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Notification No. B 58 — The Income Tax (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 19th day of October 2004.

Income Tax (Amendment) Bill

Bill No. 58/2004.

Read the first time on 19th October 2004.

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act (Chapter 134 of the 2004 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 2004.

(2) Sections 5(*a*) and (*c*) and 28(*e*) shall be deemed to have come into operation on 1st January 2003.

(3) Section 28(*d*) shall be deemed to have come into operation on 1st October 2003.

(4) Sections 26(*a*), (*b*) and (*c*) and 54(*b*) and (*c*) shall be deemed to have come into operation on 1st November 2003.

(5) Sections 6, 9(*g*), (*h*) and (*j*), 28(*f*), (*m*), (*n*) and (*o*) and 54(*a*) shall be deemed to have come into operation on 1st January 2004.

(6) Sections 5(*e*), (*f*), (*g*) and (*h*), 9(*a*) and (*f*), 24(*c*), (*d*), (*e*) and (*f*), 30, 33, 34, 39 and 56 shall be deemed to have come into operation on 27th February 2004.

(7) Section 13 shall be deemed to have come into operation on 1st July 2004.

(8) Sections 9(*i*), 29, 38(*a*) and 42 shall come into operation on 1st January 2005.

(9) Sections 28(*c*), (*h*), (*q*) and (*r*) shall have effect for the year of assessment 2003 and subsequent years of assessment.

(10) Sections 2(*c*), 5(*b*), 7, 8, 10(*a*) and (*e*), 11, 22, 23, 26(*e*), 27, 28(*a*), (*g*), (*i*), (*j*), (*k*), (*l*) and (*p*), 31, 32(*a*), (*d*), (*h*) and (*j*), 38(*b*), 40, 43, 45, 53 and 55 shall have effect for the year of assessment 2005 and subsequent years of assessment.

Amendment of section 2

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

(*a*) by inserting, immediately before the definition of “accountant”, the following definition:

““account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Comptroller to that person for the storage and retrieval of electronic records relating to that person;”;

(b) by inserting, immediately after the definition of “approved pension or provident fund or society”, the following definition:

“ “authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;”;

(c) by inserting, immediately after the words “section 37(3)(a)” in the definition of “earned income”, the words “or claimed under section 37D (excluding any donation referred to in section 37D(8)(c))”;

(d) by inserting, immediately after the definition of “earned income”, the following definitions:

“ “electronic record” has the same meaning as in the Electronic Transactions Act (Cap. 88);

“electronic service” means the electronic service provided by the Comptroller under section 8A(1);”;

(e) by inserting, immediately after the definition of “life annuity”, the following definition:

“ “limited liability partnership” means any limited liability partnership incorporated or registered under any law in force in Singapore or elsewhere;”;

(f) by deleting the definition of “return”.

Amendment of section 8

3. Section 8 of the principal Act is amended —

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

“(1) Except where it is provided by this Act that service shall be effected either personally or by registered post, a notice may be served on a person —

(a) personally;

(b) by being sent through the post; or

(c) where the person has given his consent for the notice to be served on him through the electronic service, by transmitting an electronic record of the notice to his account with the electronic service.”;

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

10 “(3A) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when an electronic record of the notice enters his account with the electronic service.”;

(c) by deleting the words “Every notice” in subsection (4) and substituting the words “Subject to subsection (6), every notice”;

15 (d) by deleting the words “Any notice” in subsection (5) and substituting the words “Subject to subsection (6), any notice”; and

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

20 “(6) Where any person has given his consent for any notice referred to in subsection (4) or (5) to be served on him through the electronic service, the notice need not be signed if it is served on him by transmitting an electronic record of the notice to his account with the electronic service.”.

New section 8A

25 **4.** The principal Act is amended by inserting, immediately after section 8, the following section:

“Electronic service

8A.—(1) The Comptroller may provide an electronic service for —

30 (a) the filing or submission of any return, estimate, statement or document; or

(b) the service of any notice by the Comptroller.

(2) For the purposes of the electronic service, the Comptroller may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

(3) Any person who is required to file or submit any return, estimate, statement or document may do so through the electronic service.

(4) Any agent who is authorised by his principal in the prescribed manner may file or submit any return, estimate, statement or document on behalf of his principal through the electronic service.

(5) Where any return, estimate, statement or document is filed or submitted on behalf of any person under subsection (4) —

- (a) it shall be deemed to have been filed or submitted with the authority of that person; and
- (b) that person shall be deemed to be cognizant of all matters therein.

(6) Where any return, estimate, statement or document is filed or submitted through the electronic service using the authentication code assigned to any person before that person has requested, in the prescribed manner, for the cancellation of the authentication code —

- (a) the return, estimate, statement or document shall, for the purposes of this Act, be presumed to have been filed or submitted by that person unless he adduces evidence to the contrary; and
- (b) where that person alleges that he did not file or submit the return, estimate, statement or document, the burden shall be on him to adduce evidence of that fact.

(7) Where any person has given his consent for any notice to be served on him through the electronic service, the Comptroller may serve the notice on that person by transmitting an electronic record of the notice to that person's account with the electronic service.

(8) Notwithstanding any other written law, in any proceedings under this Act —

- (a) an electronic record of any return, estimate, statement or document that was filed or submitted, or any notice that was served, through the electronic service; or

(b) any copy or print-out of that electronic record,
shall be admissible as evidence of the facts stated or contained therein
if that electronic record, copy or print-out —

- 5 (i) is certified by the Comptroller to contain all or any
information filed, submitted or served through the electronic
service in accordance with this section; and
- 10 (ii) is duly authenticated in the manner specified in
subsection (10) or is otherwise authenticated in the manner
provided in the Evidence Act (Cap. 97) for the
authentication of computer output.

(9) For the avoidance of doubt —

- (a) an electronic record of any return, estimate, statement or
document that was filed or submitted, or any notice that was
served, through the electronic service; or

15 (b) any copy or print-out of that electronic record,
shall not be inadmissible in evidence merely because the return,
estimate, statement or document was filed or submitted, or the notice
was served, without the delivery of any equivalent document or
counterpart in paper form.

20 (10) For the purposes of this section, a certificate —

- (a) giving the particulars of —
 - (i) any person whose authentication code was used to file,
submit or serve the return, estimate, statement,
document or notice; and
 - 25 (ii) any person or device involved in the production or
transmission of the electronic record of the return,
estimate, statement, document or notice, or the copy or
print-out thereof;
- 30 (b) identifying the nature of the electronic record or copy
thereof; and
- (c) purporting to be signed by the Comptroller or by a person
occupying a responsible position in relation to the operation
of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

5 (11) Where the electronic record of any return, estimate, statement, document or notice, or a copy or print-out of that electronic record, is admissible under subsection (8), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

10 (12) The Comptroller may, for the purposes of the electronic service, approve the use of any symbol, code, abbreviation or notation to represent any particulars or information required under this Act.

15 (13) The Minister may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing —

- (a) the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service;
- 20 (b) the procedure for the correction of errors in, or the amendment of, any return, estimate, statement or document that is filed or submitted through the electronic service;
- 25 (c) the manner in which a person who has given his consent for a notice to be served on him through the electronic service shall be notified of the transmission of an electronic record of the notice to his account with the electronic service;
- (d) the manner in which authentication codes are to be assigned; and
- (e) anything which may be prescribed under this section.”.

Amendment of section 10

30 **5.** Section 10 of the principal Act is amended —

- (a) by deleting the words “and any gains or profits under subsection (6)” in subsection (2)(c)(ii);
- (b) by deleting subsection (5) and substituting the following subsection:

“(5) Subsection (4)(b) shall apply, with the necessary modifications, to any dredger, seismic ship, or any vessel used for offshore oil or gas activity the income derived from the operation of which is exempt from tax under section 13F.”;

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

“(7A) The Comptroller may, if he thinks fit and subject to such condition as he may impose, accept from the employer of an individual to whom subsection (7) applies an undertaking —
10

(a) to make a return, in such form and by such time as the Comptroller may determine, of any gains or profits derived by the individual from the right or benefit to acquire shares in a company as computed under subsection (6);
15

(b) to pay to the Comptroller any tax assessed on such gains or profits; and

(c) to pay the penalties specified in the undertaking for any failure to comply with paragraph (a) or (b).

20 (7B) Where the Comptroller accepts an undertaking from the employer of an individual under subsection (7A), subsection (7) shall not apply to the individual and he shall be assessed in accordance with subsection (6).

25 (7C) If any condition imposed by the Comptroller under subsection (7A) has not been complied with by the employer of an individual, then notwithstanding the undertaking given by the employer, the gains or profits derived by the individual from the right or benefit to acquire shares in a company shall be assessed in accordance with subsection (7) and shall be
30 deemed to be income accruing to the individual in the year in which the condition is not complied with.”;

- (d) by inserting, immediately after subsection (20), the following subsection:

35 “(20A) Any distribution made by a designated unit trust or approved CPF unit trust to any unit holder out of —

- (a) gains or profits derived on or after 27th February 2004 from —
 - (i) foreign exchange transactions;
 - (ii) transactions in futures contracts;
 - 5 (iii) transactions in interest rate or currency forwards, swaps or option contracts; and
 - (iv) transactions in forwards, swaps or option contracts relating to any securities or financial index;
- 10 (b) distributions from foreign unit trusts derived from outside Singapore and received in Singapore on or after 27th February 2004;
- (c) fees and compensatory payments (other than fees and compensatory payments for which tax has been
 - 15 deducted under section 45A) derived on or after 27th February 2004 from securities lending or repurchase arrangements with —
 - (i) a person who is neither a resident of nor a permanent establishment in Singapore;
 - 20 (ii) the Monetary Authority of Singapore;
 - (iii) a bank licensed under the Banking Act (Cap.19);
 - (iv) a merchant bank approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
 - 25 (v) a finance company licensed under the Finance Companies Act (Cap. 108);
 - (vi) a holder of a capital markets services licence licensed to carry on business in the following regulated activities under the Securities and
 - 30 Futures Act (Cap. 289) or a company exempted under that Act from holding such a licence:
 - (A) dealing in securities (other than any person licensed under the Financial Advisers Act (Cap. 110));

- (B) fund management;
 - (C) securities financing; or
 - (D) providing custodial services for securities;
 - (vii) a collective investment scheme or closed-end fund as defined in the Securities and Futures Act that is constituted as a corporation;
 - (viii) the Central Depository (Pte) Limited;
 - (ix) an insurer registered or regulated under the Insurance Act (Cap. 142) or exempted under that Act from being registered or regulated; or
 - (x) a trust company registered under the Trust Companies Act (Cap. 336);
 - (d) rents and any other income derived from any immovable property situated outside Singapore and received in Singapore on or after 27th February 2004;
 - (e) discount derived from outside Singapore and received in Singapore on or after 27th February 2004;
 - (f) discount from qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008; and
 - (g) gains or profits derived on or after 27th February 2004 from the disposal of debentures, stocks, shares, bonds or notes issued by supranational bodies,
- which do not form part of the statutory income of the designated unit trust or approved CPF unit trust by virtue of section 35(12A) shall be deemed to be income of the unit holder if he is not a foreign investor.”;
- (e) by deleting the words “subsections (20),” in subsection (23) and substituting the words “subsections (20), (20A),”;
 - (f) by inserting, immediately after the definition of “approved CPF unit trust” in subsection (23), the following definition:
 - “ “compensatory payment” has the same meaning as in section 10N(12);”;

(g) by inserting, immediately after the definition of “designated unit trust” in subsection (23), the following definition:

“ “financial index” includes any currency, interest rate, share, stock or bond index;”; and

5 (h) by deleting the full-stop at the end of the definition of “foreign investor” in subsection (23) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

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

10 “securities” has the same meaning as in section 10A;

“securities lending or repurchase arrangement” has the same meaning as in section 10N(12).”.

