

Economic Expansion Incentives (Relief from Income Tax) (Amendment) Bill

Bill No. 9/2016.

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A BILL

i n t i t u l e d

An Act to amend the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86 of the 2005 Revised Edition) and to make consequential amendments to the Income Tax Act (Chapter 134 of the 2014 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 is the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016.

5 (2) Section 30 is deemed to have come into operation on 25 February 2013.

(3) Sections 2(a), 24 and 25 are deemed to have come into operation on 24 February 2015.

(4) Sections 19(b) and 27(a) are deemed to have come into operation on 1 April 2015.

10 Amendment of section 3

2. Section 3 of the Economic Expansion Incentives (Relief from Income Tax) Act (called in this Act the principal Act) is amended —

15 (a) by deleting the word “certified” in the definitions of “approved foreign loan” and “approved royalties, fees or contributions” and substituting in each case the word “approved”;

(b) by deleting the definitions of “new trade or business” and “old trade or business” and substituting the following definitions:

20 ““new trade or business” means the trade or business —

(a) in respect of any product or products specified in a single pioneer certificate of a pioneer enterprise; and

25 (b) that is considered under section 7 to have been set up and commenced on the day following the tax relief expiry date of the old trade or business in respect of that product or those products;

30 “old trade or business” means the trade or business of a pioneer enterprise which satisfies all the following conditions:

- (a) it is in respect of one or more pioneer products specified in a single pioneer certificate of the pioneer enterprise;
- (b) the part of the trade or business in respect of each pioneer product is carried on during the tax relief period for that product;
- (c) it either ceases before or is considered, under section 7, to have permanently ceased on the tax relief expiry date;”;
- (c) by deleting the definition of “pioneer enterprise” and substituting the following definition:
- ““pioneer enterprise” means any company which has been approved by the Minister under section 5 for a pioneer product and to which a pioneer certificate is issued under that section;”;
- (d) by deleting the definition of “production day” and substituting the following definition:
- ““production day”, in relation to a pioneer product that is approved under section 5(2) for a pioneer enterprise, means the date specified in the pioneer enterprise’s pioneer certificate under section 5(3)(b) or (5)(a) or (c) as the production day of that product;”;
- (e) by deleting the full-stop at the end of the definition of “tax” and substituting a semi-colon, and by inserting immediately thereafter the following definition:
- ““tax relief expiry date”, in relation to an old trade or business, means —
- (a) where the old trade or business is in respect of only one pioneer product, the date on which the tax relief period for that pioneer product expires; or

(b) where the old trade or business is in respect of 2 or more pioneer products, the date on which all the tax relief periods for those products expire, or (if the Minister has removed one or more but not all of those products from the pioneer certificate under section 5, or extended the tax relief period or periods for one or more but not all of those products under section 6) the date of expiry of the tax relief period with the latest date of expiry.”.

Amendment of section 5

3. Section 5 of the principal Act is amended —

(a) by inserting, immediately after the words “pioneer enterprise” in subsection (1), the words “for that pioneer product”;

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

“(1A) A company may make an application under subsection (1) to be approved as a pioneer enterprise for more than one pioneer product which it is desirous of producing.”;

(c) by deleting the words “he may approve that company as a pioneer enterprise and issue a pioneer certificate to the company” in subsection (2) and substituting the words “the Minister may approve that company as a pioneer enterprise for that pioneer product and issue a pioneer certificate to the company in respect of that pioneer product”;

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

“(2A) No company may be approved as a pioneer enterprise on or after 1 January 2024.”; and

(e) by deleting subsections (3), (4) and (5) and substituting the following subsections:

“(3) Every pioneer certificate issued under this section to a pioneer enterprise must be in respect of a pioneer product and must specify —

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(a) the pioneer product; and

(b) the date on or before which it is expected that the pioneer enterprise will commence to produce in marketable quantities the pioneer product.

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(4) Where the Minister approves a company as a pioneer enterprise for 2 or more pioneer products, the Minister may issue a single pioneer certificate in respect of those pioneer products if —

(a) the tax relief periods of the pioneer enterprise for all the pioneer products, as determined by the Minister under section 6, expire on the same day; and

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(b) the Minister is satisfied that the pioneer enterprise will be producing all the pioneer products as part of the same project.

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(5) The Minister may, upon the application of any pioneer enterprise, amend a pioneer certificate issued to the pioneer enterprise —

(a) by substituting for the date referred to in subsection (3)(b) of a pioneer product specified in the pioneer certificate such earlier or later date as the Minister thinks fit, and upon such substitution the provisions of this Act have effect as if the date so substituted were the pioneer enterprise’s production day of that product;

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(b) by removing any pioneer product from the pioneer certificate with effect from a date determined by the Minister; or

(c) by adding to the pioneer certificate any pioneer product and the date on or before which it is expected that the pioneer enterprise will commence to produce that product in marketable quantities, if —

(i) the tax relief period for the pioneer product expires on the same day as the tax relief period or periods of the other pioneer product or products already specified in the pioneer certificate; and

(ii) the Minister is satisfied that the pioneer enterprise will be producing that pioneer product and the other pioneer product or products already specified in the pioneer certificate as part of the same project.

(6) Without prejudice to section 99, the Minister may, on the Minister's own initiative, remove any pioneer product from a pioneer certificate with effect from a date determined by the Minister, if the Minister is satisfied that the pioneer enterprise has contravened —

(a) any provision of this Act; or

(b) any condition of its approval as a pioneer enterprise.”.

Repeal and re-enactment of sections 6 and 7

4. Sections 6 and 7 of the principal Act are repealed and the following sections substituted therefor:

“Tax relief period for pioneer product

6.—(1) The tax relief period of a pioneer enterprise for a pioneer product commences on the production day of that pioneer product and continues for such period, not exceeding 15 years, as the Minister may determine.

(2) Subject to subsections (3) and (4), the Minister may, if the Minister is satisfied that it is expedient in the public interest to do so and subject to such conditions as the Minister may impose —

(a) where the pioneer certificate issued to a pioneer enterprise only specifies one pioneer product, extend the tax relief period in subsection (1) for that product for such further period or periods, not exceeding 5 years at any one time, as the Minister may determine; or

(b) where the pioneer certificate issued to a pioneer enterprise specifies more than one pioneer product, extend the tax relief period or periods in subsection (1) for one or more of those products for such further period or periods, not exceeding 5 years at any one time, as the Minister may determine.

(3) The total tax relief period for a pioneer product, together with all extensions, must not in total exceed 15 years.

(4) Where the Minister extends the tax relief periods of a pioneer enterprise for more than one of the pioneer products specified in the pioneer certificate under subsection (2)(b), the Minister must ensure that all the tax relief periods of those pioneer products, after such extension, expire on the same day.

(5) Where a pioneer product is removed from a pioneer certificate under section 5(5)(b) or (6), its tax relief period expires on the effective date of its removal.

