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## BILLS SUPPLEMENT

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**Notification No. B 28** — The Income Tax (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 16th day of October 2003.

# **Income Tax (Amendment) Bill**

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**Bill No. 28/2003.**

*Read the first time on 16th October 2003.*

A BILL

*i n t i t u l e d*

An Act to amend the Income Tax Act (Chapter 134 of the 2001 Revised Edition).

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

### Short title and commencement

1.—(1) This Act may be cited as the Income Tax (Amendment) Act 2003.

5 (2) Sections 4(a), 5, 6, 8, 15(b) (in relation to section 14M(8G)), 25, 26 (except in relation to transfer to claimant company) and 29 shall be deemed to have come into operation on 10th December 2002.

(3) Sections 10, 42 and 43 shall be deemed to have come into operation on 1st January 2003.

10 (4) Section 40 shall be deemed to have come into operation on 28th February 2003.

(5) Sections 9, 30(c) (in relation to delegation of approving authority), (e), (h) and (i), 31, 35, 44(a) and 45 shall be deemed to have come into operation on 1st April 2003.

15 (6) Sections 3(e) and (f) and 18 (in relation to insertion of section 14P) shall be deemed to have come into operation on 1st June 2003.

(7) Section 30(c) (in relation to tax deduction for donation of sculpture) shall be deemed to have come into operation on 1st July 2003.

(8) Section 23 shall be deemed to have come into operation on 1st November 2003.

20 (9) Sections 49, 50 and 52(b) shall come into operation on 1st January 2004.

25 (10) Sections 12, 14, 15(b) (except in relation to section 14M(8G)), 26 (in relation to transfer to claimant company), 30(a), (b), (g), (j), (k) and (l), 38, 46(a) (in relation to section 50A(1)(a)), (b), (c) and (d) and 52(c), (d) and (e) shall have effect for the year of assessment 2003 and subsequent years of assessment.

30 (11) Sections 3(d) (in relation to section 13(1)(zb)) and (l), 4(b), 7, 16(c), 27, 28, 32(a) and (b), 33, 37, 46(a) (in relation to section 50A(1)(aa)), 51 and 52(h) and (i) shall have effect for the year of assessment 2004 and subsequent years of assessment.

### **Amendment of section 10C**

2. Section 10C of the Income Tax Act (referred to in this Act as the principal Act) is amended by deleting subsections (1C) and (1D) and substituting the following subsections:

5       “(1C) Notwithstanding subsection (1)(a), where on or after 1st January 2003, contributions are made by any employer for any year to the medisave account of an employee maintained under the Central Provident Fund Act (Cap. 36) in lieu of hospitalisation or outpatient medical benefits which the employer is obliged to provide by reason of a contract of employment, such contributions up to \$1,500 for that year shall, subject to subsections (1D) and (1E), not be deemed to be income accruing to the employee.

10       (1D) Where contributions referred to in subsection (1C) are made in respect of an employee by 2 or more employers for any year, the amount of such contributions not deemed to be income accruing to the employee shall not exceed \$1,500 for that year.”.

### **Amendment of section 13**

3. Section 13 of the principal Act is amended —

20       (a) by deleting the words “27th February 2003” wherever they appear in subsections (1)(a) and (2) and substituting in each case the words “31st December 2008”;

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

25       “(p) for a period of 5 years from 1st January 2003, such income of the Singapore Commodity Exchange Limited as may be prescribed;”;

(c) by deleting the word “and” at the end of subsection (1)(z);

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

      “(zb) any subsidy, allowance or benefit provided by an employer to an employee for the attendance by any child of the employee at a child care centre licensed under the Child Care Centres Act (Cap. 37A);

(zc) the prescribed amount of interest derived during the period 1st January 2003 to 31st December 2004 by any individual from the deposit in any standard savings, current or fixed deposit account with an approved bank or a finance company licensed under the Finance Companies Act (Cap. 108); and

(zd) the interest derived on or after 1st January 2005 by any individual from the deposit in any standard savings, current or fixed deposit account with an approved bank or a finance company licensed under the Finance Companies Act.”;

(e) by inserting, immediately above subsection (8) under the sub-heading “*Income received from outside Singapore*”, the following subsections:

“(7A) Where the conditions specified in subsection (7B) are satisfied, there shall be exempt from tax the following income received in Singapore on or after 1st June 2003 from any territory outside Singapore by any person resident in Singapore:

(a) any dividend derived from any territory outside Singapore;

(b) any profit derived from any trade or business carried on by a branch in any territory outside Singapore of a company resident in Singapore; and

(c) any income derived from any professional, consultancy and other services rendered in any territory outside Singapore only if the Comptroller is satisfied that the income is derived, for the purposes of this Act, from outside Singapore.

(7B) The conditions referred to in subsection (7A) are —

(a) the income is subject to tax of a similar character to income tax (by whatever name called) under the law of the territory from which the income is received;

(b) at the time the income is received in Singapore by the person resident in Singapore, the highest rate of tax of a similar character to income tax (by whatever name

called) levied under the law of the territory from which the income is received on any gains or profits from any trade or business carried on by any company in that territory at that time is not less than 15%; and

- 5 (c) the Comptroller is satisfied that the tax exemption would be beneficial to the person resident in Singapore.

10 (7C) Where the income referred to in subsection (7A) consists of dividends paid by a company, the tax referred to in subsection (7B)(a) shall be —

- (a) where the company is resident in the territory from which the dividends are received, the tax paid in that territory by the company in respect of its income out of which the dividends are paid; and
- 15 (b) the tax paid on the dividends in the territory from which the dividends are received.

(7D) The Minister may make regulations generally to give full effect to or for carrying out the purposes of subsection (7A).”;

- 20 (f) by deleting the words “or is taxed at a concessionary rate of tax by virtue of an order made under subsection (8) and the income is received by a company which is resident in Singapore” in subsection (10) and substituting the words “under subsection (7A), or is exempt from tax or is taxed at a concessionary rate of
- 25 tax by virtue of an order made under subsection (8) and the income is received by a company which is resident in Singapore (other than income derived from Malaysia and received in Singapore on or after 1st June 2003 by a company resident in Singapore where the company in paying any dividend out of such
- 30 income declares itself to be a resident of Malaysia under paragraph 3 of Article VII of the Income Tax (Singapore – Malaysia) (Avoidance of Double Taxation Agreement) Order (O 19))”;
- (g) by inserting, immediately after the definition of “financial
- 35 institution” in subsection (11), the following definition:

““financial sector incentive (bond market) company” means a company approved as such by the Minister or such person as he may appoint;”;

(h) by deleting the words “27th February 2003” in paragraphs (a) and (b)(i) of the definition of “qualifying debt securities” in subsection (11) and substituting in each case the words “31st December 2008”;

(i) by deleting the word “or” at the end of paragraph (b)(i) of the definition of “qualifying debt securities” in subsection (11);

(j) by deleting sub-paragraph (ii) of paragraph (b) of the definition of “qualifying debt securities” in subsection (11) and substituting the following sub-paragraphs:

“(ii) by any approved bond intermediary and issued —

(A) during the period from 27th February 1999 to 31st December 2008 under any prescribed programme the arrangement of which is completed on or before 31st December 2003; or

(B) during the period from 27th February 1999 to 31st December 2003 in any other case; or

(iii) by any financial sector incentive (bond market) company and issued during the period from 1st January 2004 to 31st December 2008.”;

(k) by renumbering the existing sub-paragraphs (iii) and (iv) of the definition of “qualifying debt securities” in subsection (11) as sub-paragraphs (iv) and (v), respectively; and

(l) by deleting subsection (13) and substituting the following subsection:

“(13) In this section —

“approved bank” means a bank in Singapore approved by the Minister by order in the *Gazette*;

“child”, in relation to an employee, means any legitimate child, illegitimate child, step-child, child adopted in accordance with any written law relating to the adoption

of children and any child whom the employee is the legal guardian;

“deposit”, in relation to any standard savings, current or fixed deposit account referred to in subsection (1)(zc) and (zd), means any deposit of moneys but does not include —

(a) any deposit of moneys the interest from which is determined by the performance of any securities or by the fluctuations in currency exchange rates or by any combination thereof; and

(b) any other prescribed deposit.”.

