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The following Act was passed by Parliament on 18th October 2005 and assented to by the President on 27th October 2005:—

REPUBLIC OF SINGAPORE

No. 34 of 2005.

I assent.

(LS)

S R NATHAN,
President.
27th October 2005.

An Act to amend the Income Tax Act (Chapter 134 of the 2004 Revised Edition) and to make a consequential amendment to the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86 of the 2005 Revised Edition).

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

Short title and commencement

1.—(1) This Act may be cited as the Income Tax (Amendment) Act 2005.

(2) Section 10(a) shall be deemed to have come into operation on 31st August 1999.

(3) Sections 10(e) and 31(b) and (c) shall be deemed to have come into operation on 1st January 2004.

(4) Sections 13 (in relation to section 13P) and 31(a) shall be deemed to have come into operation on 27th February 2004.

(5) Sections 10(f) (in relation to section 13(1)(zg)) and 21 shall be deemed to have come into operation on 21st September 2004.

(6) Sections 4, 10(b), (f) (in relation to section 13(1)(zf)), (g), (h) and (j), 22(a), (b) and (d), 24(f), 25, 27(a), (b), (c), (d) and (e), 28(c), (e), (f) and (g), 34 and 36 shall be deemed to have come into operation on 1st January 2005.

(7) Sections 11, 13 (in relation to section 13O), 29, 33(a) and (b), 35 (in relation to section 43T), 37, 38(b), 39 and 47 (in relation to section 43T) shall be deemed to have come into operation on 18th February 2005.

(8) Sections 35 (in relation to section 43U) and 47 (in relation to section 43U) shall be deemed to have come into operation on 1st April 2005.

(9) Sections 2(c) and (d), 3, 7, 8, 9, 10(c), 12, 15, 18(b) and (c), 22(e) and (f), 23, 24 (except in relation to section 37C(14)(c)), 32, 33(c), (d) and (e) and 41 shall come into operation on the date of commencement of the Companies (Amendment) Act 2005 (Act 21 of 2005).

(10) Section 42 shall come into operation on 1st December 2005.

(11) Sections 43, 44 and 46 shall come into operation on 1st January 2006.

(12) Sections 14, 16, 17, 27(f) and 30 shall have effect for the year of assessment 2005 and subsequent years of assessment.

(13) Section 45 shall have effect for the year of assessment 2006.

(14) Sections 2(b), 5, 6, 18(a), 20, 22(c), 26 and 48 shall have effect for the year of assessment 2006 and subsequent years of assessment.

Amendment of section 2

2. Section 2(1) of the Income Tax Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting “45(7),” in the definition of “Comptroller”;
- (b) by deleting the words “section 37(3)(a) or claimed under section 37D (excluding any donation referred to in section 37D(8)(c))” in the definition of “earned income” and substituting the words “section 37(3)(a) or 37E or claimed under section 37D (excluding any donation referred to in section 37D(8)(c)) or 37F”;
- (c) by inserting, immediately after the definition of “institution of a public character”, the following definition:

“ “issued shares” excludes treasury shares;”; and
- (d) by inserting, immediately after the definition of “tax”, the following definition:

“ “treasury share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);”.

Amendment of section 10

3. Section 10 of the principal Act is amended —

- (a) by deleting the words “issued share capital” in subsection (14) and substituting the words “issued shares”;
- (b) by deleting the words “the whole of its issued capital is” in paragraph (b)(i) of the definition of “foreign investor” in subsection (23) and substituting the words “all of its issued shares are”; and
- (c) by deleting the words “its issued capital is” in paragraph (b)(ii) of the definition of “foreign investor” in subsection (23) and substituting the words “the total number of its issued shares are”.

Amendment of section 10C

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

- (a) by deleting “\$27,500” in subsection (1)(b) and substituting “\$25,000”;

- (b) by deleting “\$66,000” in subsection (7) and substituting “\$60,000”;
- (c) by deleting “\$93,500” wherever it appears in subsection (7)(a) and (b) and substituting in each case “\$85,000”;
- (d) by deleting “\$5,500” in paragraph (a) of the definition of “relevant amount” in subsection (12) and substituting “\$5,000”; and
- (e) by deleting “\$93,500” in paragraph (b) of the definition of “relevant amount” in subsection (12) and substituting “\$85,000”.

Amendment of section 10D

5. Section 10D(2) of the principal Act is amended by deleting the words “section 37C or 37D” in paragraphs (b) and (d) and substituting in each case the words “section 37C, 37D or 37F”.

Amendment of section 10H

6. Section 10H(1) of the principal Act is amended by deleting the words “section 37C or 37D” in paragraphs (a) and (b) and substituting in each case the words “section 37C, 37D or 37F”.

Amendment of section 10I

7. Section 10I(5) of the principal Act is amended —

- (a) by deleting the words “share premium or capital redemption” in paragraph (a); and
- (b) by deleting paragraph (h) and substituting the following paragraph:
 - “(h) any amount applied by a company in issuing shares of the company to its shareholders as bonus shares shall not be regarded as receipts by the company from the issue of shares.”.

Amendment of section 10J

8. Section 10J(1) of the principal Act is amended by inserting, immediately after the words “(referred to in this section as a buyback),”, the words “whether to hold as treasury shares or otherwise,”.

Amendment of section 10N

9. Section 10N(12) of the principal Act is amended by inserting, immediately after the words “nominal value” in the definition of “equivalent securities”, the words “(where applicable)”.

Amendment of section 13

10. Section 13 of the principal Act is amended —

- (a) by deleting the words “the prescribed conditions” in subsection (1)(a) and (aa) and substituting in each case the words “such conditions as may be prescribed by regulations”;
- (b) by inserting, immediately after paragraph (aa) of subsection (1), the following paragraph:
 - “(ab) subject to subsection (2B) and such conditions as may be prescribed by regulations, any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, to any person —
 - (i) who is not resident in Singapore and who does not have any permanent establishment in Singapore; and
 - (ii) who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore where the funds used by that person to acquire the qualifying debt securities are not obtained from the operation;”;
- (c) by deleting the words “issued share capital” in subsection (1)(e) and substituting the words “total number of issued shares”;
- (d) by deleting the word “and” at the end of subsection (1)(zd);
- (e) by inserting, immediately after the words “Securities and Futures Act (Cap. 289)” in subsection (1)(ze)(v), the words “and offered to the public for subscription,”;

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

“(zf) any amount payable from Islamic debt securities on or after 1st January 2005 to any individual, except where such amount is derived by the individual through a partnership in Singapore or from the carrying on of a trade, business or profession; and

(zg) any distribution made by any registered business trust.”;

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

“(2B) Subsection (1)(ab) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to any amount payable from any Islamic debt securities which are qualifying debt securities 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 the amount is payable to —

(a) any related party of the issuer of those securities; or

(b) any other person where the funds used by such person to acquire those securities are obtained, directly or indirectly, from any related party of the issuer of those securities.”;

