



REPUBLIC OF SINGAPORE

# GOVERNMENT GAZETTE

## BILLS SUPPLEMENT

*Published by Authority*

---

---

**NO. 36]**

**MONDAY, SEPTEMBER 11**

**[2017**

---

---

First published in the *Government Gazette*, Electronic Edition, on 11 September 2017 at 5 pm.

**Notification No. B 36** — The Income Tax (Amendment) Bill is published for general information. It was introduced in Parliament on 11 September 2017.

# **Income Tax (Amendment) Bill**

---

**Bill No. 36/2017.**

*Read the first time on 11 September 2017.*

A BILL

*i n t i t u l e d*

An Act to amend the Income Tax Act (Chapter 134 of the 2014 Revised Edition) and to make a consequential amendment to the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86 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 and commencement

1.—(1) This Act is the Income Tax (Amendment) Act 2017.

(2) Section 7 is deemed to have come into operation on 22 February 2010.

5 (3) Section 27(*a*) is deemed to have come into operation on 21 May 2010.

(4) Section 32(*d*) is deemed to have come into operation on 2 June 2011.

10 (5) Section 6(*e*) is deemed to have come into operation on 1 April 2014.

(6) Section 35 is deemed to have come into operation on 1 April 2015.

(7) Section 26(*c*) and (*e*) is deemed to have come into operation on 1 April 2016.

15 (8) Section 24 is deemed to have come into operation on 1 January 2017.

(9) Section 22 is deemed to have come into operation on 21 February 2017.

20 (10) Sections 6(*a*), (*b*), (*d*) and (*f*), 29, 30 and 31 are deemed to have come into operation on 1 April 2017.

(11) Sections 17(*b*), (*d*) and (*g*) to (*r*), 23, 26(*a*), (*b*) and (*d*), 28 and 44(*b*) are deemed to have come into operation on 1 June 2017.

## Amendment of section 8

25 2. Section 8 of the Income Tax Act (called in this Act the principal Act) is amended —

(*a*) by deleting the words “a notice may be served” in subsection (1) and substituting the words “the Comptroller may serve a notice, direction or other document”;

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

“(c) through the electronic service if the notice, direction or other document is permitted to be served in this way by regulations made under section 8A(13)(ba) and (13A).”;

5

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

“(3A) Where a notice, direction or other document is served on any person through the electronic service under subsection (1)(c), the notice, direction or other 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.”;

10

- (d) by deleting subsection (6) and substituting the following subsection:

15

“(6) Where a notice in subsection (4) or (5) may be served on a person through the electronic service under subsection (1)(c), the notice need not be signed if it is served on the person by transmitting an electronic record of the notice to the person’s account with the electronic service.”; and

20

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

## **Amendment of section 8A**

25

### **3. Section 8A of the principal Act is amended —**

- (a) by inserting, immediately after the word “notice” in subsection (1)(b), the words “, direction or other document”;

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

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

- (c) by deleting the words “, or any notice that was served, through the electronic service” in subsections (8)(a) and (9)(a) and substituting in each case the words “through the electronic service, or any notice, direction or other document that was served through the electronic service in accordance with regulations made under subsections (13)(ba) and (13A)”;

- (d) by inserting, immediately after the words “this section” in subsection (13), the words “and section 8(1)(c)”;

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

“(ba) the circumstances in which the Comptroller may serve any notice, direction or other 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, direction 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:

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

- (a) may provide for service of any notice, direction or other document through the electronic service in circumstances where —
  - (i) the person consents to such service; or
  - (ii) the Comptroller gives the person notice of the Comptroller’s intention of such service and the person does not refuse such service;
- (b) may make provision with respect to the giving of any notice of the Comptroller’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;
- (c) may provide when the consent or refusal of the person takes effect and when the Comptroller 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 10C**

4. Section 10C of the principal Act is amended by deleting subsection (5B) and substituting the following subsection:

“(5B) The maximum amount is —

(a) \$1,500 per year (for contributions made before 2018);  
or

(b) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

less any previous contribution that is made to the medisave account in that year by the employer in the employer’s capacity as a person of a prescribed description in section 13(1)(jd) (if applicable), and that is exempt from tax under that provision.”.

### **Amendment of section 10F**

5. Section 10F of the principal Act is amended —

(a) by inserting, immediately after the words “FRS 11 construction or upgrade services” in subsection (1B), the words “, or FRS 115 construction or upgrade services,”;

(b) by inserting, immediately after the words “FRS 11 construction or upgrade services” in subsections (1C)(a) and (1D)(a), the words “or FRS 115 construction or upgrade services (as the case may be)”; and

(c) by deleting the definitions of “FRS 11”, “FRS 17”, “INT FRS 104” and “INT FRS 112” in subsection (2) and substituting the following definitions:

“ “FRS 115 construction or upgrade services” means any construction or upgrade services (as the case may be) to which FRS 115 applies;

“FRS 11”, “FRS 17”, “FRS 115”, “INT FRS 104” and “INT FRS 112” mean the financial reporting standards issued by the Accounting Standards Council under the Accounting Standards Act (Cap. 2B) and known, respectively, as —

- (a) Financial Reporting Standard 11  
(Construction Contracts);
- (b) Financial Reporting Standard 17  
(Leases);
- (c) Financial Reporting Standard 115 5  
(Revenue from Contracts with  
Customers);
- (d) Interpretation of Financial Reporting  
Standard 104 (Determining whether  
an arrangement contains a lease); and 10
- (e) Interpretation of Financial Reporting  
Standard 112 (Service Concession  
Arrangements).”.

### **Amendment of section 13**

- 6. Section 13 of the principal Act is amended —** 15
- (a) by deleting the words “1st November 2006 to 31st March  
2017” in subsections (1)(b)(i), (2C)(a) and (2D)(a) and  
substituting in each case the words “1 November 2006 to  
31 December 2022”;
  - (b) by deleting the words “15th February 2007 to 31st March 20  
2017” in subsections (1)(b)(ii), (2C)(b) and (2D)(b) and  
substituting in each case the words “15 February 2007 to  
31 December 2022”;
  - (c) by deleting paragraph (jd) of subsection (1) and substituting  
the following paragraph: 25
    - “(jd) any voluntary contribution in cash made in  
2013 or any subsequent year by a person of  
a description prescribed by the Minister, to  
the medisave account maintained under the  
Central Provident Fund Act of a 30  
self-employed individual, up to —
    - (i) \$1,500 per year (for contributions  
made before 2018); or



- (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

less any previous contribution that is made to the same medisave account in the same year by the person of the prescribed description in the person's capacity as an employer (if applicable), and that is not treated as income under section 10C(5A);";

- (d) by deleting the words "1st January 2007 to 31st March 2017 (both dates inclusive) and, if such contract is renewed or extended, the period for which it is renewed or extended commences before 1st April 2017" in subsection (1)(zj)(ii)(B) and (zj)(iii)(B) and substituting in each case the words "1 January 2007 to 31 March 2021 (both dates inclusive) and, if such contract is renewed or extended, the period for which the contract is renewed or extended commences before 1 April 2021";

- (e) by deleting the words "National Service Recognition Award" in subsection (1)(zr) and substituting the words "National Service Housing, Medical and Education Awards"; and

- (f) by deleting the words "31st March 2017" in paragraph (a)(ii) and (iii) of the definition of "qualifying project debt securities" in subsection (16) and substituting in each case the words "31st December 2022".

## **Amendment of section 13A**

### **7. Section 13A(16) of the principal Act is amended —**

- (a) by deleting paragraph (d) of the definition of "ship management services" and substituting the following paragraph:

"(d) awarding contracts, entering into alliances, or deciding on pooling, in respect of it;"

- (b) by deleting paragraphs (f), (g) and (h) of the definition of “ship management services” and substituting the following paragraphs:

“(f) planning its route and tonnage, including the issuance of voyage instructions; 5

(g) appointing a ship manager, ship agent or stevedore for it;

(h) collecting or arranging for the collection of freight, charter hire, or other payment in exchange for its use;” 10

- (c) by deleting paragraphs (j), (k) and (l) of the definition of “ship management services” and substituting the following paragraphs:

“(j) undertaking crew-related matters for it, including the provision of qualified crew, the appointment of a crew manager, the provision of crew training or the arrangement of crew insurance; 15

(k) arranging or supervising dry-docking, repair, overhaul, alteration, maintenance or lay-up of it; 20

(l) ensuring that it is adequately equipped with supplies, provisions, spares, stores and lubricating oil;” and

- (d) by deleting paragraph (n) of the definition of “ship management services” and substituting the following paragraph: 25

“(n) liaising with the relevant competent authorities or bodies on safety and manning requirements for it and any other similar matters;”. 30

### **Amendment of section 13W**

8. Section 13W of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

“(5) Subsection (1) ceases to apply with effect from the year of assessment 2024.”.

### **Amendment of section 13Z**

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

(a) by deleting the words “or SFRS for Small Entities” in subsections (6)(d) and (7)(b) and substituting in each case the words “, SFRS for Small Entities or FRS 109”; and

(b) by deleting the full-stop at the end of the definitions of “FRS 39” and “SFRS for Small Entities” in subsection (9) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““FRS 109” has the meaning given to that expression in section 34AA(15).”.

### **Amendment of section 14**

10. Section 14(1) of the principal Act is amended by deleting paragraphs (fb) and (fc) and substituting the following paragraphs:

“(fb) any sum contributed by an employer in 2013 or any subsequent year to the medisave account maintained under the Central Provident Fund Act in respect of any of the employer’s employees engaged in activities relating to the production of the income of the employer, up to a maximum deduction for each employee’s medisave account, of —

(i) \$1,500 per year (for contributions made before 2018); or

- (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

less any previous contribution that is made to the same medisave account in the same year by the employer in the employer's capacity as a person of a prescribed description under paragraph (fc) (if applicable), and that is deductible under that provision:

Provided that no deduction is allowed in respect of any sum contributed by an employer to the medisave account maintained under the Central Provident Fund Act in respect of an employee who holds a professional visit pass or a work pass or who would be required to obtain such a pass if the employee were to work in Singapore;

- (fc) any voluntary contribution in cash made in 2013 or any subsequent year by a person of a description prescribed by the Minister for the purposes of this paragraph, to the medisave account of a self-employed individual maintained under the Central Provident Fund Act, up to a maximum deduction for each individual's medisave account, of —

- (i) \$1,500 per year (for contributions made before 2018); or

- (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

less any previous contribution that is made to the same medisave account in the same year by the person of the prescribed description in the person's capacity as an employer under paragraph (fb) (if applicable), and that is deductible under that provision;”.

## **Amendment of section 14D**

### **11. Section 14D of the principal Act is amended —**

(a) by deleting the words “the year of assessment 2012 or a subsequent year of assessment” in subsection (1)(e) and substituting the words “a year of assessment between the years of assessment 2012 and 2017 (both years inclusive)”;

(b) by deleting the words “(excluding any payment made by him for the right to become a party to the cost-sharing agreement)” in subsection (1)(e) and (f);

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

(d) by deleting “2025” in subsection (1)(f) and substituting “2017”;

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

“(g) payments made by that person under any cost-sharing agreement during the basis period for the year of assessment 2018 or a subsequent year of assessment in respect of any research and development, regardless of who undertakes the research and development so long as it is undertaken wholly or partly for the person or on the person’s behalf.”;

(f) by inserting, immediately after the words “subsection (1)(e)” in subsection (3A), the words “or (g)”;

(g) by deleting the words “or (f)” in subsection (4A) and substituting the words “, (f) or (g)”;

and

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

“(6) In this section —

- (a) a reference to a payment made by a person under a cost-sharing agreement is a reference to the expenditure that is allocated to the person for the person to bear under the cost-sharing agreement, and the time the payment for any part of the expenditure becomes payable by the person or (if no such payment is needed) the time of the allocation, is treated as the time the payment is made; and 5
- (b) a reference to a payment made by a person under a cost-sharing agreement excludes any payment for the right to be a party to the cost-sharing agreement. 10

(7) Subsection (6) is deemed to have effect for the year of assessment 2012 and every subsequent year of assessment.”. 15

## **Amendment of section 14DA**

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

(a) by deleting paragraph (b) of the definition of V in subsection (1) and substituting the following paragraph:

“(b) the amount in one of the following sub-paragraphs, whichever is applicable: 25

- (i) in the case of a year of assessment between the years of assessment 2012 and 2017 (both years inclusive), the amount in subsection (2A) of payments made during the basis period by the person under a cost-sharing agreement — 30

(A) for any local research and development; or

(B) for such part of any mixed research and development that is undertaken in Singapore,

regardless of who undertakes the research and development so long as it is undertaken wholly or partly for the person or on the person's behalf;

(ii) in the case of a year of assessment between the years of assessment 2018 and 2025 (both years inclusive), if the person makes any payment during the basis period under a cost-sharing agreement, the sum of certain expenditure and payments (up to the amount in subsection (2AA)) that a party to the agreement (whether or not that person) has agreed to bear, and for which a deduction has not previously been allowed to the firstmentioned person under this sub-paragraph, namely —

(A) qualifying expenditure incurred by that person in undertaking a local research and development, or such part of a mixed research and development that is undertaken in Singapore; and

(B) the amount mentioned in subsection (2AB) of payments made by that person to a research and development organisation for undertaking a local research and

development, or a part of a mixed research and development in Singapore, on that person's behalf.”;

- (b) by inserting, immediately before the words “the amount referred to in subsection (2A)” in paragraph (b) of the definition of X in subsection (2)(b), the words “subject to subsection (2AD),”;
- (c) by deleting the words “(excluding any payment made by him for the right to become a party to the cost-sharing agreement)” in paragraph (b) of the definition of X in subsection (2)(b);
- (d) by deleting the words “the definitions of V and X in subsections (1) and (2)” in subsection (2A) and substituting the words “paragraphs (a) and (b)(i) of the definition of V in subsection (1), and paragraphs (a) and (b) of the definition of X in subsection (2)”;
- (e) by inserting, immediately after subsection (2A), the following subsections:
  - “(2AA) The amount mentioned in paragraph (b)(ii) of the definition of V in subsection (1) is the amount of the payments made during the basis period by the person under the cost-sharing agreement.
  - (2AB) In paragraph (b)(ii)(B) of the definition of V in subsection (1), the amount is the higher of the following:
    - (a) the part of those payments made to the research and development organisation that are qualifying expenditure;
    - (b) 60% (or such other percentage as may be prescribed by rules made under section 7) of the sum of all of the payments made to the research and development organisation.