Provisions governing old and new trade or business

7. For the purposes of the Income Tax Act (Cap. 134) and this Act —

(a) an old trade or business of a pioneer enterprise in respect of a pioneer product or products which is or are the subject of a single pioneer certificate issued to the pioneer enterprise is considered to have permanently ceased on the tax relief expiry date;

(b) the pioneer enterprise is considered to have set up and commenced a new trade or business in respect of the

same product or products on the day immediately following the tax relief expiry date;

(c) the pioneer enterprise must make up accounts of each old trade or business for a period not exceeding one year, commencing on —

(i) the production day of the pioneer product; or

(ii) where the pioneer certificate specifies 2 or more pioneer products, the earlier or earliest of the production days of those pioneer products,

for successive periods of one year thereafter and for the period not exceeding one year ending on the tax relief expiry date;

(d) in making up the first accounts of the new trade or business referred to in paragraph (b), the pioneer enterprise must take as the opening figures for those accounts the closing figures in respect of its assets and liabilities as shown in its last accounts of the corresponding old trade or business; and

(e) the next accounts of the new trade or business following the first accounts referred to in paragraph (d), must be made up by reference to the closing figures in the first accounts, and any subsequent accounts of the new trade or business must be similarly made up by reference to the closing figures of the preceding accounts of the new trade or business.”.

Amendment of section 8

5. Section 8 of the principal Act is amended —

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

“(1) Where at any time —

(a) during the tax relief period for a pioneer product of a pioneer enterprise; or

(b) where the pioneer certificate issued to a pioneer enterprise specifies 2 or more pioneer products, during the longer or longest of the tax relief periods for those pioneer products,

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the pioneer enterprise carries on any trade or business other than the old trade or business in respect of that product or those products (called in this section separate trade or business), separate accounts must be maintained for that separate trade or business and in respect of the same accounting period.”;

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(b) by deleting the words “results in a loss in any accounting period, the loss shall be brought into the computation of the income of the pioneer enterprise” in subsection (2) and substituting the words “or business results in a loss in any accounting period, the loss must be brought into the computation of the income of the pioneer enterprise from the old trade or business”;

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(c) by inserting, immediately after the words “separate trade” in subsection (3), the words “or business”;

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(d) by inserting, immediately after the words “pioneer enterprise” in subsection (3), the words “from the old trade or business”; and

(e) by deleting subsections (4) and (5) and substituting the following subsection:

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“(4) Where, in the opinion of the Comptroller, the carrying on of such separate trade or business is subordinate and incidental to the carrying on of the old trade or business, the income or loss arising from such separate trade or business is considered to form part of the income or loss of the pioneer enterprise from that old trade or business.”.

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Repeal and re-enactment of section 9

6. Section 9 of the principal Act is repealed and the following section substituted therefor:

“Power to give directions

5 **9.** For the purposes of the Income Tax Act (Cap. 134) and this Act, the Comptroller may direct that —

10 (a) any sums payable to a pioneer enterprise for a pioneer product in any accounting period which, but for the provisions of this Act, might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period, are to be treated as not having been payable in that period but as having been payable on such date, after that period, as the Comptroller thinks fit;

15 (b) where the date referred to in paragraph (a) is after the end of the tax relief period for that pioneer product, those sums are to be treated as having been so payable on that date, in relation to the new trade or business of the pioneer enterprise in respect of that product; and

20 (c) any expense incurred by a pioneer enterprise in respect of a pioneer product within one year after the end of the tax relief period for that pioneer product which, but for the provisions of this Act, might reasonably and properly have been expected to be incurred, in the normal course of business, during the tax relief period for that pioneer product, are to be treated —

25 (i) as not having been incurred within that year; but

30 (ii) as having been incurred for the purposes of its old trade or business in respect of that pioneer product and on such date, during the tax relief period for that pioneer product, as the Comptroller thinks fit.”.

Amendment of section 10

7. Section 10 of the principal Act is amended —

(a) by deleting the words “in respect of its old trade or business” in subsection (1) and substituting the words “from each of its old trades or businesses”;

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(b) by inserting, immediately after the words “Income Tax Act” in subsection (2), the words “for capital expenditure incurred for the purposes of each old trade or business”;

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

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“(3) Where the tax relief expiry date of an old trade or business of a pioneer enterprise is before the last day of the basis period for any year of assessment, then, for the purpose of determining the income in respect of —

(a) that old trade or business for that year of assessment; and

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(b) the corresponding new trade or business for the same year of assessment,

allowances provided for in sections 16, 17, 18, 18B, 18C, 19, 19A, 19B, 20, 21 and 22 of the Income Tax Act for capital expenditure incurred for the purposes of that old trade or business must be deducted even though no claim for such allowances has been made.

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(3A) For the purpose of computing the allowances under subsection (3) —

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(a) the allowances for that year of assessment must be computed as if the old trade or business of the pioneer enterprise had not been considered to have permanently ceased on the tax relief expiry date in accordance with section 7(a); and

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(b) the allowances computed in accordance with paragraph (a) must be apportioned between that old trade or business and that new trade or

business in such manner as appears to the Comptroller to be reasonable in the circumstances.”;

- 5 (d) by deleting the words “within its tax relief period in respect of any asset used for the purposes of its new trade or business shall, subject to such conditions as the Minister may impose, be deemed, for the purposes of sections 16, 17, 18, 18B, 18C, 19, 19A, 19B, 20, 21 and 22 of the Income Tax Act (Cap. 134), to have been incurred on the day immediately following the last day of its tax relief period” in
10 subsection (5) and substituting the words “whilst it is carrying on an old trade or business in respect of any asset used for the purposes of its corresponding new trade or business are (subject to such conditions as the Minister may impose) considered for the purposes of sections 16, 17, 18, 18B, 18C, 19, 19A, 19B, 20, 21 and 22 of the Income Tax Act, to have been incurred on the day immediately following the tax relief expiry date of the old trade or business”; and
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- (e) by deleting subsection (8) and substituting the following
20 subsection:

“(8) Where —

- (a) a pioneer enterprise mentioned in subsection (5) or (7) is the holder of 2 or more pioneer certificates;
- 25 (b) the tax relief expiry dates of the old trades or businesses relating to those pioneer certificates are different; and
- (c) capital expenditure has been incurred in respect of any building, plant or machinery which is jointly used in carrying on those old trades or businesses,
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then a deduction must not be made in respect of such expenditure under any of the provisions contained in sections 16, 17, 18, 18B, 18C, 19, 19A, 19B, 20, 21 and

22 of the Income Tax Act until after the tax relief expiry date that is later or latest in time.”.

Amendment of section 11

8. Section 11 of the principal Act is amended by deleting the words “its old trade or business” and substituting the words “each of its old trades or businesses”.

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Amendment of section 12

9. Section 12 of the principal Act is amended by deleting the words “its old trade or business” and substituting the words “each of its old trades or businesses”.

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Amendment of section 13

10. Section 13(1) of the principal Act is amended by deleting the words “Subject to section 14(7), where” and substituting the word “Where”.

Repeal and re-enactment of sections 14 and 15

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11. Sections 14 and 15 of the principal Act are repealed and the following sections substituted therefor:

“Recovery of tax exempted

14.—(1) Despite section 13, the Comptroller may, subject to section 74 of the Income Tax Act (Cap. 134), make an assessment or additional assessment as described in subsection (2) upon a pioneer enterprise if it appears to the Comptroller that any amount of income of the pioneer enterprise exempted from tax ought not to have been exempted by reason of —

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(a) any direction made under section 9; or

(b) the revocation under section 99 of a pioneer certificate issued to the pioneer enterprise.

(2) The assessment or additional assessment under subsection (1) is at an amount that appears to the Comptroller

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to be necessary to counteract any profit obtained by the pioneer enterprise from the exempted income.

(3) Parts XVII and XVIII of the Income Tax Act (relating to assessments, objections and appeals) and any rules made under that Act apply, with the necessary modifications, to an assessment or additional assessment under subsection (1) as if it were a notice of assessment under those Parts.

