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## BILLS SUPPLEMENT

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**Notification No. B 20**—The Income Tax (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 30th day of June 2000.

# Income Tax (Amendment) Bill

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**Bill No. 20/2000.**

*Read the first time on 30th June 2000.*

A BILL

*intituled*

An Act to amend the Income Tax Act (Chapter 134 of the 1999 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.** This Act may be cited as the Income Tax (Amendment) Act  
5 2000.

(2) Section 8 shall be deemed to have come into operation on 27th February 1999.

(3) Section 13 shall be deemed to have come into operation on 1st December 1999.

(4) Section 6 shall be deemed to have come into operation on 30th December 1999. 5

(5) Section 4 shall be deemed to have come into operation on 18th January 2000.

(6) Sections 7, 10 (a) and 19 to 23 shall have effect for the year of assessment 2000 and subsequent years of assessment. 10

(7) Sections 2 (a), (b) and (c), 3, 10 (b) to (d), 11 (a), 12 (a), 15 (a) and (b), 16 (a), 17 and 18 (b) shall have effect for the year of assessment 2001 and subsequent years of assessment.

### **Amendment of section 10**

**2.** Section 10 of the Income Tax Act (referred to in this Act as the principal Act) is amended — 15

(a) by deleting subsection (9) and substituting the following subsection:

“(9) For the purposes of subsection (1) (a) and (f), the income derived by any author, composer or choreographer, or any company in which he beneficially owns all the issued share capital, from any royalties or other payments received from a person carrying on in Singapore the business of publishing, of recording music or of producing cinematograph films, choreographic works or plays as consideration for the assignment of or for the right to use the copyright in any literary, dramatic, musical or artistic work, shall be deemed to be — 25

(a) the amount of the royalties or other payments remaining after the deductions allowable under Parts V and VI have been made; or 30

(b) an amount equal to 10% of the gross amount of the royalties or other payments,

whichever is the less.”;

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

“(10) For the purposes of subsection (1) (a) and (f), the income derived by an individual who is an inventor, author or proprietor of an approved invention or approved innovation, from any royalties or other payments received as consideration for the assignment of or for the rights in the approved invention or approved innovation shall be deemed to be —

(a) the amount of the royalties or other payments remaining after the deductions allowable under Parts V and VI have been made; or

(b) an amount equal to 10% of the gross amount of the royalties or other payments,

whichever is the less.”;

(c) by deleting subsection (12) and substituting the following subsection:

“(12) In subsection (10) —

“approved” means approved for such period not exceeding 5 years by the Minister or such person as the Minister may appoint;

“innovation” means —

(a) any new product or new service, or any new method used in the manufacture or processing of goods or materials or in the provision of services; or

(b) any substantial improvement in any product or in the provision of any service, or in any method used in the manufacture or processing of goods or materials or in the provision of services,

which involves novelty or originality;

“rights in the approved invention or approved innovation” means the rights relating to any patent, copyright, industrial design, trade mark or know-how of an approved invention or approved innovation where a substantial part of the work

in developing the invention or innovation is undertaken in Singapore.”; and

- (d) by deleting the words “in respect of any unit purchased with moneys other than those standing to his credit in the Central Provident Fund” in the 2nd, 3rd and 4th lines of subsection (13A). 5

### **Amendment of section 10J**

#### **3. Section 10J of the principal Act is amended —**

- (a) by inserting, immediately after subsection (3), the following subsections: 10

“(3A) Notwithstanding subsection (3), where a company undertakes a buyback described in subsection (1) (a) through a special trading counter established on the Singapore Exchange, 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 — 15

- (a) a dividend paid by the company on the date of the payment, and section 44 shall apply, with the necessary modifications, to such dividend; and 20

- (b) a dividend received by the shareholder if the conditions in subsection (3B) are satisfied.