Amendment of section 10C

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

15 (a) by deleting the words “40% of all ordinary wages” in subsection (1)(b) and substituting “\$27,500”;

(b) by deleting “\$72,000” in subsection (7) and substituting “\$66,000”;

20 (c) by deleting “\$100,000” wherever it appears in subsection (7)(a) and (b) and substituting in each case “\$93,500”;

(d) by deleting “\$6,000” in paragraph (a) of the definition of “relevant amount” in subsection (12) and substituting “\$5,500”; and

25 (e) by deleting “\$100,000” in paragraph (b) of the definition of “relevant amount” in subsection (12) and substituting “\$93,500”.

Amendment of section 10D

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

Amendment of section 10H

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

Amendment of section 13

9. Section 13 of the principal Act is amended —

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

“(aa) subject to subsection (2A) and the prescribed conditions, the discount from any qualifying debt securities, which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008, by —

(i) any person who is not resident in Singapore and who does not have any permanent establishment in Singapore; and

(ii) any person who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore where the funds used by that person to acquire the qualifying debt securities are not obtained from the operation;”;

(b) by deleting sub-paragraphs (ii) and (iii) of subsection (1)(o) and substituting the following sub-paragraph:

“(ii) on or after 27th February 2004 for the charter of any dredger, seismic ship or any vessel used for offshore oil or gas activity;”;

(c) by inserting, immediately after paragraph (u) of subsection (1), the following paragraph:

“(ua) such interest derived during the period 1st January 2003 to 31st December 2004 by any individual resident in Singapore from the deposit of moneys in one or more of his POSB savings accounts with The Development Bank of Singapore Ltd;”;

- (d) by deleting the word “and” at the end of subsection (1)(zc);
- (e) by deleting paragraph (zd) of subsection (1) and substituting the following paragraphs:

“(zd) the interest derived on or after 1st January 2005 by any individual from the deposit of moneys with an approved bank or a finance company licensed under the Finance Companies Act in Singapore; and

(ze) the following income derived from Singapore on or after 1st January 2004 by any individual:

(i) any interest from debt securities;

(ii) any discount from debt securities which mature within one year from the date of issue of those securities;

(iii) any income from an annuity, except income from —

(A) any annuity purchased by the employer of an individual in lieu of any pension or other benefit payable during his employment or upon his retirement; and

(B) any annuity purchased under SRS;

(iv) any income from any life insurance policy, except income referred to in section 10(3);

(v) any distribution made by any collective investment scheme constituted as a unit trust (including any real estate investment trust) authorised under section 286 of the Securities and Futures Act (Cap. 289) that is income or deemed to be income of the individual, except distributions made out of Singapore dividends from which tax is deducted or deductible under section 44; and

(vi) any fee or compensatory payment from securities lending or repurchase arrangements,

except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession.”;

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

“(2A) Subsection (1)(aa) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to any discount derived from any qualifying debt securities where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such discount is derived by —

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

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

(g) by deleting subsection (5) and the subsection heading;

(h) by deleting subsection (8) and substituting the following subsections:

“(7A) There shall be exempt from tax any income arising from sources outside Singapore and received in Singapore —

(a) by any individual who is not resident in Singapore; and

(b) on or after 1st January 2004 by any individual who is resident in Singapore if the Comptroller is satisfied that the tax exemption would be beneficial to the individual, but excludes such income received by him through a partnership in Singapore.

(8) Where the conditions specified in subsection (9) are satisfied, there shall be exempt from tax —

(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

5 (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,

and received in Singapore —

10 (i) on or after 1st June 2003 by any person, not being an individual, resident in Singapore;

(ii) during 1st June 2003 to 31st December 2003 by any individual resident in Singapore; and

15 (iii) on or after 1st January 2004 by any individual resident in Singapore through a partnership in Singapore.”;

(i) by deleting the words “and (zd)” in the definition of “deposit” in subsection (16); and

20 (j) by inserting, immediately after the definition of “related party” in subsection (16), the following definition:

““securities lending or repurchase arrangement” has the same meaning as in section 10N(12);”.

Amendment of section 13F

10. Section 13F(1) of the principal Act is amended —

25 (a) by deleting the words “a person not resident in Singapore (excluding any permanent establishment in Singapore) or to another approved international shipping enterprise where such ship is used by that person or enterprise” in paragraphs (a)(ii) and (c)(ii) and substituting in each case the words “any person
30 where such ship is used by the person”;

(b) by deleting paragraph (b) and substituting the following paragraph:

“(b) for the year of assessment 2005 and subsequent years of assessment from —

- (i) the operation outside the limits of the port of Singapore of any dredger, seismic ship or any vessel used for offshore oil or gas activity; and
 - (ii) the charter of any foreign dredger, foreign seismic ship, or any foreign vessel used for offshore oil or gas activity to any person where such dredger, seismic ship or vessel is used by the person for his operation outside the limits of the port of Singapore;”;
- (c) by inserting, at the end of paragraph (c)(i), the word “and”;
- (d) by deleting the semi-colon at the end of paragraph (c)(ii) and substituting a full-stop; and
- (e) by deleting sub-paragraphs (iii) and (iv) of paragraph (c).

Amendment of section 13N

11. Section 13N(7) of the principal Act is amended by deleting the definition of “relevant employment income” and substituting the following definition:

“ “relevant employment income”, in relation to an NOR individual, means —

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

where C is the number of days in the year preceding that year of assessment for which the NOR individual is not physically present in Singapore by reason of the exercise of any employment in Singapore;

D is the number of days in the year preceding that year of assessment for which the NOR individual exercises any employment in Singapore; and

E is the gains or profits from the exercise of any employment in Singapore by the NOR individual referred to in section 10(2)(a), (6) and (7), but excluding —

- (a) such perquisite as may be determined by the Comptroller;
- (b) leave pay; and
- (c) director's fee."

Amendment of section 14

12. Section 14(1) of the principal Act is amended by deleting the comma at the end of sub-paragraph (E) of proviso (i) to paragraph (e) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraph:

“(F) commencing on or after 1st October 2003 shall not exceed 13%,”.

New section 14C

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

“Further deduction for logistics expenses

14C.—(1) Subject to this section, where the Comptroller is satisfied that an approved company has incurred approved logistics expenses, there shall be allowed to the company a further deduction of the amount of such expenses specified by the Minister or such person as he may appoint, in addition to the amount allowed under section 14.

(2) The Minister or such person as he may appoint may —

- (a) specify the items of logistics expenses to be allowed to an approved company under subsection (1);
- (b) specify the maximum amount of logistics expenses to be allowed to an approved company under subsection (1) for each year of assessment, up to the full amount of such expenses incurred by the company;

- (c) specify the number of years of assessment for which deduction is to be allowed to an approved company under subsection (1), up to a maximum of 10 years of assessment; and
- (d) impose such conditions as he thinks fit when approving a company for the purpose of this section.

(3) No deduction shall be allowed under this section in respect of any logistics expenses which are not allowed as deductions under section 14.

(4) Where in any relevant period an approved company fails to comply with any condition imposed under subsection (2)(d), there shall be deemed to be income of the company, chargeable with tax for the year of assessment relating to the basis period in which such failure occurs, an amount ascertained in accordance with the formula

$$\frac{(E_1 \times C_1)}{D} + \frac{(E_2 \times C_2)}{D} + \frac{(E_3 \times C_3)}{D} + \frac{(E_n \times C_n)}{D},$$

where E_1, E_2, E_3, E_n is the total amount of logistics expenses allowed to the company under subsection (1) for each year of assessment falling within the relevant period in which such failure occurs;

C_1, C_2, C_3, C_n is the rate of tax under section 43(1)(a) or concessionary rate of tax, or both such rates, as the case may be, applicable to the income of the company for each year of assessment falling within the relevant period in which such failure occurs; and

D is the rate of tax under section 43(1)(a) or concessionary rate of tax, or both such rates, as the case may be, applicable to the income of the company for the year of assessment relating to the basis period in which such failure occurs.

(5) Notwithstanding subsection (4), the Minister or such person as he may appoint may vary all or any of the conditions imposed on an approved company under subsection (2)(d).

(6) In this section —

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

“approved company” means a company resident in Singapore which —

(a) undertakes logistics activities in-house in support of its business activities; or

(b) outsources its logistics activities to a service provider,

and approved by the Minister or such person as he may appoint;

“concessionary rate of tax” means the rate of tax in accordance with —

(a) any order made under section 13(12);

(b) the regulations made under section 13H, 43C (in respect of those relating to offshore general insurance business only), 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43N, 43O, 43P, 43Q, 43R or 43S, as the case may be; or

(c) section 19J(5) of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);

“logistics expenses” means expenses incurred by an approved company which are —

(a) directly attributable to the carrying out of logistics activities by the company in Singapore; or

(b) paid to a service provider that carries out the company’s logistic activities in Singapore,

but excludes such expenses on international freight;

“relevant period”, in relation to an approved company, means the period or periods any condition imposed under subsection (2)(d) is to be satisfied by the company.

(7) No approval shall be granted under this section on or after 1st July 2009.”.

Amendment of section 16

14. Section 16 of the principal Act is amended by inserting, immediately after subsection (12), the following subsection:

5 “(13) Unless otherwise provided in this Act or the Economic
Expansion Incentives (Relief from Income Tax) Act (Cap. 86),
where, in the basis period for any year of assessment, the trade, for
which purpose the industrial building is used, produces income that is
exempt from tax as well as income chargeable with tax, the
allowances for that year of assessment shall be made against each
10 income for that year of assessment in such proportion as appears
reasonable to the Comptroller in the circumstances.”.

Amendment of section 17

15. Section 17 of the principal Act is amended —

- 15 (a) by inserting, immediately after the words “subsection (5)” in
subsection (6), the words “but subject to subsection (7)”; and
(b) by inserting, immediately after subsection (6), the following
subsection:

20 “(7) Unless otherwise provided in this Act or the Economic
Expansion Incentives (Relief from Income Tax) Act, where, in
the basis period for any year of assessment, the trade, for
which purpose the industrial building is used, produces income
that is exempt from tax as well as income chargeable with tax,
and any balancing allowance or balancing charge arises to be
made —

- 25 (a) the balancing allowance shall be made against each
income for that year of assessment in such proportion
as appears reasonable to the Comptroller in the
circumstances; and
(b) such proportion of the balancing charge shall be
30 exempt from tax as appears reasonable to the
Comptroller in the circumstances.”.

