection and recovery of tax.

(19) Unless disallowed by the Comptroller under subsection (20), where the Comptroller has recovered any amount under subsection (15)(b) or (c), the amount of the relevant deduction or allowance referred to in subsection (14) shall be increased by an amount determined in accordance with the formula

$$\frac{A}{7\%},$$

where A is the amount recovered by the Comptroller under subsection (15)(b) or (c).

(20) The Comptroller may disallow the increase under subsection (19) if he is satisfied that the qualifying person has —

- (a) provided the Comptroller with any information or document, in connection with an election under subsection (1), which is false or misleading in a material particular;
- (b) omitted any material particular from any information or document given in connection with an election under subsection (1);
- (c) prepared or maintained or authorised the preparation or maintenance of any false books of account or other records or falsified or authorised the falsification of any books of account or records in connection with an election under subsection (1); or
- (d) made use of any fraud, art or contrivance whatsoever or authorised the use of such fraud, art or contrivance, in connection with an election under subsection (1).

(21) In this section —

“local employee”, in relation to a qualifying person who elects for a cash payout under subsection (1), means any Singapore citizen or Singapore permanent resident, but excludes —

- (a) a shareholder who is also a director of the qualifying person if the qualifying person is a company within the meaning of section 4 of the Companies Act (Cap. 50); and
- (b) a partner under a contract for service of the qualifying person if the qualifying person is a partnership;

“qualifying person” means any company or firm (including a partnership) that —

- (a) carries on a trade or business in Singapore; and

- 5 (b) employs and makes contributions to the Central Provident Fund in respect of not less than 3 local employees based on the payroll for the last month (or such other month as the Comptroller may determine) of its basis period for the qualifying year of assessment in question.”.

New section 37J

32. The principal Act is amended by inserting, immediately after section 37I, the following section:

10 **“Penalties for false information, etc., under section 37I**

37J.—(1) Any person who gives to the Comptroller any information under section 37I(2) that is false in any material particular, or who omits any material particular from any information or document given under that provision, shall be guilty of an offence and shall on conviction be punished with a penalty that is equal to the amount of cash payout that has been made to him or any other person under section 37I as a result of the offence, or which would have been made to him or any other person under that section if the offence had not been detected.

20 (2) Any person who without reasonable excuse or through negligence gives to the Comptroller any information under section 37I(2) that is false in any material particular, or omits any material particular from any information or document given under that provision, shall be guilty of an offence and shall on conviction be punished with a penalty that is double the amount of cash payout that has been made to him or any other person under section 37I as a result of the offence, or which would have been made to him or any other person under that section if the offence had not been detected, and shall also be liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

30 (3) Any person who wilfully with intent to obtain, or to assist another person to obtain, a cash payout or a higher amount of cash payout under section 37I which he or that other person is not entitled to —

35 (a) gives to the Comptroller any information under section 37I(2) that is false in any material particular or omits

any material particular from any information or document given under that provision; or

- (b) gives any false answer, whether verbally or in writing, to any question or request for information asked or made by the Comptroller,

shall be guilty of an offence and shall on conviction be punished with a penalty that is treble the amount of cash payout that has been made to him or that other person under section 37I as a result of the offence, or which would have been made to him or that other person under that section if the offence had not been detected, and shall also be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(4) Any person who wilfully with intent to obtain, or to assist another person to obtain, a cash payout or a higher amount of cash payout under section 37I which he or that other person is not entitled to —

- (a) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

- (b) makes use of any fraud, art or contrivance or authorises the use of such fraud, art or contrivance,

shall be guilty of an offence and shall on conviction be punished with a penalty that is 4 times the amount of cash payout that has been made to him or that other person under section 37I as a result of the offence, or which would have been made to him or that other person under that section if the offence had not been detected, and shall also be liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

(5) The Comptroller may compound any offence under this section other than subsection (4).”.

New section 37K

33. The principal Act is amended by inserting, immediately after section 37J, the following section:

“Deduction for qualifying investments in qualifying start-up companies

37K.—(1) Where an individual proposes to make one or more qualifying investments that complies with subsection (4) in a qualifying start-up company or companies, he may apply to the Minister, or such person as he may appoint, between 1st July 2010 and 31st March 2015 (both dates inclusive) to be approved as a qualifying person for the purposes of claiming a deduction under this section in respect of the expenditure incurred by him in making the investments.

(2) Where the Minister or the person appointed by him is satisfied that the individual possesses the necessary experience, skills or expertise to nurture and grow a qualifying start-up company, he may approve, by notice in writing, the individual as a qualifying person, subject to such conditions as he may impose.

(3) Where a qualifying person —

(a) has incurred expenditure in making a qualifying investment that complies with subsection (4) in a qualifying start-up company or companies; and

(b) has directly and beneficially held the shares or convertible loans which are the subject of the qualifying investment for a continuous period of 2 years from the relevant date,

he shall be allowed on due claim, for the year of assessment relating to the basis period in which the last day of the 2-year period falls, a deduction, computed in accordance with subsection (5), against the remainder of his statutory income (excluding specified income) after making the deduction (if any) under section 37(3)(a).

(4) For the purposes of subsection (3), the qualifying investment must be made —

(a) either —

(i) during the period between 1st July 2010 and 31st March 2015 (both dates inclusive); or

(ii) if the Minister or such person as he may appoint so approves, during the period between 1st March 2010 and 30th June 2010 (both dates inclusive);

(b) if it is the first qualifying investment made by the qualifying person in the qualifying start-up company since he is approved as such under subsection (2) and paragraph (d) does not apply, on the date of such approval or within one year from that date;

(c) if it is not the first qualifying investment made by the qualifying person in the qualifying start-up company since he is approved as such under subsection (2) and paragraph (d) does not apply, within one year from the date of the first qualifying investment referred to in paragraph (b) that complies with that paragraph; and

(d) if approval has been obtained under paragraph (a)(ii) and the qualifying person has made at least one qualifying investment in the qualifying start-up company during the period between 1st March 2010 and 30th June 2010, within one year from the date such qualifying investment or the first of such qualifying investments was made.

(5) The amount of deduction allowable to a qualifying person under subsection (3) shall be ascertained by the formula

$$0.5 \times A,$$

where A is the aggregate amount of expenditure incurred by the qualifying person on the qualifying investment in a qualifying start-up company or companies or \$500,000, whichever is the less.

(6) For the purpose of computing the aggregate amount of expenditure incurred by a qualifying person in respect of a qualifying investment in a qualifying start-up company or companies under subsection (5), no expenditure incurred by the qualifying person in respect of qualifying investment in any one qualifying start-up company shall be included —

(a) if the total amount of any such expenditure that is incurred on the date of first investment and within one year from that date (but excluding any expenditure incurred on qualifying investment that is disposed of during the relevant holding period) is less than \$100,000;

- 5 (b) to the extent that it is matched by any investment in the company by the company known as SPRING SEEDS Capital Pte Ltd under the SPRING Start-up Enterprise Development Scheme administered by the second-mentioned company or any other scheme designated by the Minister or such person as he may appoint;
- (c) if all the shares which are the subject of the qualifying investment are disposed of during the relevant holding period;
- 10 (d) where the loan which is the subject of the qualifying investment is partially or fully repaid during the relevant holding period;
- 15 (e) if all the share capital of the qualifying start-up company is acquired by a person or partnership other than the qualifying person, or the qualifying start-up company merges with or is consolidated with another company or is wound up, at any time during a period of 2 years from the relevant date;
- 20 (f) if the qualifying person is not a member of the board of directors of the qualifying start-up company throughout the relevant holding period;
- (g) if the qualifying start-up company is not resident in Singapore for the years of assessment relating to the basis periods falling within the relevant holding period; or
- 25 (h) the qualifying person has acquired more than 50% of the issued share capital, or has provided more than 50% of the debt capital, of the qualifying start-up company at any time during the relevant holding period.

30 (7) For the purpose of computing the aggregate amount of expenditure incurred by a qualifying person in respect of a qualifying investment under subsection (5), where any of the shares which are the subject of the qualifying investment are disposed of during the relevant holding period, no account shall be taken of such expenditure incurred by him in relation to the shares that are disposed.

(8) The Minister or such person as he may appoint may, subject to such conditions as he may impose in a particular case, waive the requirement in subsection (6)(c), (d), (e) or (f).

(9) Any amount of deduction for any year of assessment computed for a qualifying person in accordance with subsection (5) which is in excess of the remainder of his statutory income (excluding specified income) after making the deduction (if any) under section 37(3)(a) shall not be available as a deduction against his income for any subsequent year of assessment and shall be disregarded.

(10) Where —

(a) a person disposes of, after 2 years from the relevant date, the shares which are the subject of a qualifying investment in respect of which a deduction has been allowed to him in any year of assessment under this section; and

(b) the gains or profits from the disposal of those shares is chargeable to tax under this Act,

the amount of expenditure for which a deduction is allowed to him under this section in respect of those shares in any year of assessment shall not form part of his costs of investment deductible under section 14 in computing his gains or profits from the disposal which is chargeable to tax.

(11) A qualifying person shall maintain and deliver to the Minister or such person as he may appoint, in such form and manner and within such reasonable time as the Minister or person may determine, the relevant records of the qualifying investment made by him in any qualifying start-up company and such other particulars as may be required for the purposes of this section.

(12) In this section —

“date of first investment”, in relation to a qualifying investment by a qualifying person in a qualifying start-up company, means —

(a) unless paragraph (b) applies, the date on which a qualifying investment is first made by the qualifying person in the qualifying start-up company since he was approved as such under subsection (2); or

- (b) if approval has been obtained under subsection (4)(a)(ii) and the qualifying person has made at least one qualifying investment in the qualifying start-up company during the period between 1st March 2010 and 30th June 2010, the date of that qualifying investment or the first of such qualifying investments;

“qualifying investment”, in relation to a qualifying start-up company, means —

- (a) the acquisition using cash of —

(i) new shares not being of a preferential nature, issued by the company;

(ii) new shares of a preferential nature issued by the company which do not fall within sub-paragraph (iii) and which do not provide for payment of a fixed or guaranteed dividend for the relevant holding period; or

(iii) new redeemable shares of a preferential nature issued by the company which do not carry a right to redemption during the relevant holding period and which do not provide for payment of a fixed or guaranteed dividend for the relevant holding period,

other than shares which are issued pursuant to an employee stock option or share award scheme or any conversion of any loan or debt securities; or

- (b) the provision of convertible loans of cash to the company where there is no provision for interest payment for the relevant holding period or loan repayment during the relevant holding period;

“qualifying start-up company” means a company which is not one limited by guarantee and which —

- (a) on the date of first investment, was incorporated in Singapore for 3 years or less and whose shares are not listed on any stock exchange in Singapore or elsewhere;

- (b) on the date of first investment, does not have any shareholder who is a relative of the qualifying person,

except that this requirement may be waived for the company by the Minister or a person appointed by him;

(c) on the date of first investment, has more than 50% of its total issued share capital beneficially held by no more than 20 individual shareholders (excluding any qualifying person);

(d) has no more than 25% of its issued share capital or 25% of its debt capital beneficially held by the qualifying person (including any of his relatives) at any time within a period of 2 years prior to the date of first investment; and

(e) throughout the relevant holding period, does not engage in any activity specified by the Minister or such person as he may appoint for the purposes of this section;

“relative”, in relation to any individual, means —

(a) his spouse;

(b) his children, step-children, grandchildren, step-grandchildren and their spouses;

(c) his parents, including step-parents;

(d) his grandparents, including step-grandparents;

(e) his parents-in-law, including step-parents-in-law;

(f) his brother, step-brother, sister, step-sister and their spouses;

(g) his spouse’s grandparents, including step-grandparents;

(h) his spouse’s brother, step-brother, sister, step-sister and their spouses;

(i) his parent’s brother, step-brother, sister, step-sister and their spouses;

(j) his parent-in-law’s brother, step-brother, sister, step-sister and their spouses;

(k) the children of the brother, step-brother, sister or step-sister of his parent or step-parent, including step-children, and their spouses;

(*l*) the children of the brother, step-brother, sister or step-sister of his parent-in-law or step-parent-in-law, including step-children, and their spouses;

(*m*) the children of his brother, step-brother, sister or step-sister, including step-children, and their spouses; and

(*n*) the children of his spouse's brother, step-brother, sister or step-sister, including step-children, and their spouses;

“relevant date”, in relation to a qualifying person making a qualifying investment in a qualifying start-up company, means the date on which the last qualifying investment is made by the qualifying person in that company within one year from the date of first investment;

“relevant holding period”, in relation to a qualifying person making a qualifying investment in a qualifying start-up company, means the period commencing from the date of first investment in the qualifying start-up company to the end of the 2-year period from the relevant date;

“specified income” means any income of the qualifying person not resident in Singapore which is subject to tax at the rate specified in section 43(3), (3A) or (4)(a).

(13) In the definition of “relative” in subsection (12), relationships that may be established by blood may also be established by adoption in accordance with any written law relating to the adoption of children.

