

INCOME TAX ACT

(CHAPTER 134)

An Act to impose a tax upon incomes and to regulate the collection thereof.

[1st January 1948]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Income Tax Act.

Interpretation

2. —(1) In this Act, unless the subject or context otherwise requires —

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

"accountant" means a public accountant within the meaning of the Accountants Act (Cap. 2);

"advocate and solicitor" means an advocate and solicitor within the meaning of the Legal Profession Act (Cap. 161);

"annual value" has the same meaning as in section 2 of the Property Tax Act (Cap. 254) and shall be ascertained in the same manner as annual value is ascertained under that Act;

"approved pension or provident fund or society" means a pension or provident fund or society approved by the Comptroller under section 5;

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

"basis period" for any year of assessment means the period on the profits of which tax for that year falls to be assessed;

"body of persons" means any body politic, corporate or collegiate, any corporation sole and any fraternity, fellowship or society of persons whether corporate or unincorporate but does not include a company or a partnership;

"Central Fund Administration" means any institution of a public character appointed to be a Central Fund Administrator under section 107 (1);

"Commonwealth", in relation to a country, means any country recognised by the President to be a Commonwealth country and "part of the Commonwealth" means any Commonwealth country, colony, protectorate or protected state or any other territory administered by the government of any Commonwealth country;

"company" means any company incorporated or registered under any law in force in Singapore or elsewhere;

"Comptroller" means the Comptroller of Income Tax appointed under section 3 (1) and includes, for all purposes of this Act except the exercise of the powers conferred upon the Comptroller by sections 67 (1) (a), 95, 96, 96A and 101, a Deputy Comptroller or an Assistant Comptroller so appointed;

"country" includes a territory;

"crops" includes any form of vegetable produce;

"earned income" means the statutory income of an individual or a Hindu joint family, reduced by any deduction made under section 37 (3) (a) or 37E or claimed under section 37D (excluding any donation referred to in section 37D (8) (c) or 37F from —

(a) gains or profits from any trade, business, profession, vocation or employment on which tax is payable under section 10 (1), where the Comptroller is satisfied that such gains or profits are immediately derived from the carrying on or exercise by such individual or Hindu joint family, as the case may be, of such trade, business, profession, vocation or employment; and

(b) any pension on which tax is payable under section 10 (1) (e) given to the individual in respect of the past services of such individual or any deceased individual;

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

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

"employee" —

(a) in relation to a company, includes a director of the company; and

(b) in relation to a statutory board, includes the chairman and any member of the statutory board, and "employer" and other cognate expressions shall be construed accordingly;

"employment pass" means an employment pass issued by the Controller of Immigration under the Immigration Regulations (Cap. 133, Rg 1);

"executor" means any executor, administrator or other person administering the estate of a deceased person;

"Fund Manager" or "fund manager" means a company holding a capital markets services licence under the Securities and Futures Act (Cap. 289) for fund management or that is exempted under that Act from holding such a licence;

"goods" includes currency and specie;

"harvesting" includes the collection of crops, however effected;

"Hindu joint family" means what in any system of law prevailing in India is known as a Hindu joint family or a co-parcenary;

"incapacitated person" means any infant, lunatic, idiot or insane person;

"institution of a public character" means an institution or fund in Singapore which is —

(a) a hospital not operated or conducted for profit;

(b) a public or benevolent institution not operated or conducted for profit;

(c) a public authority or society not operated or conducted for profit and which is engaged in research or other work connected with the causes, prevention or cure of disease in human beings, where the donation is for such activities;

(d) a university or a public fund for the establishment, maintenance, enlargement or improvement of a university;

(e) an educational institution not operated or conducted for profit, or a public fund for the establishment, maintenance, enlargement or improvement of such an educational institution;

(f) a public or private fund for the provision, establishment or endowment of a scholarship, exhibition or prize in a university, or an educational institution not operated or conducted for profit;

(g) a public fund established and maintained for the relief of distress among members of the public;

(h) a charitable institution or a body of persons or a trust established for charitable purposes only; or

(i) an organisation not operated or conducted primarily for profit which is engaged in or connected with the promotion of culture or the arts or with the promotion of sports;

"issued shares" excludes treasury shares;

"life annuity" means an annuity payable under a policy issued to an SRS member for a term ending with, or at a time ascertainable only by reference to, the end of his life;

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

"local forces" means the Singapore Armed Forces and any volunteer or reserve forces attached thereto;

"permanent establishment" means a fixed place where a business is wholly or partly carried on including —

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a warehouse;
- (f) a workshop;
- (g) a farm or plantation;

(h) a mine, oil well, quarry or other place of extraction of natural resources;

(i) a building or work site or a construction, installation or assembly project,

and without prejudice to the generality of the foregoing, a person shall be deemed to have a permanent establishment in Singapore if that person —

(i) carries on supervisory activities in connection with a building or work site or a construction, installation or assembly project; or

(ii) has another person acting on that person's behalf in Singapore who —

(A) has and habitually exercises an authority to conclude contracts;

(B) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that person;

or

(C) habitually secures orders wholly or almost wholly for that person or for such other enterprises as are controlled by that person;

"person" includes a company, body of persons and a Hindu joint family;

"plantation" means any land used for the growing and harvesting of crops;

"prescribed" means prescribed by rules or regulations made under this Act;

"prescribed retirement age" has the same meaning as in the Retirement Age Act (Cap. 274A);

"professional visit pass" means a professional visit pass issued by the Controller of Immigration under the Immigration Regulations (Cap. 133, Rg 1);

"replanting" means the replacement of the crop of any product on any area of land by the planting on the same area —

(a) of a crop of the same product; or

(b) of a crop of a different product approved by the Minister;

"research and development" means any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but does not include —

(a) quality control or routine testing of materials, devices or products;

(b) research in the social sciences or the humanities;

(c) routine data collection;

(d) efficiency surveys or management studies; or

(e) market research or sales promotion;

"research and development organisation" means a body or an organisation which provides research and development services for any trade or business;

"resident in Singapore" —

(a) in relation to an individual, means a person who, in the year preceding the year of assessment, resides in Singapore except for such temporary absences therefrom as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore, and includes a person who is physically present or who exercises an employment (other than as a director of a company) in Singapore for 183 days or more during the year preceding the year of assessment; and

(b) in relation to a company or body of persons, means a company or body of persons the control and management of whose business is exercised in Singapore;

"SRS account" means an account opened with an SRS operator by an SRS member;

"SRS contribution cap" , in relation to an SRS member, means the maximum contribution prescribed under section 10L that may be made by the member to his SRS account in any year under the SRS;

"SRS member" means a member of the Supplementary Retirement Scheme;

"SRS operator" means any company approved by the Minister, or such person as he may appoint, for the purposes of the Supplementary Retirement Scheme;

"Supplementary Retirement Scheme" or "SRS" means the Supplementary Retirement Scheme established by regulations made under section 10L;

"tax" means the income tax imposed by this Act;

"treasury share" has the same meaning as in section 4 (1) of the Companies Act (Cap. 50);

"work permit" means a work permit issued by the Controller of Work Permits under the Employment of Foreign Workers Act (Cap. 91A);

"year of assessment" means the period of 12 months commencing on 1st January 1948, and each subsequent period of 12 months.

[26/73; 37/75; 5/77;28/80;13/84;31/86;3/89;11/94;32/95;1/98;31/98;
32/99;24/2001;42/2001;37/2002;21/2003]

(2) For the purposes of this Act, where an individual is present in Singapore for any part of a day his presence on that day shall be counted as one day.

[13/84]

PART II

ADMINISTRATION

Appointment of Comptroller and other officers

3. —(1) For the due administration of this Act, the Minister may, by notification in the *Gazette*, appoint a Comptroller of Income Tax, and such Deputy Comptrollers, Assistant Comptrollers and other officers and persons as may be necessary.

(2) The Minister may, by notification in the *Gazette*, appoint a Senior Investigation Officer, Income Tax, and may by such or a subsequent notification authorise such officer to exercise all or such of the powers of the Comptroller under this Act as may be specified in such notification but without prejudice to the exercise by the Comptroller of such powers.

Powers of Comptroller

4. —(1) The Comptroller may, by notification in the *Gazette* or in writing, authorise any person, within or without Singapore, to perform or to assist in the performance of any specific duty imposed upon the Comptroller by this Act.

(2) Subject to such conditions as the Comptroller may specify, the Comptroller may, by notification in the *Gazette*, direct that any information, return or document required to be supplied, forwarded or given to the Comptroller may be supplied to such other person, being a person who has made and subscribed a declaration of secrecy in accordance with section 6 (1), as the Comptroller may direct.

(3) The Comptroller shall be responsible for the assessment and collection of tax and shall pay all amounts collected in respect thereof into the Consolidated Fund.

(4) The Comptroller may specify the form of any return, claim, statement or notice to be made or given under this Act.

Approved pension or provident fund or society

5. The Comptroller may, subject to such conditions as he may think fit to impose, approve any pension or provident fund or society for the purposes of this Act and may (without prejudice to the exercise of any power in that behalf conferred on him by any condition so imposed) at any time withdraw any approval previously given in respect of any such fund or society.

Official secrecy

6. —(1) Every person having any official duty or being employed in the administration of this Act

shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before the Comptroller or a Magistrate.

(2) Every person having possession or control over any documents, information, returns, assessment lists or copies of such lists relating to the income or items of income of any person, who at any time otherwise than for the purpose of this Act or with the express authority of the President —

(a) communicates or attempts to communicate such information or anything contained in such documents, returns, lists or copies to any person; or

(b) suffers or permits any person to have access to any such information or to anything contained in such documents, returns, lists or copies,

shall be guilty of an offence.

(3) No person appointed under, or employed in carrying out, the provisions of this Act shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act, or in order to institute a prosecution, or in the course of a prosecution, for any offence committed in relation to income tax.

(4) The obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the government of any other country of such facts as may be necessary —

(a) to enable the proper relief from income tax to be given in either country, where provision exists for the granting of relief in respect of taxes paid in the other country; or

(b) for the avoidance of double taxation and the prevention of fiscal evasion in either country, where an arrangement under section 49 is in operation between the government of that country and the Government of Singapore.

(5) Notwithstanding anything in this section, the Comptroller shall permit the Minister, the Auditor-General or any officer duly authorised in that behalf by the Auditor-General to have such access to any records or documents as may be necessary for the performance of his official duties.

(6) The Minister, the Auditor-General or any such officer shall be deemed to be a person employed in carrying out the provisions of this Act for the purposes of this section.

(7) Notwithstanding anything in this section, the Comptroller may transmit any document, information or return received by him or in his possession under this Act to the Commissioner of Estate Duties; and the Commissioner of Estate Duties may, notwithstanding anything contained in any written law for the time being in force in Singapore relating to the proof of documents, produce or cause to be produced in any court, in any proceedings relating to estate or death duties, a copy of any particulars contained in any document or return so transmitted, certified by him or on his behalf to be a correct copy of such particulars.

(8) For the purposes of subsection (7), the Commissioner of Estate Duties —

(a) may produce or cause to be produced the original of any such document or return in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such document or return, but only for the purpose of such proof;

(b) shall not in any case be compelled to produce in any court either the original of such document or return or a copy of any particulars contained in such document or return.

(9) Notwithstanding anything in this section, the Comptroller may transmit to the Comptroller of Property Tax, the Comptroller of Goods and Services Tax, the Chief Assessor or the Commissioner of Stamp Duties any information which may be required by any of them in the performance of his duties, or may permit such access to any records or documents as may be necessary for those purposes.

[1/88;31/93]

(10) Notwithstanding anything in this section, the Comptroller may furnish to the Chief Executive Officer of the Central Provident Fund Board any information which may be required by him in the

performance of his duties, or may permit such access to any records or documents as may be necessary for that purpose.

(10A) Notwithstanding anything in this section, the Comptroller may, for the purpose of enabling the Chief Statistician to perform his duties under the Statistics Act (Cap. 317), furnish and permit the Chief Statistician access to any information and records prescribed in rules made under section 7.

(11) Notwithstanding anything in this section, the Comptroller may lay a complaint of professional misconduct against any person in his professional dealings with the Comptroller to the appropriate authority empowered to take disciplinary action against the person and may in connection with the complaint furnish any relevant documents or information.

[4/75]

Rules

7. —(1) The Minister may make rules —

(a) to provide for the deduction and payment of tax at the source in respect of income from any employment, and for the recovery of tax so deducted; and

(b) generally to give effect to the provisions of this Act, other than section 81.

(2) All rules made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Service and signature of notices

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

(a) personally;

(b) by being sent through the post; or

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

(2) Where a notice is served by ordinary or registered post, it shall be deemed to have been served on the day succeeding the day on which the notice would have been received in the ordinary course of post if the notice is addressed —

(a) in the case of a company incorporated in Singapore, to the registered office of the company;

(b) in the case of a company incorporated outside Singapore, either to the individual authorised to accept service of process under the Companies Act (Cap. 50) at the address filed with the Registrar of Companies, or to the registered office of the company wherever it may be situated;

(c) in the case of an individual or a body of persons, to the last known business or private address of such individual or body of persons.

(3) Where the person to whom there has been addressed a registered letter containing any notice which may be given under the provisions of this Act is informed of the fact that there is a registered letter awaiting him at a post office and such person refuses or neglects to take delivery of such registered letter, such notice shall be deemed to have been served upon him on the date on which he was informed that there was a registered letter awaiting him at a post office.

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

(4) Subject to subsection (6), every notice to be given by the Comptroller under this Act shall be signed by the Comptroller or by some person or persons from time to time authorised by him in that behalf under section 4, and every such notice shall be valid if the signature of the Comptroller or of such person or persons is duly printed or written thereon.

(5) Subject to subsection (6), any notice under this Act requiring the attendance of any person or witness before the Comptroller shall be signed by the Comptroller or by a person duly authorised by him.

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

Electronic service

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

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

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

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

(a) an authentication code; and

(b) an account with the electronic service.

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

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

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

(a) it shall be deemed to have been filed or submitted with the authority of that person; and

(b) that person shall be deemed to be cognizant of all matters therein.

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

(a) the return, estimate, statement or document shall, for the purposes of this Act, be presumed to have been filed or submitted by that person unless he adduces evidence to the contrary; and

(b) where that person alleges that he did not file or submit the return, estimate, statement or document, the burden shall be on him to adduce evidence of that fact.

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

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

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

(b) any copy or print-out of that electronic record,

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

(i) is certified by the Comptroller to contain all or any information filed, submitted or served through the electronic service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (10) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(9) For the avoidance of doubt —

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

(b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the return, estimate, statement or document was filed or submitted, or the notice was served, without the delivery of any equivalent document or counterpart in paper form.

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

(a) giving the particulars of —

(i) any person whose authentication code was used to file, submit or serve the return, estimate, statement, document or notice; and

(ii) any person or device involved in the production or transmission of the electronic record of the return, estimate, statement, document or notice, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy thereof; and
(c) purporting to be signed by the Comptroller or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,
shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

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

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

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

(a) the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service;

(b) the procedure for the correction of errors in, or the amendment of, any return, estimate, statement or document that is filed or submitted through the electronic service;

(c) the manner in which a person who has given his consent for a notice to be served on him through the electronic service shall be notified of the transmission of an electronic record of the notice to his account with the electronic service;

(d) the manner in which authentication codes are to be assigned; and

(e) anything which may be prescribed under this section.