(2AC) For the purposes of paragraph (b)(ii) of the definition of V in subsection (1) (read with subsections (2AA) and (2AB)), where there is more than one cost-sharing agreement or research and development organisation —

(a) first, calculate each amount in those provisions relating to a cost-sharing agreement or research and development organisation for every agreement or organisation; and

(b) then, add up all amounts calculated under paragraph (a).

(2AD) The amount mentioned in paragraph (b) of the definition of X in subsection (2)(b) is, in the case of the year of assessment 2018, subject to a maximum amount computed in accordance with the formula  $A - B$ , where —

(a) A is the amount of the payments made during the basis period by the person under the cost-sharing agreement; and

(b) B is the amount computed under paragraph (b)(ii) of the definition of V in subsection (1) in relation to the same cost-sharing agreement that qualifies for the deduction under subsection (1).”; and

(f) by inserting, immediately after subsection (12), the following subsections:

“(13) In this section —

(a) a reference to a payment made by a person under a cost-sharing agreement is a reference to the expenditure that is allocated to the person for the person to bear under the cost-sharing agreement, and the time the payment for any part of the expenditure becomes payable or (if no such

payment is needed) the time of the allocation, is treated as the time the payment is made; and

- (b) a reference to a payment made by a person under a cost-sharing agreement excludes any payment for the right to be a party to the cost-sharing agreement.

5

(14) Subsection (13) is deemed to have effect for every year of assessment to which each provision of this section containing the reference mentioned in subsection (13) applies.”.

10

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

**13.** Section 14I of the principal Act is amended —

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

15

“(4A) Where —

- (a) loans or securities are transferred by a bank or qualifying finance company (called in this subsection the transferor) to another person (called in this subsection the transferee);

20

- (b) the transfer is not pursuant to a scheme of amalgamation;

- (c) provision for doubtful debts arising from those loans, or for diminution in the value of investments in those securities, is also transferred by the transferor to the transferee; and

25

- (d) a deduction of an amount in respect of that provision was previously allowed under this section to the transferor,

then —

- (i) in a case where both the transferor and the transferee are in the business of lending money on the date of the transfer, the deduction previously allowed to the transferor is treated, for the purposes of this section, as having been allowed to the transferee under this section; and
- (ii) in any other case, the provision is treated as a trading receipt of the transferor for the basis period in which the date of transfer falls.”;

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

“(6A) The provisions in this section apply, for such period as may be prescribed by rules made under section 7, to any allowance made by a bank or qualifying finance company for loans or securities as required by a notice or direction of the Monetary Authority of Singapore given under —

- (a) section 55 of the Banking Act (Cap. 19);
- (b) section 30 of the Finance Companies Act (Cap. 108); or
- (c) section 28(3) of the Monetary Authority of Singapore Act (Cap. 186),

as they apply in relation to a provision for doubtful debts arising from loans, or for diminution in the value of investments in securities, of the bank or qualifying finance company.”; and

(c) by inserting, immediately after the definition of “loan” in subsection (7), the following definition:

““Monetary Authority of Singapore” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act;”.

5

### **Amendment of section 15**

**14.** Section 15 of the principal Act is amended by inserting, immediately after subsection (2B), the following subsection:

“(2C) Besides subsection (1)(b) and (d) (which are disappplied under subsection (2)), the other paragraphs of subsection (1) also do not apply to expenditure which qualifies for deduction under section 14D(1)(g).”.

10

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

**15.** Section 19A(6) of the principal Act is amended by deleting the words “on or after 1st January 1996 any certified energy-efficient equipment as a replacement for any other equipment, or has installed on or after that date any certified energy-saving equipment” and substituting the words “at any time from 1 January 1996 to 31 December 2017 (both dates inclusive) any certified energy-efficient equipment as a replacement for any other equipment, or any certified energy-saving equipment”.

15

20

### **Amendment of section 22**

**16.** The principal Act is amended by renumbering section 22 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

25

“(2) Expenditure on the provision of machinery or plant excludes any option premium paid under an option agreement entered into for the purpose of hedging against the cost of the acquisition of such machinery or plant.”.

30

## Amendment of section 26

17. Section 26 of the principal Act is amended —

(a) by deleting the words “section 34A” in subsection (1) and substituting the words “sections 34A and 34AA”;

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

***“Separate accounts to be maintained for various businesses***

(2) An insurer must maintain separate accounts for income derived by it from carrying on each of the following businesses:

(a) onshore life business;

(b) offshore life business;

(c) the business (other than the business of life assurance) of insuring and reinsuring onshore risks;

(d) the business (other than the business of life assurance) of insuring and reinsuring offshore risks.”;

(c) by deleting paragraphs (b) and (c) of subsection (3) and substituting the following paragraph:

“(b) either —

(i) deducting from the balance so arrived at the net increase between the beginning and ending values of the period for which the gains or profits are ascertained, of the liabilities of the insurer in respect of policies other than life policies, both values being determined in accordance with the Insurance Act (Cap. 142); or

- (ii) adding to the balance so arrived at the net decrease between the beginning and ending values of the period for which the gains or profits are ascertained, of the liabilities of the insurer in respect of policies other than life policies, both values being determined in accordance with the Insurance Act; and”;
- (d) by deleting the words “offshore risks or any other risks” in subsection (4) and substituting the words “any risks”;
- (e) by deleting the words “income from premiums or” in subsection (4)(a) and substituting the words “underwriting income or income”;
- (f) by inserting, immediately after subsection (4), the following subsection:
  - “(5) For the purposes of subsection (3)(b), if, during the period for which the gains or profits are ascertained, any insurance business (excluding life business) is transferred by or to the insurer, then —
  - (a) in a case where the business is transferred by the insurer, the liabilities of the insurer immediately before the date of the transfer, in respect of policies that form part of that business, are to be added to the ending value mentioned in that provision; and
  - (b) in a case where the business is transferred to the insurer, the liabilities of the transferor immediately before the date of the transfer, in respect of policies that form part of that business, are to be added to the beginning value mentioned in that provision.”;
- (g) by inserting, immediately before the words “life insurance surplus” in subsection (6)(a)(v), the word “onshore”;

(h) by deleting the word “; and” at the end of subsection (6)(c)(v) and substituting a full-stop;

(i) by deleting sub-paragraph (vi) of subsection (6)(c);

5 (j) by deleting the words “Notwithstanding subsection (6), in the case of a life insurer which has income subject to tax at the concessionary rate of tax prescribed by regulations made under section 43C, in ascertaining the income for the purposes of those regulations —” in subsection (7) and substituting the words “Despite subsection (6), where a life insurer is approved under section 43C before 1 June 2017 and its income is subject to tax at the concessionary rate by regulations made under section 43C(1)(a), the following paragraphs apply for the purposes of ascertaining that income:”;

10 (k) by inserting, immediately after subsection (7), the following subsection:

15 “(7A) Despite subsection (6), where a life insurer is approved under section 43C on or after 1 June 2017 and its income is subject to tax at a concessionary rate by regulations made under section 43C(1)(aa), the following paragraphs apply for the purposes of ascertaining that income:

20 (a) only such part of the following income relating to reinsurance policies as may be specified in those regulations may be included:

25 (i) the onshore life insurance surplus, and offshore life insurance surplus (as the case may be), of the insurer;

- (ii) the income of the shareholders' fund established in Singapore attributable to the insurer's onshore life reinsurance business and offshore life reinsurance business (as the case may be); 5
- (b) the income in paragraph (a) and any item of expenditure not directly incurred in the production of such income must be apportioned in the manner prescribed (if any) by those regulations.”; 10
- (l) by inserting, immediately after “(7)” in subsection (9), “, (7A)”;
- (m) by deleting the definition of “life insurance surplus” in subsection (12) and substituting the following definition: 15
  - “ “life insurance fund” means the insurance fund established and maintained by an insurer under section 17(1) of the Insurance Act for its life business;”;
- (n) by deleting the words “established and maintained under the Insurance Act, not being a Singapore policy within the meaning of that Act” in the definition of “offshore life business” in subsection (12) and substituting the words “, not being a Singapore policy within the meaning of the Insurance Act”; 20 25
- (o) by deleting the words “established and maintained under the Insurance Act” in paragraphs (a)(i), (ii) and (iii) and (b)(iv) of the definition of “offshore life insurance surplus” in subsection (12);
- (p) by deleting the words “that Act” in paragraphs (a)(ii) and (b)(iv) of the definition of “offshore life insurance surplus” in subsection (12) and substituting in each case the words “the Insurance Act”; 30



(q) by inserting, immediately after the definition of “offshore life insurance surplus” in subsection (12), the following definitions:

“ “offshore life insurance surplus”, in relation to an insurer under subsection (7A)(a)(i), means the amount ascertained by taking the following steps:

(a) add the following:

(i) the gross premiums (including consideration paid or payable for the purchase of annuities) from its offshore non-participating reinsurance policies of any life insurance fund (less any premiums returned to the insured and premiums paid or payable on reinsurance);

(ii) the net decrease between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its offshore non-participating reinsurance policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act;

(iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of the part of any life insurance fund relating to its offshore

non-participating reinsurance policies;

(b) subtract from the total under paragraph (a), all of the following:

- (i) distribution expenses and management expenses incurred in the production of the income in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office; 5  
10
- (ii) policy moneys paid or payable in respect of its offshore non-participating reinsurance policies (less any amount recovered or recoverable in respect of those policies under reinsurance); 15
- (iii) moneys paid or payable on the surrender of its offshore non-participating reinsurance policies; 20
- (iv) the net increase between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its offshore non-participating reinsurance policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act; 25  
30

“offshore life reinsurance business” means the business of reinsuring the liability of a life policy, or an accident and health policy, of any life insurance fund, not being a Singapore policy within the meaning of the Insurance Act;”;

(r) by inserting, immediately after the definition of “offshore risk” in subsection (12), the following definitions:

““onshore life business” means the business of insuring or reinsuring the liability of a life policy, or accident and health policy, of any life insurance fund, being a Singapore policy within the meaning of the Insurance Act;

“onshore life insurance surplus”, in relation to an insurer under subsection (7A)(a)(i), means the amount ascertained by taking the following steps:

(a) add the following:

(i) the gross premiums (including consideration paid or payable for the purchase of annuities) from its Singapore non-participating reinsurance policies of any life insurance fund (less any premiums returned to the insured and premiums paid or payable on reinsurance);

(ii) the net decrease between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its Singapore non-participating reinsurance policies for the period for which the gains or profits are

ascertained, both values being determined in accordance with the Insurance Act;

- (iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of the part of any life insurance fund relating to its Singapore non-participating reinsurance policies; 5 10

(b) subtract from the total under paragraph (a), all of the following:

- (i) distribution expenses and management expenses incurred in the production of the income in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office; 15 20
- (ii) policy moneys paid or payable in respect of its Singapore non-participating reinsurance policies (less any amount recovered or recoverable in respect of those policies under reinsurance); 25
- (iii) moneys paid or payable on the surrender of its Singapore non-participating reinsurance policies; 30

- (iv) the net increase between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its Singapore non-participating reinsurance policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act;

“onshore life insurance surplus”, in relation to the non-participating fund and the investment-linked fund of an insurer, means the amount ascertained by taking the following steps:

(a) add the following:

- (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from Singapore non-participating and Singapore investment-linked policies of any life insurance fund (less any premiums returned to the insured and premiums paid or payable on reinsurance);

- (ii) the net decrease between the beginning and ending values of the policy liabilities of any life insurance fund relating to Singapore non-participating and Singapore investment-linked policies for the period for which the gains

or profits are ascertained, both values being determined in accordance with the Insurance Act;

- (iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund relating to Singapore non-participating and Singapore investment-linked policies; 5  
10

(b) subtract from the total under paragraph (a), all of the following: 15

- (i) distribution expenses and management expenses incurred in the production of the income in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office; 20
- (ii) policy moneys paid or payable in respect of Singapore non-participating and Singapore investment-linked policies (less any amount recovered or recoverable in respect of those policies under reinsurance); 25  
30
- (iii) moneys paid or payable on the surrender of Singapore non-participating and Singapore investment-linked policies; 35

(iv) the net increase between the beginning and ending values of the policy liabilities of any life insurance fund relating to Singapore non-participating and Singapore investment-linked policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act;

“onshore life reinsurance business” means the business of reinsuring the liability of —

(a) a life policy of any life insurance fund; or

(b) an accident and health policy of any life insurance fund,

being a Singapore policy within the meaning of the Insurance Act;

“onshore risk” means a risk or liability that is insured by a policy of a general insurance fund established and maintained under the Insurance Act, being a Singapore policy within the meaning of that Act;” and

(s) by inserting, immediately after subsection (12), the following subsection:

“(13) For the purposes of paragraphs (a)(ii) and (b)(iv) of both definitions of “onshore life insurance surplus”, and paragraphs (a)(ii) and (b)(iv) of both definitions of “offshore life insurance surplus” in subsection (12), if, during the period for which the gains or profits are ascertained, any life insurance business is transferred by or to the insurer, then —

- (a) in a case where the business is transferred by the insurer, the liabilities of the insurer immediately before the date of the transfer, in respect of policies that form part of that business, are to be added to the ending value mentioned in each of those provisions; and 5
- (b) in a case where the business is transferred to the insurer, the liabilities of the transferor immediately before the date of the transfer, in respect of policies that form part of that business, are to be added to the beginning value mentioned in each of those provisions.”. 10

#### **Amendment of section 34A**

18. Section 34A of the principal Act is amended by inserting, immediately after the words “financial instruments” in the section heading, the words “resulting from FRS 39 or SFRS for Small Entities”.