Amendment of section 19

16. Section 19 of the principal Act is amended by inserting, immediately after subsection (5), the following subsection:

“(5A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the trade, profession or business, for which purpose the machinery or plant is provided, produces income that is exempt from tax as well as income chargeable with tax, the allowances for that year of assessment shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.”.

10 **Amendment of section 19A**

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

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

“(14A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act, (Cap. 86) where, in the basis period for any year of assessment, the trade, profession or business, for which purpose the machinery or plant is provided, produces income that is exempt from tax as well as income chargeable with tax, the allowances for that year of assessment shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.”; and

(b) by inserting, immediately after the word “factory” in the definition of “automation equipment” in subsection (15), the words “within the meaning of section 6 of the Factories Act (Cap.104)”.

Amendment of section 19B

18. Section 19B of the principal Act is amended by inserting, immediately after subsection (6), the following subsections:

“(6A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the trade or business, in which the intellectual property rights are used, produces income that is exempt from tax as well as income chargeable with tax, the allowances for that year of assessment shall be made against

each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.

(6B) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act, where, in the basis period for any year of assessment, the trade or business, in which the intellectual property rights are used, produces income that is exempt from tax as well as income chargeable with tax, and any charge under subsection (4) or (5) arises to be made, such proportion of that charge shall be exempt from tax as appears reasonable to the Comptroller in the circumstances.”.

Amendment of section 19C

19. Section 19C of the principal Act is amended by inserting, immediately after subsection (11), the following subsections:

“(11A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the relevant trade or business produces income that is exempt from tax as well as income chargeable with tax, the allowances for that year of assessment shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.

(11B) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act, where, in the basis period for any year of assessment, the relevant trade or business, produces income that is exempt from tax as well as income chargeable with tax, and the event referred to in subsection (6)(d) occurs, such proportion of any amount or value of any consideration treated as a trading receipt under that subsection shall be exempt from tax as appears reasonable to the Comptroller in the circumstances.”.

Amendment of section 19D

20. Section 19D of the principal Act is amended by inserting, immediately after subsection (12), the following subsections:

“(12A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the relevant trade, business or profession produces income that is exempt from tax

as well as income chargeable with tax, the allowances for that year of assessment shall be made against each income in that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.

5 (12B) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act, where, in the basis period for any year of assessment, the relevant trade, business or profession produces income that is exempt from tax as well as income chargeable with tax, and any balancing allowance or
10 balancing charge arises to be made —

- (a) the balancing allowance shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances; and
- 15 (b) such proportion of the balancing charge shall be exempt from tax as appears reasonable to the Comptroller in the circumstances.”.

Amendment of section 20

21. Section 20 of the principal Act is amended —

20 (a) by inserting, immediately after the words “this section” in the 1st line of subsection (5), the words “but subject to subsection (6A)”;

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

25 “(6A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the trade, profession or business, for which purpose the machinery or plant is provided, produces income that is exempt from tax as well as income chargeable with tax, and any balancing
30 allowance or balancing charge arises to be made —

- (a) the balancing allowance shall be made against each income for that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances; and

- (b) such proportion of the balancing charge shall be exempt from tax as appears reasonable to the Comptroller in the circumstances.”.

Amendment of section 23

- 5 **22.** Section 23(3) of the principal Act is amended by deleting the words “or transferred to a claimant company under section 37C” and substituting the words “, transferred to a claimant company under section 37C or to a spouse under section 37D”.

Amendment of section 31

- 10 **23.** Section 31(2) of the principal Act is amended by deleting the words “, subject to section 51,”.

Amendment of section 35

24. Section 35 of the principal Act is amended —

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

“**(2A)** A deduction under subsection (2) shall be made in the following order:

- 20 (a) firstly, against income from any trade, business, profession or vocation; and
 (b) secondly, against income from any other source.”;

- (b) by deleting the full-stop at the end of paragraph (e) of subsection (5) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

25 “(f) derived during the period from 1st January 2003 to 31st December 2003 shall be treated as his statutory income for the year of assessment 2004 and be charged to tax at the rate applicable to him for that year of assessment.”;

- 30 (c) by inserting, immediately after subsection (12), the following subsection:

“**(12A)** The income referred to in section 10(20A) shall not form part of the statutory income of any designated unit trust or approved CPF unit trust for any year of assessment.”;

- (d) by inserting, immediately after subsection (13), the following subsection:

“(13A) No deduction under section 14 shall be allowed in respect of any outgoings and expenses (including any expenses arising from the management of investments) incurred by any designated unit trust or approved CPF unit trust against any income derived by the unit trust from discount, fees and compensatory payments for which tax has been deducted under section 45A.”;

- (e) by deleting the words “subsections (12) and (13)” in subsection (14) and substituting the words “subsections (12), (13) and (13A)”;

- (f) by inserting, immediately after the definition of “approved CPF unit trust” in subsection (14), the following definition:

““compensatory payment” has the same meaning as in section 10N(12);”.

New section 36A

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

“Limited liability partnership

36A.—(1) For the purposes of this Act, where a limited liability partnership carries on a trade, business, profession or vocation —

- (a) all the activities of the partnership shall be treated as carried on in partnership by its partners (and not by the partnership as such);
- (b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities shall be treated as done by, to or in relation to the partners; and
- (c) the property of the partnership shall be treated as held by the partners as partnership property.

(2) For the purposes, except as otherwise provided, of this Act —

- (a) references to a partnership include a limited liability partnership in relation to which subsection (1) applies;

- (b) references to partners of a partnership include partners of such a limited liability partnership;
- (c) references to a company do not include such a limited liability partnership; and
- (d) references to shareholders of a company do not include partners of such a limited liability partnership.

(3) In ascertaining the income of a limited liability partnership for the purpose of section 36(1)(a), section 10E shall apply to income from any business of the making of investments as if the limited liability partnership is a company.

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

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

$$A - B;$$

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

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

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

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

- where
- A is his contributed capital in that year of assessment;
 - B is the past relevant deductions already allowed to him;
 - C is the relevant deduction allowed to him in that year of assessment under section 35(2); and
 - D is the relevant deduction allowed to him in that year of assessment under section 37(3)(a).

(5) If, as a result of any reduction in the contributed capital of a partner of a limited liability partnership in any year of assessment, the past relevant deductions already allowed to him exceeds his contributed capital, the excess shall be deemed to be income of the partner chargeable with tax under section 10(1)(g) for that year of assessment, and an amount equal to the excess shall be deemed to be a loss incurred by him in the trade, business, profession or vocation of the limited liability partnership.

(6) Subsections (4) and (5) shall not apply in the year of assessment relating to the basis period in which the partner ceases to be a partner of a limited liability partnership or in any subsequent year of assessment.

(7) For the purposes of any allowances made under section 16, 17, 19, 19A, 19B, 19C, 19D, 20 or 23, where —

(a) any person is admitted to or withdraws from a limited liability partnership as a partner thereof; and

(b) one or more persons remain as partners of the limited liability partnership after the admission or withdrawal of that person,

the interest of that person in any property of the limited liability partnership shall be deemed to be —

(i) where he is admitted to the limited liability partnership as a partner, sold to him by all the remaining partners; or

(ii) where he withdraws from the limited liability partnership as a partner, sold by him to all the remaining partners.

(8) The precedent partner of a limited liability partnership shall make and deliver, together with a return of the income of the limited liability partnership under section 71 or when required by the Comptroller by notice in writing, a return of the contributed capital of each partner of the limited liability partnership for any year of assessment.

(9) For the purposes of this section, the Minister may make regulations to provide generally for giving full effect to or for carrying out the purposes of this section.

(10) In this section —

“activities of the limited liability partnership” means anything done by the limited liability partnership, whether or not in the course of carrying on a trade, business, profession or vocation;

5 “contributed capital”, in relation to a partner of a limited liability partnership for any year of assessment, means the aggregate of —

(a) the amount, as at the end of the basis period for the year of assessment to be determined by the Comptroller, which he has contributed (in cash or in kind but not including any loan by him to the limited liability partnership) to the limited liability partnership as capital, and has not, directly or indirectly, drawn out or received back (whether as a distribution or a loan from the limited liability partnership or otherwise); and

(b) the amount, as at the end of the basis period for the year of assessment to be determined by the Comptroller, of any profits or gains of the trade, business, profession or vocation from any past year of assessment to which he is entitled as a partner but which he has not, directly or indirectly, received (whether as a distribution or a loan from the limited liability partnership or otherwise);

25 “past relevant deductions”, in relation to a partner of a limited liability partnership in any year of assessment, means the aggregate of any relevant deductions allowed to the partner less any amount deemed under subsection (5) to be income chargeable with tax in any year of assessment before that year of assessment;

“precedent partner” has the same meaning as in section 71;

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

(a) any deduction allowed to the partner under section 35(2) of any allowance arising from any trade, business or profession carried on by the limited liability partnership;

35 (b) any deduction allowed to the partner under section 37(3)(a) of any loss incurred in any trade,

business, profession or vocation carried on by the limited liability partnership that is made against his statutory income from any other source; or

(c) any transferred deduction transferred by the partner,

as the case may be;

“transferred deduction”, in relation to a partner of a limited liability partnership, means any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is transferred by him to a claimant company under section 37C or to a spouse under section 37D.”.

Amendment of section 37

26. Section 37 of the principal Act is amended —

(a) by inserting, immediately after the word “Minister” in subsection (3)(c), the word “, Comptroller”;

(b) by inserting, immediately after the word “Minister” in subsection (3)(e), the word “, Comptroller”;

(c) by inserting, immediately after the word “Minister” in subsection (3)(f), the word “, Comptroller”;

(d) by deleting subsection (4) and substituting the following subsections:

“(4) A deduction under subsection (3)(a)(i) shall be made in the following order:

(a) firstly, against statutory income from the same trade, business, profession or vocation;

(b) secondly, against statutory income from any other trade, business, profession or vocation; and

(c) thirdly, against statutory income from any other source.

(4A) A deduction under subsection (3)(a)(i) shall be made as far as possible in the order specified in subsection (4) from the statutory income of the first year of assessment after the year in which such loss was incurred, and, so far as it cannot be so

made, then from the statutory income of the next year of assessment, and so on.”; and

- (e) by inserting, immediately after the words “section 37C” in subsections (5) and (8)(b), the words “or to a spouse under section 37D”.

New section 37D

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

“Transfer of qualifying deduction between spouses

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

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

- (a) any allowance specified in subsection (8)(a);
- (b) any loss specified in subsection (8)(b); and
- (c) any donation specified in subsection (8)(c).

(3) For each type of qualifying deduction to be transferred in the order specified in subsection (2), any allowance, loss or donation (as the case may be) arising to the transferor in an earlier year of assessment shall be transferred first before any allowance, loss or donation arising to the transferor in a later year of assessment.

(4) The amount of qualifying deduction to be transferred by a transferor to a claimant spouse is the lower of —

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

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

assessment on the individual or his or her spouse, whichever is the later.

(6) An election made by an individual under subsection (5) shall be irrevocable unless the Comptroller otherwise allows and shall be accompanied by such particulars as the Comptroller may require.