Carry forward of loss and allowance

15.—(1) Where a pioneer enterprise has at any time —

(a) during its tax relief period for a pioneer product; or

(b) where the pioneer certificate issued to the pioneer enterprise specifies 2 or more pioneer products, during the longer or longest of the tax relief periods for those pioneer products,

incurred a loss in the old trade or business in respect of that product or any of those products for any year, that loss must be deducted in accordance with section 37 of the Income Tax Act (Cap. 134) (as applied with the necessary modifications), but only against the income of the pioneer enterprise from that old trade or business as ascertained under section 10.

(2) The balance of any such loss which remains unabsorbed on the tax relief expiry date of the old trade or business is available as a deduction for the year of assessment which relates to the basis period in which the tax relief expiry date falls and for any subsequent year of assessment in accordance with section 37 of the Income Tax Act, in the following descending order of priority:

(a) against the statutory income of the pioneer enterprise from the corresponding new trade or business;

(b) against the statutory income of the pioneer enterprise from any other trade or business;

(c) against the statutory income of the pioneer enterprise from any other source.

(3) Despite section 7(a), the balance of any allowance as provided for in section 10 which remains unabsorbed on the tax relief expiry date of the old trade or business is available as a deduction for the year of assessment which relates to the basis period in which the tax relief expiry date falls and for any subsequent year of assessment in accordance with section 23 of the Income Tax Act, in the following descending order of priority:

- (a) against the statutory income of the pioneer enterprise from the corresponding new trade or business;
- (b) against the statutory income of the pioneer enterprise from any other trade or business;
- (c) against the statutory income of the pioneer enterprise from any other source.”.

Amendment of section 16

12. Section 16 of the principal Act is amended by deleting the definition of “commencement day” and substituting the following definition:

““commencement day”, in relation to a qualifying activity that is approved under section 17(2) for a pioneer service company, means the date specified in the pioneer service company’s certificate under section 17(4)(b) or (6)(a) or (c) as the commencement day of that qualifying activity;”.

Amendment of section 17

13. Section 17 of the principal Act is amended —

- (a) by inserting, immediately after the words “pioneer service company” in subsection (1), the words “for that qualifying activity”;
- (b) by inserting, immediately after subsection (1), the following subsection:

“(1A) A company may make an application under subsection (1) to be approved as a pioneer service

company for more than one qualifying activity which it is engaged in.”;

5 (c) by deleting the words “the application and issue the company with a certificate subject to such terms and conditions as he” in subsection (2) and substituting the words “the company as a pioneer service company for the qualifying activity and issue to that company a certificate subject to such conditions as the Minister”; and

10 (d) by deleting subsections (3) and (4) and substituting the following subsections:

“(3) No company may be approved as a pioneer service company on or after 1 January 2024.

15 (4) Every certificate issued under this section to a pioneer service company must be in respect of a qualifying activity and must specify —

(a) the qualifying activity; and

(b) a date as the commencement day of the qualifying activity.

20 (5) Where the Minister approves a company as a pioneer service company for 2 or more qualifying activities, the Minister may issue a single certificate in respect of those qualifying activities if —

25 (a) the tax relief periods of the pioneer service company for all the qualifying activities, as determined by the Minister under section 6 (as applied by section 19), expire on the same day; and

30 (b) the Minister is satisfied that the pioneer service company is engaged in all the qualifying activities as part of the same project.

(6) The Minister may, upon the application of any pioneer service company, amend a certificate issued to the company —

- (a) by substituting for the commencement day of a qualifying activity specified in the certificate under subsection (4)(b) such earlier or later date as the Minister thinks fit, and upon such substitution the provisions of this Act have effect as if the date so substituted were the company's commencement day of that qualifying activity; 5
- (b) by removing any qualifying activity from the certificate with effect from a date determined by the Minister; or 10
- (c) by adding to the certificate any qualifying activity and a date as its commencement day, if —
 - (i) the tax relief period for the qualifying activity expires on the same day as the tax relief period or periods for the other qualifying activity or activities already specified in the certificate; and 15
 - (ii) the Minister is satisfied that the pioneer service company is engaged in the qualifying activity and the other qualifying activity or activities already specified in the certificate as part of the same project. 20 25

(7) Without prejudice to section 99, the Minister may, on the Minister's own initiative, remove any qualifying activity from a certificate with effect from a date determined by the Minister, if the Minister is satisfied that the pioneer service company has contravened — 30

- (a) any provision of this Act; or
- (b) any condition of its approval as a pioneer service company.”.

Repeal of section 18

14. Section 18 of the principal Act is repealed.

Amendment of section 19

15. Section 19 of the principal Act is amended —

5 (a) by deleting the words “Sections 7” and substituting the words “Sections 6”;

(b) by deleting paragraph (c) and substituting the following paragraph:

10 “(c) any reference to the production day of a pioneer product of a pioneer enterprise shall be read as a reference to the commencement day of a qualifying activity of a pioneer service company; and”;

15 (c) by deleting the words “sections 7” in the section heading and substituting the words “sections 6”.

Amendment of section 19I

16. Section 19I of the principal Act is amended by deleting the definition of “commencement day” and substituting the following definition:

20 ““commencement day”, in relation to a qualifying activity that is approved under section 19J(2) for a development and expansion company, means the date specified in the development and expansion company’s certificate under section 19J(4)(b) or (5A)(a) or (c) as the commencement day of that qualifying activity;”.

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Amendment of section 19J

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

30 (a) by inserting, immediately after the words “development and expansion company” in subsection (1), the words “for that qualifying activity”;

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

“(1A) A company may make an application under subsection (1) to be approved as a development and expansion company for more than one qualifying activity which it is engaged in.”;

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(c) by deleting the words “the application and issue the company with a certificate subject to such terms and conditions as he” in subsection (2) and substituting the words “the company as a development and expansion company for the qualifying activity and issue to that company a certificate subject to such conditions as the Minister”;

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(d) by deleting subsections (3), (4), (5) and (5A) and substituting the following subsections:

“(3) No company may be approved as a development and expansion company on or after 1 January 2024.

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(4) Every certificate issued to a development and expansion company must be in respect of a qualifying activity and must specify —

(a) the qualifying activity;

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(b) a date as the commencement day of the qualifying activity; and

(c) the concessionary rate of tax to be levied for that qualifying activity for the purposes of this Part.

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(5) Where the Minister approves a company as a development and expansion company for 2 or more qualifying activities, the Minister may issue a single certificate in respect of those qualifying activities if —

(a) the tax relief periods of the development and expansion company for all the qualifying activities, as determined by the Minister under section 19K, expire on the same day; and

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(b) the Minister is satisfied that the development and expansion company is engaged in all the qualifying activities as part of the same project.

5 (5A) The Minister may, upon the application of any development and expansion company, amend a certificate issued to the company —

10 (a) by substituting for the commencement day of a qualifying activity specified in the certificate under subsection (4)(b) such earlier or later date as the Minister thinks fit, and upon such substitution the provisions of this Act have effect as if the date so substituted were the company's commencement day of that qualifying activity;

15 (b) by removing any qualifying activity from the certificate with effect from a date determined by the Minister; or

20 (c) by adding to the certificate any qualifying activity and a date as its commencement day, if —

25 (i) the tax relief period for the qualifying activity expires on the same day as the tax relief period or periods for the other qualifying activity or activities already specified in the certificate; and

30 (ii) the Minister is satisfied that the development and expansion company is engaged in the qualifying activity and the other qualifying activity or activities already specified in the certificate as part of the same project.

