

Income Tax (Amendment) Bill

Bill No. 24/99.

Read the first time on 6th July 1999.

A BILL

intituled

An Act to amend the Income Tax Act (Chapter 134 of the 1996 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)
5 Act 1999.

(2) Section 19 (c) shall be deemed to have come into operation on 28th February 1998.

(3) Section 4 (b) shall be deemed to have come into operation on 18th November 1998.

(4) Section 9 (c) shall have effect for the years of assessment 1999 and 2000. 5

(5) Sections 9 (a) and (b), 10 (a), 11 (c) and 12 (b) shall have effect for the year of assessment 1999 and subsequent years of assessment.

(6) Sections 22 and 23 shall have effect from 1st January 2000.

(7) Sections 3, 4 (a), 5 (b), 6, 7 (c), 12 (a), 14, 15 and 18 shall have effect for the year of assessment 2000 and subsequent years of assessment. 10

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 “Comptroller”, the following definition: 15

“ “country” includes a territory;”.

Amendment of section 10

3. Section 10 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection: 20

“(4A) Subsection (4) (b) shall apply, with the necessary modifications, to an approved floating production storage offloading ship or an approved floating storage offloading ship the income derived from the operation of which is exempt from tax under section 13F.”. 25

New sections 10H to 10K

4. The principal Act is amended —

(a) by inserting, immediately after section 10G, the following section:

“Ascertainment of income from business of hiring out motor cars or providing driving instruction 30

10H.—(1) Notwithstanding any other provisions of this Act, in determining the income derived by any person for

any year of assessment from any business of hiring out motor cars or of providing driving instruction using motor cars, the following provisions shall apply:

- 5 (a) any outgoings and expenses incurred in respect of that business for that year of assessment and allowable under this Act shall only be deducted against the income derived from that business and any excess of such outgoings and expenses over such income shall not be available as a deduction against any other income of the person for that year of assessment and any subsequent year of assessment; and
- 10 (b) the allowances under sections 19, 19A, 20, 21 and 22 relating to that business for that year of assessment shall only be available as a deduction against the income derived from that business and any excess of such allowances over such income shall not be available as a deduction against any other income of the person for that year of assessment and any subsequent year of assessment.
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25 (2) In this section, “motor car” means a car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms.”;

(b) by inserting, immediately after section 10H, the following sections:

“Reduction of share capital

30 **10I.**—(1) This section shall, subject to sections 10J and 10K, apply where a company resident in Singapore reduces its share capital and the reduction of share capital involves a payment to any shareholder of the company.

35 (2) Where the reduction of share capital is made out of the contributed capital of the company, and a payment is made to any shareholder of the company pursuant to such reduction, the payment to the shareholder shall not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be

debited to the contributed capital account referred to in subsection (5) (c) (i).

(3) Where the reduction of share capital is not made out of the contributed capital of the company, and a payment is made to any shareholder of the company pursuant to such reduction, the payment to the shareholder shall be deemed to be a dividend paid by the company to the shareholder on the date of the payment, and the provisions relating to the payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall apply, with the necessary modifications, to the dividend deemed to be paid.

(4) Where the dividend deemed to be paid under subsection (3) is a dividend to which section 44 applies, the amount of dividend deemed to be paid by the company to the shareholder shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder.

(5) For the purposes of this section —

- (a) the share capital of a company shall include any share premium or capital redemption reserve which is treated as paid-up share capital of the company for the purpose of any reduction of share capital made by the company;
- (b) the contributed capital of a company as at any date shall be the aggregate of the amounts received by the company, whether in cash or in the form of other valuable consideration, for the shares it had issued up to that date reduced by —
 - (i) the aggregate of the amounts of any payment made to any shareholder of the company pursuant to any reduction of share capital by the company up to that date which had not been treated as

a payment of dividends for the purpose of this Act;

(ii) the aggregate of the amounts of any payment made to any shareholder of the company pursuant to any redemption of shares by the company up to that date which had not been treated as a payment of dividends for the purpose of this Act; and

(iii) the aggregate of the amounts of any other payment made to any shareholder of the company pursuant to any return of share capital up to that date which had not been treated as a payment of dividends for the purpose of this Act;

(c) in relation to the first reduction of its share capital made on or after 18th November 1998 by any company, the contributed capital of the company immediately before the first reduction —

(i) shall be credited to an account (referred to in this section as the contributed capital account) to be kept by the company for the purposes of this section; and

(ii) where the aggregate of the amounts of any payment referred to in paragraph (b) (i), (ii) and (iii) exceeds the aggregate of the amounts received by the company, whether in cash or in the form of other valuable consideration, for the shares it had issued before the first reduction, the amount to be credited to the contributed capital account shall be deemed to be zero;

(d) where any share is issued by a company subsequent to the first reduction of its share capital referred to in paragraph (c), any amount received by the company, whether in cash or in

the form of other valuable consideration, for the shares it had issued shall be credited to the contributed capital account;

(e) where a company redeems any redeemable shares subsequent to the first reduction of its share capital referred to in paragraph (c) and section 10K does not apply to that redemption, any payment made to any shareholder for the purpose of that redemption shall be debited to the contributed capital account where the payment is not treated as a payment of dividends for the purpose of this Act;

(f) where any reduction of share capital of a company was made before 18th November 1998 for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of 2 or more companies and such scheme resulted in the transfer of assets of the first-mentioned company, whether directly by that company or indirectly through its shareholders, to another company in exchange for shares in the transferee company, the consideration equal to the value of the assets received by the transferee company for the shares issued shall, notwithstanding paragraph (b), not form part of the contributed capital of the transferee company where the payment made by the first-mentioned company pursuant to the reduction of its share capital was —

(i) not treated as a payment of dividend to the shareholder of the first-mentioned company for the purpose of this Act; and

(ii) more than the contributed capital of the first-mentioned company immediately before the reduction of its share capital;

5 (g) where paragraph (f) is applicable to the contributed capital of a transferee company, the contributed capital of the first-mentioned company under that paragraph after the reduction of its share capital shall, notwithstanding paragraph (b), not be reduced by the payment made by the first-mentioned company for the reduction of its share capital; and

10 (h) any amount applied by a company in paying up unissued shares of the company to be issued to shareholders of the company as fully or partly paid bonus shares shall not be regarded as receipts by the company from the issue of shares.

