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The following Act was passed by Parliament on 25th November 2002 and assented to by the President on 30th November 2002:—

REPUBLIC OF SINGAPORE

No. 37 of 2002.

I assent.

(LS)

S R NATHAN,
President.
30th November 2002.

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An Act to amend the Income Tax Act (Chapter 134 of the 2001 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 2002.

(2) Sections 32(c) (in relation to paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax”), 40(d), 44 and 62(c) shall be deemed to have come into operation on 1st June 2001.

(3) Sections 5, 6 and 49 shall be deemed to have come into operation on 13th October 2001.

(4) Sections 3, 7 and 26(b)(in relation to section 15(1)(p)) shall be deemed to have come into operation on 23rd November 2001.

(5) Sections 18 and 19 shall be deemed to have come into operation on 1st January 2002.

(6) Sections 13, 27, 35, 38(c), 40(a), 52(a) and 53 shall be deemed to have come into operation on 3rd May 2002.

(7) Section 16(b) (in relation to section 13G(2)) shall be deemed to have come into operation on 2nd July 2002.

(8) Sections 10(i), 11(b) (in relation to section 13A(6)(f)), (c) and (d), 12(b) (in relation to section 13B(6)) and (c), 14(b) (in relation to section 13E(6)), (c), (d), (e), (f) and (g), 15(b) (in relation to section 13F(5)(c)), 17(b) and (d), 21, 45, 52(c) (in relation to section 46(3)) and (d), 57, 58, 60 and 61 shall come into operation on 1st January 2003.

(9) Section 64 shall have effect for the year of assessment 2003.

(10) Sections 2(a), 10(e), (f), (g) and (h), 16(a) and (b) (in relation to section 13G(3)), 20, 22, 23, 25, 28, 31 (except in relation to section 37(2)(a) and (2A)), 32 (except in relation to paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax”), 33, 34, 36, 37, 38(a), 39, 47(a), 48, 62(a) and (b) and 63 shall have effect for the year of assessment 2003 and subsequent years of assessment.

Amendment of section 10

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

- (a) by deleting subsection (4A) and substituting the following subsection:

“(4A) Subsection (4)(b) shall apply, with the necessary modifications, to a floating production storage offloading ship, floating storage offloading ship, dredger, seismic ship or semi-submersible rig the income derived from the operation of which is exempt from tax under section 13F.”; and

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

“(5) Any gains or profits, directly or indirectly, derived by any person from a right or benefit granted on or after 1st January 2003, whether granted in his name or in the name of his nominee or agent, to acquire shares in any company shall, where the right or benefit is obtained by that person by reason of any office or employment held by him, be deemed to be income chargeable to tax under subsection (1)(b), accruing at such time and of such amount as determined under the following provisions:

- (a) where the right or benefit is exercised, assigned, released or acquired, at the time of the exercise, assignment, release or acquisition of the right or benefit and the gains or profits shall be the price of the shares in the open market at that time, less any amount paid for the shares;
- (b) notwithstanding paragraph (a), where the right or benefit granted is subject to any restriction on the sale of the shares so acquired, at the time the restriction ceases to apply and the gains or profits shall be the price of the shares in the open market at that time, less any amount paid for the shares;
- (c) if it is not possible to determine the gains or profits under paragraph (a) or (b), the Comptroller may use the net asset value of the shares, less any amount paid for the shares, as the basis for determining the gains or profits;
- (d) notwithstanding paragraphs (a) and (c), any gains or profits derived by him by any exercise of a right or benefit to acquire shares in any company listed on the

Singapore Exchange shall be the last done price on the listing date of the shares so acquired less the amount paid for the shares;

(e) “the last done price on the listing date”, in relation to any shares referred to in paragraph (d), means the price of the shares in the open market at the last transaction on the date on which the shares are first listed on the Singapore Exchange after the acquisition of the shares by him; and

(f) “shares” includes stocks.

(5A) Notwithstanding subsection (5), where —

(a) the right or benefit to acquire shares in a company is granted on or after 1st January 2003 to an individual while he is exercising an employment in Singapore; and

(b) immediately before he ceases that employment —

(i) the individual is neither a citizen of Singapore nor a Singapore permanent resident, or being a Singapore permanent resident is leaving Singapore permanently; and

(ii) the right or benefit is not exercised, assigned, released or acquired by him, or the restriction on the sale of the shares has not ceased to apply,

any gains or profits from the right or benefit shall be —

(A) deemed to be income derived by the individual one month before the date of cessation of employment or the date the right or benefit is granted, whichever is the later; and

(B) computed based on the price of the shares in the open market on that date, less the amount paid for the shares.

(5B) Subsection (5)(c) shall apply, with the necessary modifications, to gains or profits derived by an individual referred to in subsection (5A).”.

Amendment of section 10A

3. Section 10A(1) of the principal Act is amended —

- (a) by inserting, immediately after the word “securities” in the 2nd line of paragraph (a), the words “(other than transferred securities to which section 10N applies)”; and
- (b) by inserting, immediately after the word “securities” in the 2nd line of paragraph (c), the words “(other than transferred securities to which section 10N applies)”.

Amendment of section 10E

4. Section 10E of the principal Act is amended —

- (a) by inserting, immediately after the word “company” in the 2nd, 4th, 7th and 8th lines of subsection (1), the words “or trustee of a property trust”; and
- (b) by deleting the definition of “investments” in subsection (2) and substituting the following definitions:

“ “immovable property-related assets” means debt securities and shares issued by property companies, mortgaged-backed securities, other property trust funds, and assets incidental to the ownership of immovable properties;

“investments” means securities, immovable properties and immovable property-related assets;

“property trust” means a trust which invests in immovable properties or immovable property-related assets.”.

Repeal of section 10F

5. Section 10F of the principal Act is repealed.

Repeal of section 10G

6. Section 10G of the principal Act is repealed.

Amendment of section 10J

7. Section 10J(3) of the principal Act is amended by inserting, immediately after the word “shareholder” in paragraph (b), the words “(not being a transferee to whom section 10N applies)”.

Amendment of section 10L

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

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

“(2A) The Minister may, for any good cause, remit, wholly or in part, any penalty payable by any SRS member under subsection (2).”; and

(b) by inserting, immediately after the word “resident” in the 3rd line of subsection (3)(a), the words “on the date of the withdrawal and for a continuous period of at least 10 years before that date,”.

New section 10N

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

“Securities lending or repurchase arrangement

10N.—(1) For the purpose of determining whether an amount, other than any fee payable under a securities lending or repurchase arrangement, should be taken into account in ascertaining the gains or profits from any transfer of securities under the arrangement in respect of which a transferor is chargeable to tax, the transferor is to be treated as if —

- (a) the transfer of the transferred securities had not been made;
- (b) the transferor had held the transferred securities at all times during the borrowing period; and
- (c) the return of the transferred securities or equivalent securities had not been made at the end of the borrowing period.

(2) Notwithstanding subsection (1), where a transferor is a person who carries on a trade or business of sale and purchase of securities,

any gains or profits derived by him from any transfer of securities under a securities lending or repurchase arrangement shall be chargeable to tax under section 10(1)(a) if subsequent to the transfer of the transferred securities —

- (a) the transferred securities are redeemed;
- (b) the transferee accepts a takeover offer for the transferred securities upon the direction of the transferor;
- (c) the arrangement is terminated because the transferor or transferee is unable to perform any of the obligations specified in the arrangement, unless the transferor applies the collateral held by him to re-acquire equivalent securities under the terms of the arrangement;
- (d) the transferee sells the transferred securities to the issuer of such securities upon the direction of the transferor; or
- (e) any other event occurs which, in the opinion of the Comptroller, results in the condition specified in paragraph (a)(iii) or (iv) of the definition of “securities lending or repurchase arrangement” not fulfilled,

and the gains or profits shall be deemed to arise at the time any of the events referred to in paragraph (a), (b), (c), (d) or (e) occurs.

(3) Where a transferee is a person who carries on a trade or business of sale and purchase of securities, any gains or profits derived by him from any transfer of securities under a securities lending or repurchase arrangement shall be chargeable to tax under section 10(1)(a), and the gains or profits shall be deemed to arise at the time any of the following events occurs:

- (a) the transferee disposes of the transferred securities to a person other than the transferor; and
- (b) subsequent to such disposal, the transferee returns equivalent securities to the transferor or any of the events specified in subsection (2) occurs, whichever is the earlier.

(4) For the purposes of computing the gains or profits of a transferee under subsection (3), the transferee is to be treated as if he had acquired the transferred securities from or returned equivalent securities to the transferor, as the case may be, for a consideration

equal to the market value of the transferred securities at the beginning of the borrowing period under the securities lending or repurchase arrangement.

(5) Where any distribution of dividend or interest in respect of transferred securities is made to a Singapore-based transferee and received by a transferor under a securities lending or repurchase arrangement, the distribution shall be included in the statutory income of the transferor of the year in which the distribution is made to the transferee, and be assessed as if the distribution had been made to the transferor.

(6) A Singapore-based transferee deriving in respect of transferred securities under a securities lending or repurchase arrangement any dividend from Singapore from which tax has been deducted under section 44 shall —

- (a) not be entitled to any set-off under section 46(1) in respect of the dividend;
- (b) notify such person within such period as the Comptroller may require that he is a transferee; and
- (c) comply with such requirement as the Comptroller may impose.

(7) A Singapore-based transferee (other than a transferee under a buy and sell back arrangement in respect of qualifying debt securities or foreign debt securities) shall not be entitled to any relief under section 48 or any tax credit under section 50 or 50A for any distribution received by him from outside Singapore in respect of transferred securities under a securities lending or repurchase arrangement.

(8) Where any compensatory payment derived under a securities lending or repurchase arrangement by a transferor from a Singapore-based transferee is in place of —

- (a) any dividend which is exempt from tax or interest which is derived from qualifying debt securities, the transferor shall be assessed at the tax rate that would have been applicable to the dividend or interest, as the case may be, had it been made directly to the transferor;

- (b) a distribution of a dividend derived from Singapore from which tax has been deducted under section 44, no set-off under section 46(1) shall be allowed to the transferor; or
- (c) a distribution of income derived from outside Singapore and where the transferor is resident in Singapore, no relief under section 48 and no tax credit under section 50 or 50A shall be allowed to the transferor.

(9) Section 45 shall apply in relation to —

- (a) any distribution of interest (other than interest derived from qualifying debt securities) in respect of transferred securities; and
- (b) any compensatory payment in place of —
 - (i) any distribution of income derived from outside Singapore;
 - (ii) any dividend derived from Singapore from which tax has been deducted under section 44; or
 - (iii) any interest (other than interest derived from qualifying debt securities),

made under a securities lending or repurchase arrangement by a Singapore-based transferee to a transferor who is not resident in Singapore, as that section applies to any interest paid by a person to another person not known to him to be resident in Singapore, and for the purpose of such application, any reference in that section to interest shall be construed as a reference to such distribution of interest or compensatory payment.

(10) For the purposes of this section, the Comptroller may specify such requirement and obligation to be observed, and such information in respect of any transferor, transferee or transferred securities to be furnished, by the depository agent of the transferor or transferee.

(11) The Minister may make regulations generally to give full effect to or for carrying out the purposes of this section.