Free postage

9. All returns, additional information and resulting correspondence and payment of tax under the provisions of this Act may be sent post-free to the Comptroller in envelopes marked “Income Tax”.

PART III

IMPOSITION OF INCOME TAX

Charge of income tax

10. —(1) Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereinafter for each year of assessment upon the income of any person accruing in or derived from Singapore or received in Singapore from outside Singapore in respect of —

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised;

(b) gains or profits from any employment;

(c) *(Deleted by Act 29/65)*;

(d) dividends, interest or discounts;

(e) any pension, charge or annuity;

(f) rents, royalties, premiums and any other profits arising from property; and

(g) any gains or profits of an income nature not falling within any of the preceding paragraphs.

(2) In subsection (1) (b), “gains or profits from any employment” means —

(a) any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance (other than a subsistence, travelling, conveyance or entertainment allowance which is proved to the satisfaction of the Comptroller to have been expended for purposes other than those in respect of which no deduction is allowed under section 15) paid or granted in respect of the employment whether in money or otherwise;

(b) the value of any food, clothing or lodging provided or paid for by the employer;

(c) the annual value of any place of residence provided by the employer and for the purposes of this paragraph —

(i) if the place of residence is “premises” within the repealed Control of Rent Act (Cap. 58, 1985 Ed.) and is provided to a director of a company, or, if the remuneration received by a director of a company is less than the annual value of the premises, the full annual value shall be deemed to be gains or profits of the employment;

(ii) except as provided in sub-paragraph (i), if the annual value of the premises exceeds 10% of the gains or profits from the employment mentioned in paragraphs (a) and (b) less the rent, if any, paid by the employee for the use of the premises, the excess shall be disregarded;

(iii) where the premises are shared, “place of residence” means the part of the premises occupied by the person chargeable;

(d) any sum standing to the account of any individual in any pension or provident fund or society which the individual is entitled to withdraw upon retirement or which is withdrawn therefrom.

[26/73; 26/93; 28/96]

(3) Any sum realised under any insurance against loss of profits shall be taken into account in the ascertainment of any profits or income.

(4) Where, under section 17, 20 or 21, a balancing charge falls to be made, the amount thereof shall be deemed to be income chargeable with tax under this Act, except in the case of a balancing charge in respect of —

(a) a Singapore ship which is owned by a shipping enterprise within the meaning of section 13A at the time the balancing charge falls to be made in respect of the Singapore ship, but only up to the amount ascertained in accordance with the formula

$$\frac{A}{B} \times C,$$

where A is the amount of allowances under section 19 made to the enterprise in respect of the Singapore ship against any income exempt from tax under section 13A;

B is the total amount of allowances under section 19 or 19A which have been made in respect of the ship during the period it is owned by the enterprise; and

C is the amount of balancing charge;

(b) a foreign ship the income derived from the operation of which would be income of a shipping enterprise within the meaning of section 13A or income of an approved international shipping enterprise within the meaning of section 13F, as the case may be, but only up to the amount ascertained in accordance with the formula

$$\frac{X}{Y} \times Z,$$

where X is the amount of allowances under section 19 or 19A made to the enterprise in respect of the foreign ship against any income exempt from tax under section 13A or 13F, as the case may be;

Y is the total amount of allowances under section 19 or 19A which have been made in respect of the ship during the period it is owned by the enterprise; and

Z is the amount of balancing charge.

[2/92; 32/95; 31/98]

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

(6) Any gains or profits, directly or indirectly, derived by any person from a right or benefit granted on or after 1st January 2003, whether granted in his name or in the name of his nominee or agent, to acquire shares in any company shall, where the right or benefit is obtained by that person by reason of any office or employment held by him, be deemed to be income chargeable to tax under subsection (1) (b), accruing at such time and of such amount as determined under the following provisions:

- (a) where the right or benefit is exercised, assigned, released or acquired, at the time of the exercise, assignment, release or acquisition of the right or benefit and the gains or profits shall be the price of the shares in the open market at that time, less any amount paid for the shares;
- (b) notwithstanding paragraph (a), where the right or benefit granted is subject to any restriction on the sale of the shares so acquired, at the time the restriction ceases to apply and the gains or profits shall be the price of the shares in the open market at that time, less any amount paid for the shares;
- (c) if it is not possible to determine the gains or profits under paragraph (a) or (b), the Comptroller may use the net asset value of the shares, less any amount paid for the shares, as the basis for determining the gains or profits;
- (d) notwithstanding paragraphs (a) and (c), any gains or profits derived by him by any exercise of a right or benefit to acquire shares in any company listed on the Singapore Exchange shall be the last done price on the listing date of the shares so acquired less the amount paid for the shares;
- (e) “the last done price on the listing date”, in relation to any shares referred to in paragraph (d), means the price of the shares in the open market at the last transaction on the date on which the shares are first listed on the Singapore Exchange after the acquisition of the shares by him; and
- (f) “shares” includes stocks.

[37/2002]

(7) Notwithstanding subsection (6), where —

(a) the right or benefit to acquire shares in a company is granted on or after 1st January 2003 to an individual while he is exercising an employment in Singapore; and

(b) immediately before he ceases that employment —

(i) the individual is neither a citizen of Singapore nor a Singapore permanent resident, or being a Singapore permanent resident is leaving Singapore permanently; and

(ii) the right or benefit is not exercised, assigned, released or acquired by him, or the restriction on the sale of the shares has not ceased to apply,

any gains or profits from the right or benefit shall be —

(A) deemed to be income derived by the individual one month before the date of cessation of employment or the date the right or benefit is granted, whichever is the later; and

(B) computed based on the price of the shares in the open market on that date, less the amount paid for the shares.

[37/2002]

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

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

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

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

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

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

(8) Subsection (6) (c) shall apply, with the necessary modifications, to gains or profits derived by an individual referred to in subsection (7).

[37/2002]

(9) For the purposes of subsection (1) (e), the income derived from an annuity for any year shall be deemed to be an amount equal to 3% of the total consideration payable or paid for the purchase of the annuity except that the whole amount of the annuity shall be deemed to be income if —

(a) the person deriving income from the annuity has previously received sums equal to the total consideration for the annuity exclusive of the amounts deemed to be income under this subsection; or

(b) the annuity is purchased by the employer of the person deriving on or after 1st January 1993 such income in lieu of any pension or other benefit payable during his employment or upon his retirement.

[4/75;26/93]

(10) Subsection (9) shall not apply to any annuity purchased under the SRS.

[24/2001]

(11) For the purposes of subsection (1) (f) —

(a) “any other profits arising from property” shall be deemed to include the net annual value of property used by or on behalf of the owner for residential purposes and not for the purposes of gain or profit;

(b) “net annual value”, in relation to any property, means the annual value of such property less the expenses of repair, insurance, interest, maintenance or upkeep and all public rates and taxes paid thereon;

(c) in respect of any one property which is occupied for residential purposes by the owner thereof —

(i) the net annual value of such property; or

(ii) an amount equal to such sum as the Minister may, by order published in the *Gazette*, specify,* whichever is the less, shall not be deemed to be profits arising from property; and for the purposes of this paragraph any property owned by a married woman living with her husband shall be deemed to be owned by the husband.

[7/70;9/80]

*For the Year of Assessment 1997 and subsequent Years of Assessment the sum specified is \$150,000 — see G.N. No. S 240/96

(12) Where a person derives interest from a negotiable certificate of deposit or derives gains or profits from the sale thereof, his income shall be treated as follows:

(a) in the case of a financial institution the interest and the gains or profits shall be deemed to be income from a trade or business under subsection (1) (a);

(b) in any other case the interest and the gains or profits shall be deemed to be income from interest under subsection (1) (d) subject to the following provisions:

(i) if the interest is received by a subsequent holder of a certificate of deposit the income derived from such interest shall exclude the amount by which the purchase price exceeds the issued price of the certificate, except where that amount has been excluded in the computation of any previous interest derived by him in respect of that certificate; and

(ii) where a subsequent holder sells a certificate after receiving interest therefrom the gains or profits shall be deemed to be the amount by which the sale price exceeds the issued price or the purchase price, whichever is the lower; and

(c) for the purposes of paragraph (b), where a subsequent holder purchases a certificate at a price which is less than the issued price and holds the certificate until its maturity, the amount by which the issued price exceeds the purchase price shall be deemed to be interest derived by him.

[4/75]

(13) Any maintenance payment received by —

(a) a child under a maintenance order or a deed of separation; or

(b) a parent under a maintenance order made under the Maintenance of Parents Act (Cap. 167B), shall not be deemed to be income for the purposes of subsection (1).

[28/96]

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

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

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

[24/2000]

(15) Subsection (14) shall not apply to royalties or payments received in respect of any work published in any newspaper or periodical.

[1/88]

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

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

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

[24/2000]

(17) Notwithstanding subsection (16), where it appears to the Comptroller that any amount of income which has been determined under that subsection for the purposes of subsection (1) (a) or (f) ought not to have been so determined for any year of assessment, the Comptroller may, within 6 years after the end of that year of assessment, make such assessment or additional assessment upon the individual as may be necessary in order to make good any loss of tax.

[11/94]

(18) In subsection (16) —

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

"innovation" means —

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

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

"rights in the approved invention or approved innovation" means the rights relating to any patent, copyright, industrial design, trade mark or know-how of an approved invention or approved innovation where a substantial part of the work in developing the invention or innovation is undertaken in Singapore.

[24/2000]

(19) Any distribution made by a unit trust approved under section 10B out of gains or profits derived on or after 1st July 1989 from the disposal of securities and which have not been subject to tax shall be deemed to be income if received by a unit holder except where the unit holder is —

(a) an individual resident in Singapore; or

(b) a person who is not resident in Singapore and has no permanent establishment in Singapore.

[23/90]

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

(a) gains or profits derived from Singapore or elsewhere from the disposal of securities;
(b) interest (other than interest for which tax has been deducted under section 45); and
(c) dividends derived from outside Singapore and received in Singapore,
which do not form part of the statutory income of the designated unit trust or approved CPF unit trust by virtue of section 35 (12) shall, subject to subsection (21), be deemed to be income of the unit holder if he is not a foreign investor.

[32/95; 31/98; 24/2000]

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

(a) gains or profits derived on or after 27th February 2004 from —

(i) foreign exchange transactions;

(ii) transactions in futures contracts;

(iii) transactions in interest rate or currency forwards, swaps or option contracts; and

(iv) transactions in forwards, swaps or option contracts relating to any securities or financial index;

(b) distributions from foreign unit trusts derived from outside Singapore and received in Singapore on or after 27th February 2004;

(c) fees and compensatory payments (other than fees and compensatory payments for which tax has been deducted under section 45A) derived on or after

27th February 2004 from securities lending or repurchase arrangements with —

(i) a person who is neither a resident of nor a permanent establishment in Singapore;

(ii) the Monetary Authority of Singapore;

(iii) a bank licensed under the Banking Act (Cap.19);

(iv) a merchant bank approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186);

(v) a finance company licensed under the Finance Companies Act (Cap. 108);

(vi) a holder of a capital markets services licence licensed to carry on business in the following regulated activities under the Securities and Futures Act (Cap. 289) or a company exempted under that Act from holding such a licence:

(A) dealing in securities (other than any person licensed under the Financial Advisers Act (Cap. 110));

(B) fund management;

(C) securities financing; or

(D) providing custodial services for securities;

(vii) a collective investment scheme or closed-end fund as defined in the Securities and Futures Act that is constituted as a corporation;

(viii) the Central Depository (Pte) Limited;

(ix) an insurer registered or regulated under the Insurance Act (Cap. 142) or exempted under that Act from being registered or regulated; or

(x) a trust company licensed under the Trust Companies Act 2005;

(d) rents and any other income derived from any immovable property situated outside Singapore and received in Singapore on or after 27th February 2004;

(e) discount derived from outside Singapore and received in Singapore on or after 27th February 2004;

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

(g) gains or profits derived on or after 27th February 2004 from the disposal of debentures, stocks, shares, bonds or notes issued by supranational bodies,

which do not form part of the statutory income of the designated unit trust or approved CPF unit trust by virtue of section 35(12A) shall be deemed to be income of the unit holder if he is not a foreign investor.

(21) Where any distribution made out of gains or profits referred to in subsection (20) (a) is made to a unit holder who is an individual resident in Singapore, the distribution, if made on or after 28th February 1998, shall not be deemed to be income of that unit holder.

[32/95; 31/98]

(22) Where a designated unit trust had also been approved under section 10B, any distribution made by the designated unit trust out of any income (including gains or profits from the disposal of securities) derived by it during the period the designated unit trust was approved under section 10B shall be treated as income of a unit holder in accordance with subsection (19) and section 35 (11) and (15).

[32/95]

(23) In subsections (20), (20A), (21) and (22) —

"approved CPF unit trust" has the same meaning as in section 35 (14);

"compensatory payment" has the same meaning as in section 10N (12);

"designated unit trust" means any unit trust designated under section 35 (14);

"financial index" includes any currency, interest rate, share, stock or bond index;

"foreign investor" —

(a) in relation to an individual, means an individual who is not resident in Singapore;

(b) in relation to a company, means a company which is not resident in Singapore and —

(i) in the case of a company with not more than 50 shareholders, all of its issued shares are beneficially owned, directly or indirectly, by persons who are not citizens of Singapore and not resident in Singapore; and

(ii) in the case of a company with more than 50 shareholders, not less than 80% of the total number of its issued shares are beneficially owned, directly or indirectly, by persons who are not citizens of Singapore and not resident in Singapore; and

(c) in relation to a trust fund, means a trust fund where at least 80% of the value of the fund is beneficially held, directly or indirectly, by foreign investors referred to in paragraph (a) or (b) and, unless waived by the Minister or such person as he may appoint, where —

(i) the fund is created outside Singapore; and

(ii) the trustees of the fund are neither citizens of Singapore nor resident in Singapore;

[32/95; 31/98]

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

"securities" has the same meaning as in section 10A;

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

(24) For the purposes of subsection (2) (d), the sum standing to the account of any individual in any pension or provident fund or society, other than a pension or provident fund to which section 10C applies, shall be deemed to accrue to the individual on the date he is entitled to the sum upon retirement or on the date he withdraws any sum before his retirement, as the case may be, except that where upon his retirement an individual is entitled to elect under the rules or constitution of the pension or provident fund or society as to the manner and amount of the sum to be withdrawn, only the amount so withdrawn shall be deemed to be income of the individual accruing on the date of withdrawal.

[26/93]

(25) It is hereby declared for the avoidance of doubt that the amounts described in the following paragraphs shall be income received in Singapore from outside Singapore whether or not the source from which the income is derived has ceased:

(a) any amount from any income derived from outside Singapore which is remitted to, transmitted or brought into, Singapore;

(b) any amount from any income derived from outside Singapore which is applied in or towards satisfaction of any debt incurred in respect of a trade or business carried on in Singapore; and

(c) any amount from any income derived from outside Singapore which is applied to purchase any movable property which is brought into Singapore.

[32/95]

(26) Any payment accrued to a self-employed woman under section 9 (2) of the Children Development Co-Savings Act (Cap. 38A) shall be deemed to be income from her trade, business, profession or vocation chargeable to tax under subsection (1) (a).