15 (6) A company shall deliver to the Comptroller a copy of the contributed capital account made up to any date specified by the Comptroller whenever called upon to do so by notice in writing.

Shares buyback

20 **10J.**—(1) Where a company resident in Singapore purchases or otherwise acquires shares issued by it from any shareholder of the company (referred to in this section as a buyback), for the purposes of this section —

25 (a) the buyback constitutes a market purchase if the purchase of the shares is made on a stock exchange; and

(b) the buyback constitutes an off-market purchase if the purchase of the shares is made otherwise than on a stock exchange.

30 (2) Where a company undertakes a buyback described in subsection (1), any payment made by the company to any shareholder for the buyback shall, to the extent that the payment is made out of contributed capital of the company, not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be debited to the contributed capital account kept by the company under section 10I (5) (c) (i).

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(3) Where a company undertakes a buyback described in subsection (1), any payment made by the company to any shareholder for the buyback shall, to the extent that the payment is not made out of the contributed capital of the company, be deemed to be — 5

(a) a dividend paid by the company on the date of the payment, and the provisions relating to payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), shall apply, with the necessary modifications, to the dividend deemed to be paid; 10

(b) subject to prescribed conditions, a dividend received by the shareholder where the buyback — 15

(i) is a market purchase transacted through a special trading counter set up on the Stock Exchange of Singapore which enables a shareholder to know that the purchaser of his shares is the company undertaking the market purchase; or 20

(ii) is an off-market purchase made in accordance with an equal access scheme authorised in advance by the company at a general meeting of the company. 25

(4) Where the dividend deemed to be paid by a company under subsection (3) (a) is a dividend to which section 44 applies, the amount of dividend so paid by the company and the amount of dividend deemed to be received by the shareholder under subsection (3) (b) shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder. 30 35

(5) Where any payment made by a company to any shareholder for a buyback is not deemed to be a dividend received by the shareholder under subsection (3) (b), no set-off under section 46 shall be allowed to the shareholder in respect of the payment.

(6) Where a shareholder sells his shares to the company through a special trading counter purchase or in an off-market purchase referred to in subsection (3) (b) and has remaining shares in the company immediately after the sale —

(a) no deduction shall be allowed to him in respect of the costs he incurred to acquire the shares he sold to the company; and

(b) the cost of each such remaining shares held by the shareholder shall be ascertained by the formula $\frac{A}{N}$,

where A is the aggregate cost of all shares in the company held by the shareholder immediately preceding the buyback of his shares; and

N is the number of remaining shares in the company held by the shareholder after the buyback of his shares.

(7) For the purposes of this section —

(a) the contributed capital of a company has the same meaning as in section 10I (5) (b);

(b) where a company undertakes a buyback to which subsection (2) applies and the buyback is effected before any reduction of its share capital to which section 10I applies or any redemption of shares to which section 10K applies, section 10I (5) (c), (d) and (e) shall apply, with the necessary modifications, for the purpose of the buyback and any reference in that section to the first reduction shall be read as a reference to the buyback;

(c) “equal access scheme” means a scheme which satisfies all the following conditions:

- (i) the offers under the scheme are to be made to every person who holds shares to purchase or acquire the same 5 percentage of their shares;
- (ii) all the persons mentioned in subparagraph (i) have a reasonable opportunity to accept the offers made to them; and 10
- (iii) the terms of all the offers are the same except that there shall be disregarded —
 - (A) differences in consideration attributable to the fact that 15 the offers relate to shares with different accrued dividend entitlements;
 - (B) differences in consideration attributable to the fact that 20 the offers relate to shares with different amounts remaining unpaid; and
 - (C) differences in the offers introduced solely to ensure that 25 each shareholder is left with a whole number of shares.”; and

(c) by inserting, immediately after section 10J, the following section:

“Shares redemption

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10K.—(1) This section shall apply where a company resident in Singapore redeems from its shareholders any redeemable shares issued after 6th July 1999.

(2) Where a company redeems any redeemable shares to which this section applies, any payment made by the 35

company to any shareholder from whom the shares are redeemed shall —

5 (a) where the payment is provided for out of contributed capital of the company, not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be debited to the contributed capital account kept by the company under section 10I (5) (c) (i);

10 (b) where the payment is not provided for out of contributed capital of the company —

15 (i) be deemed to be a dividend paid by the company on the date of the payment, and the provisions relating to the payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), shall apply, with the necessary modifications, to the dividend deemed to be paid;

20 (ii) notwithstanding sub-paragraph (i), not be deemed to be a dividend received by the shareholder.

25 (3) Where the dividend deemed to be paid under subsection (2) (b) (i) is a dividend to which section 44 applies, the amount of dividend deemed to be so paid by the company shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder.

30 (4) No set-off under section 46 shall be allowed to any shareholder in respect of any payment made by a company to the shareholder for the redemption of his redeemable shares.