- (h) by inserting, immediately after the definition of “financial sector incentive (bond market) company” in subsection (16), the following definition:

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

- (i) by deleting the comma at the end of paragraph (b)(iii) of the definition of “qualifying debt securities” in subsection (16) and substituting a semi-colon; and

- (j) by deleting the words from the word “but” in the 24th line to the word “securities;” in the last line of the definition of “qualifying

debt securities” in subsection (16) and substituting the following words:

“(c) Islamic debt securities which are arranged in accordance with regulations made for this purpose —

(i) by any financial institution in Singapore and issued during the period from 1st January 2005 to 31st December 2008; or

(ii) by any financial sector incentive (bond market) company and issued during the period from 1st January 2005 to 31st December 2008,

but, unless otherwise approved by the Minister or such person as he may appoint, excludes any debt securities issued on or after 10th May 1999 and any Islamic debt securities issued on or after 1st January 2005 which, during its primary launch —

(AA) are issued to less than 4 persons; and

(BB) 50% or more of the issue of debt securities or Islamic debt securities is beneficially held or funded, directly or indirectly, by related parties of the issuer of those debt securities or Islamic debt securities;”.

Amendment of section 13C

11. Section 13C of the principal Act is amended by deleting the words “any fund manager in Singapore” and substituting the words “such fund manager in Singapore as may be prescribed”.

Amendment of section 13G

12. Section 13G(2) of the principal Act is amended —

(a) by deleting the words “the whole of its issued capital is” in paragraph (b)(i) and substituting the words “all of its issued shares are”; and

(b) by deleting the words “its issued capital is” in paragraph (b)(ii) and substituting the words “the total number of its issued shares are”.

New sections 13O and 13P

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

“Exemption of income of foreign account of philanthropic purpose trust

13O.—(1) There shall be exempt from tax such income derived from —

- (a) any funds or assets in any foreign account of a philanthropic purpose trust constituted on or after 18th February 2005 and administered by a trustee company in Singapore; and
- (b) any funds or assets of an eligible holding company established for the purposes of that philanthropic purpose trust which are held for the foreign account of that trust,

as the Minister may by regulations prescribe.

(2) In this section —

“eligible holding company” means a company —

- (a) which is incorporated outside Singapore;
- (b) which is set up to hold assets of a philanthropic purpose trust administered by a trustee company;
- (c) whose operations consist solely of trading or making investments for the purpose of the philanthropic purpose trust;
- (d) which does not claim any relief under any arrangement made under section 49 or any tax credit under section 50A; and
- (e) all the shares of which are held by the trustees of the philanthropic purpose trust or by their nominee;

“foreign account”, in relation to a philanthropic purpose trust, means an account into which funds or assets are injected solely by settlors who or which are —

- (a) individuals that are neither citizens of Singapore nor resident in Singapore, unless the Minister otherwise by regulations prescribes;

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- (b) companies that are neither incorporated nor resident in Singapore and —
 - (i) where the company has not more than 50 shareholders, all of the issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; or
 - (ii) where the company has more than 50 shareholders, not less than 95% of the total number of the issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore;
 - (c) foreign trusts;
 - (d) other philanthropic purpose trusts that inject funds or assets from their foreign accounts; or
 - (e) any other persons that are neither —
 - (i) resident in Singapore; nor
 - (ii) constituted or registered under any written laws in Singapore;

“foreign trust” has the same meaning as in section 13G;

“philanthropic purpose trust” means a trust established in writing under any law for a purpose which is for the public benefit and which falls within any of the following descriptions of purposes:

- (a) the prevention or relief of poverty;
- (b) the advancement of education;
- (c) the advancement of religion;
- (d) the advancement of health;
- (e) the advancement of citizenship or community development;
- (f) the advancement of the arts, heritage or science;

- (g) the advancement of environmental protection or improvement;
- (h) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- (i) the advancement of animal welfare;
- (j) the advancement of any sport which involves physical skill and exertion;
- (k) any other purpose beneficial to the community;

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

Exemption of income derived from asset securitisation transaction

13P.—(1) There shall be exempt from tax, subject to such conditions as may be prescribed by regulations, income derived by an approved securitisation company resident in Singapore from asset securitisation transaction entered into during the period from 27th February 2004 to 31st December 2008 (both dates inclusive).

(2) Regulations made under subsection (1) may provide for the deduction of expenses, allowances, losses and donations of an approved securitisation company otherwise than in accordance with this Act.

(3) Notwithstanding anything in this section, where it appears to the Comptroller that any income of an approved securitisation company which has been exempted from tax under subsection (1) ought not to have been so exempted for any year of assessment, the Comptroller may, at any time within 6 years after the expiration of that year of assessment, make such assessment or additional assessment on the company as may appear to be necessary in order to make good any loss of tax.

(4) In this section —

“approved securitisation company” means a company incorporated in Singapore principally to conduct asset securitisation transaction and is approved by the Minister or such person as he may appoint;

“asset securitisation transaction” means the acquisition of assets (other than immovable property in Singapore) or risks by an approved securitisation company where the acquisition of such assets or risks is funded through the issuance of asset-backed securities by the company.”.

Amendment of section 14

14. Section 14 of the principal Act is amended —

- (a) by deleting “2%” in subsections (5) and (6) and substituting in each case the words “the specified percentage”;
- (b) by inserting, immediately after subsection (6), the following subsections:

“(6A) For the purpose of subsections (5) and (6), the specified percentage for any year of assessment shall be —

(a) 2% in the case of an employer who has —

(i) contributed the specified amount into the medisave accounts maintained under the Central Provident Fund of —

(A) at least 20% of the number of local employees who are employed by him as at the first day of the basis period for that year of assessment, for every calendar month in that basis period they are employed by the employer; and

(B) every local employee who commences his employment with him during the basis period for that year of assessment, for the calendar month he commences his employment and every subsequent calendar month in that basis period he is employed by the employer; or

(ii) incurred expenses in or in connection with the provision of a specified insurance plan to cover, for every calendar month in the basis period for that year of assessment, the cost of medical treatment of at least 50% of the number of local

employees who are employed by him as at the first day of that basis period; and

(b) 1% in any other case.

(6B) Subsection (6A) shall apply to the year of assessment relating to the basis period which commenced on or after 1st April 2004 and any subsequent year of assessment.”;

(c) by inserting, immediately before the definition of “medical expenses” in subsection (8), the following definitions:

“ “gross rate of pay” has the same meaning as in section 2 of the Employment Act (Cap. 91);

“local employee” means a full-time or part-time employee who is a citizen or permanent resident of Singapore;”;

(d) by inserting, immediately after the definition of “medical treatment” in subsection (8), the following definition:

“ “part-time employee” has the same meaning as in section 66A of the Employment Act;”;

(e) by deleting the full-stop at the end of the definition of “remuneration” in subsection (8) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

“ “specified amount”, in relation to any calendar month, means —

(a) in the case of a full-time employee who falls under subsection (6A)(a)(i), an amount equal to at least 1% of the employee’s gross rate of pay for the calendar month, subject to a minimum contribution of \$16 per calendar month;

(b) in the case of a part-time employee who falls under subsection (6A)(a)(i), an amount equal to at least 1% of the employee’s gross rate of pay for the calendar month;

“specified insurance plan” means a medical insurance plan sponsored by an employer that —

(a) confers hospitalisation benefits during the period of employment of an employee and up to a period

of 12 months immediately after the employee leaves his employment for any reason; and

- (b) treats the employee as being continuously insured when he is employed by another employer who provides him with an insurance plan that confers the hospitalisation benefits described in paragraph (a).”.