[24/2001]

Profits of investment company

10A. —(1) Notwithstanding any other provisions of this Act, the Minister may by regulations —

- (a) provide that tax on gains or profits derived from the disposal of securities (other than transferred securities to which section 10N applies) by an approved investment company shall be levied and paid for each year of assessment upon such amount as may be determined by reference to the period during which those securities have been held;
- (b) provide for the deduction of such amount of allowances under section 19, 19A, 20, 21 or 23 to be granted in such manner as may be prescribed;
- (c) provide for the deduction of such amount of losses arising from the disposal of securities (other than transferred securities to which section 10N applies) as may be determined by reference to the period during which those securities have been held;
- (d) provide for the deduction of such amounts of expenses and donations allowable under this Act in such manner as may be prescribed.

[3/89; 37/2002]

(2) In this section —

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

"investment company" means any company whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom;

"securities" means —

(a) debentures, stocks, shares, bonds or notes issued by a government or company;

(b) any right or option in respect of any such debentures, stocks, shares, bonds or notes; or

(c) units in any unit trust within the meaning of section 10B.

[23/90; 32/95]

Profits of unit trusts

10B. —(1) Notwithstanding any other provisions of this Act, the Minister may by regulations —

- (a) provide that tax on gains or profits derived on or after 1st July 1989 from the disposal of securities by an approved unit trust shall be levied and paid for each year of assessment by the trustees upon such percentage of the gains or profits and in such manner as may be prescribed;
- (b) provide for the deduction of such percentage of the losses arising from the disposal of securities in such manner as may be prescribed;
- (c) provide for the deduction of expenses allowable under this Act to be granted in such manner as may be prescribed;
- (d) provide for the deduction of tax by the trustees of the unit trust on any distribution received by a unit holder which is deemed to be income under section 10 (19).

[23/90]

(2) In this section —

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

"securities" has the same meaning as in section 10A;

"unit" means a right or interest (whether described as a unit, a sub-unit or otherwise) which may be acquired under a unit trust;

"unit trust" means any trust established for the purpose, or having the effect, of providing facilities for the participation by persons as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property.

[23/90]

Excess provident fund contributions, etc., deemed to be income

10C. —(1) Notwithstanding section 13 (1) (j), where in any year, contributions have been made by

an employer in respect of an employee under section 7 of the Central Provident Fund Act (Cap. 36)

—
(a) any part of the employer's contributions, in respect of ordinary or additional wages paid to the employee in that year, which is not obligatory under that Act; or

(b) the employer's contributions in respect of that part of the additional wages which exceeds \$25,000 paid to the employee in that year,

shall be deemed to be income accruing to the employee for the year in which the wages are paid.

[23/90]

(2) Notwithstanding subsection (1) (a), where in any year, contributions obligatory by reason of a contract of employment are made by any relevant employer to the Central Provident Fund in respect of overseas ordinary wages or overseas additional wages paid to an employee in that year, that part of such contributions up to the relevant amount shall not be deemed to be income accruing to the employee.

[11/94]

(3) Subsection (2) shall not apply to contributions made by an employer in any year from 1st January 1999 to the Central Provident Fund in respect of an employee who holds a professional visit pass, an employment pass or a work permit in that year.

[1/98]

(4) Notwithstanding subsection (1) (a), where on or after 1st January 2003, contributions are made by any employer for any year to the medisave account of an employee maintained under the Central Provident Fund Act (Cap. 36) in lieu of hospitalisation or outpatient medical benefits which the employer is obliged to provide by reason of a contract of employment, such contributions up to \$1,500 for that year shall, subject to subsections (5) and (6), not be deemed to be income accruing to the employee.

[21/2003]

(5) Where contributions referred to in subsection (4) are made in respect of an employee by 2 or more employers for any year, the amount of such contributions not deemed to be income accruing to the employee shall not exceed \$1,500 for that year.

[21/2003]

(6) Subsection (4) shall not apply to contributions made by an employer in any year from 1st January 1999 to the Central Provident Fund in respect of an employee who holds a professional visit pass, an employment pass or a work permit in that year.

[1/98]

(7) Notwithstanding subsection (1) (b), where in any year all the ordinary wages of an employee paid in that year do not exceed \$60,000, and his total wages paid in the same year —

(a) do not exceed \$85,000, the excess contributions under subsection (1) (b) shall not be deemed to be income accruing to the employee;

(b) exceed \$85,000, only that part of such excess contributions made in respect of the difference between the total wages and \$93,500 shall be deemed to be income accruing to the employee.

(8) Where in any year contributions under section 7 of the Central Provident Fund Act (Cap. 36) have been made in respect of an employee employed by 2 or more employers and the employers are related to each other, subsection (7) shall apply, with the necessary modifications, as if all the ordinary and additional wages from those related employers and the contributions on those wages were paid by one employer.

(9) For the purposes of subsection (8), one employer shall be deemed to be related to another where one of them, directly or indirectly, has the ability to control the other or where both of them, directly or indirectly, are under the control of a common person.

(10) Subsections (1) to (9) shall apply, with the necessary modifications, to contributions made by an employer to a designated pension or provident fund as if those contributions were employer's contributions to the Central Provident Fund.

(11) Where in any year contributions have been made by an employer in respect of an employee to any pension or provident fund constituted outside Singapore, the whole of the contributions made to that pension or provident fund shall be deemed to be income accruing to the employee for the year in which the contributions are paid.

[26/93]

(12) In this section —

"additional wages" has the same meaning as in the Central Provident Fund Act;

"designated pension or provident fund" means an approved pension or provident fund designated by the Minister under section 39 (8);

"employer's contributions" means the contributions made by any employer under section 7 (1) of the Central Provident Fund Act (Cap. 36) less the amount of contributions recoverable by the employer from the wages of an employee under section 7 (2) of that Act;

"ordinary wages" has the same meaning as "ordinary wages for the month" in the Central Provident Fund Act;

"overseas additional wages" means additional wages paid in respect of the performance of any duty for any period outside Singapore;

"overseas ordinary wages" means ordinary wages paid in respect of the performance of any duty for any period outside Singapore;

"overseas total wages" , in relation to any year, means the total of the overseas ordinary wages and overseas additional wages in that year received by an employee;

"relevant amount" means the amount of contributions which would have been required to be made by the relevant employer had such contributions been obligatory under the Central Provident Fund Act in respect of —

(a) the overseas total wages paid to an employee in any year less the aggregate in that year of such part of the overseas ordinary wages paid to the employee in every month in that year as exceeds \$5,000; or

(b) \$85,000,

whichever is the less;

"relevant employer" means any company incorporated or registered under the Companies Act (Cap. 50) or any person registered under the Business Registration Act (Cap. 32);

"total wages" , in relation to any year, means the total of the ordinary and additional wages in that year received by an employee;

"year" means any year from 1st January to 31st December.

[11/94]

Income from finance or operating lease

10D. —(1) Notwithstanding any other provisions of this Act, the Minister may by regulations provide for the circumstances in which the Comptroller may direct that allowances under section 19, 19A, 20, 21, 22 or 23 in respect of any machinery or plant which is leased under a finance lease entered into on or after 1st April 1990 shall not be made to the lessor but to the lessee as though the machinery or plant had been sold by the lessor to the lessee.

[20/91]

(2) In determining the income of a lessor from the leasing of any machinery or plant, other than those which have been treated as though they had been sold pursuant to regulations made under subsection (1), the following provisions shall apply:

(a) the Comptroller shall determine the manner and extent to which —

(i) allowances under section 19, 19A, 20, 21, 22 or 23 and any expenses and donations allowable under this Act are to be deducted;

(ii) any loss may be deducted under section 37;

(b) where the lessor derives income from onshore leasing but does not derive income from offshore leasing, the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of onshore finance leasing shall, subject to paragraph (c), only be available as a deduction against the income from such

onshore finance leasing and any balance of the allowances shall not be available as a deduction against any other income or be available for transfer under section 37C, 37D or 37F;

(c) where the lessor referred to in paragraph (b) ceases to derive income from onshore finance leasing in the basis period for any year of assessment, any balance of the allowances after the deduction in paragraph (b) shall be available as a deduction against any other income for that year of assessment or for any subsequent year of assessment in accordance with section 23;

(d) where the lessor derives income from both onshore leasing and offshore leasing and such income is subject to tax under section 42 (1) or 43 (1), the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of the leasing under any finance lease shall, subject to paragraph (e), only be available as a deduction against the income from such finance lease and any balance of the allowances shall not be available as a deduction against any other income or be available for transfer under section 37C, 37D or 37F;

(e) where the lessor referred to in paragraph (d) ceases to derive income from the leasing of any machinery or plant under any finance lease in the basis period for any year of assessment, any balance of the allowances after the deduction in paragraph (d) shall be available as a deduction against any other income for that year of assessment and for any subsequent year of assessment in accordance with section 23;

(f) where the lessor is a leasing company which derives income from onshore leasing and also derives income from offshore leasing subject to the concessionary rate of tax under section 43I —

(i) the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of onshore finance leasing shall firstly be available as a deduction against the income from such leasing and any balance of the allowances shall be available as a deduction against any other income in accordance with such regulations as may be prescribed;

(ii) the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of onshore operating leasing shall firstly be available as a deduction against the income from such leasing and any balance of the allowances shall be available as a deduction against any other income in accordance with such regulations as may be prescribed;

(iii) any losses incurred in respect of onshore finance leasing or onshore operating leasing shall be available as a deduction against any other income in accordance with such regulations as may be prescribed.

[1/98;37/2002]

(3) In this section —

"finance lease" means a lease of any machinery or plant (including any arrangement or agreement in connection with the lease) which has the effect of transferring substantially the obsolescence, risks or rewards incidental to ownership of such machinery or plant to the lessee;

"leasing company" and "offshore leasing" have the same meanings as in section 43I (9);

"onshore finance leasing" means the onshore leasing of any machinery or plant under any finance lease;

"onshore leasing" means the leasing, other than offshore leasing, of any machinery or plant;

"onshore operating leasing" means the onshore leasing of any machinery or plant, other than onshore finance leasing.

[1/98]

Ascertainment of income of investment holding company

10E. —(1) Notwithstanding any other provisions of this Act, in determining the income of a company or trustee of a property trust derived from any business of the making of investments the following provisions shall apply:

(a) any outgoings and expenses incurred by the company or trustee of a property trust in respect of investments of that business which do not produce any income shall not be allowed as a deduction under section 14 for that business or other income of the company or trustee of a property trust;

(b) any outgoings and expenses incurred by the company or trustee of a property trust in respect of investments of that business which produce any income shall only be available as a deduction under

section 14 against the income derived from such investments and any excess of such outgoings and expenses over such income in any year shall be disregarded; and
(c) the allowances under sections 19, 19A, 20 and 21 relating to that business shall only be available as a deduction against the income derived from investments of that business which produce any income and the balance of the allowances in any year shall be disregarded.

[32/95;37/2002]

(2) In this section —

"business of the making of investments" includes the business of letting immovable properties;

"immovable property-related assets" means debt securities and shares issued by property companies, mortgaged-backed securities, other property trust funds, and assets incidental to the ownership of immovable properties;

"investments" means securities, immovable properties and immovable property-related assets;

"property trust" means a trust which invests in immovable properties or immovable property-related assets.

[32/95; 37/2002]

10F. (Repealed by Act 37/2002)

10G. (Repealed by Act 37/2002)

Ascertainment of income from business of hiring out motor cars or providing driving instruction

10H. —(1) Notwithstanding any other provisions of this Act, in determining the income derived by any person for any year of assessment from any business of hiring out motor cars or of providing driving instruction using motor cars, the following provisions shall apply:

(a) any outgoings and expenses incurred in respect of that business for that year of assessment and allowable under this Act shall only be deducted against the income derived from that business and any excess of such outgoings and expenses over such income shall not be available as a deduction against any other income of the person or be available for transfer under section 37C, 37D or 37F for that year of assessment and any subsequent year of assessment; and

(b) the allowances under sections 19, 19A, 20, 21 and 22 relating to that business for that year of assessment shall only be available as a deduction against the income derived from that business and any excess of such allowances over such income shall not be available as a deduction against any other income of the person or be available for transfer under section 37C, 37D or 37F for that year of assessment and any subsequent year of assessment.

[32/99;37/2002]

(2) In this section, "motor car" means a car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms.

[32/99]

Reduction of share capital

10I. —(1) This section shall, subject to sections 10J, 10K and 10M, apply where a company resident in Singapore reduces its share capital and the reduction of share capital involves a payment to any shareholder of the company.

[32/99;24/2001]

(2) Where the reduction of share capital is made out of the contributed capital of the company, and a payment is made to any shareholder of the company pursuant to such reduction, the payment to the shareholder shall not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be debited to the contributed capital account referred to in subsection (5) (c) (i).

[32/99]

(3) Where the reduction of share capital is not made out of the contributed capital of the company, and a payment is made to any shareholder of the company pursuant to such reduction, the payment to the shareholder shall be deemed to be a dividend paid by the company to the shareholder on the

date of the payment, and the provisions relating to the payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall apply, with the necessary modifications, to the dividend deemed to be paid.

[32/99]

(4) Where the dividend deemed to be paid under subsection (3) is a dividend to which section 44 applies, the amount of dividend deemed to be paid by the company to the shareholder shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder.

[32/99]

(5) For the purposes of this section —

(a) the share capital of a company shall include any reserve which is treated as paid-up share capital of the company for the purpose of any reduction of share capital made by the company;

(b) the contributed capital of a company as at any date shall be the aggregate of the amounts received by the company, whether in cash or in the form of other valuable consideration, for the shares it had issued up to that date reduced by —

(i) the aggregate of the amounts of any payment made to any shareholder of the company pursuant to any reduction of share capital by the company up to that date which had not been treated as a payment of dividends for the purpose of this Act;

(ii) the aggregate of the amounts of any payment made to any shareholder of the company pursuant to any redemption of shares by the company up to that date which had not been treated as a payment of dividends for the purpose of this Act; and

(iii) the aggregate of the amounts of any other payment made to any shareholder of the company pursuant to any return of share capital up to that date which had not been treated as a payment of dividends for the purpose of this Act;

(c) in relation to the first reduction of its share capital made on or after 18th November 1998 by any company, the contributed capital of the company immediately before the first reduction —

(i) shall be credited to an account (referred to in this section as the contributed capital account) to be kept by the company for the purposes of this section; and

(ii) where the aggregate of the amounts of any payment referred to in paragraph (b) (i), (ii) and (iii) exceeds the aggregate of the amounts received by the company, whether in cash or in the form of other valuable consideration, for the shares it had issued before the first reduction, the amount to be credited to the contributed capital account shall be deemed to be zero;

(d) where any share is issued by a company subsequent to the first reduction of its share capital referred to in paragraph (c), any amount received by the company, whether in cash or in the form of other valuable consideration, for the shares it had issued shall be credited to the contributed capital account;

(e) where a company redeems any redeemable shares subsequent to the first reduction of its share capital referred to in paragraph (c) and section 10K does not apply to that redemption, any payment made to any shareholder for the purpose of that redemption shall be debited to the contributed capital account where the payment is not treated as a payment of dividends for the purpose of this Act;

(f) where any reduction of share capital of a company was made before 18th November 1998 for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of 2 or more companies and such scheme resulted in the transfer of assets of the first-mentioned company, whether directly by that company or indirectly through its shareholders, to another company in exchange for shares in the transferee company, the consideration equal to the value of the assets received by the transferee company for the shares issued shall, notwithstanding paragraph (b), not form part of the contributed capital of the transferee company where the payment made by the first-mentioned company pursuant to the reduction of its share capital was —

(i) not treated as a payment of dividend to the shareholder of the first-mentioned company for the purpose of this Act; and

- (ii) more than the contributed capital of the first-mentioned company immediately before the reduction of its share capital;
 - (g) where paragraph (f) is applicable to the contributed capital of a transferee company, the contributed capital of the first-mentioned company under that paragraph after the reduction of its share capital shall, notwithstanding paragraph (b), not be reduced by the payment made by the first-mentioned company for the reduction of its share capital; and
 - (h) any amount applied by a company in issuing shares of the company to its shareholders as bonus shares shall not be regarded as receipts by the company from the issue of shares.
- (6) A company shall deliver to the Comptroller a copy of the contributed capital account made up to any date specified by the Comptroller whenever called upon to do so by notice in writing.

