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The following Act was passed by Parliament on 23rd November 2009 and assented to by the President on 14th December 2009:—

REPUBLIC OF SINGAPORE

No. 27 of 2009.

I assent.

(LS)

S R NATHAN,
President.
14th December 2009.

An Act to amend the Income Tax Act (Chapter 134 of the 2008 Revised Edition).

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

Short title and commencement

1.—(1) This Act may be cited as the Income Tax (Amendment) Act 2009.

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

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

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

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

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

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

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

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

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

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

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

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

Amendment of section 2

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

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

Amendment of section 10

3. Section 10 of the principal Act is amended —

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

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

$$A - B,$$

where A is —

- (i) if the shares are not treasury shares, the price of the shares in the open market at the last transaction on the date on which the shares are first listed on the Singapore Exchange after the acquisition of the shares by him; and
- (ii) if the shares are treasury shares, the price of the shares in the open market at the last transaction on the date an appropriate entry is made in the Depository Register by the Central Depository (Pte) Ltd to effect the acquisition of the treasury shares by him; and

B is the amount paid for such shares;”;

(b) by deleting subsection (11).

New section 10F

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

“Ascertainment of income from certain public-private partnership arrangement

10F.—(1) Where —

- (a) a contract is entered into on or after the date of commencement of section 4 of the Income Tax (Amendment) Act 2009 between the Government or any approved statutory body and any person under a public-private partnership arrangement; and
- (b) the contract is or contains a finance lease recognised as such by the lessor in accordance with FRS 17 read with INT FRS 104, the Government or the approved statutory body being the lessee and the person being the lessor,

then —

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

(2) In this section —

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

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

Amendment of section 10L

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

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

“(6A) Where an SRS member —

- (a) made his first withdrawal under subsection (3)(b); and
- (b) subsequently made one or more contributions to his SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive),

then —

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

(6B) Where an SRS member —

- (a) had made one or more withdrawals under subsection (3)(b) of all the funds standing to his SRS account and had closed his SRS account (referred to in this subsection as the first SRS account); and
- (b) subsequently opened another SRS account during the period from 1st October 2008 to 31st December 2008 (both dates inclusive) (referred to in this subsection as the second SRS account),

then —

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

- (ii) for the purposes of subsection (1) and section 39(2)(o), both the first SRS account and the second SRS account shall be deemed to be the same account as if the first SRS account had never been closed.”;
- (b) by deleting the words “and closed” in subsection (13) and substituting the words “and subsequently closed”; and
- (c) by inserting, immediately after subsection (13), the following subsection:
 - “(14) In this section, unless the context otherwise requires —
 - (a) a reference to an SRS member making a contribution to his SRS account includes his employer making a contribution to that account on his behalf; and
 - (b) a reference to a contribution of an SRS member to his SRS account includes a contribution by his employer to that account on his behalf.”.

Amendment of section 12

6. Section 12 of the principal Act is amended —

- (a) by inserting, immediately after subsection (6), the following subsection:
 - “(6A) Subsection (6) shall not apply to any payment for —
 - (a) any arrangement, management or service relating to any loan or indebtedness, where such arrangement, management or service is performed outside Singapore for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a non-resident person who —
 - (i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and
 - (ii) in any event —
 - (A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or

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- (B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the arrangement, management or service is not performed through that business carried on in Singapore or that permanent establishment; and
 - (b) any guarantee relating to any loan or indebtedness, where the guarantee is provided for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a guarantor who is a non-resident person who —
 - (i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and
 - (ii) in any event —
 - (A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or
 - (B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the giving of the guarantee is not effectively connected with that business carried on in Singapore or that permanent establishment.”; and
 - (b) by inserting, immediately after subsection (7), the following subsection:
 - “(7A) Subsection (7) shall not apply to any payment for —
 - (a) the rendering of assistance or service in connection with the application or use of scientific, technical, industrial or commercial knowledge or information, where such rendering of assistance or service is performed outside Singapore for or on behalf of a