#### **Amendment of section 13A**

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

(a) by deleting paragraph (g) of subsection (6) and substituting the following paragraph:

“(g) notwithstanding paragraphs (c) and (f), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.”; and

(b) by deleting the definition of “Singapore ship” in subsection (16) and substituting the following definition:

““Singapore ship” means a ship in respect of which a certificate of registry, other than provisionally, has been issued under the Merchant Shipping Act (Cap. 179) and its registry is not closed or deemed to be closed or suspended.”.

#### **Amendment of section 13B**

5. Section 13B of the principal Act is amended by deleting subsection (6A) and substituting the following subsection:

“(6A) Notwithstanding subsections (4) and (6), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.”.



### **Amendment of section 13E**

6. Section 13E of the principal Act is amended by deleting subsection (7) and substituting the following subsection:

5 “(7) Notwithstanding subsections (4) and (6), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.”.

### **Amendment of section 13G**

7. Section 13G(1) of the principal Act is amended by deleting the words “approved under section 43J” and substituting the words “(as defined in  
10 section 43J(2)) in Singapore”.

### **Amendment of section 13H**

8. Section 13H of the principal Act is amended by deleting subsection (14) and substituting the following subsection:

15 “(14) Notwithstanding subsections (11) and (13), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.”.

### **Amendment of section 13M**

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

20 (a) by deleting subsections (3) and (4) and substituting the following subsection:

25 “(3) For the purposes of subsection (2)(b), the amount of donations (in money or money’s worth) received by and other sums accrued to any such charitable institution, trust or body of persons for any year shall be ascertained by taking the aggregate in that year of —

- (a) donations in cash received by it;
- (b) proceeds from the disposal of all properties donated to it on or after 1st April 2003 (after deducting costs directly related to the disposal);
- 30 (c) gains or profits from the disposal of all properties acquired by it on or after 1st April 2003 (after deducting costs directly related to the disposal);

- 5 (d) proceeds, gains or profits, as the case may be, from the disposal of properties donated to it or acquired by it before 1st April 2003 and disposed of on or after that date, and for the purpose of this paragraph, this section in force immediately before that date shall apply; and
- (e) its income (after providing for allowable deductions) not falling under paragraphs (a) to (d).”;
- 10 (b) by inserting, immediately after the words “and (g)” in subsection (5), the words “in force immediately before 1st April 2003 and subsection (3)(b) and (c)”;
- (c) by inserting, immediately after the words “and (g)” in subsection (6), the words “in force immediately before 1st April 2003 and subsection (3)(b) and (c)”;
- 15 (d) by deleting subsection (7) and substituting the following subsection:
- “(7) For the purposes of determining the date of acquisition or donation of the shares and the cost of the shares acquired —
- 20 (a) rights issues shall be deemed to have been acquired on the date the rights were exercised; and the cost in respect of each share after the exercise of the rights shall be the price paid for the acquisition of the shares; and
- (b) bonus shares and shares arising from a share split
- 25 (referred to in this subsection as split shares) shall be deemed to have been acquired or donated —
- (i) where the original shares upon which the bonus shares or split shares are derived were acquired on or after 1st April 2003, on the date of acquisition of the original shares; and for this
- 30 purpose, the cost in respect of each share after the bonus issue or the share split shall be determined in accordance with the formula
- $$\frac{X}{Y},$$
- 35

where X is the cost of the shares at the date of acquisition; and

Y is the total number of the original shares, bonus shares and split shares; and

(ii) where the original shares upon which the bonus shares or split shares are derived were donated on or after 1st April 2003, on the date of donation of the original shares.”;

(e) by deleting the words “or securities” wherever they appear in the definition of “disposal” in subsection (8); and

(f) by deleting the definitions of “land”, “properties”, “real property” and “securities” in subsection (8) and substituting the following definition:

“ “property” includes movable and immovable property of any kind, tangible or intangible.”.

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

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

(a) by deleting the word “month” in the 1st line of paragraph (f) and substituting the words “calendar year”; and

(b) by deleting the words “1% of the ordinary wages of the employee for that month or \$60, whichever is the less,” in paragraph (f) and substituting the words “\$1,500 for that year”.

#### **Repeal of section 14A**

**11.** Section 14A of the principal Act is repealed.

#### **Amendment of section 14B**

**12.** Section 14B of the principal Act is amended —

(a) by deleting the words “As soon as” in subsection (3A) and substituting the words “Subject to subsection (3AA), as soon as”; and

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

“(3AA) Where the company is a transferor company within the meaning of section 37C(19) and where any amount of further deduction allowed under this section, section 14E, 14J or 14L is transferred to a claimant company as part of the loss specified under section 37C(14)(b) —

- (a) the sum transferred shall not be credited to the further deduction account to be kept by the transferor company;
- (b) for the purposes of this section, section 14E, 14J or 14L, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and
- (c) in relation to the sum transferred under paragraph (a), subsections (3B) to (3E) shall apply to the claimant company.”.

### **Repeal of section 14G**

**13.** Section 14G of the principal Act is repealed.

### **Amendment of section 14K**

**14.** Section 14K of the principal Act is amended —

- (a) by deleting the words “As soon as” in subsection (4) and substituting the words “Subject to subsection (4A), as soon as”; and
- (b) by inserting, immediately after subsection (4), the following subsection:

“(4A) Where the company is a transferor company within the meaning of section 37C(19) and where any amount of further deduction allowed under this section is transferred to a claimant company as part of the loss specified under section 37C(14)(b) —

- (a) the sum transferred shall not be credited to the further deduction account to be kept by the transferor company;

- (b) for the purposes of this section, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and
- 5 (c) in relation to the sum transferred under paragraph (a), subsection (5) shall apply to the claimant company.”.

### **Amendment of section 14M**

**15.** Section 14M of the principal Act is amended —

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

“ (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, on or before 30th June 2003 for that project (which shall be completed on or before 30th June 2006) to be approved for the purposes of claiming a deduction under this section in respect of expenditure incurred by him on the refurbishment project.”; and

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

“ (8) Subject to subsection (8A), as soon as a deduction is allowed under this section to a company resident in Singapore, an amount (referred to in this section as further deduction) computed in accordance with the formula

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

30 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).

(8A) Where the company is a transferor company within the meaning of section 37C(19) and where any amount of further deduction allowed under this section is transferred to a

claimant company as part of the loss specified under section 37C(14)(b) —

- 5           (a) the sum transferred shall not be credited to the further deduction account to be kept by the transferor company;
- (b) for the purposes of this section, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and
- 10          (c) in relation to the sum transferred under paragraph (a), subsections (8B) to (8I) and subsection (14) shall apply to the claimant company.

(8B) Where for any year of assessment the further deduction account of the company is in credit, the company shall —

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

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

30           (8C) 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.

35           (8D) 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.

5 (8E) Any dividends debited to the tax exempt account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.

10 (8F) 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.

15 (8G) Notwithstanding subsections (8D) and (8F), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.

(8H) Section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section.

20 (8I) 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.”.