35 (5B) Without prejudice to section 99, the Minister may, on the Minister's own initiative, remove any qualifying activity from a certificate with effect from a date determined by the Minister, if the Minister is

satisfied that the development and expansion company has contravened —

- (a) any provision of this Act; or
- (b) any condition of its approval as a development and expansion company.

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(5C) Despite section 43 of the Income Tax Act, tax at the applicable concessionary rate in subsection (5D) is levied and must be paid for each year of assessment —

- (a) upon the expansion income derived by a development and expansion company from the qualifying activity specified in its certificate during its tax relief period for that activity; or
- (b) if the certificate specifies 2 or more qualifying activities, upon the expansion income derived by it from all of those qualifying activities during its respective tax relief periods for those activities.

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(5D) In subsection (5C), the concessionary rate is —

- (a) in the case of a development and expansion company approved as such before the date of commencement of section 17(*d*) of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016, a concessionary rate of not less than 5%, as the Minister may specify in the certificate; or
- (b) in any other case, either 5% or 10% as the Minister may specify in the certificate.

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(5E) In the case of a development and expansion company that is approved as such on or after 29 February 2012, or that has been granted on or after that date an extension of its tax relief period or periods for any qualifying activity or activities, the

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concessionary rate of tax applicable to the expansion income derived by it —

(a) from the qualifying activity specified in the company's certificate during any part of the company's tax relief period for that activity mentioned in subsection (5F); or

(b) if the certificate specifies 2 or more qualifying activities, from all of those activities during any part of the company's respective tax relief periods for those activities mentioned in subsection (5F),

at any time on or after the date of the approval or during the extension period (as the case may be), is the rate specified by the Minister to the company, which must not be less than —

$$(0.5 + A)\%$$

where A is the concessionary rate of tax applicable to the company's expansion income derived by it from that activity or those activities (as the case may be) immediately before the commencement of that part of the tax relief period or those tax relief periods.

(5F) In subsection (5E), the parts of a tax relief period for a qualifying activity are —

(a) the beginning of the 11th year of the tax relief period to the end of the 15th year of, or the end of, the tax relief period, whichever is earlier;

(b) the beginning of the 16th year of the tax relief period to the end of the 20th year of, or the end of, the tax relief period, whichever is earlier;

(c) the beginning of the 21st year of the tax relief period to the end of the 30th year of, or the end

of, the tax relief period, whichever is earlier;
and

(d) the beginning of the 31st year of the tax relief period to the end of the 40th year of, or the end of, the tax relief period, whichever is earlier.”; 5

(e) by deleting the words “qualifying activities” in subsection (6) and substituting the words “qualifying activity or activities”; and

(f) by inserting, immediately after the word “section” in subsection (7), the words “from that qualifying activity or those qualifying activities”. 10

Amendment of section 19K

18. Section 19K of the principal Act is amended —

(a) by deleting the words “shall commence on its commencement day and shall continue” in subsection (1) and substituting the words “for a qualifying activity commences on its commencement day of that qualifying activity and continues”; 15

(b) by deleting subsection (2) and substituting the following subsection: 20

“(2) Subject to subsection (3), the Minister may, if the Minister is satisfied that it is expedient in the public interest to do so and subject to such conditions as the Minister may impose —

(a) where the certificate issued to a development and expansion company only specifies one qualifying activity, extend the tax relief period of the company in subsection (1) for that activity for such further period or periods, not exceeding 5 years at any one time, as the Minister may determine; or 25 30

(b) where the certificate issued to a development and expansion company specifies more than one qualifying activity, extend the tax relief

period or periods of the company in subsection (1) for one or more of those activities for such further period or periods, not exceeding 5 years at any one time, as the Minister may determine.”;

(c) by inserting, immediately after the words “development and expansion company” in subsections (3), (3A), (3B) and (3C), the words “for a qualifying activity”;

(d) by inserting, immediately after the words “of the company” wherever they appear in subsection (5), the words “for that qualifying activity”; and

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

“(6) The Minister must, in extending the tax relief period of a development and expansion company for international legal services as defined in section 19KA(3), take into account any tax relief period which it enjoyed for such services under section 19KA.”.

Amendment of section 19KA

19. Section 19KA(1) of the principal Act is amended —

(a) by inserting, immediately after the words “development and expansion company”, the words “for those services”;

(b) by deleting “2015” and substituting “2020”; and

(c) by deleting paragraphs (a) and (b) and substituting the following paragraphs:

“(a) despite section 19K(1), (2), (3), (3A) and (3B), the tax relief period of the company for international legal services is a non-extendable period of 5 years commencing on its commencement day; and

(b) despite section 19J(5C), tax at the rate of 10% is levied and must be paid for each year of

assessment upon the expansion income derived from the provision of those services by the company during its tax relief period for those services.”.

Repeal and re-enactment of section 19L

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20. Section 19L of the principal Act is repealed and the following section substituted therefor:

“Recovery of tax subject to concessionary rate

19L. Despite any other provision of this Part, the Comptroller may, subject to section 74 of the Income Tax Act (Cap. 134), make an assessment or additional assessment upon a company to make good any loss of tax, if it appears to the Comptroller that any income of the company ought not to have been taxed at a concessionary rate under section 19J or 19KA.”.

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Amendment of section 19M

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21. Section 19M of the principal Act is amended —

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

“(1) Subject to subsections (2) and (3) —

(a) the qualifying income of a development and expansion company derived from a qualifying activity; or

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(b) where the certificate issued to a development and expansion company under section 19J(2) specifies 2 or more qualifying activities, the total qualifying income of the development and expansion company derived from all of those qualifying activities,

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is ascertained in accordance with the provisions of the Income Tax Act, after making such adjustments as may be necessary to give effect to any direction given under section 19P.”;

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- 5 (b) by inserting, immediately after the words “of a development and expansion company” in subsection (2), the words “mentioned in subsection (1)(a) or the total qualifying income of a development and expansion company mentioned in subsection (1)(b)”;
- (c) by inserting, immediately after the words “Income Tax Act” in subsection (2)(a), the words “for capital expenditure incurred for the purposes of the qualifying activity or all the qualifying activities”;
- 10 (d) by inserting, immediately after the words “qualifying income of the company” in subsection (2)(b), (e) and (g), the words “from the qualifying activity or the total qualifying income of the company from all the qualifying activities”;
- 15 (e) by inserting, immediately after the words “any loss incurred” in subsection (2)(d), the words “in carrying out the qualifying activity, or any net loss incurred in carrying out all the qualifying activities,”;
- (f) by deleting the words “of a development and expansion company” in subsection (3)(b)(i) and substituting the words “or the total qualifying income of the development and expansion company”; and
- 20 (g) by deleting the words “its qualifying income” in subsection (4) and substituting the words “the qualifying income or the total qualifying income of the development and expansion company”.
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Repeal and re-enactment of section 19N

22. Section 19N of the principal Act is repealed and the following section substituted therefor:

“Ascertainment of income from other trade or business

30 **19N.**—(1) Where at any time —

- (a) during the tax relief period of a development and expansion company for a qualifying activity; or

- (b) where the certificate issued to the development and expansion company under section 19J(2) specifies 2 or more qualifying activities, during the longer or longest of the tax relief periods of the company for those qualifying activities,

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the development and expansion company carries on any trade or business other than the qualifying activity or activities, separate accounts must be maintained for that other trade or business and in respect of the same accounting period; and the income from that other trade or business must be computed and assessed in accordance with the Income Tax Act (Cap. 134) with such adjustments as the Comptroller thinks reasonable and proper.