(7) Where the Comptroller discovers that any transfer or claim of qualifying deduction which has been made from or to any individual is or has become excessive, he may make an assessment upon that individual under section 74 on the amount which, in his opinion, ought to have been charged to tax.

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

(a) any allowance falling to be made under section 16, 17, 19, 19A, 19C, 19D or 20 that is in excess of the individual's income from all sources chargeable with tax for that year of assessment;

(b) any loss incurred by the individual in any trade, business, profession or vocation which, if it had been a profit, would have been assessable under this Act, and which is not deducted for that year of assessment because of insufficiency of statutory income of the individual; and

(c) any donation made by the individual under section 37(3)(b), (c), (e) or (f) or (6) that is not deducted for that year of assessment because of insufficiency of statutory income of the individual.”.

Amendment of section 39

28. Section 39 of the principal Act is amended —

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

“(a) had a wife, living with or maintained by him, whose income was not more than \$2,000 in that year, there shall be allowed a deduction of \$2,000;”;

(b) by deleting the words “on or after 1st January 1988” in the 2nd and 3rd lines of subsection (2)(f) and substituting the words “during the period from 1st January 1988 to 31st July 2004”;

(c) by inserting, immediately after proviso (viii) to subsection (2)(g), the following proviso:

“(ix) in the case of an NOR individual who has elected for tax exemption under section 13N(1) for the year of assessment, no deduction shall exceed the contributions which would have been recoverable under section 7(2) of the Central Provident Fund Act (Cap. 36) in respect of his apportioned employment income for the year immediately preceding the year of assessment;”;

(d) by deleting “36%” in the 8th line of subsection (2)(h) and substituting “33%”;

(e) by deleting “\$25,920” wherever it appears in subsection (2)(h) and substituting in each case “\$25,380”;

(f) by inserting, immediately after proviso (iv) to subsection (2)(h), the following proviso:

“(v) the reference to “\$25,380” for the year 2003 in this paragraph shall be read as a reference to “\$21,780” for the year 2004;”;

(g) by deleting the words “and had in the case of the wife elected for separate assessment under section 51(6)” in subsection (2)(m);

(h) by deleting the proviso to subsection (2)(o) and substituting the following proviso:

“Provided that —

(i) where an SRS member derives income from a trade, business, profession or vocation or the exercise of an employment outside Singapore, no deduction shall exceed the amount of income remitted to, transmitted or brought into Singapore from outside Singapore;

(ii) where an SRS member is an NOR individual who has elected for tax exemption under

section 13N(1) for the year of assessment, no deduction shall exceed the contributions to the SRS account in respect of his apportioned employment income for the year immediately preceding the year of assessment;”;

- (i) by inserting, immediately after paragraph (o) of subsection (2), the following paragraph:

“Deduction for grandparent caregiver

(p) was a married woman, widow or divorcee whose parent or grandparent, or parent or grandparent of her husband or of her previous husband —

(i) was living in Singapore;

(ii) was looking after any of her children who is a citizen of Singapore and is 12 years old and below at any time during the year preceding the year of assessment ; and

(iii) was not carrying on any trade, business, profession, vocation or employment in that year,

there shall be allowed against her earned income a deduction of \$3,000 in respect of one such parent or grandparent only:

Provided that a deduction under this paragraph in respect of that parent or grandparent shall be allowed to one woman only and where more than one woman claims a deduction under this paragraph in respect of the same parent or grandparent, a deduction shall be allowed to such claimant as the women may agree or, failing such agreement, to such claimant as determined by the Comptroller whose decision shall be final, and in this paragraph, “children” has the same meaning as “child” in the Fifth Schedule;”;

- (j) by deleting subsection (3) and substituting the following subsection:

“(3) In the case of an individual resident in Singapore in the year of assessment who is a citizen or permanent resident in

Singapore and who, in the year preceding the year of assessment, has paid money in accordance with section 18 of the Central Provident Fund Act (Cap. 36) to his, his spouse's, his parent's or his grandparent's retirement account, there shall be allowed a deduction of the amount of such payment, or \$7,000, whichever is the less, except that no payment made to his spouse's retirement account shall be allowed as a deduction if the income of the spouse exceeds \$2,000 in the year preceding the year of payment.”;

(*k*) by inserting, immediately after the word “his,” wherever it first occurs in the 2nd line in subsection (4), the words “his spouse's,”;

(*l*) by inserting, immediately after the word “same” in subsection (4), the word “spouse,”;

(*m*) by deleting the words “40% of all ordinary wages” in subsection (6) and substituting “\$27,500”;

(*n*) by deleting “\$72,000” and “\$100,000” wherever they appear in subsection (6)(*a*) and (*b*) and substituting in each case “\$66,000” and “\$93,500”, respectively;

(*o*) by deleting “\$100,000” and “\$28,000” wherever they appear in subsection (10) and substituting in each case “\$93,500” and “\$27,500”, respectively;

(*p*) by deleting paragraph (*a*) of subsection (11) and substituting the following paragraph:

“(a) living with her husband;”;

(*q*) by inserting, immediately after the definition of “additional wages” in subsection (13), the following definition:

“ “apportioned employment income” has the same meaning as in section 13N(7);” and

(*r*) by inserting, immediately after the definition of “approved” in subsection (13), the following definition:

“ “NOR individual” has the same meaning as in section 13N(7);”.

Amendment of section 40

29. Section 40(5) of the principal Act is amended by inserting, immediately after the words “section 43(3)” in the definition of “specified income”, the word “, (3A)”.

5 **Amendment of section 42**

30. Section 42 of the principal Act is amended by deleting subsections (6) and (7) and substituting the following subsections:

“(6) There shall be levied and paid for each year of assessment upon the following income derived by a body of persons at the rate of 10%:

- (a) interest from qualifying debt securities; and
- (b) discount from qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008.

(7) Subsection (6) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to —

- (a) any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2008; and
- (b) any discount derived from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008,

where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest or discount, as the case may be, is derived by any body of persons —

- (i) which is a related party of the issuer of those securities; or
- (ii) from securities acquired using funds obtained, directly or indirectly, from any related party of the issuer of those securities.”.

Repeal and re-enactment of section 42A

31. Section 42A of the principal Act is repealed and the following section substituted therefor:

“Rebate for second, third and fourth child of family

- 5 **42A.—**(1) Where an individual resident in Singapore has —
- (a) a legitimate second child of the family born to him; or
- (b) a second child of the family adopted by him under any
written law relating to the adoption of children,
- 10 on or after 1st January 2004, there shall, in respect of that child, be
allowed for the year of assessment immediately following the year of
birth or adoption of that child, a rebate of \$10,000 against the tax
payable by that individual; but where more than one individual is
entitled to claim such rebate in respect of that child, the rebate shall
15 be apportioned between them in such proportion as they may agree,
or, in the absence of any agreement, in such manner as appears to the
Comptroller to be reasonable.
- (2) Where an individual resident in Singapore has —
- (a) a legitimate third or fourth child of the family born to him;
or
- 20 (b) a third or fourth child of the family adopted by him under
any written law relating to the adoption of children,
- on or after 1st January 2004, there shall, in respect of that child, be
allowed for the year of assessment immediately following the year of
birth or adoption of that child, a rebate of \$20,000 against the tax
25 payable by that individual; but where more than one individual is
entitled to claim such rebate in respect of that child, the rebate shall
be apportioned between them in such proportion as they may agree,
or, in the absence of any agreement, in such manner as appears to the
Comptroller to be reasonable.
- 30 (3) For the purposes of subsections (1) and (2), where full effect
cannot be given to the rebate in respect of any child by reason of an
insufficiency of the tax payable by an individual for that year of
assessment, the balance of the unabsorbed rebate shall be available
for deduction against the tax payable by the individual for the year of

assessment immediately following that year of assessment and any subsequent year of assessment.

(4) Where the second, third or fourth child in respect of whom a rebate is allowable to an individual under this section is adopted by another person, the rebate or balance, if any, of the unabsorbed rebate shall not be available for deduction against the tax payable by the individual for any year of assessment following the year in which the child is adopted.

(5) Where, for the year of assessment 2005 or any subsequent year of assessment, an individual would have been entitled to claim any rebate or balance of the unabsorbed rebate under section 42A(1) and (2)(a) in force immediately before 1st January 2005 but for the repeal of that section, such rebate or balance shall, subject to subsection (4), be available for deduction against the tax payable by that individual for the year of assessment 2005 and any subsequent year of assessment; but where more than one individual is entitled to claim such rebate, the rebate shall be apportioned between them in such proportion as they may agree, or, in the absence of any agreement, in such manner as appears to the Comptroller to be reasonable.

(6) Where, for the year of assessment 2005 or any subsequent year of assessment, a married woman would have been entitled to claim any rebate or balance of the unabsorbed rebate under section 42A(2)(b) and (3) in force immediately before 1st January 2005 but for the repeal of that section —

(a) such rebate or balance shall, subject to subsection (4), be available for deduction against the tax payable by that woman for the year of assessment 2005 and any subsequent year of assessment up to 9 years of assessment immediately following the year of birth of the third child or fourth child, as the case may be; and

(b) where the fourth child is born within 9 years of the birth of the third child and full effect cannot be given to the rebate in respect of the fourth child by reason of an insufficiency of the tax payable by that woman for that year of assessment, the rebate or balance, if any, of the unabsorbed rebate shall, subject to subsection (4), be available for deduction, in the case of the fourth child, against the tax payable by that woman for up to 9 years of assessment immediately

following the last year of assessment in which the rebate in respect of the third child may be allowed under paragraph (a).

(7) Where, for the year of assessment 2005 or any subsequent year of assessment, a married woman would have been entitled to claim any rebate or balance of the unabsorbed rebate under section 42A(1), (2) and (3) in force immediately before 1st January 2005 but for the repeal of that section, the rebate or balance of the unabsorbed rebate in respect of the third child or fourth child, as the case may be, under section 42A(2)(b) and (3) in force immediately before 1st January 2005 shall —

(a) subject to subsection (4), first be allowed for deduction against the tax payable by that woman before the rebate or balance of unabsorbed rebate under section 42A(1) and (2)(a) in force immediately before 1st January 2005 is allowed; and

(b) subject to section 42A(4)(b) and (c) in force immediately before 1st January 2005, be available for deduction for the year of assessment 2005 and any subsequent year of assessment.

(8) Where a marriage has been dissolved by divorce or annulment and an individual is entitled to claim —

(a) any rebate or balance of the unabsorbed rebate under section 42A(1) or (2) in force immediately before 1st January 2005, but for the repeal of that section, in respect of any child born to the individual from that marriage; and

(b) any rebate under section 42A(1) or (2) in force immediately before 1st January 2005, but for the repeal of that section, in respect of any child born to the individual after the dissolution of the marriage,

subsections (5), (6) and (7) shall only apply to any second, third or fourth child, as the case may be, born to the individual after the dissolution of the marriage.