Amendment of section 14I

15. Section 14I(7) of the principal Act is amended by deleting the words “its issued capital is” in paragraph (a)(ii) of the definition of “securities” and substituting the words “the total number of its issued shares are”.

Amendment of section 14O

16. Section 14O of the principal Act is amended —

- (a) by deleting the words “insurance company” wherever they appear in subsection (1) and in the section heading and substituting in each case the word “insurer”; and
- (b) by deleting subsection (3) and substituting the following subsection:

“(3) In this section —

“insurer” has the same meaning as in section 43C;

“offshore risk” has the same meaning as in section 26.”.

Amendment of section 19A

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

- (a) by inserting, immediately after subsection (10), the following subsections:

“(10A) Notwithstanding section 19 and subject to subsection (10B), where a person proves to the satisfaction of the Comptroller that he has incurred capital expenditure not exceeding \$1,000 on the provision of any item of machinery or plant for the purposes of a trade, profession or business carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of —

- (a) 100% in respect of that capital expenditure; or
- (b) where allowances have been made under subsection (1) or section 19 for any previous year of assessment under subsection (10B), the amount of that capital expenditure still unallowed.

(10B) The aggregate amount of allowances claimed by any person under subsection (10A) for any year of assessment shall not exceed \$30,000; and allowances may be made under subsection (1) or section 19 in respect of any capital expenditure still unallowed.

(10C) No allowance shall be made under subsection (10A) in respect of any item of machinery or plant which is acquired under a hire-purchase agreement and the original cost of that item of machinery or plant exceeds \$1,000.”; and

- (b) by deleting subsection (14) and substituting the following subsection:

“(14) Subject to subsection (10A), where any allowance has been claimed and allowed under section 19 in respect of any expenditure, no allowances shall, except with the approval of the Minister or the Comptroller and subject to such conditions as he may impose, be made in any subsequent year of assessment under this section in respect of the amount of that expenditure remaining unallowed under section 19.”.

Amendment of section 23

18. Section 23 of the principal Act is amended —

- (a) by inserting, immediately after the words “section 37D” in subsection (3), the words “or 37F, or deducted against income for the immediate preceding year of assessment under section 37E”;
- (b) by deleting paragraph (a) of subsection (7) and substituting the following paragraph:

“(a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued

shares of the company are held by or on behalf of the same persons;” and

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

“(8) For the purpose of subsection (7), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

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

where A is the amount that has not been paid in respect of the share; and

B is the total amount payable in respect of the share.”.

Amendment of section 24

19. Section 24 of the principal Act is amended —

- (a) by inserting, immediately after the words “This section” in subsection (1), the words “, except subsection (5),”; and
- (b) by inserting, immediately after subsection (4), the following subsections:

“(5) Where a change occurs in a partnership of persons carrying on any trade, business or profession by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, and where no election is made under subsection (3), any property of the partnership shall be treated as if the property had been sold —

(a) to all the remaining partners and new partners of the partnership on the date the change occurs; and

(b) at the open-market price.

(6) In subsection (5), “open-market price” has the same meaning as in section 20(7).”.

Amendment of section 36A

20. Section 36A of the principal Act is amended —

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

“(4) For any year of assessment, the amount of relevant deductions that may be allowed to or transferred by a partner of a limited liability partnership shall not exceed —

- (a) in the case of a relevant deduction allowed to him under section 35(2), an amount equal to the amount ascertained in accordance with the formula

$$A - B;$$

- (b) in the case of a relevant deduction allowed to him under section 37(3)(a), an amount equal to the amount ascertained in accordance with the formula

$$A - B - C;$$

- (c) in the case of a transferred deduction transferred by him, an amount equal to the amount ascertained in accordance with the formula

$$A - B - C - D; \text{ and}$$

- (d) in the case of a carry-back deduction allowed to or transferred by him, an amount equal to the amount ascertained in accordance with the formula

$$A - B - C - D - E,$$

where A is his contributed capital in that year of assessment;

B is the past relevant deductions already allowed to him;

C is the relevant deduction allowed to him in that year of assessment under section 35(2);

D is the relevant deduction allowed to him in that year of assessment under section 37(3)(a); and

E is the transferred deduction transferred by him in that year of assessment.”;

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- (b) by inserting, immediately after the definition of “activities of the limited liability partnership” in subsection (10), the following definition:

“ “carry-back deductions”, in relation to a partner of a limited liability partnership in any year of assessment, means —

- (a) any deduction allowed to the partner of any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is made against his assessable income from any other source for the immediate preceding year of assessment under section 37E; or
 - (b) any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is transferred by him to a spouse under section 37F;”;
- (c) by deleting the definition of “relevant deductions” in subsection (10) and substituting the following definition:

“ “relevant deductions”, in relation to a partner of a limited liability partnership, means —

- (a) any deduction allowed to the partner under section 35(2) of any allowance arising from any trade, business or profession carried on by the limited liability partnership;
- (b) any deduction allowed to the partner under section 37(3)(a) of any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is made against his statutory income from any other source;
- (c) any transferred deduction transferred by the partner; or
- (d) any carry-back deduction allowed to or transferred by the partner,

as the case may be;”.

New section 36B

21. The principal Act is amended by inserting, immediately after section 36A, the following section:

“Registered business trusts

36B.—(1) For the purposes of this Act, except as otherwise provided, references to a company shall be read as including a reference to a registered business trust or, as the context requires, to the trustee-manager of a registered business trust subject to the following modifications:

(a) sections 23 and 37 shall apply to a registered business trust except that —

- (i) any reference to the shareholders of a company shall be read as a reference to the unitholders of a registered business trust;
- (ii) the unitholders of a registered business trust at any date shall not be deemed to be substantially the same as the unitholders at any other date unless, on both those dates —
 - (A) the same unitholders are entitled to not less than 50% of any residual profits of the registered business trust available for distribution; and
 - (B) the same unitholders are entitled to not less than 50% of any residual assets of the registered business trust available for distribution on winding up;
- (iii) units in a registered business trust held by or on behalf of a company shall be deemed to be held by the shareholders of the company; and
- (iv) units held by or on behalf of the trustee of the estate of a deceased unitholder or by or on behalf of the person entitled to those units as beneficiaries under the will or any intestacy of a deceased unitholder shall be deemed to be held by that deceased unitholder;