(14) In this section, a qualifying investment is made when —

(*a*) in the case of an acquisition of shares in paragraph (*a*) of the definition of “qualifying investment” in subsection (12), the consideration for the shares is paid; or

(*b*) in the case of a provision of a convertible loan in paragraph (*b*) of the definition of “qualifying investment” in subsection (12), the loan is disbursed.”.

New section 37L

34. The principal Act is amended by inserting, immediately after section 37K, the following section:

“Deduction for acquisition of shares of companies

37L.—(1) Subject to this section, where —

(a) a Singapore company (referred to in this section as the acquiring company); or

5 (b) a subsidiary of the Singapore company that is directly and wholly owned by the Singapore company, and is incorporated for the primary purpose of acquiring and holding shares in other companies (referred to in this section as the acquiring subsidiary),

10 has incurred capital expenditure during the period from 1st April 2010 to 31st March 2015 (both dates inclusive) for any qualifying acquisition of ordinary shares in another company (referred to in this section as the target company), the acquiring company may claim a deduction for the capital expenditure, in accordance with this section.

15 (2) Any claim for deduction under this section shall be made at the time of lodgment of the return of income for the year of assessment relating to the basis period in which the capital expenditure is incurred or within such further time as the Comptroller may, in his discretion, allow.

20 (3) For the purposes of subsections (1) and (2), capital expenditure for an acquisition of ordinary shares in a target company shall be treated as being incurred on the date of the acquisition of those shares.

Qualifying acquisitions

25 (4) In this section, a qualifying acquisition of ordinary shares in a target company by an acquiring company or an acquiring subsidiary is any of the following:

30 (a) an acquisition that results in the acquiring company or the acquiring subsidiary, as the case may be, owning more than 50% of the total number of ordinary shares in the target company where, before the date of the acquisition, the acquiring company or the acquiring subsidiary, as the case may be, owns 50% or less of the total number of ordinary shares in the target company;

(b) any other acquisition the date of which falls in the same basis period as that of the acquisition referred to in paragraph (a);

(c) an acquisition that results in the acquiring company or the acquiring subsidiary, as the case may be, owning 75% or more of the total number of ordinary shares in the target company where —

(i) before the date of the acquisition, the acquiring company or the acquiring subsidiary, as the case may be, owns more than 50% but less than 75% of the total number of ordinary shares in the target company; and

(ii) the date of the acquisition does not fall in the same basis period as the date of the acquisition referred to in paragraph (a);

(d) any other acquisition the date of which falls in the same basis period as that of the acquisition referred to in paragraph (c),

provided that at the end of that basis period, the acquiring company or acquiring subsidiary, as the case may be, continues to own more than 50% (in the case of paragraphs (a) and (b)) or 75% or more (in the case of paragraphs (c) and (d)) of the total number of ordinary shares in the target company.

(5) An acquiring company may elect for its qualifying acquisitions to be, instead of those referred to in subsection (4)(a) and (b) or subsection (4)(c) and (d), acquisitions of ordinary shares in a target company the dates of which fall in a prescribed period and which include an acquisition referred to in subsection (4)(a) or (c), and the provisions of this section shall apply to the qualifying acquisitions so elected subject to such modifications as may be prescribed.

(6) The election under subsection (5) shall be made by the acquiring company at the time of lodgment of the return of its income for the year of assessment relating to the basis period in which the date of the acquisition referred to in subsection (4)(a) or (c) falls, or within such further time as the Comptroller may, in his discretion, allow.

Deductions allowable in respect of capital expenditure claimed

(7) For the purpose of subsection (1) and subject to subsections (11) and (19) and the regulations made under subsection (24), deductions in respect of capital expenditure for a qualifying acquisition of ordinary shares in a target company by an acquiring company or an acquiring subsidiary, as the case may be, are to be allowed as follows:

(a) to the extent the capital expenditure is not contingent consideration or, if it is contingent consideration, is incurred in the same basis period as that in which the date of the acquisition of the shares falls, the deduction allowed shall be the amount specified in subsection (8) for each of 5 successive years of assessment (referred to in this section as the 1st, 2nd, 3rd, 4th and 5th years of assessment, respectively), beginning with the year of assessment relating to the basis period in which the date of the acquisition of the shares falls; and

(b) to the extent the capital expenditure is contingent consideration that is incurred in a basis period after the basis period for the 1st year of assessment, the deduction allowed shall be —

(i) where the contingent consideration is incurred in the basis period for the 2nd, 3rd or 4th year of assessment, the amount specified in subsection (9) for that year of assessment and for each successive year of assessment up to and including the 5th year of assessment; or

(ii) where the contingent consideration is incurred in the basis period for the 5th year of assessment or a subsequent year of assessment, the amount specified in subsection (10) for that year of assessment.

(8) Subject to subsections (13) and (19), the amount referred to in subsection (7)(a) shall be calculated in accordance with the formula

$$\frac{0.05 \times A}{5},$$

where A is the capital expenditure to the extent that it is not contingent consideration or, if it is contingent

consideration, is incurred in the same basis period as that in which the date of the acquisition of the shares falls.

(9) Subject to subsections (13) and (19), the amount referred to in subsection (7)(b)(i) shall be calculated in accordance with the formula

$$\frac{0.05 \times B}{6 - C},$$

where B is the contingent consideration that is incurred in the basis period for the 2nd, 3rd or 4th year of assessment, whichever is applicable; and

C is —

- (a) 2 (where the contingent consideration is incurred in the basis period for the 2nd year of assessment);
- (b) 3 (where the contingent consideration is incurred in the basis period for the 3rd year of assessment); or
- (c) 4 (where the contingent consideration is incurred in the basis period for the 4th year of assessment),

whichever is applicable.

(10) Subject to subsections (13) and (19), the amount referred to in subsection (7)(b)(ii) shall be calculated in accordance with the formula

$$0.05 \times D$$

where D is the contingent consideration that is incurred in the basis period for the 5th year of assessment or the subsequent year of assessment, whichever is applicable.

(11) The following provisions shall apply in determining the amount of deductions under subsection (7) to be allowed to the acquiring company for all qualifying acquisitions of ordinary shares in one or more target companies whose dates of acquisition fall within one basis period:

- (a) where the aggregate of the amounts of “A” referred to in subsection (8) in respect of all such qualifying acquisitions exceeds \$100 million, the amount by which the aggregate

exceeds \$100 million shall be disregarded for the purposes of the deduction to be allowed under this section; and

(b) where the aggregate referred to in paragraph (a) does not exceed \$100 million but the aggregate of the following exceeds \$100 million:

(i) the aggregate referred to in paragraph (a); and

(ii) the aggregate of all contingent consideration in respect of all such qualifying acquisitions incurred in the basis period for any year of assessment subsequent to the 1st year of assessment and in any earlier year of assessment other than the 1st year of assessment,

the amount by which the aggregate of sub-paragraphs (i) and (ii) exceeds \$100 million shall be disregarded for the purposes of the deduction to be allowed under this section.

(12) For the purposes of subsections (8), (9), (10) and (11), the amount of any consideration paid for any qualifying acquisition that comprises shares in the acquiring company, is the market value of the shares in the acquiring company as at the date of the acquisition of the shares and, if it is not possible to determine such value, the net asset value of those shares in the acquiring company at the end of its accounting period immediately before the date of the acquisition of those shares.

(13) Notwithstanding subsections (8), (9) and (10), where any amount of “A”, “B” or “D” referred to in subsections (8), (9) and (10), respectively, that is paid by the acquiring company or acquiring subsidiary, as the case may be, in respect of any qualifying acquisition is greater than the amount which would have been paid if the acquiring company or the acquiring subsidiary, as the case may be, were unrelated to the shareholders in the target company, the first-mentioned amount shall be substituted with the second-mentioned amount, and any question regarding the quantum of the second-mentioned amount shall be determined by the Comptroller.

(14) A deduction under this section to an acquiring company shall be made against the balance of its statutory income after the deductions allowed under sections 37(3), 37B and 37G.

(15) Section 14D(4) and (5) shall apply in relation to the deduction to be allowed in this section, as they apply in relation to the deduction of the expenditure and payments referred to in section 14D(1)(aa) and (c), subject to the following modifications:

- 5 (a) a reference to the amount of the expenditure or payments (after deducting any amount in respect of which an election for a cash payout has been made under section 37I) is a reference to the deduction to be allowed in this section; and
- 10 (b) a reference to a specified amount of the expenditure or payments in section 14D(4) is a reference to an amount computed in accordance with the following formula:

$$\frac{E \times F}{G},$$

where E is the deduction to be allowed in this section;

15 F is the rate of tax specified in section 43(1)(a); and

G is —

- 20 (i) in a case where the concessional income (as defined in section 14D(5)) derived by the person from the trade or business carried on by him is subject to tax at a single concessional rate of tax, that rate; or
- 25 (ii) in a case where the concessional income derived by the person from the trade or business carried on by him is subject to tax at 2 or more concessional rates of tax, the higher or highest of those rates.

Conditions for deductions

30 (16) A deduction in respect of a qualifying acquisition shall be made to an acquiring company under this section for any year of assessment only if —

- (a) where it is an acquisition referred to in subsection (4)(a) or (c) —
 - (i) the acquiring company —

- 5 (A) is carrying on a trade or business in Singapore on the date of the acquisition of the shares;
- (B) has in its employment at least 3 local employees at all times during the period of 12 months immediately before that date;
- (C) is not connected to the target company for at least 2 years immediately before that date; and
- 10 (D) in a case where the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act (Cap. 50), has a Singapore company as its ultimate holding company on that date;
- (ii) where the acquisition is made by the acquiring subsidiary, the acquiring subsidiary —
- 15 (A) does not carry on a trade or business in Singapore or elsewhere on the date of the acquisition of the shares;
- (B) does not claim any deduction for any capital expenditure under this section for that year of assessment; and
- 20 (C) is directly and wholly owned by the acquiring company on that date; and
- (iii) the target company or a subsidiary wholly and directly owned by the target company —
- 25 (A) carries on a trade or business on the date of the acquisition of the shares; and
- (B) has in its employment at least 3 employees at all times during the period of 12 months immediately before that date;
- 30 (b) where it is an acquisition referred to in subsection (4)(b) or (d) —
- (i) the acquiring company —
- (A) is carrying on a trade or business in Singapore on the date of the acquisition of the shares;

- 5 (B) has in its employment at least 3 local employees at all times during the period of 12 months immediately before that date;
- (C) is not connected to the target company for at least 2 years immediately before that date; and
- 10 (D) in a case where the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act (Cap. 50), has a Singapore company as its ultimate holding company on that date;
- (ii) where the acquisition is made by the acquiring subsidiary, the acquiring subsidiary —
- 15 (A) does not carry on a trade or business in Singapore or elsewhere on the date of the acquisition of the shares;
- (B) does not claim any deduction for any capital expenditure under this section for that year of assessment; and
- 20 (C) is directly and wholly owned by the acquiring company on that date;
- (iii) the target company or a subsidiary wholly and directly owned by the target company —
- (A) carries on a trade or business on the date of the acquisition of the shares; and
- 25 (B) has in its employment at least 3 employees at all times during the period of 12 months immediately before that date; and
- (iv) the circumstances specified in paragraph (a) are also satisfied in relation to —
- 30 (A) in the case of a deduction for a qualifying acquisition referred to in subsection (4)(b), a qualifying acquisition referred to in subsection (4)(a); and
- 35 (B) in the case of a deduction for a qualifying acquisition referred to in subsection (4)(d), a

qualifying acquisition referred to in subsection (4)(c).

(17) No deduction in respect of any qualifying acquisition of ordinary shares in a target company shall be made to the acquiring company for the year of assessment relating to the basis period in which any of the following events occurs or for any subsequent year:

(a) after the date of the acquisition of the shares, the target company issues additional ordinary shares which reduces the acquiring company's ownership or the acquiring subsidiary's ownership, as the case may be, of the ordinary shares in the target company to 50% or less;

(b) the acquiring company —

(i) ceases to carry on a trade or business in Singapore; or

(ii) ceases to have at least 3 local employees;

(c) where the qualifying acquisition is one referred to in subsection (4)(a) or (b), the acquiring company or the acquiring subsidiary (as the case may be) divests of its shares in the target company which reduces the acquiring company's ownership or the acquiring subsidiary's ownership of the ordinary shares in the target company to 50% or less, and such divestment occurs in a basis period other than that for the 1st year of assessment;

(d) where the qualifying acquisition is one referred to in subsection (4)(c) or (d), the acquiring company or the acquiring subsidiary (as the case may be) divests of its shares in the target company which reduces the acquiring company's ownership or the acquiring subsidiary's ownership of the ordinary shares in the target company to a percentage below 75%, and such divestment occurs in a basis period other than that for the 1st year of assessment;

(e) the acquiring company or, if the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act (Cap. 50), its ultimate holding company, ceases to be a Singapore company; or

(f) the acquiring subsidiary —

(i) carries on any trade or business in Singapore or elsewhere;

(ii) incurs capital expenditure for which it claims a deduction under this section; or

(iii) ceases to be directly and wholly owned by the acquiring company.