(3B) The conditions referred to in subsection (3A) (b) are —

- (a) the shares sold through the special trading counter are not acquired by the shareholder through any securities lending or repurchase arrangement; 25

- (b) the shareholder has beneficially owned the shares for a continuous period of at least 183 days ending immediately before the day of the sale of the share through the special trading counter; 30

- (c) the shareholder has furnished to the Comptroller, or such other person as the Comptroller may direct, a declaration relating to the ownership and other particulars of the shares sold in such form and manner as may be approved by the Comptroller; and 35

(d) the company has complied with such requirements as may be imposed by the Comptroller.”;

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

“(4A) The amount of any dividend deemed to be paid by a company under subsection (3A) (a) shall be deemed to be of such a gross amount as after deduction of tax under section 44 at the rate deductible at the date of payment would be equal to the amount of payment made by the company.

(4B) The amount of any dividend deemed to be received by a shareholder under subsection (3A) (b) shall be deemed to be of such a gross amount as after deduction of tax under section 44 at the rate deductible at the date of payment by the company would be equal to the amount of payment received by the shareholder.”;

(c) by inserting, immediately after the words “subsection (3) (b)” in subsection (5), the words “or (3A) (b)”;

(d) by inserting, immediately after subsection (6), the following subsection:

“(6A) Notwithstanding any other provisions of this Act, where a shareholder sells his shares through a special trading counter referred to in subsection (3A) and any payment received by the shareholder for the buyback of such shares is deemed to be a dividend received by him under that subsection —

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

(b) where any provision for the diminution in the value of such shares has been allowed as a deduction previously, the total amount of all such deductions not written back shall be deemed to be a trading receipt of the shareholder for the basis period in which the shares are sold.”; and

(e) by deleting the full-stop at the end of paragraph (c) of subsection (7) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(d) in determining the duration of beneficial ownership of shares for the purposes of subsection (3B) (b) —

- (i) the day of acquisition of the shares shall be counted as one day, but the day of sale of the shares shall be excluded; 5
- (ii) any bonus shares or shares arising from a consolidation or sub-division of shares shall be deemed to have been acquired on the date of acquisition of the original shares in respect of which the bonus shares were issued, or 10  
from which the consolidated or sub-divided shares were derived;
- (iii) the duration shall not be regarded as discontinued by the lending or sale of the shares under any securities lending or 15  
repurchase arrangement; and
- (iv) regard shall be had to such other matters as may be prescribed.”.

### **Amendment of section 13**

**4.** Section 13 (1) of the principal Act is amended by deleting 20  
paragraph (z) and substituting the following paragraph:

“(z) such income derived by the Singapore Exchange Derivatives Trading Limited before 1st January 2004 as may be prescribed.”.

### **New sections 13I and 13J**

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

#### **“Exemption of certain dividends of Singapore Exchange Derivatives Trading Limited**

**13I.**—(1) Where any income of the Singapore Exchange 30  
Derivatives Trading Limited (including income derived by it while it was known as the Singapore International Monetary Exchange Limited) has been exempted under section 13 (1) (z), such income shall be credited to a special account (referred to in this section as the account) to be kept by the company for the 35  
purposes of this section.

(2) Section 13E shall apply, with the necessary modifications, in respect of any dividends paid out of the account of the company.

**Exemption of tax on gains or profits from entrepreneurial employee stock option**

**13J.**—(1) Where a qualifying employee derives any gains or profits by the exercise, assignment or release, after the expiry of the minimum vesting period, of any right or benefit granted on or after 1st June 2000 to acquire shares in any qualifying company or in its holding company, there shall, subject to this section, be exempt from tax 50% of an amount of such gains or profits as determined under subsection (2).

(2) The amount of gains or profits referred to in subsection (1) is —

(a) where the price to be paid for the shares on the exercise, assignment or release of the right or benefit (referred to in this section as the exercise price) is equal to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined in accordance with section 10 (5); or

(b) where the exercise price of the shares is at a discount to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined in accordance with section 10 (5) less the amount of the discount.