(12) In this section —

“borrowing period”, in relation to any transferred securities, means the period commencing from the date the securities are

transferred by the transferor to the transferee and ending on the date the securities or equivalent securities are returned to the transferor or are regarded as being disposed of by the transferor under subsection (2), whichever is the earlier;

“commercial purpose”, in relation to any securities lending or repurchase arrangement, means —

- (a) the settling of a sale of securities, whether by the transferee or another person;
- (b) the replacement, in whole or in part, of the transferred securities obtained by the transferee under any earlier securities lending or repurchase arrangement;
- (c) the on-lending of the transferred securities to another person;
- (d) the fulfillment by the transferee of its existing obligations arising from an uncovered written option position using transferred securities;
- (e) the hedging and arbitrage transactions entered into or to be entered into by the transferee;
- (f) the liquidity management by the transferee;
- (g) the holding of the transferred securities, without being disposed of, as collateral against the obligations of the counterparty to the securities lending or repurchase arrangement; or
- (h) any other purpose as the Minister (or such person as the Minister may appoint) may in writing allow;

“compensatory payment”, in relation to any transferred securities, means a payment made during the borrowing period to a transferor in place of any distribution of interest, dividend or right to purchase warrants, options or additional securities in respect of the transferred securities under circumstances in which the transferee does not receive such distribution to be passed on to the transferor, and includes any amount which is in place of interest and is deducted from the price paid by the transferor to acquire equivalent securities or re-acquire the transferred securities under a buy and sell back arrangement in

respect of qualifying debt securities, Singapore Government securities or foreign debt securities;

“equivalent securities”, in relation to any transferred securities, means securities which are identical in type, nominal value, description and amount to the transferred securities and includes —

- (a) the securities into which the transferred securities have been converted, sub-divided or consolidated;
- (b) the proceeds of the redemption of the transferred securities;
- (c) the cash or securities representing the proceeds of the acceptance of the takeover of the transferred securities;
- (d) if there is a call on partly-paid securities and if the transferor has paid to the transferee the sum due on the call, the paid-up securities;
- (e) if there is a bonus issue, the transferred securities together with the securities allotted by way of bonus;
- (f) if there is a rights issue and if the transferor has directed the transferee to take up the issue and has paid to the transferee any sum due on the issue, the transferred securities together with the securities allotted under the rights issue or, if the transferor has directed the transferee to sell the rights, the transferred securities together with the proceeds from the disposal of the rights;
- (g) if any distribution is made in the form of securities or a certificate which may be exchanged for securities or an entitlement to acquire securities, the transferred securities together with the securities or certificate or entitlement equivalent to those allotted; and
- (h) if the transferee is unable to return the transferred securities, such amount of money or securities equivalent to the transferred securities;

“foreign debt securities” means securities, other than stocks and shares, denominated in any foreign currency (including bonds and notes) issued by foreign governments, foreign banks

outside Singapore and companies not incorporated and not resident in Singapore;

“qualifying debt securities” has the same meaning as in section 13(11);

“securities” includes any collateral that is provided in the form of securities but does not include stocks and shares of any company resident in Singapore which are not listed on any stock exchange in Singapore or elsewhere;

“securities lending or repurchase arrangement” means any written arrangement made on or after 23rd November 2001 —

(a) under which —

- (i) a person (referred to in this section as transferor) transfers the legal interest in any securities (referred to in this section as transferred securities) to another person (referred to in this section as transferee) for any commercial purpose;
- (ii) the transferor re-acquires the transferred securities or acquires equivalent securities from the transferee at a later time;
- (iii) the transferor retains the risk of loss or opportunity for gain in respect of the transferred securities;
- (iv) the transferor does not dispose of (by transfer, declaration of trust or otherwise) the right to receive any part of the total consideration payable or to be given by the transferee under the arrangement; and
- (v) if any distribution is made in respect of the transferred securities during the borrowing period, the transferor receives from the transferee the distribution or compensatory payment equal to the value of the distribution; and

(b) where —

- (i) the transferor and transferee are dealing with each other at arm's length; and
- (ii) the transferor or transferee or both of them do not enter into the arrangement with the purpose, or main purpose, of avoiding, reducing or deferring any tax chargeable under this Act;

“Singapore-based transferee” means a transferee who is resident in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore) or which is a permanent establishment in Singapore;

“Singapore Government securities” and “debt securities” have the same meanings as in section 43N.

(13) This section has effect notwithstanding anything to the contrary in this Act, except that nothing in this section shall affect the chargeability to tax of any income of a transferor or transferee under section 10 unless otherwise provided in this section.”.

Amendment of section 13

10. Section 13 of the principal Act is amended —

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

“(o) payments made under any agreement or arrangement approved by the Minister or such person as he may appoint to a person not resident in Singapore (excluding any permanent establishment in Singapore) by an international shipping enterprise approved under section 13F —

- (i) on or after 1st April 1991 for the charter of a foreign ship within the meaning of that section (other than that used for towing or salvage operations during the period 1st April 1991 to 2nd May 2002);

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- (ii) on or after 27th February 1999 for the charter of a floating production storage offloading ship or floating storage offloading ship; and
 - (iii) on or after 3rd May 2002 for the charter of a dredger, seismic ship or semi-submersible rig,
except for any payment attributable to the carriage of passengers, mails, livestock or goods from Singapore;”;
 - (b) by inserting, immediately after paragraph (q) of subsection (1), the following paragraph:
 - “(r) the income derived on or after 3rd May 2002 by an individual not resident in Singapore from acting as an arbitrator, and for this purpose, “arbitrator” means an individual appointed for any arbitration which is governed by the Arbitration Act (Cap. 10) or the International Arbitration Act (Cap. 143A) or would have been governed by either of those Acts had the place of arbitration been Singapore;”;
 - (c) by deleting the word “and” at the end of subsection (1)(y);
 - (d) by deleting the full-stop at the end of paragraph (z) of subsection (1) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:
 - “(za) any dividends accrued in or derived from Singapore on or after 1st January 2003 paid by any company from which tax is not deductible and not deducted under section 44.”;
 - (e) by deleting subsection (8) and substituting the following subsection:
 - “(8) The Minister may by order —
 - (a) exempt from tax wholly or in part; or
 - (b) provide that tax at such concessionary rate of tax be levied and paid on,
the income received by a person resident in Singapore from such source in any country outside Singapore as may be specified in the order.”;

- (f) by inserting, immediately after the word “tax” in subsection (9), the words “or be taxed at a concessorary rate of tax”;
- (g) by inserting, immediately after the word “tax” in the 1st line of subsection (10), the words “or is taxed at a concessorary rate of tax”;
- (h) by inserting, immediately after the word “income” in subsection (10)(a), the words “exempt from tax or an amount equal to the net income after deduction of tax levied at the concessorary rate of tax, as the case may be,”; and
- (i) by deleting the words “, (12) and (13)” in subsection (10)(b).

Amendment of section 13A

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

- (a) by deleting the words “the same proportions as such shareholders were entitled to payment of the dividends giving rise to the debit” in the penultimate and last lines of subsection (6)(d) and substituting the words “accordance with the proportion of their shareholdings in the shipping enterprise”;
- (b) by deleting paragraphs (f) and (g) of subsection (6) and substituting the following paragraphs:

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

(g) notwithstanding paragraphs (c) and (f) —

- (i) no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder; and
- (ii) any dividend paid on any share of a preferential nature shall be deemed as interest income of the

shareholder if the dividend is paid by a company —

(A) which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003; or

(B) which before 1st January 2003 had been subjected to the provisions of section 44 in force immediately before that date and the dividend is paid on or after —

(BA) the 44A balance of the company becomes nil;

(BB) the company exercises the option referred to in section 44(6A); or

(BC) 31st December 2007,

whichever is the earliest; and

(iii) any dividend paid on any share of a preferential nature shall be deemed as interest expense of the company if the company so elects.”;

(c) by deleting the words “(including a dividend paid by a holding company to which subsection (6)(f) applies)” in subsection (8)(b); and

(d) by deleting the definition of “holding company” in subsection (16).

Amendment of section 13B

12. Section 13B of the principal Act is amended —

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

“(4A) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.”;

(b) by deleting subsections (6) and (6A) and substituting the following subsections:

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

(6A) Notwithstanding subsections (4) and (6) —

- (a) no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder;
 - (b) any dividend paid on any share of a preferential nature shall be deemed as interest income of the shareholder if the dividend is paid by a company —
 - (i) which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003; or
 - (ii) which before 1st January 2003 had been subjected to the provisions of section 44 in force immediately before that date and the dividend is paid on or after —
 - (A) the 44A balance of the company becomes nil;
 - (B) the company exercises the option referred to in section 44(6A); or
 - (C) 31st December 2007,
- whichever is the earliest; and
- (c) any dividend paid on any share of a preferential nature shall be deemed as interest expense of the company if the company so elects.”; and
 - (c) by deleting the words “, including a dividend paid by a holding company under subsection (6), ” in subsection (8)(b).

Repeal and re-enactment of section 13C

13. Section 13C of the principal Act is repealed and the following section substituted therefor:

“Exemption of income of non-resident arising from funds managed by fund manager in Singapore

13C. There shall be exempt from tax such income as the Minister may by regulations prescribe of a person not resident in Singapore arising from funds managed by any fund manager in Singapore.”.

Amendment of section 13E

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

(a) by deleting subsections (4A), (4B) and (4C) and substituting the following subsection:

“(4A) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.”;

(b) by deleting subsections (6) and (7) and substituting the following subsections:

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

(7) Notwithstanding subsections (4) and (6) —

(a) no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder;

(b) any dividend paid on any share of a preferential nature shall be deemed as interest income of the shareholder if the dividend is paid by a company —

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- (i) which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003; or
 - (ii) which before 1st January 2003 had been subjected to the provisions of section 44 in force immediately before that date and the dividend is paid on or after —
 - (A) the 44A balance of the company becomes nil;
 - (B) the company exercises the option referred to in section 44(6A); or
 - (C) 31st December 2007,whichever is the earliest; and
 - (c) any dividend paid on any share of a preferential nature shall be deemed as interest expense of the company if the company so elects.”;
 - (c) by deleting the words “or designated account, as the case may be,” in subsection (8);
 - (d) by deleting the words “, including a dividend paid by a holding company under subsection (4A) and a relevant holding company under subsection (6),” in the 2nd, 3rd and 4th lines of subsection (9);
 - (e) by deleting the words “or designated account, as the case may be,” in subsection (9)(b);
 - (f) by deleting the definitions of “holding company” and “relevant holding company” in subsection (10); and
 - (g) by deleting subsections (12) and (13).

Amendment of section 13F

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

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

“(1) Subject to subsection (2), there shall be exempt from tax the income of an approved international shipping enterprise derived —

(a) on or after 1st April 1991 from —

- (i) the carriage of passengers, mails, livestock or goods from outside the limits of the port of Singapore by any foreign ship;
- (ii) the charter of any foreign ship to a person not resident in Singapore (excluding any permanent establishment in Singapore) or to another approved international shipping enterprise where such ship is used by that person or enterprise for the carriage of passengers, mails, livestock or goods outside the limits of the port of Singapore; and
- (iii) the carriage of passengers, mails, livestock or goods by any foreign ship to Singapore solely for the purpose of transshipment;

(b) for the year of assessment 2000 and subsequent years of assessment from —

- (i) the operation outside the limits of the port of Singapore of any floating production storage offloading ship or floating storage offloading ship; and
- (ii) the charter of any foreign floating production storage offloading ship or foreign floating storage offloading ship to a person not resident in Singapore (excluding any permanent establishment in Singapore) or to another approved international shipping enterprise where such ship is used by that person or enterprise for its operation outside the limits of the port of Singapore;

(c) for the year of assessment 2003 and subsequent years of assessment from —

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- (i) towing or salvage operations carried out from outside the limits of the port of Singapore by any foreign ship;
 - (ii) the charter of any foreign ship to a person not resident in Singapore (excluding any permanent establishment in Singapore) or to another approved international shipping enterprise where such ship is used by that person or enterprise for towage and salvage operations carried out outside the limits of the port of Singapore;
 - (iii) the operation outside the limits of the port of Singapore of any dredger, seismic ship or semi-submersible rig; and
 - (iv) the charter of any semi-submersible rig, foreign dredger or foreign seismic ship to a person not resident in Singapore (excluding any permanent establishment in Singapore) or to another approved international shipping enterprise where the same is used by that person or enterprise for its operation outside the limits of the port of Singapore.”;
- (b) by deleting paragraphs (b) and (c) of subsection (5); and
 - (c) by deleting the definition of “international shipping enterprise” in subsection (6) and substituting the following definition:
 - “ “international shipping enterprise” means any company resident in Singapore owning or operating Singapore ships or foreign ships.”.