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(2) Where, in the opinion of the Comptroller, the carrying on of such other trade or business is subordinate or incidental to the carrying on of the qualifying activity or activities, the income or loss arising from such other trade or business is considered to form part of the income or loss of the company from that qualifying activity or the total income or total loss of the company from those qualifying activities.”

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Amendment of section 19P

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23. Section 19P of the principal Act is amended —

- (a) by inserting, immediately after the words “tax relief period” in paragraph (a), the words “for a qualifying activity”; and
 (b) by deleting paragraph (b) and substituting the following paragraph:

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“(b) any expense incurred by a development and expansion company in respect of a qualifying activity within one year after the end of the tax relief period for that activity which might reasonably and properly have been expected to be incurred, in the normal course of business, during that tax relief period, is to be treated —

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- (i) as not having been incurred within that year; but

- (ii) as having been incurred for the purposes of that qualifying activity and on such date during that tax relief period as the Comptroller thinks fit.”.

5 **Amendment of section 57**

24. Section 57 of the principal Act is amended —

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

10 “(1) A company that desires to obtain a loan of not less than \$20 million from a non-resident person (called in this Part a foreign lender) by means of an agreement under which credit facilities are granted for the purchase of productive equipment for the purposes of its trade or business, may apply to the Minister for that loan to be
15 approved as an approved foreign loan.

(2) The Minister may, where the Minister thinks it expedient to do so, consider an application for approval in respect of a foreign loan of less than \$20 million.”;

- (b) by deleting the word “financial” in subsection (3);

- 20 (c) by deleting subsection (4) and substituting the following subsection:

“(4) Where the Minister is satisfied as to the bona fides of such an application and that it is expedient in the public interest to do so, the Minister may —

- 25 (a) subject to such conditions as the Minister considers appropriate, approve the loan specified in the application as an approved foreign loan; and

- (b) issue a certificate certifying the approval.”;

- 30 (d) by deleting the words “, and shall be subject to such conditions as the Minister thinks fit” in subsection (5);

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

- “(6) The Minister may not approve any loan as an approved foreign loan on or after 1 January 2024.”; and
- (f) by deleting the words “and issue of approved foreign loan certificate” in the section heading and substituting the words “approval of foreign loan”.

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Amendment of section 61

25. Section 61 of the principal Act is amended —

- (a) by deleting the words “a certificate certifying those royalties, fees or contributions to be” in subsection (1) and substituting the words “those royalties, fees or contributions to be approved as”;
- (b) by deleting subsections (2) and (3) and substituting the following subsections:
- “(2) The application must be in such form and contain such particulars as the Minister may require, and must be accompanied by —
- (a) a copy of the proposed agreement or arrangement certified by the non-resident person; or
- (b) such particulars as the Minister may require.
- (3) Where the Minister is satisfied as to the bona fides of an application and that it is expedient in the public interest to do so, the Minister may —
- (a) subject to such conditions as the Minister considers appropriate, approve the royalties, fees or contributions specified in the application as approved royalties, fees or contributions; and
- (b) issue a certificate certifying the approval.
- (4) The Minister may not approve any royalties, fees or contributions as approved royalties, fees or contributions on or after 1 January 2024.”; and

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- (c) by deleting the words “and issue of approved royalties, fees or contributions certificate” in the section heading and substituting the words “approval of royalties, fees or contributions”.

5 **Amendment of section 64**

26. Section 64 of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Where —

10 (a) on or after the date of commencement of section 26 of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016, a company contravenes section 62(2) or any condition under section 61(3); and

15 (b) the Minister is of the view that it is in the public interest to do so,

the Minister may revoke the approval under section 61(3)(a).

20 (3) In subsection (2), the approval to be revoked, in the case of a contravention of section 62(2), is the approval of those royalties, fees or contributions that are payable under the agreement or arrangement that is the subject of the contravention.

25 (4) Where an approval of any royalties, fees or contributions is revoked under subsection (2), the amount of tax which, but for subsection (1), would have been deductible by the company from the royalties, fees or contributions paid by it to the non-resident person under section 45A of the Income Tax Act —

(a) is considered to have been deducted from the royalties, fees and contributions;

(b) is a debt due from the company to the Government; and

30 (c) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act.

(5) The Minister for Finance may waive all or a part of any debt due from a company under subsection (4), if the Minister for

Finance is satisfied that the company did not knowingly or intentionally contravene —

(a) section 62(2); or

(b) the condition imposed under section 61(3),

as the case may be.

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(6) A reference in subsections (2), (3) and (4) to an approval under section 61(3)(a) is, in the case of an approval given under section 61 before 24 February 2015, a reference to a certificate under that section as in force immediately before that date.”.

Amendment of section 67

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27. Section 67 of the principal Act is amended —

(a) by deleting “2015” in subsection (7) and substituting “2021”; and

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

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“(8) Approval under this section may not be granted to any company in respect of any project under subsection (1)(a) to (h) on or after 1 January 2024.”.

Amendment of section 70

28. Section 70(2) of the principal Act is amended by deleting the words “or any shareholder of the company and the tax exempt account, kept in accordance with section 72, shall be debited accordingly” in paragraphs (a)(ii) and (b)(ii).

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Repeal of sections 72, 73 and 74 and re-enactment of section 72

29. Sections 72, 73 and 74 of the principal Act are repealed and the following section substituted therefor:

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“Recovery of tax exempted

72.—(1) Despite any other provision of this Part, the Comptroller may, subject to section 74 of the Income Tax Act (Cap. 134), make an assessment or additional assessment upon a company to recover any tax if it appears to the Comptroller that

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any amount of income of the company that has been exempted from tax ought not to have been so exempted by reason of the revocation under section 99 of a certificate issued under section 67 to the company.

5 (2) Parts XVII and XVIII of the Income Tax Act (relating to assessments, objections and appeals) and any rules made under that Act apply, with the necessary modifications, to an assessment or additional assessment under subsection (1) as if it were a notice of assessment under those Parts.”.

10 **Repeal of Part XIII B**

30. Part XIII B of the principal Act is repealed.

Repeal of Part XIII C

31. Part XIII C of the principal Act is repealed.

15 **Repeal of sections 97ZI and 97ZJ and re-enactment of section 97ZI**

32. Sections 97ZI and 97ZJ of the principal Act are repealed and the following section substituted therefor:

“Recovery of tax

20 **97ZI.**—(1) Despite any other provision of this Part, the Comptroller may, subject to section 74 of the Income Tax Act (Cap. 134), make an assessment or additional assessment upon a company to recover any tax if it appears to the Comptroller that any amount of income of the company that has been exempted from tax ought not to have been so exempted by reason of the
25 revocation under section 99 of the approval letter issued under section 97ZB to the company.

30 (2) Parts XVII and XVIII of the Income Tax Act (relating to assessments, objections and appeals) and any rules made under that Act apply, with the necessary modifications, to an assessment or additional assessment under subsection (1) as if it were a notice of assessment under those Parts.”.