(3) The exemption under this section shall not apply to any amount of gains or profits deemed to be income of a person under section 10 (5) —

(a) to the extent that the amount, when aggregated with the amount of such deemed income previously derived by him and which qualifies for exemption under this section, exceeds \$10 million; or

(b) which is derived by him on or after 1st January of the 10th year following the year in which he first derived such deemed income which qualified for exemption under this section.

(4) The exemption under this section shall apply to gains or profits derived by an employee by the exercise, assignment or release of any right or benefit to acquire shares in a holding company of the company in which he is employed only if the following conditions are satisfied: 5

- (a) both the company and the holding company are incorporated in Singapore;
- (b) the holding company grants the right or benefit to acquire its shares to its employees or the employees of companies within its group of companies; and 10
- (c) at the time of the grant by the holding company of the right or benefit to acquire its shares —
  - (i) both the company and the holding company are carrying on business in Singapore;
  - (ii) the market value of the gross assets of the 15 company does not exceed \$100 million;
  - (iii) the market value of the gross assets of the holding company and companies within its group of companies does not exceed in the aggregate \$100 million; and 20
  - (iv) the company in which the employee is employed has not granted any right or benefit to any of its employees to acquire its shares.

(5) The Minister may make regulations to provide generally for giving full effect to or for carrying out the purposes of this 25 section.

(6) In this section, unless the context otherwise requires —

“holding company” has the same meaning as in section 5 of the Companies Act (Cap. 50);

“minimum vesting period”, in relation to a qualifying 30 company or holding company, means the period, prescribed by the Singapore Exchange during which no option may be exercised under a stock option scheme implemented by any company listed on that Exchange, which would have been applicable to the stock option 35 granted by the qualifying company or holding company, as the case may be, if it were a company listed on that Exchange;

“qualifying company” means a company incorporated in Singapore which at the time of the grant to its employees of any right or benefit to acquire its shares —

(a) carries on business in Singapore; and

5 (b) has gross assets the market value of which does not exceed \$100 million;

“qualifying employee” means an employee (other than any non-executive director) of a company who, at the time of the grant to him of any right or benefit to acquire the shares of the company or the shares of its holding company, as the case may be —

10 (a) is committed to work at least 30 hours per week for the company in which he is employed or, if he is committed to work less than such number of hours, is committed to work at least 75% of his total working time per week for the company; and

15 (b) does not beneficially own, directly or indirectly, voting shares that confer the right to exercise or control the exercise of not less than 25% of the voting power in the company which grants the right or benefit to acquire its shares;

20 “shares” includes stocks but excludes redeemable or convertible shares or shares of a preferential nature;

25 “total working time”, in relation to a qualifying employee, means the total period of time spent by him as an employee for all his employers plus, if applicable, the total period of time, which shall be deemed to be 10 hours per week, spent by him on remunerative work as a self-employed person.”.

### **Amendment of section 14D**

6. Section 14D (1) of the principal Act is amended by deleting the words “trade or business” in the 2nd line and substituting the words “manufacturing trade or business or a trade or business for the provision of specified services”.

### **Amendment of section 14I**

7. Section 14I of the principal Act is amended by deleting subsection (5A).

### **Amendment of section 19A**

8. Section 19A (6) of the principal Act is amended by inserting, immediately after the word “vehicle” in the last line of paragraph (o) (ii), the words “, and for this purpose, where the new goods vehicle and the existing vehicle have a maximum laden weight exceeding 3.0 metric tons but not exceeding 3.5 metric tons, the new goods vehicle shall be deemed to bear an index mark which is the same as that of the existing vehicle”.

### **Amendment of section 35**

9. Section 35 (2A) of the principal Act is amended by deleting the full-stop at the end of paragraph (b) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(c) derived during the period from 1st January 1999 to 31st December 1999 shall be treated as his statutory income for the year of assessment 2000 and be charged to tax at the rate applicable to him for that year of assessment.”.