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

- (i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and
 - (ii) in any event —
 - (A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or
 - (B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the rendering of assistance or service is not performed through that business carried on in Singapore or that permanent establishment; and
- (b) the management or assistance in the management of any trade, business or profession, where such management or assistance is performed outside Singapore for or on behalf of a person resident in Singapore or a permanent establishment in Singapore by a non-resident person who —
 - (i) in the event the non-resident person is not an individual, is not incorporated, formed or registered in Singapore; and
 - (ii) in any event —
 - (A) does not by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore; or
 - (B) carries on a business in Singapore (by himself or in association with others) or has a permanent establishment in Singapore, but the management or

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

Amendment of section 13

7. Section 13 of the principal Act is amended —

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

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

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

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

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

- (i) any person, not being an individual, resident in Singapore; or
 - (ii) any individual resident in Singapore through a partnership in Singapore; and

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

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

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

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

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

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

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

$$A \times B,$$

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

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

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

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

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

Amendment of section 13C

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

- “(3) This section shall not apply to —
- (a) a trustee of a trust fund that is constituted on or after 1st April 2014; or
 - (b) a trustee of a trust fund that —
 - (i) is constituted before 1st April 2014; and
 - (ii) is not a prescribed trust fund at any time before that date.”.

Amendment of section 13CA

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

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

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

 - (a) income of any prescribed person, being a company or the trustee of a trust fund, has been exempt from tax under subsection (1) in any year of assessment;
 - (b) a person, either alone or together with his associates, beneficially owns on the relevant day —
 - (i) if the prescribed person is a company, any issued securities of the prescribed person; or
 - (ii) if the prescribed person is the trustee of a trust fund, any part of the trust fund; and

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

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

- (i) beneficially owns on the relevant day equity interests of the person mentioned in paragraph (b); and
- (ii) is not himself a non-bona fide entity,

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

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

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

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

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

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

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

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

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

- (b) by deleting the words “subsection (6)” in subsection (7) and substituting the words “subsections (6)(i), (A) and (B) and (6A)”;
- (c) by inserting, immediately after subsection (7), the following subsection:

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

- (a) the reference in subsection (7)(b) to the equity interests of another person (when applied to that trust fund) shall be read as the equity interests in that fund;
- (b) the reference in the definition of B under subsection (7) to the value of equity interests of the second level entity beneficially owned by the first level entity (when applied to that trust fund) shall be read as the value of the part of the trust fund beneficially owned by the first level entity;
- (c) the reference in the definition of B under subsection (7) to the total value of all equity interests of the second level entity (when applied to that trust fund) shall be read as the total value of the trust fund.”;

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

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

- (e) by deleting the words “subsection (2) or (4)” in the definition of “relevant day” in subsection (9) and substituting the words “subsection (2), (4) or (6)”;
- (f) by inserting, immediately after subsection (9), the following subsection:

“(10) This section shall not apply to —

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

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

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

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

Amendment of section 13J

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

“(a) is committed to work —

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

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

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

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

- (A) at least the number of hours per week referred to in section 66A(1) of the Employment Act (Cap. 91) for the company; or
- (B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and”.

Amendment of section 13L

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

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

- (a) where the time of grant is before 1st January 2010, for not more than 30 hours per week (including any time he would be required to work but for injury, any official leave or such other similar events) for the company; or
- (b) where the time of grant is on or after 1st January 2010, for not more than the number of hours per week referred to in section 66A(1) of the Employment Act (Cap. 91) (including any time he would be required to work but for injury, any official leave or such other similar events) for the company;”.

Amendment of section 13M

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

“(a) is committed to work —

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

- (A) at least 30 hours per week for the company; or
- (B) where he is committed to work less than that number of hours, at least 75% of his total working time per week for the company; and

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

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

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

Amendment of section 13R

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

New section 13X

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

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

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

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

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

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

- (a) provide for the determination of the amount of income of any approved person to be exempt from tax;
- (b) provide for the deduction of expenses, allowances, losses and donations of any approved person otherwise than in accordance with this Act;
- (c) where the approved person is a partner of an approved limited partnership, provide for the recovery of tax from him in a case where the exemption ought not to have been allowed to that partner due to non-compliance with any condition imposed on the partnership, including the deeming of a specified amount as income of the partner for the year of assessment in which the Comptroller discovers the non-compliance of the condition; and
- (d) make provision generally for giving full effect to or for carrying out the purposes of this section.