(18) If the Comptroller is satisfied that the shareholders of the acquiring company on the first day of the year of assessment in which the deduction is to be allowed in respect of a qualifying acquisition are not substantially the same as its shareholders on the date of the acquisition of the shares, then no deduction in respect of the qualifying acquisition shall be made to the acquiring company for the year of assessment relating to the basis period in which the deduction is to be allowed and for any subsequent year of assessment.

Modifications for groups of companies

(19) Where the acquiring company or the acquiring subsidiary, as the case may be, and the target company are part of the same group of companies on the date of a qualifying acquisition of ordinary shares in a target company by the acquiring company or the acquiring subsidiary, as the case may be, no deduction shall be made under this section in respect of that qualifying acquisition unless the total number of ordinary shares acquired by the acquiring company or the acquiring subsidiary, as the case may be, results in an increase in the total number of ordinary shares of the target company held on that date by all companies in the group (excluding the target company) and, where there is such an increase —

(a) a deduction shall only be allowed under this section for; and

(b) references in subsections (7) to (10) to any capital expenditure for a qualifying acquisition shall accordingly be read as references to,

the capital expenditure in respect of the number of such shares that corresponds to such increase.

Carry forward of deductions

(20) Subject to subsection (21), where in any year of assessment full effect cannot, by reason of an insufficiency of gains or profits chargeable for that year of assessment, be given to any deduction falling to be allowed under this section, the balance of the deduction shall be added to, and be deemed to form part of the corresponding deduction, if any, for the next succeeding year of assessment, and if no such corresponding deduction falls to be allowed for that year, shall be deemed to constitute the corresponding deduction for that year, and so on for subsequent years of assessment.

(21) No balance shall be added to and be deemed to form part of the corresponding deduction, if any, to be given to an acquiring company under subsection (20) for a year of assessment unless the Comptroller is satisfied that the shareholders of the acquiring company on the last day of the year of assessment in which the deduction was claimed were substantially the same as the shareholders of the acquiring company on the first day of the first-mentioned year of assessment; and such balance shall not be allowed in any subsequent year of assessment.

Exemption

(22) The Minister or such person as he may appoint may, where there is a substantial change in the shareholders of a company and he is satisfied that such change is not for the purpose of deriving any tax benefit or obtaining any tax advantage, exempt that company from the provisions of subsections (18) and (21).

Deductions that ought not to have been allowed

(23) Notwithstanding section 74(1) and (4), where it appears to the Comptroller that a deduction or any part thereof under this section which has been allowed to any acquiring company in any year of assessment ought not to have been allowed by virtue of —

- (a) the occurrence of any event specified in subsection (17) or (18);
- (b) the failure of the acquiring company or acquiring subsidiary, as the case may be, to pay the consideration for acquiring the shares of the target company in full within 6 months from the date of the acquisition of the shares or, in the case

of consideration that is contingent consideration, within 6 months from the date the contingent consideration is incurred;

(c) a reduction in the consideration paid in relation to the share acquisition upon satisfaction of indemnity conditions as may be specified in the agreement for the sale of the ordinary shares of the target company; or

(d) section 33,

the Comptroller may, at any time, for the purposes of making good any loss of tax attributable to the deduction or part thereof, assess the person who has utilised the deduction at such amount or additional amount as according to his judgment ought to have been charged, and this subsection shall also apply with the necessary modifications to any assessment which results in any unabsorbed allowances or losses.

Regulations

(24) The Minister may make regulations —

(a) to provide for the disallowance of or for the adjustments to be made to the amount of any deduction allowed in any year of assessment under this section where the acquiring company or the acquiring subsidiary, as the case may be, divests of any of the ordinary shares it holds in the target company;

(b) to provide for the application of this section to a business trust registered under the Business Trusts Act (Cap. 31A) as it applies to a Singapore company, subject to such modifications as may be prescribed;

(c) to prescribe such matters as are required or authorised to be prescribed under this section; and

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

Interpretation

(25) In this section —

“capital expenditure”, in relation to any acquisition of shares, means consideration for the shares acquired whether paid in cash or in shares of the acquiring company or both, but

excludes transaction costs (including but not limited to due diligence and valuation costs) and any other similar costs;

“contingent consideration”, in relation to an acquisition of ordinary shares in a target company, means such part of the total consideration for the acquisition that would be incurred only upon the satisfaction of such conditions in respect of the target company as may be specified in the agreement for the acquisition entered into by the acquiring company or the acquiring subsidiary, as the case may be;

“group of companies” means 2 or more companies each of which is either a holding company or subsidiary of the other or any of the others;

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

“local employee” means an employee of the acquiring company —

(a) who is a citizen of Singapore or a Singapore permanent resident; and

(b) who makes contributions in respect of the income derived from his employment with the acquiring company to the Central Provident Fund which are obligatory under the Central Provident Fund Act (Cap. 36),

but exclude a director as defined in section 4 of the Companies Act;

“Singapore company” means a company which is incorporated in Singapore and resident in Singapore;

“ultimate holding company” has the same meaning as in section 5A of the Companies Act.

(26) In this section, the date of acquisition of ordinary shares in a target company is —

(a) the date on which the agreement for the sale of those shares is entered into by the acquiring company or the acquiring subsidiary, as the case may be; or

- (b) in the absence of an agreement referred to in paragraph (a), the date of the transfer of those shares from the target company to the acquiring company or acquiring subsidiary, as the case may be.

5 (27) For the purposes of subsections (13) and (16) —

- (a) a person is related to another if —

- (i) one of them directly or indirectly controls the other; or
- (ii) both of them are under the direct or indirect control of a third person; and

10 (b) a company is connected with another if —

- (i) at least 75% of the total number of ordinary shares in one company are beneficially held, directly or indirectly, by the other; or

15 (ii) at least 75% of the total number of ordinary shares in each of the 2 companies are beneficially held, directly or indirectly, by a third company.

(28) For the purposes of subsections (18), (21) and (22) —

20 (a) the shareholders of the acquiring company at any date shall not be deemed to be substantially the same as the shareholders of that company at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;

25 (b) shares in the acquiring company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and

30 (c) shares held by or on behalf of the trustee of the estate of a deceased shareholder or by or on behalf of the person entitled to those shares as beneficiaries under the will or any intestacy of a deceased shareholder shall be deemed to be held by that deceased shareholder.”.

Amendment of section 39

35. Section 39 of the principal Act is amended —

- (a) by deleting paragraph (a) (including the paragraph heading) of subsection (2) and substituting the following paragraph heading and paragraph:

“Deduction for spouse

- 5 (a) had a spouse, living with or maintained by him or her,
 whose income was not more than \$4,000 in that year,
 there shall be allowed a deduction of \$2,000;”;
- (b) by inserting, at the end of subsection (2)(d)(i), the word “and”;
- (c) by deleting sub-paragraph (ii) of subsection (2)(d);
- 10 (d) by inserting, immediately after the words “such spouse” in
 subsection (2)(d)(B), the words “(being his wife)”;
- (e) by inserting, immediately after the words “such previous spouse”
 in subsection (2)(d)(C), the words “(being his ex-wife)”;
- (f) by deleting the words “from maintaining himself” wherever they
15 appear in subsection (2)(e), (i)(B) and (j)(ii);
- (g) by deleting the words “whose income was not more than \$2,000
 in that year” in the proviso of subsection (2)(e);
- (h) by deleting “34½%” in subsection (2)(h) and substituting the
 words “35% (for the year of assessment 2011) or 35½% (for the
20 year of assessment 2012 or a subsequent year of assessment),”;
- (i) by deleting “\$26,393” wherever it appears in subsection (2)(h)
 and substituting in each case the words “\$26,775 (for the year of
 assessment 2011) or \$27,158 (for the year of assessment 2012 or
 a subsequent year of assessment),”;
- 25 (j) by inserting, at the end of subsection (2)(i)(i), the word “and”;
- (k) by deleting sub-paragraph (ii) of subsection (2)(i);
- (l) by inserting, immediately after the words “55 years of age” in
 subsection (2)(i)(A), the words “and whose income was not more
 than \$4,000 in that year”;
- 30 (m) by deleting “\$5,000” in subsection (2)(i)(A)(AA) and
 substituting “\$7,000”;
- (n) by deleting “\$3,500” in subsection (2)(i)(A)(AB) and
 substituting “\$4,500”;

- (o) by deleting “\$8,000” in subsection (2)(i)(B)(BA) and substituting “\$11,000”;
- (p) by deleting “\$6,500” in subsection (2)(i)(B)(BB) and substituting “\$8,000”;
- 5 (q) by deleting sub-paragraph (iii) of subsection (2)(j);
- (r) by inserting, immediately after the words “income of that spouse or sibling” in subsection (3), the words “, being one who at the time of such payment is not incapacitated by reason of physical or mental infirmity,”;
- 10 (s) by deleting “\$2,000” in subsection (3) and substituting “\$4,000”; and
- (t) by deleting “\$3,500” in subsection (12B) and substituting “\$5,500”.

Amendment of section 40A

- 15 **36.** Section 40A of the principal Act is amended —
- (a) by deleting the word “Any” in subsection (2) and substituting the words “Subject to subsection (2A), any”; and
 - (b) by inserting, immediately after subsection (2), the following subsection:
- 20 “(2A) For the purpose of subsection (2), in relation to income derived by a person as a public entertainer during the period from 22nd February 2010 to 31st March 2015 (both dates inclusive), the references to 15% shall be read as 10%.”.

Amendment of section 43

- 25 **37.** Section 43(3B) of the principal Act is amended by deleting the words “17th February 2010” and substituting the words “31st March 2015”.

Amendment of section 43C

- 38.** Section 43C of the principal Act is amended —
- 30 (a) by deleting the word “and” at the end of subsection (1)(b);

(b) by deleting the full-stop at the end of paragraph (c) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(d) the period of each approval, and the conditions subject to which a specified insurer may be or may continue to be approved; and

(e) such supplementary matters as he may consider necessary or expedient.”; and

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

“(1A) No approval shall be granted under —

(a) subsection (1)(a) on or after 1st April 2015;

(b) subsection (1)(b) on or after such date as may be prescribed.”.

15 **Amendment of section 43D**

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

“(5) This section shall not apply to any income derived on or after 1st January 2011.”.

20 **Amendment of section 43K**

40. Section 43K of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(2) This section shall not apply to any income derived on or after 1st January 2011.”.

25 **Amendment of section 43N**

41. Section 43N of the principal Act is amended —

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

“(2A) Subsection (1) shall not apply to income from qualifying debt securities derived by a financial sector incentive (standard tier) company.”; and

- (b) by inserting, immediately after the definition of “debt securities” in subsection (4), the following definition:

5 “ “financial sector incentive (standard tier) company” means a financial sector incentive company within the meaning of section 43Q(3), being one that has been approved by the Minister or such person as he may appoint as a financial sector incentive (standard tier) company;”.

Amendment of section 43P

10 **42.** Section 43P of the principal Act is amended —

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

15 “(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% or 10% shall be levied and paid for each year of assessment upon —

(a) such income as the Minister may specify of an approved global trading company derived by it from such qualifying transactions in commodities or commodities futures as may be prescribed; and

20 (b) such income as the Minister may specify of an approved qualifying company derived by it on or after 21st May 2010 from the carrying on of such qualifying structured commodity financing activities as may be prescribed,

25 and those regulations may provide for the deduction of losses otherwise than in accordance with section 37(3).

30 (1A) Approval may be granted for the purposes of subsection (1)(b) during the period from 21st May 2010 to 20th May 2015 (both dates inclusive) for such period not exceeding 5 years as the Minister may specify.”;

- (b) by inserting, immediately after the words “approved global trading company” in subsection (2), the words “or an approved qualifying company”;

35 (c) by deleting subsection (3) and substituting the following subsection:

“(3) In this section —

“global trading company” means a company carrying on the business of international trading of commodities or commodities futures;

5 “qualifying company” means —

(a) an approved global trading company; or

(b) a company which is a wholly-owned subsidiary of a global trading company,

10 which carries on any qualifying structured commodity financing activities prescribed under subsection (1).”;
and

(d) by inserting, immediately after the words “global trading company” in the section heading, the words “and qualifying company”.

15 **Amendment of section 43Q**

43. Section 43Q of the principal Act is amended —

(a) by deleting the words “or 10%” in subsection (1) and substituting the words “, 10% or 12%”; and

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

“(2A) Regulations under subsection (1) may make transitional provisions to apply the rate of tax of 12% to —

(a) a futures member of the Singapore Exchange referred to in section 43D; and

25 (b) a member of the corporation known as the Singapore Commodity Exchange Ltd referred to in section 43K,

30 which has given notice within a specified period to the Monetary Authority of Singapore for the purposes of the application of these transitional provisions, in respect of its income derived on or after 1st January 2011 but on or before 31st December 2013 from specified qualifying activities.”.

Amendment of section 43W

44. Section 43W of the principal Act is amended —

(a) by deleting the words “Approval may be granted under this section” in subsection (4) and substituting the words “Approval of a shipping investment manager under this section may be granted”; and

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

“(4A) Approval of a shipping investment manager under this section may be granted between 1st March 2011 and 31st March 2016 for such period not exceeding 5 years as the Minister may specify, except that the Minister may extend the period so specified for such further periods as he thinks fit.”.