Amendment of section 13G

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

- (a) by inserting, immediately after the word “trust” in subsection (1), the words “or eligible holding company established for the purposes of such foreign trust”; and
- (b) by deleting subsection (2) and substituting the following subsections:

“(2) Where any income of a foreign trust is exempt from tax under regulations made under subsection (1) in any year of assessment, the share of such income to which any beneficiary under the trust is entitled to receive for that year of assessment shall also be exempt from tax if the beneficiary —

- (a) being an individual, is neither a citizen of Singapore nor resident in Singapore; or
- (b) being a company, is neither incorporated nor resident in Singapore and where such a company —
 - (i) has not more than 50 shareholders, the whole of its issued capital is beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; or
 - (ii) has more than 50 shareholders, not less than 95% of its issued capital is beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore.

(3) Notwithstanding subsections (1) and (2), where it appears to the Comptroller that any income of a foreign trust or eligible holding company ought not to have been exempted under regulations made under subsection (1), the Comptroller may, subject to section 74, make such assessment or additional assessment upon the foreign trust or eligible holding company, as the case may be, as may appear to be necessary.”.

Amendment of section 13H

17. Section 13H of the principal Act is amended —

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

“(11A) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.”;
- (b) by deleting the words “an approved venture company” in the 2nd line of subsection (13) and substituting the words “a company”;

(c) by deleting subsection (14) and substituting the following subsection:

“(14) Notwithstanding subsections (11) and (13) —

(a) no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder;

(b) any dividend paid on any share of a preferential nature shall be deemed as interest income of the shareholder if the dividend is paid by a company —

(i) which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003; or

(ii) which before 1st January 2003 had been subjected to the provisions of section 44 in force immediately before that date and the dividend is paid on or after —

(A) the 44A balance of the company becomes nil;

(B) the company exercises the option referred to in section 44(6A); or

(C) 31st December 2007,

whichever is the earliest; and

(c) any dividend paid on any share of a preferential nature shall be deemed as interest expense of the company if the company so elects.”; and

(d) by deleting the words “(including a dividend paid by a company to which subsection (13) applies)” in subsection (16)(b).

Amendment of section 13J

18. Section 13J of the principal Act is amended —

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

“(1) Where a qualifying employee derives any gains or profits in any year of assessment, after the expiry of the minimum holding period, from any stock option granted on or after 1st June 2000, or any right or benefit under any share acquisition scheme (other than a stock option scheme) granted on or after 1st January 2002, to acquire shares in any qualifying company or in its holding company, there shall, subject to this section, be exempt from tax 50% of an amount of such gains or profits as determined under subsection (2).”;

- (b) by deleting the words “on the exercise, assignment or release of the right or benefit (referred to in this section as the exercise price)” in the 1st, 2nd and 3rd lines of subsection (2)(a) and substituting the words “under the right or benefit”;
- (c) by deleting the words “exercise price of the shares” in the 1st line of subsection (2)(b) and substituting the words “price to be paid for the shares under the right or benefit”;
- (d) by deleting the words “deemed to be income of a person under section 10 (5)” in the 2nd and 3rd lines of subsection (3) and substituting the words “to which section 10(5) applies”;
- (e) by deleting the words “deemed income” in subsection (3)(a) and (b) and substituting in each case the words “gains or profits”;
- (f) by deleting the words “by the exercise, assignment or release of” in the 2nd line of subsection (4) and substituting the word “from”;
- (g) by deleting the definition of “minimum vesting period” in subsection (6) and substituting the following definition:

“ “minimum holding period” —

- (a) in relation to a right or benefit to acquire shares in a qualifying company or holding company under any stock option scheme, means the period prescribed by the Singapore Exchange during which no option may be exercised under a stock option scheme implemented by any company listed on that Exchange, which would have been applicable to the stock option granted by the

qualifying company or holding company, as the case may be, if it were a company listed on that Exchange;

(b) in relation to a right or benefit to acquire shares in a qualifying company or holding company under any share acquisition scheme (other than a stock option scheme), means —

(i) a period of at least one year after the grant of the right or benefit, during which the shares so acquired may not be sold, if the price to be paid for the shares under the right or benefit is at a discount to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit; or

(ii) a period of at least 6 months after the grant of the right or benefit, during which the shares so acquired may not be sold, if the price to be paid for the shares under the right or benefit is equal to or exceeds the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit;”;

(h) by inserting, immediately after the definition of “qualifying employee” in subsection (6), the following definition:

“ “share acquisition scheme” means a scheme which imposes a minimum holding period requirement and allows an employee of a company to own or purchase shares in a qualifying company or that of its holding company, including stock options, share awards and other similar forms of employee share purchase plans but excluding phantom shares rights, share appreciation rights and any other similar rights;”;

- (i) by deleting subsection (7) and substituting the following subsection:

“(7) For the purposes of this section and section 13L, where a company grants —

- (a) any stock option on or after 1st April 2001; or
- (b) any right or benefit under any share acquisition scheme (other than a stock option scheme) on or after 1st January 2002,

to acquire shares under a tranche of the share acquisition scheme and any gains or profits derived by a qualifying employee from any right or benefit granted under that tranche qualifies for tax exemption under this section as well as section 13L, the company shall opt for the tax exemption under this section or section 13L to apply in respect of the gains or profits relating to that tranche but not under both sections.”;

- (j) by deleting the words “stock option scheme” in the 3rd, 8th and 11th lines of subsection (8) and in the 3rd and last lines of subsection (9) and substituting in each case the words “share acquisition scheme”; and
- (k) by deleting the words “stock option” in the section heading and substituting the words “equity-based remuneration scheme”.

Amendment of section 13L

19. Section 13L of the principal Act is amended —

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

“(1) Where a qualifying employee derives any gains or profits in any year of assessment, after the expiry of the minimum holding period, from any stock option granted on or after 1st April 2001, or any right or benefit under any share acquisition scheme (other than a stock option scheme) granted on or after 1st January 2002, to acquire shares in any qualifying company or in its holding company under a company employee equity-based remuneration scheme, there shall, subject to this section and section 13J(7) to (10), be exempt from tax —

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- (a) the first \$2,000 of such gains or profits in that year of assessment as determined under subsection (2); and
 - (b) 25% of any amount of such gains or profits in that year of assessment exceeding \$2,000 as determined under subsection (2).”;
- (b) by deleting the words “on the exercise, assignment or release of the right or benefit (referred to in this section as the exercise price)” in the 1st, 2nd and 3rd lines of subsection (2)(a) and substituting the words “under the right or benefit”;
 - (c) by deleting the words “exercise price of the shares are” in the 1st line of subsection (2)(b) and substituting the words “price to be paid for the shares under the right or benefit is”;
 - (d) by deleting the words “deemed to be income of a person under section 10(5)” in the 2nd and 3rd lines of subsection (3) and substituting the words “to which section 10(5) applies”;
 - (e) by deleting the words “deemed income” in subsection (3)(a) and (b) and substituting in each case the words “gains or profits”;
 - (f) by deleting the definition of “company stock option scheme” in subsection (5) and substituting the following definitions:
 - “ “company employee equity-based remuneration scheme”, in relation to a qualifying company or its holding company, means any share acquisition scheme which satisfies the 50% requirement;
 - “50% requirement”, in relation to a company employee equity-based remuneration scheme, means in the aggregate at least 50% of the employees of the qualifying company are offered during any calendar year any rights or benefits to acquire shares in the qualifying company or in its holding company under any share acquisition scheme, as ascertained in accordance with the following formula:

A

$$\frac{\text{A}}{\text{B} - \text{C} - \text{D} - \text{E}} \times 100,$$

- where A is the aggregate number of employees of the qualifying company who are offered during a calendar year any right or benefit to acquire shares in the qualifying company or in its holding company under any share acquisition scheme in respect of which the qualifying company has opted under section 13J(7) for tax exemption under this section and not section 13J to apply, and who are employees of that qualifying company at the time of such offer;
- B is the number of employees of the qualifying company on the last day of that calendar year;
- C is the number of part-time employees (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year;

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- D is the number of full-time employees with less than one-year's service (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year; and
- E is the number of employees engaged on contracts not exceeding 2 years (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year;";
- (g) by deleting the definition of "minimum vesting period" in subsection (5) and substituting the following definition:
- " "minimum holding period" has the same meaning as in section 13J;";
- (h) by inserting, immediately after the definition of "qualifying employee" in subsection (5), the following definition:
- " "share acquisition scheme" has the same meaning as in section 13J;"; and

- (i) by deleting the words “stock option scheme” in the section heading and substituting the words “employee equity-based remuneration scheme”.

New section 13N

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

“Exemption of tax on income derived by non-ordinarily resident individual

13N.—(1) Where an NOR individual is resident in Singapore in any year of assessment within the period he is an NOR individual, he may, within such time in that year of assessment and in such manner as may be specified by the Comptroller, elect for any or all of his following income to be exempt from tax for that year of assessment:

- (a) any relevant employment income for the year preceding that year of assessment, if he —
 - (i) is not physically present in Singapore for at least 90 days in the year preceding that year of assessment by reason of the exercise of any employment in Singapore; and
 - (ii) has a notional tax payable by him on his gains or profits from the exercise of any employment in Singapore for the year preceding that year of assessment exceeding 10% of such gains or profits;
- (b) any income derived from outside Singapore before he resides in Singapore, and received in Singapore during the year preceding that year of assessment;
- (c) notwithstanding section 10C(6), any contribution up to the relevant amount made by his employer to any non-obligatory pension or provident fund constituted outside Singapore in the year preceding that year of assessment, if he is neither a citizen of Singapore nor a Singapore permanent resident at the time such contribution is made.

(2) Where the notional tax payable on the apportioned employment income by an NOR individual who has elected for tax exemption under subsection (1) is less than 10% of the gains or profits from the exercise of any employment in Singapore by him —

- (a) the apportioned employment income shall be readjusted such that the notional tax payable on the readjusted apportioned employment income shall be 10% of the gains or profits from the exercise of any employment in Singapore by him; and
- (b) the relevant employment income shall be reduced by the difference between the readjusted apportioned employment income and the apportioned employment income.

(3) Any individual who satisfies any of the following criteria may apply to the Comptroller in such manner as he may determine to be approved as an NOR individual for the specified period:

- (a) if he is not resident in Singapore for any year of assessment before 1st January 2003, but is resident in Singapore for every succeeding year of assessment up to and including year of assessment 2003, for a period of 5 consecutive years from the first year of assessment in which he is resident in Singapore;
- (b) if he is resident in Singapore in year of assessment 2004, but is not resident in Singapore in year of assessment 2003, for a period of 5 consecutive years from year of assessment 2004;
- (c) if he is resident in Singapore in year of assessment 2005, but is not resident in Singapore in years of assessment 2003 and 2004, for a period of 5 consecutive years from year of assessment 2005; or
- (d) if he is resident in Singapore in any year of assessment on or after 1st January 2006, but is not resident in Singapore for all the 3 years of assessment immediately preceding that year of assessment, for a period of 5 consecutive years commencing from that year of assessment in which he is resident in Singapore.

(4) The Comptroller may, subject to such terms and conditions as he may impose, approve the application of an individual to be an NOR individual.

(5) Where an individual has been approved as an NOR individual, no approval shall be given under subsection (4) before the expiry of the period he is an NOR individual.

(6) Any election under subsection (1) and any approval under subsection (4) shall be irrevocable.

