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Property Tax (Amendment) Bill

Bill No. 35/2017.

Read the first time on 11 September 2017.

A BILL

i n t i t u l e d

An Act to amend the Property Tax Act (Chapter 254 of the 2005 Revised Edition).

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

Short title

1. This Act is the Property Tax (Amendment) Act 2017.

Amendment of section 33

2. Section 33(1) of the Property Tax Act (called in this Act the principal Act) is amended by deleting the word “proposal” in paragraph (b) and substituting the word “decision”.

New section 33A

3. The principal Act is amended by inserting, immediately after section 33, the following section:

“Hearing of appeal in absence of member of Board

33A.—(1) Despite anything to the contrary in this Part, if, in the course of any appeal, or, in the case of a reserved judgment in any appeal, at any time before delivery of the judgment, any member of the Board hearing the appeal resigns or is unable, through illness or any other cause, to continue to hear or to determine the appeal, the remaining members of the Board (if 2 or more) must hear and determine the appeal unless the parties object.

(2) In subsection (1), the Board is deemed to be duly constituted for the purposes of the appeal despite the resignation or inability to act of a member.

(3) Despite section 28, in a case under subsection (1) —

- (a) where there are more than 2 members of the Board remaining, the appeal is to be decided in accordance with the decision of the majority of the remaining members and, if there is an equality of votes, the Chairman of the Board or, in the Chairman’s absence, the member presiding has a second or casting vote; or
- (b) where there are only 2 members of the Board remaining, the appeal is to be decided in accordance with the unanimous decision of both members.

(4) The appeal must be reheard —

(a) if the parties do not consent to the proceedings continuing before the remaining members of the Board under subsection (1); or

(b) if the appeal is heard or determined by only 2 remaining members of the Board and they are unable to reach a unanimous decision.”. 5

Amendment of section 56

4. Section 56 of the principal Act is amended —

(a) by deleting the words “, obstructs or molests” and substituting the words “or obstructs”; and 10

(b) by deleting the words “\$2,000 or to imprisonment for a term not exceeding 3 months” and substituting the words “\$10,000 or to imprisonment for a term not exceeding 12 months”. 15

Amendment of section 64

5. Section 64 of the principal Act is amended —

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

“(1) For the purposes of carrying out in good faith the functions and duties of the SBNB under this Act — 20

(a) a member of the SBNB; or

(b) an officer of a statutory authority authorised by the SBNB under section 49(9), 25

may at all reasonable hours in the daytime enter any building or land.”; and

- (b) by deleting the words “The Comptroller or the Chief Assessor or any such authorised officer, or such member of the SBNB or such officer of a statutory authority authorised by the SBNB,” in subsection (2) and substituting the words “The member of the SBNB or the officer of a statutory authority authorised by the SBNB”.

New section 64A

6. The principal Act is amended by inserting, immediately after section 64, the following section:

“Power of Comptroller, etc., to obtain information and furnishing of information

64A.—(1) The Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf —

(a) is entitled at all times to full and free access to all properties, documents, computers, computer programs and computer software (whether installed in a computer or otherwise) for any of the purposes of this Act;

(b) is entitled to access to any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained in or available to such computers into readable and comprehensive format or text for any of the purposes of this Act;

(c) is entitled —

(i) without fee or reward, to inspect, copy or take extracts from any such document, computer, computer program, computer software or computer output; and

(ii) at any reasonable time to inspect and check the operation of any computer, device, apparatus or material which is or has been in use in connection with anything to which this section applies;

- (d) may take possession of any such document, computer, device, apparatus, material, computer program or computer software where in his opinion —
- (i) the inspection, checking or copying of such item or extraction from such item cannot reasonably be performed without taking possession; 5
 - (ii) any such item may be interfered with or destroyed unless possession is taken; or
 - (iii) any such item may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or penalty, or in proceedings by way of an appeal against an assessment; 10
- (e) is entitled to require —
- (i) the person by whom or on whose behalf the computer is or has been used, or any person having charge of, or otherwise concerned with the operation of the computer, device, apparatus or material, to provide the Comptroller, the Chief Assessor or the officer with such reasonable assistance as he may require for the purposes of this section; and 15
 - (ii) any person in possession of decryption information to grant the Comptroller, the Chief Assessor or the officer access to such decryption information that is necessary to decrypt data required for the purposes of this section; and 20
- (f) is entitled to require a person in or at the property, and who appears to the Comptroller, the Chief Assessor or the officer to be acquainted with any facts or circumstances concerning the person's or another person's property — 30
- (i) to answer any question to the best of that person's knowledge, information and belief; or

- (ii) to take reasonable steps to produce a document for inspection.

(2) The Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf, may by notice require any person to give orally, in writing, or through the electronic service, as may be required, all such information concerning the person's or any other person's property as may be demanded of the person by the Comptroller, the Chief Assessor or the officer, as the case may be, for the purposes of this Act.