[32/99]

Shares buyback

10J. —(1) Where a company resident in Singapore purchases or otherwise acquires shares issued by it from any shareholder of the company (referred to in this section as a buyback), whether to hold as treasury shares or otherwise, for the purposes of this section —

- (a) the buyback constitutes a market purchase if the purchase of the shares is made on a stock exchange; and
- (b) the buyback constitutes an off-market purchase if the purchase of the shares is made otherwise than on a stock exchange.

[32/99]

(2) Where a company undertakes a buyback described in subsection (1), any payment made by the company to any shareholder for the buyback shall, to the extent that the payment is made out of contributed capital of the company, not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be debited to the contributed capital account kept by the company under section 10I (5) (c) (i).

[32/99]

(3) Where a company undertakes a buyback described in subsection (1), any payment made by the company to any shareholder for the buyback shall, to the extent that the payment is not made out of the contributed capital of the company, be deemed to be —

- (a) a dividend paid by the company on the date of the payment, and the provisions relating to payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), shall apply, with the necessary modifications, to the dividend deemed to be paid;
- (b) a dividend received by the shareholder (not being a transferee to whom section 10N applies) where the buyback is an off-market purchase made in accordance with an equal access scheme authorised in advance by the company at a general meeting of the company.

[32/99;37/2002]

(4) Notwithstanding subsection (3), where a company undertakes a buyback described in subsection (1) (a) through a special trading counter established on the Singapore Exchange, any payment made by the company to any shareholder for the buyback shall, to the extent that the payment is not made out of the contributed capital of the company, be deemed to be —

- (a) a dividend paid by the company on the date of the payment, and section 44 shall apply, with the necessary modifications, to such dividend; and
- (b) a dividend received by the shareholder if the conditions in subsection (5) are satisfied.

[24/2000]

(5) The conditions referred to in subsection (4) (b) are —

- (a) the shares sold through the special trading counter are not acquired by the shareholder through any securities lending or repurchase arrangement;
- (b) the shareholder has beneficially owned the shares for a continuous period of at least 183 days ending immediately before the day of the sale of the share through the special trading counter;

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

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

[24/2000]

(6) Where the dividend deemed to be paid by a company under subsection (3) (a) is a dividend to which section 44 applies, the amount of dividend so paid by the company and the amount of dividend deemed to be received by the shareholder under subsection (3) (b) shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder.

[32/99]

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

[24/2000]

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

[24/2000]

(9) Where any payment made by a company to any shareholder for a buyback is not deemed to be a dividend received by the shareholder under subsection (3) (b) or (4) (b), no set-off under section 46 shall be allowed to the shareholder in respect of the payment.

[32/99;24/2000]

(10) Where a shareholder sells his shares to the company in an off-market purchase referred to in subsection (3) (b) —

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

(b) the cost of any remaining share in the company held by the shareholder immediately after the sale shall be ascertained by the formula

$$\frac{A}{N}$$

$$N$$

where A is the aggregate cost of all shares in the company held by the shareholder immediately preceding the buyback of his shares; and

N is the number of remaining shares in the company held by the shareholder after the buyback of his shares.

[32/99]

(11) Notwithstanding any other provisions of this Act, where a shareholder sells his shares through a special trading counter referred to in subsection (4) and any payment received by the shareholder for the buyback of such shares is deemed to be a dividend received by him under that subsection —

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

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

[24/2000]

(12) For the purposes of this section —

(a) the contributed capital of a company has the same meaning as in section 10I (5) (b);

(b) where a company undertakes a buyback to which subsection (2) applies and the buyback is effected before any reduction of its share capital to which section 10I applies or any redemption of shares to which section 10K applies or any purchase or acquisition of shares or stocks of a

preferential nature to which section 10M applies, section 10I (5) (c), (d) and (e) shall apply, with the necessary modifications, for the purpose of the buyback and any reference in that section to the first reduction shall be read as a reference to the buyback;

(c) “equal access scheme” means a scheme which satisfies all the following conditions:

(i) the offers under the scheme are to be made to every person who holds shares to purchase or acquire the same percentage of their shares;

(ii) all the persons mentioned in sub-paragraph (i) have a reasonable opportunity to accept the offers made to them; and

(iii) the terms of all the offers are the same except that there shall be disregarded —

(A) differences in consideration attributable to the fact that the offers relate to shares with different accrued dividend entitlements;

(B) differences in consideration attributable to the fact that the offers relate to shares with different amounts remaining unpaid; and

(C) differences in the offers introduced solely to ensure that each shareholder is left with a whole number of shares;

(d) in determining the duration of beneficial ownership of shares for the purposes of subsection (5)

(b) —

(i) the day of acquisition of the shares shall be counted as one day, but the day of sale of the shares shall be excluded;

(ii) any bonus shares or shares arising from a consolidation or sub-division of shares shall be deemed to have been acquired on the date of acquisition of the original shares in respect of which the bonus shares were issued, or from which the consolidated or sub-divided shares were derived;

(iii) the duration shall not be regarded as discontinued by the lending or sale of the shares under any securities lending or repurchase arrangement; and

(iv) regard shall be had to such other matters as may be prescribed;

(e) “shares” includes stocks but does not include shares or stocks of a preferential nature.

[32/99;24/2000;24/2001]

Shares redemption

10K. —(1) This section shall apply where a company resident in Singapore redeems from its shareholders any redeemable shares issued after 6th July 1999.

[32/99]

(2) Where a company redeems any redeemable shares to which this section applies, any payment made by the company to any shareholder from whom the shares are redeemed shall —

(a) where the payment is provided for out of contributed capital of the company, not be regarded as a payment of dividend by the company to the shareholder, and an amount equal to the payment shall be debited to the contributed capital account kept by the company under section 10I (5) (c) (i);

(b) where the payment is not provided for out of contributed capital of the company —

(i) be deemed to be a dividend paid by the company on the date of the payment, and the provisions relating to the payment of dividends under this Act and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), shall apply, with the necessary modifications, to the dividend deemed to be paid;

(ii) notwithstanding sub-paragraph (i), not be deemed to be a dividend received by the shareholder.

[32/99]

(3) Where the dividend deemed to be paid under subsection (2) (b) (i) is a dividend to which section 44 applies, the amount of dividend deemed to be so paid by the company shall be deemed to be of such a gross amount as after deduction of tax at the rate deductible at the date of payment would be equal to the amount of payment made by the company to the shareholder.

[32/99]

(4) No set-off under section 46 shall be allowed to any shareholder in respect of any payment made by a company to the shareholder for the redemption of his redeemable shares.

[32/99]

(5) For the purposes of this section —

(a) the contributed capital of a company has the same meaning as in section 10I (5) (b); and

(b) where a company redeems any redeemable shares to which this section applies and the redemption is effected before any reduction of its share capital to which section 10I applies or any buyback to which section 10J (2) or 10M applies, section 10I (5) (c), (d) and (e) shall apply, with the necessary modifications, for the purpose of the redemption and any reference in that section to the first reduction shall be read as a reference to the redemption.

[32/99;24/2001]

Withdrawals from Supplementary Retirement Scheme

10L. —(1) Where the amount of withdrawals made by an SRS member from his SRS account in any year exceeds the amount he contributed to his SRS account in that year, the excess amount withdrawn from his SRS account shall, subject to subsections (3), (6), (7), (8) and (9), be deemed to be income of the SRS member chargeable to tax under section 10 (1) (g).

[24/2001]

(2) Except where a withdrawal is made by the Official Assignee or the trustee in bankruptcy of an SRS member who is a bankrupt or where a withdrawal is made under subsection (3), (4) or (8) or deemed to be withdrawn under subsection (6), (7) or (9), a penalty of 5% of the amount withdrawn which is deemed to be income of an SRS member under subsection (1) shall be payable by the SRS member and shall be deducted by the SRS operator from the amount so withdrawn.

[24/2001]

(2A) The Minister may, for any good cause, remit, wholly or in part, any penalty payable by any SRS member under subsection (2).

[37/2002]

(3) Only 50% of the following withdrawals made by an SRS member from his SRS account shall be deemed to be income of the SRS member chargeable to tax under section 10 (1) (g):

(a) withdrawal of all the funds standing in his SRS account at the same time if the SRS member is neither a citizen of Singapore nor a Singapore permanent resident on the date of the withdrawal and for a continuous period of at least 10 years before that date, and has maintained his SRS account for a period of not less than 10 years from the date of his first contribution to his SRS account;

(b) any withdrawal on or after the SRS member has attained the prescribed retirement age prevailing at the time when the SRS member made his first contribution to his SRS account; or

(c) any withdrawal made on the ground that the SRS member is physically or mentally incapacitated from ever continuing in any employment, is found to be of unsound mind or is suffering from a terminal illness or disease.

[24/2001;37/2002]

(4) Where any contribution made by an SRS member in any year to his SRS account exceeds his SRS contribution cap for that year (referred to in this section as excess contribution) —

(a) the aggregate of the excess contribution and, unless the Comptroller otherwise directs, an amount equal to 5% of the excess contribution, to be compounded yearly in accordance with regulations made under this section; or

(b) the total amount standing in his SRS account,

whichever amount is the lower, shall be withdrawn by the SRS member from his SRS account by 31st December of the year in which he has been notified by the Comptroller of the excess contribution; and that amount shall be deemed to be his income chargeable to tax under section 10 (1) (g) for that year.

[24/2001]

(5) Where an SRS member is eligible to make a withdrawal under subsection (3) (b), all the funds (excluding any life annuity) standing in his SRS account shall be withdrawn not later than —

(a) 10 years from the prescribed retirement age prevailing at the time he made his first withdrawal under subsection (3) (b); or

(b) 10 years from the prescribed retirement age prevailing at any time,

whichever is the earlier.

[24/2001]

(6) Upon the expiry of the earlier of the 2 periods referred to in subsection (5), any balance (excluding any life annuity and any amount not withdrawn under subsection (4)) remaining in the SRS account shall be deemed to be withdrawn by the SRS member and 50% of such balance shall be deemed to be his income chargeable to tax under section 10 (1) (g) for the year in which the earlier of such periods expires.

[24/2001]

(7) Where an SRS member is eligible to make a withdrawal under subsection (3) (c), he shall withdraw all the funds (excluding any life annuity) standing in his SRS account not later than 10 years from the date he makes the first withdrawal; and upon the expiry of that period, any balance (excluding any life annuity and any amount not withdrawn under subsection (4)) remaining in his SRS account shall be deemed to be withdrawn by the SRS member and 50% of such balance shall be deemed to be his income chargeable to tax under section 10 (1) (g).

[24/2001]

(8) Only 50% of any annuity payment made under a life annuity purchased by an SRS member under the SRS shall be deemed to be income of the SRS member chargeable to tax under section 10 (1) (g) upon —

(a) the expiry of the earlier of the 2 periods referred to in subsection (5);

(b) the expiry of the period referred to in subsection (7); or

(c) the closure of his SRS account on or after he has attained the prescribed retirement age prevailing at the time when he made his first contribution to his SRS account.

[24/2001]

(9) Where an SRS member dies, any sum standing in his SRS account shall be deemed to be withdrawn on the date of his death and 50% of the sum shall be deemed to be his income chargeable to tax under section 10 (1) (g).

[24/2001]

(10) For the purposes of this section, the use of funds in his SRS account by an SRS member for investment in savings or investment products offered under the SRS and for disbursement of any charges in relation to the operation of his SRS account shall be deemed not to be a withdrawal from his SRS account.

[24/2001]

(11) The Minister may by regulations establish a Supplementary Retirement Scheme to provide for voluntary cash contributions by individuals to accounts operated by SRS operators so as to encourage individuals to save for their old age.

[24/2001]

(12) Without prejudice to the generality of subsection (11), regulations made under that subsection may provide for —

(a) the opening and the type of account for any SRS member into which contributions may be made;

(b) the SRS contribution cap, the mode and manner of the contributions and withdrawals that can be made by any SRS member;

(c) the method of valuation of investment products acquired under the SRS;

(d) the method of computing income deemed to accrue from excess contributions made by any SRS member;

(e) the suspension or closure of SRS accounts and the circumstances in which the SRS accounts may be suspended or closed;

(f) the terms and conditions governing the relationship between the Government, SRS operators, SRS members and the Comptroller under the SRS;

- (g) the purposes for which the contributions made under the SRS can be utilised and invested, the persons with whom investments may be made and the terms and conditions of the investment and withdrawal under the SRS;
- (h) the consequences for any contravention of the regulations, including making any act or omission in contravention of such regulations an offence and prescribing penalties for such offence;
- (i) the requirements and obligations to be observed by SRS members, SRS operators and financial product providers under the SRS; and
- (j) generally for giving full effect to or for carrying out the purposes of this section.

[24/2001]

(13) This section shall not apply to any SRS member whose SRS account is opened and closed within the same year.

[24/2001]

Buyback of preferential shares

10M. Section 10K shall apply in relation to any purchase or acquisition by a company resident in Singapore from its shareholders of shares or stocks of a preferential nature issued by it (referred to in this section as a buyback), and for the purpose of such application —

- (a) any reference to redemption of shares in that section shall be construed as a reference to a buyback of shares or stocks of a preferential nature; and
- (b) any reference to redeemable shares in that section shall be construed as a reference to shares or stocks of a preferential nature.

[24/2001]

Securities lending or repurchase arrangement

10N. —(1) For the purpose of determining whether an amount, other than any fee payable under a securities lending or repurchase arrangement, should be taken into account in ascertaining the gains or profits from any transfer of securities under the arrangement in respect of which a transferor is chargeable to tax, the transferor is to be treated as if —

- (a) the transfer of the transferred securities had not been made;
- (b) the transferor had held the transferred securities at all times during the borrowing period; and
- (c) the return of the transferred securities or equivalent securities had not been made at the end of the borrowing period.

[37/2002]

(2) Notwithstanding subsection (1), where a transferor is a person who carries on a trade or business of sale and purchase of securities, any gains or profits derived by him from any transfer of securities under a securities lending or repurchase arrangement shall be chargeable to tax under section 10 (1)

(a) if subsequent to the transfer of the transferred securities —

- (a) the transferred securities are redeemed;
 - (b) the transferee accepts a takeover offer for the transferred securities upon the direction of the transferor;
 - (c) the arrangement is terminated because the transferor or transferee is unable to perform any of the obligations specified in the arrangement, unless the transferor applies the collateral held by him to re-acquire equivalent securities under the terms of the arrangement;
 - (d) the transferee sells the transferred securities to the issuer of such securities upon the direction of the transferor; or
 - (e) any other event occurs which, in the opinion of the Comptroller, results in the condition specified in paragraph (a) (iii) or (iv) of the definition of “securities lending or repurchase arrangement” not fulfilled,
- and the gains or profits shall be deemed to arise at the time any of the events referred to in paragraph (a), (b), (c), (d) or (e) occurs.