#### **New section 34AA**

19. The principal Act is amended by inserting, immediately after section 34A, the following section:

#### **“Adjustment on change of basis of computing profits of financial instruments resulting from FRS 109**

**34AA.**—(1) Despite the provisions of this Act but subject to section 34G(3), (4) and (5), the amount of any profit, loss or expense to be brought into account for the basis period for any year of assessment in respect of any financial instrument of a qualifying person for the purposes of sections 10, 14, 14I and 37, respectively, is that which, in accordance with FRS 109, is recognised in determining any profit, loss or expense in respect of that financial instrument for that year of assessment. 25 30

(2) To avoid doubt, subsection (1) does not apply to anything recognised in accordance with FRS 109, that is capital in nature.



(3) Despite subsection (1), for the purposes of sections 10, 14, 14I and 37, the profit, loss or expense in respect of a financial instrument mentioned in each of the following paragraphs must be dealt with in accordance with that paragraph:

- (a) where a qualifying person to whom section 10(12)(b) applies derives interest from a negotiable certificate of deposit or derives a gain or profit from the sale of that certificate, the person's income from that certificate or sale must be treated in the manner set out in section 10(12);
- (b) where a qualifying person derives interest from debt securities, the interest that is chargeable to tax under section 10(1)(d) is the amount computed at the contractual interest rate and not at the effective interest rate;
- (c) any amount of profit or expense in respect of a loan for which no interest is payable must be disregarded;
- (d) where the creditor and debtor of a loan did not deal with each other at arm's length, the interest income chargeable to tax, and the interest expense allowable as a deduction, are the amounts of such income and expense that are computed at the contractual interest rate and not at the effective interest rate;
- (e) in a case where section 14(1)(a) applies, only interest expense incurred in respect of the money borrowed and computed at the contractual interest rate is allowed as a deduction under that provision;
- (f) any amount of profit or loss in respect of a hedging instrument acquired under a bona fide commercial arrangement for the sole purpose of hedging against any risk associated with the underlying asset or liability must be disregarded, if the underlying asset or liability is employed or intended to be employed as capital;

- (g) any amount of expected credit losses of a financial instrument that is not credit-impaired, being losses that are recognised in accordance with FRS 109 in determining the profit or loss of such instrument, must be disregarded; 5
- (h) in a case where the qualifying person is a bank or qualifying finance company, the provisions in section 14I apply (subject to the regulations made under subsection (13)(a)) in relation to a provision made by the qualifying person for an expected credit loss arising from loans or securities that are not credit-impaired, as those provisions apply in relation to a provision for doubtful debts arising from the person's loans or for diminution in the value of the person's investments in securities; 10 15
- (i) where an equity instrument on revenue account of a qualifying person that is measured at fair value through other comprehensive income is disposed of, an amount prescribed as the gain or loss to the qualifying person on such disposal, is chargeable to tax, or is to be allowed as a deduction; 20
- (j) a gain from discounts or premiums on debt securities, being a gain chargeable to tax under section 10(1)(d) —
  - (i) is treated as accruing only on the maturity or redemption of the debt securities; and 25
  - (ii) is treated as equal to the difference between the amount received on the maturity or redemption of the debt securities and the amount for which the debt securities were first issued; 30
- (k) in a case where a qualifying person issues debt securities at a discount or redeems issued debt securities at a premium, and section 14(1)(a) applies in respect of the outgoing represented by such discount or premium, such outgoing is treated to be 35

incurred and deductible only when it is paid on the maturity or redemption of the debt securities and —

- (i) for debt securities issued in the basis period relating to the year of assessment 2008 or subsequent years of assessment, is treated as equal to the difference between the amount paid on the maturity or redemption of the debt securities and the amount for which the debt securities were first issued; or
- (ii) for debt securities issued before the basis period relating to the year of assessment 2008, is treated as equal to the part of the difference in sub-paragraph (i) that would be attributable to the year of assessment 2008 and subsequent years of assessment;
- (l) in a case where —

  - (i) a qualifying person issues debt securities at a discount or redeems issued debt securities at a premium;
  - (ii) the debt securities were issued with an embedded derivative to acquire shares or units in the qualifying person; and
  - (iii) the outgoing represented by such discount or premium is deductible under section 14(1),

such part of the outgoing that is attributable to the embedded derivative is not deductible;
- (m) where a financial instrument on revenue account of a qualifying person (being a financial liability measured at fair value through profit or loss) matures or is sold, bought back or redeemed, any gain or loss to the qualifying person that is realised on such maturity or from such sale, buy back or redemption (being a gain or loss that is recognised in other comprehensive income in accordance with FRS 109) is chargeable to tax, or is to be allowed as a deduction.

(4) To avoid doubt, subsection (3)(d) does not affect the operation of section 34D.

(5) In a case where —

- (a) a loan is transferred by a qualifying person (being a bank or qualifying finance company) (called in this subsection the transferor) to another person (called in this subsection the transferee); 5
- (b) the transfer is not pursuant to a qualifying amalgamation within the meaning of section 34C(2) in relation to which an election is made under section 34C(4); 10
- (c) a provision for an expected credit loss arising from that loan that is credit-impaired, being a loss that is recognised in accordance with FRS 109 in determining the profit or loss of such loan, is also transferred by the transferor to the transferee; and 15
- (d) a deduction of an amount in respect of a provision for a doubtful debt arising from that loan was previously allowed under section 14 (read with this section or section 34A) to the transferor, 20

then, despite any provision in this Act —

- (i) in a case where both the transferor and the transferee are on the date of the transfer in the business of lending money, the deduction previously allowed to the transferor is treated, for the purposes of section 14, as having been allowed to the transferee under that section; and 25
- (ii) in any other case, the provision is treated as a trading receipt of the transferor for the basis period in which the date of transfer falls. 30

(6) A person who is not a qualifying person under paragraph (a) or (b) of the definition of that term in subsection (15), may apply to the Comptroller for approval to be a qualifying person; and if the Comptroller approves the application, that person is a qualifying person starting from the year of assessment of the basis period in which the approval is granted or such later year of assessment as the Comptroller may approve.

(7) If —

(a) any gain, loss or expense in respect of a financial instrument of a qualifying person to which subsection (1) applies is recognised under FRS 109 on a certain date;

(b) it is not possible to determine, on the date the Comptroller makes an assessment of the amount of chargeable income of that person for the year of assessment of the basis period in which the date mentioned in paragraph (a) falls, whether that gain, loss or expense is capital or revenue in nature;

(c) because of this, the gain was not charged with tax or a deduction was allowed for that loss or expense (as the case may be); and

(d) the Comptroller later discovers (called the discovery time) that the gain ought to have been charged with tax as it is revenue in nature, or a deduction ought not to have been allowed for the loss or expense as it is capital in nature (as the case may be),

then, and despite anything in this Act but subject to subsection (9), the amount of the gain, loss or expense, together with the additional amount mentioned in subsection (8), is treated as the income of the person for the year of assessment within which the discovery time falls.

(8) The additional amount in subsection (7) is the amount of any other gain, loss or expense in respect of the same financial instrument —

- (a) that was not charged with tax, or for which a deduction was allowed, for one or more past years of assessment, for the same reason as that in subsection (7)(b); and 5
- (b) that is ascertained in accordance with the regulations made under subsection (13).

(9) For any qualifying person, no assessment may be made in respect of the income mentioned in subsection (7) more than 4 years immediately after the end of the year of assessment of the basis period in which the financial instrument is disposed of by the qualifying person. 10

(10) If —

- (a) any gain, loss or expense in respect of a financial instrument of a qualifying person to which subsection (1) applies is recognised under FRS 109 on a certain date; 15
- (b) it is not possible to determine, on the date the Comptroller makes an assessment of the amount of chargeable income of that person for the year of assessment of the basis period in which the date mentioned in paragraph (a) falls, whether that gain, loss or expense is capital or revenue in nature; 20
- (c) because of this, the gain was charged with tax or a deduction was not allowed for that loss or expense (as the case may be); and 25

(d) the Comptroller later discovers (called the discovery time), with or without a claim made by the qualifying person, that the gain ought not to have been charged with tax as it is capital in nature, or a deduction ought to have been allowed for the loss or expense as it is revenue in nature (as the case may be),

then, and despite anything in this Act but subject to subsection (12), the amount of the gain, loss or expense, together with the additional amount mentioned in subsection (11), must be allowed as a deduction against the income of the person for the year of assessment within which the discovery time falls.

(11) The additional amount in subsection (10) is the amount of any other gain, loss or expense in respect of the same financial instrument —

(a) that was charged with tax, or for which a deduction was not made, for one or more past years of assessment, for the same reason as that in subsection (10)(b); and

(b) that is ascertained in accordance with the regulations made under subsection (13).

(12) For any qualifying person, no claim mentioned in subsection (10)(d) may be made more than 4 years immediately after the end of the year of assessment of the basis period in which the financial instrument is disposed of by the qualifying person.

(13) For the purposes of this section, the Minister may make regulations to give effect to this section, including —

(a) providing that section 14I applies to an allowance mentioned in subsection (3)(h) for a prescribed period;

(b) providing for the computation of the additional amounts mentioned in subsections (8) and (11); and

(c) providing for any transitional, supplementary or consequential matter, including —

- (i) treating a specified amount of any profit in respect of a financial instrument of a person, being an amount recognised under FRS 109 as such profit as of a date before the date the person becomes a qualifying person, as the person's income for a specified year of assessment; and 5
- (ii) allowing a specified amount of any loss or expense in respect of a financial instrument of a person, being an amount recognised under FRS 109 as such loss or expense as of a date before the date the person becomes a qualifying person, as a deduction against the person's income for a specified year of assessment. 10 15

(14) The regulations under subsection (13) may prescribe different amounts for the purposes of subsection (3)(i) for different descriptions of instruments.

(15) In this section —

- “bank”, “loan” and “qualifying finance company” have the same meanings as in section 14I(7); 20
- “contractual interest rate”, in relation to any financial instrument, means the applicable interest rate specified in the financial instrument;
- “debt securities” has the same meaning as in section 43N(4); 25
- “FRS 109” means the financial reporting standard known as Financial Reporting Standard 109 (Financial Instruments) that is made, and amended from time to time, under Part III of the Accounting Standards Act (Cap. 2B); 30



“qualifying person”, in relation to any year of assessment,  
means —

(a) in the case of a year of assessment for a basis  
period beginning on or after 1 January 2018, a  
person who is required to prepare or maintain  
financial accounts in accordance with FRS 109  
for that basis period;

(b) in the case of a year of assessment for a basis  
period beginning on a date before 1 January  
2018, a person mentioned in paragraph (a) who  
prepares or maintains financial accounts in  
accordance with FRS 109 for that basis period;  
or

(c) in any case, a person who is treated as a  
qualifying person under subsection (6).

(16) Any term used in this section and not defined in this  
section but defined in FRS 109, has the same meaning as in  
FRS 109.”.

### **Amendment of section 34D**

**20. Section 34D of the principal Act is amended —**

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

“(1) Subsection (1A) applies where —

(a) 2 persons are related parties;

(b) conditions are made or imposed between  
them in their commercial or financial  
relations (called in this section actual  
commercial or financial relations) which  
differ from conditions which would be  
made or imposed if they were not related  
parties and dealing independently with one  
another in comparable circumstances  
(called in this section arm’s length  
conditions); and

(c) had the arm's length conditions been made or imposed —

(i) the amount of the income of one of those persons for a year of assessment that accrued in or is derived from Singapore, or is received in Singapore from outside Singapore, would be greater; 5

(ii) the amount of any deduction that may be allowed to one of those persons for a year of assessment would be less; or 10

(iii) the amount of any loss of one of those persons for a year of assessment would be less.

(1A) The Comptroller may make one or more of the following adjustments in that case, as appropriate: 15

(a) increase the amount of the income of the person mentioned in subsection (1)(c)(i) for the year of assessment;

(b) reduce the amount of the deduction that may be allowed to the person mentioned in subsection (1)(c)(ii) for the year of assessment; 20

(c) reduce the amount of the loss of the person mentioned in subsection (1)(c)(iii) for the year of assessment. 25

(1B) The identification of the arm's length conditions in subsection (1)(b) must be carried out —

(a) on the basis of the actual commercial or financial relations between the 2 persons; and 30

(b) by taking into account both the form and substance of those relations, but disregarding the form of those relations to the extent it is inconsistent with their substance.

(1C) Despite subsection (1B) —

(a) if persons who were not related parties would in comparable circumstances enter into substantially different commercial or financial relations than the actual commercial or financial relations, then the identification of the arm's length conditions must be carried out on the basis of the firstmentioned relations; and

(b) if persons who were not related parties would in comparable circumstances not enter into commercial or financial relations, then the identification of the arm's length conditions must be carried out on the basis of the absence of commercial or financial relations.

(1D) The amount of income that is increased under subsection (1A)(a) is treated as accruing in or derived from Singapore or received in Singapore from outside Singapore, as the case may be.