### **Amendment of section 14N**

**16.** Section 14N(9) of the principal Act is amended —

25 (a) by deleting the definition of “designated lease” and substituting the following definition:

“ “designated lease” means any lease in respect of any industrial land granted to a lessee by a relevant body —

30 (a) for a period of 30 years or less during the period from 1st January 1998 to the last day of the basis period for the year of assessment 2003 of the lessee; or

(b) for a period of 60 years or less on or after the first day of the basis period for the year of assessment 2004 of the lessee and before 28th February 2013, and includes an assignment of such a lease;”;

- 5 (b) by deleting the words “section 18(1)(f), (g), (j) and (k)” in paragraph (a) of the definition of “qualifying activity” and substituting the words “section 18(1)(j) and (k)”;
- (c) by deleting the words “for a period of 30 years or less” in the definition of “upfront land premium”.

10 **New section 14P**

**17.** The principal Act is amended by inserting, immediately after section 14O, the following section:

**“Deduction for patenting costs**

15 **14P.**—(1) Subject to this section, where a person carrying on a trade or business has incurred during the period from 1st June 2003 to 31st May 2013 patenting costs for the purposes of that trade or business, there shall be allowed to him a deduction of the amount of such costs.

20 (2) The claim for deduction under subsection (1) shall be allowed to a person only if —

- (a) there is an undertaking by the person that he would be the proprietor of the patent when the patent is granted; and
- (b) the claim is made by the person in such manner and subject to such conditions as the Comptroller may require.

25 (3) For the purposes of this section, any patenting costs incurred by a person prior to the commencement of his trade or business shall be deemed to have been incurred by that person on the first day he carries on that trade or business.

30 (4) Where a person to whom a deduction for patenting costs has been allowed under this section sells, transfers or assigns in the basis period for any year of assessment all or any part of the rights for which such patenting costs were incurred, the person shall be deemed to have derived an amount of income for that year of assessment



equal to the price which the rights were sold, transferred or assigned or the deduction which has been allowed under this section, whichever is the less.

(5) For the purposes of subsection (4), where there is more than one sale, transfer or assignment of any part of the rights for which such patenting costs were incurred, the total amount deemed as income shall not exceed the total amount of deduction previously allowed under this section.

(6) In this section —

“patenting costs” means the fees paid to —

(a) the Registry of Patents in Singapore or elsewhere for the —

(i) filing of a patent;

(ii) search and examination report on the application for a patent; or

(iii) grant of a patent; and

(b) any registered patent agent for —

(i) applying for any patent in Singapore or elsewhere;

(ii) preparing specifications or other documents for the purposes of the Patents Act (Cap. 221) or the patents law of any other country; or

(iii) giving advice on the validity or infringement of the patent;

“registered patent agent” has the same meaning as in the Patents Act.”.

### **Amendment of section 15**

**18.** Section 15(2) of the principal Act is amended by deleting the words “14G, 14H, 14I, 14K, 14M or 14N” and substituting the words “14H, 14I, 14K, 14M, 14N, 14O or 14P”.

### **Amendment of section 16**

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

- (a) by inserting, immediately after the word “structure” where it secondly appears in the 4th line of subsection (5), the words “or after it has ceased to be one”; and
- (b) by deleting the words “pig and” in subsection (7).

5 **Amendment of section 17**

**20.** Section 17 of the principal Act is amended —

- (a) by inserting, immediately after the word “structure” in the 5th line of subsection (1), the words “or after it has ceased to be one”; and
- 10 (b) by inserting, immediately after subsection (1A), the following subsection:
  - “(1B) No balancing allowance shall be made to any person —
  - 15 (a) on the sale of the relevant interest in the building or structure unless the person proves to the satisfaction of the Comptroller that the value of the building or structure to the person is less than the capital expenditure incurred in the construction of the building or structure reduced by the amount of any
  - 20 initial and annual allowances made (including an amount of 3% of the capital expenditure for each year in which no initial or annual allowance was made); and
  - 25 (b) where the relevant interest in the building or structure is not sold but the building or structure is or would be redeveloped for any use other than as an industrial building or structure.”.

**Amendment of section 18**

**21.** Section 18 of the principal Act is amended —

- 30 (a) by deleting paragraphs (f) and (g) of subsection (1);
- (b) by deleting the words “pig and” in subsection (1)(h); and
- (c) by deleting subsection (3A).

### **Repeal of section 18A**

**22.** Section 18A of the principal Act is repealed.

### **Amendment of section 19B**

**23.** Section 19B of the principal Act is amended —

- 5        (a) by deleting the word “approved” wherever it appears in subsections (1) to (6);
- (b) by deleting the words “23rd February 2001” in subsection (1) and substituting the words “1st November 2003”;
- 10       (c) by inserting, immediately after subsection (2), the following subsection:
  - “(2A) The writing-down allowances to be made to a company under this section shall be allowed only if —
  - (a) there is an undertaking by the company that it is an assignee of the intellectual property rights; and
  - 15                (b) the claim is made by the company in such manner and subject to such conditions as the Comptroller may require.”;
- (d) by deleting the word “; or” at the end of subsection (4)(c) and substituting a comma;
- 20       (e) by deleting paragraph (d) of subsection (4);
- (f) by deleting the definition of “approved” in subsection (7);
- (g) by deleting the word “approved” in the definition of “capital expenditure” in subsection (7);
- (h) by deleting the word “approved” in subsection (8);
- 25       (i) by inserting, immediately after subsection (9), the following subsections:
  - “(10) Notwithstanding the amendment of section 19B by the Income Tax (Amendment) Act 2003, section 19B in force immediately before 1st November 2003 shall continue to apply and have effect to any intellectual property rights approved before that date.
- 30

(11) No writing-down allowance under subsection (1) shall be made for any capital expenditure incurred by any company after 31st October 2008.”; and

(j) by deleting the word “approved” in the section heading.

5 **New section 19D**

**24.** The principal Act is amended by inserting, immediately after section 19C, the following section:

**“Writing-down allowance for IRU**

10 **19D.**—(1) Subject to this section, where a person carrying on a trade, business or profession has incurred capital expenditure during or after the basis period for the year of assessment 2004 for the acquisition of an indefeasible right to use any international telecommunications submarine cable system (referred to in this section as Indefeasible Right of Use or IRU) for the purposes of that trade, business or profession (referred to in this section as the relevant trade, business or profession), writing-down allowances computed in accordance with subsection (3) shall be made to him, on due claim, in respect of that capital expenditure during the writing-down period.

20 (2) The writing-down period in respect of an IRU shall be the number of years for which the IRU is acquired commencing with the year of assessment relating to the basis period in which the capital expenditure for the acquisition of the IRU is incurred.

(3) For the purposes of this section, the writing-down allowances in respect of an IRU shall be determined by the formula

25 
$$\frac{A}{B},$$

where A is the amount of capital expenditure incurred for the acquisition of the IRU; and

B is the writing-down period for the IRU.

30 (4) Notwithstanding anything in this section, no writing-down allowance shall be granted to any person under subsection (1) in any year of assessment if the international telecommunications submarine cable system is not in use at the end of the basis period for that year of

assessment by that person in the trade, business or profession carried on by him.

(5) Any capital expenditure incurred for the acquisition of any IRU by a person before the commencement of his trade, business or profession shall be treated for the purpose of this section as if it had been incurred by him on the first day he commences that trade, business or profession.

(6) Where writing-down allowances in respect of any IRU have been made to any person under this section and, before or at the end of the writing-down period for the IRU, any of the following events occurs:

- (a) the IRU comes to an end without subsequent renewal by the person;
- (b) the person permanently ceases to carry on the relevant trade, business or profession;
- (c) the person sells, transfers or assigns all the IRU or so much of it as he still owns; or
- (d) the person sells, transfers or assigns part of the IRU and the amount or value of any consideration less any decommissioning cost (referred to in this section as the consideration) for the sale, transfer or assignment is not less than the amount of capital expenditure remaining unallowed for the IRU,

no writing-down allowance in respect of the IRU shall be made to the person for the year of assessment relating to the basis period in which the event occurs or for any subsequent year of assessment.