Amendment of section 99

33. Section 99 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

“(4) This section applies to an approval granted under section 57 or 61, as amended by the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016, as if —

(a) a reference in this section to the issue of a certificate or letter is a reference to the approval of a loan under section 57 or the approval of royalties, fees or contributions under section 61;

(b) a reference in this section to terms or conditions imposed on the certificate or letter is a reference to the conditions of the approval mentioned in section 57(4)(a) or 61(3)(a), as the case may be;

(c) a reference in this section to the revocation of a certificate or letter is a reference to the revocation of such approval;

(d) a reference in this section to the date of a certificate or letter is a reference to the date of such approval; and

(e) a reference in this section to the provisions of this Act ceasing to have effect in relation to a certificate or letter is a reference to the provisions of this Act ceasing to have effect in relation to the approved loan or the approved royalties, fees or contributions.”.

Repeal of section 104

34. Section 104 of the principal Act is repealed.

Consequential amendments to Income Tax Act

35. The Income Tax Act (Cap. 134) is amended —

(a) by deleting the words “section 19J(5)” in paragraph (c) of the definition of “concessionary rate of tax” in section 14C(6)

and substituting the words “section 19J(5C) or 19KA(1)(b) (as the case may be)”;

(b) by inserting, immediately after the words “section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act” in section 37C(15)(b), the words “in force immediately before the date the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016 is published in the *Gazette*”;

(c) by inserting, immediately after the words “section 97T(2) of the Economic Expansion Incentives (Relief from Income Tax) Act” in paragraph (e) of the definition of “claimant company” or “transferor company” in section 37C(19), the words “in force immediately before the date the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016 is published in the *Gazette*”; and

(d) by inserting, immediately after the words “section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86)” in section 37E(10), the words “in force immediately before the date the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2016 is published in the *Gazette*”.

Transitional provisions for existing pioneer enterprises

36.—(1) This section applies to a company approved as a pioneer enterprise before the appointed date and issued a pioneer certificate for one or more pioneer products the tax relief period or periods for which (as determined by the Minister) has or have not expired by the appointed date.

(2) For the purposes of the principal Act —

(a) the company is taken to have been validly approved as a pioneer enterprise for that pioneer product or all of those pioneer products; and

(b) the pioneer certificate is taken to have been validly issued, as if the amendment by this Act of section 5(1) and (2) of the principal Act, the deletion and substitution by this Act of section 5(3) and (4) of

the principal Act, and the insertion by this Act of section 5(1A) of the principal Act, were in force at the material time.

(3) The provisions of Part II of the principal Act as amended by this Act (including section 3 of the principal Act as amended by this Act insofar as that section applies to the interpretation of that Part), apply to the company as if — 5

- (a) the company were a pioneer enterprise for that pioneer product or all of those pioneer products;
- (b) the date specified in the pioneer certificate as the production day of that pioneer product or any of those pioneer products were the production day of the pioneer product; and 10
- (c) the tax relief period determined by the Minister for the pioneer product or any of those pioneer products were the tax relief period for that pioneer product.

(4) For a period of 2 years after the date of commencement of this section, the Minister may make regulations to modify the application of section 3 and any provision of Part II of the principal Act (as amended by this Act) to the company. 15

(5) In this section, “appointed date” means the date of commencement of sections 2 to 11 of this Act (other than section 2(a)). 20

Transitional provisions for existing pioneer service companies

37.—(1) This section applies to a company approved as a pioneer service company under section 17 of the principal Act before the appointed date and issued a certificate under that section of the principal Act for one or more qualifying activities the tax relief period or periods for which (as determined by the Minister) has or have not expired by the appointed date. 25

(2) For the purposes of the principal Act —

- (a) the company is taken to have been validly approved as a pioneer service company in respect of that qualifying activity or all of those qualifying activities; and 30
- (b) the certificate is taken to have been validly issued,

as if the amendment by this Act of section 17(1) and (2) of the principal Act, the deletion and substitution by this Act of section 17(4) of the principal Act, and the insertion by this Act of section 17(1A) and (5) of the principal Act, were in force at the material time.

5 (3) The provisions of Part III of the principal Act as amended by this Act, apply to the company as if —

(a) the company were a pioneer service company in respect of that qualifying activity or all of those qualifying activities;

10 (b) the date specified in the certificate as the commencement day of that qualifying activity or any of those qualifying activities were the commencement day of the qualifying activity; and

(c) the tax relief period determined by the Minister for that qualifying activity or any of those qualifying activities were the tax relief period for the qualifying activity.

15 (4) For a period of 2 years after the date of commencement of this section, the Minister may make regulations to modify the application of any of the provisions of Part III of the principal Act (as amended by this Act) to the company.

20 (5) In this section, “appointed date” means the date of commencement of sections 12 to 15 of this Act.

Transitional provisions for existing development and expansion companies

25 **38.**—(1) This section applies to a company approved as a development and expansion company under section 19J of the principal Act before the appointed date and issued a certificate under that section of the principal Act for one or more qualifying activities the tax relief period or periods for which (as determined by the Minister) has or have not expired by the appointed date.

(2) For the purposes of the principal Act —

30 (a) the company is taken to have been validly approved as a development and expansion company in respect of that qualifying activity or all of those qualifying activities; and

(b) the certificate is taken to have been validly issued,

as if the amendment by this Act of section 19J(1) and (2) of the principal Act, the deletion and substitution by this Act of section 19J(4) and (5) of the principal Act, and the insertion by this Act of section 19J(1A) of the principal Act, were in force at the material time. 5

(3) The provisions of Part IIIB of the principal Act as amended by this Act, apply to the company as if —

(a) the company were a development and expansion company in respect of that qualifying activity or all of those qualifying activities; 10

(b) the date specified in the certificate as the commencement day of that qualifying activity or any of those qualifying activities were the commencement day of the qualifying activity;

(c) the tax relief period determined by the Minister for that qualifying activity or any of those qualifying activities were the tax relief period for the qualifying activity. 15

(4) For a period of 2 years after the date of commencement of this section, the Minister may make regulations to modify the application of any of the provisions of Part IIIB of the principal Act (as amended by this Act) to the company. 20

(5) In this section, “appointed date” means the date of commencement of sections 16 to 23 (other than section 19(b)) of this Act.

Remission of debt under deleted section 64(2) of principal Act

39.—(1) This section applies to a contravention before the date of commencement of section 26 of this Act by a company of — 25

(a) section 62(2) of the principal Act; or

(b) a condition imposed under section 61(3) of the principal Act as in force before the commencement of section 25 of this Act. 30

(2) The Minister for Finance may waive all or a part of any debt due from the company under section 64(2) of the principal Act in force before the date of commencement of section 26 of this Act, if the

Minister for Finance is satisfied that the company did not knowingly or intentionally contravene the provision in subsection (1)(a) or the condition in subsection (1)(b).

Savings provisions for repeal of Part XIIC of principal Act

5 **40.**—(1) Despite section 31, the repealed sections 97V and 97W of the principal Act continue to apply in relation to qualifying shares allotted before the commencement date under the repealed section 97U of the principal Act, unless, before that date, the repealed section 97U(6) of the principal Act has applied to those
10 shares.

(2) Despite section 31, the repealed section 97Y of the principal Act continues to apply to any deduction made under the repealed section 97V of the principal Act, including the repealed provision as continued by subsection (1).

15 (3) In this section —

(a) a reference to a repealed provision of the principal Act is a reference to that provision of the principal Act in force immediately before the commencement date;

(b) “commencement date” means the date of commencement of
20 section 31.