(1E) The amount of loss that is reduced under subsection (1A)(c) is treated as not having been incurred.”; and

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

“(2A) Nothing in this section prevents the applicability of subsection (1) to a case, or the decision of the Comptroller under subsection (1A) on a case, from being questioned in an appeal against an assessment in accordance with Part XVIII.”.

5

### **New sections 34E to 34I**

**21.** The principal Act is amended by inserting, immediately after section 34D, the following sections:

10

#### **“Surcharge on transfer pricing adjustments**

**34E.**—(1) Where the Comptroller, in relation to the year of assessment 2019 or any subsequent year of assessment —

(a) increases the amount of the income of a person under section 34D(1A)(a);

15

(b) reduces the amount of any deduction allowed to a person under section 34D(1A)(b); or

(c) reduces the amount of any loss of a person under section 34D(1A)(c),

a surcharge equal to 5% of the amount of the increase or reduction (as the case may be) is recoverable by the Comptroller from the person as a debt due to the Government.

20

(2) Despite any objection to or an appeal lodged against an assessment made pursuant to any adjustment under section 34D(1A), the surcharge must be paid —

25

(a) within one month starting from the date a written notice of the surcharge is served personally or by registered post on the person; and

(b) at the place stated in the notice.

(3) The Comptroller may, in the Comptroller's discretion, and subject to such terms and conditions (including the imposition of interest) as the Comptroller may impose, extend the time within which payment is to be made.

5 (4) Sections 86(1) to (6), 87(1) and (2), 89, 90 and 91 apply to the collection and recovery of a surcharge and any interest imposed under subsection (3), as they apply to the collection and recovery of tax.

10 (5) The Comptroller may, for any good cause, remit wholly or in part any surcharge payable under this section.

15 (6) If, upon an objection under section 76 or an appeal under Part XVIII, an assessment made pursuant to an adjustment under section 34D(1A) is varied or annulled, then the surcharge is correspondingly increased, reduced or annulled (as the case may be), and —

(a) if the surcharge is increased, subsections (1) to (5) apply to the increased amount of the surcharge as they apply to the surcharge; or

20 (b) if the surcharge is reduced or annulled and it has already been paid to the Comptroller, the amount of the reduction or the entire amount (including any interest paid on the amount) must be refunded.

### **Transfer pricing documentation**

25 **34F.**—(1) This section applies to the basis period for the year of assessment 2019 and every subsequent year of assessment.

(2) This section applies to a company, firm or trust —

(a) if the gross revenue of the company, firm or trust derived from its trade or business for the basis period concerned is more than \$10 million; or

30 (b) if documentation under subsection (3) is required to be prepared for a transaction undertaken by the company, the firm, or the trustee of the trust on its behalf, in the basis period immediately before the basis period concerned.

(3) Unless exempt by rules made under section 7, each of the following, namely:

- (a) the company;
- (b) the person making a return of the income of the firm;
- (c) the trustee of the trust,

5

must prepare documentation (called in this section transfer pricing documentation) that complies with subsection (5) for each transaction undertaken by the company, the firm or the trustee on behalf of the trust (as the case may be), with a related party in the basis period concerned.

10

(4) In subsection (3)(b), the person making a return of the income of a firm is, in the case of a partnership, the person responsible for doing so under section 71.

(5) The transfer pricing documentation —

- (a) must be prepared no later than the time for the making of the return of the income of the company, the firm or the trustee in relation to the trust for the year of assessment;
- (b) must contain such details as may be prescribed by rules under section 7 of the commercial or financial relations of the parties as respects the transaction, the conditions made or imposed between them as respects the transaction, as well as an explanation as to whether those conditions are arm's length conditions within the meaning of section 34D(1)(b); and
- (c) must comply with all other requirements as to their form and content as may be prescribed by rules under section 7.

15

20

25

(6) The person in subsection (3)(a), (b) or (c) must retain in safe custody transfer pricing documentation prepared by the person for each transaction, for a period of at least 5 years from the end of the basis period in which the transaction took place.

30

(7) The Comptroller may, by written notice served on a person in subsection (3)(a), (b) or (c) personally or by registered post, require the person to furnish to the Comptroller a copy of any transfer pricing documentation prepared by the person, and the person must comply with the requirement within 30 days starting from the date the notice is served on the person.

(8) A person who —

(a) without reasonable excuse, fails to comply with subsection (3), (6) or (7); or

(b) in purported compliance with subsection (7), provides to the Comptroller any documentation that the person knows to be false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(9) The Comptroller may compound any offence under subsection (8).

(10) In this section —

“firm” includes a partnership;

“related party” has the same meaning as in section 13(16).

### **Modification of provisions for companies redomiciled in Singapore**

**34G.—**(1) This section applies to a body corporate incorporated outside Singapore —

(a) that is registered as a company limited by shares under Part XA of the Companies Act (Cap. 50) (called in this section a redomiciled company); and

(b) that has never, at any time before its registration date, carried on any trade or business in Singapore.

### ***Interpretation***

(2) In this section —

“FRS 109” has the same meaning as in section 34AA(15);

“registration” means registration under section 359(1) of the Companies Act;

“registration date”, in relation to a redomiciled company, means the date of its registration specified in the notice of transfer of registration issued to it under section 359(3) of the Companies Act.

5

### ***Deductions for bad debts and impairment losses for debts***

10

(3) Despite sections 10(1), 14(1)(d) and 34AA(1), where a redomiciled company incurred any debt in any trade or business before its registration date and, at any time on or after that date, the debt is written off as bad or impairment loss is provided for that debt —

15

(a) no deduction is allowed for the debt or any provision made for it; and

(b) any amount recovered from the debt is not chargeable to tax.

### ***Deductions for impairment losses***

20

(4) Despite sections 10(1) and 34AA(1), where a redomiciled company incurs any impairment loss from any financial asset on revenue account before its registration date, any amount of the loss that is reversed after that date is not chargeable to tax.

(5) Where a redomiciled company incurs on or after its registration date any impairment loss from any financial asset on revenue account that is acquired by the company before that date —

25

(a) the company is allowed a deduction for that loss to the extent that it becomes credit-impaired within the meaning of FRS 109; and

30



- (b) any amount of that loss that is subsequently reversed is chargeable to tax to the extent of the deduction allowed under paragraph (a).

(6) Subsections (4) and (5) do not apply to an impairment loss from a debt to which subsection (3) applies.

### ***Deductions for expenses***

(7) No deduction is allowed under section 14 for any expense incurred by a redomiciled company before its registration date and for which it has been allowed or given any deduction or relief under any law of a country outside Singapore that levies tax of a similar character to income tax (by whatever name called).

### ***Deductions for trading stocks***

(8) For the purposes of determining the amount of deduction to be allowed to a redomiciled company under any provision of this Act for any trading stock that it acquired before its registration date, the value of the trading stock is the lower of the following:

- (a) the cost of the trading stock to the company;
- (b) the net realisable value of the trading stock on that date.

### ***Deductions under sections 14A, 14D, 14Q, 14S and 14U***

(9) Despite anything in sections 14A, 14D, 14Q, 14S and 14U, a redomiciled company may only make a claim for a deduction under any of those sections for any cost, payment or expenditure incurred or made before its registration date, if —

- (a) the company did not carry on any trade or business outside Singapore at any time before its registration date; and
- (b) such cost, payment or expenditure is incurred or made solely for the purpose of a trade or business in Singapore.

(10) The deduction under subsection (9) may only be allowed for the year of assessment relating to the basis period in which the trade or business is commenced in Singapore.

***Allowances for machinery or plant under section 19***

(11) Where a redomiciled company —

5

- (a) incurred capital expenditure before its registration date to acquire any machinery or plant; and
- (b) uses the machinery or plant for the purposes of a trade or business in Singapore on or after that date,

then an initial allowance may be made to the company for that capital expenditure, and an annual allowance may be made to the company for the depreciation by wear and tear of that machinery or plant, in accordance with section 19 as modified under subsection (12).

10

(12) Section 19 applies in relation to the making of initial and annual allowances to a redomiciled company under subsection (11), and to initial and annual allowances so made, subject to the following modifications:

15

- (a) the allowances may only be made under that section if the trade or business is carried on in Singapore on or after its registration date;
- (b) the capital expenditure is treated as having been incurred for the provisioning of the machinery or equipment for that trade or business;
- (c) except as provided under paragraph (d), the allowances under that section may only be made in respect of the lower of the following:
  - (i) the net book value of the machinery or plant as of the registration date;

20

25

- (ii) the market value of the machinery or plant as of that date,

and that lower amount is treated as the capital expenditure incurred in acquiring that machinery or plant, and the original cost of the machinery or plant;

- (d) for the purposes of making the initial allowance under section 19(1) to the company for any machinery or plant that is acquired under a hire-purchase agreement, the reference in that provision to the capital expenditure is a reference to an amount computed by the formula  $\frac{A}{B} \times C$ , where —

- (i) A is —

- (A) in the first year of claim for that allowance, the sum of all deposits and instalment payments (excluding finance charges) made up to the end of the basis period in which the date of commencement of the trade or business falls; and

- (B) in each subsequent year of claim for that allowance, the sum of all instalment payments (excluding finance charges) made in the basis period to which the claim relates;

- (ii) B is the sum of all deposits and instalment payments (excluding any finance charges) under the hire-purchase agreement; and

- (iii) C is the lower amount of the machinery or plant mentioned in paragraph (c);

- (e) for the purposes of making the initial allowance to the company, the capital expenditure is treated as having been incurred by the company on the first day on which it carries on that trade or business;

- (f) subsections (1B), (2)(b), (3), (4), (5) and (5B) of section 19 do not apply;

(g) such other modifications as may be prescribed.

(13) Except as provided under subsection (11), no allowance may be made under section 19 to a redomiciled company to which subsection (11)(a) and (b) applies, in relation to any capital expenditure mentioned in subsection (11)(a).

5

***Allowances for machinery, plant, etc., under section 19A***

(14) Where a redomiciled company —

(a) incurred capital expenditure before its registration date to acquire any item mentioned in section 19A(1), (2), (3), (4), (5), (6), (7) or (8) or develop a website mentioned in section 19A(10); and

10

(b) uses such item or website for the purposes of a trade or business in Singapore on or after that date,

then an allowance may be made to the company, in lieu of the allowances under section 19 (as applied by subsection (11)), for the capital expenditure under section 19A(1), (2), (3), (4), (5), (6), (7), (8) or (10) (whichever is applicable), as modified under subsection (15).

15

(15) Section 19A applies in relation to the making of an allowance under subsection (14), and to any allowance so made, subject to the following modifications:

20

(a) the allowance may only be made under that section if the trade or business is carried on in Singapore on or after the registration date;

(b) the capital expenditure is treated as having been incurred for the provision of the item or website for that trade or business;

25

(c) the allowance may only be made in respect of the lower of the following:

(i) the net book value of the item or website as of the registration date;

30

(ii) the market value of the item or website as of that date,

and that lower amount is treated as the capital expenditure incurred on the provision of the item or website for the trade or business, and the original cost of the item in section 19A(10C) (if applicable);

(d) subsections (1B), (1C), (1D), (2A) to (2K), (9), (9A), (13A), (13B) and (16) to (18) of section 19A do not apply;

(e) such other modifications as may be prescribed.

(16) Except as provided under subsection (14), no allowance may be made under section 19A to a redomiciled company to which subsection (14)(a) and (b) applies, in relation to any capital expenditure mentioned in subsection (14)(a).

***Writing-down allowances for intellectual property rights under section 19B***

(17) Where a redomiciled company —

(a) incurred capital expenditure in acquiring any intellectual property rights before its registration date; and

(b) uses those rights for a trade or business in Singapore on or after that date,

then writing-down allowances may be made to the company for the capital expenditure, in accordance with section 19B as modified by subsection (18).

(18) Section 19B applies in relation to the making of writing-down allowances to a redomiciled company under subsection (17), and to writing-down allowances so made, subject to the following modifications:

(a) the allowances may only be made under that section if the trade or business is carried on in Singapore on or after the registration date;

(b) the capital expenditure is treated as having been incurred for the acquisition of those intellectual property rights for use in that trade or business;

(c) the allowances may only be made in respect of the lower of the following:

5

(i) the acquisition cost of the intellectual property rights less accumulated amortisation and impairment losses as of the registration date;

(ii) the open-market price of the rights as of that date,

10

and that lower amount is treated as the capital expenditure incurred in acquiring those rights;

(d) subsections (1), (1A), (1AA)(b), (1AC), (1B) to (1BC), (1C), (1D), (1E), (2B) to (2E), (8), (9), (10D) to (10K) and (12) of section 19B do not apply;

15

(e) the election under section 19B(1AB) must be made at the time of lodgment of the company's return of income for the year of assessment relating to the later of the following:

(i) the basis period in which the registration date falls;

20

(ii) the basis period in which the date of commencement of the trade or business falls;

(f) such other modifications as may be prescribed.

(19) In subsection (18)(c), "open-market price", in relation to intellectual property rights, has the meaning given to it in section 19B(10F), with the reference to the acquisition date of those rights substituted with a reference to the registration date of the company.

25

(20) Except as provided under subsection (17), no writing-down allowance may be made under section 19B to a redomiciled company to which subsection (17)(a) and (b) applies in relation to any capital expenditure mentioned in subsection (17)(a).

30

***Section 43(6A) inapplicable***

(21) Section 43(6A) does not apply to a redomiciled company.

***Regulations***

(22) The Minister may make regulations necessary or convenient to be prescribed for carrying out or giving effect to this section and section 34H, and in particular, make regulations to provide for such transitional, supplementary or consequential matters as the Minister considers necessary or expedient.