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- (b) for the purpose of section 24(1) —
- (i) a body of persons shall be deemed to have control over a registered business trust if —
 - (A) the body of persons is a company and it holds more than 50% of the units in the registered business trust; or
 - (B) the body of persons is another registered business trust and they hold on trust for their unitholders more than 50% of the units in the first mentioned registered business trust;
 - (ii) a registered business trust shall be deemed to have control over a company if —
 - (A) the trustee-manager of the registered business trust holds on trust for its unitholders more than 50% of the total number of issued shares of the company; or
 - (B) the unitholders of the registered business trust hold more than 50% of the total number of issued shares of the company;
- (c) for the purpose of section 37C —
- (i) a registered business trust shall be deemed to be a Singapore company if —
 - (A) the registered business trust is established in Singapore; and
 - (B) the trust deed of the registered business trust is executed in Singapore and is governed by Singapore law;
 - (ii) any reference to ordinary share or ordinary share capital in a company shall be read as a reference to the units in a registered business trust; and
 - (iii) any reference to residual assets or residual profits in a company shall be read as a reference to the residual assets and residual profits of a registered business trust; and

(d) sections 10I, 10J, 10K and 10M shall not apply to a registered business trust.

(2) The statutory income of a registered business trust shall be computed in accordance with section 35(11).

(3) Sections 35(15), 43(2) and 46(1)(b) shall not apply to any registered business trust or unitholders of any registered business trust.

(4) In this section, “business trust”, “registered business trust”, “trustee-manager”, “unit” and “unitholder” have the same meanings as in the Business Trusts Act (Cap. 31A).”.

Amendment of section 37

22. Section 37 of the principal Act is amended —

(a) by deleting the words “or (6)” in subsections (2), (7), (8), (9) and (12);

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

“(d) an amount equivalent to twice the value of any donation of a computer (including computer software and peripherals) approved by the Minister or such person as he may appoint and made by any company in the year preceding the year of assessment to —

(i) any institution of a public character approved by the Minister, Comptroller or any Central Fund Administrator on application by that institution; or

(ii) a prescribed educational, research or other institution in Singapore;”;

(c) by inserting, immediately after the words “section 37D” in subsection (5), the words “or 37F, or deducted against income for the immediate preceding year of assessment under section 37E”;

(d) by deleting subsections (6) and (18);

(e) by deleting paragraph (a) of subsection (14) and substituting the following paragraph:

- “(a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;” and
- (f) by inserting, immediately after subsection (14), the following subsection:

“(14A) For the purpose of subsection (14), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

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

where A is the amount that has not been paid in respect of the share; and

B is the total amount payable in respect of the share.”.

Amendment of section 37A

23. Section 37A(4) of the principal Act is amended —

- (a) by deleting the words “its issued capital is” in paragraph (c)(i) and (ii) and substituting in each case the words “the total number of its issued shares are”;
- (b) by deleting the words “issued capital” in the 2nd, 4th and 9th lines of paragraph (e) and substituting in each case the words “total number of issued shares”;
- (c) by deleting the words “issued capital” in the 5th and 10th lines of paragraph (e) and substituting in each case the words “number of issued shares”; and
- (d) by inserting, immediately after the words “such fraction” in the 6th and penultimate lines of paragraph (e), the words “of the total number”.

Amendment of section 37C

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

- (a) by deleting the words “ordinary share capital” in subsections (3)(a) and (b) and (4) and substituting in each case the words “total number of issued ordinary shares”;
- (b) by deleting the word “is” in subsection (3)(a) and (b) and substituting in each case the word “are”;
- (c) by deleting the words “share capital” in the 2nd, 4th and 9th lines of subsection (5) and substituting in each case the words “total number of issued ordinary shares”;
- (d) by deleting the words “share capital” in the 6th and 11th lines of subsection (5) and substituting in each case the words “number of issued ordinary shares”;
- (e) by inserting, immediately after the words “such fraction” in the 7th and penultimate lines of subsection (5), the words “of the total number”;
- (f) by deleting the words “or (6)” in subsection (14)(c);
- (g) by inserting, immediately after the words “other than” in the definition of “ordinary share” in subsection (19), the words “a treasury share or”;
- (h) by deleting the word “nominal” in paragraph (a) of the definition of “ordinary share” in subsection (19);
- (i) by deleting the definition of “ordinary share capital” in subsection (19); and
- (j) by deleting the word “nominal” in paragraph (a) of the definition of “residual profits” in subsection (19).

Amendment of section 37D

25. Section 37D(8) of the principal Act is amended by deleting the words “or (6)” in paragraph (c).

New sections 37E and 37F

26. The principal Act is amended by inserting, immediately after section 37D, the following sections:

“Carry-back of capital allowances and losses

37E.—(1) Subject to the provisions of this section, a person may deduct any qualifying deduction for any year of assessment against his assessable income for the immediate preceding year of assessment.

(2) Qualifying deductions shall be deducted in the following order:

- (a) any allowance specified in subsection (9)(a); and
- (b) any loss specified in subsection (9)(b).

(3) The amount of qualifying deduction to be deducted for any year of assessment is the lower of —

- (a) the amount of qualifying deduction available for deduction for that year of assessment; and
- (b) the assessable income of the person for the immediate preceding year of assessment.

(4) Subject to the provisions of this section, section 37B shall apply, with the necessary modifications, to the deduction of any qualifying deduction by any company for any year of assessment against its assessable income for the immediate preceding year of assessment, where applicable, as if the income for the immediate preceding year of assessment is income for that year of assessment, 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 or losses; and
- (c) chargeable income of the company shall be read as a reference to assessable income for the immediate preceding year of assessment of the company.

(5) The amount of qualifying deduction to be deducted for any year of assessment shall not exceed \$100,000; and in the case of a company shall be determined by the formula

$$A + B,$$

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

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

(6) Any person deducting any qualifying deduction for any year of assessment against his assessable income for the immediate preceding year of assessment under this section shall notify the Comptroller and make an election to make such deduction —

(a) in the case of an individual, not later than 30 days from the date of service of the notice of assessment on him; and

(b) in the case of any other person, not later than the time of lodgment of his return of income for the year of assessment,

or within such further time as the Comptroller may allow.

(7) Any election made under subsection (6) shall be irrevocable and shall be accompanied by such particulars as the Comptroller may require.

(8) Where the Comptroller discovers that any deduction made under this section against the assessable income of any person for any year of assessment is or has become excessive, he may make an assessment on the person on the amount, which, in his opinion, ought to have been charged to tax in that year of assessment within 7 years after the expiration of that year of assessment.

(9) For the purposes of this section, subject to sections 35, 37 and 37B, qualifying deductions, in relation to any person, for each year of assessment, are —

(a) any allowance falling to be made under section 16, 17, 19, 19A, 19B, 19C, 19D or 20 that is in excess of the person's income from all sources chargeable to tax for that year of assessment and is not transferred under section 37C or 37D; and

- (b) any loss incurred by the person in any trade, business, profession or vocation which is not deducted for that year of assessment because of insufficiency of statutory income of the person and is not transferred under section 37C or 37D.