Amendment of section 43ZA

45. Section 43ZA of the principal Act is amended —

(a) by deleting the words “28th February 2011” in subsection (3) and substituting the words “31st March 2016”; and

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

“(4) The approval under subsection (3) shall be subject to such conditions as the Minister may specify, and shall —

(a) where the approval is granted during the period between 1st April 2008 and 28th February 2011, be for such period not exceeding 10 years, as the Minister may specify; and

(b) where the approval is granted during the period between 1st March 2011 and 31st March 2016, be for such period not exceeding 5 years, as the Minister may specify,

except that the Minister may extend the period so specified for such further periods as he thinks fit.”.

Amendment of section 43ZB

46. Section 43ZB of the principal Act is amended—

- (a) by deleting the words “Approval may be granted under this section” in subsection (4) and substituting the words “Approval of a container investment manager under this section may be granted”; and
- 5 (b) by inserting, immediately after subsection (4), the following subsection:

“(4A) Approval of a container investment manager under this section may be granted between 1st March 2011 and 31st March 2016 for such period not exceeding 5 years as the
10 Minister may specify, except that the Minister may extend the period so specified for such further periods as he thinks fit.”.

New section 43ZE

47. The principal Act is amended by inserting, immediately after section 43ZD, the following section:

15 **“Concessionary rate of tax for ship broking and forward freight agreement trading**

43ZE.—(1) Notwithstanding section 43, tax at the rate of 10% shall be levied and paid for each year of assessment upon such amount of —

- 20 (a) fees or commissions derived on or after 1st April 2010 by an approved company from ship broking; and
- (b) gains derived on or after 1st April 2010 by an approved company from forward freight agreement trading,

which in the aggregate are in excess of the base amount.

25 (2) Approval may be granted under this section between 1st April 2010 and 31st March 2015 to a company for a period of 5 years, subject to such conditions as the Minister may impose.

(3) The base amount referred to in subsection (1) is —

- 30 (a) where the approved company had carried out the ship broking or forward freight agreement trading or both (referred to in this paragraph as such activity) in Singapore at any time during the period of 3 years immediately preceding the date on which approval is granted under this section, the amount ascertained by dividing the net profit

before tax as shown in the audited accounts of the approved company that is derived from carrying out such activity during that period by the actual number of months in that period in which such activity was carried out and multiplying by 12;

(b) where the approved company had not carried out the ship broking or forward freight agreement trading in Singapore, at any time during the period of 3 years immediately preceding the date on which approval is granted under this section, zero; or

(c) such amount as the Minister may specify in substitution for the amount referred to in paragraph (a) or (b).

(4) In determining the income of an approved company from the carrying out of ship broking or forward freight agreement trading or both in Singapore —

(a) the allowances under section 19, 19A, 20, 21, 22 or 23 shall be taken into account notwithstanding that no claim for such allowances has been made; and

(b) the Comptroller shall determine the manner and extent to which —

(i) allowances under section 19, 19A, 20, 21, 22 or 23 and any expenses and donations allowable under this Act are to be deducted; and

(ii) any loss may be deducted under section 37.

(5) In this section —

“approved company” means a company which —

(a) is incorporated and resident in Singapore;

(b) carries on the business of ship broking or forward freight agreement trading or both in Singapore; and

(c) is approved by the Minister, or such person as he may appoint, for the purpose of this section;

“forward freight agreement trading” means the undertaking of a position under a forward freight agreement trade where such trade is in connection with shipping freight rates;

“ship broking” means —

- (a) the broking of sale and purchase of vessels (including the activity of valuing the vessels);
- (b) the matching of vessel owners (which intend to build new vessels) to shipyards based on the vessel owners’ requirements;
- (c) the matching of vessels to —
 - (i) cargoes; or
 - (ii) vessel owners and vessel charterers;
- (d) the valuation of vessels; or
- (e) the matching of forward freight agreement traders where the forward freight agreement trade is in connection with shipping freight rates,

and includes the provision of research, consultancy or advisory services using information derived from the business of carrying on any of the activities referred to in paragraphs (a) to (e), where the total sum of the fees (referred to in this definition as the said sum) derived by the approved company from the research, consultancy and advisory services in the basis period for the year of assessment concerned is not more than 20% of the sum of —

- (A) the total fees and commissions derived by the approved company from all of the activities referred to in paragraphs (a) to (e) in the basis period for that year of assessment; and

- (B) the said sum,

unless the Minister otherwise allows.”.

Amendment of section 45G

48. Section 45G(2) of the principal Act is amended by deleting the words “17th February 2010” and substituting the words “31st March 2015”.

Amendment of section 45GA

49. Section 45GA of the principal Act is amended —

- (a) by deleting the words “subsection (2)” in subsection (1) and substituting the words “subsections (2) and (2A)”;
- (b) by inserting, immediately after the words “of this section” in subsection (2), the words “and subject to subsection (2A)”;
- 5 (c) by inserting, immediately after subsection (2), the following subsection:

“(2A) For the purpose of this section, the deduction of tax under section 45 shall be at the rate of 10% of such income derived during the period from 22nd February 2010 to 31st
10 March 2015 (both dates inclusive).”.

Amendment of section 92

50. Section 92 of the principal Act is amended —

- (a) by deleting subsection (2) and substituting the following subsections:
15 “(2) The Minister may at any time, in his discretion and subject to such conditions as he may impose, remit, reduce or refund, wholly or in part, the tax that is or will be payable or that is paid by any person.
20 (2A) The Minister may, by order published in the *Gazette*, remit, reduce or refund, wholly or in part, the tax that is or will be payable or that is paid by any class of persons, subject to such conditions as he may specify in the order.
25 (2B) Where the Minister is satisfied that a person to whom a remission, reduction or refund of tax is granted fails to comply with any condition imposed under subsection (2) or (2A) (whether a condition precedent or condition subsequent), an amount equal to the amount of tax so remitted, reduced or refunded shall be recoverable as a debt due to the Government.
30 (2C) The amount recoverable under subsection (2B) shall be payable at the place stated in a notice served by the Comptroller on the person within one month after the service of the notice.
 (2D) The Comptroller may, in his discretion and subject to such terms and conditions (including the imposition of interest)

as he may impose, extend the time limit within which payment is to be made.

(2E) Sections 86(1) to (6), 87(1) and (2), 89, 90 and 91 shall apply to the collection and recovery by the Comptroller of the amount recoverable under subsection (2B) and any interest imposed under subsection (2D) as they apply to the collection and recovery of tax.”; and

(b) by deleting the section heading and substituting the following section heading:

“Remission, reduction or refund of tax”.

Amendment of section 101

51. Section 101 of the principal Act is amended —

(a) by inserting, immediately after the word “section” in subsection (1), “37J,”; and

(b) by inserting, immediately after the word “sections” in subsection (2), the words “37J (except subsection (4)),”.

Amendment of section 104

52. Section 104(2) of the principal Act is amended by inserting, immediately after the word “section” in paragraph (a), “37J,”.

Amendment of Fifth Schedule

53. The Fifth Schedule to the principal Act is amended —

(a) by deleting the words “or a subsequent year of assessment” in paragraph 3(a)(ii); and

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

“3A. For the year of assessment 2010 or any subsequent year of assessment, no deduction shall be allowed in respect of any child —

(a) who is not incapacitated by reason of physical or mental infirmity; and

(b) who meets either or both of the following:

(i) his income (excluding income to which the child is entitled as the holder of a scholarship, bursary or similar

educational endowment) for the year immediately preceding the year of assessment exceeded \$4,000;

- (ii) he was engaged in any employment, other than under articles or indentures, or carried on or exercised a trade, business, profession or vocation, during the year immediately preceding the year of assessment.”.

Miscellaneous amendments

54. The principal Act is amended —

- (a) by inserting, immediately after “17,” in sections 10F(1)(i), 36A(7), 37B(7) (definition of “allowances”), 37D(8)(a), 37E(9)(a) and 37F(10)(a), “18B, 18C,”;
- (b) by deleting the word “industrial” in section 10F(1)(i);
- (c) by inserting, immediately after “18,” in sections 13A(3)(a) and (11), 13F(3) and 13S(5), “18B, 18C,”;
- (d) by deleting the words “or 43ZD” in the following sections and substituting in each case the words “, 43ZD or 43ZE”:

Sections 14C(6) (paragraph (b) of the definition of “concessionary rate of tax”), 37B(7) (paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax”) and 37E(17) (paragraph (b) of the definition of “concessionary rate of tax”);
- (e) by inserting, immediately after the words “18A (repealed),” wherever they appear in sections 22A(1), 23(1) and (3), 35(2) and 37C(14)(a), “18B, 18C,”;
- (f) by deleting the words “and 17” in sections 23(2) and 37C(15)(a) and substituting in each case the words “, 17, 18B and 18C”; and
- (g) by deleting the words “an industrial building” in section 23(2) and substituting the words “a building”.

Consequential amendments to Economic Expansion Incentives (Relief from Income Tax) Act

55. The Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) is amended —

- (a) by inserting, immediately after “18,” in section 10(2), (3), (5) and (8), “18B, 18C,”;

- (b) by deleting the words “an industrial building” in section 10(6) and substituting the words “any building”;
- (c) by deleting the words “any industrial building” in section 10(8) and substituting the words “any building”;
- 5 (d) by deleting the words “or 43ZD” in the definition of “concessionary income” in section 66(1) and substituting the words “, 43ZD or 43ZE”; and
- (e) by inserting, immediately after section 74, the following section:

“No investment allowance for certain expenditure

10 **74A.** No investment allowance shall be granted for any amount of fixed capital expenditure incurred on the acquisition of any know-how, patent rights or productive equipment for which an allowance has been claimed under section 19A(2A) or (2B) or 19B(1A) or (1B) of the Income Tax Act
15 (Cap. 134).”.

Savings and transitional provision

20 **56.** For a period of 2 years after the date of commencement of this section, the Minister may, by regulations, prescribe such provisions of a savings or transitional nature consequent on the enactment of this Act, as he may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to implement the tax changes announced in the Government’s 2010 Budget Statement and to make certain other amendments to the Income Tax Act (Cap. 134) and consequential amendments to the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

A number of the amendments to the provisions of the Act (sections 14A, 14D, 14DA, 19A, 19B, 37G and 37H and new sections 14R, 14S, 14T and 37I) are for the purpose of implementing the Productivity and Innovation Credit Scheme. The Scheme is introduced to encourage businesses to make investments to enhance productivity and for innovation. The Act is amended to provide for tax deductions and allowances for expenditure incurred on 6 activities along the innovation value chain, namely research and development, registration of intellectual property, acquisition of intellectual property, industrial and product design, automation and training of employees. Certain

qualifying persons may also convert their tax deduction or allowance into a cash payout.

Amendments are also made to the Act to phase out the industrial building allowance. The industrial building allowance was introduced in the 1940s to encourage industrialisation. As the allowance has already achieved its objective and is no longer adequate or relevant to meeting the current needs of Singapore, amendments are made to sections 16, 17 and 18 and a new section 18B introduced to provide for the phasing out of the allowance, subject to transitional rules.

The new land intensification allowance, introduced under the new section 18C, is intended to encourage businesses with large industrial land-takes and relatively lower Gross Plot Ratios due to the more complex nature of their production process to intensify their land use.

Two new tax incentives are also introduced in the new sections 37K and 37L to encourage angel investors to invest in start-up companies to help them grow their businesses, and to encourage companies to consider mergers and acquisitions as a strategy for growth and internationalisation.

These and other amendments are explained in detail below.

Details of Amendments

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (Interpretation) to clarify that a reference to a spouse of a person in the Act means a spouse who is of the opposite sex to that person. The clause also makes a consequential amendment to section 2 as a result of the new section 37J (by clause 32).

Clause 3 amends section 13 (Exempt income) to extend tax exemption to Government cash grants payable to employers under the Jobs Credit Scheme in 2010.

Clause 4 amends section 13A (Exemption of shipping profits) —

- (a) to extend the tax exemption to income derived by a shipping enterprise from rendering ship management services to a qualifying subsidiary of the enterprise in respect of Singapore ships owned or operated by the subsidiary; and
- (b) to clarify that the tax exemption under the section shall not apply to income derived from the carriage of passengers, mails, livestock or goods by any foreign ship within the limits of the port of Singapore.

Clause 5 amends section 13C (Exemption of income of trustee of trust fund arising from funds managed by fund manager in Singapore) to enable regulations to be made to provide among other things for the determination of the amount of income of the trustee of a prescribed trust fund to be exempt from tax.

Clause 6 amends section 13F (Exemption of international shipping profits) to extend the tax exemption to income derived by an approved international shipping enterprise from rendering ship management services to a qualifying special purpose vehicle of the enterprise in respect of ships owned or operated by such vehicle.

Clause 7 amends section 13S (Exemption of income of shipping investment enterprise) to extend the expiry date of the period within which a shipping investment enterprise may be approved for the purpose of the section from 28th February 2011 to 31st March 2016. The clause also provides that the approval status for each approved shipping investment enterprise must not exceed 5 years where the approval is granted during the period from 1st March 2011 to 31st March 2016. In addition, the clause adds new subsection (19A) the effect of which is that income derived by a shipping investment enterprise approved on or after 1st March 2011, from leasing a sea-going ship under a finance lease that is treated as a sale pursuant to regulations made under section 10D(1), is excluded from the tax exemption under the section.