[37/2002]

(3) Where a transferee is a person who carries on a trade or business of sale and purchase of securities, any gains or profits derived by him from any transfer of securities under a securities

lending or repurchase arrangement shall be chargeable to tax under section 10 (1) (a), and the gains or profits shall be deemed to arise at the time any of the following events occurs:

- (a) the transferee disposes of the transferred securities to a person other than the transferor; and
- (b) subsequent to such disposal, the transferee returns equivalent securities to the transferor or any of the events specified in subsection (2) occurs, whichever is the earlier.

[37/2002]

(4) For the purposes of computing the gains or profits of a transferee under subsection (3), the transferee is to be treated as if he had acquired the transferred securities from or returned equivalent securities to the transferor, as the case may be, for a consideration equal to the market value of the transferred securities at the beginning of the borrowing period under the securities lending or repurchase arrangement.

[37/2002]

(5) Where any distribution of dividend or interest in respect of transferred securities is made to a Singapore-based transferee and received by a transferor under a securities lending or repurchase arrangement, the distribution shall be included in the statutory income of the transferor of the year in which the distribution is made to the transferee, and be assessed as if the distribution had been made to the transferor.

[37/2002]

(6) A Singapore-based transferee deriving in respect of transferred securities under a securities lending or repurchase arrangement any dividend from Singapore from which tax has been deducted under section 44 shall —

- (a) not be entitled to any set-off under section 46 (1) in respect of the dividend;
- (b) notify such person within such period as the Comptroller may require that he is a transferee; and
- (c) comply with such requirement as the Comptroller may impose.

[37/2002]

(7) A Singapore-based transferee (other than a transferee under a buy and sell back arrangement in respect of qualifying debt securities or foreign debt securities) shall not be entitled to any relief under section 48 or any tax credit under section 50 or 50A for any distribution received by him from outside Singapore in respect of transferred securities under a securities lending or repurchase arrangement.

[37/2002]

(8) Where any compensatory payment derived under a securities lending or repurchase arrangement by a transferor from a Singapore-based transferee is in place of —

- (a) any dividend which is exempt from tax or interest which is derived from qualifying debt securities, the transferor shall be assessed at the tax rate that would have been applicable to the dividend or interest, as the case may be, had it been made directly to the transferor;
- (b) a distribution of a dividend derived from Singapore from which tax has been deducted under section 44, no set-off under section 46 (1) shall be allowed to the transferor; or
- (c) a distribution of income derived from outside Singapore and where the transferor is resident in Singapore, no relief under section 48 and no tax credit under section 50 or 50A shall be allowed to the transferor.

[37/2002]

(9) Section 45 shall apply in relation to —

- (a) any distribution of interest (other than interest derived from qualifying debt securities) in respect of transferred securities; and
- (b) any compensatory payment in place of —
 - (i) any distribution of income derived from outside Singapore;
 - (ii) any dividend derived from Singapore from which tax has been deducted under section 44; or
 - (iii) any interest (other than interest derived from qualifying debt securities), made under a securities lending or repurchase arrangement by a Singapore-based transferee to a transferor who is not resident in Singapore, as that section applies to any interest paid by a person to

another person not known to him to be resident in Singapore, and for the purpose of such application, any reference in that section to interest shall be construed as a reference to such distribution of interest or compensatory payment.

[37/2002]

(10) For the purposes of this section, the Comptroller may specify such requirement and obligation to be observed, and such information in respect of any transferor, transferee or transferred securities to be furnished, by the depository agent of the transferor or transferee.

[37/2002]

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

[37/2002]

(12) In this section —

"borrowing period" , in relation to any transferred securities, means the period commencing from the date the securities are transferred by the transferor to the transferee and ending on the date the securities or equivalent securities are returned to the transferor or are regarded as being disposed of by the transferor under subsection (2), whichever is the earlier;

"commercial purpose" , in relation to any securities lending or repurchase arrangement, means —

(a) the settling of a sale of securities, whether by the transferee or another person;

(b) the replacement, in whole or in part, of the transferred securities obtained by the transferee under any earlier securities lending or repurchase arrangement;

(c) the on-lending of the transferred securities to another person;

(d) the fulfillment by the transferee of its existing obligations arising from an uncovered written option position using transferred securities;

(e) the hedging and arbitrage transactions entered into or to be entered into by the transferee;

(f) the liquidity management by the transferee;

(g) the holding of the transferred securities, without being disposed of, as collateral against the obligations of the counterparty to the securities lending or repurchase arrangement; or

(h) any other purpose as the Minister (or such person as the Minister may appoint) may in writing allow;

"compensatory payment" , in relation to any transferred securities, means a payment made during the borrowing period to a transferor in place of any distribution of interest, dividend or right to purchase warrants, options or additional securities in respect of the transferred securities under circumstances in which the transferee does not receive such distribution to be passed on to the transferor, and includes any amount which is in place of interest and is deducted from the price paid by the transferor to acquire equivalent securities or re-acquire the transferred securities under a buy and sell back arrangement in respect of qualifying debt securities, Singapore Government securities or foreign debt securities;

"equivalent securities" , in relation to any transferred securities, means securities which are identical in type, nominal value (where applicable), description and amount to the transferred securities and includes —

(a) the securities into which the transferred securities have been converted, sub-divided or consolidated;

(b) the proceeds of the redemption of the transferred securities;

(c) the cash or securities representing the proceeds of the acceptance of the takeover of the transferred securities;

(d) if there is a call on partly-paid securities and if the transferor has paid to the transferee the sum due on the call, the paid-up securities;

(e) if there is a bonus issue, the transferred securities together with the securities allotted by way of bonus;

(f) if there is a rights issue and if the transferor has directed the transferee to take up the issue and has paid to the transferee any sum due on the issue, the transferred securities together with the

securities allotted under the rights issue or, if the transferor has directed the transferee to sell the rights, the transferred securities together with the proceeds from the disposal of the rights;

(g) if any distribution is made in the form of securities or a certificate which may be exchanged for securities or an entitlement to acquire securities, the transferred securities together with the securities or certificate or entitlement equivalent to those allotted; and

(h) if the transferee is unable to return the transferred securities, such amount of money or securities equivalent to the transferred securities;

"foreign debt securities" means securities, other than stocks and shares, denominated in any foreign currency (including bonds and notes) issued by foreign governments, foreign banks outside Singapore and companies not incorporated and not resident in Singapore;

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

"securities" includes any collateral that is provided in the form of securities but does not include stocks and shares of any company resident in Singapore which are not listed on any stock exchange in Singapore or elsewhere;

"securities lending or repurchase arrangement" means any written arrangement made on or after 23rd November 2001 —

(a) under which —

(i) a person (referred to in this section as transferor) transfers the legal interest in any securities (referred to in this section as transferred securities) to another person (referred to in this section as transferee) for any commercial purpose;

(ii) the transferor re-acquires the transferred securities or acquires equivalent securities from the transferee at a later time;

(iii) the transferor retains the risk of loss or opportunity for gain in respect of the transferred securities;

(iv) the transferor does not dispose of (by transfer, declaration of trust or otherwise) the right to receive any part of the total consideration payable or to be given by the transferee under the arrangement; and

(v) if any distribution is made in respect of the transferred securities during the borrowing period, the transferor receives from the transferee the distribution or compensatory payment equal to the value of the distribution; and

(b) where —

(i) the transferor and transferee are dealing with each other at arm's length; and

(ii) the transferor or transferee or both of them do not enter into the arrangement with the purpose, or main purpose, of avoiding, reducing or deferring any tax chargeable under this Act;

"Singapore-based transferee" means a transferee who is resident in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore) or which is a permanent establishment in Singapore;

"Singapore Government securities" and "debt securities" have the same meanings as in section 43N.

[37/2002]

(13) This section has effect notwithstanding anything to the contrary in this Act, except that nothing in this section shall affect the chargeability to tax of any income of a transferor or transferee under section 10 unless otherwise provided in this section.

[37/2002]

Ascertainment of income of clubs, trade associations, etc.

11. —(1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than half of its gross receipts on revenue account (including entrance fees and subscriptions), it shall not be deemed to carry on a business; but where less than half of such gross receipts are received from members, the whole of the income from transactions both with members and others (including entrance fees and subscriptions) shall be

deemed to be receipts from a business, and the body of persons shall be chargeable in respect of the profits therefrom.

(2) Where a body of persons, whether corporate or unincorporate, carries on a trade association in such circumstances that more than half its receipts by way of entrance fees and subscriptions are from persons who claim or would be entitled to claim that such sums were allowable deductions for the purposes of section 14, such body of persons shall be deemed to carry on a business, and the whole of its income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable in respect of the profits therefrom.

(3) In this section, “members”, in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs.

Sources of income

Trading operations carried on partly in Singapore

12. —(1) Where a non-resident person carries on a trade or business of which only part of the operations is carried on in Singapore, the gains or profits of the trade or business shall be deemed to be derived from Singapore to the extent to which such gains or profits are not directly attributable to that part of the operations carried on outside Singapore.

Non-resident shipping and air transport

(2) Where a non-resident person carries on —

- (a) the business of shipowner or charterer; or
- (b) the business of air transport,

and any ship or aircraft owned or chartered by him calls at a port, aerodrome or airport in Singapore, his full profits arising from the carriage of passengers, mails, livestock or goods shipped, or loaded into an aircraft, in Singapore shall be deemed to accrue in Singapore.

(2A) Subsection (2) shall not apply to passengers, mails, livestock or goods which are brought to Singapore solely for transshipment, or for transfer from one aircraft to another or from an aircraft to a ship or from a ship to an aircraft.

Cable or wireless undertakings

(3) Where a non-resident person carries on in Singapore the business of transmitting messages by cable or by any form of wireless apparatus, his full profits arising from the transmission in Singapore of any such messages, whether originating in Singapore or elsewhere, to places outside Singapore shall be deemed to accrue in Singapore.

Employment exercised in Singapore

(4) The gains or profits from any employment exercised in Singapore shall be deemed to be derived from Singapore whether the gains or profits from such employment are received in Singapore or not.

Employment exercised outside Singapore on behalf of Government

(5) The gains or profits from any employment exercised outside Singapore on behalf of the Government by any individual in the discharge of governmental functions shall be deemed to be derived from Singapore except where such individual is not a citizen or a resident of Singapore.

Interest

(6) There shall be deemed to be derived from Singapore —

(a) any interest, commission, fee or any other payment in connection with any loan or indebtedness or with any arrangement, management, guarantee, or service relating to any loan or indebtedness which is —

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

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

(b) any income derived from loans where the funds provided by such loans are brought into or used in Singapore.

[5/77]

Royalties, etc.

(7) There shall be deemed to be derived from Singapore —

(a) royalty or other payments in one lump sum or otherwise for the use of or the right to use any movable property;

(b) any payment for the use of or the right to use scientific, technical, industrial or commercial knowledge or information or for the rendering of assistance or service in connection with the application or use of such knowledge or information;

(c) any payment for the management or assistance in the management of any trade, business or profession; or

(d) rent or other payments under any agreement or arrangement for the use of any movable property,

which are borne, directly or indirectly, by a person resident in Singapore or a permanent establishment in Singapore (except in respect of any business carried on outside Singapore through a permanent establishment outside Singapore) or which are deductible against any income accruing in or derived from Singapore.

[5/77]

PART IV

EXEMPTION FROM INCOME TAX

Exempt income

13. —(1) There shall be exempt from tax —

(a) subject to subsection (2) and such conditions as may be prescribed by regulations, the interest derived from —

(i) any qualifying debt securities issued during the period from 28th February 1998 to 31st December 2008 by any person who is not resident in Singapore and who does not have any permanent establishment in Singapore; and

(ii) any qualifying debt securities issued during the period from 27th February 1999 to 31st December 2008 by any person who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore where the funds used by that person to acquire the qualifying debt securities are not obtained from the operation;

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

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

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

(ab) subject to subsection (2B) and such conditions as may be prescribed by regulations, any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, to any person —

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

- (ii) who is not resident in Singapore and who carries on any operation in Singapore through a permanent establishment in Singapore where the funds used by that person to acquire the qualifying debt securities are not obtained from the operation;
- (b) *Deleted by Act 8 of 2005, wef 01/05/2005.*
- (c) the official emoluments payable from Commonwealth funds to members of Commonwealth forces, and to persons in the service of a Commonwealth government, in Singapore, in respect of their offices under such Commonwealth government, if such emoluments are subject to income tax in such Commonwealth country;
- (d) any gains or profits, other than dividends derived from Singapore from which tax has been deducted under section 44, arising from sums standing in the SRS account of any SRS member except where section 10L (13) applies;
- (e) the income of any institution, authority, person or fund specified in the First Schedule, except dividends received by it from any company in which it holds, at the time such dividends are declared, more than half of the total number of issued shares of the company unless the Minister otherwise approves;
- (f) the income of —
- (i) any bona fide friendly society approved by the Comptroller;
- (ii) any co-operative society registered under the Co-operative Societies Act (Cap. 62);
- (g) such income derived by the Singapore Exchange Derivatives Clearing Limited from the commencement of its business to 31st December 2003 as may be prescribed;
- (h) any sum received by way of commutation of pensions granted under any written law relating to pensions in Singapore or, in the case of any other pension scheme, any sum received by way of commutation of pensions by an individual under such a scheme to the extent of such sum as the Comptroller may determine relating to the period of employment of that individual with the employer before 1st January 1993;
- (i) sums received by way of death gratuities or as consolidated compensation for death or injuries;
- (j) sums standing to the account of an individual in the Central Provident Fund or any approved pension or provident fund designated by the Minister under section 39 (8) or withdrawn therefrom except for sums in respect of dividends (other than dividends derived from outside Singapore) credited to his Investment Account maintained under the Central Provident Fund Act (Cap. 36);
- (ja) sums standing to the account of an individual in an approved pension or provident fund (other than the Central Provident Fund or any approved pension or provident fund designated by the Minister under section 39 (8)) to the extent of the sum standing to his account as at 31st December 1992 and of such interest on that sum as the Comptroller may determine for the period 1st January 1993 to the date of his retirement and which are withdrawn only upon or after his retirement in accordance with the rules or constitution of the fund;
- (jb) any retiring gratuity received by an individual from an approved pension or provident fund (other than the Central Provident Fund or any approved pension or provident fund designated by the Minister under section 39 (8)) to the extent of such amount of the gratuity as the Comptroller may determine relating to the period of employment of that individual with the employer before 1st January 1993;
- (k) sums derived from, or received in, Singapore as pensions, being —
- (i) wound or disability pensions granted to members or former members of a Commonwealth force;
- (ii) pensions granted to dependent relatives of any such member killed on war service or who died as a result of war service injuries; or
- (iii) wound or disability pensions granted to members or former members of civil defence organisations;
- (l) pensions granted to any person under the provisions of the Widows' and Orphans' Pension Act (Cap. 350) or under any approved scheme within the meaning of that Act and pensions paid, by or out of any approved pension or provident fund or society, to or for the benefit of the widow or children of a deceased contributor to such society or fund;