(10) Notwithstanding subsection (9), any loss deemed to be a loss incurred from a trade or business for the purpose of section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall not be deductible.

(11) Notwithstanding subsection (9), any allowance specified in subsection (9)(a) made to a person for any year of assessment shall not be deductible against assessable income for the immediate preceding year of assessment if the person did not carry on that trade, business or profession in the basis period for the immediate preceding year of assessment.

(12) Notwithstanding subsection (9), any allowance specified in subsection (9)(a) made to or any loss specified in subsection (9)(b) incurred by a company for any year of assessment shall not be deductible against income for the immediate preceding year of assessment unless the Comptroller is satisfied that the shareholders of the company on the first day of the year in which the allowances arose or in which the loss was incurred, as the case may be, were substantially the same as the shareholders of the company on the last day of the immediate preceding year of assessment.

(13) For the purposes of subsection (12) —

- (a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;
- (b) shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and
- (c) shares held by or on behalf of the trustee of the estate of a deceased shareholder or by or on behalf of the person entitled to those shares as beneficiaries under the will or any intestacy of a deceased shareholder shall be deemed to be held by that deceased shareholder.

(14) For the purpose of subsection (13)(a), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

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

where A is the amount that has not been paid in respect of the share; and

B is the total amount payable in respect of the share.

(15) 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 (12).

(16) Upon an exemption under subsection (15), any allowance specified in subsection (9)(a) made to or any loss specified in subsection (9)(b) incurred by a company may only be deducted against the profits from the same trade or business of the company in respect of which the allowance was made or the loss was incurred.

(17) In this section —

“adjustment factor”, in relation to a concessionary rate of tax, means the factor ascertained in accordance with the formula

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

where C is the rate of tax specified in section 43(1)(a); and

D is the concessionary rate of tax;

“assessable income” means —

(a) in relation to a company, 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 (Cap. 86) and any deductions claimed under section 37C;

- (b) in relation to an individual, assessable income of the individual as determined under section 37 after deducting any deductions claimed under section 37D; and
- (c) in relation to any other person, assessable income of the person as determined under section 37;

“concessionary rate of tax” means any rate of tax lower than the rate specified in section 43(1)(a) in accordance with —

- (a) any order made under section 13(12); 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, 43I, 43J, 43K, 43L, 43N, 43O, 43P, 43Q, 43R, 43S, 43T or 43U, as the case may be.

(18) This section shall not apply to any company to which section 10E applies.

Carry-back of capital allowances and losses between spouses

37F.—(1) Subject to the provisions of this section, an individual may transfer any qualifying deduction for any year of assessment to a spouse living with him or her who has claimed any qualifying deduction under this section against her or his assessable income for the immediate preceding year of assessment.

(2) Qualifying deductions shall be transferred to a claimant spouse in the following order:

- (a) any allowance specified in subsection (10)(a); and
- (b) any loss specified in subsection (10)(b).

(3) The amount of qualifying deduction for any year of assessment to be transferred by a transferor to a claimant spouse is the lower of —

- (a) the amount of qualifying deduction available for transfer for that year of assessment; and
- (b) the assessable income of the claimant spouse for the immediate preceding year of assessment.

(4) The amount of qualifying deduction for any year of assessment to be transferred by a transferor to a claimant spouse shall not exceed an amount equal to

$$\$100,000 - A,$$

where A is any amount deducted by the transferor against his or her assessable income for the immediate preceding year of assessment under section 37E.

(5) No transfer shall be allowed under subsection (1) in any year of assessment if the transferor has assessable income for the immediate preceding year of assessment but no claim for relief has been made under section 37E.

(6) No transfer shall be allowed under subsection (1) in any year of assessment if the claimant spouse has assessable income for the year of assessment but no transfer of any qualifying deduction from the transferor to the claimant spouse has been made under section 37D.

(7) Any individual transferring or claiming a qualifying deduction under this section shall notify the Comptroller and make an election to transfer or claim qualifying deductions, as the case may be, not later than 30 days from the date of the service of the notice of assessment on the individual or his or her spouse, whichever is the later.

(8) An election made by an individual under subsection (7) shall be irrevocable and shall be accompanied by such particulars as the Comptroller may require.

(9) Where the Comptroller discovers that any transfer of qualifying deduction under this section against the assessable income of a claimant spouse for any year of assessment is or has become excessive, he may make an assessment on the claimant spouse on the amount, which, in his opinion, ought to have been charged to tax in that year of assessment within 7 years after the expiration of that year of assessment.

(10) For the purposes of this section, subject to sections 35 and 37, qualifying deductions, in relation to an individual, for each year of assessment, are —

- (a) any allowance falling to be made under section 16, 17, 19, 19A, 19C, 19D or 20 that is in excess of the individual's

income from all sources chargeable to tax for that year of assessment and is not deducted under section 37E or transferred under section 37D; and

- (b) any loss incurred by the individual in any trade, business, profession or vocation which is not deducted for that year of assessment because of insufficiency of statutory income of the individual and is not deducted under section 37E or transferred under section 37D.

(11) Notwithstanding subsection (10), any loss deemed to be a loss incurred from a trade or business for the purpose of section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall not be transferable.

(12) Notwithstanding subsection (10), any allowance specified in subsection (10)(a) made to a transferor for any year of assessment shall not be transferable if the transferor did not carry on that trade, business or profession in the basis period for the immediate preceding year of assessment.

(13) In this section, “assessable income”, in relation to an individual, means assessable income of the individual as determined under section 37 after deducting any deductions claimed under sections 37D and 37E.”.

Amendment of section 39

27. Section 39 of the principal Act is amended —

- (a) by deleting “\$25,380” wherever it appears in subsection (2)(h) and substituting in each case “\$28,050”;
- (b) by deleting proviso (v) to subsection (2)(h);
- (c) by deleting proviso (i) to subsection (2)(o);
- (d) by deleting “\$27,500” in subsection (6) and substituting “\$25,000”;
- (e) by deleting “\$66,000” and “\$93,500” wherever they appear in subsection (6)(a) and (b) and substituting in each case “\$60,000” and “\$85,000”, respectively; and
- (f) by deleting subsection (10) and substituting the following subsection:

“(10) For the purposes of subsection (2)(g), where in any year an individual has made contributions (not being contributions under section 7(2) of the Central Provident Fund Act (Cap. 36)) to the Central Provident Fund in respect of overseas ordinary wages or overseas additional wages paid to him by any relevant employer in that year, no deduction shall be allowed for any contributions in respect of overseas ordinary wages or overseas additional wages arising from sources outside Singapore.”.