(7) Where an IRU remains with any person after the date on which it permanently ceases to be used by the person for the relevant trade, business or profession, the IRU shall be deemed to have been sold by the person at the open-market price on the date of permanent cessation of use.

(8) Where writing-down allowances in respect of any IRU have been made to any person under this section and, before or at the end of the writing-down period for the IRU, any of the following events occurs:

- (a) the IRU comes to an end without subsequent renewal by the person;
- (b) the person permanently ceases to carry on the relevant trade, business or profession; or
- 5 (c) the person sells, transfers or assigns all the IRU or so much of it as he still owns and the consideration for the sale, transfer or assignment is less than the amount of capital expenditure remaining unallowed for the IRU,

there shall be made to the person for the year of assessment relating to the basis period in which the event occurs, a balancing allowance equal to —

- (i) in the case where the amount of capital expenditure remaining unallowed for the IRU exceeds the consideration for the sale, transfer or assignment of the IRU, the excess; or
- 15 (ii) in any other case, the amount of capital expenditure remaining unallowed for the IRU.

(9) Where writing-down allowances in respect of any IRU have been made to any person under this section and the person sells, transfers or assigns all or any part of the IRU and the consideration for the sale, transfer or assignment of the IRU exceeds the amount of capital expenditure remaining unallowed for the IRU, if any, there shall be made on the person, a balancing charge, which shall be based on an amount equal to —

- 25 (a) the excess of the consideration for the sale, transfer or assignment of the IRU over the amount of capital expenditure remaining unallowed for the IRU; or
- (b) the consideration for the sale, transfer or assignment of the IRU, where the amount of capital expenditure remaining unallowed for the IRU is nil,

30 and the balancing charge shall be deemed as income for the year of assessment relating to the basis period in which the sale, transfer or assignment of the IRU occurs.

(10) Where writing-down allowances in respect of any IRU have been made to any person under this section and the person sells, transfers or assigns any part of the IRU, and the consideration for the

sale, transfer or assignment of the IRU is less than the amount of capital expenditure remaining unallowed for the IRU, the amount of any writing-down allowances made in respect of the IRU for the year of assessment relating to the basis period in which the sale, transfer or assignment of the IRU occurs or any subsequent year of assessment shall be the amount determined by the formula

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

where C is the amount of capital expenditure remaining unallowed at the time of the sale, transfer or assignment of the IRU;

D is the consideration for the sale, transfer or assignment of that part of the IRU; and

E is the number of complete years of the writing-down period remaining at the beginning of the year of assessment relating to the basis period in which the sale, transfer or assignment of the IRU occurs,

and so on for any subsequent sale, transfer or assignment of the IRU.

(11) Notwithstanding subsections (9) and (10), the total amount on which a balancing charge is made in respect of any capital expenditure incurred for the acquisition of an IRU shall not exceed the total writing-down allowances actually made for the IRU in respect of that capital expenditure, less, if a balancing charge has previously been made in respect of that capital expenditure, the amount on which that balancing charge was made.

(12) Where the sale, transfer or assignment of all or part of any IRU is made at less than the open-market price, then for the purpose of determining the amount of any balancing allowance or balancing charge, the event shall be treated as if it had given rise to sale, transfer or assignment moneys of an amount equal to the open-market price of the IRU.

(13) In this section —

“capital expenditure” does not include legal fees, registration fees, stamp duty and other costs related to the acquisition of any IRU;

“capital expenditure remaining unallowed”, in relation to any IRU, means the amount of capital expenditure incurred for the acquisition of the IRU less —

- 5           (a) any writing-down allowances made in respect of that capital expenditure for the years of assessment before the year of assessment relating to the basis period in which any event referred to in subsection (6), (8), (9) or (10) occurs; and
- 10          (b) the consideration for any prior sale, transfer or assignment by the person who incurred the capital expenditure of any part of the IRU acquired by the capital expenditure;

15           “international telecommunications submarine cable system” means an international submarine cable that is laid in the sea and includes its cable landing station and any other equipment ancillary to the submarine cable system;

“open-market price”, in relation to any IRU, means —

- 20           (a) the price which the IRU would have fetched if sold in the open market at the time any event referred to in subsection (6), (8), (9) or (10) occurs; or
- (b) where the Comptroller is satisfied by reason of the special nature of any IRU that it is not practicable to determine the open-market price, such other value as appears to him to be reasonable in the circumstances.

25           (14) For the purposes of this section, any sale, transfer or assignment of any IRU which occurs after the date on which a relevant trade, business or profession permanently ceases shall be deemed to have occurred immediately before the cessation.”.

### **New section 22A**

30           **25.** The principal Act is amended by inserting, immediately after section 22, the following section:



**“Order of set-off of allowances**

22A.—(1) Where for any year of assessment the allowances consist of allowances a person is entitled to or allowances made to a person under section 16, 17, 18A, 19, 19A, 19B, 19C or 20 for that year of assessment and any previous year of assessment added to and deemed to form part of the corresponding allowance for the year of assessment under section 23(1), the allowances shall be deducted in the following order:

(a) firstly, any balance of allowance from any previous year of assessment added to and deemed to form part of the corresponding allowance for the year of assessment under section 23(1); and

(b) secondly, any allowance for that year of assessment falling to be made under section 16, 17, 18A, 19, 19A, 19B, 19C or 20.

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

**Amendment of section 23**

26. Section 23 of the principal Act is amended by deleting subsection (1B) and substituting the following subsection:

“(1B) Where any allowance for any year of assessment falling to be made to any person under section 16, 17, 18A, 19, 19A, 19B, 19C or 20 is deducted against income of the person from other sources under section 35(1) or transferred to a claimant company under section 37C, the amount of such allowance shall be deducted from the balance in subsection (1).”.

**Amendment of section 24**

27. Section 24(3) of the principal Act is amended —

(a) by inserting, immediately after sub-paragraph (ii) of paragraph (a), the following sub-paragraph:

“(iii) in the case of an Indefeasible Right of Use, for a sum equal to the amount of capital expenditure remaining unallowed immediately before the sale, computed in accordance with section 19D;”;

5 (b) by deleting the word “and” at the end of paragraph (c);

(c) by inserting, immediately after paragraph (c), the following paragraph:

10 “(ca) notwithstanding anything in section 19D, where the sale is a sale of an Indefeasible Right of Use, the writing-down allowances provided under that section shall continue to be available as if no sale had taken place; and”;

(d) by inserting, immediately after the words “sections 17” in paragraph (d), the words “, 19D”.

#### 15 **Amendment of section 26**

**28.** Section 26(4) of the principal Act is amended by deleting the words “for the purposes of any concessionary rate of tax” and substituting the words “or any other risks for the purposes of any concessionary rate of tax or exemption from tax”.

#### 20 **Amendment of section 35**

**29.** Section 35 of the principal Act is amended by deleting subsections (1) and (1A) and substituting the following subsections:

25 “(1) Except as provided in this section, the income of any person for each year of assessment (referred to in this Act as the statutory income) shall be the full amount of his income for the year preceding the year of assessment from each source of income after the deduction provided under subsection (1A).

30 (1A) There shall be deducted any allowance falling to be made under section 16, 17, 18A, 19, 19A, 19B, 19C or 20 that is not fully deducted and which would otherwise be added to, and deemed to form part of, the corresponding allowance for the next succeeding year of assessment under section 23(1).

(1B) For the purposes of subsection (1A), the balance of allowance for the earliest year of assessment shall be deemed to have been

deducted first, followed by the balance of allowance for the next earliest year of assessment, and so on”.