(3) For the purposes of this Act, the Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf, may by notice require any person to attend personally before the Comptroller, the Chief Assessor or an officer authorised by the Comptroller or the Chief Assessor in that behalf, at a place and time specified in the notice to do one or both of the following:

- (a) provide, to the best of that person's knowledge, information and belief, any information concerning the person's or any other person's property;
- (b) take reasonable steps to produce for inspection a document concerning the property.

(4) To avoid doubt, section 65(1) does not apply to a notice under subsection (2) or (3).

(5) The power to require a person to provide information or produce a document under subsection (1)(f) or (2), or when in attendance before the Comptroller, the Chief Assessor, or an authorised officer pursuant to a notice under subsection (3), includes the power —

- (a) to require that person, or any person who is or was an officer or employee of that person, to provide an explanation of the information or document;
- (b) if the information is not provided or the document is not produced, to require that person to state, to the best of the person's knowledge and belief, where it is;

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Comptroller, the Chief Assessor or the authorised officer (as the case may be) in legible form; and

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(d) in the case of a document, to inspect, copy or take extracts from the document without fee or reward, and to take possession of the document if in the opinion of the Comptroller, the Chief Assessor or the authorised officer —

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(i) the inspection, copying or extraction cannot reasonably be performed without taking possession of the document;

(ii) the document may be interfered with or destroyed unless possession of the document is taken; or

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(iii) the document may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or penalty, or in proceedings by way of an appeal against an assessment.

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(6) A statement made by any person asked under subsection (1)(f), or in compliance with a demand for information, must —

(a) be reduced to writing;

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(b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) be signed by the person.

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(7) Any person who, without reasonable excuse, fails, neglects or refuses to comply with any notice or requirement of the Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf under this section, or with a demand for

information, shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

(8) Any person who, in purported compliance with a notice or requirement of the Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf under this section, or with a demand for information, produces any document which contains any information, or provides any information, known to the person to be false or misleading in a material particular —

(a) without indicating to the Comptroller, the Chief Assessor or the officer that the information is false or misleading and the part that is false or misleading; and

(b) without providing correct information to the Comptroller, the Chief Assessor or the officer if the person is in possession of, or can reasonably acquire, the correct information,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(9) A person is not obliged under this section to disclose (including through the production of a document) any information which the person is under any statutory obligation to observe secrecy.

(10) The generality of the term “reasonable excuse” in subsection (7) is not affected by subsection (9).

(11) In this section —

“computer” and “computer output” have the same meanings as in section 2(1) of the Computer Misuse and Cybersecurity Act (Cap. 50A);

“demand for information” means a demand by the Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf to answer a question when in attendance before the Comptroller, the Chief Assessor or the officer pursuant to a notice under subsection (3); 5

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph; 10
- (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means;
- (d) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; 15
- (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and 20
- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them; 25

“writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.”. 30

Amendment of section 65

7. Section 65 of the principal Act is amended by deleting subsection (3) and substituting the following subsection:

“(3) Where any notice, order or document is served on any person through the electronic service in accordance with section 66(7), the notice, order or document is deemed to be sufficiently authenticated if it is served on the person by the transmission of an electronic record of it to the person’s account with the electronic service.”.

Amendment of section 66

8. Section 66 of the principal Act is amended —

(a) by inserting, immediately after the words “the Comptroller” in subsection (1)(b), the words “or the Chief Assessor”;

(b) by deleting subsection (7) and substituting the following subsection:

“(7) Where regulations made under subsection (13) permit the Comptroller or the Chief Assessor to serve through the electronic service any notice, order or document on a person who has been assigned an account with the electronic service, the Comptroller or the Chief Assessor may serve it on the person by transmitting an electronic record of it to that account.”;

(c) by inserting, immediately after the words “electronic service” in subsection (8)(a), the words “in accordance with regulations made under subsections (13) and (14), and with section 67”;

(d) by inserting, immediately after the words “this section” in subsection (13), the words “and section 67(1)(d)”;

(e) by inserting, immediately after paragraph (b) of subsection (13), the following paragraph:

“(ba) the circumstances in which the Comptroller or the Chief Assessor may serve any notice, order or document through the electronic service on a person assigned an account with the electronic service”;

(f) by deleting paragraph (c) of subsection (13) and substituting the following paragraph:

“(c) the manner in which a person who has been served through the electronic service with any notice, order or other document is to be notified of the transmission of an electronic record of it to the person’s account with the electronic service;” and

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

“(14) Regulations made for the purpose of subsection (13)(ba) —

(a) may permit the service of any notice, order or document through the electronic service in circumstances where —

(i) the person consents to such service; or

(ii) the Comptroller or the Chief Assessor (as the case may be) gives the person notice of the Comptroller’s or the Chief Assessor’s intention of such service and the person does not refuse such service;

(b) may provide for the giving of any notice of the Comptroller’s or the Chief Assessor’s intention, or the person’s consent or refusal, mentioned in paragraph (a), including —

(i) the matters that must be contained in the notice; and

(ii) the time within which, and the form and manner in which, the consent or refusal must be received by the Comptroller or the Chief Assessor;

(c) may provide when the consent or refusal of the person takes effect and when the Comptroller or the Chief Assessor must give effect to such consent or refusal; and

(d) may provide for any other matter necessary or incidental to the purposes in subsection (13)(ba) and paragraphs (a), (b) and (c).”.