**Tax credits for approved redomiciled companies**

**34H.**—(1) This section applies where —

(a) an approved redomiciled company has income (called in this section income A) that is chargeable to tax in one or more years of assessment beginning with the year of assessment for the basis period in which its registration date falls; and

(b) the company's place of incorporation levies on the company tax of a similar character to income tax (by whatever name called) on an estimate of income A (called in this section income B).

(2) The approved redomiciled company must be allowed, in accordance with subsection (4), a tax credit against tax payable in respect of the part of income A that is derived or received in the basis period for each year of assessment specified by the Minister to the company at the time of its approval (called in this section a specified year of assessment).

(3) The total amount of tax credits to be allowed to the approved redomiciled company for all of its specified years of assessment is an amount C that is computed by the formula  $(B - B1) \times D$ , where —

(a) B is the amount of income B;

(b) B1 is the part of income B which is derived wholly from any agreement or arrangement entered into on or after the registration date, as well as any other income prescribed by regulations made under section 34G; and

5

(c) D is the lower of the following:

(i) the rate by which the part of income A derived or received in the basis period in which its registration date falls is chargeable to tax;

(ii) the rate by which income B is chargeable to the tax described in subsection (1)(b).

10

(4) Where, throughout a basis period for a specified year of assessment, the approved redomiciled company —

(a) is resident in Singapore; and

(b) satisfies all of the conditions specified by the Minister to it at the time of its approval,

15

then there is to be allowed, against the amount of tax chargeable on income E, a credit of an amount that is the lower of the following:

(i) the amount of tax;

20

(ii) an amount computed by deducting from the amount C, the total amount of tax credits previously allowed under this section against the tax chargeable on the income of the company.

(5) In subsection (4), a company's income E for a year of assessment is the amount of the part of income A derived or received in the basis period for that year of assessment after deducting the following:

25

(a) the expenses and donations allowable under this Act for that year of assessment that are attributable to or apportioned to the part of income A;

30



(b) any capital allowances for that year of assessment attributable to the part of income A whether or not any claim for those allowances has been made;

(c) any balance of the expenses, allowances and donations which have not been deducted under this subsection for the purpose of determining income E for any previous year of assessment.

(6) The balance of any expenses, allowances or donations mentioned in subsection (5) may only be used to determine the company's income E for a subsequent specified year of assessment, and is not available as a deduction against any other income of the company.

(7) However, any balance mentioned in subsection (6) that remains —

(a) after ascertaining the company's income E for the last of the specified years of assessment; or

(b) as of the date of revocation of the approval of the company,

may be deducted against any other income of the company for a subsequent year of assessment, or the year of assessment for the basis period in which the approval is revoked or a subsequent basis period (whichever is applicable), in accordance with section 23 or 37, as the case may be.

(8) Any balance of the amount C after a tax credit has been allowed for the last of the specified years of assessment must be disregarded.

(9) If, at any time after the registration date, and during a period specified by the Minister to it at the time of its approval, the approved redomiciled company ceases to carry on any trade or business in Singapore, an amount computed using the formula  $\frac{E-G}{F} \times H$ , is recoverable by the Comptroller from the company as a debt due to the Government, where —

(a) F is the total number of its specified years of assessment or 5, whichever is larger;

(b) G is the total number of complete years where the company carried on a trade or business in Singapore; and

(c) H is the total amount of tax credits already allowed against the tax chargeable on the income of the company under this section.

5

(10) If the Comptroller is satisfied that —

(a) the approved redomiciled company gave to the Comptroller information that is false in any material particular, or omitted any material particular from any information or document given to the Comptroller; and

10

(b) as a result of the false information or omission, an amount of tax credit was allowed against tax chargeable on the company's income under this section,

15

then an amount equal to the amount of tax credit so allowed is recoverable by the Comptroller from the company as a debt due to the Government.

(11) The amount recoverable under subsection (9) or (10) must be paid at the place stated in the notice served by the Comptroller on the approved redomiciled company within 30 days after the service of the notice.

20

(12) The Comptroller may, in the Comptroller's discretion, and subject to such terms and conditions as the Comptroller may impose, extend the time within which payment is to be made.

25

(13) Sections 86(1) to (6), 87(1) and (2), 89, 90 and 91 apply to the collection and recovery by the Comptroller of the amount recoverable under subsection (9) or (10) as they apply to the collection and recovery of tax.

30

(14) In this section —

“approved redomiciled company” means a redomiciled company within the meaning of section 34G(1) that is approved by the Minister for the purposes of this section;

“place of incorporation”, in relation to an approved redomiciled company, means the jurisdiction where the company was domiciled at the time it applied for registration under Part XA of the Companies Act (Cap. 50);

“registration” means registration under section 359(1) of the Companies Act;

“registration date”, in relation to an approved redomiciled company, means the date of its registration specified in the notice of transfer of registration issued to it under section 359(3) of the Companies Act.

### **Adjustments arising from adoption of FRS 115**

**34I.—**(1) This section applies where —

- (a) a person prepares or maintains the person’s financial accounts for any basis period for a year of assessment in accordance with FRS 115 for the first time (called in this section the initial year of assessment);
- (b) as a result of the application of FRS 115, an adjustment has to be made to the amount of revenue in the person’s financial accounts in any previous basis period (called in this section the adjusted revenue amount); and
- (c) the statutory income or any exempt income of the person (or, if the person is a partnership, a partner of the person) for the year of assessment for that previous basis period would have been a different amount (called in this section amount A) than the amount actually assessed for that year of assessment (called in this section amount B), had the Comptroller used an amount of profit that included the adjusted revenue amount as the starting point in assessing such income.

(2) Despite any provision of this Act, if amount A exceeds amount B, the excess amount is treated as income of the person or partner (as the case may be) for the initial year of assessment and is subject to one or more tax treatments in accordance with subsection (3).

5

(3) For the purposes of subsection (2) —

(a) if the income amount C of the person or partner for the initial year of assessment is subject to a single tax treatment, then the excess amount is subject to that tax treatment;

10

(b) if different parts of the income amount C of the person or partner for the initial year of assessment are subject to different tax treatments, then different parts of the excess amount are subject to the different tax treatments, and the part of the excess amount that is subject to each of those tax treatments is computed by the formula  $\frac{D}{E} \times F$ , where —

15

(i) D is the sum of —

(A) the part of the income amount C of the person or partner for that year of assessment that is subject to that tax treatment; and

20

(B) each expense, allowance, donation or loss that is deducted in ascertaining the chargeable income or exempt income of the person or partner for that year of assessment, and attributable to the production of, or apportioned to, that part;

25

(ii) E is the sum of —

(A) the income amount C of the person or partner for that year of assessment; and

30

(B) each expense, allowance, donation or loss that is deducted in ascertaining the chargeable income or exempt income of the person or partner for that year of assessment, and attributable to the production of, or apportioned to, the income amount C or a part of it; and

(iii) F is the excess amount.

(4) Despite any provision of this Act, if amount B exceeds amount A, a deduction of the excess amount must be made against the total income of the person or partner (as the case may be) or one or more parts of it for the initial year of assessment according to subsection (5).

(5) For the purposes of subsection (4) —

(a) if the income amount C of the person or partner for the initial year of assessment is subject to a single tax treatment, then the excess amount must be deducted against the income amount C;

(b) if different parts of the income amount C of the person or partner for the initial year of assessment are subject to different tax treatments, then different parts of the excess amount must be deducted against the different parts of the income amount C, and the part of the excess amount that must be deducted against each part of the income amount C is computed by the formula  $\frac{D}{E} \times F$ , where —

(i) D is the sum of —

(A) the part of the income amount C of the person or partner for that year of assessment that is subject to that tax treatment; and

(B) each expense, allowance, donation or loss that is deducted in ascertaining the chargeable income or exempt income of the person or partner for that year of assessment, and attributable to the production of, or apportioned to, that part; 5

(ii) E is the sum of —

(A) the income amount C of the person or partner for that year of assessment; and

(B) each expense, allowance, donation or loss that is deducted in ascertaining the chargeable income or exempt income of the person or partner for that year of assessment, and attributable to the production of, or apportioned to, the income amount C or a part of it; and 10 15

(iii) F is the excess amount.

(6) In this section —

(a) income is subject to a tax treatment if it is —

(i) subject to tax at one rate of tax; or 20

(ii) exempt from tax;

(b) a reference to the income amount C of a person or partner for a year of assessment is a reference to the amount of income computed by the formula  $G + H$ , where — 25

(i) G is the part of the chargeable income of the person or partner for the year of assessment that is of the type of income governed by FRS 115; and

(ii) H is the part of the exempt income of the person or partner for the year of assessment that is of the type of income governed by FRS 115; and 30

(c) a reference to deducting an amount against any income that is subject to a tax treatment is —

(i) if the tax treatment is that mentioned in paragraph (a)(i), allowing that amount as a deduction against the income; or

(ii) if the tax treatment is that mentioned in paragraph (a)(ii), reducing the income by that amount.

(7) In this section —

“FRS 115” means the financial reporting standard known as Financial Reporting Standard 115 (Revenue from Contracts with Customers) issued by the Accounting Standards Council under the Accounting Standards Act (Cap. 2B);

“person” has the meaning given to that word in section 2(1), and includes a partnership.”.

### **Amendment of section 37**

**22.** Section 37 of the principal Act is amended by inserting, immediately after subsection (3J), the following subsection:

“(3K) No approval may be granted for the purposes of subsection (3)(d) for a donation made on or after 21 February 2017.”.

### **Amendment of section 37E**

**23.** Section 37E(17) of the principal Act is amended by deleting the words “offshore general insurance business” in paragraph (b) of the definition of “concessionary rate of tax” and substituting the words “general insurance business and life reinsurance business”.

### **Amendment of section 39**

**24.** Section 39(2) of the principal Act is amended by deleting the words “basic healthcare sum prevailing” in paragraph (q) and substituting the words “basic healthcare sum applicable to the individual”.

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

**25.** Section 43A(2) of the principal Act is amended by inserting, immediately after the words “section 34A” in paragraph (d), the words “, and expected credit loss recognised under FRS 109, as defined in section 34AA”.

5

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

**26.** Section 43C of the principal Act is amended —

(a) by inserting, immediately after the words “approved insurer” in subsection (1)(a), the words “, whose approval is granted before 1 June 2017,”;

10

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

“(aa) to provide for tax at the rate of 10% to be levied and paid for each year of assessment upon such income as the Minister may specify that is derived by an approved insurer, whose approval is granted on or after 1 June 2017, from the reinsurance of liabilities under policies relating to life business as defined in section 2(1)(a) of the Insurance Act (Cap. 142), or such description of general business within the meaning of section 2(1)(b) of that Act, as may be prescribed;”;

15

20

(c) by deleting the words “or 22” in subsection (1)(f) and substituting the words “, 22 or 23”;

25

(d) by inserting, immediately after the words “paragraph (a),” in subsection (2), “(aa),”; and

(e) by inserting, immediately after the definition of “insurer” in subsection (3), the following definition:

30

“ “marine hull and liability insurance and reinsurance business” means the business of insuring and reinsuring risks involving marine



hull and liability but excludes cargo, energy and aviation risks;”.

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

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

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

“(1B) The reference in subsection (1)(b) to prescribed activities is a reference to activities prescribed in regulations made under this section and specified to each approved qualifying company by the Minister or a person appointed by the Minister.”; and

(b) by deleting the definitions of “global trading company” and “qualifying company” in subsection (3) and substituting the following definitions:

“ “global trading company” means a company that carries on the business of international trading of commodities or commodities derivatives, or of brokering international trades in commodities, or both;

“qualifying company” means —

(a) an approved company that carries on the business of international trading of commodities or commodities derivatives; or

(b) a wholly-owned subsidiary of another company, where the other company carries on the business of international trading of commodities or commodities derivatives,

that carries on any qualifying structured commodity financing activities, treasury activities, or advisory services in relation to

mergers and acquisitions, prescribed under subsection (1).”.

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

**28.** Section 43Q(1) of the principal Act is amended by deleting the words “or 12%” and substituting the words “, 12% or 13.5%”.

5

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

**29.** Section 43Y of the principal Act is amended —

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

“(1) Despite section 43, tax at the following rate is levied, and must be paid, for each year of assessment upon the income of an approved aircraft leasing company accruing in or derived from Singapore in respect of the leasing of any aircraft or aircraft engine or such other activity as the Minister may by regulations prescribe:

10

(a) where the company is approved before 1 April 2017, 5% or 10%, as specified by the Minister or such person as the Minister may appoint;

20

(b) where the company is approved on or after 1 April 2017, 8%.”; and

(b) by deleting the words “1st March 2007 and 31st March 2017” in subsection (4) and substituting the words “1 March 2007 and 31 December 2022”.

25

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

**30.** Section 43Z(4) of the principal Act is amended by deleting the words “1st March 2007 and 31st March 2017” and substituting the words “1 March 2007 and 31 December 2022”.

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

**31.** Section 43ZD(4) of the principal Act is amended by deleting the words “1st April 2008 and 31st March 2017” and substituting the words “1 April 2008 and 31 December 2022”.

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

**32.** Section 43ZF(8) of the principal Act is amended —

(a) by deleting the words “such as” in paragraph (a) of the definition of “corporate service” and substituting the word “excluding”;

(b) by deleting paragraph (e) of the definition of “corporate service”;

(c) by deleting the words “(such as intellectual property management, risk management, internal audit, budgeting and forecasting)” in paragraph (f) of the definition of “corporate service” and substituting the words “(such as risk management, internal audit, budgeting and forecasting, but excluding intellectual property management)”;

(d) by inserting, immediately after the word “technology” in paragraph (l) of the definition of “corporate service”, the word “support”.