- (m) the income of any trade union registered under the Trade Unions Act (Cap. 333) in so far as such income is not derived from a trade or business carried on by such trade union;
- (n) any income derived by any person who is not resident in Singapore from trading in Singapore through consignees in any of the following commodities produced outside Singapore:
- (i) rubber;
 - (ii) copra;
 - (iii) pepper;
 - (iv) tin;
 - (v) tin-ore;
 - (vi) gambia;
 - (vii) sago flour;
 - (viii) cloves;
- (o) payments made under any agreement or arrangement approved by the Minister or such person as he may appoint to a person not resident in Singapore (excluding any permanent establishment in Singapore) by an international shipping enterprise approved under section 13F —
- (i) on or after 1st April 1991 for the charter of a foreign ship within the meaning of that section (other than that used for towing or salvage operations during the period 1st April 1991 to 2nd May 2002);
 - (ii) on or after 27th February 2004 for the charter of any dredger, seismic ship or any vessel used for offshore oil or gas activity,
 - (iii) *Deleted by Act 49/2004, wef 30/11/2004.*
- except for any payment attributable to the carriage of passengers, mails, livestock or goods from Singapore;
- (p) for a period of 5 years from 1st January 2003, such income of the Singapore Commodity Exchange Limited as may be prescribed;
- (q) the investment income of any approved pension or provident fund or society;
- (r) the income derived on or after 3rd May 2002 by an individual not resident in Singapore from acting as an arbitrator, and for this purpose, “arbitrator” means an individual appointed for any arbitration which is governed by the Arbitration Act (Cap. 10) or the International Arbitration Act (Cap. 143A) or would have been governed by either of those Acts had the place of arbitration been Singapore;
- (s) sums payable by way of annual bounty out of the public revenue to members of such local forces as the Minister may from time to time by order declare to be a force to which this paragraph shall apply;
- (t) the income derived on or after 20th August 1968 from interest on moneys held on deposit in an approved bank in Singapore by —
- (i) a non-resident individual; and
 - (ii) a person, other than an individual, if that person does not, by himself or in association with others, carry on a business in Singapore, and does not have a permanent establishment in Singapore;
- (u) such interest derived during the period 1st January 2002 to 31st December 2004 by any person from the deposit of moneys of up to an aggregate amount of \$100,000 in one or more of his POSB savings accounts with The Development Bank of Singapore Ltd;
- (ua) such interest derived during the period 1st January 2003 to 31st December 2004 by any individual resident in Singapore from the deposit of moneys in one or more of his POSB savings accounts with The Development Bank of Singapore Ltd;
- (v) the interest received from such Asian Dollar Bonds as may be approved in writing by the Minister or such person as he may appoint if the interest is received by —
- (i) a non-resident individual; and
 - (ii) a person, other than an individual, if that person does not, by himself or in association with others, carry on a business in Singapore and does not have a permanent establishment in Singapore;

- (w) the income derived from an employment exercised on board a Singapore ship, as defined in the Merchant Shipping Act (Cap. 179), if the employment is exercised substantially outside Singapore;
- (x) the income derived by a person resident in Singapore from any pension granted under any written law relating to pensions in Singapore, or from any pension paid under such other pensions scheme as may be approved by the Minister by notification in the *Gazette* to the extent of such amount of the pension as the Comptroller may determine relating to the period of employment of that person with the employer before 1st January 1993;
- (y) such income as may be prescribed by regulations under section 43A, 43C, 43E or 43N;
- (z) such income derived by the Singapore Exchange Derivatives Trading Limited before 1st January 2004 as may be prescribed;
- (za) any dividends accrued in or derived from Singapore on or after 1st January 2003 paid by any company from which tax is not deductible and not deducted under section 44;
- (zb) any subsidy, allowance or benefit provided by an employer to an employee for the attendance by any child of the employee at a child care centre licensed under the Child Care Centres Act (Cap. 37A);
- (zc) the prescribed amount of interest derived during the period 1st January 2003 to 31st December 2004 by any individual from the deposit in any standard savings, current or fixed deposit account with an approved bank or a finance company licensed under the Finance Companies Act (Cap. 108);
- (zd) the interest derived on or after 1st January 2005 by any individual from the deposit of moneys with an approved bank or a finance company licensed under the Finance Companies Act in Singapore;
- (ze) the following income derived from Singapore on or after 1st January 2004 by any individual:
- (i) any interest from debt securities;
 - (ii) any discount from debt securities which mature within one year from the date of issue of those securities;
 - (iii) any income from an annuity, except income from —
 - (A) any annuity purchased by the employer of an individual in lieu of any pension or other benefit payable during his employment or upon his retirement; and
 - (B) any annuity purchased under SRS;
 - (iv) any income from any life insurance policy, except income referred to in section 10 (3);
 - (v) any distribution made by any collective investment scheme constituted as a unit trust (including any real estate investment trust) authorised under section 286 of the Securities and Futures Act (Cap. 289) and offered to the public for subscription, that is income or deemed to be income of the individual, except distributions made out of Singapore dividends from which tax is deducted or deductible under section 44; and
 - (vi) any fee or compensatory payment from securities lending or repurchase arrangements, except where such income is derived through a partnership in Singapore or is derived from the carrying on of a trade, business or profession ;
- (zf) any amount payable from Islamic debt securities on or after 1st January 2005 to any individual, except where such amount is derived by the individual through a partnership in Singapore or from the carrying on of a trade, business or profession; and
- (zg) any distribution made by any registered business trust.
- (2) Subsection (1) (a) shall not, unless otherwise approved by the Minister or such person as he may appoint, apply to any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2008 where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest is derived by —
- (a) any related party of the issuer of those securities; or

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

[32/99;21/2003]

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

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

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

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

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

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

(3) Nothing in subsection (1) shall be construed to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid wholly or in part out of income so exempted.

[26/73]

Income made for purpose which will promote or enhance economic or technological development

(4) Where the Minister is of the opinion that any payment in the nature of any income referred to in section 12 (6) or (7) is made for any purpose which will promote or enhance the economic or technological development of Singapore, he may, by notification in the *Gazette*, provide that the income shall, subject to such conditions as he may impose, be exempt from tax wholly or in part and either generally or in respect of certain classes of persons; and such income shall as from the date and to the extent specified by the notification be exempt from tax.

[5/77]

(5) Deleted by Act 49/2004, wef 01/01/2004.

Income derived by short term visiting employees

(6) There shall be exempt from tax any income accruing in or derived from Singapore in respect of gains or profits from any employment exercised in Singapore for not more than 60 days in the year preceding any year of assessment by a person who is not resident in Singapore in that year of assessment.

[4/75]

(7) Subsection (6) shall not apply to —

(a) the emoluments received by a director of a company; or

(b) the gains or profits of public entertainers, as defined in section 40A, whose visits are not substantially supported from public funds of the government of another country.

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

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

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

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

—

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

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

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

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

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

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

(9) The conditions referred to in subsection (8) are —

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

(b) at the time the income is received in Singapore by the person resident in Singapore, the highest rate of tax of a similar character to income tax (by whatever name called) levied under the law of the territory from which the income is received on any gains or profits from any trade or business carried on by any company in that territory at that time is not less than 15%; and

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

[21/2003]

(10) Where the income referred to in subsection (8) consists of dividends paid by a company, the tax referred to in subsection (9) (a) shall be —

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

(b) the tax paid on the dividends in the territory from which the dividends are received.

[21/2003]

(11) The Minister may make regulations generally to give full effect to or for carrying out the purposes of subsection (8).

[21/2003]

(12) The Minister may by order —

(a) exempt from tax wholly or in part; or

(b) provide that tax at such concessionary rate of tax be levied and paid on, the income received by a person resident in Singapore from such source in any country outside Singapore as may be specified in the order.

[37/2002]

(13) Any order made under subsection (12) may be either general or specific and may prescribe the conditions subject to which the income will be exempt from tax or be taxed at a concessionary rate of tax but such conditions need not be included in the order for the purpose of publication in the *Gazette*.

[9/80;37/2002]

(14) Where any income is exempt from tax under subsection (8), or is exempt from tax or is taxed at a concessionary rate of tax by virtue of an order made under subsection (12) and the income is received by a company which is resident in Singapore (other than income derived from Malaysia and received in Singapore on or after 1st June 2003 by a company resident in Singapore where the company in paying any dividend out of such income declares itself to be a resident of Malaysia under paragraph 3 of Article VII of the Income Tax (Singapore — Malaysia) (Avoidance of Double Taxation Agreement) Order) —

(a) an amount equal to the income exempt from tax or an amount equal to the net income after deduction of tax levied at the concessionary rate of tax, as the case may be, shall be credited to an account to be kept by the company for the purpose of this subsection; and

(b) subsections (3) to (11) of section 13E shall apply, with the necessary modifications, to the company in respect of a distribution of dividends from the income as if the company were a company referred to in section 13E (3).

[32/95;37/2002;21/2003]

(15) The Minister may, at any time, by rules made under section 7, add to, vary or amend the list of commodities mentioned in subsection (1) (n).

[29/65]

(16) In this section —

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

"approved bond intermediary" means a financial institution approved as such by the Minister or such person as he may appoint;

"debt securities" has the same meaning as in section 43N;

"child" , in relation to an employee, means any legitimate child, illegitimate child, step-child, child adopted in accordance with any written law relating to the adoption of children and any child whom the employee is the legal guardian;

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

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

(b) any other prescribed deposit;

"financial institution" means an institution licensed or approved by the Monetary Authority of Singapore, and includes an institution approved as an approved Fund Manager under section 43A and an institution approved as a Finance and Treasury Centre under section 43G;

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

"Islamic debt securities" has the same meaning as in section 43N (4);

"qualifying debt securities" means —

(a) Singapore Government securities issued during the period from 28th February 1998 to 31st December 2008;

(b) bonds, notes, commercial papers and certificates of deposits which are arranged in accordance with regulations made for this purpose —

(i) by any financial institution in Singapore and issued during the period from 28th February 1998 to 31st December 2008;

(ii) by any approved bond intermediary and issued —

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

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

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

(c) Islamic debt securities which are arranged in accordance with regulations made for this purpose —

(i) by any financial institution in Singapore and issued during the period from 1st January 2005 to 31st December 2008; or

(ii) by any financial sector incentive (bond market) company and issued during the period from 1st January 2005 to 31st December 2008,

but, unless otherwise approved by the Minister or such person as he may appoint, excludes any debt securities issued on or after 10th May 1999 and any Islamic debt securities issued on or after 1st January 2005 which, during its primary launch —

(AA) are issued to less than 4 persons; and

(BB) 50% or more of the issue of debt securities or Islamic debt securities is beneficially held or funded, directly or indirectly, by related parties of the issuer of those debt securities or Islamic debt securities;

"related party" , in relation to a person, means any other person who, directly or indirectly, controls that person, or is controlled, directly or indirectly, by that person, or where he and that other person, directly or indirectly, are under the control of a common person;

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

"Singapore Government securities" has the same meaning as in section 43N.

[31/98; 32/99; 21/2003]

Exemption of shipping profits

13A. —(1) There shall be exempt from tax the income of a shipping enterprise derived or deemed to be derived from the operation of Singapore ships or foreign ships as hereinafter provided.

[4/75;20/91;31/98]

(1A) Such exemption in respect of Singapore ships shall be backdated to the date of provisional registration if the owner has subsequently obtained a permanent certificate of registry in respect of the ship.

[11/94;31/98]

(2) A shipping enterprise shall maintain separate accounts for the income derived or deemed to be derived from the operation of each Singapore ship or foreign ship.

[31/98]

(2A) Where expenses have been incurred by a shipping enterprise which are not directly attributable to a Singapore ship or foreign ship, the Comptroller may allocate as expenses such amounts as might reasonably and properly have been incurred in the normal course of its business in respect of such ship.

[31/98]

(3) In determining the income of a shipping enterprise —

(a) the capital allowances provided under sections 16, 17, 18, 19, 20, 21 and 22 shall only be made against the income exempt under this section, and the balance of such allowances shall not be available as a deduction against any other income; and

(b) a loss incurred by a shipping enterprise in respect of the operation of a Singapore ship or foreign ship for any year shall only be deducted against the income exempt under this section, and the balance of such loss shall not be available as a deduction against any other income.

[4/75;31/98]

(4) The Comptroller shall for each year of assessment issue to a shipping enterprise a statement showing the amount of income derived from the operation of Singapore ships or foreign ships by the shipping enterprise; and Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if such statement were a notice of assessment.

[31/98]

(5) Subject to subsection (8) where any statement issued under subsection (4) has become final and conclusive, the amount of income shown therein shall not form part of the statutory income of a shipping enterprise for the year of assessment to which the statement relates and shall be exempt from tax.

(5A) For the purposes of subsection (5), the Comptroller may, before such statement has become final and conclusive, treat a specified amount of the income of a shipping enterprise as exempt from tax pending such statement becoming final and conclusive.

(6) The following provisions shall apply to a shipping enterprise resident in Singapore:

(a) as soon as any amount of income of the shipping enterprise is exempted under subsection (5), such amount shall be credited to an account to be kept by the shipping enterprise for the purpose of this section;

- (b) where such account is in credit at the date on which any dividends are paid by the shipping enterprise out of income which has been exempted, an amount equal to such dividends or to such credit, whichever is the less, shall be debited to such account;
- (c) so much of the amount of any dividends debited to such account as are received by a shareholder in the shipping enterprise shall, if the Comptroller is satisfied with the entries in such account, be exempt from tax in the hands of such shareholder;
- (d) any dividends debited to such account shall be treated as having been distributed to the shareholders of the shipping enterprise or any particular class of such shareholders in accordance with the proportion of their shareholdings in the shipping enterprise;
- (e) section 44 shall not apply to any dividends or part thereof which are exempt from tax under this section;
- (f) where an amount has been received by way of dividends from a company by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders, and section 44 shall not apply to any such dividend or part thereof; and
- (g) notwithstanding paragraphs (c) and (f), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.

[3/89;1/90;37/2002;21/2003]

(7) A shipping enterprise shall deliver to the Comptroller a copy of the accounts referred to in subsections (2) and (6) made up to any date specified by him whenever called upon to do so by notice in writing.

(8) Notwithstanding subsections (1) to (7), where it appears to the Comptroller that —

(a) any income of a shipping enterprise which has been exempted from tax; or

(b) any dividend which has been exempted from tax in the hands of any shareholder, ought not to have been so exempted, the Comptroller may at any time within 6 years from the date of the statement referred to in subsection (4) —

(i) make such assessment or additional assessment upon the shipping enterprise or any such shareholder as may appear to be necessary in order to make good any loss of tax; or

(ii) direct the shipping enterprise to debit its account kept in accordance with subsection (6) with such amount as the circumstances may require.

[11/94;37/2002]

(9) Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if an assessment or a direction under subsection (8) were a notice of assessment.

(10) Nothing in this section shall affect the operation of section 27 in ascertaining the income of a non-resident person owning or operating Singapore ships or foreign ships.