### **Amendment of section 37**

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

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

10               “(1A) For the purposes of this section, unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where a person is a company whose income, if any, is subject to tax at different rates of tax for any year of assessment, the Comptroller shall apportion any sum allowable under subsection (2)(b), (c), (d) or (f) or (2C) among the different rates of tax on such basis he considers reasonable.”;

- 15       (b) by deleting the word “There” in the 1st line of subsection (2) and substituting the words “Subject to subsection (1A), there”;

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

20               “(b) an amount equivalent to twice the value, the value to be determined by the Minister or such person as he may appoint, of an approved donation of —

                  (i) any artefact made by him in the year preceding the year of assessment to an approved museum;  
                  or

25               (ii) any sculpture for public display outdoors made by him in the year preceding the year of assessment to an approved recipient not being an approved museum,

30               and for this purpose, “approved” means approved by the Minister or such person as he may appoint;”;

- (d) by inserting, immediately after the word “Minister” in subsection (2)(c) and (e), the words “or any Central Fund Administrator”;

- (e) by inserting, immediately after the word “Minister” in subsection (2)(d), the words “or such person as he may appoint”;

- (f) by deleting the word “and” at the end of subsection (2)(d);
- (g) by inserting, immediately after the word “Singapore” in subsection (2)(e)(ii), the words “or listed on the Singapore Exchange”;
- 5 (h) by deleting the full-stop at the end of paragraph (e) of subsection (2) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(f) an amount equivalent to twice the value, the value to be determined by an appraiser licensed under the Appraisers and House Agents Act (Cap. 16) and approved by the Chief Valuer appointed under the State Lands Act (Cap. 314), of any donation of any immovable property made by him in the year preceding the year of assessment to any institution of a public character approved by the Minister or any Central Fund Administrator on the application by that institution.”;

- 10 (i) by deleting the words “subsection (2)(b), (c), (d) or (e)” in subsections (2C), (2D), (2E), (2F) and (5) and substituting in each case the words “subsection (2)(b), (c), (d), (e) or (f)”;
- 20 (j) by deleting the words “subsections (2D)” in subsection (2E) and substituting the words “subsections (1A), (2D)”;
- (k) by deleting paragraph (a) of subsection (10) and substituting the following paragraph:

25 “(a) the amount in respect of any donation of shares in a company or units in a unit trust listed on the Singapore Exchange shall be the price of such shares or units, as the case may be, in the open market at the last transaction of such shares or units on the date of the donation;”;

30 and

- (l) by inserting, immediately after the word “Singapore” in subsection (10)(b), the words “(other than those listed on the Singapore Exchange)”.

### **Amendment of section 37C**

**31.** Section 37C(14) of the principal Act is amended by deleting the words “section 37(2)(b), (c), (d) or (2C)” in paragraph (c) and substituting the words “section 37(2)(b), (c), (d) or (f) or (2C)”.

### **5 Amendment of section 39**

**32.** Section 39 of the principal Act is amended —

- (a) by deleting the words “or 3” in subsection (2)(e)(A);
- (b) by deleting paragraph (k) of subsection (2) and substituting the following paragraph:

10                   “(k) had attended any course of study, seminar or  
                           conference for the purpose of gaining an approved  
                           academic or professional qualification, or had  
                           attended such other approved course, seminar or  
 15                   conference as is related to his trade, business,  
                           profession, vocation or employment, there shall be  
                           allowed a deduction of the amount incurred by him in  
                           that year on the fees for such course, seminar or  
                           conference (including examination, tuition and  
                           registration fees), subject to a maximum deduction of  
 20                   \$3,500; but no deduction shall be allowed under this  
                           paragraph in respect of any sum which has been  
                           allowed under section 14;” and

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

25                   “(11A) Where an individual has commenced a new trade,  
                           business, profession, vocation or employment within 2 years of  
                           assessment from the year of assessment relating to the year in  
                           which he completed any course of study or attended any  
                           seminar or conference on or after 1st January 2003 (other than  
 30                   those referred to in subsection (2)(k) or where a deduction in  
                           respect of which has been allowed under section 14) which is  
                           related to the new trade, business, profession, vocation or  
                           employment, there shall be allowed to him on due claim a  
                           deduction of the amount incurred by him on the fees for such  
 35                   course, seminar or conference (including examination, tuition

and registration fees), subject to a maximum deduction of \$3,500 and the following conditions:

- (a) the individual is resident in Singapore in the year of assessment in which he makes the claim;
- 5 (b) the claim is made within 2 years of assessment from the year of assessment relating to the year in which he completed the course or attended the seminar or conference; and
- 10 (c) the claim is made in the year of assessment relating to the year in which he commences the new trade, business, profession, vocation or employment or in the year of assessment immediately following that year of assessment.”.

#### **Amendment of section 40**

- 15 **33.** Section 40(1) of the principal Act is amended by deleting the words “other than paragraph 3 of the Fifth Schedule and section 39(2)(k)” and substituting the words “(except subsections (2)(k) and (11A) thereof”.

#### **Amendment of section 42**

- 20 **34.** Section 42(7) of the principal Act is amended by deleting the words “27th February 2003” and substituting the words “ 31st December 2008”.

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

- 35.** Section 43(3B) of the principal Act is amended by deleting the words “30 days” in the 3rd line and substituting the words “45 days”.

#### **Amendment of section 43A**

- 25 **36.** Section 43A of the principal Act is amended —
  - (a) by inserting, immediately after the words “such income” in subsection (1), the words “derived before 1st January 2004”; and
  - (b) by inserting, immediately after the word “facility” in the penultimate line of subsection (3), the words “made before
  - 30 1st January 2004”.

### **Repeal and re-enactment of section 43C**

**37.** Section 43C of the principal Act is repealed and the following section substituted therefor:

#### **“Exemption and concessionary rate of tax for insurance and re-insurance business**

**43C.** Notwithstanding section 43, the Minister may by regulations provide —

- (a) that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon the income derived by an insurance company approved by the Minister or such person as he may appoint from carrying on offshore life business within the meaning of section 26 or the business (other than the business of life assurance) of insuring and reinsuring offshore risks; and
- (b) for exemption from tax of any income derived by an insurance company approved by the Minister or such person as he may appoint from insurance and reinsurance business (other than the business of life assurance) and for deduction of losses otherwise than in accordance with section 37(2).”.

### **Repeal of section 43M**

**38.** Section 43M of the principal Act is repealed.

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

**39.** Section 43N of the principal Act is amended —

- (a) by deleting the words “27th February 2003” in subsection (1)(b) and (c) and substituting in each case the words “31st December 2003”;
- (b) by deleting the words “27th February 2003” in subsection (2) and substituting the words “31st December 2008”;
- (c) by inserting, immediately after the word “derived” in subsection (3)(a), the words “before 1st January 2004”; and
- (d) by deleting the words “27th February 2003” in subsection (3)(b) and substituting the words “27th February 2008”.

### **Amendment of section 43P**

**40.** Section 43P of the principal Act is amended —

(a) by deleting the words “10% or such other concessory rate” in subsection (1) and substituting the words “5% or 10%”; and

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

“(1A) The concessory rate of tax referred to in subsection (1) shall apply to an approved global trading company subject to such conditions as the Minister or such person as he may appoint may impose.”.

10

### **New section 43Q**

**41.** The principal Act is amended by inserting, immediately after section 43P, the following section:

#### **“Concessory rate of tax for financial sector incentive company**

15 **43Q.**—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% or 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify, derived on or after 1st January 2004 by a financial sector incentive company from such qualifying activities as may be prescribed, and those regulations may provide for the deduction of losses otherwise than in accordance with section 37(2).

20

(2) The concessory rate of tax referred to in subsection (1) shall apply to a financial sector incentive company subject to such conditions as the Minister or such person as he may appoint may impose.