35 (5) For the purposes of this section —

 (a) the contributed capital of a company has the same meaning as in section 10I (5) (b); and

- (b) where a company redeems any redeemable shares to which this section applies and the redemption is effected before any reduction of its share capital to which section 10I applies or any buyback to which section 10J (2) applies, section 10I (5) (c), (d) and (e) shall apply, with the necessary modifications, for the purpose of the redemption and any reference in that section to the first reduction shall be read as a reference to the redemption.”.

Amendment of section 13

5. Section 13 of the principal Act is amended —

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

“(a) subject to subsection (2B) and the prescribed conditions, the interest derived from —

- (i) any qualifying debt securities issued during the period from 28th February 1998 to 27th February 2003 by any person who is not resident in Singapore and who does not have any permanent establishment in Singapore; and
- (ii) any qualifying debt securities issued during the period from 27th February 1999 to 27th February 2003 by any person 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;”;

- (b) by inserting, immediately after the word “section,” in the 8th line of subsection (1) (o), the words “an approved floating production storage offloading ship or an approved floating storage offloading ship,”;
- (c) by deleting the words “or 43C” in subsection (1) (y) and substituting the words “, 43C, 43E or 43N”;

(d) by inserting, immediately before the definition of “financial institution” in subsection (2A), the following definitions:

““approved bond intermediary” means a financial institution approved as such by the Minister or such person as he may appoint;

“debt securities” has the same meaning as in section 43N;”;

(e) by deleting the definition of “qualifying debt securities” in subsection (2A) and substituting the following definitions:

““qualifying debt securities” means —

(a) Singapore Government securities issued during the period from 28th February 1998 to 27th February 2003;

(b) bonds, notes, commercial papers and certificates of deposits which are arranged in accordance with regulations made for this purpose —

(i) by any financial institution in Singapore and issued during the period from 28th February 1998 to 27th February 2003; or

(ii) by any approved bond intermediary and issued during the period from 27th February 1999 to 27th February 2003,

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 which, during its primary launch —

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

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

“related party”, in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that

person, or where he and that other person, directly or indirectly, are under the control of a common person;

“Singapore Government securities” has the same meaning as in section 43N.”; and

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

“(2B) Subsection (1) (a) shall, unless otherwise approved by the Minister or such person as he may appoint, not apply to any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 27th February 2003 where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest is derived by —

(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.”.

Amendment of section 13F

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

(a) by deleting the word “and” at the end of subsection (1) (b);

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

“(d) the operation or charter (other than within the limits of the port of Singapore) of any approved floating production storage offloading ship or any approved floating storage offloading ship.”;

(c) by inserting, immediately after the words “foreign ship” in subsection (5) (b), the words “, an approved floating production storage offloading ship or an approved floating storage offloading ship, as the case may be”; and

- (d) by inserting, immediately after the words “foreign ships” in the definition of “international shipping enterprise” in subsection (6), the words “, approved floating production storage offloading ships or approved floating storage offloading ships”.

Amendment of section 14

7. Section 14 (1) of the principal Act is amended —

- (a) by inserting, immediately after the words “1st July 1994” in sub-paragraph (i) (G) of the proviso to paragraph (e), the words “and before 1st January 1999”;

- (b) by deleting the comma at the end of sub-paragraph (i) (G) of the proviso to paragraph (e) and substituting a semi-colon and, by inserting immediately thereafter the following sub-paragraph:

“(H) commencing on or after 1st January 1999 shall not exceed 10%,”; and

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

“(4) Subsections (3) and (3A) shall apply to a motor car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms and which —

- (a) was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) and the rules made thereunder except where the motor car is —

(i) used principally for instructional purposes; and

(ii) acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor’s licence issued under that Act; or

- (b) is registered outside Singapore and used exclusively outside Singapore.”.

Amendment of section 14B

8. Section 14B (3) of the principal Act is amended by deleting paragraph (c).

Amendment of section 14I

9. Section 14I of the principal Act is amended —

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(a) by deleting the words “2% in the case of a qualifying finance company or 3% in the case of a bank,” in subsection (4) (c) and substituting “3%”;

(b) by deleting the words “the appropriate percentage referred to in subsection (4) (c)” in subsection (5) (b) and substituting “3%”; and 10

(c) by inserting, immediately after subsection (5A), the following subsection:

“(5B) Subsections (4) (a) and (b) and (5) (a) shall not apply to any qualifying finance company.”. 15

New sections 14M and 14N

10. The principal Act is amended —

(a) by inserting, immediately after section 14L, the following section:

“Deduction for hotel refurbishment expenditure

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14M.—(1) Where any person carrying on a hotel trade or business at any hotel premises proposes to carry out a project for any refurbishment of the hotel premises, he may apply to the Minister, or such person as he may appoint, for the project to be approved for the purposes of claiming a deduction under this section in respect of expenditure incurred by him on the refurbishment project. 25

(2) Where the Minister, or such person as he may appoint, considers it expedient in the public interest to do so, he may approve the refurbishment project subject to such terms and conditions as he may impose. 30

(3) Every approval given under this section shall specify —

- (a) the qualifying period during which the approved refurbishment project is to be carried out;
- 5 (b) the qualifying expenditure and the maximum amount thereof to be allowed as a deduction under this section; and
- (c) a percentage, exceeding 100% but not exceeding 150%, of the qualifying expenditure to be allowed as a deduction under this section.

(4) Where in the basis period for any year of assessment the person has incurred any qualifying expenditure on the approved refurbishment project, he shall be allowed, on due claim, for a period of 5 years (consecutive or otherwise) a deduction against the income from his hotel trade or business computed in accordance with subsection (5).