(7) In this section —

“apportioned employment income”, in relation to an NOR individual, means total gains or profits from the exercise of any employment in Singapore by the NOR individual after deducting relevant employment income;

“NOR individual” means any individual who is for the time being approved as an NOR individual under subsection (4);

“notional tax payable”, in relation to gains or profits from the exercise of any employment in Singapore by an individual, apportioned employment income or readjusted apportioned employment income, as the case may be, means the amount of tax computed in accordance with the rates specified in Part A of the Second Schedule in respect of gains or profits from the exercise of any employment in Singapore by the individual, apportioned employment income or readjusted apportioned employment income, as the case may be, before any deduction under sections 37 and 39;

“obligatory” means required under any foreign written law;

“relevant amount”, in relation to an NOR individual, means —

(a) nil if $A \geq B$; or

(b) $B - A$ if $A < B$,

where A is the total amount of contributions made by the employer in respect of the NOR individual to any obligatory pension or provident fund constituted outside Singapore and for which the amount is not deemed as income accruing

to the NOR individual under section 10C(6);
and

B is the amount of contribution which would have been required to be made by the employer under section 7 of the Central Provident Fund Act (Cap. 36) if the NOR individual were an employee and a citizen of Singapore;

“relevant employment income”, in relation to an NOR individual,
means —

$$\frac{C}{D} \times E,$$

where C is the number of days in the year preceding that year of assessment for which the NOR individual is not physically present in Singapore by reason of the exercise of any employment in Singapore;

D is the number of days in the year preceding that year of assessment for which the NOR individual exercises any employment in Singapore; and

E is the gains or profits from the exercise of any employment in Singapore by the NOR individual referred to in section 10(2)(a), (5) and (5A), but excluding —

(a) such perquisite as may be determined by the Comptroller;

(b) leave pay;

(c) director’s fee; and

(d) gains or profits from employment deemed to be income of the NOR individual under section 51(1).”.

Amendment of section 14B

21. Section 14B(3E) of the principal Act is amended by deleting the words “, including a dividend paid by a holding company,” in paragraph (b).

Amendment of section 14D

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

- (a) by deleting the word “specified” in the 3rd line of subsection (1) and substituting the word “any”;
- (b) by deleting paragraph (b) of subsection (1) and substituting the following paragraph:

“(b) payments made by that person to a research and development organisation for undertaking on his behalf research and development related to that trade or business.”; and

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

“(3) If the research and development organisation referred to in subsection (1)(b) is outside Singapore, a claim for deduction shall be allowed to a person only if —

- (a) there is an undertaking by the person that any benefit which may arise from the conduct of the research and development shall accrue to the person; and
- (b) the claim is made by the person in such manner and subject to such conditions as the Comptroller may require.”.

Amendment of section 14E

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

- (a) by inserting, immediately after the word “business” in the 1st line of subsection (1)(a), the words “, or a trade or business for the provision of any services”;
- (b) by inserting, at the end of subsection (1)(a), the word “or”;

- (c) by deleting the word “; or” at the end of subsection (1)(b) and substituting a comma;
- (d) by deleting paragraph (c) of subsection (1); and
- (e) by deleting the definition of “specified services” in subsection (4).

Amendment of section 14M

24. Section 14M(8) of the principal Act is amended —

- (a) by inserting, immediately after paragraph (d), the following paragraph:

“(e) any dividends debited to the tax exempt account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company;”;

- (b) by deleting paragraph (f) and substituting the following paragraph:

“(g) notwithstanding paragraphs (d) and (f) —

- (i) no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder;

- (ii) any dividend paid on any share of a preferential nature shall be deemed as interest income of the shareholder if the dividend is paid by a company —

- (A) which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003; or

- (B) which before 1st January 2003 had been subjected to the provisions of section 44 in force immediately before that date and the dividend is paid on or after —

- (BA) the 44A balance of the company becomes nil;

- (BB) the company exercises the option referred to in section 44(6A); or
- (BC) 31st December 2007,
whichever is the earliest; and
- (iii) any dividend paid on any share of a preferential nature shall be deemed as interest expense of the company if the company so elects;” and
- (c) by re-lettering the existing paragraphs (e), (g) and (h) as paragraphs (f), (h) and (i), respectively.

New section 140

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

“Deduction for special reserve of approved general insurance company

140.—(1) The Minister may by regulations provide that, for the purpose of ascertaining the income of a general insurance company approved by the Minister or such person as he may appoint from carrying on the business of insuring and reinsuring offshore risks, there shall be allowed for a period of 10 years a deduction for the prescribed amount of special reserves set aside by the approved general insurance company for prescribed offshore risks.

(2) Regulations made under subsection (1) may provide for —

- (a) any amount transferred to the special reserve on an earlier date to be deemed to have been transferred out of the special reserve first;
- (b) the circumstances in which any amount which has been allowed as deduction under this section may be deemed as trading receipt for any basis period;
- (c) the adjustment of any amount deemed as trading receipt for any basis period in respect of any amount which has been allowed as deduction under this section; and
- (d) generally for giving full effect to or for carrying out the purposes of this section.

(3) In this section, “offshore risk” has the same meaning as in section 26.”.

Amendment of section 15

26. Section 15(1) of the principal Act is amended —

- (a) by deleting the word “and” at the end of paragraph (n); and
- (b) by deleting the full-stop at the end of paragraph (o) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(p) any sum of money, other than any compensatory payment, paid by a transferee to a transferor after the transferee has failed to notify such person within such period as the Comptroller may require under section 10N(6)(b), in place of any dividend derived from Singapore from which tax has been deducted under section 44 in respect of transferred securities under a securities lending or repurchase arrangement to which section 10N applies; and

(q) any outgoings and expenses, whether directly or in the form of reimbursements, incurred in respect of any right or benefit granted to any person to acquire shares on or after 1st January 2002 in any company, if the right or benefit is not granted by reason of any office or employment held in Singapore by the person.”.

Amendment of section 19A

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

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

“(1J) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has incurred capital expenditure on the provision of a website for the purposes of a trade, business or profession carried on by him, he shall be entitled to an allowance of 100% in respect of the capital expenditure incurred on the provision of that website, and for this purpose, a website is deemed to be machinery or plant.”;

- (b) by renumbering the existing subsection (1J) as subsection (1K); and
- (c) by deleting the full-stop at the end of paragraph (o)(ii) of subsection (6) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(p) “website” means a collection of programmes, data and images which is accessible over the Internet or any network using a browser or any other form of access.”.

Amendment of section 23

28. Section 23 of the principal Act is amended —

- (a) by inserting, immediately after the word “shall” in the 7th line of subsection (1), the words “, subject to subsection (1B),”; and
- (b) by inserting, immediately after subsection (1A), the following subsection:

“(1B) Where any allowance for any year of assessment falling to be made to a company under section 16, 17, 18A, 19, 19A, 19B, 19C or 20 is transferred to a claimant company under section 37C, the amount of such allowance transferred shall be deducted from the balance in subsection (1).”.

Amendment of section 26

29. Section 26(8) of the principal Act is amended —

- (a) by deleting the word “to —” in the 9th line of paragraph (c) and substituting the words “to income of a company subject to tax at a lower rate of tax or income of the company subject to tax at a lower rate of tax, as the case may be, shall be read as a reference to such part of the income of the company as is apportioned to the shareholders of the company in accordance with regulations made under section 43C,”; and
- (b) by deleting sub-paragraphs (i) and (ii) of paragraph (c).

Amendment of section 35

30. Section 35 of the principal Act is amended —

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

“(1) Except as provided in this section, the income of any person for each year of assessment (referred to in this Act as the statutory income) shall be the aggregate of his income from each source for the year preceding the year of assessment, after deducting —

- (a) firstly, any balance of allowance from any previous year of assessment added to and deemed to form part of the corresponding allowance for the year of assessment under section 23(1); and
- (b) secondly, any allowance for that year of assessment falling to be made under section 16, 17, 18A, 19, 19A, 19B, 19C or 20.

(1A) For the purposes of subsection (1)(a), the balance of allowance for the earliest year of assessment shall be deemed to have been deducted first, followed by the balance of allowance for the next earliest year of assessment, and so on.”; and

- (b) by deleting the full-stop at the end of paragraph (d) of subsection (2A) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(e) derived during the period from 1st January 2001 to 31st December 2001 shall be treated as his statutory income for the year of assessment 2002 and be charged to tax at the rate applicable to him for that year of assessment.”.

Amendment of section 37

31. Section 37 of the principal Act is amended —

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

“(a) the amount of loss incurred by that person in any trade, business, profession or vocation, which, if it had been a profit would have been assessable under this Act, in the following order:

-
- (i) firstly, any balance of such loss which remains unabsorbed at the end of the basis period for the previous year of assessment; and
 - (ii) secondly, the amount incurred during the basis period for the year of assessment;
 - (b) an amount equivalent to twice the value, the value to be determined by the Minister, of an approved donation of artefact made by him in the year preceding the year of assessment to an approved museum; and for this purpose, “approved” means approved by the Minister or such person as he may appoint;”;
 - (b) by deleting the words “in respect of gifts of money” in the 1st line of subsection (2)(c) and substituting the words “equivalent to twice the amount of any donation of money”;
 - (c) by deleting the words “the value of any gift” in the 1st line of subsection (2)(d) and substituting the words “twice the value of any donation”;
 - (d) by deleting paragraph (e) of subsection (2) and substituting the following paragraph:
 - “(e) an amount equivalent to —
 - (i) twice the value of any donation of shares in a company listed on the Singapore Exchange; or
 - (ii) twice the value of any donation of units in unit trusts traded in Singapore,made by an individual in the year preceding the year of assessment to any institution of a public character in Singapore approved by the Minister on the application by that institution.”;
 - (e) by deleting the words “subsection (2)(a)” in the 1st line of subsection (2A) and substituting the words “subsection (2)(a)(i)”;
 - (f) by deleting subsection (2B) and substituting the following subsections:
 - “(2B) Where, in any year of assessment, the amount of loss incurred by any person during the year preceding the year of

assessment is not fully deducted under subsection (2)(a)(ii), the balance of such loss, after deducting any amount of such loss transferred to a claimant company under section 37C, shall be available for deduction against his statutory income for subsequent year of assessment under subsection (2)(a)(i).

(2C) The deduction allowed under subsection (2)(b), (c), (d) or (e) shall be reduced to an amount equivalent to the value of the donation if it is made by any of the following persons:

- (a) if the recipient of the donation is named after an individual and the donation is made while he is alive, by —
 - (i) that individual;
 - (ii) any of his immediate family members; or
 - (iii) any company or organisation which is related to that individual;
- (b) if the recipient of the donation is set up by an individual and named after the family name of that individual and the donation is made while that individual or any of his siblings with the same family name is alive, by —
 - (i) that individual or any of his immediate family members; or
 - (ii) any of his siblings with the same family name or any of the immediate family members of that sibling;
- (c) if the recipient of the donation is named after a company or an organisation, by —
 - (i) that company or organisation, as the case may be; or
 - (ii) any person who is related to that company or organisation, as the case may be; and
- (d) if any facility of the recipient of the donation is named after a person and the donation is made by him within

2 years before, on or within 2 years after the date of the naming of the facility, by that person.

(2D) A deduction under this section to any person in respect of any sum allowable under subsection (2)(b), (c), (d) or (e) or (2C) shall only be allowed against his statutory income after the deduction under subsection (2)(a).

(2E) Subject to subsections (2D) and (5), the deduction to any person in respect of any sum allowable under subsection (2)(b), (c), (d) or (e) or (2C) shall be allowed as far as possible against his statutory income of the first year of assessment after the year in which the donation was made by him, and, so far as the deduction cannot be so allowed, after deducting any of such sum transferred to a claimant company under section 37C, then from his statutory income of the next year of assessment, and so on, except that any balance of the donation not deducted against his statutory income of the sixth year of assessment from the first year of assessment in which the donation was made shall be disregarded.