(9) Where a marriage was dissolved by divorce or annulment before 1st January 2002 and an individual would, but for section 42A(3)(e) in force immediately before that date, have been

entitled to claim any rebate or balance of the unabsorbed rebate under section 42A(1) or (2) in force immediately before 1st January 2005, such rebate or balance shall, subject to subsection 42A(4)(a) to (d) in force immediately before 1st January 2005, be available for deduction
 5 against the tax payable by that individual only on due claim by that individual after that date and only for any year of assessment from the year of the claim.

(10) No rebate shall be allowed under this section in respect of a child who —

10 (a) at the time of his birth or adoption, has more than 3 other siblings who are members of the same household; or

(b) is adopted by an individual before the individual is married.

(11) In this section —

15 “second child of the family” means a child of the family being a citizen of Singapore at the time of his birth or adoption, or within 12 months thereafter, and who, at the time of his birth or adoption, has one other sibling who is a member of the same household;

20 “third child of the family” means a child of the family being a citizen of Singapore at the time of his birth or adoption, or within 12 months thereafter, and who, at the time of his birth or adoption, has 2 other siblings who are members of the same household;

25 “fourth child of the family” means a child of the family being a citizen of Singapore at the time of his birth or adoption, or within 12 months thereafter, and who, at the time of his birth or adoption, has 3 other siblings who are members of the same household;

30 “sibling” means a brother or sister and includes a step-brother, a step-sister and a brother or sister adopted under any written law relating to the adoption of children.

(12) For the purposes of subsection (11), any sibling who is deceased shall be taken into account in determining the number of siblings a child has at the time of his birth or adoption unless
 35 otherwise determined by the Comptroller.”.

Amendment of section 43

32. Section 43 of the principal Act is amended —

- (a) by deleting “22%” in subsection (1)(a) and (b) and substituting in each case “20%”;
- 5 (b) by inserting, immediately after the words “Notwithstanding anything in this Act” in subsection (3), the words “but subject to subsection (3A)”;
- (c) by inserting, immediately after subsection (3), the following subsection:

10 “(3A) Notwithstanding anything in this Act, tax at the rate of 10% shall be levied and paid on the gross amount of any income referred to in section 12(7)(a) and (b) but excluding the incomes specified in subsection (7), accruing in or derived from Singapore on or after 1st January 2005 by a person not

15 resident in Singapore which is not derived by the person from any trade, business, profession or vocation carried on or exercised by him in Singapore and which is not effectively connected with any permanent establishment in Singapore of the person.”;
- 20 (d) by inserting, immediately after the words “subsection (1)” in subsection (6), the words “but subject to subsection (6A)”;
- (e) by inserting, immediately after subsection (6), the following subsection:

25 “(6A) Notwithstanding subsections (1) and (6), for each of the first 3 years of assessment, falling within the years of assessment 2005 to 2009, of a qualifying company, there shall be levied and paid upon the chargeable income of the company tax at the rate prescribed in subsection (1)(a) on every dollar of the chargeable income thereof except that every dollar of the

30 first \$100,000 of the chargeable income (excluding Singapore dividends) shall be exempt from tax.”;
- (f) by deleting the words “subsection (3)(b)” in subsection (7) and substituting the words “subsections (3)(b) and (3A)”;
- 35 (g) by deleting subsection (8) and substituting the following subsection:

“(8) The reference to 20% in subsection (1) shall, for the years of assessment 2003 and 2004, be read as a reference to 22%.”;

- (h) by inserting, immediately before the definition of “foreign firm” in subsection (10), the following definition:

“ “first 3 years of assessment”, in relation to a qualifying company, means the year of assessment relating to the basis period during which the company is incorporated in Singapore and the 2 consecutive years of assessment immediately following that year of assessment;”;

- (i) by inserting, immediately after the words “subsections (3)” in the definition of “gross amount” in subsection (10), the word “, (3A)”;

- (j) by inserting, immediately after the definition of “gross amount” in subsection (10), the following definition:

“ “qualifying company” means a company incorporated in Singapore (other than a company limited by guarantee) which for each of the first 3 years of assessment —

(a) is resident in Singapore for that year of assessment; and

(b) has no more than 20 shareholders all of whom are individuals throughout the basis period for that year of assessment;”.

Amendment of section 43D

- 33.** Section 43D of the principal Act is amended —

- (a) by deleting the words “in any currency other than the Singapore dollar” in subsection (1)(a);
- (b) by deleting the words “in any currency other than the Singapore dollar, ” in subsection (1)(c); and
- (c) by deleting the words “and 43P” in subsection (3) and substituting the words “, 43P, 43R and 43S”.

Amendment of section 43N

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

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

“(aa) discount derived by any company from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008;” and

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

“(2) Subsection (1)(a) or (aa), as the case may be, shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to —

(a) any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2008; and

(b) any discount from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008,

where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest or discount, as the case may be, is derived by —

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

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

New sections 43R and 43S

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

“Concessionary rate of tax for provision of processing services to financial institutions

5 **43R.**—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved company derived by it on or after 27th February 2004 from the provision of prescribed processing services in Singapore to any financial institution or another approved company; and those regulations may provide for the deduction of
10 losses of an approved company otherwise than in accordance with section 37(3).

(2) The concessionary rate of tax referred to in subsection (1) shall apply to an approved company subject to such conditions as the Minister or such person as he may appoint may impose.

15 (3) No approval under this section shall be granted to any company on or after 27th February 2009.

(4) In this section, “financial institution” means —

(a) any institution in Singapore that is licensed or approved by the Monetary Authority of Singapore, or exempted from
20 such licensing or approval, under any written law administered by the Monetary Authority of Singapore; or

(b) any institution outside Singapore that is licensed or approved, or exempted from such licensing or approval, by its financial supervisory authority for the carrying on of
25 financial activities.

Concessionary rate of tax for commodity derivatives trading company

30 **43S.**—(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved commodity derivatives trading company derived by it on or after 27th February 2004 from prescribed transactions in commodity derivatives or commodities, and those regulations may provide for the conditions to be satisfied for the approval of such a company, and for the deduction of losses
35 otherwise than in accordance with section 37(3).

(2) The concessionary rate of tax referred to in subsection (1) shall apply to an approved commodity derivatives trading company subject to such conditions as the Minister or such person as he may appoint may impose.

5 (3) In this section, “commodity derivatives trading company” means a company carrying on the business of trading of commodity derivatives.”.

Amendment of section 44

10 **36.** Section 44(20) of the principal Act is amended by deleting paragraph (g) and substituting the following paragraph:

“(g) relevant rate of tax —

(i) in relation to a dividend paid from 1st January 2002 to 31st December 2003, is 22%; and

15 (ii) in relation to a dividend paid from 1st January 2004, is 20%.”.

Amendment of section 44A

37. Section 44A of the principal Act is amended by deleting subsection (4) and substituting the following subsection:

20 “(4) Notwithstanding anything in this Act, where the tax on any dividend paid by a company in the year 2004 has been deducted at the rate of 22% —

25 (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 20% would be equal to the net amount paid; and a sum equal to the difference between such gross amount and the net amount paid shall be deemed to have been deducted from the dividend as tax; and

30 (b) the difference between the amount of tax deducted at 22% from such dividend and the amount deemed to have been so deducted under paragraph (a) shall be added to the 44A balance of the company and deemed to be a part thereof.”.

Amendment of section 45

38. Section 45 of the principal Act is amended —

- (a) by deleting the words “section 43(3)” in subsections (1)(a) and (2)(b) and substituting in each case the words “section 43(3) or (3A)”;
- (b) by deleting “22%” in subsections (1)(a) and (2)(b) and substituting in each case “20%”; and
- (c) by deleting subsection (1A) and substituting the following subsection:

“(1A) Notwithstanding subsection (1), tax shall be deducted at the rate of 22% on every payment (other than payment subject to tax at the rate specified in section 43(3) or (3A)) made on or after 1st January 2004 which would be assessable on the person receiving the payment for the year of assessment 2004.”.

Amendment of section 45A

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

- (a) by deleting the words “Section 45” and substituting the words “Section 45(1) to (8)”;
- (b) by renumbering the section as subsection (1) of that section and by inserting immediately thereafter the following subsections:

“(2) Subsection (1) shall not apply to any discount from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008, subject to such conditions as the Minister may impose.

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

Amendment of section 45B

- 40.** Section 45B(2) of the principal Act is amended by deleting “22%” and substituting “20%”.

Amendment of section 46

41. Section 46 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

5 “(2) Notwithstanding subsection (1), where the tax on any dividend paid in the year 2004 has been deducted at the rate of 22%, the tax to be set-off under subsection (1) shall be the sum deemed to be the tax deducted from such dividend under section 44A(4).”.

Amendment of section 48

10 **42.** Section 48(5) of the principal Act is amended by inserting, immediately after the words “section 43(3)” in the definition of “specified income”, the word “, (3A)”.

Amendment of section 51

43. Section 51 of the principal Act is amended —

15 (a) by deleting subsections (1), (2) and (3) and substituting the following subsection:

 “(1) The income of a married woman shall for the purposes of this Act be charged in her own name.”; and

 (b) by deleting subsection (6).

Repeal and re-enactment of section 59

20 **44.** Section 59 of the principal Act is repealed and the following section substituted therefor:

“Duty of liquidator on winding up of company or limited liability partnership

25 **59.**—(1) Where a company or a limited liability partnership is being wound up, the liquidator of the company or limited liability partnership, as the case may be, shall be answerable for doing all such acts, matters and things as are required to be done under this Act in relation to the affairs of the company or the limited liability partnership.

30 (2) Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to its

shareholders unless he has made provision for the payment in full of any tax which may be found payable by the company.”.

Amendment of section 62

45. Section 62 of the principal Act is amended —

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

10 “(1) The Comptroller may, by notice published in the *Gazette*, require every person to furnish to the Comptroller in such form and manner as the Comptroller may determine, within a reasonable time specified in the notice or such extended time as the Comptroller may allow, a return of income for the year of assessment specified in the notice and such particulars as may be required for the purpose of ascertaining the income, if any, for which —

- 15 (a) the person is chargeable under this Act; and
 (b) in the case of a precedent partner or such other person referred to in section 71, each partner in the partnership is chargeable.”;

- 20 (b) by deleting the words “, and in the case of a married woman for which her husband is chargeable under this Act” in subsection (3); and

- (c) by deleting subsections (4) and (7).

New sections 62A and 62B

25 **46.** The principal Act is amended by inserting, immediately after section 62, the following sections:

“The basic rule: Singapore dollar to be used

30 **62A.** Subject to section 62B, where a person carrying on a trade, business, profession or vocation is required to furnish tax computations and particulars of income with a return of income made under section 62 or 71, the tax computations and particulars of income shall be denominated in Singapore dollar.

Currency other than Singapore dollar to be used in certain circumstances

5 **62B.**—(1) Where a person maintains his financial accounts in respect of any trade, business, profession or vocation carried on by him in a functional currency other than Singapore dollar in accordance with financial reporting standards in Singapore, the person who is required to furnish tax computations and particulars of income with a return of income made under section 62 or 71 shall furnish such computations and particulars of income denominated in that functional currency in the manner prescribed under this section.