(5) The amount of deduction under subsection (4) for any year of assessment shall be ascertained by the formula

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

where A is the percentage referred to in subsection (3) (c); and

B is the amount of qualifying expenditure incurred.

(6) No deduction shall be allowed under this section in respect of —

- (a) any expenditure which is not incurred during the qualifying period referred to in subsection (3) (a);
- 30 (b) any expenditure which was incurred before 1st July 1998; and
- (c) any year of assessment relating to any basis period during which the hotel premises are not used for the purposes of a hotel trade or business of the person who incurs the qualifying expenditure.

(7) Where any person has been allowed a deduction under this section in respect of any qualifying expenditure, no deduction shall be allowed under any other provision of this Act in respect of the expenditure for which the deduction was allowed. 5

(8) The following provisions shall apply to a company resident in Singapore which is allowed a deduction under this section:

- (a) as soon as a deduction is allowed to the company under this section, an amount (referred to in this section as further deduction) computed in accordance with the formula 10

$$\frac{A \times B - B}{5}$$

shall be credited to an account (referred to in this section as further deduction account) to be kept by the company for the purposes of this section, where A and B have the same meanings as in subsection (5); 15

- (b) where for any year of assessment the further deduction account of the company is in credit, the company shall — 20

- (i) debit from that account such amount as would have been the chargeable income had the further deduction not been allowed or the amount of the credit in that account, whichever is the less; and 25

- (ii) credit the amount debited under sub-paragraph (i) to an account to be called a tax exempt account which shall be kept by the company for the purposes of this section, 30

and any remaining balance in the further deduction account shall be carried forward to be used by the company in the first subsequent year of assessment when the company has chargeable income had the further deduction 35

not been allowed, and so on for subsequent years of assessment until the credit in the further deduction account has been fully used;

5 (c) where the tax exempt account is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the tax exempt account;

10 (d) so much of the amount of any dividends so debited to the tax exempt account as is received by a shareholder of the company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder;

15 (e) where an amount of dividends exempt from tax under this section has been received by a shareholder, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders;

20 (f) notwithstanding paragraphs (d) and (e), no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder;

25 (g) section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section; and

30 (h) the company shall deliver to the Comptroller a copy of the tax exempt account made up to any date specified by him whenever called upon to do so by notice in writing.

35 (9) During the qualifying period referred to in subsection (3) (a) or within 5 years after the date of completion of the approved refurbishment project, a person who has been allowed any deduction under this

section shall not, without the written approval of the Minister or such person as he may appoint —

- (a) sell, lease out or otherwise dispose of any asset in respect of which a deduction has been allowed under this section; 5
- (b) cease to use the hotel premises or any part thereof for his hotel trade or business; or
- (c) sell, lease out or otherwise dispose of the hotel premises or any part thereof.

(10) Where any of the events referred to in subsection (9) occurs in the basis period for any year of assessment, the person shall be deemed to have derived an amount of income for that year of assessment equal to the total amount of deduction which has been allowed under this section in respect of the assets or any part of the hotel premises to which the event relates. 10 15

(11) Notwithstanding subsection (10), the Minister or such person as he may appoint may, subject to such terms and conditions as he may impose and upon any application by the person deemed to have derived income under that subsection, reduce the amount of income so deemed. 20

(12) Where any deduction allowed under this section is in respect of any capital expenditure incurred by a person on any machinery or plant and where at any time after 5 years from the date of completion of the approved refurbishment project any of the events referred to in section 20 (1) occurs in respect of that machinery or plant, section 20 (1), (2) and (3) shall apply, with the necessary modifications, and a balancing allowance or a balancing charge shall be made to or, as the case may be, on that person for the year of assessment in the basis period for which that event occurs. 25 30

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

- (a) any reference in section 20 (1) to allowances made under section 19 or 19A shall be read as a reference to a deduction allowed under this section; 35

- (b) the amount of the capital expenditure on the provision of the machinery or plant still unallowed as at the time of the occurrence of the event shall be ascertained by the formula

$$C - \frac{C \times D}{5},$$

where C is the amount of capital expenditure incurred on the provision of the machinery or plant; and

D is the number of years of assessment for which any deduction has been allowed under this section in respect of that capital expenditure; and

- (c) notwithstanding anything in section 20 (3), in no case shall the amount on which a balancing charge is made on a person exceeds an amount computed in accordance with the formula

$$\frac{C \times D}{5},$$

where C and D have the same meanings as in paragraph (b).

- (14) Where it appears to the Comptroller that in any year of assessment —

- (a) any deduction allowed under this section; or
- (b) any dividend exempted in the hands of any shareholder under this section,

ought not to have been so allowed or exempted, as the case may be, the Comptroller may, in the year of assessment or within 6 years after the expiration thereof —

- (i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or
- (ii) direct the company to debit its tax exempt account with such amount as the circumstances require.”; and

- (b) by inserting, immediately after section 14M, the following section:

“Deduction of upfront land premium

14N.—(1) Where the Comptroller is satisfied that an upfront land premium has been paid by a lessee to a relevant body in respect of a designated lease for the construction or use of a building or structure for the purposes of carrying on any qualifying activity in that building or structure, there shall, subject to this section, be allowed to the lessee, for each year of assessment in the basis period for which the qualifying activity is carried on, a deduction of an amount of such expenditure ascertained by the formula $\frac{A}{B}$,

where A is the amount of upfront land premium paid;
and

B is the number of years of the term of the designated lease for which the upfront land premium was paid.