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

**33.** Section 43ZH(3) of the principal Act is amended by deleting the words “31 March 2020” and substituting the words “31 August 2017”.

### **Amendment of section 45**

**34.** Section 45(5) of the principal Act is amended by deleting the words “the tax required to be deducted” and substituting the words “any tax”.

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

**35.** Section 45G(2) of the principal Act is amended by deleting the words “18th February 2005 to 31st March 2015” and substituting the words “18 February 2005 to 31 March 2020”.

### **Amendment of section 49**

5

**36.** Section 49 of the principal Act is amended by inserting, immediately after subsection (6), the following subsections:

“(7) The Minister may by order amend the provisions of any arrangements that have effect under subsection (1), in order to give effect to Singapore’s obligations under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on 24 November 2016 (as amended from time to time).

10

(8) Where the provisions of any arrangements that have effect under subsection (1) are amended by an order under subsection (7), then those provisions have effect under subsection (1) as amended by that order.”.

15

### **Amendment of section 74**

**37.** Section 74 of the principal Act is amended —

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

20

“(2A) Despite subsection (1), an assessment under that subsection may be made at any time if it is carried out pursuant to an agreement with an authority of a country outside Singapore, that is made in accordance with the procedure under an avoidance of double taxation arrangement with the government of that country, for resolving difficulties arising out of the application of that arrangement (commonly called a mutual agreement procedure).

25

(2B) Subsection (2A) does not apply to an agreement with an authority of the country outside Singapore on the transfer pricing criteria to be used in

30

relation to a person's transactions with the person's related parties over a specified period (commonly called an advance pricing arrangement)."; and

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

“(5) To avoid doubt, the Comptroller may also make an assessment under this section on a person in a case where —

(a) the Comptroller made an advance assessment on the person for a year of assessment; and

(b) because of a subsequent amendment to any written law that applies retroactively to that year of assessment, the person becomes liable to a higher amount of tax.

(6) In this section —

“avoidance of double taxation arrangement” means an arrangement having effect under section 49;

“related party” has the same meaning as in section 13(16).”.

### **New section 80A**

**38.** The principal Act is amended by inserting, immediately after section 80, the following section:

#### **“Hearing of appeal in absence of member of Board**

**80A.—**(1) Despite anything 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 member's resignation or inability to act.

(3) Despite section 78(14), 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 of the Board 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 5  
10

(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 — 15

(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.”. 20

### **Amendment of section 92E**

**39.** Section 92E of the principal Act is amended —

(a) by deleting the words “each of the years of assessment 2016 and 2017” and substituting the words “the year of assessment 2016”; and 25

(b) by deleting the words “years of assessment 2016 and 2017” in the section heading and substituting the words “year of assessment 2016”.

## **New sections 92F and 92G**

**40.** The principal Act is amended by inserting, immediately after section 92E, the following sections:

### **“Remission of tax of companies for year of assessment 2017**

**92F.** Where the Comptroller is satisfied that the remission of tax would be beneficial to a company, then there is to be remitted the tax payable for the year of assessment 2017 by the company of an amount equal to the lower of the following:

(a) 50% of the tax payable for that year of assessment (excluding any tax levied and paid or payable pursuant to section 43(3), (3A) and (3B));

(b) \$25,000.

### **Remission of tax of companies for year of assessment 2018**

**92G.** Where the Comptroller is satisfied that the remission of tax would be beneficial to a company, then there is to be remitted the tax payable for the year of assessment 2018 by the company of an amount equal to the lower of the following:

(a) 20% of the tax payable for that year of assessment (excluding any tax levied and paid or payable pursuant to section 43(3), (3A) and (3B));

(b) \$10,000.”.

## **Amendment of section 93A**

**41.** Section 93A of the principal Act is amended by inserting, immediately after subsection (1), the following subsections:

“(1A) An application by a person on the basis of an error or a mistake, for the year of assessment 2019 or any subsequent year of assessment, in the amount of any income, expense, outgoing or loss in connection with any transaction between the person and a related party (within the meaning of section 13(16)) of the person, must be supported by transfer pricing documentation for that transaction that satisfies section 34F(5).

(1B) To avoid doubt, subsection (1A) applies whether or not the person is a company, firm, partner of a partnership or trustee of a trust to which section 34F applies.”.

### **Amendment of section 105K**

**42.** Section 105K of the principal Act is amended —

5

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

“(aa) a competent authority agreement between —

(i) the Government and —

10

(A) the government of another country; or

(B) the governments of 2 or more countries; or

(ii) the Minister or the Minister’s authorised representative and —

15

(A) the authority of another country that exercises a power or carries out a duty corresponding to a power or duty of the Minister or representative; or

20

(B) the authorities of 2 or more countries that exercise powers or carry out duties corresponding to a power or duty of the Minister or representative;

25

(ab) a CbCR exchange agreement between —

(i) the Government and —

(A) the government of another country; or

30



(B) the governments of 2 or more countries; or

(ii) the Minister or the Minister's authorised representative and —

(A) the authority of another country that exercises a power or carries out a duty corresponding to a power or duty of the Minister or representative; or

(B) the authorities of 2 or more countries that exercise powers or carry out duties corresponding to a power or duty of the Minister or representative;”;

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

“(c) any other agreement or arrangement that makes provision corresponding, or substantially similar, to that made by an agreement in paragraph (a), (aa), (ab) or (b), between —

(i) the Government and —

(A) the government of another country; or

(B) the governments of 2 or more countries; or

(ii) the Minister or the Minister's authorised representative and —

(A) the authority of another country that exercises a power or carries out a duty corresponding to a power or duty of the Minister or representative; or

- (B) the authorities of 2 or more countries that exercise powers or carry out duties corresponding to a power or duty of the Minister or representative.”; and 5
- (c) by inserting, immediately after the word “Singapore” in subsection (2), the words “or, where there is more than one agreement or arrangement under the order, may only take effect in relation to each agreement or arrangement on or after the date on which that agreement or arrangement enters into force for Singapore”. 10

### **Repeal of obsolete provisions and consequential amendments**

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

- (a) by deleting the definition of “local forces” in section 2(1); 15
- (b) by —
  - (i) deleting paragraph (s) of section 13(1);
  - (ii) deleting subsections (8A) to (8D) of section 13 and subsections (1A), (1B), (1C), (3A), (5A) and (8A) of section 37E; and 20
  - (iii) repealing sections 14M and 43U;
- (c) by deleting “43U,” in paragraph (b) of the definition of “concessionary rate of tax” in section 14D(5);
- (d) by deleting “14M,” in section 15(2);
- (e) by deleting the words “or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be” in the following provisions: 25
  - (i) section 23(3);
  - (ii) paragraph (a) of the definition of “carry-back deductions” in sections 36A(10) and 36C(8); 30
  - (iii) section 37(6);

(f) by deleting “43U” in the following provisions and substituting in each case the words “43U (repealed)”:

(i) paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax” in section 37B(7);

5 (ii) paragraph (b) of the definition of “concessionary rate of tax” in section 37E(17);

(g) by deleting the words “or any of the 3 immediate preceding years of assessment (as the case may be)” wherever they appear in section 37E(4) and (6);

10 (h) by deleting the words “or any one of the 3 immediate preceding years of assessment (as the case may be)” in section 37E(11) and (12); and

(i) by deleting the words “that preceding year of assessment” in section 37E(11) and (12) and substituting in each case  
15 the words “the immediate preceding year of assessment”.

### **Miscellaneous amendments**

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

(a) by inserting, immediately after subsection (4) of section 6, the following subsection:

20 “(4AA) Subsection (4) also applies to an agreement or arrangement to which Part XXB applies between the Minister or the Minister’s authorised representative and the authority of another country that exercises powers or carries out duties  
25 corresponding to a power or duty of the Minister or representative, as if —

(a) a reference to the Government of Singapore is a reference to the Minister or the Minister’s authorised representative; and

30 (b) a reference to the government of another country is a reference to that authority of the other country.”;

(b) by deleting the word “offshore” in the following provisions:

(i) paragraph (b) of the definition of “concessionary rate of tax” in section 14D(5);

(ii) paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax” in section 37B(7); and 5

(c) by deleting paragraphs (a) and (b) of section 105P(1A) and substituting the following paragraphs:

“(a) the Government or the Minister or the Minister’s authorised representative does not have a CbCR exchange agreement with the government or an authority of that country; or 10

(b) the Government or the Minister or the Minister’s authorised representative has a CbCR exchange agreement with the government or an authority of that country, but the Minister is of the opinion that the agreement is not operating effectively.”. 15 20

### **Consequential amendment to Economic Expansion Incentives (Relief from Income Tax) Act**

**45.** Section 66(1) of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) is amended by deleting “43U,” in the definition of “concessionary income”. 25

### **Remission of tax for year of assessment 2017**

**46.—**(1) There is to be remitted the tax payable for the year of assessment 2017 by an individual resident in Singapore an amount equal to the lower of the following:

(a) 20% of the tax payable by that individual for that year of assessment; 30

(b) \$500.

(2) The amount of such remission is to be determined by the Comptroller.

### **Saving and transitional provisions**

5     **47.**—(1) Section 80A of the principal Act inserted by section 38 of this Act applies also to an appeal the hearing of which has begun before the date of commencement of section 38 of this Act.

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

---

## **EXPLANATORY STATEMENT**

This Bill seeks to implement the tax changes in the Government’s 2017 Budget Statement in the Income Tax Act (Cap. 134) (the Act) and to make certain other amendments to the Act, and to make a consequential amendment to the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

Clause 1 relates to the short title and commencement.

Clauses 2 and 3 amend sections 8 (Service and signature of notices) and 8A (Electronic service), respectively, to enable notices, directions and other documents of the Comptroller of Income Tax (the Comptroller) to be served through the electronic service if such service is permitted by regulations made under the amended section 8A. Currently, electronic service is permitted only with the consent of the person to be served.

Clause 3 further amends section 8A to enable regulations to be made to provide for matters relating to the service by the Comptroller on a person of any notice, direction or other document through the electronic service. In particular, the amendments to section 8A 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 that any document will be served on the person through the electronic service will be so served unless the person notifies the Comptroller that the person does not wish to be so served.

Clause 4 amends section 10C (Excess provident fund contributions, etc., deemed to be income) to increase the maximum amount of an employer's contribution to an employee's medisave account that is not treated as income of the employee, from \$1,500 to \$2,730 per employer per year beginning with 2018.

Clause 5 makes consequential amendments to section 10F (Ascertainment of income from certain public-private partnership arrangements) as a result of the replacement of Financial Reporting Standard 11 (Construction Contracts) (FRS 11) with Financial Reporting Standard 115 (Revenue from Contracts with Customers) (FRS 115). Currently, a person providing FRS 11 construction or upgrade services to the Government or an approved statutory body under a public-private partnership arrangement to which the financial reporting standard known as the Interpretation of Financial Reporting Standard 112 (Service Concession Arrangements) (INT FRS 112) applies, has a right to elect for any amount that is treated as income from such services under INT FRS 112, to be treated as having been derived in the basis period in which those services are completed. The amendment to section 10F extends this treatment to FRS 115 construction or upgrade services.

Clause 6 amends section 13 (Exempt income) to increase the maximum amount of voluntary cash contribution by a prescribed person to the medisave account of a self-employed individual that may be exempt from tax, from \$1,500 to \$2,730 per prescribed person per year beginning with 2018.

The clause also amends subsections (1)(b), (2C) and (2D) of section 13 as well as the definition of "qualifying project debt securities" in subsection (16) of that section, to extend to 31 December 2022 the period in which income derived from qualifying project debt securities is exempt from tax.

The clause further amends subsection (1)(zj) of section 13 to exempt from tax income from any structured product offered by a financial institution that is derived from Singapore by a non-resident, non-individual person if —

- (a) the contract for the structured product takes effect on or before 31 March 2021 (currently on or before 31 March 2017); or
- (b) the renewal or extension of the contract commences before 1 April 2021 (currently before 1 April 2017).

Finally, the clause amends subsection (1)(zr) of section 13 to replace the term "National Service Recognition Award" with "National Service Housing, Medical and Education Awards". The latter has replaced the former Award.

Clause 7 amends the definition of "ship management services" in section 13A (Exemption of shipping profits) for greater accuracy. The term is used in that section and section 13F for the purposes of exempting income derived between 22 February 2010 and 23 February 2015 by a shipping enterprise and international shipping enterprise from providing ship management services to certain entities.

Clause 8 amends section 13W (Exemption of relevant income of eligible family-owned investment holding company) to provide that the exemption under that section ceases to apply with effect from the year of assessment 2024.

Clause 9 amends the rule in section 13Z (Exemption of gains or profits from disposal of ordinary shares) that, where gains or profits from the disposal of ordinary shares are exempt from tax under that section, then —

- (a) any loss recognised under various financial reporting standards that is attributable to those shares and for which a deduction has been allowed in an earlier year of assessment; and
- (b) any profit recognised under various financial reporting standards that is attributable to those shares and charged to tax in an earlier year of assessment,

are (respectively) income chargeable to tax, and an expense allowable to the divesting company, for the year of assessment of the basis period in which the shares are disposed. The amendment extends the rule to a profit recognised under the financial reporting standard known as Financial Reporting Standard 109 (Financial Instruments) (FRS 109).

Clause 10 amends section 14 (Deductions allowed) —

- (a) to increase the maximum deduction allowable to an employer for the employer's contribution to an employee's medisave account from \$1,500 to \$2,730 per employee per year beginning with 2018; and
- (b) to increase the maximum deduction allowable to a prescribed person for the person's voluntary contribution to the medisave account of a self-employed individual, from \$1,500 to \$2,730 per individual per year beginning with 2018.