Further savings and transitional provisions

25 **41.**—(1) Sections 57 and 61, as amended by sections 24 and 25 respectively (called in this subsection the amended sections), apply to applications made under those sections before 24 February 2015 and which have yet to be determined by the Minister as of that date, as if they were applications made under the amended sections.

(2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe additional provisions of a savings or transitional nature consequent on
30 the enactment of that provision.

EXPLANATORY STATEMENT

This Bill seeks to amend the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) for the following main purposes:

- (a) to provide that, for the purposes of Parts II, III and IIIB of the Act, there is to be one tax relief period for every qualifying product or activity rather than one tax relief period for each company, to reflect the current manner in which the schemes under those Parts of the Act are administered;
- (b) to provide that the Minister for Trade and Industry (Trade) may specify a concessionary tax rate of either 5% or 10% under Part IIIB of the Act for income from each qualifying activity undertaken by a development and expansion company;
- (c) to introduce a sunset clause for various incentive schemes;
- (d) to remove obsolete provisions from the Act which relate to the imputation system under which tax assessed on a company resident in Singapore in respect of its normal chargeable income is passed on as a tax credit to its shareholders upon distribution of dividend;
- (e) to repeal the Parts of the Act which implemented the Overseas Enterprise Incentive Scheme and the Enterprise Investment Incentive Scheme.

The Bill also makes consequential amendments to the Income Tax Act (Cap. 134).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 3 (Interpretation) —

- (a) to modify the definitions of “approved foreign loan” and “approved royalties, fees or contributions” because of the amendments made to sections 57 and 61;
- (b) to redefine the terms “new trade or business” and “old trade or business” as a trade or business of a pioneer enterprise in respect of a pioneer product or products that is or are the subject of a single pioneer certificate, as the pioneer enterprise may have more than one pioneer certificate and produce more than one pioneer product;
- (c) to amend the definition of “pioneer enterprise” to clarify that an approval of a company as a pioneer enterprise is for a pioneer product;
- (d) to redefine the term “production day” to reflect the fact that a pioneer enterprise may be approved as such for multiple products; and
- (e) to define the term “tax relief expiry date” for Part II of the Act, which is the date on which an old trade or business ends for the purposes of the Act.

Clause 3 amends section 5 (Application for and issue and amendment of pioneer certificate) —

- (a) to provide that an approval of a company as a pioneer enterprise is for a pioneer product;
- (b) to provide that no company may be approved as a pioneer enterprise on or after 1 January 2024;
- (c) to state that every pioneer certificate issued to a pioneer enterprise is in respect of a pioneer product;
- (d) to provide the circumstances under which the Minister may issue one pioneer certificate for multiple pioneer products; and
- (e) to enable the Minister to add or remove pioneer products to or from a pioneer certificate.

Clause 4 repeals and re-enacts sections 6 and 7.

The new section 6 provides that a pioneer enterprise has a tax relief period for every pioneer product. Each tax relief period commences on the production day for the pioneer product and lasts for up to 15 years, as determined by the Minister. The Minister may extend the tax relief period of a pioneer enterprise for a pioneer product, but each such extension must not exceed 5 years and the sum of the tax relief period and all the extensions must not exceed 15 years. When a pioneer product is removed from a pioneer certificate, its tax relief period expires on the effective date of the removal.

The new section 7 —

- (a) provides for the manner of determining the period of the old trade or business of a pioneer enterprise for its pioneer product, and the period of the corresponding new trade or business; and
- (b) sets out the manner in which the pioneer enterprise has to make up accounts for its old trade or business for its pioneer product, and the corresponding new trade or business.

Clause 5 amends section 8 (Restrictions on trading before end of tax relief period) to reflect the fact that a pioneer enterprise may be approved for more than one pioneer product, each with its own tax relief period.

Clause 6 repeals and re-enacts section 9 (Power to give directions) in order to reflect the fact that a pioneer enterprise may have more than one pioneer product, each with its own tax relief period.

Clause 7 amends section 10 (Ascertainment of income in respect of old trade or business) to reflect the fact that a pioneer enterprise may have, depending on the number of pioneer certificates which it holds, more than one old trade or business.

Clauses 8 and 9 amend sections 11 (Application of Part XVI of Income Tax Act) and 12 (Comptroller to issue statement of income), respectively, to reflect the fact that a pioneer enterprise may have more than one old trade or business, depending on the number of pioneer certificates which it holds.

Clause 10 makes a technical amendment to section 13 (Exemption from income tax) arising from the repeal and re-enactment of section 14.

Clause 11 repeals and re-enacts sections 14 and 15.

Much of the current section 14 contains provisions which are obsolete as they relate to the imputation system.

The new section 14 re-enacts a part of the current subsections (7) and (8) to allow the Comptroller of Income Tax (the Comptroller) to make an assessment on a pioneer enterprise to counteract any profit obtained from exempted income, if the Comptroller is of the view that the income ought not to have been exempted because of a direction made under section 9 or because of the revocation of a pioneer certificate of the pioneer enterprise.

The current section 15 provides for the carrying forward of an unabsorbed loss or allowance of a pioneer enterprise and how it may be deducted. The section is updated to reflect the fact that a pioneer enterprise may have more than one pioneer product, each with its own tax relief period, and more than one old trade or business, and to set out the order of deduction.

Clause 12 redefines the term “commencement day” in section 16 (Interpretation of Part III of the Act), given that a pioneer service company may have different commencement days for the different qualifying activities approved for it.

Clause 13 amends section 17 (Application for and issue and amendment of certificate for pioneer service company) —

- (a) to provide that an approval of a company as a pioneer service company is for a qualifying activity;
- (b) to provide that no company may be approved as a pioneer service company on or after 1 January 2024;
- (c) to state that every certificate issued to a pioneer service company is in respect of a qualifying activity;
- (d) to provide the circumstances under which the Minister may issue one certificate for multiple qualifying activities; and
- (e) to enable the Minister to add or remove qualifying activities to or from a certificate issued to a pioneer service company.

Clause 14 repeals section 18 (Tax relief period of pioneer service company). The tax relief period of a pioneer service company for a qualifying activity is determined by section 6 as applied by the amended section 19.

Clause 15 amends section 19 (Application of sections 7 to 15 to pioneer service company) —

- (a) to apply section 6 to a pioneer service company as that section applies to a pioneer enterprise under Part II of the Act; and
- (b) to reflect the fact that a pioneer service company may have different commencement days, depending on the number of qualifying activities approved for it.

Clause 16 redefines the term “commencement day” in section 19I (Interpretation of Part IIIB of the Act), given that a development and expansion company may have different commencement days for the different qualifying activities approved for it.

Clause 17 amends section 19J (Application for and issue of certificate to development and expansion company) —

- (a) to provide that an approval of a company as a development and expansion company is for a qualifying activity;
- (b) to provide that no company may be approved as a development and expansion company on or after 1 January 2024;
- (c) to state that every certificate issued to a development and expansion company is in respect of a qualifying activity;
- (d) to provide that the concessionary tax rate for income from a qualifying activity, for a company approved as a development and expansion company on or after the date the amendment to the section for this purpose comes into force, is either 5% or 10%, as the Minister specifies in the certificate;
- (e) to provide the circumstances under which the Minister may issue one certificate for multiple qualifying activities;
- (f) to redraft various provisions to clarify that the expansion income of a development and expansion company that has multiple qualifying activities in a certificate, is the total income of the company from all of those activities. In other words, the concessionary income of such a company will be determined by reference to the total income from all activities specified in the certificate; and
- (g) to enable the Minister to add or remove qualifying activities to or from a certificate issued to a development and expansion company.