(2) Where an assignee has incurred any expenditure in acquiring the remaining term of a designated lease for the construction or use of a building or structure for the purposes of carrying on any qualifying activity, there shall, subject to this section, be allowed to the assignee, for each year of assessment in the basis period for which the qualifying activity is carried on, a deduction of an amount

of such expenditure ascertained by the formula $\frac{C}{D}$,

where C is —

- (a) the residual expenditure immediately after the assignment; or
- (b) the upfront land premium at the time of the assignment as determined by the relevant body for the remaining term of the designated lease, whichever is the lower; and

D is the remaining number of years (excluding any part of a year) of the term of the designated lease for which the upfront land premium was paid.

(3) Subsection (2) shall apply, with the necessary modifications, to any subsequent assignment of the remaining term of the designated lease.

(4) The total amount of deductions to be allowed —

(a) to a lessee under subsection (1), shall not exceed the amount of the upfront land premium paid by him to the relevant body in respect of the designated lease; and

(b) to an assignee under subsection (2) or (3), as the case may be, shall not exceed the amount of C as ascertained in the formula in subsection (2).

(5) Where more than $\frac{1}{10}$ of the total built-up area of a building or structure constructed on any industrial land under a designated lease is not in use for any qualifying activity, no deduction under subsection (1), (2) or (3) shall be allowed in respect of such part of the building or structure which is not in use for any qualifying activity.

(6) No deduction shall be allowed under this section to any person for any year of assessment if the building or structure constructed on any industrial land under a designated lease is not in use for any qualifying activity at the end of the basis period for that year of assessment.

(7) The following provisions shall apply where a designated lease is assigned:

(a) where the consideration received by the assignor for the remaining term of the designated lease is less than the residual expenditure immediately before the assignment, the difference shall be allowed as a deduction to the assignor for the year of assessment in the basis period in which he assigns the remaining term of the designated lease;

(b) where the consideration received by the assignor for the remaining term of the designated lease is more than the residual

expenditure immediately before the assignment, the difference shall be deemed to be income subject to tax under section 10 (1) (g) and shall be included as income of the assignor for the year of assessment in the basis period in which he assigns the remaining term of the designated lease. 5

(8) The amount deemed to be income of an assignor for the purposes of subsection (7) (b) shall not exceed the total amount of deduction allowed to the assignor under subsection (1), (2) or (3), as the case may be. 10

(9) In this section —

“designated lease” means a lease granted by a relevant body on or after 1st January 1998 in respect of any industrial land owned by that relevant body, and includes an assignment of such a lease; 15

“industrial land” means any land permitted to be used for industrial purposes under the Planning Act (Cap. 232); 20

“qualifying activity” means —

(a) any activity in respect of any of the purposes referred to in section 18 (1) other than the activities for purposes referred to in section 18 (1) (f), (g), (j) and (k); 25

(b) any activity in respect of any prescribed purposes under section 18 (1) (l) other than any activity relating to postal services or to organisation or management of exhibitions and conferences; and 30

(c) any activity relating to the examination of motor vehicles for the purposes of section 90 of the Road Traffic Act (Cap. 276) and the rules made thereunder; 35

“relevant body” means —

- (a) the Housing and Development Board constituted under the Housing and Development Act (Cap. 129); or
- 5 (b) the Jurong Town Corporation constituted under the Jurong Town Corporation Act (Cap. 150);

“residual expenditure”, in relation to an assignment of a designated lease, shall be the amount of expenditure available for deduction to the assignor reduced by —

- (a) the amount of any deduction allowed to the assignor under this section; and
- 15 (b) the amount of any deduction not allowed to the assignor under subsection (5) or (6),

and increased by any amount deemed to be income of the assignor under subsection (7) (b);

“upfront land premium”, in relation to a designated lease, means the lump sum payment for a period of 30 years or less paid by a lessee to a relevant body at the commencement of the term of the designated lease.”.

Amendment of section 15

25 **11.** Section 15 of the principal Act is amended —

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

“(k) any outgoings and expenses, whether directly or in the form of reimbursements, and any claim for the cost of renewal incurred on or after 1st April 1998 in respect of a motor car (whether owned by him or any other person) which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms except —

- (i) a taxi;

- (ii) a motor car registered outside Singapore and used exclusively outside Singapore;
 - (iii) a private hire car if the person is carrying on the business of hiring out cars and the private hire car is used by the person principally for hiring; 5
 - (iv) a motor car which was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) and the rules made thereunder; and 10
 - (v) a motor car registered on or after 1st April 1998 which is used principally for instructional purposes if the person is carrying on the business of providing driving instruction and holds a driving school licence or driving instructor's licence issued under the Road Traffic Act;"; 15
- (b) by inserting, immediately after the words "on or after 1st April 1983" in subsection (1) (n), the words "and before 1st April 1998"; and 20
- (c) by deleting the words "or 14K" in subsection (2) and substituting the words ", 14K, 14M or 14N".

Amendment of section 19

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

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

"(2C) Subsections (2A) and (2B) shall apply to a motor car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms and which — 30

- (a) was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) and 35

the rules made thereunder except where the motor car is —

- (i) used principally for instructional purposes; and
- 5 (ii) acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor's licence issued under that Act; or
- 10 (b) is registered outside Singapore and used exclusively outside Singapore.”; and

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

15 “(2D) No allowance under this section shall be made in respect of a motor car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms except —

- (a) a taxi;
- 20 (b) a motor car registered outside Singapore and used exclusively outside Singapore;
- (c) a private hire car acquired by a person who carries on the business of hiring out cars and which is used by the person principally for hiring;
- 25 (d) a motor car which was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) and the rules made thereunder; and
- 30 (e) a motor car registered on or after 1st April 1998 which is used principally for instructional purposes and acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor's licence issued under the
- 35 Road Traffic Act.”.