(5) In this section —

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

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

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

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

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

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

Amendment of section 14J

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

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

Amendment of section 14Q

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

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

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

Amendment of section 18

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

Amendment of section 19

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

Amendment of section 19A

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

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

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

- (a) for the year of assessment relating to the basis period in which the capital expenditure was incurred or any subsequent year of assessment (referred to in this subsection as the first year), an allowance of 75% in respect of the capital expenditure incurred; and
- (b) for any year of assessment subsequent to the first year, an allowance of 25% in respect of the capital expenditure incurred.

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

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

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

- (b) by inserting, immediately after the words “subsection (1)” wherever they appear in subsections (2) to (9A), (10A) and (10B), the words “or (1B)”;
- (c) by inserting, immediately after the words “3 years” in the section heading, the words “or 2 years”.

Amendment of section 19B

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

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

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

- (a) shall be made to it during a writing-down period of 2 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred; and
 - (b) for each such year of assessment shall be an amount equal to 50% of the capital expenditure incurred.”;
- (b) by deleting the words “subsection (1)” wherever they appear in subsections (4), (5), (10) and (10A) and substituting in each case the words “subsections (1) and (2C)”;
- (c) by inserting, immediately before the definition of “capital expenditure” in subsection (11), the following definition:

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

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

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

Amendment of section 23

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

Amendment of section 26

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

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

New section 34C

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

“Amalgamation of companies

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

Interpretation

(2) In this section —

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

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

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

“qualifying amalgamation” means —

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

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

- (a) the date shown on the notice of amalgamation under section 215F of the Companies Act;
- (b) the date of lodgment mentioned in section 14A(4) of the Banking Act; or
- (c) such date as specified in the letter of approval issued under paragraph (b) of the definition of “qualifying amalgamation” in subsection (2),

as the case may be.

Election for section to apply

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

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

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

- (a) any property on revenue account of each amalgamating company shall, subject to subsection (14), be treated as property on revenue account of the amalgamated company; and
- (b) any property on capital account of each amalgamating company shall, subject to subsection (16), be treated as property on capital account of the amalgamated company,

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

Effect of cancellation of shares

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

- (a) the first-mentioned company is treated as having disposed of the shares in the second-mentioned company immediately before the amalgamation for an amount equal to the cost of the shares to the first-mentioned company;
- (b) if —
 - (i) the first-mentioned company has borrowed money to acquire shares in the second-mentioned company; and
 - (ii) the liability arising from the money borrowed referred to in sub-paragraph (i) is transferred to and becomes the liability of the amalgamated company,

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

Transfer of property

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

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

- (a) a reference in that provision to a buyer is a reference to the amalgamated company; and
- (b) a reference in that provision to a seller is a reference to the amalgamating company.

(10) Where —

- (a) there is a transfer of property, being intellectual property rights in respect of which writing-down allowances have been made to an amalgamating company under section 19B, from that amalgamating company to the amalgamated company on the date of amalgamation; and
- (b) before the transfer in the case of that amalgamating company and from any time on or after the transfer in the case of that amalgamated company, the property is used in the production of income chargeable under the provisions of this Act,

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

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

- (ii) the writing-down allowances under section 19B shall continue to be available to the amalgamated company as if no transfer had taken place;
- (iii) the charge under section 19B(4) and (5) shall be made on the amalgamated company on any event occurring on or after the date of amalgamation as would have fallen to be made on the amalgamating company if the amalgamating company had continued to own the intellectual property rights and had done all such things and been allowed all such allowances as were done by or allowed to the amalgamated company.

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

- (a) the net book value of the trading stock of the amalgamating company shall be deemed to be the value of the consideration given by the amalgamated company to the amalgamating company for such transfer on the date of amalgamation for the purpose of deducting the cost of trading stock to the amalgamated company as an expense in computing the gains or profits of the trade or business of the amalgamated company; and
- (b) only the amount of provision of diminution in value computed by reference to the net book value referred to in paragraph (a) of the trading stock, if any, may be allowed as a deduction to the amalgamated company.