Clause 18 amends section 19K (Tax relief period of development and expansion company) —

- (a) to reflect the fact that a development and expansion company has a tax relief period for every qualifying activity approved for it;

- (b) to reflect the fact that a development and expansion company may have more than one qualifying activity specified in a certificate issued to it; and
- (c) to clarify subsection (6), which relates to the extension of the tax relief period of a development and expansion company for international legal services.

Clause 19 amends section 19KA (International legal services) to provide that a development and expansion company to which that section applies is one that is approved for the qualifying activity of international legal services. It also extends for another 5 years (until 31 March 2020) the period within which a company may be approved as a development and expansion company for international legal services, in order to enjoy the tax incentive under that section.

Clause 20 repeals and re-enacts section 19L (Certain dividends exempted from income tax). The current section 19L contains provisions that are obsolete as they relate to the imputation system.

The new section 19L re-enacts the part of existing subsection (9) which allows the Comptroller to make an assessment on a development and expansion company to make good any loss of tax, if the Comptroller is of the view that its income ought not to have been subject to a concessionary tax rate.

Clause 21 amends section 19M (Ascertainment of income from qualifying activities) to reflect the fact that a development and expansion company may have more than one qualifying activity specified in a certificate issued to it. In such a case, the income derived from those activities will be aggregated and allowances and donations deducted against the aggregated sum to arrive at the qualifying income. If there is a net loss from those activities, such loss may be deducted against other income subject to tax at a different tax rate, and the balance may be carried forward for deduction against income in a subsequent year of assessment.

Clause 22 repeals and re-enacts section 19N (Ascertainment of income from other trade or business) to reflect the fact that a development and expansion company may have more than one qualifying activity specified in a certificate issued to it. A development and expansion company must keep separate accounts for those activities and for any other trade or business which it carries on at the same time. The Comptroller may treat income or loss from the other trade or business as part of the income or loss of those activities, if the Comptroller is of the opinion that the carrying on of that trade or business is subordinate or incidental to the carrying on of those activities.

Clause 23 amends section 19P (Power to give directions) to reflect the fact that a development and expansion company may have more than one qualifying activity, each with its own tax relief period.

Clause 24 amends section 57 (Application for and issue of approved foreign loan certificate) to provide that a company that wishes to obtain a tax incentive under

Part VIII of the Act for interest on a loan from a foreign lender must apply to the Minister for approval of the loan as an approved foreign loan. Under the current section 57, the application is for a certificate certifying the loan as an approved foreign loan for the purposes of the incentive.

Further, the minimum loan amount for approval under that section is increased from \$200,000 to \$20 million.

Lastly, the section is amended to provide that no approval may be given on or after 1 January 2024.

Clause 25 amends section 61 (Application for and issue of approved royalties, fees or contributions certificate) to provide that a company that wishes to obtain a tax incentive under Part IX of the Act on royalties, fees or contributions to research and development costs, must apply to the Minister for approval of those royalties, fees or contributions as approved royalties, fees or contributions. Under the current section 61, the application is for a certificate certifying royalties, fees or contributions as approved royalties, fees or contributions for the purposes of the incentive.

The section is further amended to require an application for approval to be accompanied by such particulars as the Minister may require.

Lastly, the section is amended to provide that no approval may be given on or after 1 January 2024.

Clause 26 amends section 64 (Reduction of tax for approved royalties, fees or contributions) to provide that, where a company has contravened section 62(2) (which relates to amending the agreement or arrangement under which the approved royalties, fees or contributions are payable, without the prior sanction of the Minister or, as appropriate, without notifying the Minister within a specified time) or a condition of the approval, the Minister may revoke the approval. Once revoked, the amount of tax which would have been deductible as withholding tax is treated as having been deducted and constitutes a debt due from the company to the Government. In the current section 64(2), such tax is, upon the contravention, treated as having been deducted and a debt due to the Government by the company. The Minister for Finance may waive all or part of such debt if the Minister for Finance is satisfied that the company did not knowingly or intentionally contravene section 62(2) or the condition.

Clause 27 amends section 67 (Capital expenditure investment allowance) to extend the period within which a project for improving energy efficiency may be approved for an investment allowance, to 31 March 2021. Approvals for other projects (other than a project for maintenance, repair or overhaul services for an aircraft) for such allowance may not be granted on or after 1 January 2024.

Clause 28 makes amendments to section 70 (Prohibition to sell, lease out or dispose of assets) that are consequential on the repeal of section 72.

Clause 29 repeals sections 72 (Certain dividends exempted from income tax), 73 (Recovery of tax exempted) and 74 (Application of Parts XVII and XVIII of Income Tax Act), and re-enacts section 72.

The current sections 72 and 74(2) are obsolete as they relate to the imputation system. The current sections 73 and 74(1) are repealed as they are substantially reproduced, with modifications, in the new section 72.

The new section 72 allows the Comptroller to make an assessment on a company to recover any tax if the Comptroller is of the view that an amount of its income ought not to have been exempted by reason of the revocation of the company's certificate that was issued under section 67.

Clauses 30 and 31 repeal Part XIIIIB (Overseas Enterprise Incentive) and Part XIIC (Enterprise Investment Incentive), respectively, as they are no longer needed.

Clause 32 repeals sections 97ZI (Recovery of tax) and 97ZJ (Application of Parts XVII and XVIII of Income Tax Act) and re-enacts section 97ZI. The new section 97ZI re-enacts substantially the provisions of the current sections 97ZI and 97ZJ.

Clause 33 makes amendments to section 99 (Revocation of certificate or letter) which are consequential on the amendments to sections 57 and 61.

Clause 34 repeals section 104 (Consequential provision arising from abolition of imputation system) as it is spent.

Clause 35 makes amendments to sections 14C (Further deduction for logistics expenses), 37C (Group relief for Singapore companies), and 37E (Carry-back of capital allowances and losses) of the Income Tax Act (Cap. 134) that are consequential on the amendments made to sections 19J and 19KA, and the repeal of Part XIIC by the Bill.

Clauses 36, 37 and 38 are transitional provisions which apply the amended Parts II, III and IIB to companies approved for the respective tax incentives before the amendments come into operation and have unexpired tax relief periods. Clause 36 validates the approval of, and the issue of a pioneer certificate to, an existing pioneer enterprise with unexpired tax relief for one or more pioneer products. It also applies with modifications the amended Part II to such a company. Clauses 37 and 38 do the same for existing pioneer service companies and development and expansion companies, respectively.

Clause 39 allows the Minister for Finance to waive a debt due to the Government as a result of the operation of the current section 64(2) in relation to acts that take place before the commencement of new section 64(2). Under the current section 64(2), where a company has contravened section 62(2) or a condition imposed under the current section 61(3), the amount of tax which would have been

deductible as withholding tax is treated as having been deducted and constitutes a debt due from the company to the Government by the company.

Clause 40 contains savings provisions in relation to the repeal of Part XIIC of the principal Act by clause 31. It preserves the tax treatment in the repealed sections 97V and 97W in relation to qualifying shares allotted before the repeal, and preserves the Comptroller's ability to take action under the repealed section 97Y for deductions wrongfully made.

Clause 41 contains a savings provision to apply the amended sections 57 and 61 to pending applications made under those sections before the date of commencement of the amendments. It also allows the Minister to make further savings and transitional provisions by regulations.

EXPENDITURE OF PUBLIC MONEY

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