Amendment of section 19A

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

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

“(1H) Notwithstanding section 19, where a person 5
proves to the satisfaction of the Comptroller that he has,
on or after 27th February 1999, registered any new vehicle
as a replacement for an existing vehicle, for the purposes
of a trade, business or profession carried on by him, he 10
shall, in lieu of the allowances provided by subsection (1)
or section 19, be entitled, if he so elects, to an allowance of
100% in respect of the capital expenditure incurred on the
provision of that new vehicle.”;

- (b) by renumbering the existing subsections (1H) and (1J) as 15
subsections (1J) and (1K), respectively;

- (c) by deleting “(1J)” in the 1st line of subsection (5) and
substituting “(1K)”;

- (d) by inserting, immediately after the word “plant” in the 20
1st line of subsection (6) (b), the words “in subsections (1)
and (4)”;

- (e) by deleting the full-stop at the end of paragraph (k) of
subsection (6) and substituting a semi-colon and, by inserting
immediately thereafter the following paragraphs:

“(l) “certificate of entitlement” means a permit issued or 25
deemed to be issued under section 10A of the Road
Traffic Act (Cap. 276);

(m) “existing vehicle” means any goods vehicle or bus
using diesel oil as fuel, and registered before 1st
January 1991, which —

- (i) is not a vehicle registered under the RU index 30
marks;
- (ii) is deregistered on or after 27th February 1999
but not later than one year before the last day
on which a renewal of registration licence can
be issued under the Road Traffic Act in 35
respect of the vehicle; and
- (iii) has, except where the vehicle has been
exempted from obtaining a certificate of

entitlement, at the date of deregistration of the vehicle —

(A) at least one year remaining in its certificate of entitlement; or

5 (B) a certificate of entitlement which can be renewed after its expiration;

(n) “goods vehicle” means any motor vehicle constructed or adapted for use for the carriage of goods;

10 (o) “new vehicle” means any new goods vehicle or new bus which —

(i) is registered within one month before, or within 6 months after, the deregistration of the existing vehicle; and

15 (ii) bears an index mark which is the same as that of the index mark of the existing vehicle.”.

Amendment of section 21

14. Section 21 of the principal Act is amended by deleting subsection (4) and substituting the following subsections:

20 “(4) This section shall not apply to the provision of any new motor car for which no allowance is allowed by virtue of section 19 (2D).

(5) For the purpose of this section, where the capital expenditure incurred in providing a new motor car registered outside Singapore and used exclusively outside Singapore exceeds \$35,000, the expenditure incurred shall be deemed to be \$35,000.”.

Amendment of section 39

15. Section 39 (2) of the principal Act is amended by deleting 30 “\$2,000” in the 9th line of paragraph (h) and substituting “\$2,500”.

Amendment of section 43A

16. Section 43A (3) of the principal Act is amended by inserting, immediately after the word “facility” in the 9th line, the words “or any other syndicated offshore credit or guarantee facility which 35 satisfies the prescribed criteria”.

Amendment of section 43D

17. Section 43D (1) of the principal Act is amended —

- (a) by deleting the word “or” at the end of paragraph (a) (iii);
- (b) by inserting the word “or” at the end of paragraph (a) (iv);
and
- (c) by inserting, immediately after sub-paragraph (iv) of paragraph (a), the following sub-paragraph:

“(v) a foreign investor where such transaction is carried out through an Asian Currency Unit of a financial institution or a fund manager approved in either case under section 13C or 43A;”.

Amendment of section 43E

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

“(2A) Regulations made under subsection (1) may provide for exemption from tax of income derived by an approved headquarters company from the provision of any qualifying service if —

- (a) the qualifying service and the office, associated company or person to whom the service is rendered have been approved in relation to the approved headquarters company for the purposes of the exemption from tax; and
- (b) the approved headquarters company has global responsibility for the provision of any qualifying service.”.

Amendment of section 43N

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

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

“(1A) Subsection (1) (a) shall, unless otherwise approved by the Minister or such person as he may appoint, not apply to any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 27th February 2003 where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of

the issue by related parties of the issuer of those securities and where such interest is derived by —

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

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

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

“(2) Regulations made under subsection (1) may provide for exemption from tax of —

15 (a) income derived by any financial institution from arranging, underwriting or distributing any qualifying debt securities; and

(b) income derived by a primary dealer from trading in any Singapore Government securities during the period from 27th February 1999 to 27th February 2003,

20 and for deduction of losses otherwise than in accordance with section 37 (2).”;

(c) by inserting, immediately after the words “commercial papers” in the definition of “debt securities” in subsection (3), the words “, treasury bills”; and

25 (d) by deleting the definitions of “ “financial institution” and “qualifying debt securities” ” in subsection (3) and substituting the following definitions:

30 “ “financial institution”, “qualifying debt securities” and “related party” have the same meanings as in section 13 (2A);

“primary dealer” means any financial institution specified in the First Schedule to the Government Securities Regulations (Cap. 121A, Rg 1);

35 “Singapore Government securities” means debt securities issued under the Government Securities Act (Cap. 121A), the Local Treasury Bills Act (Cap. 167) or any other written law.”.

Amendment of section 44

20. Section 44 (17) (f) of the principal Act is amended by inserting, immediately after the words “section 19B” in the 5th line of sub-paragraph (ii), the words “or 19J”.

Amendment of section 45

5

21. Section 45 of the principal Act is amended by inserting, immediately after subsection (9), the following subsections:

“(10) This section shall not apply to any interest derived from any qualifying debt securities issued during the period from 27th February 1999 to 27th February 2003, subject to such conditions 10 as the Minister may impose.