Amendment of section 42

28. Section 42 of the principal Act is amended —

- (a) by deleting the words “; and where such rate exceeds 28% it shall be reduced to 28%” in subsection (2);
- (b) by deleting the word “and” at the end of subsection (6)(a);
- (c) by deleting the full-stop at the end of paragraph (b) of subsection (6) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008.”;
- (d) by deleting the word “and” at the end of subsection (7)(a);
- (e) by deleting the comma at the end of paragraph (b) of subsection (7) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008.”;
- (f) by deleting the words “or discount” in the 13th line of subsection (7) and substituting the words “; discount or amount payable”; and
- (g) by deleting subsection (8) and substituting the following subsection:

“(8) In this section —

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

“qualifying debt securities” and “related party” have the same meanings as in section 13(16).”.

Amendment of section 43

29. Section 43 of the principal Act is amended —

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

“(3B) Notwithstanding anything in this Act, tax at the rate of 10% shall be levied and paid on the gross amount of any distribution (except distribution made out of Singapore dividends) made during the period from 18th February 2005 to 17th February 2010 by a trustee of any real estate investment trust listed on the Singapore Exchange to a person (other than an individual) not resident in Singapore —

(a) who does not have any permanent establishment in Singapore; or

(b) who carries on any operation in Singapore through a permanent establishment in Singapore, where the funds used by that person to acquire the units in that real estate investment trust are not obtained from that operation.”;

(b) by inserting, immediately after “(3A)” in the definition of “gross amount” in subsection (10), “, (3B)”; and

(c) by deleting the definition of “Singapore dividends” in subsection (10) and substituting the following definitions:

““immovable property-related assets” means listed or unlisted debt securities and listed shares issued by property corporations, mortgage-backed securities, other property funds, and assets incidental to the ownership of immovable property;

“real estate investment trust” means a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Cap. 289) and offered to the public for subscription, and that invests or proposes to invest in immovable property and immovable property-related assets;

“Singapore dividends” means any dividend derived from Singapore from which tax is deducted or deductible under section 44.”.

Amendment of section 43C

30. Section 43C of the principal Act is amended —

- (a) by deleting the words “insurance company” in paragraphs (a) and (b) and substituting in each case the word “insurer”; and
- (b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) In this section, “insurer” means —

- (a) a company registered under the Insurance Act (Cap. 142) to carry on insurance business in Singapore; or
- (b) a person (including a partnership), other than an individual, permitted under the Insurance Act to carry on insurance business in Singapore under a foreign insurer scheme.”.

Amendment of section 43D

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

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

“(i) a bank licensed under the Banking Act (Cap. 19), or a merchant bank approved by the Monetary Authority of Singapore, which is a financial sector incentive company;”;

- (b) by deleting the words “an Asian Currency Unit of a financial institution or a fund manager approved under section 43A” in subsection (1)(a)(v) and substituting the words “a financial sector incentive company”; and
- (c) by deleting subsection (4) and substituting the following subsection:

“(4) In this section —

“financial sector incentive company” has the same meaning as in section 43Q;

“futures member of the Singapore Exchange” means any company which holds membership of any class or description of a futures market, or of a clearing house for the futures market, maintained by the Singapore Exchange Limited or any of its subsidiaries.”.

Amendment of section 43E

32. Section 43E(5) of the principal Act is amended —

- (a) by deleting the words “its issued capital is” in paragraph (a) and substituting the words “the total number of its issued shares are”;
- (b) by deleting the words “issued capital” in paragraph (b) and substituting the words “total number of the issued shares”; and
- (c) by deleting the word “is” in paragraph (b) and substituting the word “are”.

Amendment of section 43G

33. Section 43G of the principal Act is amended —

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

“(b) such prescribed qualifying services as may be provided by its approved Finance and Treasury Centre to —

- (i) its offices and associated companies outside Singapore; or

- (ii) such of its offices and associated companies in Singapore as are approved on or after 18th February 2005,”;
- (b) by deleting the words “outside Singapore” wherever they appear in the definition of “Finance and Treasury Centre” in subsection (3);
- (c) by deleting the words “its issued capital is” in subsection (4)(a) and substituting the words “the total number of its issued shares are”;
- (d) by deleting the words “issued capital” in subsection (4)(b) and substituting the words “total number of issued shares”; and
- (e) by deleting the word “is” in subsection (4)(b) and substituting the word “are”.

Amendment of section 43N

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

- (a) by inserting, immediately after paragraph (aa) of subsection (1), the following paragraph:
 - “(ab) any amount payable to any company from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008,”;
- (b) by deleting the words “or (aa)” in subsection (2) and substituting the words “, (aa) or (ab)”;
- (c) by deleting the word “and” at the end of subsection (2)(a);
- (d) by deleting the comma at the end of paragraph (b) of subsection (2) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:
 - “(c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008,”;
- (e) by deleting the words “or discount” in the 14th line of subsection (2) and substituting the words “, discount or amount payable”;

(f) by inserting, immediately after the definition of “financial institution” in subsection (4), the following definition:

“ “Islamic debt securities” means debt securities and trust certificates —

(a) which are endorsed by any *Shari’ah* council or body, or by any committee formed for the purpose of providing guidance on compliance with *Shari’ah* law; and

(b) the amounts payable from such securities and trust certificates are periodic and supported by a regular stream of receipts from underlying assets;”;

(g) by deleting the full-stop at the end of the definition of “Singapore Government securities” in subsection (4) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

“ “trust certificates” means certificates evidencing beneficial ownership in underlying assets.”.

New sections 43T and 43U

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

“Concessionary rate of tax for income derived from securities lending or repurchase arrangement

43T.—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify of a qualifying securities lending or repurchase company derived by it on or after 18th February 2005 but before 1st January 2009 under a securities lending or repurchase arrangement.

(2) Regulations made under subsection (1) may provide for the conditions to be satisfied by a qualifying securities lending or repurchase company and for the deduction of losses otherwise than in accordance with section 37(3).

(3) In this section —

“qualifying securities lending or repurchase company” means a company which has notified the Monetary Authority of Singapore for the purpose of this section;

“securities lending or repurchase arrangement” has the same meaning as in section 10N.

Concessionary rate of tax for income derived from organising or staging tourism event

43U.—(1) Notwithstanding section 43, tax at the rate of 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved company incorporated or registered in Singapore derived by it on or after 1st April 2005 from organising or staging an approved tourism event, subject to such conditions as the Minister or such person appointed by him may impose.

(2) No approval shall be granted under this section after 31st March 2010.

(3) In this section, “approved” means approved by the Minister or such person as he may appoint.”.

Amendment of section 45A

36. Section 45A of the principal Act is amended —

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

“(2A) Subsection (1) shall not apply to any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, subject to such conditions as the Minister may impose.”; and

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

“(3) In this section —

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

“qualifying debt securities” has the same meaning as in section 13(16).”.