Amendment of section 67

9. Section 67 of the principal Act is amended —

(a) by deleting the words “where the person has given his consent for it to be served on him through the electronic service” in subsection (1)(d) and substituting the words “through the electronic service in accordance with regulations made under section 66(13) and (14)”;

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

“(2) Where any notice, order or document is served on any person through the electronic service under subsection (1)(d), the notice, order or document is taken to have been served at the time when an electronic record of it enters the person’s account with the electronic service.”;

(c) by deleting the words “or 21(10)” in subsection (3)(a) and substituting the words “, 21(10) or 64A(7)”;

(d) by inserting, immediately after the word “notices” in the section heading, the word “, etc.”.

Saving and transitional provisions

10.—(1) Section 33A of the principal Act inserted by section 3 of this Act applies also to an appeal the hearing of which has begun before the date of commencement of this Act.

(2) For a period of 2 years after the date of commencement of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of this Act as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Property Tax Act (Cap. 254).

Clause 1 relates to the short title.

Clause 2 makes a technical amendment to section 33 (Powers of Board).

Clause 3 inserts a new section 33A (Hearing of appeal in absence of member of Board) to deal with a case where a member of the Valuation Review Board resigns or is unable for any reason to continue hearing an appeal. The new section provides that the remaining members (not being less than 2) must hear and determine the appeal, if the parties do not object to this. The appeal is decided in accordance with the opinion of the majority of the remaining members and, if there is an equality of votes, the Chairman or presiding member has a casting vote (except when there are only 2 remaining members). If the parties do not consent to the remaining members continuing with the hearing, or if there are only 2 remaining members and the 2 remaining members are unable to reach a unanimous decision, the appeal must be reheard.

Clause 4 amends section 56 (Penalty for obstructing Comptroller, etc., in carrying out his duties) to increase the maximum punishment from a fine of \$2,000 or imprisonment for a term not exceeding 3 months or both, to a fine of \$10,000 or imprisonment for a term not exceeding 12 months or both for hindering or obstructing the Comptroller of Property Tax (the Comptroller), the Chief Assessor, a member of the Street and Building Names Board or any other person employed in the administration of the Act in the performance of his or her duty under the Act. This is aligned to the maximum punishment under section 66 of the Goods and Services Tax Act (Cap. 117A).

Clause 5 amends section 64 (Power to enter upon lands for purposes of this Act) to remove references to the Comptroller, the Chief Assessor or any officer authorised by either of them. Their powers are now stipulated in the new section 64A.

Clause 6 inserts a new section 64A (Power of Comptroller, etc., to obtain information and furnishing of information) —

- (a) to enable the Comptroller, the Chief Assessor or an officer authorised by either of them in that behalf (an authorised officer) to have full and free access to any property, document, computer, computer program or computer software (including any code to unscramble encrypted data in the computer), and to take extracts from or possession of any such document, computer, computer program or computer software;
- (b) to enable the Comptroller, the Chief Assessor or an authorised officer to require reasonable assistance, and access to decrypt data, and to require a person to answer questions or to produce documents for inspection;
- (c) to enable the Comptroller, the Chief Assessor or an authorised officer to give notice to a person to provide information concerning the person's or another person's property for the purposes of the Act;
- (d) to enable the Comptroller, the Chief Assessor or an authorised officer to give notice to a person to attend before the Comptroller, the Chief Assessor or an authorised officer to answer questions or produce documents for inspection;
- (e) to criminalise the failure to comply with a notice or requirement of the Comptroller, the Chief Assessor or an authorised officer given in exercise of his or her powers under the new section 64A, or to provide information in response to a demand by the Comptroller, the Chief Assessor or an authorised officer when in attendance pursuant to a notice under the new subsection (3) (called a demand for information); and
- (f) to criminalise the giving of false information in response to a notice or requirement or demand for information.

These amendments are broadly similar to sections 65B and 65C of the Income Tax Act (Cap. 134) and section 84 of the Goods and Services Tax Act.

Clause 7 amends section 65 (Receipts, notices, etc., may be given by authorised officer) to remove the requirement for a person's consent to be served with a notice, order or document through the electronic service before such service is deemed to be sufficiently authenticated.

Clause 8 amends section 66 (Electronic service) to make provision for the service by the Comptroller or the Chief Assessor on a person of any notice, order or document through the electronic service. In particular, the amendments to section 66 permit regulations to be made to provide for an "opt-out" scheme for such service under which a person who is notified by the Comptroller or the Chief Assessor that any document will be served on the person through the electronic service will be so served unless the person notifies the Comptroller or the Chief Assessor that the person does not wish to be so served.

Clause 9 makes consequential amendments to section 67 (Service of notices) as a result of the amendments to section 66.

Clause 10 provides that the new section 33A (inserted by clause 3) also applies to appeals that have commenced before the commencement of that section. It also confers on the Minister a power to make regulations of a saving or transitional nature in the 2 years after the date of commencement of the Bill.

EXPENDITURE OF PUBLIC MONEY

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