### **Amendment of section 39**

10. Section 39 of the principal Act is amended —

- (a) by deleting “\$4,500” in subsection (2) (i) (A) and substituting “\$5,000”;
- (b) by deleting the words “his or his parent’s retirement account” in the 5th line of subsection (3) and substituting the words “his, his parent’s or his grandparent’s retirement account”;
- (c) by deleting the words “his and his parent’s retirement accounts” in the 2nd and 3rd lines of subsection (4) and substituting the words “his, his parent’s and his grandparent’s retirement accounts”; and
- (d) by inserting, immediately after the words “same parent” in the 5th line of subsection (4), the words “or grandparent”.

## **Amendment of section 42**

**11.** Section 42 of the principal Act is amended —

(a) by deleting “26%” wherever it appears in subsection (4) and substituting in each case “25.5%”; and

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

“(5) The reference to 25.5% in subsection (4) shall, for the years of assessment 1997, 1998, 1999 and 2000, be read as a reference to 26%.”.

## 10 **Amendment of section 43**

**12.** Section 43 of the principal Act is amended —

(a) by deleting “26%” wherever it appears in subsection (1) and substituting in each case “25.5%”; and

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

“(3) The reference to 25.5% in subsection (1) shall, for the years of assessment 1997, 1998, 1999 and 2000, be read as a reference to 26%.”.

## **Amendment of section 43D**

20 **13.** Section 43D of the principal Act is amended —

(a) by deleting the words “member of the Singapore International Monetary Exchange” in the 4th and 5th lines of subsection (1) and substituting the words “futures member of the Singapore Exchange”;

25 (b) by deleting the words “member of the Exchange” in subsection (1) (a) (ii) and substituting the words “futures member of the Singapore Exchange”; and

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

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

### **Amendment of section 43N**

**14.** Section 43N(1) of the principal Act is amended —

- (a) by deleting the word “and” at the end of paragraph (a); and
- (b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph: 5

“(c) income derived by any financial institution during the period commencing from the first day of its basis period for the year of assessment 2001 to 27th February 2003 from — 10

- (i) providing services as an intermediary in connection with any transaction involving interest rate or currency swaps; and
- (ii) trading in interest rate or currency swaps.”.

### **Amendment of section 44**

**15.** Section 44 of the principal Act is amended —

- (a) by deleting “26%” in subsection (1) and substituting “25.5%”;
- (b) by inserting, immediately after the word “dividend” in the last line of subsection (2), the words “; and where a dividend is deemed to have been received by a shareholder under section 10J(3A) (b), such certificate shall also specify that the dividend is in respect of a share buyback through a special trading counter”; 20
- (c) by deleting subsection (13) and substituting the following subsection: 25

“(13) Notwithstanding anything in this Act, where the tax on any dividend paid in the year 2000 has been deducted at the rate of 26% —

- (a) the amount of such dividend received by a shareholder shall be deemed to have been paid without deduction of tax and to be a dividend of such a gross amount as after deduction of tax at the rate of 25.5% would be equal to the net amount paid; and a sum equal to the difference between 30 35

such gross amount and the net amount paid shall be deemed to have been deducted from the dividend as tax; and

5           (b) the difference between the amount of the tax deducted at 26% from such dividend and the amount deemed to have been so deducted under paragraph (a) shall be added to the balance on the first day of the year of assessment 2001 and deemed to be a part thereof.”; and

10       (d) by deleting the words “section 46 (6)” in the last line of subsection (14) (f) and substituting the words “section 46 (3)”.

#### **Amendment of section 45**

**16.** Section 45 of the principal Act is amended —

15       (a) by deleting “26%” in the 4th line of subsection (1) and in the 3rd line of subsection (2) (b) and substituting in each case “25.5%”; and

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

20           “(1A) Notwithstanding subsection (1), tax shall be deducted at the rate of 26% on every payment (other than payment subject to tax at the rate specified in section 43 (1B)) made on or after 1st January 2000 which would be assessable on the person receiving the payment  
25           for the year of assessment 1997, 1998, 1999 or 2000.”.