25

(3) In this section, “financial sector incentive company” means a company carrying on such qualifying activities as may be prescribed and is approved by the Minister or such person as he may appoint.”.

### **Amendment of section 44**

30 **42.** Section 44 of the principal Act is amended —

(a) by deleting the words “on or before the day of” in subsection (1)(b) and substituting the word “before”;



- (b) by deleting the words “on or before the day of” in subsection (1)(c)(iii) and substituting the word “before”;
- (c) by deleting the words “Every such company shall upon payment of a dividend, whether tax is deducted therefrom or not,” in subsection (2) and substituting the words “Every company shall upon payment of a dividend from which tax has been deducted or is deductible,”;
- (d) by deleting the words “such company” in subsection (3) and substituting the words “a company to which subsection (1) applies”;
- (e) by inserting, immediately after the words “31st December 2007” in subsection (5B), the words “so long as the company has not exercised an irrevocable option under subsection (6A)”;
- (f) by inserting, immediately after the words “1st January 2003,” in subsection (5C), the words “or which has exercised an option under subsection (6A) before payment of the dividend,”;
- (g) by deleting the words “from the date of” in subsection (6A) and substituting the word “upon”; and
- (h) by deleting the words “under subsection (1)” in subsection (8) and substituting the words “from which tax has been deducted or is deductible”.

#### **Amendment of section 44A**

**43.** Section 44A of the principal Act is amended —

- (a) by inserting, immediately after subsection (9), the following subsection:

“(9A) Where any tax assessed after 31st December 2002 which has been set-off by any charge or additional charge paid by a company to the Comptroller under subsection (8), or section 44(4) or (6) in force immediately before 1st January 2003, is subsequently reduced and the reduction is deemed to be a reduction under subsection (6)(a), the charge or additional charge paid under those subsections shall be restored by the amount of tax reduced, and the restored charge or additional charge shall be paid by the company to the Comptroller within

14 days from the date of the reduction of the tax assessed.”;  
and

- (b) by deleting the words “section 44(12)” in subsection (11) and substituting the words “section 44(11) and (12)”.

5 **Amendment of section 45**

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

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

10 “(a) by the 15th day of the month following the month in which the interest from which the tax is to be deducted is paid, a sum equal to 5% of such amount of tax shall be payable; and

15 (b) within 30 days after the time specified in paragraph (a), an additional penalty of 1% of such amount of tax shall be payable for each completed month that the tax remains unpaid, but the total additional penalty under this paragraph shall not exceed 15% of the amount of tax outstanding.”;

- 20 (b) by deleting the words “within 10 days after such deduction” in subsection (5) and substituting the words “by the time specified in subsection (4)(a)”;

- (c) by deleting the words “27th February 2003” in subsection (9) and substituting the words “31st December 2008”.

**Amendment of section 45D**

- 25 **45.** Section 45D(2) of the principal Act is amended by deleting the words “pay to the Comptroller within 10 days of such deduction the amount so deducted” and substituting the words “pay the amount so deducted to the Comptroller by the 15th day of the month following the month in which the deduction was made”.

30 **Amendment of section 50A**

**46.** Section 50A of the principal Act is amended —

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

“(a) any income derived from any professional, consultancy and other services rendered in that territory;

(aa) any royalty derived from that territory, where the payment is not —

(i) borne, directly or indirectly, by a person resident in Singapore or a permanent establishment in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore); or

(ii) deductible against any income accruing in or derived from Singapore;”;

(b) by deleting subsection (2);

(c) by deleting the words “and subject to any regulations made under subsection (1)(a)” in subsection (5); and

(d) by deleting the words “or any regulations made thereunder” in subsection (6).

## **Amendment of section 96**

**47.** Section 96 of the principal Act is amended —

(a) by inserting, at the end of subsection (1)(b), the word “or”;

(b) by deleting the semi-colon at the end of subsection (1)(c) and substituting a comma;

(c) by deleting paragraphs (d) and (e) of subsection (1);

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

“(2) Where an individual has been convicted for —

(a) 3 or more offences under this section; or

(b) one offence under this section and one offence under section 96A,

the imprisonment he shall be liable to shall not be less than 6 months.”;

(e) by deleting the words “or in any books of account or other records maintained by or on behalf of any person” in subsection (3); and

(f) by deleting the section heading and substituting the following section heading:

**“Tax evasion”.**

### **New section 96A**

**48.** The principal Act is amended by inserting, immediately after section 96, the following section:

#### **“Serious fraudulent tax evasion**

**96A.—(1)** Any person who wilfully with intent to evade or to assist any other person to evade tax —

(a) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(b) makes use of any fraud, art or contrivance or authorises the use of any such fraud, art or contrivance,

shall be guilty of an offence for which, on conviction, he shall pay a penalty of 4 times the amount of tax which has been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected, and shall also be liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) Where an individual has been convicted for —

(a) 2 or more offences under this section; or

(b) one offence under this section and one offence under section 96,

the imprisonment he shall be liable to shall not be less than 6 months.

(3) Where in any proceedings under this section it is proved that any false statement or entry is made in any books of account or other records maintained by or on behalf of any person, that person shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax.

(4) The Comptroller may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.”.

### **Amendment of section 100**

**49.** Section 100(2) of the principal Act is amended by deleting the words “or 91(2A)” and substituting the words “, 91(2A) or 107(3)”.

### **New section 107**

**50.** The principal Act is amended by inserting, immediately after section 106, the following section:

#### **“Central Fund Administrator and institution of a public character approved under section 37**

**107.—**(1) The Minister may appoint any institution of a public character to be a Central Fund Administrator for the purposes of approving institutions of a public character and regulating the administration of donations made to an institution of a public character approved under section 37.

(2) For the purposes of this section, the Minister may make regulations to provide for —

- (a) the manner and criteria to be adopted by Central Fund Administrators for approving institutions of a public character;
- (b) the use of donations, issue of tax deduction receipts and maintenance of donation records and accounts by institutions of a public character approved under section 37; and
- (c) generally giving effect to or for carrying out the purposes of this section.

(3) Where any Central Fund Administrator appointed by the Minister or any institution of a public character approved by the

Minister or any Central Fund Administrator under section 37 contravenes any regulations made under subsection (2) —

- (a) the Central Fund Administrator or the institution of a public character, as the case may be, shall be liable to pay to the Comptroller a financial penalty of the higher of \$100 or the amount ascertained by the formula

0.4 x the total value of the donations (as determined under section 37(2)) which ought not to be allowed a deduction under section 37(2) by reason of the contravention;

- (b) the Minister may revoke the appointment of the Central Fund Administrator; and

- (c) the Minister or the appropriate Central Fund Administrator may revoke the approval granted to the institution of a public character.

(4) The Comptroller may remit or refund the whole or any part of the financial penalty payable by any Central Fund Administrator or approved institution of a public character under subsection (3)(a).”.

### **Amendment of Fifth Schedule**

**51.** The Fifth Schedule to the principal Act is amended —

- (a) by deleting paragraph 3; and  
(b) by deleting the words “or 3” in paragraphs 7 and 8(1) and (2).