(2F) For the purposes of subsections (2D) and (2E), any sum allowable under subsection (2)(b), (c), (d) or (e) or (2C) in respect of any donation made on an earlier date shall be deemed to have been deducted first.”;

(g) by deleting subsection (5) and substituting the following subsection:

“(5) Notwithstanding subsection (2), the amount of any loss incurred by a company in any trade or business or any sum allowable under subsection (2)(b), (c), (d) or (e) or (2C) to a company in respect of any donation shall be disregarded unless the Comptroller is satisfied that the shareholders of the company on the last day of the year in which the loss was incurred or the donation was made, as the case may be, were substantially the same as the shareholders of the company on the first day of the year of assessment in which such loss or donation would otherwise be deductible under subsection (2).”;

(h) by inserting, immediately after the word “loss” in subsection (6), the words “or donation”;

-
- (i) by deleting subsection (8) and substituting the following subsections:

“(8) 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 subsection (5).

(8A) Upon an exemption under subsection (8) —

- (a) any loss referred to in subsection (2)(a) incurred by a company may only be deducted against the profits from the same trade or business of the company in respect of which that loss was incurred; and
 - (b) any balance of the donation referred to in subsection (2E) shall be allowed against the statutory income of the person of the year of assessment in which such donation would otherwise be deductible under that subsection.”;
- (j) by deleting the word “gift” wherever it appears in subsections (9)(c) and (10)(a), (b) and (c) and substituting in each case the word “donation”; and
- (k) by inserting, immediately after subsection (10), the following subsection:

“(11) For the purposes of subsection (2C) —

- (a) “facility” includes any building or part thereof or permanent structure, and any scholarship, prize, research fellowship or lectureship;
- (b) “immediate family member”, in relation to an individual, means his spouse, children, parents, grandparents and siblings;
- (c) “sibling” means a brother or sister and includes a step-brother or step-sister, or a brother or sister adopted under any written law relating to adoption;

- (d) an individual shall be deemed to be related to a company or an organisation if he controls, directly or indirectly, the company or organisation, as the case may be; and
- (e) a company or an organisation shall be deemed to be related to another company or organisation, as the case may be, where one of them, directly or indirectly, has the ability to control the other or where both of them, directly or indirectly, are under the control of a common person.”.

Amendment of section 37B

32. Section 37B of the principal Act is amended —

- (a) by deleting the words “as concessionary income and normal income” in subsection (1) and substituting the words “at different rates”;
- (b) by deleting subsections (2), (3), (4) and (5) and substituting the following subsections:

“(2) Where, for any year of assessment, there are any unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a lower rate of tax to which this section applies, and there is any chargeable income of the company subject to tax at a higher rate of tax to which this section applies, those unabsorbed allowances, losses or donations shall be deducted against that chargeable income in accordance with the following provisions:

- (a) in the case where those unabsorbed allowances, losses or donations do not exceed that chargeable income multiplied by the adjustment factor, that chargeable income shall be reduced by an amount arrived at by dividing those unabsorbed allowances, losses or donations by the adjustment factor, and those unabsorbed allowances, losses or donations shall be nil; and
- (b) in any other case, those unabsorbed allowances, losses or donations shall be reduced by an amount arrived at

by multiplying that chargeable income by the adjustment factor, and those unabsorbed allowances, losses or donations so reduced shall be added to, and be deemed to form part of, the corresponding allowances, losses or donations in respect of the income subject to tax at the lower rate of tax, for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37, as the case may be, and that chargeable income shall be nil.

(3) Where, for any year of assessment, there are any unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a higher rate of tax to which this section applies, and there is any chargeable income of the company subject to tax at a lower rate of tax to which this section applies, those unabsorbed allowances, losses or donations shall be deducted against that chargeable income in accordance with the following provisions:

- (a) in the case where those unabsorbed allowances, losses or donations do not exceed that chargeable income divided by the adjustment factor, that chargeable income shall be reduced by an amount arrived at by multiplying those unabsorbed allowances, losses or donations by the adjustment factor, and those unabsorbed allowances, losses or donations shall be nil; and
- (b) in any other case, those unabsorbed allowances, losses or donations shall be reduced by an amount arrived at by dividing that chargeable income by the adjustment factor, and those unabsorbed allowances, losses or donations so reduced shall be added to, and be deemed to form part of, the corresponding allowances, losses or donations in respect of the income subject to tax at the higher rate of tax, for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37, as the case may be, and that chargeable income shall be nil.

(4) Where a company to which this section applies ceases to derive income subject to tax at a lower rate of tax in the basis period for any year of assessment but derives income subject to tax at a higher rate of tax in that basis period, subsection (2) shall apply, with the necessary modifications, to any unabsorbed allowances, losses or donations in respect of the income of the company subject to tax at the lower rate of tax for any year of assessment subsequent to that year of assessment.

(5) Where a company to which this section applies ceases to derive income subject to tax at a higher rate of tax in the basis period for any year of assessment but derives income subject to tax at a lower rate of tax in that basis period, subsection (3) shall apply, with the necessary modifications, to any unabsorbed allowances, losses or donations in respect of the income of the company subject to tax at the higher rate of tax for any year of assessment subsequent to that year of assessment.”;

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

“(7) In this section —

“adjustment factor”, in relation to any year of assessment, means the factor ascertained in accordance with the formula

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

where A is the higher rate of tax for that year of assessment; and

B is the lower rate of tax for that year of assessment;

“allowances” means allowances under section 16, 17, 19, 19A, 19B, 19C, 20, 21, 22 or 23 including unabsorbed allowances which arose in any year of assessment before the year of assessment 1994;

“chargeable income of the company subject to tax at a higher rate of tax” means income subject to tax at a higher rate of tax after deducting expenses, donations, allowances or losses allowable under this Act against that income;

“chargeable income of the company subject to tax at a lower rate of tax” means income subject to tax at a lower rate of tax after deducting expenses, donations, allowances or losses allowable under this Act against that income;

“donations” means donations which are deductible including any unabsorbed donations allowable under section 37;

“higher rate of tax” or “lower rate of tax” means the rate of tax under section 43(1)(a) or the concessionary rate of tax in accordance with:

(a) any order made under section 13(8); or

(b) the regulations made under section 13H, 43A, 43C (in respect of those relating to offshore general insurance business only), 43D, 43E, 43F, 43G, 43H, 43J, 43K, 43L, 43M, 43N, 43O or 43P, as the case may be;

“losses” means losses which are deductible under section 37 including unabsorbed losses incurred in respect of any year of assessment before the year of assessment 1994;

“unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a higher rate of tax” means the balance of such allowances, losses or donations after deducting expenses, donations, allowances or losses allowable under this Act against the income subject to tax at a higher rate of tax;

“unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a lower rate of tax” means the balance of such allowances, losses or

donations after deducting expenses, donations, allowances or losses allowable under this Act against the income subject to tax at a lower rate of tax.”; and

- (d) by deleting the section heading and substituting the following section heading:

“Adjustment of capital allowances, losses or donations between income subject to tax at different rates”.

New section 37C

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

“Group relief for Singapore companies

37C.—(1) Subject to the provisions in this section, a transferor company may transfer any qualifying deduction for any year of assessment to a claimant company of the same group which has claimed the qualifying deduction against its assessable income for the same year of assessment.

(2) A transfer of a qualifying deduction for any year of assessment shall be made only if the transferor company and the claimant company, for that year of assessment —

- (a) are members of the same group on the last day of the basis period;
- (b) have accounting periods ending on the same day; and
- (c) have made an election under subsection (11).

(3) For the purposes of this section, 2 Singapore companies are members of the same group if —

- (a) at least 75% of the ordinary share capital in one company is beneficially held, directly or indirectly, by the other; or
- (b) at least 75% of the ordinary share capital in each of the 2 companies is beneficially held, directly or indirectly, by a third Singapore company.

(4) Notwithstanding that a Singapore company beneficially holds, directly or indirectly, at least 75% of the ordinary share capital in

another Singapore company, it shall not be treated to have satisfied subsection (3) unless additionally it is beneficially entitled to at least 75% of —

- (a) any residual profits of the other company available for distribution to that company's equity holders; and
- (b) any residual assets of the other company available for distribution to that company's equity holders on a winding up.

(5) For the purpose of subsection (3), where a Singapore company beneficially owns, directly or indirectly, a fraction of the share capital of a second Singapore company which in turn beneficially owns, directly or indirectly, a fraction of the share capital of a third Singapore company, the Singapore company shall be deemed to have a beneficial ownership of the share capital of the third Singapore company equal to such fraction as results from the multiplication of those 2 fractions; and where the third Singapore company beneficially owns, directly or indirectly, a fraction of the share capital of a fourth Singapore company, the Singapore company shall be deemed to have a beneficial ownership of the share capital of the fourth Singapore company equal to such fraction as results from the multiplication of those 3 fractions, and so on.

(6) A transfer of qualifying deduction may be —

- (a) made by a transferor company to more than one claimant company, provided that the amount of qualifying deduction transferred is fully deducted against the assessable income of the first claimant company before any excess qualifying deduction is transferred and deducted against the assessable income of the second claimant company and so on; or
- (b) claimed by a claimant company from more than one transferor company, provided that the amount of qualifying deduction transferred from the first transferor company is fully deducted against the assessable income of the claimant company before any qualifying deduction transferred from a second transferor company is deducted against the assessable income of the claimant company and so on.

(7) Qualifying deductions shall be transferred to a claimant company in accordance with the priority specified in the election made under subsection (11), and in the following order:

- (a) any allowance specified in subsection (14)(a);
- (b) any loss specified in subsection (14)(b); and
- (c) any donation specified in subsection (14)(c).

(8) Where, in any year of assessment, a transfer of qualifying deduction cannot be effected in accordance with the order of priority specified by any transferor company or claimant company in its election made under subsection (11), the transfer shall be allowed in such manner as the Comptroller thinks reasonable and proper.

(9) Subject to subsection (10), the amount of qualifying deduction that may be transferred to a claimant company from a transferor company for any year of assessment shall be —

- (a) the available assessable income of the claimant company equal to

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

where A is the number of days in the continuous period ending on the last day of the basis period for that year of assessment during which the companies are members of the same group or, if the continuous periods of the transferor company and the claimant company are different, the number of days in the shorter of the continuous periods;

B is the number of days in the basis period of the claimant company for that year of assessment; and

C is the assessable income of the claimant company for that year of assessment; or

- (b) the available qualifying deduction of the transferor company equal to

$$\frac{A}{D} \times E,$$

where A has the same meaning as in paragraph (a);

D is the number of days in the basis period of the transferor company for that year of assessment; and

E is the amount of qualifying deduction of the transferor company for that year of assessment,

whichever is the lower.

(10) Where, for any year of assessment, there are 2 or more —

- (a) claims for any qualifying deduction by a claimant company, the available assessable income of the claimant company shall, for the purpose of subsection (9)(a), be

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

where A, B and C have the same meanings as in subsection (9)(a);

F is the aggregate of the amounts of qualifying deductions previously claimed from any other transferor company for the same year of assessment, if any;

- (b) transfers of any qualifying deduction by a transferor company, the available qualifying deduction of the transferor company shall, for the purpose of subsection (9)(b), be

$$\frac{A}{D} \times E - G,$$

where A, D and E have the same meanings as in subsection (9)(b);

G is the aggregate of the amounts of qualifying deductions previously transferred to any other claimant company for the same year of assessment, if any.

(11) Every transferor company and every claimant company of the same group shall, at the time of lodgment of their returns of income for any year of assessment or within such further time as the Comptroller may allow, make an irrevocable election to transfer or claim qualifying deductions, as the case may be.

(12) An election under subsection (11) shall be accompanied by —

- (a) such particulars as the Comptroller may require; and
- (b) a list of companies, in order of priority, to which qualifying deductions would be transferred or from which such deductions would be claimed, as the case may be.