Clause 8 amends section 13V (Exemption of income derived by law practice from international arbitration held in Singapore) to provide that if any law practice has been approved as a development and expansion company under the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) under the new tax incentive announced in the 2010 Budget Statement for qualifying law practices providing international legal services, it will not be granted approval for an incentive under the section.

Clause 9 amends section 13X (Exemption of income of approved persons arising from funds managed by fund manager in Singapore) to modify the exemption under that section for income of approved fund vehicles under an approved master-feeder fund structure. Conditions of exemption will be imposed on the structure. Regulations may provide for the recovery of tax from persons who were given the exemption if the exemption ought not to have been allowed to them due to non-compliance with any condition.

Clause 10 inserts a new section 13Y which provides for tax exemption on prescribed income derived by a prescribed sovereign fund entity from funds managed in Singapore by an approved foreign government-owned entity, as well as prescribed income derived by an approved foreign government-owned entity from managing in Singapore its own funds as well as funds of a prescribed sovereign fund entity, subject to conditions.

Clause 11 amends section 14 (Deductions allowed) to provide that the deduction allowable to an employer for contributions made on or after 1st September 2010 and on or after 1st March 2011 to the Central Provident Fund or any approved pension or provident fund designated by the Minister under section 39(8) in respect of an employee must not exceed 15% and 15½%, respectively, of the remuneration paid to the employee.

Clause 12 amends section 14A (Deduction for patenting costs) as part of the Productivity and Innovation Credit Scheme to provide for —

- (a) a deduction of qualifying intellectual property registration costs incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive), in addition to the present deduction of patenting costs;
- (b) a further deduction of 150% of up to \$300,000 of the qualifying intellectual property registration costs incurred during the basis period for a year of

assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive);

- (c) instead of the further deduction referred to in paragraph (b), a further deduction of 150% of up to \$600,000 of the qualifying intellectual property registration costs incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the deduction of 150% of up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed the deduction of 150% of such qualifying costs incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;
- (d) a cap on the amounts of the further deductions for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses;
- (e) a claw-back of the further deduction where a person disposes of the intellectual property rights or an application for registration or grant thereof within one year from the date of filing of the application for the registration or grant of such rights; and
- (f) no deduction or further deduction for any qualifying intellectual property registration costs to the extent that they are subsidised by grants or subsidies from the Government or any statutory board.

Clause 13 amends section 14D (Expenditure on research and development) as part of the Productivity and Innovation Credit Scheme to provide for the extension of the period where a person is to be allowed a deduction for expenditure incurred in undertaking by himself or through a research and development organisation, research and development in Singapore that is not related to his trade or business. The clause also provides that research and development expenditure and payments to a research and development organisation are not allowed as deductions to the extent that they are subsidised by grants or subsidies from the Government or any statutory board. The clause also makes consequential amendments to exclude from qualifying expenditure and payments an amount in respect of which an election for a cash payout is made under section 37I.

Clause 14 amends section 14DA (Enhanced deduction for qualifying expenditure on research and development) as part of the Productivity and Innovation Credit Scheme to provide for —

- (a) the extension of the period where a person who incurs qualifying research and development expenditure or makes qualifying amounts of payments to a research and development organisation is to be allowed a further deduction of 50% of such expenditure or a specified percentage of such payments;
- (b) a further deduction of 100% of up to \$300,000 of qualifying expenditure incurred and qualifying amounts of payments made to a research and development organisation during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive);

- (c) instead of the further deduction referred to in paragraph (b), a further deduction of up to \$600,000 of qualifying expenditure incurred and qualifying amounts of payments made to a research and development organisation during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the deduction of up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed a further deduction of such qualifying expenditure or payments incurred or made during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;
- (d) a cap on the amounts of the further deductions for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses;
- (e) no further deduction referred to in paragraphs (b) and (c) for any year of assessment if a deduction for any expenditure has been allowed for that year of assessment under section 37G (Deduction for incremental expenditure on research and development); and
- (f) excluding from qualifying expenditure incurred and qualifying amounts of payments made to a research and development organisation any such expenditure or payment to the extent that it is subsidised by grants or subsidies from any statutory board (and not just from the Government).

Clause 15 amends section 14E (Further deduction for expenditure on research and development project) to provide for the extension of the period where a person is to be allowed a deduction (in addition to a deduction allowed under section 14, 14D or 14DA) for expenditure incurred in undertaking by himself or through a research and development organisation an approved research and development project in Singapore that is not related to his trade or business. The clause also provides that no deduction for any expenditure under section 14E is allowed if a deduction has been allowed for that expenditure under section 14DA(1A) or (1B).

Clause 16 amends section 14I (Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments) to expand the list of securities (a provision for diminution in the value of investment in which is entitled to a deduction under that section) to include other securities such as units in registered business trusts and units in real estate investment trusts.

Clause 17 inserts new sections 14R, 14S and 14T as part of the Productivity and Innovation Credit Scheme.

The new section 14R provides for —

- (a) a deduction (in addition to the deduction under section 14) of 150% of up to \$300,000 of qualifying training expenditure incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive), provided that such expenditure is allowable as a deduction under section 14;
- (b) instead of the further deduction referred to in paragraph (a), a further deduction of 150% of up to \$600,000 of the qualifying training expenditure

incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the deduction of 150% up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed the deduction of 150% of such expenditure incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;

- (c) a cap on the amounts of the further deductions for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses; and
- (d) no further deduction for any qualifying training expenditure to the extent that it is subsidised by grants or subsidies from the Government or any statutory board.

The new section 14S provides for —

- (a) a deduction of 150% (in addition to the deduction under section 14) of up to \$300,000 of qualifying design expenditure for an approved industrial or product design project incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive) or, where the qualifying design expenditure is not allowable as a deduction under section 14, a deduction of 250% of up to \$300,000 of such expenditure incurred during the abovementioned basis period;
- (b) instead of the further deduction or deduction referred to in paragraph (a), a further deduction of 150% or a deduction of 250% (as the case may be) of up to \$600,000 of the qualifying design expenditure incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the deduction of 150% or 250% up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed a further deduction of 150% or a deduction of 250% of such expenditure incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;
- (c) a cap on the amounts of the further deductions or deductions for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses;
- (d) no deduction or further deduction under the section for any expenditure to the extent that it is subsidised by grants or subsidies from the Government or any statutory board; and
- (e) the claw-back of deductions allowed, in the event of non-compliance with the conditions imposed on the approval of an industrial or product design project.

The new section 14T provides for —

- (a) a deduction of 150% (in addition to a deduction under section 14) of up to \$300,000 of the expenditure incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive), by a person on the leasing of one or more prescribed automation equipment under a finance lease or leases (other than one where the prescribed automation equipment is treated as sold) or an operating lease or leases, provided that —
 - (i) such expenditure is allowable as a deduction under section 14;
 - (ii) such equipment is not sub-leased to another person during that basis period; and
 - (iii) no allowance was previously made to the person in respect of the prescribed automation equipment, for example in the case of a sale-and-leaseback arrangement;
- (b) instead of the further deduction referred to in paragraph (a), a further deduction of 150% of up to \$600,000 of such expenditure incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the deduction of 150% up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed the deduction of 150% of such expenditure incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;
- (c) a cap on the amounts of the further deductions for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses;
- (d) where a person both leases under a finance (other than one where the prescribed automation equipment is treated as sold) or operating lease and provides one or more prescribed automation equipment, the sum of deduction under the section and the allowance under section 19A(2A) or (2B) in respect of the leasing and provision expenditure must not exceed 150% of the cap applicable to the leasing expenditure under paragraph (a) or (b). This also covers a situation where the person who leases the equipment takes ownership of it in the same basis period; and
- (e) no further deduction for any qualifying expenditure to the extent that it is subsidised by grants or subsidies from the Government or any statutory board.

Clause 18 amends section 15(2) (Exceptions to the rule that disbursements or expenses not wholly and exclusively used for acquiring the income, and capital used in improvements, cannot be allowed as deductions) to include expenditure which qualifies for deduction under the new section 14S. The clause also makes a technical amendment to that provision relating to the renumbering as current section 14A (by the 2004 Revised Edition) of the old section 14P (in the 2001 Revised Edition).

Clause 19 amends section 16 (Initial and annual allowances for industrial buildings and structures) —

- (a) to disallow any initial and annual allowances on any capital expenditure incurred on or after 23rd February 2010 on the construction or purchase of an industrial building or structure, subject to the transitional provisions in the new section 18B;
- (b) to disallow the making of an annual allowance to a person who incurred capital expenditure on or before 22nd February 2010 on the construction or purchase of a building or structure which was not an industrial building or structure on 22nd February 2010 but becomes one after that date, subject to transitional provisions in the new subsection (18) concerning a building or structure that was still under construction on that date; and
- (c) to provide that a building or structure that has fallen into temporary disuse does not thereby cease to be an industrial building or structure on 22nd February 2010 for the purpose of paragraph (b) if it was an industrial building or structure before it fell into disuse and is constantly maintained in readiness to be brought back into use as such.

Clause 20 amends section 17 (Balancing allowances and charges for industrial buildings and structures) to empower the Comptroller to determine the amount of the sale, insurance, salvage or compensation moneys of a building or structure to be used in determining the amount of balancing allowance or charge under subsections (4) and (5), where the building or structure is one in respect of which both an industrial building allowance under section 16 and a land intensification allowance under the new section 18C have been granted. The reason for this is that the balancing allowance or charge under section 17 is made with reference to the industrial building allowance only. The clause also amends the section to provide for the transfer price of the relevant interest in a building or structure in certain circumstances to be substituted with its open-market price as at the date of transfer.

Clause 21 amends section 18 (Definitions for sections 16 and 17) —

- (a) to provide that the approval by the Minister or a person appointed by him of a building or structure used for a purpose specified in subsection (1)(f), (i) or (j) as an industrial building or structure must be given on or before 22nd May 2010;
- (b) to empower the Minister or a person appointed by him to impose conditions in granting any approval of a building or structure as an industrial building or structure under subsection (1)(j); and
- (c) to make consequential amendments arising from the insertion of the new section 18B.

Clause 22 inserts new sections 18B and 18C.

The new section 18B provides for transitional provisions by providing that the industrial building allowance under section 16 shall continue to be available for certain

capital expenditure incurred on industrial buildings or structures on or after 23rd February 2010.

The new section 18B(1) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the construction of a building or structure which is to be an industrial building or structure upon completion of construction works other than by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurs such capital expenditure, provided that the person —

- (a) on or before 22nd February 2010, has been granted the option to purchase the land or has entered into a sale and purchase agreement or a lease agreement for the land on which the industrial building or structure is to be constructed, or (where the land is owned by the Government or a statutory board) has submitted an application to the Government or the statutory board to bid for the purchase of the land or to lease the land; and
- (b) on or before 31st December 2010, has applied for planning or conservation permission from the competent authority in accordance with the Planning Act (Cap. 322) to carry out the construction work.

The new section 18B(2) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the construction of a building or structure which is to be an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1) upon completion of construction works. An initial allowance and annual allowances shall be made under section 16 to the person who incurs such capital expenditure.

The new section 18B(3) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the purchase of a new building or structure or the leasehold interest therein which is to be an industrial building or structure upon purchase other than by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurs such capital expenditure, provided that the person has, on or before 22nd February 2010, been granted an option or has entered into an agreement for the purchase or acquisition of the new building or structure or the leasehold interest.

The new section 18B(4) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the purchase of a new building or structure (including the purchase of a leasehold interest therein) or on any renovation or refurbishment works carried out on that building or structure upon the purchase. Where the building or structure is to be an industrial building or structure upon purchase or completion of renovation or refurbishment work by virtue of paragraph (f), (i) or (j) of section 18(1), an initial allowance and annual allowances shall be made under section 16 to the person who incurs such capital expenditure.

The new section 18B(5) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the purchase of a building or structure or the leasehold interest therein, not being a new building or structure, which is to be an industrial building or structure upon purchase other than by virtue of paragraph (f), (i) or (j) of section 18(1). Annual allowances shall be made under section 16 to the person who incurs such capital expenditure, provided that the person has, on or before 22nd

February 2010, been granted an option or has entered into an agreement for the purchase or acquisition of the building or structure or the leasehold interest.

The new section 18B(6) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on the purchase of a building or structure (including the a leasehold interest therein), not being a new building or structure, or on any renovation or refurbishment works carried out on that building or structure upon the purchase. Where the building or structure is to be an industrial building or structure upon the purchase or completion of the renovation or refurbishment works by virtue of paragraph (f), (i) or (j) of section 18(1), annual allowances shall be made under section 16 to the person who incurs the capital expenditure on the purchase of the building or structure, and both an initial allowance and annual allowances shall be made to him in respect of the capital expenditure incurred on the renovation or refurbishment works.