Clause 11 amends section 14D (Expenditure on research and development) by inserting new paragraph (g) in subsection (1). The new paragraph provides that, beginning from the year of assessment 2018, payments made under an agreement between parties to share the expenditure of research and development activities (a cost-sharing agreement) need not be related to the taxpayer's trade or business, and need not be undertaken in Singapore if unrelated to the taxpayer's trade or business, to be deductible.

The clause also provides a clarification on what payment made by a person under a cost-sharing agreement in that section means. It means any expenditure that is allocated to that person to bear under the agreement. The time the payment for any part of the expenditure becomes payable or (if no payment is needed) the time of the allocation, is treated as the time the payment under the agreement is made.

Clause 12 amends section 14DA (Enhanced deduction for qualifying expenditure on research and development) to amend the types of expenditure pursuant to a cost-sharing agreement for which enhanced deductions under that section may be given.

Currently, certain amounts of payments made under a cost-sharing agreement for a local research and development, or for that part of any research and development undertaken in Singapore (collectively called Singapore R and D), are eligible for the enhanced deductions. Beginning from the year of assessment 2018, these payments will not automatically be eligible for the enhanced deductions. Instead, where a taxpayer makes a payment under a cost-sharing agreement in a basis period, only the following amounts which a party to the agreement has agreed to bear, are eligible for the enhanced deduction under subsection (1):

- (a) qualifying expenditure incurred by the taxpayer in undertaking Singapore R and D in respect of the agreement;
- (b) a specified amount of payments made by the taxpayer in respect of the cost-sharing agreement to a research and development organisation for undertaking Singapore R and D.

Further, the enhanced deduction under subsection (2) to be allowed for the year of assessment 2018, for payments under a cost-sharing agreement for a foreign research and development, or for that part of the research and development undertaken in a foreign country, is subject to a maximum amount. The maximum amount is the difference between the amount of payments made by the person under that agreement, and the sum of the amounts mentioned in paragraphs (a) and (b) above in relation to the same agreement that qualifies for the enhanced deduction under subsection (1).

The amendments are illustrated in the following example.

Taxpayer (*A*) is a party to a cost-sharing agreement for research and development partly undertaken by *A* in Singapore, and partly undertaken overseas. *A* is required to pay \$100,000 under the agreement, of which \$70,000 is expenditure on staff costs and consumables for the foreign research and development.



If the total sum of the expenditure on staff costs and expenditure incurred by *A* in undertaking the part of the research and development in Singapore is \$120,000 (which is reimbursed under the cost-sharing agreement), the following amounts are eligible for the enhanced deduction under section 14DA(1) and (2):

Section 14DA(1)	$\$100,000^* \times 50\%$ , or \$50,000
Section 14DA(2)	$(\$100,000^* \times 250\%) + [\$70,000 \text{ subject to a cap of } (\$100,000^{**} - \$100,000^*)] \times 300\%$ , or \$250,000

\* The sum of \$120,000 is subject to a cap, being the payments made by *A* under the agreement (\$100,000).

\*\* This is the sum of the payments *A* made under the agreement.

The remaining expenditure incurred by *A* in undertaking the part of the research and development in Singapore for which the enhanced deduction is not given above (i.e. \$120,000 – \$100,000 or \$20,000) is not eligible for the enhanced deduction under section 14DA(1) in a subsequent year of assessment.

If the total sum of the expenditure on staff costs and expenditure incurred by *A* in undertaking the part of the research and development in Singapore is \$60,000 and this is reimbursed under the cost-sharing agreement, the following amounts are eligible for the enhanced deduction under section 14DA(1) and (2):

Section 14DA(1)	$\$60,000 \times 50\%$ , or \$30,000
Section 14DA(2)	$(\$60,000 \times 250\%) + [\$70,000 \text{ subject to a cap of } (\$100,000^{**} - \$60,000)] \times 300\%$ , or \$270,000

\*\* This is the sum of the payments *A* made under the agreement.

The above example is based on the assumption that the expenditure and payments qualifying for the enhanced deduction under section 14DA(2) do not exceed the amount in section 14DA(4)(h).

The clause also makes amendments similar to those made to section 14D as regards a payment made by a person under a cost-sharing agreement.

Clause 13 amends section 14I (Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments) to provide for a case where loans or securities are transferred by a bank or qualifying finance company to another person, along with a provision made for the loans or securities for which a deduction has been allowed to the transferor under the section. If both transferor and transferee are in the lending business, then the deduction is treated as having been allowed to the transferee. If only one or none of them is in the lending business, then the provision is treated as a trading receipt of the transferor.

The clause also amends section 14I to provide for the application of that section for a period prescribed by rules, to allowances that are required by the Monetary Authority of Singapore to be made by the bank or qualifying finance company to its loans and securities.

Clause 14 amends section 15 (Deductions not allowed) to provide that the prohibition on deduction of various types of expenses under that section does not apply to a deduction made under section 14D for the year of assessment 2018 onwards, for payments made under a cost-sharing agreement for research and development undertaken for the taxpayer or on the taxpayer's behalf. The prohibition however continues to apply for the purposes of a deduction under section 14DA.

Clause 15 amends subsection (6) of section 19A (Allowances of 3 years or 2 years write off for machinery and plant, and 100% write off for computer, prescribed automation equipment and robot, etc.) to provide that the capital allowance for the provision of any certified energy-efficient equipment that replaces any other equipment, or of any certified energy-saving equipment, can no longer be fully deducted in a single year of assessment, if the equipment is installed after 31 December 2017.

Clause 16 amends section 22 (Expenditure on machinery or plant) to provide that any reference to capital expenditure on the provision of machinery or plant excludes any option premium that is paid under an option agreement entered into for hedging against the cost of acquiring the machinery or plant.

Clause 17 amends section 26 (Profits of insurers) to provide for the following in determining the taxable income of an insurer:

- (a) in a case where the insurer is a general insurer, the net increase or net decrease between the beginning value and ending value of its policy liabilities in the basis period is to be deducted from or added to its gross income (as the case may be). Currently, the unexpired risk reserve of the insurer at the end of the basis period is to be deducted from its gross income, and its unexpired risk reserve at the beginning of the period is to be added to its gross income;
- (b) in a case where insurance business is transferred by an insurer (whether a general or life insurer) during the basis period, the value of its policy liabilities as at the end of the basis period must include its liabilities before the transfer under those policies that form part of the business being transferred;
- (c) in a case where insurance business is transferred to an insurer (whether a general or life insurer) during the basis period, the value of its policy liabilities as at the beginning of the basis period must include the liabilities of the transferor before the transfer under those policies that form part of the business being transferred.

The clause also makes the following other amendments to section 26:

- (a) to require separate accounts to be maintained for onshore life business and the business of insuring and reinsuring onshore risks (and not just offshore businesses);
- (b) to delete subsection (6)(c)(vi), which provides that in ascertaining the chargeable income of a life insurer in the case of insurance funds for offshore policies, income subject to a concessionary tax rate under section 43C is to be deducted. The provision is not needed since subsection (6) is concerned with the ascertainment of the income of a life insurer that is subject to tax, and not income that is subject to the normal tax rate;
- (c) to make various changes that are consequential on amendments made to section 43C (Exemption and concessionary rate of tax for insurance and reinsurance business);
- (d) to include a definition for “life insurance fund” used in the section;
- (e) to make an amendment that is consequential on the insertion of the new section 34AA.

Clause 18 makes an amendment to the heading of section 34A (Adjustment on change of basis of computing profits of financial instruments) that is consequential on the insertion of the new section 34AA.

Clause 19 inserts a new section 34AA which provides for changes to the basis of computing profits, losses or expenses in respect of financial instruments, arising from the adoption of FRS 109.

Subsection (1) provides that, with certain exceptions, any amount chargeable with or exempt from tax or allowable as a deduction in respect of any financial instrument of a qualifying person is that which, in accordance with FRS 109, is recognised in determining the profit, loss or expense in respect of that financial instrument.

The following are the qualifying persons:

- (a) in the case of the year of assessment of a basis period beginning on or after 1 January 2018 (which is the operative date of FRS 109), all persons required to prepare financial accounts in accordance with FRS 109;
- (b) in the case of the year of assessment of an earlier basis period, any person mentioned in paragraph (a) who chooses to prepare financial accounts in accordance with FRS 109;
- (c) in any case, any person who applies to the Comptroller to be subject to the new section.

Subsection (3) provides for certain exceptions to subsection (1), including —

- (a) a different treatment for interest derived from a negotiable certificate of deposit, and gains or profits from the sale of such instrument;
- (b) a different basis of computing certain interest from debt securities;
- (c) the disregarding of any amount of profit or expense in respect of interest-free loans;
- (d) the disregarding of any amount of profit or loss in respect of hedging instruments acquired under a bona fide commercial arrangement for the sole purpose of hedging against any risk associated with the underlying asset or liability, where the underlying asset or liability is employed or intended to be employed as capital;
- (e) the disregarding of expected credit losses (recognised under FRS 109) of financial instruments that are not credit-impaired; and
- (f) providing for the application of section 14I for a period prescribed by regulations, to provisions made for expected credit losses recognised under FRS 109 in respect of loans and securities which are not credit-impaired.

The new section 34AA further provides for a case where a gain relating to a financial instrument and recognised under FRS 109 was not taxed because it was treated as capital in nature, and a loss or expense relating to a financial instrument and recognised under FRS 109 was allowed as a deduction because it was treated as revenue in nature. If the gain is later discovered to be revenue in nature or the loss or expense discovered to be capital in nature, then the gain, loss or expense, together with any previous gain, loss or expense in respect of the instrument that was similarly mischaracterised, is treated as income for the year of assessment that is the year in which the discovery takes place. However, no assessment for that income may be made after the period of 4 years after the end of the year of assessment of the basis period in which the instrument is disposed of.

Conversely, where a gain relating to a financial instrument and recognised under FRS 109 was taxed because it was treated as revenue in nature, and a loss or expense relating to a financial instrument and recognised under FRS 109 was not allowed as a deduction because it was treated as capital in nature, and the gain was later discovered to be capital in nature or the loss or expense discovered to be revenue in nature, then a deduction is to be allowed for the gain, loss or expense, as well as any previous gain, loss or expense in respect of the instrument that was similarly mischaracterised, for the year of assessment that is the year in which the discovery takes place. However, no claim for such deduction may be made after the period of 4 years after the end of the year of assessment of the basis period in which the instrument is disposed of.

The provisions in the last 2 paragraphs are necessary because unrealised gains, losses or expenses may be recognised under FRS 109, before their true nature becomes known.

Finally, the section enables regulations to be made for various transitional matters, including regulations to treat as the income of a person an amount of profit recognised under FRS 109 as the person's profit before the person becomes a qualifying person, and allowing a deduction to a person for an amount of loss or expense recognised under FRS 109 as the person's loss or expense before the person becomes a qualifying person. Such regulations may be made e.g. to deal with the "transitional" gains, losses or expenses for financial instruments of persons who had previously elected not to be subject to the tax treatment under section 34A, but who then become subject to section 34AA.

Clause 20 amends the provisions in section 34D (Transactions not at arm's length) relating to transfer pricing between related parties. In particular —

- (a) it clarifies when those provisions apply, namely when 2 related parties deal with each other on conditions that are not arm's length conditions, resulting in a benefit for one of the parties. The benefit may be a lesser amount of income of one of the parties accruing in or derived from Singapore or received in Singapore from outside Singapore, a greater amount of deduction, or a greater amount of loss;
- (b) it provides for how the arm's length conditions are to be identified. These are to be identified on the basis of the actual commercial or financial relations between the parties. However, if non-related parties in comparable circumstances would have entered into substantially different relations, then the identification must be done on the basis of the latter. Further, if non-related parties in comparable circumstances would not have entered into commercial or financial relations, then the identification must be done on the basis of the absence of such relations; and
- (c) it clarifies the types of action that the Comptroller may take to counteract the benefit mentioned in paragraph (a).

Clause 21 inserts new sections 34E to 34I.

The new section 34E provides that where action is taken under the amended section 34D to increase a person's income, or to reduce a person's deduction or loss, a surcharge of 5% of the amount increased or reduced is recoverable from the person as a debt due to the Government.

The new section 34F requires certain parties involved in related party transactions to prepare transfer pricing documentation. The new section codifies the guidance found in the Transfer Pricing Guidelines issued by the Inland Revenue Authority of Singapore. The purpose of transfer pricing documentation is for a taxpayer to explain whether its transactions with related parties are conducted at arm's length. Under the new section, a company, the person making the return for a firm (including a partnership) or the trustee of a trust is required to prepare transfer pricing documentation once the gross revenue of the company, firm or trust in the basis period for a year of assessment exceeds \$10 million, or such documentation is required to be prepared for a transaction by the company, firm or trustee in the previous basis period. The transfer pricing documentation must be prepared no later than the time for making the tax return and must contain the details provided for in rules. The transfer pricing documentation for each transaction must be kept for at least 5 years from the end of the basis period in which the transaction took place.

The new sections 34G and 34H set out the tax treatment for foreign companies redomiciled in Singapore under the new Part XA of the Companies Act (Transfer of registration).