[31/98]

(11) Where in the basis period for any year of assessment a ship ceases to be a Singapore ship the income derived from the operation of which is exempt under this section, the capital allowances in respect of that ship for that year of assessment and subsequent years shall be calculated on the residue of expenditure or reducing value of the assets after taking into account the capital allowances provided for in sections 16, 17, 18, 19, 20, 21 and 22 for those years of assessment during which income derived from the operation of the ship was exempt from tax notwithstanding that no claim for such allowances was made.

[4/75]

(12) Subsections (3) and (11) shall have effect notwithstanding any other provisions of this Act.

(13) Notwithstanding anything in this section, a shipping enterprise may at any time elect that its income derived or deemed to be derived from the operation of all its Singapore ships shall be taxed at the rate prescribed by section 43 (1) (a).

[11/94]

(14) An election under subsection (13) shall be made by a shipping enterprise by notice in writing to the Comptroller and shall be irrevocable.

[11/94]

(15) Where a shipping enterprise has made an election under subsection (13) —

(a) subsections (1) to (10) shall not apply to the income derived or deemed to be derived from the operation of Singapore ships by the shipping enterprise for the year of assessment immediately following the year in which the election is made and for subsequent years of assessment;

(b) any capital allowances or the balance thereof which were not made against the income of the shipping enterprise exempt under this section for any year of assessment during which its income was exempt from tax shall not be available to be made under section 23 against its income (other than income exempt under this section) for the year of assessment immediately following the year in which the election is made and for subsequent years of assessment;

(c) any loss or the balance thereof incurred by the shipping enterprise in respect of the operation of a Singapore ship for any year of assessment which was not deducted against its income exempt under this section for any year of assessment during which its income was exempt from tax shall not be available as a deduction under section 37 (3) (a) against its income (other than income exempt under this section) for the year of assessment immediately following the year in which the election is made and for subsequent years of assessment; and

(d) any capital allowances in respect of Singapore ships of the shipping enterprise for the year of assessment immediately following the year in which the election is made and for subsequent years of assessment shall be calculated in accordance with subsection (11) as if the Singapore ships were ships which had ceased to be Singapore ships.

[11/94;31/98]

(16) In this section —

"foreign ship" has the same meaning as in section 13F;

"income of a shipping enterprise" means the income derived by a shipping enterprise from the carriage (other than within the limits of the port of Singapore) of passengers, mails, livestock or goods —

(a) by sea-going Singapore ships, or from towing or salvage operations carried out (other than within the limits of the port of Singapore) by sea-going Singapore ships, and includes the income from the charter of such ships; or

(b) shipped in Singapore by foreign ships, excluding such carriage arising solely from transshipment from Singapore;

"operation of Singapore ships" includes the charter of such ships;

"shipping enterprise" means any company owning or operating Singapore ships or foreign ships;

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

[26/73; 20/91; 31/98;37/2002;21/2003]

Exemption of certain dividends

13B. —(1) Where a company derives income which is subject to tax or exempt from tax in accordance with regulations prescribed under section 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43M (repealed), 43N, 43O, 43P, 43Q, 43R, 43S, 43T or 43U, the following provisions of this section shall have effect.

[1/82;15/83;31/86;1/90;20/91;2/92;28/92;26/93;1/98;31/98;37/2002;21/2003]

(2) As soon as any amount of income of the company has been subject to tax at the rate of 10% (or other concessionary rate) or exempt from tax in accordance with regulations prescribed under section 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43M (repealed), 43N, 43O, 43P, 43Q, 43R, 43S, 43T or 43U, the net amount of the income after deduction of the tax or the amount of the income exempted shall be credited to a special account (referred to in this section as the account) to be kept by the company for the purposes of this section.

[15/83;1/90;20/91;2/92;28/92;26/93;1/98;31/98;37/2002;21/2003]

(3) Where the account is in credit at the date on which any dividends are paid by the company out of the net amount of the income credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

[15/83]

(4) So much of the amount of any dividends debited to the account as is received by a shareholder of the company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(4A) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.

[37/2002]

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

[1/90]

(6) Where an amount has been received by way of dividends from a company by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders, and section 44 shall not apply to any such dividend or part thereof.

[37/2002]

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

[21/2003]

(7) A company shall deliver to the Comptroller a copy of the account made up to any date specified by him whenever called upon to do so by notice in writing.

(8) Notwithstanding subsections (1) to (7), where it appears to the Comptroller that —

(a) any income of a company which has been subject to tax at the rate of 10% (or such other concessionary rate) or exempt from tax as prescribed under section 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43M (repealed), 43N, 43O, 43P, 43Q, 43R, 43S, 43T or 43U; or

(b) any dividend which has been exempted from tax in the hands of any shareholder, ought not to have been so taxed or exempted, as the case may be, the Comptroller, may within the year of assessment or within 6 years after the expiration thereof —

(i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or

(ii) direct the company to debit the account with such amount as the circumstances require.

[15/83;1/90;20/91;2/92;28/92;26/93;11/94;1/98;31/98;37/2002;21/2003]

(9) This section shall not, in relation to any income of an insurance company which is subject to the concessionary rate of tax prescribed by regulations made under section 43C, apply to such part of the income ascertained under section 26 (7) as is apportioned to the policyholders of the company in accordance with those regulations.

[28/92]

Exemption of income of non-resident arising from funds managed by fund manager in Singapore

13C. There shall be exempt from tax such income as the Minister may by regulations prescribe of a person not resident in Singapore arising from funds managed by such fund manager in Singapore as may be prescribed.

[37/2002]

Exemption of certain dividends of approved investment company

13D. —(1) Where an investment company has been approved under section 10A, the provisions of this section shall have effect.

[3/89]

(2) As soon as any amount of the income has been determined to be not chargeable to tax in accordance with regulations prescribed under section 10A, the net amount of that income shall be credited to a special account (referred to in this section as the account) to be kept by the investment company for the purposes of this section.

(3) Subsections (3) to (8) of section 13B shall apply, with the necessary modifications, in respect of any dividends paid out of the account of that investment company.

(4) In this section, “net amount”, in relation to the income referred to in subsection (2) for any year of assessment, means the amount of that income less —

(a) expenses and donations allowable under this Act for that year of assessment which are determined in accordance with regulations prescribed under section 10A as attributable to that income;

(b) any amount of loss for that year of assessment arising from the disposal of securities which is determined in accordance with regulations prescribed under section 10A by reference to the period during which those securities have been held and which is not deductible under those regulations;

(c) any amount of allowances for that year of assessment under section 19, 19A, 20, 21 or 23 which is determined in accordance with regulations prescribed under section 10A as attributable to that income; and

(d) any amount of the expenses, donations, allowances and losses referred to in paragraphs (a), (b) and (c) which have not been deducted in arriving at the net amount of the income for any previous year of assessment.

Exemption of dividends from foreign income

13E.—(1) Where a company resident in Singapore receives income in Singapore from outside Singapore (referred to in this section as the income) for which tax credit has been allowed against the tax payable in respect of such income and pays dividends out of such income, the provisions of this section shall have effect.

[2/92]

(2) As soon as a tax credit has been allowed, an amount of the income computed in accordance with the formula

$$\frac{A}{B} - C,$$

where A is the tax credit allowed;

B is the tax rate applicable to a company under section 43 (1); and

C is the foreign tax paid,

shall be credited to a special account (referred to in this section as the account) to be kept by the company for the purposes of this section.

(3) Where the account is in credit at the date on which any dividends are paid by the company out of the income which has been credited to that account, an amount equal to such dividends or to the credit in that account, whichever is the less, shall be debited to the account.

(4) So much of the amount of any dividends debited to the account as is received by a shareholder of the company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

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

[37/2002]

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

(7) Where an amount has been received by way of dividends from a company by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those

dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders, and section 44 shall not apply to any such dividend or part thereof.

[37/2002]

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

[21/2003]

(9) A company shall deliver to the Comptroller a statement of the account made up to any date specified by him whenever called upon to do so by notice in writing.

[32/95;37/2002]

(10) Notwithstanding subsections (1) to (9), where it appears to the Comptroller that any dividend which has been exempted from tax in the hands of any shareholder, ought not to have been so exempted, the Comptroller may, within the year of assessment or within 6 years after the expiration thereof —

(a) make such assessment or additional assessment upon any such shareholder as may be necessary in order to make good any loss of tax; or

(b) direct the company to debit the account with such amount as the circumstances require.

[11/94;32/95;37/2002]

(11) In this section —

"foreign tax" means —

(a) Commonwealth income tax within the meaning of section 48 (1);

(b) foreign tax within the meaning of section 50 (1); or

(c) tax payable under the law of any territory outside Singapore in respect of which credit has been given under section 50 by virtue of section 50A,
as the case may be;

"tax credit" means —

(a) relief from tax under section 48 (1);

(b) credit under section 50 (1); or

(c) credit under section 50 by virtue of section 50A,
as the case may be.

[26/93;32/95;37/2002;21/2003]

(12) This section shall —

(a) only apply to income received on or after 1st January 1991;

(b) not apply to income on which tax has been levied at the rate of 10% or such other concessionary rate as may be prescribed under section 13H, 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43N, 43O, 43P, 43Q, 43R, 43S, 43T or 43U or section 19B of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004 or section 19J of the Economic Expansion Incentives (Relief from Income Tax) Act; and

(c) not apply to income derived from Malaysia and received in Singapore by a company resident in Singapore where the company in paying any dividend out of such income declares itself to be a resident of Malaysia under paragraph 3 of Article VII of the Income Tax (Singapore — Malaysia) (Avoidance of Double Taxation Agreement) Order.

[28/92;26/93;1/98;37/2002;21/2003]

Exemption of international shipping profits

13F. —(1) Subject to subsection (2), there shall be exempt from tax the income of an approved international shipping enterprise derived —

(a) on or after 1st April 1991 from —

(i) the carriage of passengers, mails, livestock or goods from outside the limits of the port of Singapore by any foreign ship;

(ii) the charter of any foreign ship to any person where such ship is used by the person for the carriage of passengers, mails, livestock or goods outside the limits of the port of Singapore; and

(iii) the carriage of passengers, mails, livestock or goods by any foreign ship to Singapore solely for the purpose of transshipment;

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

(i) the operation outside the limits of the port of Singapore of any dredger, seismic ship or any vessel used for offshore oil or gas activity; and

(ii) the charter of any foreign dredger, foreign seismic ship, or any foreign vessel used for offshore oil or gas activity to any person where such dredger, seismic ship or vessel is used by the person for his operation outside the limits of the port of Singapore;

(c) for the year of assessment 2003 and subsequent years of assessment from —

(i) towing or salvage operations carried out from outside the limits of the port of Singapore by any foreign ship; and

(ii) the charter of any foreign ship to any person where such ship is used by the person for towage and salvage operations carried out outside the limits of the port of Singapore.

(iii) *Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.*

(iv) *Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.*

(2) The exemption shall be for such period not exceeding 10 years as the Minister may specify in approving each case, except that the Minister may extend the period so specified for such further periods, not exceeding 10 years at any one time, as he thinks fit.

(3) In determining the amount of the income of an approved international shipping enterprise which is exempted under this section, the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21, 22 and 23 —

(a) shall be taken into account notwithstanding that no claim for those allowances has been made; and

(b) shall only be deducted against the income referred to in subsection (1), and the balance of those allowances shall not be available as a deduction against any other income, except that any balance remaining unabsorbed at the end of the tax exempt period shall be available as a deduction against any other income for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 23.

(4) Where an approved international shipping enterprise incurs a loss during the tax exempt period in respect of the business of carriage or charter referred to in subsection (1), that loss —

(a) shall be deducted in accordance with section 37; and

(b) shall only be deducted against the income referred to in subsection (1), and the balance of the loss shall not be available as a deduction against any other income, except that any balance remaining unabsorbed at the end of the tax exempt period shall be available as a deduction against any other income for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 37.

(5) Section 13A (2), (2A), (4), (5), (5A), (6), (7), (8) and (9) shall apply to an approved international shipping enterprise, except that any reference to a shipping enterprise shall be read as a reference to an approved international shipping enterprise.

[32/99;37/2002]

(6) In this section —

"approved" means approved by the Minister, or such person as he may appoint, subject to such conditions as he may impose;

"foreign ship" means a sea-going ship other than a Singapore ship within the meaning of section 13A (16);

"international shipping enterprise" means any company resident in Singapore owning or operating Singapore ships or foreign ships.

[32/99; 24/2001; 37/2002]

Exemption of income of foreign trust

13G. —(1) There shall be exempt from tax such income as the Minister may by regulations

prescribe of such foreign trust or eligible holding company established for the purposes of such foreign trust as specified in those regulations and administered by a trustee company in Singapore.

[26/93;37/2002;21/2003]

(2) Where any income of a foreign trust is exempt from tax under regulations made under subsection (1) in any year of assessment, the share of such income to which any beneficiary under the trust is entitled to receive for that year of assessment shall also be exempt from tax if the beneficiary —

(a) being an individual, is neither a citizen of Singapore nor resident in Singapore; or

(b) being a company, is neither incorporated nor resident in Singapore and where such a company —

(i) has not more than 50 shareholders, all of its issued shares are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; or

(ii) has more than 50 shareholders, not less than 95% of the total number of its issued shares are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore.

[37/2002]

(3) Notwithstanding subsections (1) and (2), where it appears to the Comptroller that any income of a foreign trust or eligible holding company ought not to have been exempted under regulations made under subsection (1), the Comptroller may, subject to section 74, make such assessment or additional assessment upon the foreign trust or eligible holding company, as the case may be, as may appear to be necessary.

[37/2002]

(4) In this section, “trustee company” has the same meaning as in section 43J (2).

Exemption of income of venture company

13H. —(1) The Minister may by regulations prescribe that any income of an approved venture company derived by it from making approved investments —

(a) shall be exempt from tax; or

(b) notwithstanding section 43, shall be taxed at such concessionary rate, not being more than 10%, as the Minister, or such person as he may appoint, may specify for each year of assessment.

[31/98]

(2) Regulations made under subsection (1) may provide for the determination of the amount of the income of an approved venture company to be exempted or taxed at a concessionary rate and for the deduction of losses otherwise than in accordance with section 37.

[31/98]

(2A) The exemption from tax or tax at a concessionary rate of the income of an approved venture company under regulations made under subsection (1) —

(a) shall be for such period, not exceeding 10 years, as the Minister, or such person as he may appoint, may specify; and

(b) in any particular case after the period referred to in paragraph (a), shall be for such further period or periods, not exceeding 5 years at any one time for each period, as the Minister, or such person as he may appoint, may specify.

[31/98]

(2B) The total period under subsection (2A) (a) and the further period or periods under subsection (2A) (b) shall not in the aggregate exceed 15 years.

[31/98]

(3) The Comptroller shall determine the manner and extent to which allowances under section 19, 19A, 20, 21 or 22 and any expenses, losses and donations allowable under this Act which are attributable to the income referred to in subsection (1) are to be deducted.

(4) In determining the income of an approved venture company which is exempt from tax or taxed at a concessionary rate under regulations made under subsection (1) for any year of assessment, there shall be deducted therefrom —

- (a) expenses and donations allowable under this Act for that year of assessment which are attributable to that income;
- (b) any loss for that year of assessment arising from the disposal of any approved investments in Singapore or elsewhere;
- (c) any allowances for that year of assessment under section 19, 19A, 20, 21 or 22 attributable to that income notwithstanding that no claim for those allowances has been made; and
- (d) any balance of the expenses, losses and allowances referred to in paragraphs (a), (b) and (c) which have not been deducted in determining that income for any previous year of assessment.