The new section 18B(7) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on extension works carried out on an existing building or structure which is to be an industrial building or structure upon the completion of the extension works other than an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurred the capital expenditure on the extension works. Annual allowances shall be made to him in respect of the capital expenditure incurred before 23rd February 2010 on the construction or purchase of the existing building or structure or the residue of that expenditure, as the case may be, where it is not an industrial building or structure on 22nd February 2010. These allowances may be made only if the person has —

- (a) on or before 22nd February 2010, entered into a written agreement for a qualified person to carry out such extension works; and
- (b) on or before 31st December 2010, applied for planning permission or conservation permission to the competent authority in accordance with the Planning Act (Cap. 232) to carry out such extension works.

The new section 18B(8) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on extension works carried out on an existing building or structure which was not an industrial building or structure on or at any time before 22nd February 2010, but the building or structure together with the extension is to be an industrial building or structure upon the completion of the extension works by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurred the capital expenditure on the extension works, and annual allowances shall be made to him in respect of capital expenditure incurred before 23rd February 2010 on the construction or purchase of the existing building or structure or the residue of that expenditure, as the case may be.

The new section 18B(9) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on renovation and refurbishment works carried out on an existing building or structure which is to be an industrial building or structure upon the completion of the works other than an industrial building or structure by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurred the capital expenditure on

the renovation and refurbishment works, and annual allowances shall be made to him in respect of capital expenditure incurred before 23rd February 2010 on the construction or purchase of the existing building or structure or the residue of that expenditure, as the case may be, where it is not an industrial building or structure on 22nd February 2010. These allowances may be made only if the renovation and refurbishment works are carried out pursuant to a written agreement entered into with a renovation contractor on or before 22nd February 2010.

The new section 18B(10) provides for the treatment of capital expenditure incurred on or after 23rd February 2010 on renovation and refurbishment works carried out on an existing building or structure which was not an industrial building or structure on or at any time before 22nd February 2010 but is to be an industrial building or structure upon the completion of the works by virtue of paragraph (f), (i) or (j) of section 18(1). An initial allowance and annual allowances shall be made under section 16 to the person who incurred the capital expenditure on the renovation and refurbishment works, and annual allowances shall be made to him in respect of capital expenditure incurred before 23rd February 2010 on the construction or purchase of the existing building or structure or the residue of that expenditure, as the case may be.

The new section 18B(11) provides that no initial or annual allowance shall be made to a person who incurs capital expenditure on or after 23rd February 2010 on the construction of an industrial building or structure or on extension works to an existing building or structure in the circumstances provided in subsection (1), (2), (7) or (8), if such expenditure is incurred after the earlier of the date of issuance of the temporary occupation permit for that building or structure and the end of the basis period for the year of assessment 2016.

The new section 18B(12) provides that no initial or annual allowance shall be made to a person who incurs capital expenditure on or after 23rd February 2010 on renovation or refurbishment works to a building or structure in the circumstances provided in subsections (4), (6), (9) and (10), if such expenditure is incurred after the earlier of the completion of the renovation or refurbishment works and the end of the basis period for the year of assessment 2016.

The new section 18B(13) provides that no allowance shall be made under the section for any capital expenditure for which a land intensification allowance is made under the new section 18C.

The new section 18B(14) defines certain terms in the section.

The new section 18C provides for a new land intensification allowance. The allowance is given on an approval basis to a qualifying person who incurs certain costs (such as design fees, piling, construction and renovation costs, stamp duties and other related fees) on the renovation or construction of a building or structure which meets prescribed criteria.

The new section 18C(1) provides that a person who proposes to incur or has incurred on or after 23rd February 2010 capital expenditure on the construction or renovation of a building or structure on industrial land to be used for the purposes of a trade or business prescribed by regulations, may apply to the Minister or a person appointed by him, between 1st July 2010 and 30th June 2015 (both dates inclusive), for

the construction or renovation to be approved for the purposes of claiming an allowance in respect of such expenditure.

The new section 18C(2) provides that the Minister or a person appointed by him may approve a person's application if he is satisfied that the construction or renovation promotes the intensified use of the industrial land for the purposes of the prescribed trade or business. The approval may be subject to conditions, including the particular trade for which the building or structure is to be used upon completion of construction or renovation (to be known as the "specified trade or business" for any approved construction or approved renovation).

The new section 18C(3) provides that an initial allowance equivalent to 25% of the qualifying capital expenditure incurred by the person on the approved construction or approved renovation is to be made to him for the year of assessment relating to the basis period in which the capital expenditure is incurred.

The new section 18C(4) provides that an annual allowance equivalent to 5% of the qualifying capital expenditure incurred by the person on the approved construction or approved renovation is to be made to him for any year of assessment, if at the end of the basis period for that year of assessment —

- (a) that person is entitled to a relevant interest in that building or structure; and
- (b) that building or structure is being used for the purposes of the specified trade or business.

The new section 18C(5) provides that no annual allowance is to be made for any year of assessment unless, at the end of the basis period for that year of assessment, more than 80% of the total floor area of the building or structure is used by a single person or partnership for the purposes of the specified trade or business.

The new section 18C(6) provides that no annual allowance made for any year of assessment shall exceed the amount of qualifying capital expenditure remaining unallowed as at the beginning of the basis period for that year of assessment.

The new section 18C(7) deems any qualifying capital expenditure incurred by a person on the approved construction or approved renovation prior to the commencement of his trade or business as having been incurred by that person on the first day he carries on that trade or business.

The new section 18C(8) provides that where a person fails to comply with any condition imposed under subsection (2), the Minister or a person appointed by him may revoke the approval granted under that subsection.

The new section 18C(9) provides for the lifting of the time limit in section 74 for the purposes of raising or revising the assessment in cases where the approval granted under subsection (2) is revoked.

The new section 18C(10) empowers the Comptroller to apportion, in such manner as may appear reasonable to him under the circumstances, the allowance to be made against different streams of income derived from carrying on the specified trade or business for any year of assessment, where one stream of income is chargeable to tax and the other is exempt from tax for that year of assessment.

The new section 18C(11) provides for the maintenance and furnishing of records of the approved construction or approved renovation by the person who incurs the qualifying capital expenditure.

The new section 18C(12) defines certain terms for the purposes of the section.

Clause 23 amends section 19 (Initial and annual allowances for machinery or plant) to extend the period within which a person who incurs capital expenditure on the provision of machinery or plant for any research and development undertaken by him or a research and development organisation on his behalf in Singapore, but that is not for the purposes of his trade or business, may qualify for an allowance under the section.

Clause 24 amends section 19A (Allowances of 3 years or 2 years write off for machinery and plant, and 100% write off for computer, prescribed automation equipment and robot, etc.) as part of the Productivity and Innovation Credit Scheme to provide for —

- (a) a further allowance of 150% of up to \$300,000 of the capital expenditure incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive), on the provision of one or more prescribed automation equipment for any trade, profession or business;
- (b) instead of the further allowance referred to in paragraph (a), a further allowance of 150% of up to \$600,000 of such capital expenditure incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the allowance of 150% of up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed the allowance of 150% of such capital expenditure incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;
- (c) a cap on the amount of the further allowances for individuals carrying on one or more trades or businesses through firms (other than partnerships) and partners of a partnership carrying on one or more trades or businesses;
- (d) where prescribed automation equipment is acquired under a hire-purchase agreement, the total price for purchasing the equipment in cash at the time of signing the agreement (including the capital expenditure incurred on alterations to an existing building incidental to the installation of the equipment but excluding any finance charge) shall be included as part of the capital expenditure in acquiring prescribed automation equipment for the purposes of computing the further allowances referred to in paragraphs (a) and (b) for the year of assessment relating to the basis period in which the hire-purchase agreement is signed. Any instalment actually paid and deposit actually made under the hire-purchase agreement in any basis period shall not form part of the capital expenditure in computing the further allowance for the year of assessment relating to that basis period. The further allowance for the hire-purchase equipment shall be made for the year of assessment in respect of every basis period in which an instalment payment or deposit is made, in the proportion which the amount of the instalment and

deposit made in the basis period bears to the total amount of instalments and deposits under the hire-purchase agreement.

To illustrate, a person acquires one equipment under hire-purchase agreement and another 2 equipment by cash and the details of his acquisitions are as follows:

Equipment	Cost (\$'000)	Amount paid in the basis period for year of assessment 2013 (\$'000)	Amount paid in the basis period for year of assessment 2014 (\$'000)
A (acquired under a hire-purchase agreement signed in the basis period for the year of assessment 2013)	250 (excluding finance charges)	100	150
B	100	100	-
C	200	-	200
Total	550	200	350

For the year of assessment 2013, if the person makes a claim for the further allowance in respect of the full cost of equipment B (which is \$100,000), the further allowance which he can claim in respect of equipment A will be limited to 150% of the lower of —

- (i) the price for acquiring equipment A (which is \$250,000); and
- (ii) the balance after deducting from \$300,000 the full cost of equipment B (which is \$200,000).

In this case the further allowance to be granted for equipment A will be \$300,000 (which is 150% multiplied by \$200,000). The further allowance of \$300,000 in respect of equipment A will be granted over the years of assessment 2013 and 2014 based on the proportion of the amount of instalments and deposits paid in the respective basis period to the total amount of instalments and deposits under the hire-purchase agreement as follows:

Year of assessment	Amount of further allowance to be granted
2013	$100,000/250,000 \times 300,000 = \$120,000$
2014	$150,000/250,000 \times 300,000 = \$180,000$

For the year of assessment 2014, the amount paid under the hire-purchase agreement in respect of equipment A will be excluded as part of the capital

expenditure in acquiring prescribed automation equipment for the purpose of determining whether the expenditure cap of \$300,000 is exceeded. Therefore the person will be able to make a claim for the further allowance in respect of the full cost of equipment C;

- (e) the further allowance shall not be made where the prescribed automation equipment is acquired for the purpose of leasing it out;
- (f) the further allowances shall be written down over the number of years of the equipment's working life, 3 years or 2 years, if a claimant has elected to claim allowances for it under subsection (1) or (1B) or section 19, respectively;
- (g) a claw-back of the further allowance where the prescribed automation equipment is sold, transferred, assigned or leased out within one year from the provision of the equipment;
- (h) the further allowance shall not be made for any prescribed automation equipment if an investment allowance has been claimed on the same capital expenditure under Part X (Investment allowances) of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), or it is used for a project approved under Part XIID (Integrated industrial capital allowances) of that Act, or if an allowance was previously made to the person in respect of the prescribed automation equipment, for example if he exercises an option to purchase the equipment in a sale-and-leaseback arrangement;
- (i) an extension of the period within which a person who incurs capital expenditure on the provision of machinery or plant for any research and development undertaken by him or a research and development organisation on his behalf in Singapore, but that is not for the purposes of his trade or business, may qualify for the 3-year write off under the section, and the removal of the prohibition on a right to elect for capital expenditure on such machinery or plant to be written off in one year;
- (j) an expansion of the scope of the prescribed automation equipment to cover prescribed machinery or plant designed for automation of functions or services in any place, and not just an office or factory; and
- (k) no further allowance for any expenditure to the extent that it is subsidised by grants or subsidies from the Government or any statutory board.

Clause 25 amends section 19B (Writing-down allowances for intellectual property rights) as part of the Productivity and Innovation Credit Scheme to provide for —

- (a) a further writing-down allowance of 150% of up to \$300,000 of the capital expenditure incurred during the basis period for a year of assessment from the year of assessment 2011 to the year of assessment 2015 (both years inclusive) on the acquisition of certain intellectual property rights;
- (b) instead of the further writing-down allowance referred to in paragraph (a), a further writing-down allowance of 150% of up to \$600,000 of such capital

expenditure incurred during the combined basis periods for the year of assessment 2011 and the year of assessment 2012. If a person is not able to enjoy the writing-down allowance of 150% of up to the cap of \$600,000 in the year of assessment 2011, he shall be allowed the writing-down allowance of 150% of such capital expenditure incurred during the basis period for the year of assessment 2012, subject to the overall cap of \$600,000 for both years of assessment;

- (c) a similar amendment to that described in paragraph (d) above relating to clause 24 in a case where the intellectual property rights are paid for by instalments;
- (d) the further writing-down allowance is to be written down over a period of 5 years beginning with the year of assessment relating to the basis period in which such capital expenditure is incurred;
- (e) the further writing-down allowance shall not be made on the occurrence of certain events and any such allowances already made shall be clawed back;
- (f) a change in the manner of computing the charge when the intellectual property rights are sold, transferred or assigned. Before the change, the charge is computed based on writing-down allowances already made. With the change, the charge will only be made if the price at which the intellectual property rights were sold, transferred or assigned exceeds the writing-down allowances yet to be allowed. The amount of the charge is limited to the lower of the excess and the writing-down allowances already made;
- (g) a modification of the manner of computing the charge in a case where parts of the intellectual property right are sold, transferred or assigned at different times at least one of which occurs before the end of writing-down period;
- (h) no further writing-down allowance for a company for intellectual property rights acquired from its related party to whom a deduction for the creation of those rights has been allowed under certain sections of the Act and who is not chargeable to tax on the proceeds of sale, etc., of those rights, or from another related party who acquired them, directly or indirectly, from the first-mentioned related party;
- (i) no writing-down allowance under subsection (1) or (2C) for a company for intellectual property rights acquired from its related party to whom a deduction for the creation of those rights has been allowed under the new section 14S, and who is not chargeable to tax on the proceeds of sale, etc., of those rights;
- (j) the extension of the period within which a person who incurs capital expenditure on the acquisition of intellectual property rights may be granted a writing-down allowance under subsection (1) or (2C);
- (k) no further writing-down allowance for expenditure on the acquisition of intellectual property rights for which an investment allowance has been claimed on the same expenditure under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);

- (l) an expansion of the definition of “intellectual property rights” to include the grant of protection of a plant variety; and
- (m) no further writing-down allowance for any expenditure under the section to the extent that it is subsidised by grants or subsidies from the Government or any statutory board.