“(11) In this section, “qualifying debt securities” has the same meaning as in section 13 (2A).”.

Amendment of section 73

22. Section 73 of the principal Act is amended by inserting, 15 immediately after subsection (3), the following subsection:

“(4) This section shall also apply, with the necessary modifications, to any assessment made under subsection (1) or (2) which results in any unabsorbed allowances or losses.”.

Amendment of section 76

20

23. Section 76 of the principal Act is amended —

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

“(1) The Comptroller shall cause to be served personally on or sent by post to each person assessed to 25 tax —

(a) where tax is payable, a notice stating the amount of his chargeable income together with the amount of tax payable and the place at which such payment should be made; or 30

(b) where no tax is payable, a notice to that effect, and in either case the Comptroller shall inform the person assessed to tax of his rights under subsections (2) and (3).”;

- (b) by deleting the words “tax payable” in subsection (6) (a) and substituting the words “revised assessment”; and
- (c) by inserting, immediately after the word “shall” in the 3rd line of subsection (6) (b), the words “, if any tax is payable,”.

5 **Amendment of section 92**

24. Section 92 of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

“**(3)** Subject to rules made under subsection (4), there shall be remitted the tax payable for the year of assessment 1999 by any
 10 company a sum equal to 10% of the specified tax payable by the company for that year of assessment where the Comptroller is satisfied that the remission of tax would be beneficial to the company.

(4) The Minister may make rules to provide for —

- 15 **(a)** the exemption from tax of certain dividends received by a shareholder of a company which has been given the remission of tax under subsection (3) where the dividends are received by him from that company;
- 20 **(b)** the exemption from tax of certain dividends received by a shareholder of a company where the dividends are paid by the company out of any dividend which has been exempt from tax under this subsection;
- 25 **(c)** the computation of the amount of tax payable on any dividend derived from Singapore from which tax has been deducted under section 44 for the purposes of the remission under subsection (3); and
- (d)** generally giving effect to this section.

(5) For the purposes of this section, “specified tax payable”, in relation to a company for the year of assessment 1999, means
 30 the amount of tax payable by the company ascertained by deducting from the tax payable of the company for that year of assessment computed in accordance with this Act, and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) if the company is given tax relief under that Act —

- 35 **(a)** any tax payable on any dividend derived from Singapore from which tax has been deducted under section 44; and

- (b) any tax payable on any income which is subject to tax at the rate of 15% under section 43 (1B).”.

Remission of tax

25.—(1) There shall be remitted the tax payable for the year of assessment 1999 by an individual or Hindu joint family resident in Singapore a sum equal to the aggregate of —

- (a) 10% of the tax payable for that year of assessment; and
- (b) an amount not exceeding \$500 as determined by the Comptroller.

(2) The remission under subsection (1) (a) shall be given before the remission under subsection (1) (b).

EXPLANATORY STATEMENT

This Bill seeks to implement the income tax changes announced in the Government’s 1999 Budget Statement and to make certain other amendments to the Income Tax Act (Cap. 134).

Clause 1 relates to the short title and to the date or years of assessment from which certain clauses in the Bill are to take effect.

Clause 2 inserts a new definition of the term “country” in section 2 (1) so as to include a territory of a country.

Clause 3 inserts a new subsection (4A) to section 10 to provide the manner of computing the amount of balancing charge deemed to be income chargeable to tax in the case of the disposal of an approved floating production storage offloading ship or an approved floating storage offloading ship the income derived from the operation of which is exempt from tax under section 13F as amended by clause 6.

Clause 4 inserts new sections 10H to 10K. The new section 10H provides that losses and capital allowances attributable to any business of hiring out motor cars or of providing driving instruction using motor cars shall not be deductible against any other income of the person. The new sections 10I, 10J and 10K deem certain payment made by a company resident in Singapore to its shareholders, pursuant to a reduction of share capital, a shares buyback or a shares redemption, to be a payment of dividend by the company and, in certain circumstances, to be a receipt of dividends by its shareholders.

Clause 5 (a) amends section 13 (1) (a) to provide that interest derived from any qualifying debt securities by any person who is not resident in Singapore but who

has a permanent establishment in Singapore shall be exempt from tax where the securities are not acquired with funds obtained from the permanent establishment in Singapore.

Clause 5 (b) amends section 13 (1) (o) to provide that payments made by an approved international shipping enterprise for the charter of any approved floating production storage offloading ship or any approved floating storage offloading ship to a person not resident in Singapore shall be exempt from tax.

Clause 5 (c) makes a consequential amendment to section 13 (1) (y) arising from the amendments made to sections 43E and 43N by clauses 18 and 19, respectively.

Sub-clauses (d) and (e) of clause 5 amend section 13 (2A) to define certain terms used in section 13 (1) (a) as amended by clause 5 (a).

Clause 5 (f) inserts a new subsection (2B) to section 13 to provide that interest derived from qualifying debt securities shall not be exempt from tax in certain circumstances where the recipient of the interest is related to the issuer of the securities.

Clause 6 amends section 13F to provide for exemption from tax of income derived by an approved international shipping enterprise from the operation or charter (other than within the limits of the port of Singapore) of any approved floating production storage offloading ship or any approved floating storage offloading ship.

Sub-clauses (a) and (b) of clause 7 amend section 14 (1) (e) to provide that the deduction allowable to an employer for contributions made to the Central Provident Fund or any designated pension or provident fund in respect of any of his employees from 1st January 1999 shall not exceed 10% of the remuneration paid to the employee.