10 (2) The amount of chargeable income (after deducting the amount not charged to tax under section 43(6) or (6A)) of any company for any year of assessment shall be converted to an equivalent amount in Singapore dollar, and the amount of tax which has been deducted or is deductible from any dividend under section 44 or from any interest under section 45 derived by the company shall remain denominated in Singapore dollar.

15 (3) The amount of statutory income from any trade, business, profession or vocation carried on by any individual for any basis period and the amount of donation made by him during any year shall be converted to an equivalent amount in Singapore dollar, and any amount of allowances, losses or donations which remains unabsorbed at the end of any basis period or at the end of any year, as the case may be, shall be carried forward to the next basis period or next year denominated in Singapore dollar.

20 (4) In respect of any partnership, the income of a partner from the partnership and his share of donation made by the partnership for any year of assessment shall be converted to an equivalent amount in Singapore dollar, and any amount of allowances, losses or donations which remains unabsorbed at the end of any basis period or at the end of any year, as the case may be, shall be carried forward to the next basis period or next year denominated in Singapore dollar in the tax computation of each partner.

25 (5) Notwithstanding anything in this section, a person who is required to furnish tax computations and particulars of income with a return of income made under section 62 or 71 to whom this section applies shall declare any information required in any return of income in Singapore dollar.

(6) Subject to subsection (7), the rate of exchange applicable for the purposes of converting any amount in Singapore dollar to an equivalent amount in a non-Singapore dollar functional currency, or any amount in a non-Singapore dollar functional currency to an equivalent amount in Singapore dollar, as the case may be, shall be —

(a) the average rate of exchange, as made available by the Monetary Authority of Singapore, calculated on the basis of the rate of exchange at the end of each month for the accounting period that constitutes the basis period for the year of assessment; or

(b) where no such average rate of exchange is made available by the Monetary Authority of Singapore, such rate of exchange as the Comptroller may determine.

(7) Notwithstanding subsection (6), for the purposes of —

(a) converting any dividend to which section 44 applies; or

(b) an election under section 24 where the buyer and seller of any property each uses a different functional currency,

the rate of exchange applicable shall be the rate of exchange prevailing as at the date of payment of the dividend or the date of sale of the property, as the case may be.

(8) Notwithstanding subsection (6), where a person has furnished a tax computation and particulars of income with a return of income in Singapore dollar, and is required under subsection (9) or has obtained the approval of the Comptroller under subsection (10), as the case may be, to furnish a tax computation and particulars of income with a return of income in a non-Singapore dollar functional currency for any year of assessment, such person shall convert the amounts denominated in Singapore dollar into the equivalent amount in the functional currency in accordance with the regulations made under subsection (11).

(9) This section shall have effect for accounting periods beginning on or after 1st January 2003.

(10) This section shall also have effect for accounting periods beginning before 1st January 2003 of a person which had been approved by the Comptroller to furnish tax computations and

particulars of income with a return of income made under section 62 or 71 denominated in a functional currency other than Singapore dollar for those accounting periods.

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

- (a) such transitional, supplementary and consequential matters as he may consider necessary or expedient; and
- (b) generally giving effect to or for carrying out the purposes of this section.”.

10 **Amendment of section 68**

47. Section 68 of the principal Act is amended —

- (a) by deleting the words “who is a citizen of Singapore or a Singapore permanent resident” in subsection (2B) and substituting the words “, other than a director to whom subsection (2C) applies,”; and
- (b) by inserting, immediately after subsection (2B), the following subsection:

“(2C) Where an employer, being a company, has granted a director of the company who is not resident in Singapore any right or benefit to acquire shares in any company incorporated in Singapore, the employer shall submit a return, in such form as the Comptroller may determine, of any gain or profit derived by the non-resident director when the right or benefit is exercised, assigned, released or acquired as computed under section 10(6) within 30 days of such exercise, assignment, release or acquisition (as the case may be), notwithstanding that the non-resident director may have ceased to be employed by the company at the time the gain or profit is derived.”.

Repeal of section 71A

30 **48.** Section 71A of the principal Act is repealed.

Amendment of section 73

49. Section 73 of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

“(2A) Notwithstanding any other provisions of this Act, the Comptroller may make an assessment on an individual to whom section 10(7B) or (7C) applies within the year in which the income accrues or is deemed to accrue to the individual, as the case may be.

5 (2B) Notwithstanding any other provisions of this Act, where income accrues under section 10(6) to a director of a company who is not resident in Singapore, the Comptroller may make an assessment in respect of that income within the year in which the income accrues to the director.”.

10 **Amendment of section 76**

50. Section 76(1) of the principal Act is amended by deleting the words “to be served personally on or sent by post to each person assessed to tax” and substituting the words “each person assessed to tax to be served, in accordance with section 8(1), with”.

15 **Amendment of section 78**

51. Section 78 of the principal Act is amended —

(a) by deleting subsections (5) and (6) and substituting the following subsections:

20 “(5) The Minister may appoint from amongst the members of the Board —

(a) a Chairman of the Board; and

(b) such number of Deputy Chairmen of the Board as the Minister thinks fit.

25 (6) No person may be appointed as Chairman of the Board or Deputy Chairman of the Board unless he is either qualified to be a District Judge or is an accountant.

(6A) Meetings of the Board shall be presided by —

(a) the Chairman of the Board;

(b) in the absence of the Chairman of the Board —

30 (i) where there is only one Deputy Chairman of the Board present, the Deputy Chairman; and

(ii) where there is more than one Deputy Chairman of the Board present, such Deputy Chairman as

may be chosen by the Deputy Chairmen present;
and

- 5 (c) where neither the Chairman of the Board nor any Deputy Chairman of the Board is present, such member of the Board as may be chosen by the members present.”;
- 10 (b) by inserting, immediately after the words “3 members of the Board” in subsection (8), the words “, at least one of whom shall be the Chairman of the Board or a Deputy Chairman of the Board”;
- (c) by deleting the words “the Minister, or by any officer of the Government authorised in that behalf by the Minister,” in subsection (10) and substituting the words “the Chairman”;
- 15 (d) by inserting, immediately after subsection (10), the following subsections:
- “(10A) Meetings of a committee shall be presided by —
- (a) where the Chairman of the Board is a member of the committee, the Chairman;
- (b) where the Chairman of the Board is not a member of the committee and —
- 20 (i) there is only one Deputy Chairman of the Board on the committee, the Deputy Chairman; or
- (ii) there is more than one Deputy Chairman of the Board on the committee, such Deputy Chairman as the Chairman may determine.
- 25 (10B) Where the Chairman of the Board or any Deputy Chairman of the Board, as the case may be, is absent from any meeting of a committee at which he ought under subsection (10A) to be presiding, the meeting shall be presided by —
- 30 (a) where there is only one Deputy Chairman who is a member of the committee present, the Deputy Chairman;
- (b) where there is more than one Deputy Chairman who is a member of the committee present, such Deputy

Chairman as may be chosen by the Deputy Chairmen present; and

(c) where there is no Deputy Chairman who is a member of the committee present, such member of the Board as may be chosen by the members present.”; and

(e) by deleting subsection (11) and substituting the following subsection:

“(11) All matters coming before the Board or a committee of the Board at any sitting thereof shall be decided by a majority of votes of the members of the Board present, and, in the event of an equality of votes, the Chairman of the Board, the Deputy Chairman of the Board or such other member as may be presiding, as the case may be, shall have a second or casting vote.”.

Amendment of section 79

52. Section 79 of the principal Act is amended —

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

“(2) A notice of appeal shall contain —

(a) an address for service;

(b) a list of the names of any members of the Board to whom the appellant objects; and

(c) the reasons for such objection.”;

(b) by inserting, immediately after the word “Chairman” in subsections (2A) and (3A), the words “or any Deputy Chairman”;

(c) by inserting, immediately after the word “objects” in subsection (3), the words “and the reasons for such objection”; and

(d) by deleting subsections (4) and (5) and substituting the following subsections:

“(4) The Chairman of the Board, or such Deputy Chairman of the Board as the Chairman may authorise, shall determine whether the reason for any objection to any member under subsection (2) or (3) is valid.

(4A) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is valid, the member of the Board in respect of whom the objection was made shall not attend the hearing of the appeal of the appellant.

(4B) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is not valid, the Chairman or Deputy Chairman shall reject that objection and inform the appellant or the Comptroller accordingly.

(4C) Where an objection has been rejected by the Chairman of the Board or a Deputy Chairman of the Board under subsection (4B), the member of the Board in respect of whom that objection was made may attend the hearing of the appeal of the appellant.

(4D) The decision of the Chairman of the Board or a Deputy Chairman of the Board under subsection (4) shall be final.

(5) The Chairman of the Board may, in his discretion and on such terms as he thinks fit, permit any person to proceed with an appeal notwithstanding that the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section, if it is shown to the satisfaction of the Chairman that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on his part.”.

Amendment of section 93

53. Section 93 of the principal Act is amended by deleting subsection (6).

Amendment of section 107

54. Section 107 of the principal Act is amended —

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

“(a) the manner and criteria to be adopted by Central Fund Administrators —

- (i) for the approval of institutions of a public character; and
- (ii) for the extension and revocation of the approval granted to institutions of a public character;
- (aa) the regulation of any amendment of the constitution or any other governing instrument of any institution of a public character approved under section 37;”.
- (b) by inserting, immediately after the word “Minister” in the 3rd line of subsection (3), the word “, Comptroller”; and
- (c) by inserting, immediately after the word “Minister” in subsection (3)(c), the word “, Comptroller”.

Amendment of Fifth Schedule

55. The Fifth Schedule to the principal Act is amended —

- (a) by deleting the words “6(d) and (e)” in paragraph 2 and substituting the word “5(d)”;
- (b) by deleting paragraphs 5 to 8 and substituting the following paragraphs:

“5. Where a married woman, divorcee or widow has a child who is a citizen of Singapore as at 31st December of the year immediately preceding the year of assessment, the following deductions shall, without prejudice to any deduction allowable under paragraph 1 or proviso (A) to section 39(2)(e), be allowable to her only:

- | | |
|---|---------------------------|
| (a) First eligible child | 5% of her earned income; |
| (b) Second eligible child | 15% of her earned income; |
| (c) Third eligible child | 20% of her earned income; |
| (d) Fourth eligible child of the family who is born on or after 1987 (other than a child adopted before 1st January 2004) | 25% of her earned income. |

6.—(1) The total deductions allowable to all individuals under paragraph 1, proviso (A) to section 39(2)(e) and paragraph 5 in respect of the same child shall not exceed \$25,000.

(2) For the purpose of sub-paragraph (1), any deduction allowable under paragraph 1 or proviso (A) to section 39(2)(e) shall first be allowed before

a deduction, to the extent allowable under sub-paragraph (1), is allowed under paragraph 5.”; and

(c) by deleting sub-paragraph (b) of paragraph 9.