New section 45G

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

“Application of section 45 to distribution from any real estate investment trust listed on Singapore Exchange

45G.—(1) Subject to subsections (2) and (3) and such conditions as the Comptroller may impose, section 45 shall apply in relation to any distribution (except distribution out of Singapore dividends from which tax is deducted or deductible under section 44) made on or after 18th February 2005 by a trustee of any real estate investment trust listed on the Singapore Exchange —

- (a) to any person (other than an individual) not known to the trustee to be resident in Singapore to whom section 43(3B) applies; or
- (b) to any other person not known to the trustee to be —
 - (i) an individual;
 - (ii) a company incorporated and resident in Singapore;
 - (iii) a branch in Singapore of a company incorporated outside Singapore that has obtained the Comptroller’s approval for distributions to be made by the trust to it without deduction of tax; or
 - (iv) a body of persons incorporated or registered in Singapore, including a charity registered under the Charities Act (Cap. 37) or established by any written law, a town council, a statutory board, a co-operative society registered under the Co-operative Societies Act (Cap. 62) or a trade union registered under the Trade Unions Act (Cap. 333),

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.

(2) For the purpose of subsection (1)(a), the deduction of tax under section 45 shall be at the rate of 10% on every dollar of such distribution made during the period from 18th February 2005 to 17th February 2010.

(3) For the purpose of subsection (1)(b), the deduction of tax under section 45 shall be at the rate specified under section 43(1)(a) on every dollar of such distribution.

(4) Subsection (1) shall not apply to any distribution made by the trustee of the real estate investment trust where tax has been paid by the trustee of the trust on the income from which the distribution is made.

(5) In this section, “real estate investment trust” has the same meaning as in section 43(10).”.

Amendment of section 46

38. Section 46(1) of the principal Act is amended —

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

“(d) which a trustee of a real estate investment trust has deducted from any distribution to any person referred to in section 45G(1)(b),”.

Amendment of section 48

39. Section 48(5) of the principal Act is amended by inserting, immediately after “(3A)” in the definition of “specified income”, “, (3B)”.

Amendment of section 50

40. Section 50(3) of the principal Act is amended by deleting the words “; and in any case where the rate exceeds 28% it shall be regarded as 28%”.

Amendment of section 50A

41. Section 50A of the principal Act is amended by inserting, immediately after the words “25% of the” in subsections (2) and (3), the words “total number of issued”.

New section 74A

42. The principal Act is amended by inserting, immediately after section 74, the following section:

“Revised assessments as relief for late GST registration

74A. Where —

- (a) any person liable to tax, being required to be registered under the Goods and Services Tax Act (Cap. 117A), has failed to do so, and has been so registered on or after 1st December 2005; and
- (b) his income chargeable to tax for any year of assessment relating to a basis period for which he ought to have been so registered includes an amount in respect of output tax paid or payable under the Goods and Services Tax Act,

the Comptroller shall according to the best of his judgment give, by way of revision of any assessment made on the person for that year of assessment, relief in respect of the amount so paid or payable.”.

Amendment of section 106

43. Section 106(3) of the principal Act is amended by deleting the words “Fourth and Sixth” and substituting the words “Fourth, Sixth and Seventh”.

New section 108

44. The principal Act is amended by inserting, immediately after section 107, the following section:

“Advance rulings

108.—(1) The Comptroller may, on an application made by a person in accordance with Part I of the Seventh Schedule, make a ruling on any of the matters specified in that Part in accordance with that Part.

(2) Part I of the Seventh Schedule shall apply to and in connection with an application under subsection (1) and any ruling made by the Comptroller under that subsection.

(3) The fees specified in Part II of the Seventh Schedule shall be payable to and retained by the Authority in respect of any application under subsection (1).

(4) The Authority may, in exceptional circumstances in its discretion, waive in whole or in part any fee payable by an applicant under subsection (3).

(5) In this section, “Authority” means the Inland Revenue Authority of Singapore established under section 3 of the Inland Revenue Authority of Singapore Act (Cap. 138A).”.

Amendment of Second Schedule

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

“PART A

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

<i>Chargeable Income</i>	<i>Rate of Tax</i>
For every dollar of the first \$20,000	Nil
For every dollar of the next \$10,000	3.75%
For every dollar of the next \$10,000	5.75%
For every dollar of the next \$40,000	8.75%
For every dollar of the next \$80,000	14.5%
For every dollar of the next \$160,000	18.0%
For every dollar exceeding \$320,000	21.0%”.

New Seventh Schedule

46. The principal Act is amended by inserting, immediately after the Sixth Schedule, the following Schedule:

“SEVENTH SCHEDULE

Section 108(1), (2) and (3)

ADVANCE RULINGS

PART I

1.—(1) Subject to the provisions of this Part, on an application made by a person in accordance with this Part, the Comptroller shall make a ruling on how any provision of this Act applies, or would apply, to the person and to the arrangement for which the ruling is sought.

(2) The Comptroller may make a ruling on how any provision of this Act applies to the arrangement described in an application whether or not reference was made to that provision in the application.

(3) The Comptroller shall not make a ruling on a provision of this Act that authorises or requires the Comptroller to —

- (a) impose or remit a penalty;
- (b) inquire into the correctness of any return or other information supplied by any person;
- (c) prosecute any person; or
- (d) recover any debt owing by any person.

(4) An application for a ruling —

- (a) shall be made in such form as the Comptroller may determine; and
- (b) shall comply with the disclosure requirements of paragraph 9.

(5) An applicant for a ruling may at any time withdraw the application by notice in writing to the Comptroller.

2. The Comptroller may decline to make a ruling if —

- (a) the application for the ruling would require the Comptroller to determine any question of fact;
- (b) the Comptroller considers that the correctness of the ruling would depend on the making of assumptions, whether in respect of a future event or any other matter;
- (c) the matter on which the ruling is sought is subject to an objection or appeal, whether in relation to the applicant or any other person;
- (d) the applicant has outstanding debts relating to earlier ruling applications; or
- (e) the matter on which the ruling is sought is the subject of a return which has been or is due to be lodged under this Act.

3. The Comptroller shall not make a ruling if —

- (a) at the time the application is made or at any time before the ruling is issued, the Comptroller considers that the person to whom the ruling is to apply is not seriously contemplating the arrangement for which the ruling is sought;
- (b) the application is frivolous or vexatious;
- (c) the matter on which the ruling is sought —
 - (i) concerns tax (excluding estimated tax) that is due and payable, unless the application is received before the tax is due and payable;
 - (ii) involves the interpretation of any foreign law; or
 - (iii) is being dealt with, or in the Comptroller's opinion should be dealt with, by one or both competent authorities of the parties to an agreement to avoid double taxation;
- (d) a ruling already exists on how the relevant provision of this Act applies to the person and the arrangement, and the proposed ruling would apply to a period or a year of assessment to which the existing ruling applies;
- (e) an assessment (other than an assessment of any estimated tax) relating to the person, the arrangement, and a year of assessment to which the proposed ruling would apply has been made, unless the application is received by the Comptroller before the date the assessment is made;
- (f) the Comptroller is undertaking an audit or investigation on how any provision of this Act applies to the applicant, or to an arrangement similar to the arrangement which is the subject of the application, during any period for which the proposed ruling would apply were the ruling to be made;
- (g) in the Comptroller's opinion, the applicant has not provided sufficient information in relation to the application after the Comptroller has requested further information;
- (h) in the Comptroller's opinion, it would be unreasonable to make a ruling in view of the resources available to the Comptroller; or
- (i) the application for the ruling would require the Comptroller to form an opinion as to a generally accepted accounting principle or to form an opinion as to a commercially acceptable practice.