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

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

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

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

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

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

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

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

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

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

- (a) in the case of trading stock which has been transferred at net book value under subsection (11)(a), section 32(1)(b) shall apply as if that trade and business has been discontinued or transferred on the date of cessation of the trade and business in Singapore, and any gain shall be chargeable to tax for the year of assessment relating to the basis period in which the amalgamated company ceases to carry on that trade and business in Singapore;
- (b) in the case of property, being intellectual property rights in respect of which subsection (10) applies, the charge under section 19B(4) or (5), as the case may be, shall be made on the amalgamated company as if the property has been sold on the date of cessation of the trade and business in Singapore; and for the purpose of computing the charge under section 19B(5), the value thereof shall be the amount which it would have realised if the property had been sold in the open market on the date of cessation of such trade and business in Singapore.

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

Deductions for intellectual property rights

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

Deductions for bad debts, expenditure, losses, etc.

(21) Where —

- (a) an amalgamating company ceases to exist on the date of amalgamation; and
- (b) the amalgamated company continues to carry on the trade and business of the amalgamating company and at any time —

- (i) writes off as bad the amount of a debt, or provides impairment loss in respect of a debt, that it acquires from the amalgamating company on the date of amalgamation;
- (ii) incurs an expenditure, other than the expenditure to which prescribed sections of this Act apply; or
- (iii) incurs a loss,

the amalgamated company —

- (A) shall be allowed a deduction for the amount of the debt, expenditure or loss, as the case may be, if —
 - (AA) the amalgamating company would have been allowed the deduction but for the amalgamation; and
 - (AB) the amalgamated company is not otherwise allowed the deduction; and
- (B) shall be chargeable to tax on the amount of the debt recovered or impairment loss that is reversed if —
 - (BA) the amalgamating company would have been chargeable to tax on such amount but for the amalgamation; and
 - (BB) the amalgamated company is not otherwise chargeable to tax on such amount.

(22) Where —

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

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

- (i) the amalgamating company would have been chargeable to tax on such amount but for the amalgamation; and
- (ii) the amalgamated company is not otherwise chargeable to tax on such amount.

(23) Where —

- (a) an amalgamating company ceases to exist on the date of amalgamation; and
- (b) the amalgamating company has any capital allowance, donation or loss remaining unabsorbed on the date of amalgamation,

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

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

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

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

Amalgamating company as qualifying person under section 34A

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

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

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

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

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

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

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

Rights and obligations of amalgamated company

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

Regulations

(30) The Minister may by regulations provide —

- (a) for the deduction of expenses, allowances, losses, donations and any other deductions otherwise than in accordance with this Act;
- (b) the manner and extent to which expenses, allowances, losses, donations and any other deductions may be allowed under this Act;
- (c) the manner and extent to which any qualifying deduction may be allowed under section 37C or 37E;
- (d) the rate of exchange to be used for the purpose of section 62B;
- (e) for the modification and exception to any prescribed section of this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) as it applies to an amalgamated company; and
- (f) generally for giving full effect to or for carrying out the purposes of this section.”.

New section 34D

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

“Transactions not at arm’s length

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

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

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

Amendment of section 35

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

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

Amendment of section 36A

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

Amendment of section 36C

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

- (a) by deleting the words “section 37E” in paragraph (a) of the definition of “carry-back deductions” and substituting the words “section 37E(1) or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be”; and
- (b) by deleting the definitions of “limited partner” and “limited partnership” and substituting the following definition:

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

Amendment of section 37

28. Section 37 of the principal Act is amended —

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

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

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

Amendment of section 37E

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

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

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

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

- (a) against his assessable income for the second year of assessment immediately preceding that year of assessment; and
- (b) thereafter against his assessable income for the first year of assessment immediately preceding that year of assessment.