Clause 7 (c) amends section 14 (4) to redefine the types of motor cars which would be subject to the restriction provided under section 14 (3) and (3A) on the amount of deductions allowable for outgoings and expenses incurred in respect of a motor car following the rationalisation of the vehicle tax structure by the Land Transport Authority in March 1998.

Clause 8 deletes paragraph (c) of section 14B (3) which is no longer required.

Clause 9 amends section 14I to increase the present overall limit on the amount of deductions allowable for general provisions and diminution in value of investments to a qualifying finance company from 2% to 3% of qualifying assets. This clause also provides that the present limits of 25% of qualifying profits and ½% of qualifying assets will not apply for the purposes of computing the amount of deductions allowable for general provisions and diminution in value of investments to a qualifying finance company for the years of assessment 1999 and

2000 and that the deductions for the 2 years of assessment will be allowed notwithstanding that the qualifying finance company does not have any qualifying profits.

Clause 10 inserts new sections 14M and 14N. The new section 14M provides deduction for up to 150% of the expenditure incurred by any person carrying on a hotel trade or business in respect of an approved project for any refurbishment of the hotel premises. The new section 14N provides deduction of upfront land premium paid by any person for the lease of certain industrial land for the construction or use of any building or structure for the purpose of carrying on any qualifying activity.

Clause 11 (a) amends section 15 (1) (k) to redefine the types of motor cars in respect of which outgoings and expenses incurred would not be allowed as deduction following the rationalisation of the vehicle tax structure by the Land Transport Authority in March 1998.

Clause 11 (b) amends section 15 (1) (n) to provide that the provisions therein to disallow deduction in respect of outgoings and expenses incurred for the use of any private hire car shall apply to such outgoings and expenses incurred before 1st April 1998. All outgoings and expenses incurred for the use of any private hire car on or after 1st April 1998 shall not be allowed as deduction arising from the amendment to section 15 (1) (k) by clause 11 (a).

Clause 11 (c) makes a consequential amendment to section 15 (2) arising from the insertion of new sections 14M and 14N by clause 10.

Clause 12 amends section 19 (2C) to redefine the types of motor cars which would be subject to the limitation on the amount of allowances granted on capital expenditure incurred in respect of a motor car as specified in section 19 (2A) and (2B). This clause also amends section 19 (2D) to provide that no allowance shall be given on capital expenditure incurred in respect of certain motor cars.

Clause 13 inserts a new subsection (1H) to section 19A to allow any person who incurs capital expenditure in acquiring any new goods vehicle or bus to replace an existing diesel-driven goods vehicle or bus, respectively, for the purposes of a trade, business or profession carried on by him to claim capital allowances in respect of such capital expenditure over a period of one year instead of 3 years.

Clause 14 amends section 21 (4) to provide that section 21 shall not apply to certain new motor cars. This clause also inserts a new subsection (5) to section 21 to provide that the capital expenditure incurred in providing a certain new motor car to which section 21 applies shall be deemed to be \$35,000.

Clause 15 amends section 39 (2) (h) to increase the amount of maximum deduction for course fees from \$2,000 to \$2,500.

Clause 16 amends section 43A (3) to provide that the tax exemption as provided therein shall also be granted to syndicated offshore credit or guarantee

facility which satisfies certain prescribed criteria. Such facility would not have to be approved on a case-by-case basis.

Clause 17 amends section 43D (1) to clarify that the concessionary rate of tax provided therein is also applicable to transactions with foreign investors carried out through an Asian Currency Unit of a financial institution or an approved fund manager.

Clause 18 inserts a new subsection (2A) to section 43E to empower the Minister to make regulations to provide for tax exemption of certain income derived by an approved headquarters company which has global responsibility for the provision of any qualifying service.

Clause 19 (a) inserts a new subsection (1A) to section 43N to provide that the 10% concessionary rate of tax on interest derived by a company from qualifying debt securities shall not apply in certain circumstances where the recipient is related to the issuer of the securities.

Clause 19 (b) amends section 43N(2) to empower the Minister to make regulations to provide for tax exemption of income derived by a primary dealer from trading in any Singapore Government securities.

Sub-clauses (c) and (d) of clause 19 amend the definitions of certain existing terms, and insert definition of new terms arising from the amendments made to section 43N(1A) and (2) by sub-clauses (a) and (b), respectively.

Clause 20 makes a consequential amendment to section 44 (17) (f).

Clause 21 inserts new subsections (10) and (11) to section 45 to provide that tax need not be withheld in respect of any interest derived by any person not resident in Singapore from qualifying debt securities in certain circumstances.

Clause 22 inserts a new subsection (4) to section 73 to provide that the 6-year time limit within which the Comptroller can make an assessment or an additional assessment shall also apply in the case where there is no tax payable arising from the assessment.

Clause 23 amends section 76 to require the Comptroller to issue a notice to a taxpayer even in the case of an assessment that does not give rise to any tax payable by the taxpayer and, if the taxpayer disputes the assessment, to require the taxpayer to object to the assessment within the time limit stipulated therein. If the Comptroller and the taxpayer cannot resolve the dispute, the taxpayer may request for a notice of refusal to amend only when, in any subsequent year, the assessment under dispute affects the tax liability of that year.

Clause 24 inserts new subsections (3), (4) and (5) to section 92 to provide for the remission of tax payable for the year of assessment 1999 by a company of an amount equal to 10% of the specified tax payable. This clause also empowers the Minister to make rules to give effect to the tax remission.

Clause 25 provides for the remission of 10% on tax payable for the year of assessment 1999 by a resident individual or Hindu joint family resident in Singapore plus an amount not exceeding \$500 as determined by the Comptroller.

EXPENDITURE OF PUBLIC MONEY

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