(13) Notwithstanding subsection (11), where at the time of furnishing its return of income under section 62(1) for any year of assessment —

- (a) a company has assessable income, but is subsequently determined by the Comptroller to have any qualifying deduction for that year of assessment; or
- (b) a company has any qualifying deduction, but is subsequently determined by the Comptroller to have assessable income for that year of assessment,

the Comptroller may —

- (i) allow the company to make an election under subsection (11); and

- (ii) allow any company of the same group to include that company in its list of companies submitted previously by it under subsection (11),

within such time and in such manner as the Comptroller may determine.

(14) For the purposes of this section, subject to subsection (15) and sections 35, 37 and 37B, qualifying deductions, in relation to a transferor company, for each year of assessment, are —

- (a) any allowance falling to be made under section 16, 17, 18A, 19, 19A, 19B, 19C or 20 for that year of assessment that is in excess of the transferor company's income from all sources chargeable to tax for that year of assessment;
- (b) any loss incurred by the transferor company in the basis period for that year of assessment in any trade or business which, if it had been a profit would have been assessable under this Act, and which is not deducted for that year of assessment because of insufficiency of statutory income of the transferor company; and
- (c) any donation made by the transferor company under section 37(2)(b), (c), (d) or (2C) in the year preceding that year of assessment that is not deducted for that year of assessment because of insufficiency of statutory income of the transferor company.

(15) Notwithstanding subsection (14), the following companies shall not be entitled to transfer the following items of qualifying deductions:

- (a) any company to which section 10E applies, in respect of qualifying deductions under subsection (14)(a) and (b);
- (b) any company to which section 97D, 97G or 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) applies, in respect of qualifying deductions under subsection (14)(a) where the loss is deemed to be a loss incurred from a trade or business for the purposes of any of those sections; and

- (c) any company, in respect of qualifying deductions under subsection (14) relating to any income that is fully exempt from tax under the provisions of this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

(16) Notwithstanding subsections (9) and (10), where the Comptroller discovers that any transfer or claim of qualifying deduction which has been made from or to any company is or has become excessive, he may make an assessment upon the company under section 74 on the amount which, in his opinion, ought to have been charged to tax.

(17) Section 37B shall apply, with the necessary modifications, to the transfer of any qualifying deduction from a transferor company to a claimant company, where applicable, and for the purpose of such application, any reference in section 37B(2) and (3) to —

- (a) unabsorbed allowances, losses or donations shall be read as a reference to qualifying deductions;
- (b) corresponding allowances, losses or donations shall be read as a reference to allowances, losses or donations;
- (c) income of a company subject to tax at a higher or lower rate of tax, as the case may be, shall be read as a reference to income of a transferor company subject to tax at a higher or lower rate of tax, respectively; and
- (d) chargeable income of the company shall be read as a reference to chargeable income of a claimant company.

(18) For the purposes of this section, the Minister may make regulations generally to give full effect to or for carrying out the purposes of this section.

(19) In this section —

“assessable income”, in relation to a claimant company or transferor company, means assessable income of the company as determined under section 37 after deducting any investment allowance under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act;

“claimant company” or “transferor company” means a Singapore company that claims or transfers, respectively, any qualifying deduction under subsection (1) but shall not include a company approved as —

- (a) a technology company under section 94(2) of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);
- (b) a venture company under section 97B(2) of the Economic Expansion Incentives (Relief from Income Tax) Act;
- (c) a technology investment company under section 97C(2) of the Economic Expansion Incentives (Relief from Income Tax) Act;
- (d) an overseas investment company under section 97C(4) of the Economic Expansion Incentives (Relief from Income Tax) Act; or
- (e) a technopreneur start-up company under section 97T(2) of the Economic Expansion Incentives (Relief from Income Tax) Act;

“commercial loan” means any borrowing which entitles the creditor to any return which is of only —

- (a) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or
- (b) of a fixed rate per cent of the profits of the company;

“equity holder”, in relation to a Singapore company, means any holder of ordinary shares in the company or any creditor of the company in respect of any non-commercial loan;

“non-commercial loan” means any borrowing other than a commercial loan;

“ordinary share” means any share other than a share which carries only a right to any dividend which is of —

- (a) a fixed amount or at a fixed rate per cent of the nominal value of the shares; or
- (b) a fixed rate per cent of the profits of the company;

“ordinary share capital”, in relation to a Singapore company, means all the issued share capital comprising the ordinary shares of the company;

“residual assets”, in relation to a Singapore company, means net assets of the company after distribution made to —

(a) creditors of the company in respect of commercial loans; and

(b) holders of shares other than ordinary shares,

and where the company has no residual asset, a notional amount of \$100 is deemed to be the residual assets of the company;

“residual profits”, in relation to a Singapore company, means profits of the company after deducting any dividend which is of —

(a) a fixed amount or at a fixed rate per cent of the nominal value of the shares of the company; or

(b) a fixed rate per cent of the profits of the company,

but before deducting any return due to any non-commercial loan creditor which is not of —

(i) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or

(ii) a fixed rate per cent of the profits of the company,

and where the company has no residual profit, a notional amount of \$100 is deemed to be the residual profits of the company;

“Singapore company” means any company incorporated in Singapore.”.

Amendment of section 39

34. Section 39 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (1);

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

“(i) maintained any dependant living in Singapore —

- (i) who was his or his spouse’s parent, grandparent or great-grandparent;
- (ii) whose income was not more than \$2,000 in that year; and
- (iii) in respect of whom no deduction has been claimed by another person under paragraph (a), (b), (c) or (d),

there shall be allowed, under sub-paragraph (A) or (B) but not both, in respect of —

(A) each such dependant who was not less than 55 years of age —

(AA) a deduction of \$5,000, where the dependant was living with him in the same household; or

(AB) a deduction of \$3,500, where the dependant was not living with him in the same household but in respect of whom a sum of not less than \$2,000, or such lower sum as the Comptroller may determine, was incurred in that year by the individual in maintaining the dependant; or

(B) each such dependant who was incapacitated from maintaining himself by reason of physical or mental infirmity —

(BA) a deduction of \$8,000, where the dependant was living with him in the same household; or

(BB) a deduction of \$6,500, where the dependant was not living with him in the same household but in respect of whom a sum of not less than \$2,000, or such lower sum as the Comptroller may determine, was incurred in that year by the individual in maintaining the dependant:

Provided that a deduction under this paragraph in respect of any one dependant shall be allowed to one individual only and no individual may obtain a deduction under this paragraph for more than 2 dependants, and where more than one individual claims a deduction in respect of the same dependant, a deduction shall be allowed to such claimant as the individuals may agree or, failing such agreement, to such claimant as determined by the Comptroller whose decision shall be final;”;

- (c) by deleting “\$2,000” in the last line of subsection (2)(l)(i) and substituting “\$3,000”;
- (d) by deleting “\$1,000” in the last line of subsection (2)(l)(ii) and substituting “\$1,500”;
- (e) by deleting “\$500” in the 5th line of subsection (2)(m) and substituting “\$750”; and
- (f) by deleting “\$500” in the 4th line of subsection (2)(n) and substituting “\$750”.

Amendment of section 40

35. Section 40(5) of the principal Act is amended by deleting the words “section 43(3)” in the definition of “specified income” and substituting the words “section 43(3) and (3A)(a)”.

Amendment of section 42

36. Section 42 of the principal Act is amended —

- (a) by deleting the words “subsection (2) or (4)” in the 1st line of subsection (1) and substituting the words “subsections (2), (4) and (6)”;
- (b) by inserting, immediately after subsection (5), the following subsections:

“(6) There shall be levied and paid for each year of assessment upon any interest derived by a body of persons from qualifying debt securities at the rate of 10%.

(7) Subsection (6) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 27th February 2003 where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest is derived by any body of persons —

- (a) which is a related party of the issuer of those securities; or
- (b) from securities acquired using funds obtained, directly or indirectly, from any related party of the issuer of those securities.

(8) In this section, “qualifying debt securities” and “related party” have the same meanings as in section 13(11).”.

Amendment of section 42A

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

- (a) by inserting, immediately after the word “is” in subsection (1)(a), (b), (c) and (d), the words “married or widowed and is”;
- (b) by inserting, immediately after the word “child” in the 5th line of subsection (2), the words “whose mother is married or widowed at the time of his birth”;
- (c) by inserting, at the end of subsection (3)(c), the word “and”;
- (d) by deleting the word “; and” at the end of subsection (3)(d) and substituting a full-stop;
- (e) by deleting paragraph (e) of subsection (3); and
- (f) by inserting, immediately after subsection (3), the following subsections:

“(3A) Where a marriage has been dissolved by divorce or annulment and an individual is entitled to claim —

- (a) any rebate or balance of the unabsorbed rebate under subsection (1) or (2) in respect of any child born to the individual from that marriage; and

- (b) any rebate under subsection (1) or (2) in respect of any child born to the individual after the dissolution of that marriage,

subsection (3)(b) and (c) shall only apply to any second, third or fourth child, as the case may be, born to the individual after the dissolution of that marriage.

(3B) Where a marriage was dissolved by divorce or annulment before 1st January 2002 and an individual would, but for subsection (3)(e) in force immediately before that date, have been entitled to claim any rebate or balance of the unabsorbed rebate under subsection (1) or (2), such rebate or balance shall, subject to subsection (3)(a) to (d), be available for deduction against the tax payable by that individual only on due claim by that individual after that date and only for any year of assessment from the year of the claim or, in respect of any claim made in 2002, only from the year of assessment 2003.”.

Amendment of section 43

38. Section 43 of the principal Act is amended —

- (a) by deleting “24.5%” in subsection (1)(a) and (b) and substituting in each case “22%”;
- (b) by inserting, immediately after subsection (3), the following subsections:

“(3A) Notwithstanding anything in this Act but subject to subsection (3B) and sections 13(1)(r) and 40A, tax at the rate of 15% shall be levied and paid on the gross amount of any income accruing in or derived from Singapore on or after 3rd May 2002 from any profession or vocation carried on by —

- (a) an individual not resident in Singapore and whose principal place of business is situated outside Singapore; or
- (b) a foreign firm.

(3B) Any individual or foreign firm to which subsection (3A) applies may make an irrevocable option to be taxed under

subsection (1)(b) within 30 days from the date of payment of the income to the individual or firm or, where such payment was made before the date of commencement of the Income Tax (Amendment) Act 2002, within 30 days after that date.

(3C) In subsection (3A), “foreign firm” means an unincorporated body of 2 or more persons who have entered into partnership with one another with a view to carrying on business for profit and whose principal place of business is situated outside Singapore.”;

- (c) by deleting the words “subsection (3)” in subsection (4) and substituting the words “subsections (3) and (3A)”; and
- (d) by deleting subsection (8) and substituting the following subsection:

“(8) The reference to 22% in subsection (1) shall, for the year of assessment 2002, be read as a reference to 24.5%.”.

Amendment of section 43A

39. Section 43A(1) of the principal Act is amended by deleting the words “derived by it from the operation of its” in paragraph (a) and substituting the words “with an”.

Amendment of section 43D

40. Section 43D of the principal Act is amended —

- (a) by deleting the words “in either case under section 13C or 43A” in subsection (1)(a)(v) and substituting the words “under section 43A”;
- (b) by deleting the comma at the end of paragraph (b) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(c) derived from transactions in derivatives products as approved by the Minister or such person as he may appoint and introduced during the period from 1st Jan 2002 to 31st December 2006, on any market maintained by the Singapore Exchange or its subsidiaries, in any currency other than the Singapore dollar, with any of the persons mentioned in paragraph (a)(i) to (v) and any

member of any securities market maintained by the Singapore Exchange Securities Trading Limited,”;

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

“(1A) Regulations made under subsection (1) may also provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income of any member of any securities market maintained by the Singapore Exchange Securities Trading Limited in respect of transactions described in subsection (1)(c).”;

- (d) by deleting the words “and 43O” in subsection (2) and substituting the words “, 43O and 43P”; and
- (e) by deleting the words “gold and futures transactions” in the section heading and substituting the words “transactions on any market maintained by the Singapore Exchange or its subsidiaries”.