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

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

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

- (a) an amount equivalent to the difference between the amount of qualifying deduction available for deduction for the year of assessment 2009 or 2010, as the case may be, and the aggregate amount of such qualifying deductions which had already been deducted under subsection (1A); and
 - (b) the balance of the assessable income of the person for the year of assessment after such assessable income has been deducted by the qualifying deduction for any year of assessment prior to the year of assessment 2009 or 2010, as the case may be, under subsection (1C).”;
- (c) by inserting, immediately after the words “for the immediate preceding year of assessment” wherever they appear in subsections (4) and (6), the words “or any of the 3 immediate preceding years of assessment (as the case may be)”;
- (d) by inserting, immediately after subsection (4), the following subsection:

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

- (a) the rate of tax under section 43(1)(a) applicable to the year of assessment for which the assessable income is deducted by any qualifying deduction;
- (b) the concessionary rate of tax applicable to the year of assessment for which any allowance specified in

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

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

as the case may be.”;

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

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

$$A + B,$$

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

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

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

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

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

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

Amendment of section 37F

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

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

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

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

- (a) against her or his assessable income for the second year of assessment immediately preceding that year of assessment; and
- (b) thereafter against her or his assessable income for the first year of assessment immediately preceding that year of assessment.

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

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

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

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

- (a) an amount equivalent to the difference between the amount of qualifying deduction available for transfer for the year of assessment 2009 or 2010, as the case may be, and the aggregate amount of such qualifying deductions which had already been transferred under subsection (1A); and
 - (b) the balance of the assessable income of the claimant spouse for the year of assessment after such assessable income is deducted by the qualifying deduction for any year of assessment prior to the year of assessment 2009 or 2010, as the case may be, under subsection (1C).”;
- (c) by inserting, immediately after subsection (4), the following subsection:

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

$$\$200,000 - A,$$

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

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- (d) by inserting, immediately after the words “subsection (1)” in subsections (5) and (6), the words “or (1A)”;
 - (e) by inserting, immediately after the words “for the immediate preceding year of assessment” in subsection (5), the words “or any of the 3 immediate preceding years of assessment (as the case may be)”;
 - (f) by inserting, immediately after subsection (9), the following subsection:

“(9A) Notwithstanding subsection (9), where the Comptroller discovers that any qualifying deduction for the year of assessment 2010 transferred under subsection (1A) and made against the assessable income of the claimant spouse for the year of assessment 2008 is or has become excessive, he may make an assessment on the claimant spouse on the amount which, in his opinion, ought to have been charged to tax in the year of assessment 2008, within 6 years after the expiration of that year of assessment.”; and
 - (g) by inserting, immediately after the words “for the immediate preceding year of assessment” in subsection (12), the words “or any one of the 3 immediate preceding years of assessment, as the case may be”.

Amendment of section 39

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

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

“(ii) where the sum of —

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

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

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

- (iia) where the sum referred to in sub-paragraph (ii) exceeds \$5,000, then no deduction shall be allowed under this paragraph, except that the contributions made to an approved pension or a provident fund or the Central Provident Fund under this paragraph shall, subject to subsections (6) to (10), be allowed as a deduction under this paragraph;”; and
- (b) by deleting sub-paragraph (i) of paragraph (h) and substituting the following sub-paragraphs:
 - “(i) where the sum of —
 - (A) the contributions to any approved pension or provident fund or society under paragraph (g) and this paragraph; and
 - (B) the deduction allowed to the individual under paragraph (q),does not exceed \$5,000, then the total deductions allowable under paragraph (g) and this paragraph shall not exceed the difference between \$5,000 and the amount of the deduction referred to in sub-paragraph (B);
 - (ia) where the sum referred to in sub-paragraph (i) exceeds \$5,000, then no deduction shall be allowed under paragraph (g) in respect of premiums for life insurance;”.