The new section 34G sets out the following tax treatment for such a company that has not carried on any trade or business in Singapore at any time before the date of redomiciliation:

- (a) if any debt of the company incurred before the date it is redomiciled (called its registration date) is written off as bad on or after that date, or is one for which provision is made for any impairment loss on or after that date, no deduction may be made for the debt or any provision made for it. Correspondingly, any amount recovered from the debt is not chargeable with tax;
- (b) any amount reversed after the company's registration date of an impairment loss from a financial asset on revenue account incurred before that date is not chargeable to tax;
- (c) any impairment loss incurred on or after the company's registration date from a financial asset that is acquired before that date, is allowed a deduction to the extent the financial asset is credit-impaired. Correspondingly, any amount of that loss that is subsequently reversed is chargeable to tax;
- (d) no deduction is allowed under section 14 for any expense incurred before the company's registration date for which it is given a deduction or relief by the income tax law of another country;

- (e) the value of any trading stock acquired before the company's registration date to be used to determine a deduction to be allowed to the company under any provision of the Act, is the lower of the cost of the trading stock to the company, and its net realisable value;
- (f) if the company did not carry on any trade or business outside Singapore at any time before its registration date, a deduction may only be given to the company under section 14A (Deductions for costs for protecting intellectual property), 14D (Expenditure on research and development), 14Q (Deduction for renovation or refurbishment expenditure), 14S (Deduction for qualifying design expenditure) or 14U (Deduction for expenses incurred before first dollar of income from trade, business, profession or vocation), for expenditure incurred before its registration date if it is incurred solely for the purpose of a trade or business in Singapore.

In addition, the new section 34G provides that a redomiciled company which did not carry on any trade or business in Singapore before its registration date, and uses property which it acquired before that date for its trade or business in Singapore after that date, may claim capital allowances under section 19, 19A or 19B for capital expenditure incurred for such acquisition. The new section modifies sections 19, 19A and 19B for the purpose of making those allowances to the company for that expenditure. In particular, such allowance will be made on the basis that the capital expenditure is equal to —

- (a) if the property is an intellectual property right, the lower of its acquisition cost (less accumulated amortisation and impairment losses) and its open-market price as of the company's registration date; or
- (b) if the property is any property for which allowance may be made under section 19 or 19A, the lower of its net book value and market value as of the company's registration date.

The new section 34H enables a tax credit to be given to a redomiciled company if its originating jurisdiction imposes an exit tax on its unrealised profits, and those profits are also taxed in Singapore. The company must be approved by the Minister for this purpose. In giving the approval, the Minister must specify the years of assessment for which the tax credit is to be allowed against the tax chargeable on the company's income, and the conditions it must satisfy before the tax credit is allowed.

A tax credit is to be allowed to an approved redomiciled company against the amount of tax chargeable on a specified amount of its income for any year of assessment, if the company is resident in Singapore in the relevant basis period and satisfies the conditions of its approval throughout that basis period.

If the company ceases to carry on any trade or business in Singapore within a period specified to it at the time of its approval, the company is liable to repay a specified amount of the tax credit already allowed to it to the Comptroller. Where any amount of tax credit is allowed to the company as a result of any false information or omission, the company is also liable to repay that amount to the Comptroller.

The example below illustrates the operation of the new section 34H.

*A*, a company incorporated in a foreign country, transfers its domicile to Singapore. The foreign country imposes income tax at 20% on *A*'s income (estimated at \$1 million) which will only be realised in Singapore in the 1st and 2nd year of *A*'s redomiciliation. The Minister approves *A* for the purposes of allowing *A* tax credits under the new section 34H for 2 years of assessment, starting from the year of assessment for the basis period in which it is redomiciled. Assuming that no part of the \$1 million is derived from any agreement or arrangement entered into on or after the company's registration date, the total amount of tax credits *A* is allowed is \$1 million  $\times$  17% or \$170,000 (17% being the lower of 20% and the tax rate of 17% it is subject to under section 43(1)(a) for the year of assessment for the basis period in which it becomes a Singapore company).

The amount of tax credit *A* is allowed for each of the 2 years of assessment is as follows:

1st year of assessment	
Realised income	\$600,000
Gross tax payable @ 17%	\$102,000
Less: Tax Credit	(\$102,000)
Net tax payable	0
2nd year of assessment	
Realised income	\$900,000
Gross tax payable @ 17%	\$153,000
Less: Tax Credit ***	(\$68,000)
Net tax payable	\$85,000

\*\*\* In the 2nd year of assessment, the tax credit is the lower of —

(a) \$153,000; and

(b)  $(\$1,000,000 \times 17\%) - \$102,000$ , or \$68,000.



If *A* ceases to carry on business at the end of 3 years starting from the date of its redomiciliation, then an amount of \$68,000 is recoverable, computed as follows:

$$\frac{(5 - 3)}{5} \times (\$102,000 + \$68,000) = \$68,000.$$

The new section 34I makes adjustments to the amount of statutory or exempt income of a person for a year of assessment, that are necessitated by the adoption for the first time of FRS 115 in preparing the person's financial accounts. By reason of such adoption, the revenue amount in its financial accounts in any previous basis period may be retrospectively adjusted. If the income assessed for a past year of assessment is different from the amount that would have been computed had the Comptroller used an amount of profit that included the adjusted revenue amount as the starting point for the computation, then the difference is treated as income chargeable to tax, to be deducted from the amount of exempt income, or allowable as a deduction (as the case may be) for the year of assessment of the basis period in which FRS 115 is first applied.

Clause 22 amends section 37 (Assessable income) to provide that no approval may be given for the 250% tax deduction under section 37(3)(d) for a donation made on or after 21 February 2017 by a company of a computer (including computer software and peripherals) to an institution of a public character, or to a prescribed Singapore educational, research or other institution.

Clause 23 amends the definition of "concessionary rate of tax" in section 37E (Carry-back of capital allowances and losses), by specifying that it includes a rate specified in regulations made under section 43C in respect of income from life reinsurance business as well as general insurance business (whether onshore or offshore).

Clause 24 amends section 39(2)(q), which provides for a deduction for a voluntary contribution to an individual's CPF medisave account if (among other conditions), the contribution, together with the balance in the account, is within the "basic healthcare sum". The basic healthcare sum is the maximum amount directed by the Minister for Manpower under section 13(6) of the Central Provident Fund Act (Cap. 36). With effect from 1 January 2017, the Minister may direct different maximum amounts for different classes of CPF members. The amendment to section 39(2)(q) is made to reflect this.

Clause 25 makes an amendment to section 43A (Concessionary rate of tax for Asian Currency Unit, Fund Manager and securities company) that is consequential on the insertion of the new section 34AA.

Clause 26 amends section 43C (Exemption and concessionary rate of tax for insurance and reinsurance business) —

- (a) to enable regulations to be made to apply a concessionary tax rate to income from qualifying onshore insurance business;
- (b) to provide that, in the case of life business, regulations may only be made to apply a concessionary tax rate to income from the reinsurance of life policies for approvals given on or after 1 June 2017;
- (c) to enable regulations to be made for deduction from the amount of income subject to the concessionary tax rate, allowances under section 23 (Carry forward of allowances); and
- (d) to insert a definition for marine hull and liability insurance and reinsurance business.

Clause 27 amends section 43P (Concessionary rate of tax for global trading company and qualifying company) to provide that the concessionary tax rate under that section only applies to income of an approved qualifying company from such prescribed qualifying structured commodity financing activities, treasury activities and advisory services in relation to mergers and acquisitions, as are specified to the company by the Minister or a person appointed by the Minister.

The clause also amends section 43P to enable a company that carries on the following businesses to be approved for the tax incentive under the section:

- (a) international trading in commodities derivatives;
- (b) brokering international trades in commodities.

Clause 28 amends section 43Q (Concessionary rate of tax for financial sector incentive company) to enable an alternative concessionary tax rate of 13.5% to be levied on income of financial sector incentive companies.

Clause 29 amends section 43Y (Concessionary rate of tax for leasing of aircraft and aircraft engines) —

- (a) to provide that the concessionary tax rate that applies to income of an aircraft leasing company that is approved for the purpose of that section on or after 1 April 2017, is 8%; and
- (b) to extend to 31 December 2022 the period in which such a company may be approved for such purpose.

Clause 30 amends section 43Z (Concessionary rate of tax for aircraft investment manager) to extend to 31 December 2022 the period in which an aircraft investment manager may be approved for the purpose of that section.

Clause 31 amends section 43ZD (Concessionary rate of tax for income derived from managing qualifying registered business trust or company) to extend to 31 December 2022 the period in which entities may be approved for the purposes of enjoying a concessionary tax rate for certain income connected with a prescribed offshore infrastructure asset or project.

Clause 32 makes various amendments to the scope of the term “corporate service” in section 43ZF (Concessionary rate of tax for shipping-related support services). That section applies a concessionary tax rate to the income of an approved company from the provision of shipping-related support services, which includes corporate services.

Clause 33 amends section 43ZH (Concessionary rate of tax for international growth company) by changing the last date by which a company may be approved as an international growth company for the purposes of the tax incentive under that section, from 31 March 2020 to 31 August 2017.

Clause 34 makes a technical amendment to section 45 (Withholding of tax in respect of interest paid to non-resident persons) to clarify that the failure to give a notice of a deduction of tax to the Comptroller after deducting any amount of tax (and not just the amount required by the section to be deducted) constitutes an offence.

Clause 35 amends section 45G (Application of section 45 to distribution from any real estate investment trust) to extend to 31 March 2020 the period for the application of the 10% withholding tax rate on REIT distributions to certain non-residents.

Clause 36 amends section 49 (Avoidance of double taxation arrangements) to enable the Minister to make an order to amend any avoidance of double taxation arrangement given effect under the section, in order to give effect to Singapore’s obligations under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS).

Clause 37 amends section 74 (Additional assessments) to disapply the time bar in subsection (1) for making an additional assessment, to an assessment made pursuant to an agreement made in accordance with a mutual agreement procedure under an avoidance of double taxation agreement. However, the time bar still applies to an agreement made pursuant to an advance pricing arrangement.

A mutual agreement procedure in an avoidance of double taxation agreement is one which allows a taxpayer who considers that the taxpayer is being taxed in a way contrary to the agreement to make an application to a tax authority. The tax authority may either resolve this on its own or consult with the other tax authority to resolve the case by mutual agreement.

An advance pricing arrangement is an arrangement made in advance between a taxpayer and a tax authority, or between tax authorities, on the transfer pricing criteria to be applied to a set of transactions over a specified period of time.

Section 74 is further amended to clarify that additional assessments may also be made in a case where an advance assessment under section 73 was made on a person (which by reason of section 73(4)(a) must be made on the basis of the law in force for the year of assessment in which the assessment is made), and the law applicable to that year of assessment is then changed retrospectively.

Clause 38 inserts a new section 80A to deal with a case where a member of the Income Tax Board of Review is unable for any reason to continue hearing an appeal. The new section 80A 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 presiding member has a casting vote. If the parties do not consent to the remaining members continuing with the hearing or (if there are only 2 remaining members) the remaining members are unable to reach a unanimous decision, the appeal must be reheard.

Clause 39 amends section 92E (Remission of tax of companies for years of assessment 2016 and 2017) by deleting the reference to the year of assessment 2017. The tax remission for companies for the year of assessment 2017 is enhanced and provided for under the new section 92F.

Clause 40 inserts new sections 92F and 92G to provide different tax remissions for companies for the years of assessment 2017 and 2018 respectively.

Compared to the year of assessment 2016, the new section 92F increases the cap for such remissions for the year of assessment 2017 from \$20,000 to \$25,000. The remission is the lower of \$25,000 and 50% of the tax payable (excluding any final withholding tax levied on income under section 43(3), (3A) and (3B)).

The new section 92G extends the tax remission for companies for another year of assessment to the year of assessment 2018, but at a reduced rate of 20% of the tax payable (excluding any final withholding tax levied on income under section 43(3), (3A) and (3B)) or a reduced cap of \$10,000, whichever is lower.

Clause 41 amends section 93A (Relief in respect of error or mistake) to provide that an application for relief for an error or mistake in an assessment, in connection with a related party transaction, must be supported by transfer pricing documentation that satisfies the requirements in section 34F. This applies even if the applicant is not required under section 34F to prepare such documentation.

Clause 42 amends section 105K (International tax compliance agreements) to clarify that the Minister may by order declare a competent authority agreement or CbCR exchange agreement between the competent authority of Singapore and the corresponding competent authority of another country as an international tax compliance agreement, and not just a competent authority agreement or CbCR exchange agreement between governments. The clause also clarifies that the Minister may also declare any other agreement or arrangement between the competent authority of Singapore and the corresponding competent authority of another country (and not just between governments) which makes provision corresponding or substantially similar to any agreement in subsection (1) as an international tax compliance agreement.

Finally, the clause amends subsection (2) of section 105K which provides that an order declaring an agreement or arrangement as an international tax compliance agreement takes effect only on or after that agreement or arrangement enters into force for Singapore. Where an order covers more than one agreement or arrangement, then the order does not take effect on or after a single date, but takes effect for each agreement or arrangement on or after the date it has entered into force for Singapore. This is intended to enable Singapore to make a single order to cover agreements or arrangements with different countries or competent authorities. An instance where this may be done is where the Multilateral Competent Authority Agreement (MCAA), or the Country-by-Country Reports Multilateral Competent Authority Agreement (CbCR MCAA), enters into force between Singapore and different signatories to the Agreement on different dates.

Clause 43 repeals various provisions of the Act which are spent, and makes consequential amendments to other provisions of the Act as a result of the repeal.

Clause 44 makes miscellaneous amendments to various provisions of the Act that are consequential on the amendments made to sections 43C and 105K.

Clause 45 makes an amendment to the definition of “concessionary income” in section 66(1) of the Economic Expansion Incentives (Relief from Income Tax) Act, that is consequential on the repeal of section 43U of the Income Tax Act by the Bill.

Clause 46 provides for a remission of the tax payable by a resident individual for the year of assessment 2017. The amount of remission is 20% of the tax payable or \$500, whichever is lower.

Clause 47 provides that the new section 80A of the principal Act (inserted by the Bill) also applies to appeals that have commenced before the date of commencement of that section. It also enables regulations of a saving and transitional nature to be made for the provisions in the Bill.

## EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

---