#### **Amendment of section 45B**

**17.** Section 45B (2) of the principal Act is amended by deleting “26%” and substituting “25.5%”.

#### **Amendment of section 46**

30       **18.** Section 46 of the principal Act is amended —

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

35           “(2) Notwithstanding subsection (1), where the tax on any dividend paid in the year 2000 has been deducted at the rate of 26%, the tax to be set-off under subsection (1)

shall be the sum deemed to be the tax deducted from such dividend under section 44 (13).”; and

- (b) by inserting, immediately after subsection (4), the following subsections:

“(5) Notwithstanding section 93 (1), where any person for any year of assessment has paid tax by deduction under section 44 in respect of any dividend deemed to be received by him under section 10J(3A) (b) and the amount of tax allowed to him as a set-off under subsection (1) is in excess of the amount of tax payable by him for that year of assessment, he shall not be entitled to a refund of an amount of tax equal to —

- (a) the amount of tax deducted under section 44 from such dividend, where the amount of set-off in excess is not less than the amount of tax so deducted; or
- (b) the amount of set-off in excess, where the amount of set-off in excess is less than the amount of tax so deducted.

(6) Any amount of set-off in excess for any year of assessment which is not available for refund to any person under subsection (5) shall not be set-off against the tax payable by the person for any other year of assessment and shall not be regarded as tax assessed for the purposes of section 44.”.

### **Amendment of section 85**

**19.** Section 85 (2) of the principal Act is amended by inserting, immediately after the word “discretion”, the words “and subject to such terms and conditions, including the imposition of interest, as he may impose”.

### **Amendment of section 86**

**20.** Section 86 of the principal Act is amended by inserting, immediately after subsection (6), the following subsection:

“(7) In this section, “tax” includes any interest imposed under section 85 (2).”.

### **Amendment of section 87**

**21.** Section 87 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

5 “(3) In this section, “tax” includes any interest imposed under section 85 (2).”.

### **Amendment of section 89**

**22.** Section 89 of the principal Act is amended —

10 (a) by inserting, immediately after the word “tax” in subsection (1) and in the 3rd line of subsection (4), the word “, interest”; and

(b) by inserting, immediately after the word “tax,” in subsection (2), the word “interest,”.

### **Amendment of section 100**

15 **23.** Section 100 (1) of the principal Act is amended by inserting, immediately after the word “Any”, the words “interest imposed under section 85 (2) or”.

### **Remission of tax**

20 **24.—**(1) There shall be remitted the tax payable for the year of assessment 2000 by an individual or Hindu joint family resident in Singapore a sum equal to the aggregate of —

(a) 5% of the tax payable for that year of assessment ; and

(b) an amount not exceeding \$500 as determined by the Comptroller.

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

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### **EXPLANATORY STATEMENT**

This Bill seeks to implement the income tax changes announced in the Government’s 2000 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 dates or years of assessment from which certain clauses in the Bill are to take effect.

Clause 2 amends section 10 (9) to extend the present tax concession to cover royalties received from a person carrying on in Singapore the business of recording music, or of producing cinematograph films, choreographic works or plays. The concession limits the taxable royalty income to 10% of the gross amount of royalties. The clause also amends section 10 (10) to extend a similar concession to cover royalties received by non-resident individuals and royalties received in relation to approved invention or innovation in the provision of service. The clause also amends section 10 (13A) to provide that any distribution of certain interest and foreign dividends made by an approved CPF unit trust to any unit holder in respect of any unit previously purchased with his CPF moneys and transferred to him when he is entitled to withdraw his CPF moneys shall be deemed to be income of the unit holder if he is not a foreign investor.

Clause 3 amends section 10J to deem certain payment made by a company resident in Singapore to its shareholders, pursuant to a share buyback through a special trading counter established on the Singapore Exchange, to be a payment of dividend by the company and, in certain circumstances, to be a receipt of dividends by its shareholders.