Clause 26 amends section 24 (Special provisions as to sales between persons under a common control or where one of them has control over the other) to provide that an election that the residue of expenditure on the construction or purchase of a building or structure immediately before the sale is deemed to be the transfer price, cannot be made if the option to purchase is granted, the sale and purchase agreement is entered into or the transfer occurs on or after 23rd February 2010, unless the sale is between an amalgamating company and an amalgamated company of a qualifying amalgamation under section 34C.

Clause 27 amends section 34C (Amalgamation of companies) to provide that where there is a transfer of a building or structure under a qualifying amalgamation for which an allowance under the new section 18C has been made, the annual allowance under that section shall continue to be available to the amalgamated company. This however only applies if the building or structure has been used before and after the amalgamation for the production of chargeable income.

Clause 28 amends section 37 (Assessable income) —

- (a) to extend by another year the period within which a qualifying donation made is entitled to a deduction of 2.5 times the amount or value of the donation;
- (b) to disallow any deduction to a person for a donation made to an institution of a public character on or after 1st January 2011 if that person does not provide to that institution such information within such time and in such form and manner as the Comptroller may specify; and
- (c) to provide that a deduction for qualifying donations may only be made against the remainder of a person’s statutory income after making the deduction provided under the new section 37K.

Clause 29 amends section 37G (Deduction for incremental expenditure on research and development) as part of the Productivity and Innovation Credit Scheme —

- (a) to provide that no amount shall be credited to the research and development account (for the purpose of making a deduction under the section) after the year of assessment 2010. However, a company has up to the year of assessment 2016 to utilise any amount standing to that account under the section;
- (b) to provide that no deduction under the section is allowed to a company for any year of assessment if a deduction for any expenditure has been allowed under section 14DA(1A) or (1B) for that year of assessment;
- (c) to reduce the amount standing to the research and development account from less than \$450,000 to less than \$300,000 for the purpose of determining

whether an amount has to be credited to that account for the year of assessment 2010, as well as for the purpose of computing the amount to be so credited; and

- (d) to provide that no deduction shall be given for any qualifying research and development expenditure to the extent that it is subsidised by grants or subsidies from the Government or any statutory board.

Clause 30 amends section 37H (Cash grant for research and development expenditure for start-up company) to provide that the research and development incentive for start-up enterprise scheme under the section shall expire by end of year of assessment 2010.

Clause 31 inserts a new section 37I.

To support small but growing businesses which are cash constrained, the new section 37I allows certain persons (referred to as qualifying persons) to convert tax deductions or allowances arising from expenditure incurred on the activities under the Productivity and Innovation Credit Scheme into a cash payout.

The new section 37I(1) provides that a qualifying person who is allowed one or more of certain deductions or allowances for any year of assessment between the year of assessment 2011 and the year of assessment 2013 (both years inclusive), may elect for a cash payout, in lieu of such deductions or allowances, or part thereof, which exceeds \$1,500.

The new section 37I(2) provides for the making of the election for the cash payout.

The new section 37I(3) and (4) provides for the computation of the amount of cash payout.

The new section 37I(5) provides that the total cash payout available to an individual is subject to the caps on the amount of cash payout in subsections (3) and (4) regardless of the number of the firms through which he carries on his trades or businesses.

The new section 37I(6) provides that the caps on the amount of cash payout in subsections (3) and (4) are applicable at the partnership level, such that the sum of the cash payouts to all partners must not exceed those caps.

The new section 37I(7) provides that the cash payout is to be made on the full amount of deduction or allowance in respect of the expenditure (net of any grant or subsidy) incurred for the grant or registration of each qualifying intellectual property right in each country, the provision of each prescribed automation equipment, or the acquisition of each qualifying intellectual property right. In other words, a person is not allowed to claim a cash payout for only a part of the deduction given for expenditure incurred in (for example) registering a design with the Registry of Designs in Singapore.

The new section 37I(8) prohibits a person from electing for a cash payout, in lieu of any allowance for capital expenditure incurred on the provision of any prescribed automation equipment for the purpose of leasing that equipment to another person.

The new section 37I(9) provides that where an election is made to convert into a cash payout any amount of deduction or allowance referred to in subsection (7) that is in excess of the caps referred to in subsections (3) and (4), the excess shall not be available as a deduction or an allowance against the income of a qualifying person and shall be disregarded.

The new section 37I(10) provides that where a cash payout has been made in lieu of a deduction under section 14A or an allowance under section 19A(2), (2A) or (2B), and within one year from the date of filing of the application for the registration or grant of the intellectual property rights or the provision of the prescribed automation equipment, the rights or equipment are disposed of, the qualifying person must notify the Comptroller of this within 30 days from the date of disposal and must also repay the cash payout.

The new section 37I(11) makes similar provisions to those described in subsection (10) for a cash payout in lieu of a writing-down allowance under section 19B where the intellectual property rights are disposed of, the intellectual property rights come to an end, or the qualifying person permanently ceases to carry on the trade or business concerned, within 5 years from the acquisition of the intellectual property rights.

The new section 37I(12) and (13) provides for the recovery of outstanding taxes, duties, interest or penalties under the Act and certain other Acts out of the cash payout.

The new section 37I(14) provides that the amount of a deduction, further deduction, allowance or further allowance shall be reduced by the amount in respect of which an election for a cash payout has been made.

The new section 37I(15) provides for the recovery of a cash payout where the relevant deduction or allowance is subsequently disallowed, certain requirements under the section are not met or the cash payout is in excess of what is allowed under the section.

The new section 37I(16) provides for the time and manner of repayment of the cash payout under subsections (10), (11) and (15).

The new section 37I(17) provides for the Comptroller to extend the time limit for repayment of the cash payout.

The new section 37I(18) applies provisions of the Act for the recovery of tax to the recovery of the cash payout.

The new section 37I(19) provides that the amount of the relevant deduction, further deduction, allowance or further allowance shall be increased upon the recovery of the cash payout under subsection (15)(b) or (c).

The new section 37I(20) provides that the Comptroller may disallow the increase in deduction and allowance under subsection (19) where among other things, false information was given or a fraud was used in connection with an election for a cash payout.

The new section 37I(21) defines certain terms used in the section.

Clause 32 inserts a new section 37J.

The new section 37J criminalises the giving of false information or omission of information in connection with an election for a cash payout under the new section 37I and the falsification of books and the employment of any fraud, art or contrivance in connection with such election.

Clause 33 inserts a new section 37K.

The new section 37K provides for a new tax incentive for angel investors.

The new section 37K(1) provides that an individual may apply to the Minister or a person appointed by him to be approved as a qualifying person for the purpose of claiming deductions for expenditure incurred in making qualifying investments in qualifying start-up companies.

The new section 37K(2) provides for the criteria for approving an individual as a qualifying person.

The new section 37K(3) provides that the qualifying person must directly and beneficially hold the qualifying investment for 2 years from the relevant date (defined as the date of last investment in the company within the period of one year from the date of first investment), to be eligible for the deduction. The subsection also provides for the manner of making the deduction.

The new section 37K(4) provides for the period within which the qualifying investment must be made to be eligible for the deduction.

The new section 37K(5) provides that the amount of deduction shall be half of the lesser of the aggregate amount of expenditure incurred by the qualifying person on the qualifying investment and \$500,000.

The new section 37K(6) provides for the exclusion of certain expenditures incurred by a qualifying person in making qualifying investments in any one qualifying start-up company when computing the aggregate amount of expenditure incurred by him for the purposes of subsection (5).

The new section 37K(7) provides that where a part of a qualifying investment (being shares) made by a qualifying person in a qualifying start-up company is disposed of within the relevant holding period, the amount of expenditure incurred in respect of that part of the investment that is disposed of is to be excluded from the aggregate amount of expenditure incurred by him for the purposes of subsection (5).

The new section 37K(8) empowers the Minister or a person appointed by him to waive the prohibition on certain expenditures under subsection (6) from being considered for the deduction.

The new section 37K(9) provides that any amount of deduction for any qualifying person for any year of assessment which is not utilised in that year of assessment as a result of insufficient statutory income (after deduction of qualifying losses under section 37(3)(a)) will not be available as a deduction against his income for any subsequent year of assessment. Such unutilised deductions are to be disregarded.

The new section 37K(10) provides that where a qualifying person who has been allowed a deduction under the section in respect of any qualifying investment (being shares) made by him, disposes of such investment or part thereof after 2 years from the relevant date, and the gains or profits from the disposal are chargeable to tax, then the amount of deduction which has been allowed to him under the section shall not be deductible under section 14 as part of the cost of his investment in computing the gains or profits from the disposal which is chargeable to tax. This is to ensure that the qualifying person cannot claim his cost of investment twice by first claiming a deduction for it under the section, and then claiming a deduction for it under section 14.

The new section 37K(11) provides that a qualifying person must maintain and deliver to the Minister or a person appointed by him records of his qualifying investments made by him in any qualifying start-up company and such other particulars as may be required for the purposes of the section.

The new section 37K(12) and (13) defines certain terms for the purposes of the section.

The new section 37K(14) defines when a qualifying investment is made for various purposes, eg. section 37K(4) and the definition of “date of first investment”.

Clause 34 inserts a new section 37L.

The new section 37L creates a new tax incentive for companies to grow their businesses through mergers and acquisitions.

The new section 37L(1) provides that a Singapore company may claim a deduction for capital expenditure incurred by it or its acquiring subsidiary, in acquiring the ordinary shares in another company (referred to as the target company) in certain circumstances (referred to as a qualifying acquisition).

The new section 37L(4) defines qualifying acquisitions for the purposes of the new section. To be a qualifying acquisition, the capital expenditure for the acquisition must be incurred during the period between 1st April 2010 and 31st March 2015 (both dates inclusive) and satisfy any of the following:

- (a) the acquiring company or the acquiring subsidiary owns 50% or less of the ordinary shares of the target company before the acquisition, and the acquisition in question brings its ownership level to more than 50%;
- (b) the acquisition is one which occurs in the same basis period as the acquisition referred to in paragraph (a);
- (c) the acquiring company or the acquiring subsidiary owns more than 50% but less than 75% of the ordinary shares of the target company before the acquisition, and the acquisition brings its ownership level to at least 75%, and it does not occur in the same basis period as the acquisition referred to in paragraph (a);
- (d) the acquisition is one which occurs in the same basis period as the acquisition referred to in paragraph (c).

An acquisition under paragraph (a) or (b) above will not be a qualifying acquisition unless, at the end of the basis period in question, the acquiring company or acquiring subsidiary continues to own more than 50% of the ordinary shares of the target company. Similarly, an acquisition under paragraph (c) or (d) above will not be a qualifying acquisition unless, at the end of the basis period in question, the acquiring company or acquiring subsidiary continues to own 75% or more of the ordinary shares of the target company.

The acquiring company may elect for the deduction to apply in respect of share acquisitions other than those in paragraphs (a) and (b) above, or paragraphs (c) and (d) above, falling within a prescribed period provided that the date of the share acquisition referred to in paragraph (a) or (c) above also falls within the prescribed period (subsections (5) and (6)).

The new section 37L(2) provides that a claim for deduction under the new section must be made at the time of lodgment of the return of income for the year of assessment relating to the basis period in which the capital expenditure is incurred, or within such further time as the Comptroller may allow.

The new section 37L(3) deems the capital expenditure to be incurred on the date of the acquisition of the shares for the purposes of subsections (1) and (2).

The new section 37L(7) provides for the manner in which the deduction for the capital expenditure for a qualifying acquisition is to be allowed.

The new section 37L(8), (9) and (10) sets out various formulae to be used in determining the amount of deduction in respect of a qualifying acquisition.

By way of illustration, suppose the acquiring company makes a qualifying acquisition of a target company and incurs for this purpose \$3 million in the basis period for the year of assessment 2012, being the basis period in which the date of the share acquisition falls; \$2 million (being contingent consideration) in the basis period for the year of assessment 2013, and \$1 million (being contingent consideration) for the year of assessment 2016.