### **Miscellaneous amendments**

**52.** The principal Act is amended —

- (a) by inserting, immediately after “96” in the definition of “Comptroller” in section 2(1), “, 96A”;  
(b) by deleting the words “or 43P” in the following provisions and substituting in each case the words “, 43P or 43Q”:

Sections 13B(1), (2) and (8)(a) and 37B(7) (definitions of “higher rate of tax” or “lower rate of tax”);

- (c) by deleting “43M” wherever it appears in the following provisions and substituting in each case the words “43M (repealed)”:

Sections 13B(1), (2) and (8)(a) and 37B(7) (definitions of “higher rate of tax” or “lower rate of tax”);

- (d) by deleting “43M,” in the following provisions:

Sections 13E(11)(b), 43D(2) and 44(14)(e)(ii);

- (e) by deleting the words “or any regulations made thereunder” in the following provisions:

Sections 13E(10) (definitions of “foreign tax” and “tax credit”) and 48(4);

- (f) by deleting the words “or 43P or section 19B” in section 13E(11)(b) and substituting the words “, 43P or 43Q or section 19B or 19J”;

- (g) by deleting “18A” wherever it appears in the following provisions and substituting in each case the words “18A (repealed)”:

Sections 22A(1), 23(1) and (1B), 35(1A) and 37C(14)(a);

- (h) by inserting, immediately after “19C” wherever it appears in the following provisions, “, 19D”:

Sections 22A(1), 23(1) and (1B), 35(1A) and 37C(14)(a);

- (i) by inserting, immediately after “19C,” in the definition of “allowances” in section 37B(7), “19D,”;

- (j) by deleting the words “or 96” in sections 101(1) and 104(2)(a) and substituting in each case the words “, 96 or 96A”; and

- (k) by deleting the words “and 96” in section 101(2) and substituting the words “, 96 and 96A”.

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## EXPLANATORY STATEMENT

This Bill seeks to implement the income tax changes announced in the Government’s 2003 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 10C to provide that contributions made by an employer to an employee's medisave account in lieu of hospitalisation or outpatient medical benefits, up to \$1,500 per year for each employee, shall not be deemed to be income of the employee for that year.

Clauses 3(a), (g), (h), (j) and (k), 34, 39 and 44(c) amend sections 13, 42, 43N and 45, respectively, to extend the period of the debt market incentive scheme as well as to make consequential amendments as a result of the extension.

Clause 3(b) repeals and re-enacts section 13(1)(p) to grant a further 5-year tax exemption from 1st January 2003 on such income of the Singapore Commodity Exchange Limited (SICOM) as may be prescribed.

Clause 3(d) inserts new paragraphs (zb), (zc) and (zd) to section 13(1). Paragraph (zb) provides for tax exemption on subsidies provided by employers to their employees who send their children to licensed child care centres. Paragraph (zc) provides for partial tax exemption on prescribed amount of interest derived during the period from 1st January 2003 to 31st December 2004 by any individual from deposits of moneys in any standard savings, current or fixed deposit account with any approved bank or licensed finance company in Singapore. Paragraph (zd) provides for full tax exemption on interest derived on or after 1st January 2005 by any individual from deposits of moneys in any standard savings, current or fixed deposit account with any approved bank or licensed finance company in Singapore. For the purposes of paragraphs (zc) and (zd), deposits of moneys in such standard accounts are intended to include deposits as defined in section 4B(3) of the Banking Act (Cap. 19) or section 2 of the Finance Companies Act (Cap. 108) but to exclude (a) deposits the interest from which is determined by the performance of any securities or by the fluctuations in currency exchange rates or by any combination thereof and (b) any other prescribed deposits.

Clause 3(e) inserts new subsections (7A), (7B), (7C) and (7D) to section 13 to provide for tax exemption on foreign-sourced dividends, foreign branch profits (i.e. gains or profits derived from outside Singapore from any trade or business carried on by a foreign branch of a company resident in Singapore) and foreign-sourced service income received in Singapore on or after 1st June 2003 by persons resident in Singapore, if the following conditions are satisfied:

- (a) the foreign-sourced income is subject to tax of a similar character to income tax under the law of the territory outside Singapore from which the income is received;
- (b) the highest rate of tax levied on gains or profits from any trade or business carried on by any company in that territory is not less than 15% at the time the foreign-sourced income is received in Singapore; and
- (c) the Comptroller of Income Tax (the Comptroller) is satisfied that the tax exemption would be beneficial to the person resident in Singapore.



Clause 3(f) provides for tax exemption on dividend paid out of specified types of foreign-sourced income which is exempt from tax under the new section 13(7A), subject to certain conditions. One of the conditions is that the income is not income derived from Malaysia and received in Singapore by a company resident in Singapore where the company in paying any dividend out of such income declares itself to be a resident of Malaysia. This condition is also extended to the dividend paid out of foreign-sourced income received on or after 1st June 2003 and exempt from tax under section 13(8).

Clause 3(l) repeals and re-enacts section 13(13) to include the definitions of “child” and “deposit” for the purpose of tax exemption under new section 13(1)(zb), (zc) and (zd).

Clauses 4(a), 5, 6, 8 and 15(b) (in relation to section 14M(8G)) amend section 13A, 13B, 13E, 13H and 14M, respectively, to remove the tax treatment of deeming as interest, any exempt one-tier dividend paid on shares of a preferential nature out of income exempt from tax.

Clause 4(b) amends the definition of “Singapore ship” in section 13A(16) to clarify that with effect from year of assessment 2004 the tax exemption would also cover specified income derived by a shipping enterprise from operating ships registered under the Singapore Registry of Ships as Bareboat Charter-In ships.

Clause 7 amends section 13G(1) to provide for tax exemption on specified income derived by any foreign trust, or any eligible holding company established for the purposes of a foreign trust, administered by any trust company in Singapore.

Clause 9 amends section 13M to provide for the change in the basis of computing the 80% spending rule for charities. For all properties donated to or acquired by the charitable institution, trust or body of persons on or after 1st April 2003, only the proceeds, or gains or profits from disposal (as the case may be) would be taken in to compute the 80% spending rule in the year of disposal. For any other properties donated to or acquired by it before 1st April 2003, the existing basis of computing the 80% spending rule continues to apply.

Clause 10 amends section 14(1)(f) to provide that where contributions are made by an employer to the medisave account of his employees in lieu of hospitalisation or outpatient medical benefit, a deduction of an amount of up to \$1,500 for each employee per calendar year shall be allowed, provided certain conditions are satisfied.

Clause 11 repeals section 14A which is no longer required.

Clauses 12, 14 and 15(b) amend sections 14B, 14K and 14M, respectively, to allow claimant companies to pay exempt dividends out of the amount of further tax deduction transferred to them from transferor companies as part of the loss under the group relief, subject to certain conditions.

Clause 13 repeals section 14G which is no longer required.

Clause 15(a) amends section 14M(1) to provide that any application for the purposes of claiming tax deduction under the section must be made on or before

30th June 2003 to the Minister or such person as he may appoint and that the project for any refurbishment of the hotel premises as stated in the application must be completed on or before 30th June 2006.

Clause 16 amends section 14N(9) to allow a tax deduction for upfront land premium incurred in respect of a lease of industrial land from JTC and HDB granted on or after a specified date for a period of not more than 60 years, for the construction or use of a building or structure for the purposes of carrying on specified activities.

Clause 17 inserts a new section 14P to provide for a tax deduction for patenting costs, subject to certain conditions.

Clause 18 makes consequential amendments to section 15(2) arising from the repeal of section 14G by clause 13 and the insertion of the new section 14P by clause 17.

Clause 19(a) amends section 16(5) to provide for annual allowance to be given when a building or structure is bought after it has ceased to be an industrial building or structure, subject to certain conditions.

Clause 19(b) makes a consequential amendment to section 16(7) arising from the amendment of section 18(1) by clause 21(b).

Clause 20 amends section 17 to provide for balancing adjustment to be made when a building or structure is sold after it has ceased to be an industrial building or structure, as well as to provide for circumstances in which the balancing allowances shall not be given. One of which is that in the event of sale of building or structure, the building or structure to the seller is underpriced but the land (sold together with the building or structure) to the seller is overpriced. Another circumstance is where the relevant interest in the building or structure is not sold but the building or structure is or would be redeveloped for any use other than as an industrial building or structure.