Amendment of section 42

32. Section 42 of the principal Act is amended —

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

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

Amendment of section 43

33. Section 43 of the principal Act is amended —

- (a) by inserting, immediately after the word “company” in subsection (1)(a), the words “or body of persons”;
- (b) by deleting “18%” in subsection (1)(a) and (c) and substituting in each case “17%”;
- (c) by inserting, immediately after the words “distributed by the trustee” in subsection (2A)(a), the words “in cash or, if the conditions specified in subsection (2B) are satisfied, in units in the trust”;
- (d) by inserting, immediately after the words “distributed by the trustee” in subsection (2A)(b), the words “in cash”;
- (e) by inserting, immediately after subsection (2A), the following subsection:

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

- (a) the distribution is made at any time from 1st July 2009 to 31st December 2010 (both dates inclusive) by the trustee of the real estate investment trust out of income specified in subsection (2A)(a)(i) to (iv);
 - (b) before the distribution, the trustee of the real estate investment trust has given to unitholders receiving the distribution an option to receive the same either in cash or units in the trust; and
 - (c) the trustee of the real estate investment trust has sufficient cash available on the date of such distribution to make the distribution fully in cash had no option been given to those unitholders to receive the distribution in units in the trust.”;
- (f) by deleting subsection (6) and substituting the following subsection:

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

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

- (a) in the case of a company, for the year of assessment 2008 and subsequent years of assessment; and
 - (b) in the case of a body of persons, for the year of assessment 2010 and subsequent years of assessment,
- tax at the rate prescribed in subsection (1)(a) on every dollar of the chargeable income thereof except that —
 - (i) for every dollar of the first \$10,000 of the chargeable income (excluding Singapore dividends), only 25% shall be charged with tax; and
 - (ii) for every dollar of the next \$290,000 of the chargeable income (excluding Singapore dividends), only 50% shall be charged with tax.”;
- (g) by deleting the words “for each of the first 3 years of assessment, falling in or after the year of assessment 2008, of a qualifying company,” in subsection (6A) and substituting the words “where, in any of the first 3 years of assessment, falling in or after the year of assessment 2008, of a company, the company is a qualifying company, then for that year of assessment”;
- (h) by deleting subsection (8) and substituting the following subsection:
 - “(8) The reference to 17% in subsection (1) shall —
 - (a) for the years of assessment 2005, 2006 and 2007, be read as a reference to 20%; and
 - (b) for the years of assessment 2008 and 2009, be read as a reference to 18%.”;
- (i) by inserting, immediately after the words “life insurer” in subsection (9), the words “(other than a captive insurer)”;
- (j) by inserting, immediately after the definition of “approved sub-trust” in subsection (10), the following definition:
 - “ “captive insurer” has the same meaning as in section 1A of the Insurance Act (Cap. 142);”;

-
- (k) by deleting the definition of “qualifying company” in subsection (10) and substituting the following definition:

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

(a) is resident in Singapore; and

(b) where the company —

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

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

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

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

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

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

Amendment of section 43N

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

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

Amendment of section 43ZD

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

Amendment of section 45

36. Section 45 of the principal Act is amended —

- (a) by deleting “18%” in subsections (1)(a)(ii) and (2)(b) and substituting in each case “17%”; and
- (b) by deleting subsection (1A) and substituting the following subsection:

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

Repeal of section 48

37. Section 48 of the principal Act is repealed.

Amendment of section 71

38. Section 71 of the principal Act is amended —

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

“(2) Where —

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

- (b) in the case of all other types of partnerships, no partner is personally present in Singapore,
- the return shall be made and delivered by the attorney, agent, manager or factor of the firm in Singapore.”; and
- (b) by inserting, immediately after subsection (3), the following subsection:
- “(4) In this section, “general partner” has the same meaning as in the Limited Partnerships Act 2008 (Act 37 of 2008).”.

Amendment of Second Schedule

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

Miscellaneous amendments

- 40.** The principal Act is amended —

- (a) by deleting the words “any relief under section 48 or” in section 10N(7);
- (b) by deleting the words “no relief under section 48 and” in section 10N(8)(c);
- (c) by deleting the words “or Commonwealth income tax within the meaning of section 48(5),” in section 29;
- (d) by deleting paragraph (a) of section 40(6);
- (e) by deleting “48,” in section 40(6)(b);
- (f) by deleting subsection (3) of section 49; and
- (g) by deleting the words “tax relief under section 48 or” in section 50A(5).

Remission of tax for year of assessment 2009

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

- (a) 20% of the tax payable for that year of assessment; or
- (b) \$2,000,

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