The deduction for the \$3 million will be allowed for 5 successive years of assessment beginning with 2012, the amount for each of those years of assessment to be determined by the formula in subsection (8) viz.

$$\frac{0.05 \times \$3 \text{ million}}{5} = \$30,000.$$

The deduction for the \$2 million will be allowed for the years of assessment 2013, 2014, 2015 and 2016, the amount for each of those years of assessment to be determined by the formula in subsection (9) viz.

$$\frac{0.05 \times \$2 \text{ million}}{6 - 2} = \$25,000.$$

The deduction for the \$1 million will be allowed for the year of assessment 2016 of an amount to be determined by the formula in subsection (10) viz.

$$0.05 \times \$1 \text{ million} = \$50,000.$$

The new section 37L(11) provides that the total amount of deductions for capital expenditure for all qualifying acquisitions of ordinary shares in all target companies, the dates of which fall within one basis period, is limited to \$100 million.

By way of illustration, suppose the acquiring company has made qualifying acquisitions in respect of 2 target companies, Company X and Company Y, in the basis period for the year of assessment 2012 and incurred contingent considerations in the basis period for years of assessment 2013 and 2014 in respect of Company X and Company Y, respectively, as follows:

Capital expenditure incurred for —	YA 2012	YA 2013	YA 2014
Company X	\$50 million	\$15 million (contingent consideration)	-
Company Y	\$30 million	-	\$10 million (contingent consideration)

For the year of assessment 2012, the acquiring company may claim the deduction for the aggregate capital expenditure of \$80 million (i.e. \$50 million + \$30 million) as the amount does not exceed \$100 million (subsection (11)(a)).

For the year of assessment 2013, the acquiring company may claim the deduction for the entire contingent consideration of \$15 million as the aggregate of the capital expenditure i.e. \$80 million + \$15 million or \$95 million does not exceed \$100 million.

For the year of assessment 2014, since the aggregate of the capital expenditure i.e. \$80 million + \$15 million + \$10 million or of \$105 million exceeds \$100 million, the excess of \$5 million is to be disregarded and the acquiring company may only claim the deduction for \$5 million of the \$10 million incurred (subsection (11)(b)).

The new section 37L(12) provides that where the consideration paid by the acquiring company or the acquiring subsidiary for the qualifying acquisition consists of shares issued by the acquiring company, the amount of consideration paid by such issued shares is the market value of those shares as at the date of the acquisition or, if it is not possible to determine such value, the net asset value of the shares at the end of its accounting period immediately before that date.

The new section 37L(13) provides for the manner in which the consideration for a qualifying acquisition is to be determined if the qualifying acquisition is not an arm's length transaction. In such a case, the amount paid by the acquiring company or acquiring subsidiary in respect of the qualifying acquisition will be substituted by the amount which would have been paid if the companies were unrelated if the latter amount is smaller. The Comptroller is empowered to determine any question regarding the amount.

The new section 37L(14) provides that the deduction is to be made against the balance of the acquiring company's statutory income after deductions under sections 37(3), 37B and 37G.

The new section 37L(15) applies section 14D(4) and (5) (which provide for the adjustment of the deduction amount where the income of a specified company is subject to different tax rates) to a deduction to be allowed under the section.

The new section 37L(16) provides that a deduction may only be made —

- (a) if the acquiring company and the target company (or a subsidiary of the target company) satisfy certain conditions, including a condition that they carry on a trade or business on a specified date or dates and a condition that they have in their employment at least 3 employees (in the case of the acquiring company, 3 local employees) at all times during a period of 12 months immediately before that date or dates; and
- (b) if the acquiring subsidiary satisfies certain conditions, eg. it does not carry on any trade or business on a specified date or dates.

The new section 37L(17) provides that when certain events occur, no deduction may be made to the acquiring company for the year of assessment relating to the basis period in which the event occurs or for any subsequent year of assessment. These events include a failure by the acquiring company to have in its employment at least 3 local employees, and divestment of shares in the target company which brings the ownership level of the acquiring company or acquiring subsidiary to below prescribed limits.

The new section 37L(18) provides that no deduction will be made to the acquiring company unless the Comptroller is satisfied that the shareholders of the acquiring company on the first day of the year of assessment in which the deduction is to be allowed are substantially the same as its shareholders on the date of the share acquisition.

The new section 37L(19) provides that if the acquiring company or the acquiring subsidiary, as the case may be, and the target company are part of the same group of companies on the date of the share acquisition, no deduction is to be made unless the aggregate number of ordinary shares of the target company held by all the companies in the group increases as a result of the acquisition. Where there is such an increase, the deduction allowed is limited to an amount that corresponds to the increased number of ordinary shares.

The new section 37L(20) provides for the carrying forward of any balance of any deduction unutilised for any year of assessment to the next succeeding year of assessment.

The new section 37L(21) provides that any unutilised deduction cannot be carried forward to a year of assessment under subsection (20) and is to be disregarded unless the Comptroller is satisfied that the shareholders of the acquiring company on the first day of that year of assessment are substantially the same as its shareholders on the last day of the year of assessment in which the deduction was claimed.

The new section 37L(22) empowers the Minister or such person as he may appoint to waive the shareholding requirement under subsections (18) and (21) if he is satisfied that any substantial change in the shareholders of the acquiring company is not for the purpose of deriving any tax benefit or obtaining any tax advantage.

The new section 37L(23) provides that the time periods specified in section 74(1) will not apply for the purpose of recovering any wrongful deduction.

The new section 37L(24) empowers the Minister to make regulations to give full effect to and for carrying out the purposes of the section. Regulations may be made to disallow or make adjustments to the amount of any deduction that would otherwise be allowed to the acquiring company where the acquiring company or the acquiring subsidiary, as the case may be, divests of the ordinary shares it holds in the target company. Regulations may also be made to apply the provisions of the new section to registered business trusts, subject to modifications.

The new section 37L(25) to (28) interprets various expressions used in the new section.

Clause 35 amends section 39 (Relief and deduction for resident individual and Hindu joint family) —

- (a) to replace the existing wife relief under subsection (2)(a) with a new spouse relief which allows either the husband or wife to claim the relief provided the income of the spouse does not exceed \$4,000;
- (b) to remove the requirement for all handicapped dependant reliefs under subsection (2)(d), (e), (i) and (j) that the dependant must not have income exceeding \$2,000 in the year immediately preceding the year of assessment in question;
- (c) to clarify that the relief for a handicapped spouse under subsection (2)(d) for payments made under a deed of separation may only be granted if the payer is the husband, and that such relief for alimony may only be given if paid by an ex-husband;
- (d) to provide that the handicapped dependant reliefs under subsection (2)(e), (i) and (j) are allowed even in cases where the handicapped dependant is capable of maintaining himself financially;
- (e) to increase the limit of relief given to a self-employed individual under subsection (2)(h) in respect of his contribution to the Central Provident Fund;
- (f) to increase the amount of annual income of a non-handicapped aged parent to \$4,000 beyond which the relief for that parent under subsection (2)(i) will not be allowed;
- (g) to increase the amounts of relief which can be claimed under subsection (2)(i) in respect of maintaining a parent, grandparent or great-grandparent or a parent, grandparent or great-grandparent of one's spouse;
- (h) to provide in subsection (3) that no payment made to the retirement or special account of a non-handicapped spouse or sibling shall be allowed as a

deduction if the income of that spouse or sibling exceeds \$4,000 in the year preceding the year of payment with effect from year of assessment 2011; and

- (i) to increase the total amount of course fee relief in subsections (2)(k), (12) and (12A) from \$3,500 to \$5,500 with effect from the year of assessment 2011.

Clause 36 makes a consequential amendment to section 40A (Relief for non-resident public entertainers) arising from a temporary reduction of the tax rate as a result of the amendment of section 45GA by clause 49.

Clause 37 amends section 43 (Rate of tax upon companies and others) to extend the period during which the gross amount of distribution made by a trustee of a real estate investment trust listed on the Singapore Exchange to qualifying non-resident persons is subject to a final rate of tax of 10%.

Clause 38 amends section 43C (Exemption and concessionary rate of tax for insurance and reinsurance business) to provide that the Minister may by regulations provide for the period of approval of an insurer under the section, and other supplementary matters. The clause also provides that the approval of insurers under the section will not be granted after specified dates.

Clause 39 amends section 43D (Concessionary rate of tax for offshore transactions on any market maintained by Singapore Exchange or its subsidiaries) to provide that income derived by a futures member of the Singapore Exchange on or after 1st January 2011 from a qualifying transaction will not enjoy the concessionary rate of tax of 10% under the section. Such income derived during the period from 1st January 2011 to 31st December 2013 may however be taxed at a concessionary rate of tax of 12% under section 43Q, subject to conditions.

Clause 40 amends section 43K (Concessionary rate of tax for members of Singapore Commodity Exchange Ltd, etc.) to provide that income derived by a member of the Singapore Commodity Exchange Ltd on or after 1st January 2011 from a qualifying transaction will not enjoy the concessionary rate of tax of 10% under the section. Such income derived during the period from 1st January 2011 to 31st December 2013 may however be taxed at a concessionary rate of tax of 12% under section 43Q, subject to conditions.

Clause 41 amends section 43N (Concessionary rate of tax for income derived from debt securities) to provide that the section will not apply to qualifying income from qualifying debt securities derived by a financial sector incentive (standard tier) company. Such income will be taxed in accordance with the provisions under section 43Q.

Clause 42 amends section 43P (Concessionary rate of tax for global trading company) to provide for the making of regulations to provide that concessionary tax rate of 5% or 10% may be levied and paid upon prescribed income derived by an approved qualifying company on or after 21st May 2010 from carrying on prescribed qualifying structured commodity financing activities, subject to conditions. The approval may be granted during the period from 21st May 2010 to 20th May 2015 (both

dates inclusive) for a specified period not exceeding 5 years. The clause also makes a technical amendment to the definition of “global trading company”.

Clause 43 amends section 43Q (Concessionary rate of tax for financial sector incentive company) to provide for —

- (a) a concessionary rate of tax of 12% on income from prescribed activities derived on or after 1st January 2011 by a financial sector incentive company; and
- (b) the making of transitional provisions by way of regulations for the concessionary tax rate of 12% to apply in respect of income derived during the period from 1st January 2011 to 31st December 2013 by a futures member of the Singapore Exchange and a member of the Singapore Commodity Exchange Ltd.

Clause 44 amends section 43W (Concessionary rate of tax for shipping investment manager) to extend the date by which a shipping investment manager may be approved to 31st March 2016. The approval period must not exceed 5 years if granted during the period from 1st March 2011 to 31st March 2016. Subsection (4) is also amended to clarify that the approval referred to in that subsection is the approval of a person as a shipping investment manager.

Clause 45 makes amendments to section 43ZA (Concessionary rate of tax for container investment enterprise) with respect to the approval of a container investment enterprise, which are similar to the amendments made to section 43W in relation to a shipping investment manager.

Clause 46 makes amendments to section 43ZB (Concessionary rate of tax for container investment manager) with respect to the approval of a container investment manager, which are similar to the amendments made to section 43W in relation to a shipping investment manager. Subsection (4) is also amended to clarify that the approval referred to in that subsection is the approval of a person as a container investment manager.

Clause 47 inserts a new section 43ZE which provides that a concessionary rate of tax of 10% may be granted to an approved company for income from ship broking and forward freight agreement trading, which are in excess of its base amount. The approval of a company for such concessionary tax rate may be granted between 1st April 2010 and 31st March 2015 (both dates inclusive) for a period of 5 years.

Clause 48 makes a consequential amendment to section 45G (Application of section 45 to distribution from any real estate investment trust) arising from the amendment of section 43(3B) by clause 37.

Clause 49 amends section 45GA (Application of section 45 to income derived as public entertainer) to provide for a temporary reduction of the rate of tax from 15% to 10% for income derived by a non-resident public entertainer during the period from 22nd February 2010 to 31st March 2015 (both dates inclusive).

Clause 50 amends section 92 (Remission of tax) to enable the Minister to grant a remission, reduction or refund of tax at his discretion and for tax that has yet to become

payable. The remission, reduction or refund may be granted subject to conditions. If the Minister is satisfied that any condition is breached, the amount of tax in respect of which the remission, reduction or refund is granted shall be recoverable as a debt due to the Government.

Clause 51 makes consequential amendments to section 101 (Consent for prosecution) as a result of the insertion of the new section 37J by clause 32.

Clause 52 makes a consequential amendment to section 104(2) arising from the insertion of the new section 37J by clause 32.

Clause 53 amends the Fifth Schedule (Child relief) to provide that no deduction shall be allowed in respect of any child —

- (a) who is not incapacitated; and
- (b) who, in the year immediately preceding the year of assessment, either —
 - (i) has income exceeding \$4,000; or
 - (ii) was employed or exercised any trade, business, profession or vocation, or both.

Clause 54 makes consequential amendments to various provisions of the Act arising from —

- (a) the phasing out of industrial building allowance and the introduction of the land intensification allowance under the new section 18C; and
- (b) the insertion of section 43ZE by clause 47.

Clause 55 makes consequential amendments to various provisions of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) arising from the phasing out of industrial building allowance, the introduction of the land intensification allowance under the new section 18C, the introduction of further allowances under sections 19A and 19B, and the insertion of section 43ZE by clause 47.

Clause 56 enables the Minister to make savings and transitional provision by regulations.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