Clause 21 amends section 18(1) to exclude buildings or structures in use for the purposes of a trade which consists in the working of a plantation, mine or other source of mineral deposits of a wasting nature or for the purposes of a trade in intensive pig production from the definition of “industrial building or structure”, as these are no longer required.

Clause 22 repeals section 18A which is no longer required.

Clause 23 amends section 19B to provide for writing-down allowances in respect of capital expenditure incurred to acquire specified intellectual property rights, to be granted automatically, subject to certain conditions.

Clause 24 inserts a new section 19D to provide for writing-down allowances in respect of capital expenditure incurred for the acquisition of an indefeasible right to use any international telecommunications submarine cable system (IRU) to be granted over the number of years for which the IRU is acquired, subject to certain conditions.

Clause 25 inserts a new section 22A to provide for the order in which capital allowances granted in respect of different years of assessment are to be deducted against income from the same source.

Clause 26 amends section 23(1B) to clarify that any capital allowance deducted under section 35(1A) shall not form part of the balance of unutilised allowance to be carried forward to the next succeeding year of assessment.

Clause 27 amends section 24(3) to provide that where there is a sale of an IRU between related parties, the writing-down allowances in respect of that IRU shall continue to be made available to the buyer as if no sale had taken place, subject to certain conditions.

Clause 28 amends section 26(4) to provide that the rules stipulated therein shall also apply to an approved marine hull and liability insurance company whose income from writing onshore marine hull and liability business is exempt from tax under section 43C.

Clause 29 repeals and re-enacts section 35(1) and (1A) to clarify that any unutilised capital allowances in respect of one source of income may be deducted against income from other sources before income from all sources is aggregated to form statutory income.

Clause 30(a), (b) and (j) amends section 37 to provide for the apportionment of donations allowable under the section, on a reasonable basis, to income, if any, of any company subject to tax at different tax rates.

Clause 30(c) and (e) amends section 37 to provide for tax deduction to be allowed to any donor who donates a sculpture for public display outdoors to an approved recipient other than an approved museum, and to provide for delegation of authority to approve the donation of artefacts and computers.

Clause 30(d) makes a technical amendment.

Clause 30(g), (k) and (l) amends section 37 to provide for the open-market price of the units in listed unit trusts to be taken for the purpose of determining the value of donation of such units.

Clause 30(h) amends section 37 to provide for tax deduction to the donor on an amount equivalent to twice the value of the land (vacant or developed), buildings (commercial, residential or industrial) or units in buildings donated by him to any approved institution of a public character, subject to certain conditions.

Clause 31 makes a consequential amendment to section 37C(14) arising from the amendment of section 37(2)(f) by clause 30(h).

Clause 32 amends section 39 —

- (a) to provide for an increase in the amount of course fee relief from \$2,500 to \$3,500;
- (b) to extend the course fee relief to those who incurred fees to attend seminars and conferences related to their trade, business, profession, vocation or employment; and

- (c) to allow course fee relief to those who incurred fees to attend courses, seminars and conferences related to their new trade, business, profession, vocation or employment, subject to certain conditions.

Clause 33 makes a consequential amendment to section 40(1) arising from the amendment of section 39 and the Fifth Schedule by clauses 32 and 51, respectively.

Clause 35 makes a consequential amendment to section 43(3B) arising from the amendment of section 45 by clause 44.

Clause 36 makes consequential amendments to section 43A arising from the insertion of new section 43Q by clause 41.

Clause 37 repeals and re-enacts section 43C to clarify that the scope of tax exemption covers income derived from writing onshore marine hull and liability business by any approved marine hull and liability insurance company.

Clause 38 repeals section 43M which is no longer required.

Clause 40 amends section 43P to provide for qualifying income of approved global trading companies that meet more stringent criteria to be taxed at a concessionary rate of tax of 5% instead of 10%.

Clause 41 inserts a new section 43Q to provide for qualifying income of approved financial sector incentive company to be taxed at a concessionary rate of tax of 5% or 10%.

Clause 42 amends section 44 to clarify that —

- (a) all companies paying dividends from which tax has been deducted or is deductible shall furnish to each shareholder a dividend certificate;
- (b) a company may pay both franked dividend and exempt (one-tier) dividend, on the day it exercises the option to move to the one-tier corporate tax system, so long as that company has sufficient section 44A balance for the purposes of paying the franked dividend on that day; but for any dividend paid by any company on any day after the day it has exercised the option, the company shall not be entitled to pay franked dividend and if it does so, it shall not be entitled to utilise its section 44A balance for payment of the franked dividend;
- (c) any company which has exercised the option to move to the one-tier corporate tax system is not allowed to carry forward its section 44A balance for the purposes of paying franked dividend;
- (d) any company which has exercised the option to move to the one-tier corporate tax system is not allowed to utilise its section 44A balance for payment of franked dividend any more; and
- (e) all companies paying dividends from which tax has been deducted or is deductible shall submit to the Comptroller a section 44 statement under section 44(8).

Clause 43 amends section 44A to clarify that an amount of section 44 charge as at 31st December 2002, equal to the amount of tax reduced, shall be restored if the charge is used to set-off any tax assessed and where such tax assessed is subsequently reduced and the reduction is deemed to be a reduction under section 44A(6)(a). The clause also makes a technical amendment.

Clause 44(a) amends section 45 to extend the due date of payment of tax deducted from interest, from the current 10 days to the 15th day of the month following the date the interest becomes liable to be paid to a non-resident as well as to make consequential changes.

Clause 45 makes a consequential amendment to section 45D(2) arising from the amendment of section 45 by clause 44.

Clause 46 amends section 50A to allow tax credit unilaterally in respect of foreign tax payable on —

- (a) income derived from any professional, consultancy and other services rendered in any territory outside Singapore and the income need not be foreign-sourced; and
- (b) royalty derived from territory outside Singapore, subject to certain conditions.

Clauses 47 and 48 amend section 96 and insert a new section 96A, respectively, to provide for heavier punishment for serious fraudulent tax evasion.

Clause 49 amends section 100(2) to deem the penalty imposed under the new section 107(3) to be interest on tax for the purposes of section 33(2) of the Limitation Act (Cap.163).

Clause 50 inserts a new section 107 —

- (a) to empower the Minister to make regulations to provide for, among other things, the manner and criteria for Central Fund Administrators to approve the institutions of a public character and to regulate the administration of donations collected by institutions of a public character approved under section 37; and
- (b) to impose a financial penalty or revoke the appointment or approval (as the case may be) if the Central Fund Administrator or institution of a public character contravenes the regulations.

Clause 51 amends the Fifth Schedule to remove the child relief of up to \$3,000 in respect of expenses incurred by an individual resident in Singapore for the maintenance or education of a child who studied overseas.

Clause 52(a), (j) and (k) makes consequential amendments to sections 2, 101 and 104 arising from amendment of section 96 and the insertion of new section 96A by clauses 47 and 48, respectively.

Clause 52(b) makes consequential amendments to sections 13B and 37B arising from the insertion of new section 43Q by clause 41.

Clause 52(c) and (d) makes consequential amendments to sections 13B, 13E, 37B, 43D and 44 arising from the repeal of section 43M by clause 38.

Clause 52(e) makes consequential amendments to sections 13E and 48 arising from the amendment of section 50A by clause 46(a).

Clause 52(f) makes a technical amendment as well as a consequential amendment to section 13E arising from the insertion of new section 43Q by clause 41.

Clause 52(g) makes consequential amendments to sections 22A, 23, 35 and 37C arising from the repeal of section 18A by clause 22.

Clause 52(h) and (i) makes consequential amendments to sections 22A, 23, 35, 37B and 37C arising from the insertion of new section 19D by clause 24.

### EXPENDITURE OF PUBLIC MONEY

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

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