Amendment of section 43F

41. Section 43F of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) No approval shall be granted under this section on or after 1st June 2001.”.

Amendment of section 43H

42. Section 43H of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) No approval shall be granted under this section on or after 1st June 2001.”.

Amendment of section 43I

43. Section 43I(4) of the principal Act is amended —

- (a) by deleting the word “to —” in the 8th line and substituting the words “to income of a company subject to tax at a lower rate of tax or income of the company subject to tax at a lower rate of tax,

as the case may be, shall be read as a reference to such part of the income of the leasing company as is subject to tax at the concessionary rate of tax under this section.”; and

(b) by deleting paragraphs (a) and (b).

New section 43P

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

“Concessionary rate of tax for global trading company

43P.—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon 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 those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (2).

(2) In this section, “global trading company” means a company carrying on the business of international trading of commodities or commodities futures, including petroleum and petroleum products.”.

Amendment of section 44

45. Section 44 of the principal Act is amended —

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

“(1) Every company resident in Singapore which —

(a) has paid dividend to any shareholder before 1st January 2003;

(b) has paid dividend to any shareholder at any time during the period from 1st January 2003 to 31st March 2003, and on or before the day of paying the dividend, has not exercised an option under subsection (6A); or

(c) at any time during the period from 1st April 2003 to 31st December 2007 —

(i) has paid dividend to any shareholder;

(ii) has a 44A balance of the company remaining on the day before the date of payment of the dividend after taking into account the tax assessed to be added to the 44A balance under section 44A(5); and

(iii) on or before the day of paying the dividend, has not exercised an option under subsection (6A),

shall be entitled to deduct from the amount of dividend paid, tax at the relevant rate on every dollar of such dividend.”;

(b) by inserting, immediately after the word “assessment” in the 2nd line of subsection (4), the words “before the year of assessment 2003 under subsection (1)(a)”;

(c) by deleting the words “subsection (1)” in the 3rd line of subsection (4)(a) and (b) and substituting in each case the words “subsection (1)(a)”;

(d) by inserting, immediately after the word “dividend” in the 1st line of subsection (5), the words “under subsection (1)(a)”;

(e) by deleting the words “subsection (1)” in the 5th line of subsection (5) and substituting the words “subsection (1)(a)”;

(f) by inserting, immediately after the word “dividend” in the last line of subsection (5), the words “paid on or before 31st December 2002”;

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

“(5A) Upon payment of a dividend by a company during the period 1st January 2003 to 31st December 2007 from which tax has been deducted, whether the company is entitled to make the deduction or otherwise, the amount of tax deducted shall be deducted from the 44A balance of the company remaining on the day before the date of payment of the dividend, and in the event where the amount to be so deducted exceeds the said

balance, a charge equal to the amount of such excess shall be paid to the Comptroller within 14 days from the date of payment of the dividend, and any amount of tax which remains unpaid on that date shall, notwithstanding section 85, be paid immediately to the Comptroller.

(5B) Upon the payment of any dividend referred to in subsection (1)(b) or (c), the 44A balance of the company, after deducting the tax deducted from the dividend, if any, remaining on the date of payment of the dividend, shall be carried forward as a balance to be set-off against the tax deducted from any ensuing dividend paid on or before 31st December 2007.

(5C) For the purpose of subsection (5A), where a dividend is paid by a company which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003, the 44A balance of the company remaining on the day before the date of payment of the dividend shall be deemed to be nil.”;

- (h) by deleting subsection (6) and substituting the following subsections:

“(6) Subject to subsection (6B), every company resident in Singapore which —

(a) whether has or has not, during the period from 1st January 2003 to 31st March 2003; or

(b) has, during the period from 1st April 2003 to 31st December 2007,

a 44A balance and has paid dividend at any time during those periods shall deduct tax from the dividend as provided under subsection (1) unless otherwise provided in this Act or unless the company has exercised an irrevocable option under subsection (6A).

(6A) Any company to which subsection (6) applies may exercise an irrevocable option in writing not to deduct tax under subsection (1) and where such an option is made, the company shall not be entitled to deduct tax under subsection (1) from the date of the exercise of the option.

(6B) Notwithstanding the exercise of an irrevocable option under subsection (6A) by a company, section 44A shall continue to apply to the company.

(6C) Where at any date during the period from 1st April 2003 to 31st December 2007 a company which is resident in Singapore has not exercised an option under subsection (6A), and the 44A balance of the company is reduced to nil, the company shall not be entitled to deduct tax from dividends under subsection (1) so long as the balance remains as nil on or after that date.”;

- (i) by deleting subsection (7) and substituting the following subsection:

“(7) Where no charge is payable by a company under subsection (4) or (5A) but the amount of tax deducted by the company under subsection (1) exceeds —

- (a) the aggregate amount as computed under subsection (4)(a) or (b) less any amount of tax assessed on the company but not paid; or
- (b) the amount as computed under subsection (5A) less any amount of tax assessed on the company which formed part of the 44A balance of the company but not paid,

as the case may be, a sum equal to such excess shall be paid by the company to the Comptroller immediately on the date of payment of the dividend.”;

- (j) by inserting, immediately after the word “dividend” in the 1st line of subsection (8), the words “under subsection (1)”;
- (k) by inserting, immediately after the word “balance” in the penultimate line of subsection (8), the words “, the 44A balance”;
- (l) by inserting, immediately after the word “assessment” in the 2nd line of subsection (9), the words “before the year of assessment 2008”;
- (m) by inserting, immediately after the word “balance” in the penultimate line of subsection (9), the words “or the 44A balance”;

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- (n) by inserting, immediately after the word “Comptroller” in the 2nd line of subsection (11), the words “under subsection (4)”;
 - (o) by inserting, immediately after the words “additional charge” in the 3rd line of subsection (11), the words “but before 1st January 2008”;
 - (p) by deleting subsections (12) and (13) and substituting the following subsections:

“(12) Any charge or additional charge paid by a company to the Comptroller under subsection (5A) shall only be used to set-off any tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in section 44A(5).

(13) If any charge or additional charge referred to in subsection (4) or (5A) or section 44A(8) is not paid to the Comptroller within the period prescribed for the payment of the charge, section 87 shall have effect in relation to the charge or additional charge, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of the charge or additional charge and penalties imposed thereon.”;

- (q) by inserting, immediately after the words “has been paid” in the 2nd line of subsection (14)(a), the words “under subsection (1)”;
- (r) by deleting the words “rate deductible” in the 6th line of subsection (14)(a) and substituting the words “relevant rate applicable”;
- (s) by inserting, immediately after the words “subsection (4)” in the 2nd line of subsection (14)(b), the words “or (5A)”;
- (t) by deleting the words “subsection (4) or (7)” in the 3rd line of subsection (14)(b) and substituting the words “subsection (4), (5A) or (7)”;
- (u) by inserting, immediately after the word “assessment” in the 2nd line of subsection (14)(c), the words “before the year of assessment 2003”;
- (v) by deleting the words “subsection (4)” in subsection (14)(d) and substituting the words “subsection (4), (5A)”;

- (w) by deleting the words “or 43O” in the 4th line of subsection (14)(e)(ii) and substituting the words “, 43O or 43P”;
- (x) by deleting the word “and” at the end of subsection (14)(e);
- (y) by deleting the words “or (5)” in the 3rd line of subsection (14)(f) and substituting the words “, (5), (5A) or (5B)”;
- (z) by deleting the full-stop at the end of paragraph (f) of subsection (14) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(g) relevant rate of tax —

- (i) in relation to a dividend paid from 1st January 2001 to 31st December 2001, is 24.5%; and
- (ii) in relation to a dividend paid from 1st January 2002, is 22%.”.

New section 44A

46. The principal Act is amended by inserting, immediately after section 44, the following section:

“Transitional provisions for company subjected to former imputation system

44A.—(1) This section shall —

- (a) have effect from 1st January 2003 to 31st December 2007; and
- (b) apply to all companies resident in Singapore which, before 1st January 2003, had been subjected to the provisions of section 44 in force immediately before that date.

(2) Any excess carried forward by a company under section 44(5) as at 31st December 2002 (referred to in this Act as the 44A balance) remaining as at any date during the period from 1st January 2003 to 31st December 2007 shall be computed in accordance with this section and section 44 (5A).

(3) Except as provided under subsections (5) and (11), any tax or additional tax assessed after 31st December 2002 on a company shall not be added to the 44A balance.

(4) Notwithstanding anything in this Act, where the tax on any dividend paid by a company in the year 2002 has been deducted at the rate of 24.5% —

- (a) the amount of such dividend received by a shareholder shall be deemed to have been paid without deduction of tax and to be a dividend of such a gross amount as after deduction of tax at the rate of 22% would be equal to the net amount paid; and a sum equal to the difference between such gross amount and the net amount paid shall be deemed to have been deducted from the dividend as tax; and
- (b) the difference between the amount of tax deducted at 24.5% from such dividend and the amount deemed to have been so deducted under paragraph (a) shall be added to the 44A balance of the company and deemed to be a part thereof.

(5) Notwithstanding subsection (3), where a company has furnished to the Comptroller an estimate of his chargeable income for the year of assessment 2003 on or before 31st March 2003, the tax assessed on or after 1st January 2003 on such chargeable income, after deducting any amount of such tax which is set-off under subsection (9) and section 44(12), shall be added to the 44A balance of the company on the date such tax is assessed.

(6) Where tax assessed on a company for any year of assessment is subsequently reduced at any time from 1st January 2003 to 31st December 2007 —

- (a) the amount of tax reduced shall be deemed to be a reduction of tax for that year of assessment which has been previously assessed during the period from 1st January 2003 to the date of the reduction of tax (except for the tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in subsection (5)); and
- (b) any remaining amount of tax reduced shall be deemed to be a reduction of tax for that year of assessment which has been assessed on or before 31st December 2002 and any tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in subsection (5).

(7) For the purpose of subsection (6), tax previously assessed during the period from 1st January 2003 to the date of the reduction of tax shall not include any amount of tax previously assessed which has been deemed to be tax restored under subsection (10)(b).

(8) Where any amount of tax is deemed to be a reduction under subsection (6)(b), it shall be deducted from the 44A balance of the company remaining as at the day of the reduction, and where the amount to be so deducted exceeds the 44A balance, a charge or additional charge equal to the amount of such excess shall be paid by the company to the Comptroller within 14 days of the notice of charge or additional charge.

(9) Any charge or additional charge paid by a company to the Comptroller under subsection (8) and any charge or additional charge payable under section 44(6) in force immediately before 1st January 2003 shall be used to set-off any tax assessed prior to 1st January 2008 on it subsequent to the charge or additional charge.

(10) Where additional tax is assessed at any time from 1st January 2003 to 31st December 2007 on a company for any year of assessment subsequent to a reduction of tax during that period, the amount of additional tax assessed shall be deemed to be a restoration of the following:

(a) firstly, the amount of tax for that year of assessment previously deemed to be a reduction under subsection (6)(a); and

(b) secondly, where the amount of additional tax assessed for that year of assessment exceeds the amount referred to in paragraph (a), the amount of tax for that year of assessment previously deemed to be a reduction under subsection (6)(b),

and any remaining amount of additional tax assessed shall be an additional tax assessed which is not deemed to be tax restored in accordance with paragraphs (a) and (b) and shall not be added to the 44A balance of the company .

(11) Where any amount of additional tax for a year of assessment is deemed to be tax restored under subsection (10)(b), such amount of additional tax, up to the aggregate of —

- (a) the amount of such tax previously deducted from the 44A balance of the company under subsection (8); and
- (b) the amount of such tax previously resulting in a charge or additional charge under subsection (8) which was used to set-off any subsequent tax assessed on estimated chargeable income for the year of assessment 2003 under subsection (5),

after deducting any amount of such tax which is set-off under subsection (9) and section 44(12), may upon the application of the company and subject to the submission of sufficient records and reconciliation of the additional tax to the Comptroller, be added back to the 44A balance of the company on the date which the additional tax is assessed.