Miscellaneous amendments

- 5 **56.** The principal Act is amended by deleting the words “or 43Q” in the following provisions and substituting in each case the words “, 43Q, 43R or 43S”:

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

EXPLANATORY STATEMENT

This Bill seeks to implement the income tax changes announced in the Government’s 2004 Budget Statement, to make provision for the income tax treatment of any limited liability partnership incorporated or registered under any law in force in Singapore or elsewhere and for marriage and parenthood incentives, 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 2(1) —

- (a) to define the terms “account with the electronic service”, “authentication code”, “electronic record”, and “electronic service” arising from the amendment of section 8 by clause 3 and the insertion of new section 8A by clause 4;
- (b) to redefine the term “earned income” arising from the insertion of new section 37D by clause 27;
- (c) to define the term “limited liability partnership” arising from the insertion of new section 36A by clause 25;
- (d) to delete the definition of the term “return” which is no longer required with the repeal of section 71A by clause 48.

Clause 3 amends section 8 to enable any notice (except notices which must be served personally or by registered post) to be served on any person by transmitting an electronic record of the notice to that person’s account with the electronic service, if that person has given his consent for the notice to be served on him through the electronic service. The clause also inserts a new subsection (3A) to provide the time such notice is deemed to have been served on the person.

Clause 4 inserts a new section 8A —

- (a) to provide an electronic service for the filing or submission of any return, estimate, statement or document by any person or his agent, and the service of any notice by the Comptroller of Income Tax (the Comptroller); and
- (b) to make an electronic record of any return, estimate, statement, document or notice, or any copy or print-out thereof, admissible in court as evidence of the facts stated therein if certain conditions are satisfied.

Clause 5(a) makes a technical amendment to section 10(2)(c)(ii).

Clause 5(b) makes a consequential amendment to section 10(5) arising from the amendment of section 13F by clause 10.

Clause 5(c) inserts new subsections (7A), (7B) and (7C) to section 10 to enable the Comptroller to accept an undertaking from the employer of an individual to whom section 10(7) applies. The new subsection (7B) provides that if the undertaking is accepted, the individual shall be assessed under subsection (6) instead of subsection (7). The new subsection (7C) provides that notwithstanding the undertaking, the gains or profits derived by the individual from the right or benefit to acquire shares in a company may be assessed under section 10(7) and deemed to be income accruing to him in the year in which the condition imposed by the Comptroller is not complied with.

Clause 5(d) inserts a new subsection (20A) to section 10 to extend the types of income which, if they do not form part of the statutory income of the designated unit trust or approved CPF unit trust, shall be deemed to be income of the unit holder if he is not a foreign investor.

Clause 5(e) makes a consequential amendment to section 10(23) arising from the insertion of new section 10(20A) by clause 5(d).

Clause 5(f), (g) and (h) amends section 10(23) to define certain terms used in the section arising from the insertion of new section 10(20A) by clause 5(d).

Clause 6 makes consequential amendments to section 10C arising from the changes in the maximum amount of ordinary and additional wages in respect of which mandatory contributions to the Central Provident Fund are made.

Clauses 7 and 8 amend sections 10D(2) and 10H(1), respectively, arising from the insertion of new section 37D by clause 27 to clarify that certain allowances and losses under those sections are not to be transferred between spouses under section 37D.

Clause 9(a) inserts a new paragraph (aa) to section 13(1) to provide exemption from tax on discounts derived by certain non-residents from certain qualifying debt securities.

Clause 9(b) amends section 13(1)(o) to extend the tax exemption to cover payment made by an approved international shipping enterprise to non-resident person (excluding any permanent establishment in Singapore) for the charter of any vessel used for offshore oil or gas activity.

Clause 9(c) inserts a new paragraph (*ua*) to section 13(1) to provide that any interest derived during 1st January 2003 to 31st December 2004 by an individual resident in Singapore from the deposit of moneys in one or more of his POSB savings accounts with The Development Bank of Singapore Ltd shall be exempt from tax.

Clause 9(e) amends paragraph (*zd*) and inserts a new paragraph (*ze*) to section 13(1). The amended paragraph (*zd*) provides that interest derived on or after 1st January 2005 by any individual from the deposit of moneys with an approved bank or licensed finance company in Singapore shall be exempt from tax. The new paragraph (*ze*) exempts from tax certain income derived from Singapore on or after 1st January 2004 by any individual (other than such income derived by him through a partnership in Singapore or from the carrying on of a trade, business or profession).

Clause 9(f) excludes certain discounts from the tax exemption under new section 13(1)(*aa*).

Clause 9(g) deletes section 13(5) arising from the insertion of new subsection (7A) to section 13 by clause 9(h).

Clause 9(h) inserts a new subsection (7A) to section 13 to exempt from tax income arising from sources outside Singapore and received in Singapore on or after 1st January 2004 by any individual resident in Singapore (other than such income received by him through a partnership in Singapore). It also makes a consequential amendment to section 13(8).

Clause 9(i) makes a consequential amendment to the definition of “deposit” in section 13(16) arising from the amendment of section 13(1)(*zd*) by clause 9(e).

Clause 9(j) defines the term “securities lending or repurchase arrangement” in section 13(16).

Clause 10 amends section 13F(1) to extend the tax exemption to cover the following income derived by an approved international shipping enterprise:

- (a) income from the charter of certain foreign vessels to any person in Singapore, subject to conditions;
- (b) income from the operation or charter of any vessels used for offshore oil or gas activity, subject to conditions.

Clause 11 makes a consequential amendment to section 13N(7) arising from the amendment of section 51 by clause 43.

Clause 12 inserts a new sub-paragraph (F) to section 14(1)(e)(i) to provide that the deduction allowable to an employer for contributions made to the Central Provident Fund or any designated pension or provident fund in respect of any of his employees from 1st October 2003 shall not exceed 13% of the remuneration paid by the employer to the employee.

Clause 13 inserts a new section 14C to allow a further deduction to approved companies in respect of approved logistics expenses incurred by them, subject to conditions.

Clauses 14, 15, 16, 17(a), 18 to 21 make technical amendments to sections 16, 17, 19, 19A, 19B, 19C, 19D and 20 to clarify that where a trade, profession or business produces income that is exempt from tax as well as income that is chargeable with tax, any allowance, balancing allowance or balancing charge made in respect of that trade, profession or business shall be apportioned as appears reasonable to the Comptroller in the circumstances.

Clause 17(b) makes a technical amendment to section 19A(15) to clarify the meaning of the word “factory” in the definition of the term “automation equipment”.

Clause 22 makes a consequential amendment to section 23(3) arising from the insertion of new section 37D by clause 27.

Clause 23 makes a consequential amendment to section 31(2) arising from the amendment of section 51 by clause 43.

Clause 24(a) makes technical amendments to section 35 to clarify the order in which allowances in excess of the income from the trade, business or profession for which the allowances are granted (unutilised allowances) may be set off against income from other sources. New section 35 (2A) provides that any unutilised allowances in any year of assessment shall be set off firstly against income from any other trade, business, profession or vocation, and thereafter against income from any other source.

Clause 24(b) makes a consequential amendment to section 35(5) arising from the reduction in company tax rate to 20% from the year of assessment 2005.

Clause 24(c) inserts a new subsection (12A) to section 35 to exclude certain income referred to in section 10(20A) from the statutory income of any designated unit trust or approved CPF unit trust.

Clause 24(d), (e) and (f) makes consequential amendments to section 35 arising from the insertion of new section 35(12A) by clause 24(c).

Clause 25 inserts a new section 36A to make provision for the tax treatment of any limited liability partnership.

The new section 36A(1) provides that the activities and property of a limited liability partnership shall be treated as those of its partners for the purposes of income tax.

The new section 36A(2) provides that a limited liability partnership shall be treated as an ordinary partnership, and not as a separate legal entity, for the purposes of income tax.

The new section 36A(3) provides that section 10E shall apply to a business of the making of investments carried on by the partners in a limited liability partnership.

The new section 36A(4) provides that the aggregate amount of capital allowances in excess of the income from a trade, business or profession for which the allowances are granted and loss from a trade, business, profession or vocation carried on by a partner of a limited liability partnership (unutilised capital allowance or loss) in respect of all years of assessment (including the current year of assessment) that can be set off against his income from any other source in a year of assessment or that can be transferred to a claimant company under section 37C or to a spouse under section 37D

shall not exceed the amount of his capital contribution to the limited liability partnership as at the end of the basis period relating to the year of assessment, as determined by the Comptroller.

The new section 36A(5) provides that if the capital contribution of a partner of a limited liability partnership as at the end of the basis period relating to a year of assessment is reduced (as compared with his capital contribution as at the end of the basis period relating to the previous year of assessment), the excess of the aggregate amount of unutilised capital allowance and loss from a trade, business, profession or vocation carried on by him in the limited liability partnership that has been set off against his income from any other source over such reduced capital contribution shall be deemed to be income chargeable with tax under section 10(1)(g). An equal amount would be treated as a loss incurred by him in the trade, business, profession or vocation carried on by him in the limited liability partnership for the year of assessment and be available to be set off against income from that trade, business, profession or vocation in subsequent years of assessment.

The new section 36A(6) provides that subsections (4) and (5) shall not apply in or after the year of assessment relating to the basis period in which a partner ceases to be a partner of the limited liability partnership.

The new section 36A(7) deems the interest in any property of a limited liability partnership of a person —

- (a) who is admitted to or withdraws from the limited liability partnership as a partner thereof; and
- (b) where any existing partner of the limited partnership remains as a partner after such admission or withdrawal,

to be sold to him by, or by him to, its remaining partners (as the case may be), since, for the purposes of the Act, the property is regarded as owned by the person and not by the limited liability partnership.

The new section 36A(8) requires the precedent partner of a limited liability partnership to make a return of the capital contribution of every partner of the limited liability partnership for each year of assessment.

The new section 36A(9) empowers the Minister to make regulations to give effect to this section.

The new section 36A(10) defines certain terms used in the section.

Clause 26(a), (b) and (c) amends section 37(3) to provide for the delegation of the authority of the Minister to the Comptroller to approve an institution of a public character.

Clause 26(d) makes technical amendments to section 37 to clarify the order in which losses may be set off. The new section 37(4) provides that any loss shall be set off firstly against income from the same trade, business, profession or vocation (where the loss is brought forward from an earlier year of assessment), and secondly against income from any other trade, business, profession or vocation, and thirdly against income from any other source.

Clause 26(e) makes consequential amendments to section 37(5) and (8)(b) arising from the insertion of new section 37D by clause 27.

Clause 27 inserts a new section 37D to provide for the transfer of unabsorbed capital allowances, losses or donations (qualifying deductions), both current year and brought forward from previous years, between spouses who are living together.

The new section 37D(1) provides that the qualifying deductions may be transferred between spouses who are living together.

The new section 37D(2) provides the order of the transfer of each type of qualifying deductions.

The new section 37D(3) provides that for each type of qualifying deductions to be transferred in the order specified in section 37D(2), any capital allowance, loss or donation (as the case may be) arising to the transferor in an earlier year of assessment shall be transferred first before any allowance, loss or donation arising to the transferor in a later year of assessment.

The new section 37D(4) provides for the determination of the amount of qualifying deductions that can be transferred from the transferor to the claimant spouse.

The new section 37D(5) and (6) provide for the election to be made and the particulars to be furnished by the transferor and claimant spouse to the Comptroller before a qualifying deduction can be transferred or claimed.