4. The Comptroller shall, where he has declined to make a ruling under paragraph 2 or has not made a ruling by virtue of paragraph 3, notify the applicant in writing of his decision and the reasons therefor.

5. Where the Comptroller has made a ruling to a person on the application of any provision of this Act in relation to an arrangement, and —

- (a) the ruling applies in relation to the arrangement during the whole or any part of the period specified in the ruling; and

- (b) the person has under paragraph 17 disclosed in the return provided under this Act that he has relied on the ruling in preparing and providing the return,

the Comptroller shall apply the provision in relation to the person and the arrangement in respect of the whole of the period or the part of the period, as the case may be, in accordance with the ruling.

6. A ruling shall apply in relation to an arrangement as a ruling on a provision of this Act —

- (a) only if the provision is expressly referred to in the ruling; and
- (b) only for the period for which the ruling applies.

7. A ruling shall not apply to a person in relation to an arrangement if —

- (a) the arrangement is materially different from the arrangement identified in the ruling;
- (b) there was a material omission or misrepresentation in, or in connection with, the application for the ruling;
- (c) the Comptroller makes an assumption about a future event or another matter that is material to the ruling, and the assumption subsequently proves to be incorrect; or
- (d) the Comptroller stipulates a condition that is not satisfied.

8.—(1) A person, in his own right or on behalf of a person who is yet to come into legal existence, may apply to the Comptroller for a ruling on how a provision of this Act applies, or would apply, to —

- (a) the person making the application or the prospective person, as the case may be; and
- (b) an arrangement.

(2) Two or more persons may jointly apply, or a person on behalf of 2 or more persons who are yet to come into legal existence may apply, to the Comptroller for a ruling on how a provision of this Act applies, or would apply, to each person and to an arrangement.

9.—(1) An application for a ruling shall —

- (a) identify the applicant;
- (b) disclose all relevant facts (including the reasons for the arrangement, if applicable) and documents relating to the arrangement in respect of which the ruling is sought;
- (c) state the provision of this Act in respect of which the ruling is sought;
- (d) state the proposition of law (if any) which is relevant to the issues raised in the application;

- (e) state whether a previous application has been made on the same or any similar arrangement by the applicant and the result of any such application; and
- (f) provide a draft ruling.

(2) If the Comptroller considers that it would be unreasonable to require the applicant to comply with any of the requirements in sub-paragraph (1)(c) to (f), the Comptroller may waive those requirements.

(3) Any document provided by any person under this Schedule shall be retained by the Comptroller.

10. The Comptroller may at any time request further relevant information from an applicant for a ruling.

11.—(1) If the Comptroller considers that the correctness of a ruling would depend on assumptions being made about a future event or other matter, the Comptroller may make the assumptions that he considers to be most appropriate.

(2) The Comptroller may not make assumptions about information which the applicant can provide.

12.—(1) A ruling made by the Comptroller shall state —

- (a) that it is a ruling made under section 108;
- (b) the identity of the person, the provision of this Act, and the arrangement (which may be identified by reference to the arrangement in the application) to which the ruling applies;
- (c) how the provision of this Act applies to the arrangement and to the person;
- (d) the period or year of assessment for which the ruling applies;
- (e) the material assumptions about future events or other matters made by the Comptroller; and
- (f) the conditions (if any) stipulated by the Comptroller.

(2) The Comptroller shall notify the making of a ruling by sending a copy of the ruling to the person or persons who applied for it.

13.—(1) The Comptroller may at any time withdraw a ruling by notifying the person to whom the ruling applies in writing of the withdrawal and the reasons therefor.

(2) The ruling is withdrawn from the date specified in the notice of withdrawal.

(3) The date referred to in sub-paragraph (2) may not be earlier from the date on which the person could reasonably be expected to receive the notice of withdrawal.

(4) If the Comptroller withdraws a ruling —

- (a) the ruling does not apply to any arrangement entered into or effected on or after the date of withdrawal; but

- (b) the ruling shall continue to apply in relation to any arrangement for the remainder of the period specified in the ruling if the arrangement has been entered into or effected before the date of withdrawal.

14.—(1) The Comptroller does not have to withdraw and reissue a new ruling to correct a typographical or a minor error if the correction does not change the meaning of the ruling.

- (2) A ruling that is not withdrawn and reissued remains valid.

15. A ruling does not apply from the date a provision of this Act is repealed or amended to the extent that the repeal or amendment changes the way the provision applies in the ruling.

16. The fact that there has been an application for a ruling does not affect a person's obligation to provide any return, make any payment, or do any other act, or the Comptroller's power to make or amend any assessment.

17. Where —

- (a) a person has obtained a ruling;
- (b) the person is required to provide a return under this Act; but
- (c) in preparing the return the person is required to take into account the way in which a provision of this Act applies to the arrangement identified in the ruling,

the person shall disclose in the return —

- (i) the existence of the ruling;
- (ii) whether or not the person has relied on the ruling in preparing and providing the return; and
- (iii) any material changes to the arrangement identified in the ruling.

PART II

1. The fees specified in respect of an application for a ruling made in accordance with Part I are as follows:

- (a) a non-refundable application fee of \$525 (inclusive of goods and services tax), which must accompany the application;
- (b) a further fee, calculated at \$131.25 (inclusive of goods and services tax) per hour (or part hour), beyond the first 4 hours, spent in consideration of the application by the Comptroller, including any time spent by the Comptroller in consulting with the applicant;
- (c) an additional fee, of up to 2 times the aggregate fee under sub-paragraphs (a) and (b), for the Comptroller to give priority to the application and to expedite his consideration thereof; and

(d) reimbursement fees in respect of —

- (i) any fees paid by the Comptroller to any person, if the Comptroller requires external advice in relation to the ruling and the applicant agrees to the Comptroller seeking such external advice; and
- (ii) any costs and reasonable disbursements incurred by the Comptroller in relation to the ruling.

2. If an application for a ruling is withdrawn, the applicant is liable to pay all fees incurred before the Comptroller received notice of the withdrawal.

3. The Comptroller must ensure as far as is reasonably practicable that every effort is made to minimise the fees to which an applicant is liable in respect of an application for a ruling.”.

Miscellaneous amendments

47. The principal Act is amended by deleting the words “or 43S” in the following provisions and substituting in each case the words “, 43S, 43T or 43U”:

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

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

48. Section 97ZK of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) is amended by deleting paragraph (a) of the definition of “chargeable income” and substituting the following paragraph:

“(a) expenses, allowances, losses, donations, any qualifying deductions available for transfer under section 37C of the Income Tax Act (Cap. 134) and any qualifying deduction claimed under section 37E of that Act; and”.