(12) In this section, “tax assessed” and “relevant rate of tax” have the same meanings as in section 44(14).”.

Amendment of section 45

47. Section 45 of the principal Act is amended —

- (a) by deleting “24.5%” in the 4th line of subsection (1) and in the 3rd line of subsection (2)(b) and substituting in each case “22%”; and
- (b) by deleting subsection (1A) and substituting the following subsection:

“(1A) Notwithstanding subsection (1), tax shall be deducted at the rate of 24.5% on every payment (other than payment subject to tax at the rate specified in section 43(3)) made on or after 1st January 2002 which would be assessable on the person receiving the payment for the year of assessment 2002.”.

Amendment of section 45B

48. Section 45B(2) of the principal Act is amended by deleting “24.5%” and substituting “22%”.

Repeal and re-enactment of section 45D

49. Section 45D of the principal Act is repealed and the following section substituted therefor:

“Application of section 45 to gains from real property transaction

45D.—(1) Where any person whose income arising from the disposal of any real property is chargeable to tax under section 10(1)(a) is a non-resident person, any designated person shall, before paying to the non-resident person any money which is the whole or part of the consideration for the disposal of the real property, notwithstanding any other written law, immediately deduct therefrom tax at the rate of 15% on every dollar of such payment.

(2) Any designated person who has deducted any money under subsection (1) shall immediately give notice of the deduction of tax in writing to the Comptroller and shall, notwithstanding any other written law, pay to the Comptroller within 10 days of such deduction the amount so deducted and every such amount shall be a debt due from him to the Government and shall be recoverable in the manner provided under section 89.

(3) Section 45(2) to (8) shall apply, with the necessary modifications, to any designated person as those provisions apply to any person referred to therein.

(4) For the purpose of payment of any tax due from any income which is chargeable to tax under section 10(1)(a) in respect of any disposal of any real property which is owned by 2 or more persons as joint owners, the designated person deducting the tax shall retain such amount as is presumed under subsection (5) to be owned by any non-resident person and pay over the tax due from such amount to the Comptroller.

(5) It shall be presumed, until the contrary is proved, that the persons who own any real property as joint owners shall share the proceeds of disposal of the real property in equal shares.

(6) In this section —

“designated person”, in relation to any disposal of any real property —

(a) in the case where an advocate and solicitor acts for the buyer of the real property in such disposal, means that advocate and solicitor; and

(b) in any other case, means the buyer of the real property;

“land” includes land of any tenure wherever situated in Singapore, whether or not held apart from the surface, and buildings or parts thereof (whether completed or otherwise and whether divided horizontally, vertically or in any other manner) and tenements and hereditaments, corporeal and incorporeal, and any estate or interest therein;

“non-resident person” means a person who is not known to be resident in Singapore to the designated person;

“real property”, in relation to a disposal of which the income is chargeable to tax under section 10(1)(a), means any land and any interest, option or other right in or over any land.”.

Amendment of section 45E

50. Section 45E of the principal Act is amended —

- (a) by deleting the word “This” in subsection (4) and substituting the words “Subject to subsection (5), this”; and
- (b) by inserting, immediately after subsection (4), the following subsection:

“(5) Where a deduction for SRS contributions has been allowed in any year to an SRS member who is not a citizen of Singapore under an assessment made under section 73(1)(b) and within that year the SRS member applies to withdraw an amount up to the amount he has contributed in that year, the SRS operator shall release the amount applied to the SRS member after deducting tax at the rate specified in section 43(1)(b) on every dollar withdrawn.”.

New section 45F

51. The principal Act is amended by inserting, immediately after section 45E, the following section:

“Application of section 45 to income from profession or vocation carried on by non-resident individual, etc.

45F.—(1) Subject to subsection (2), section 45 shall apply in relation to the payment of any income accruing in or derived from Singapore on or after 3rd May 2002 from —

- (a) any profession or vocation (other than that derived by any public entertainer as defined in section 40A) by any person to any individual referred to in section 43(3A)(a) not known to him to be resident in Singapore; or
- (b) any profession or vocation by any person to any foreign firm referred to in section 43(3A)(b),

as section 45 applies to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of such application, any reference in that section to interest shall be construed as a reference to such payment.

(2) For the purpose of this section, the deduction of tax under section 45 shall be at the rate of 15%.”.

Amendment of section 46

52. Section 46 of the principal Act is amended —

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

“(c) which a person has deducted from any payment under section 45F in respect of income accrued to or derived by any person who has made an option under section 43(3B),”;

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

“(1A) For the purpose of subsection (1), the amount of tax deducted from a dividend under section 44(1) to be set-off for the purpose of collection against the tax charged on the chargeable income of any person shall not exceed —

- (a) the actual amount of tax deducted from the dividend received by that person; or
- (b) the amount of tax to be deducted from the dividend in accordance with the proportion of his shareholding in the company,

whichever is the lower.”;

- (c) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) Notwithstanding subsection (1), where the tax on any dividend paid in the year 2002 has been deducted at the rate of 24.5%, the tax to be set-off under subsection (1) shall be the sum deemed to be the tax deducted from such dividend under section 44A(4).

(3) Notwithstanding subsection (1), if any amount of the charge referred to in section 44(4) or (5A), or any amount of tax payable referred to in section 44(4), (5A) or (7) is not paid within 14 days from the date of payment of any dividend to which the charge or tax relates or by 31st December of the year in which the dividend is paid, whichever is the later, no set-off against tax under subsection (1) shall be allowed in respect of the whole of the dividend.”; and

- (d) by deleting the words “section 44” in the last line of subsection (6) and substituting the words “sections 44 and 44A”.

Amendment of section 48

53. Section 48(5) of the principal Act is amended by inserting, immediately after the words “section 43(3)” in the definition of “specified income”, the words “and (3A)(a)”.

Amendment of section 50A

54. Section 50A(1) of the principal Act is amended by inserting, immediately after paragraph (a), the following paragraph:

“(aa) any income derived for the year of assessment 2003 and subsequent years of assessment from any professional, consultancy and other services, where the services are rendered in any territory outside Singapore and where the Comptroller is satisfied that the income is derived, for the purposes of this Act, from that territory;”.

Amendment of section 65

55. Section 65 of the principal Act is amended —

- (a) by deleting the words “books, documents, accounts and returns” in the 7th and penultimate lines and substituting the word “document”; and
- (b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) In this section and section 65B —

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means;
- (d) any disc, tape, sound-track, or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;

“writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.”.

Amendment of section 65B

56. Section 65B of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) The Comptroller or any officer authorised by him in that behalf —

- (a) shall at all times have full and free access to all buildings, places, documents, computers, computer programs and computer software (whether installed in a computer or otherwise) for any of the purposes of this Act;
- (b) shall have access to any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers into readable and comprehensive format or text for any of the purposes of this Act;
- (c) shall be entitled —
 - (i) without fee or reward, to inspect, copy or make extracts from any such document, computer, computer program, computer software or computer output; and
 - (ii) at any reasonable time to inspect and check the operation of any computer, device, apparatus or material which is or has been in use in connection with anything to which this section applies;
- (d) may take possession of any such document, computer, device, apparatus, material, computer program or computer software where in his opinion —
 - (i) the inspection, checking, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;
 - (ii) any such items may be interfered with or destroyed unless possession is taken; or
 - (iii) any such items may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or penalty, or in proceedings by way of an appeal against an assessment; and
- (e) shall be entitled to require —

- (i) the person by whom or on whose behalf the computer is or has been used, or any person having charge of, or otherwise concerned with the operation of the computer, device, apparatus or material to provide the Comptroller or officer with such reasonable assistance as he may require for the purposes of this section; and
- (ii) any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purpose of this section.

(2) In this section, “computer” and “computer output” have the same meanings as in the Computer Misuse Act (Cap. 50A).”.

Amendment of section 68

57. Section 68 of the principal Act is amended by inserting, immediately after subsection (2A), the following subsection:

“(2B) Where an employer has granted an individual who is a citizen of Singapore or a Singapore permanent resident any right or benefit to acquire shares in any company incorporated in Singapore, the employer shall submit a return in such form and manner specified in subsection (2) including any gain or profit derived by the individual as computed under section 10(5), notwithstanding that the individual has ceased to be employed by him at the time the gain or profit is derived.”.

Amendment of section 89

58. Section 89(1) of the principal Act is amended by inserting, immediately after the words “sections 44”, “; 44A”.

Amendment of section 92

59. Section 92 of the principal Act is amended —

- (a) by deleting subsection (3) and substituting the following subsection:

“(3) Subject to rules made under subsection (4), there shall be remitted the tax payable by any company —

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- (a) for the year of assessment 2001, a sum equal to —
- (i) 50% on every dollar of the first \$25,500 of the specified tax payable by the company for that year of assessment; and
 - (ii) 5% on every dollar exceeding \$25,500 of the specified tax payable by the company for that year of assessment; and
- (b) for the year of assessment 2002, a sum equal to 5% of the specified tax payable by the company for that year of assessment,

where the Comptroller is satisfied that the remission of tax would be beneficial to the company.”;

- (b) by deleting the words “year of assessment 1999” in the 2nd line of subsection (5) and substituting the words “year of assessment 2001 or 2002, as the case may be”; and
- (c) by deleting the words “that year of assessment” in the 4th line of subsection (5) and substituting the words “the year of assessment 2001 or 2002, as the case may be,”.

Amendment of section 93

60. Section 93(4) of the principal Act is amended by deleting the words “section 44(11)” in the 3rd line and substituting the words “sections 44(11) and 44A(9)”.

Amendment of section 100

61. Section 100(2) of the principal Act is amended by deleting “44(12)” and substituting “44(13)”.

Miscellaneous amendments

62. The principal Act is amended —

- (a) by inserting, immediately after the words “other income” in the following provisions, the words “or be available for transfer under section 37C”:

- Sections 10D(2)(*b*) (last line) and (*d*) (last line) and 43I(2)(*b*) (last line), (*d*) (last line), (*g*) (4th line) and (*i*) (4th line);
- (*b*) by inserting, immediately after the words “other income of the person” in section 10H(1)(*a*) (6th line) and (*b*) (penultimate line), the words “or be available for transfer under section 37C”; and
- (*c*) by deleting the words “or 43O” in the following provisions and substituting in each case the words “, 43O or 43P”:
- Sections 13B(1), (2) (5th line) and (8)(*a*) (penultimate line) and 13E(11)(*b*) (4th line).

Amendment of Second Schedule

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

“PART A

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

| <i>Chargeable Income</i> | <i>\$</i> | <i>Rate of Tax</i> |
|-------------------------------|-----------|--------------------|
| For every dollar of the first | 20,000 | Nil |
| For every dollar of the next | 10,000 | 4.0% |
| For every dollar of the next | 10,000 | 6.0% |
| For every dollar of the next | 40,000 | 9.0% |
| For every dollar of the next | 80,000 | 15.0% |
| For every dollar of the next | 160,000 | 19.0% |
| For every dollar exceeding | 320,000 | 22.0%”. |

Amendment of Fifth Schedule

64. The Fifth Schedule to the principal Act is amended by deleting the words “double the amount of the appropriate deduction as provided for under paragraph 1” in the penultimate and last lines of paragraph 3 and substituting “\$3,000”.

Remission of tax

65.—(1) Section 32(1)(a) of the Income Tax (Amendment) Act 2001 (Act 24 of 2001) is amended by deleting “10%” and substituting “15%”.

(2) There shall be remitted the tax payable for the year of assessment 2002 by an individual or a Hindu joint family resident in Singapore a sum equal to the aggregate of —

- (a) 10% of the tax payable for that year of assessment; and
- (b) an amount not exceeding \$250 as determined by the Comptroller.

(3) The remission under subsection (2)(a) shall be given before the remission under subsection (2)(b).