The new section 37D(7) enables the Comptroller to make an assessment on an individual where any transfer or claim of qualifying deduction that has been made is or has become excessive.

The new section 37D(8) provides that only capital allowance, loss, donation which remains unabsorbed in the hands of the transferor may be transferred to the claimant spouse.

Clause 28(a) amends section 39(2)(a) to provide for relief of \$2,000 to an individual resident in Singapore who had a wife living with or maintained by him whose income was not more than \$2,000 in the year preceding the year of assessment.

Clause 28(b) amends section 39(2)(f) to remove the tax relief of up to \$3,000 for delivery and hospitalisation expenses incurred in respect of a legitimate fourth child born to an individual resident in Singapore.

Clause 28(c) and (h) inserts new provisos to section 39(2)(g) and (o) to clarify that the amount of deduction allowable to an NOR individual in respect of his contributions to the Central Provident Fund or SRS account shall not exceed the allowable contributions computed based on his apportioned employment income.

Clause 28(d), (e) and (f) amends section 39(2)(h) to reduce the limit of relief given to a self-employed individual in respect of his voluntary contributions to the Central Provident Fund.

Clause 28(g) and (p) makes consequential amendments to section 39(2)(m) and (11)(a) respectively arising from the amendment of section 51 by clause 43.

Clause 28(*i*) inserts a new paragraph (*p*) to section 39(2) to provide a married woman, widow or divorcee a new grandparent caregiver relief of up to \$3,000 against her earned income, subject to certain conditions.

Clause 28(*j*), (*k*) and (*l*) amends section 39(3) and (4) to provide for deduction to an individual who has paid money into his spouse's retirement account, and for raising the amount of deduction under section 39(3) to \$7,000, subject to conditions.

Clause 28(*m*), (*n*) and (*o*) makes consequential amendments to section 39(6) and (10) arising from the changes in the maximum amount of ordinary and additional wages in respect of which mandatory contributions to the Central Provident Fund are made.

Clause 28(*q*) and (*r*) defines certain terms used in section 39 arising from the insertion of provisos to section 39(2)(*g*) and (*o*) by clause 28(*c*) and (*h*).

Clause 29 makes a consequential amendment to section 40(5) arising from the insertion of new section 43(3A) by clause 32(*c*).

Clause 30 amends section 42(6) and (7) to provide for discount derived by a body of persons from certain qualifying debt securities to be taxed at the rate of 10%, subject to conditions.

Clause 31 repeals and re-enacts section 42A to grant tax rebate to an individual who has a legitimate second, third or fourth child of the family born to him on or after 1st January 2004, or a second, third or fourth child of the family adopted by him on or after 1st January 2004, subject to certain conditions. The clause also contains transitional provisions for an individual or married woman, as the case may be, with rebate or balance of unabsorbed rebate which he or she would have been entitled to claim under the repealed section 42A.

Clause 32 amends section 43 —

- (*a*) to reduce the tax rate of companies, trustees and non-resident persons from 22% to 20% (Clause 32(*a*));
- (*b*) to provide for tax at a rate of 10% on the gross amount of royalties (in respect of the use of or the right to use any intangible property) accruing to or derived by a non-resident person not from any trade, business, profession or vocation carried on or exercised by him in Singapore and not effectively connected with any permanent establishment in Singapore of the person (Clause 32(*c*)); and
- (*c*) to provide for an amount up to the first S\$100,000 of the normal chargeable income (excluding Singapore dividends) of any qualifying company to be exempt from tax for each of the company's first three consecutive years of assessment which fall within the years of assessment 2005 to 2009 (Clause 32(*e*)).

Clause 33(*a*) and (*b*) amends section 43D(1) to extend the concessionary rate of tax to cover specified income derived from qualifying transactions in futures or approved derivative products denominated in Singapore dollar.

Clause 33(c) makes a consequential amendment to section 43D(3) arising from the insertion of new sections 43R and 43S by clause 35.

Clause 34(a) inserts a new paragraph (aa) to section 43N(1) to provide for discount derived by a company from certain qualifying debt securities to be taxed at the concessionary rate of tax of 10%.

Clause 34(b) amends section 43N(2) to provide the circumstances under which the concessionary rate of tax in section 43N(1)(aa) shall not be applicable.

Clause 35 inserts new sections 43R and 43S.

The new section 43R provides that a concessionary rate of tax of 5% shall be levied in respect of specified income derived on or after 27th February 2004 by an approved company from the provision of prescribed processing services in Singapore to any financial institution or another approved company, subject to conditions.

The new section 43S provides that a concessionary rate of tax of 5% shall be levied in respect of specified income derived on or after 27th February 2004 by an approved commodity derivatives trading company from prescribed transactions in commodity derivatives or commodities.

Clauses 36, 37, 38(c), 40 and 41 make consequential amendments to sections 44(20)(g), 44A(4), 45(1A), 45B(2) and 46(2), respectively, arising from the reduction in the company tax rate to 20%.

Clauses 38(a) and 42 make consequential amendments to section 45(1) and (2) and 48(5) arising from the insertion of section 43(3A) by clause 32(c).

Clause 38(b) amends section 45 to provide for the reduction in the rate of tax to 20% to be deducted from the gross amount of interest made to any non-resident person.

Clause 39 amends section 45A to provide for waiver of withholding tax on discount on certain qualifying debt securities liable to be paid to non-resident persons, subject to conditions.

Clause 43 amends section 51 to charge the income of a married woman in her own name instead of that of her husband.

Clause 44 repeals and re-enacts section 59 to impose a duty on the liquidator of a limited liability partnership or a company which is being wound up to comply with the provisions of the Act in relation to the affairs of the limited liability partnership or the company.

Clause 45 makes a consequential amendment to section 62 arising from the amendment of section 51 by clause 43.

Clause 46 inserts new sections 62A and 62B.

The new section 62A provides that subject to new section 62B, the basic rule is that tax computations and particulars of income required to be furnished with a return of income made under section 62 or 71 shall be denominated in Singapore dollar.

The new section 62B(1) provides that where a person maintains his financial accounts in respect of any trade, business, profession or vocation carried on by him in a

non-Singapore dollar functional currency in accordance with financial reporting standards in Singapore, such person shall furnish tax computations and particulars of income with a return of income made under section 62 or 71 denominated in that functional currency in accordance with the provisions of the section.

The new section 62B(2), (3) and (4) set out the items in respect of which the amounts in a non-Singapore functional currency have to be converted to an equivalent amount in Singapore dollar in the tax computations of a person to whom the section applies.

The new section 62B(5) provides that notwithstanding the section, any information required in any return of income shall be declared in Singapore dollar.

The new section 62B(6) and (7) specify the applicable rate of exchange to be used when converting any amount in Singapore dollar to an equivalent amount in a non-Singapore dollar functional currency or any amount in a non-Singapore dollar functional currency to an equivalent amount in Singapore dollar.

The new section 62B(8) provides for the rate of exchange to be prescribed in circumstances where a person has furnished a tax computation and particulars of income with a return of income in Singapore dollar, and is required or has obtained the approval of the Comptroller to furnish such information in a non-Singapore dollar functional currency.

The new section 62B(9) and (10) specify the accounting periods to which the section applies.

The new section 62B(11) empowers the Minister to make regulations for the purposes of the section.

Clause 47 amends section 68(2B) to require an employer to submit an annual return of any gain or profit derived by any individual (excluding a director to whom new section 68(2C) applies) from any right or benefit granted to him to acquire shares in any company incorporated in Singapore. The clause also inserts a new subsection (2C) to section 68 to require a company to submit within 30 days, a return of any gain or profit derived by its non-resident director from any right or benefit granted to him to acquire shares in any company incorporated in Singapore.

Clause 48 repeals section 71A which is no longer required consequent upon the enactment of new section 8A introduced by clause 4.

Clause 49 amends section 73 to enable the Comptroller to make an assessment on an individual to whom section 10(7B) or (7C) applies within the year in which the income accrues or is deemed to accrue to him, as the case may be, and to make an assessment in respect of income which accrues to a non-resident director under section 10(6) within the year in which such income accrues to the director.

Clause 50 makes a consequential amendment to section 76(1) arising from the amendment of section 8 by clause 3.

Clause 51(a) deletes and substitutes subsections (5) and (6) of section 78 to empower the Minister to appoint a Chairman and one or more Deputy Chairmen from amongst the Board of Review members. The clause also inserts a new subsection (6A)

to section 78 to enable a Deputy Chairman to preside at the Board meetings in the absence of the Chairman. In addition, it enables a Board member to preside at the meetings in the absence of the Chairman or any Deputy Chairman.

Clause 51(b) amends section 78(8) to provide that a committee of the Board (which exercises, discharges and performs the powers, functions and duties of the Board) shall include at least the Chairman or a Deputy Chairman of the Board.

Clause 51(c) amends section 78(10) to empower the Chairman to nominate the members of a committee of the Board.

Clause 51(d) inserts subsections (10A) and (10B) to section 78 to specify the person who is to preside at every meeting of a committee of the Board.

Clause 51(e) amends section 78(11) to provide that the person who is presiding at a meeting of the Board or committee of the Board shall have a second or casting vote where there is an equality of votes in a particular matter before it.

Clause 52(a) amends section 79(2) to provide that a notice of appeal to the Board should include the reasons of the appellant for objecting to any members of the Board.

Clause 52(b) amends section 79(2A) and (3A) to provide that both the appellant and the Comptroller shall not be entitled to object to any Deputy Chairman of the Board.

Clause 52(c) amends section 79(3) to provide that the Comptroller is also required to provide reasons for objecting to any member of the Board.

Clause 52(d) inserts new subsections (4) to (4D) and (5) to section 79. The new subsections (4) to (4D) enable the Chairman or a Deputy Chairman of the Board authorised by the Chairman to determine whether the reasons for objecting to any member of the Board are valid, and if the reasons are valid, the member of the Board objected to shall not attend the hearing of the appeal. The new subsection (5) enables the Chairman, in certain circumstances, to permit any person to proceed with his appeal notwithstanding his notice of appeal or petition of appeal was not lodged within time limit specified in section 79.

Clause 53 makes a consequential amendment to section 93 arising from the amendment of section 51 by clause 43.

Clause 54(a) amends section 107 to empower the Minister to make regulations to provide for the manner and criteria to be adopted by Central Fund Administrators for the approval, extension or revocation of the approval granted to an institution of a public character and to impose conditions to be satisfied by that institution when it makes any change to its constitution or governing instrument.

Clause 54(b) and (c) makes consequential amendments to section 107(3) arising from the amendment of section 37 by clause 26.

Clause 55 amends the Fifth Schedule —

- (a) to remove the enhanced child relief with effect from the year of assessment 2005;

- (b) to provide for a new working mother child relief to any married woman, divorcee or widow in respect of her children who are Singapore citizens, subject to certain conditions; and
- (c) to make consequential amendments arising from the amendment of section 51 by clause 43.

Clause 56 makes consequential amendments to sections 13B(1), (2) and (8)(a), 13E(12)(b) and 37B(7) arising from the insertion of new sections 43R and 43S by clause 35.

EXPENDITURE OF PUBLIC MONEY

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