Clause 4 amends section 13 (1) (z) to reflect the change of name from Singapore International Monetary Exchange Limited to Singapore Exchange Derivatives Trading Limited. Tax exemption on prescribed income of the company will continue until 31st December 2003.

Clause 5 inserts new sections 13I and 13J. The new section 13I provides for tax exemption of dividends paid out of income derived by Singapore Exchange Derivatives Trading Limited (including income derived by it while it was known as Singapore International Monetary Exchange Limited). The new section 13J provides for 50% exemption of tax, in certain circumstances, on the gains or profits derived by any qualifying employee by the exercise, assignment or release of a right or benefit granted to acquire shares in any qualifying company in which he is substantially employed or to acquire shares in its holding company. The partial exemption is available to the employee for 10 years of assessment and limited to the first \$10 million gains or profits derived by him.

Clause 6 amends section 14D to clarify that the deduction for expenditure incurred on research and development is applicable to a person carrying on a manufacturing trade or business or a trade or business for the provision of specified services.

Clause 7 amends section 14I to reinstate the annual limits (which were temporarily suspended for years of assessment 1998 and 1999) on the amount of general provisions for doubtful debts and diminution in value of investments allowed as tax deduction for banks.

Clause 8 amends section 19A (6) to clarify that capital expenditure incurred by any person in acquiring a new goods vehicle in replacement of an existing vehicle may be claimed in full in one year, where both vehicles have a maximum laden weight of between 3 and 3.5 metric tons each even if they do not bear the same index mark.

Clause 9 makes a consequential amendment to section 35 (2A) arising from the reduction in corporate tax rate to 25.5% from the year of assessment 2001.

Clause 10 amends section 39 —

- (a) to increase from \$4,500 to \$5,000 the amount of tax relief in respect of aged dependants who live in the same household as the claimant; and
- (b) to extend the tax relief for top-up in cash to the CPF retirement accounts of taxpayers or their parents to cover top-up in cash to the CPF retirement accounts of their grandparents.

Clause 11 amends section 42 to limit the highest effective rate of tax imposed on a person, other than an individual, under Part B of the Second Schedule to 25.5% on every dollar of chargeable income.

Clause 12 amends section 43 to reduce the tax rate of companies, trustees and non-resident persons from 26% to 25.5%.

Clause 13 amends section 43D to reflect the corporate restructuring involving Singapore International Monetary Exchange Limited. The restructuring does not affect the 10% concessionary rate of tax applicable to certain income derived by any company which was a member of the former Singapore International Monetary Exchange Limited.

Clause 14 amends section 43N to empower the Minister to make regulations providing for a concessionary rate of tax of 10% on income derived by a financial institution from trading in interest rate or currency swaps or providing services as an intermediary in connection with such swaps.

Clause 15 amends section 44 (1) and (13) to enable resident companies to deduct tax at the rate of 25.5% instead of 26% in respect of Singapore dividends paid by them. This is consequent upon the reduction of the corporate tax rate from 26% to 25.5%. The clause also makes a technical amendment to section 44 (14) (f).

Clause 16 amends section 45 to reduce from 26% to 25.5% the withholding tax rate applicable on the gross amount of interest paid to a non-resident person.

Clause 17 makes a consequential amendment to section 45B arising from the reduction in corporate tax rate to 25.5% from the year of assessment 2001.

Clause 18 makes a consequential amendment to section 46 arising from the reduction in corporate tax rate to 25.5% from the year of assessment 2001. The clause also amends section 46 to limit any tax refund or set-off to a person in respect of dividends deemed to be received by him pursuant to a share buyback through a special trading counter under section 10J as amended by clause 3.

Clause 19 amends section 85 (2) to empower the Comptroller to extend the time for payment of tax on gains or profits from the exercise of certain employee stock options, subject to the imposition of interest.

Clauses 20 to 23 make consequential amendments to sections 86, 87, 89 and 100 arising from the amendment to section 85 (2) by clause 19.

Clause 24 provides for remission of 5% on tax payable for the year of assessment 2000 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.

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