[31/98]

(5) Any expenses, donations, allowances or losses referred to in subsection (4) shall only be deducted against the income of an approved venture company exempt from tax under regulations made under subsection (1) and shall not be available as a deduction against any other income of the company, except that any balance of the expenses, donations, allowances or losses remaining unabsorbed at the end of the tax exempt period of the company shall be available as a deduction against any other income of the company for the year of assessment which relates to the basis period in which the tax exemption ceases and for any subsequent year of assessment in accordance with section 23 or 37, as the case may be.

(5A) Where the income of an approved venture company is taxed at a concessionary rate under regulations made under subsection (1) —

(a) any expenses, donations, allowances or losses referred to in subsection (4) shall only be deducted against such income, and any balance of the expenses, donations, allowances or losses for any year of assessment shall, subject to sections 23, 37 and 37B, be available as a deduction against any other income of the company for that year of assessment and for any subsequent year of assessment; and

(b) notwithstanding subsection (5), where the income of the company was exempted from tax immediately before being taxed at a concessionary rate, the balance referred to in subsection (5) shall firstly be deducted against the income taxed at a concessionary rate and thereafter shall be available for deduction against any other income of the company for the year of assessment which relates to the basis period in which the tax exemption ceases, and subsequent years of assessment, in accordance with section 23 or 37, as the case may be.

[31/98]

(6) The Comptroller shall for each year of assessment for which the income of an approved venture company is exempt from tax under regulations made under subsection (1) issue to the approved venture company a statement showing the amount of income exempt from tax under regulations made under subsection (1) and Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if such statement were a notice of assessment.

[31/98]

(7) Subject to subsection (8), where any statement issued to an approved venture company under subsection (6) has become final and conclusive, the amount of income shown therein shall not form part of the statutory income of the company for the year of assessment to which the statement relates and shall be exempt from tax.

(8) The Comptroller may, before any such statement has become final and conclusive, treat a specified amount of the income of an approved venture company as exempt from tax pending such statement becoming final and conclusive.

(9) As soon as any amount of the income of an approved venture company has been exempt from tax or subject to tax at a concessionary rate under regulations made under subsection (1), the amount of the income exempted or the net amount of the income after deduction of the tax shall be credited to a special account (referred to in this section as the account) to be kept by the company for the purpose of this section.

[31/98]

(10) Where the account of an approved venture company is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(11) So much of the amount of any dividends debited to the account under subsection (10) as is received by a shareholder of an approved venture company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(11A) Any dividends debited to the account shall be treated as having been distributed to the shareholders of the company or any particular class of the shareholders in accordance with the proportion of their shareholdings in the company.

[37/2002]

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

(13) Where an amount of dividends exempt from tax under this section has been received from a company by a shareholder, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 44 shall not apply to any such dividend or part thereof.

[37/2002]

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

[21/2003]

(15) An approved venture company shall deliver to the Comptroller a copy of the account made up to any date specified by him whenever called upon to do so by notice in writing.

(16) Notwithstanding anything in this section, where it appears to the Comptroller that —

(a) any income of an approved venture company which has been exempted from tax or subject to tax at a concessionary rate under regulations made under subsection (1); or

(b) any dividend which has been exempted from tax in the hands of any shareholder, ought not to have been so exempted or taxed at a concessionary rate for any year of assessment, the Comptroller may, at any time within 6 years after the expiration of that year of assessment —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to make good any loss of tax; or

(ii) direct the company to debit its account with such amount as the circumstances may require.

[11/94;31/98;37/2002]

(17) Parts XVII and XVIII (relating to objections and appeals) and any rules made under this Act shall apply, with the necessary modifications, as if an assessment or a direction under subsection (16) were a notice of assessment.

(18) In this section —

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

"investments" means —

(a) debentures, stocks, shares, bonds, notes or warrants issued by a government or company;

(b) any right or option in respect of any such debentures, stocks, shares, bonds, notes or warrants; or

(c) units in any unit trust within the meaning of section 10B;

"tax exempt period" means the period during which any income of an approved venture company is exempt from tax under regulations made under subsection (1);

"venture company" means any company whose business consists wholly or mainly in the making of approved investments and the principal part of whose income is derived therefrom.

[28/96; 31/98]

Exemption of certain dividends of Singapore Exchange Derivatives Trading Limited

13I. —(1) Where any income of the Singapore Exchange Derivatives Trading Limited (including income derived by it while it was known as the Singapore International Monetary Exchange

Limited) has been exempted under section 13 (1) (z), such income shall be credited to a special account to be kept by the company for the purposes of this section.

[24/2000]

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

[24/2000]

Exemption of tax on gains or profits from entrepreneurial employee equity-based remuneration scheme

13J. —(1) Where a qualifying employee derives any gains or profits in any year of assessment, after the expiry of the minimum holding period, from any stock option granted on or after 1st June 2000, or any right or benefit under any share acquisition scheme (other than a stock option scheme) granted on or after 1st January 2002, to acquire shares in any qualifying company or in its holding company, there shall, subject to this section, be exempt from tax 50% of an amount of such gains or profits as determined under subsection (2).

[37/2002]

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

- (a) where the price to be paid for the shares under the right or benefit is equal to or exceeds the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined under section 10 (6); or
- (b) where the price to be paid for the shares under the right or benefit is at a discount to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined under section 10 (6) less the amount of the discount.

[24/2000;24/2001;37/2002]

(3) The exemption under this section shall not apply to any amount of gains or profits to which section 10 (6) applies —

- (a) to the extent that the amount, when aggregated with the amount of such gains or profits previously derived by him and which qualifies for exemption under this section, exceeds \$10 million;
- (b) which is derived by him on or after 1st January of the 10th year following the year in which he first derived such gains or profits which qualified for exemption under this section; or
- (c) which is derived by him for the release of his right or benefit to acquire shares in any qualifying company or in its holding company by reason of his resignation or termination of his employment with the qualifying company due to misconduct.

[24/2000;24/2001;37/2002]

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

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

[24/2000;37/2002]

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

[24/2000]

(6) For the purposes of this section and section 13L, where a company grants —

(a) any stock option on or after 1st April 2001; or

(b) any right or benefit under any share acquisition scheme (other than a stock option scheme) on or after 1st January 2002,

to acquire shares under a tranche of the share acquisition scheme and any gains or profits derived by a qualifying employee from any right or benefit granted under that tranche qualifies for tax exemption under this section as well as section 13L, the company shall opt for the tax exemption under this section or section 13L to apply in respect of the gains or profits relating to that tranche but not under both sections.

[37/2002]

(7) Where a company has opted under subsection (6) for tax exemption under this section to apply to the gains or profits in respect of a tranche of a share acquisition scheme, tax exemption under section 13L —

(a) shall, subject to paragraph (b), not be available in respect of any right or benefit to acquire shares granted by the company under any tranche subsequent to that tranche under the share acquisition scheme; and

(b) shall be available in respect of any right or benefit to acquire shares granted subsequent to the option by the company under any tranche under the share acquisition scheme only where the conditions for tax exemption under this section are not satisfied in respect of any such subsequent tranche granted.

[24/2001;37/2002]

(8) Where a company has opted under subsection (6) for tax exemption under section 13L to apply to the gains or profits in respect of a tranche of a share acquisition scheme, tax exemption under this section shall not be available in respect of any right or benefit to acquire shares granted by the company under any tranche subsequent to that tranche under the share acquisition scheme.

[24/2001;37/2002]

(9) Any option by a company under subsection (6) shall be irrevocable.

[24/2001]

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

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

"minimum holding period" —

(a) in relation to a right or benefit to acquire shares in a qualifying company or holding company under any stock option scheme, means the period prescribed by the Singapore Exchange during which no option may be exercised under a stock option scheme implemented by any company listed on that Exchange, which would have been applicable to the stock option granted by the qualifying company or holding company, as the case may be, if it were a company listed on that Exchange;

(b) in relation to a right or benefit to acquire shares in a qualifying company or holding company under any share acquisition scheme (other than a stock option scheme), means —

(i) a period of at least one year after the grant of the right or benefit, during which the shares so acquired may not be sold, if the price to be paid for the shares under the right or benefit is at a discount to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit; or

(ii) a period of at least 6 months after the grant of the right or benefit, during which the shares so acquired may not be sold, if the price to be paid for the shares under the right or benefit is equal to or exceeds the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit;

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

(a) carries on business in Singapore; and

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

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

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

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

"share acquisition scheme" means a scheme which imposes a minimum holding period requirement and allows an employee of a company to own or purchase shares in a qualifying company or that of its holding company, including stock options, share awards and other similar forms of employee share purchase plans but excluding phantom shares rights, share appreciation rights and any other similar rights;

"shares" includes stocks but excludes redeemable or convertible shares or shares of a preferential nature;

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

[24/2000; 37/2002]

Exemption of certain dividends of Singapore Exchange Derivatives Clearing Limited

13K. —(1) Where any income of the Singapore Exchange Derivatives Clearing Limited has been exempted under section 13 (1) (g), such income shall be credited to a special account to be kept by the company for the purposes of this section.

[24/2001]

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

[24/2001]

Exemption of tax on gains or profits from company employee equity-based remuneration scheme

13L. —(1) Where a qualifying employee derives any gains or profits in any year of assessment, after the expiry of the minimum holding period, from any stock option granted on or after 1st April 2001, or any right or benefit under any share acquisition scheme (other than a stock option scheme) granted on or after 1st January 2002, to acquire shares in any qualifying company or in its holding company under a company employee equity-based remuneration scheme, there shall, subject to this section and section 13J (6) to (9), be exempt from tax —

(a) the first \$2,000 of such gains or profits in that year of assessment as determined under subsection (2); and

(b) 25% of any amount of such gains or profits in that year of assessment exceeding \$2,000 as determined under subsection (2).

[37/2002]

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

(a) where the price to be paid for the shares under the right or benefit is equal to or exceeds the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined under section 10 (6); or

(b) where the price to be paid for the shares under the right or benefit is at a discount to the market value or, if it is not possible to determine such value, the net asset value of the shares at the time of the grant of the right or benefit, the amount as determined under section 10 (6) less the amount of the discount.

[24/2001;37/2002]

(3) The exemption under this section shall not apply to any amount of gains or profits to which section 10 (6) applies —

- (a) to the extent that the amount, when aggregated with the amount of such gains or profits previously derived by him and which qualifies for exemption under this section, exceeds \$1 million;
- (b) which is derived by him on or after 1st January of the 10th year following the year in which he first derived such gains or profits which qualified for exemption under this section; or
- (c) which is derived by him for the release of his right or benefit to acquire shares in any qualifying company or in its holding company by reason of his resignation or termination of his employment with the qualifying company due to misconduct.

[24/2001;37/2002]

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

[24/2001]

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

"company employee equity-based remuneration scheme" , in relation to a qualifying company or its holding company, means any share acquisition scheme which satisfies the 50% requirement; "50% requirement" , in relation to a company employee equity-based remuneration scheme, means in the aggregate at least 50% of the employees of the qualifying company are offered during any calendar year any rights or benefits to acquire shares in the qualifying company or in its holding company under any share acquisition scheme, as ascertained in accordance with the following formula:

$$\frac{A}{B - C - D - E} \times 100,$$

where A is the aggregate number of employees of the qualifying company who are offered during a calendar year any right or benefit to acquire shares in the qualifying company or in its holding company under any share acquisition scheme in respect of which the qualifying company has opted under section 13J (6) for tax exemption under this section and not section 13J to apply, and who are employees of that qualifying company at the time of such offer;

B is the number of employees of the qualifying company on the last day of that calendar year;

C is the number of part-time employees (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year;

D is the number of full-time employees with less than one-year's service (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year; and

E is the number of employees engaged on contracts not exceeding 2 years (other than non-executive directors) on the last day of that calendar year where any right or benefit to acquire shares in that qualifying company or in its holding company is not offered to any such employee for the whole of that calendar year, or nil where any right or benefit to acquire shares in that qualifying company or in its holding company is offered to any such employee during that calendar year;

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

"minimum holding period" has the same meaning as in section 13J;

"part-time employee" means an employee of a company who is committed to work for not more than 30 hours per week (including any time he would be required to work but for injury, any official leave or such other similar event) for the company in which he is employed;

"qualifying company" means a company incorporated or registered under the Companies Act which, at the time of the grant to its employees of any right or benefit to acquire its shares or that of its holding company, carries on business in Singapore;

"qualifying employee" means an employee of a qualifying company who, at the time of the grant to him of any right or benefit to acquire the shares of the company or the shares of its holding company, as the case may be, does not beneficially own, directly or indirectly, voting shares that confer the right to exercise or control the exercise of not less than 25% of the voting power in the qualifying company which grants the right or benefit to acquire its shares;

"share acquisition scheme" has the same meaning as in section 13J;

"shares" includes stocks but does not include redeemable or convertible shares or shares of a preferential nature.

[24/2001; 37/2002]

Exemption of income of charities

13M. —(1) Subject to this section, there shall be exempt from tax the income of any charitable institution, trust or body of persons established for charitable purposes only.

[24/2001]

(2) For the purposes of this section —

(a) where a trade or business is carried on by any such charitable institution, trust or body of persons, the income derived from the trade or business shall be exempt from tax only if the income is applied solely for charitable purposes and —

(i) the trade or business is exercised in the course of the actual carrying out of a primary purpose of such institution, trust or body of persons; or

(ii) the work in connection with the trade or business is mainly carried on by persons for whose benefit such institution, trust or body of persons was established;

(b) the other income of any such charitable institution, trust or body of persons shall be exempt from tax only if it applies in any year of assessment for charities or charitable objects within Singapore not less than 80% of the amount of donations (in money or money's worth) received by it and of other sums accrued to it in the preceding year unless the Comptroller otherwise permits; and

(c) if any such charitable institution, trust or body of persons applies any amount of its income otherwise than in accordance with its charitable objects, the institution, trust or body of persons shall pay to the Comptroller tax on that amount of its income and a determination and assessment under this paragraph shall be treated as a notice of assessment and shall be subject to the provisions of Parts XVII and XVIII.

[24/2001]

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

(a) donations in cash received by it;

(b) proceeds from the disposal of all properties donated to it on or after 1st April 2003 (after deducting costs directly related to the disposal);

(c) gains or profits from the disposal of all properties acquired by it on or after 1st April 2003 (after deducting costs directly related to the disposal);

(d) proceeds, gains or profits, as the case may be, from the disposal of properties donated to it or acquired by it before 1st April 2003 and disposed of on or after that date, and for the purpose of this paragraph, this section in force immediately before that date shall apply; and

(e) income (after providing for allowable deductions) not falling under paragraphs (a) to (d).

[21/2003]

(4) For the purposes of the deleted subsection (3) (d), (f) and (g)* in force immediately before 1st April 2003 and subsection (3) (b) and (c), any securities received or acquired on an earlier date shall be deemed to have been disposed of first.

*Subsection (3) (d), (e) (f) and (g) was deleted by Act 21 of 2003.

[24/2001;21/2003]

(5) Where the total of the gains, profits or proceeds in any year from the disposal of properties or securities in the deleted subsection (3) (d), (e), (f) and (g)* in force immediately before 1st April 2003 and subsection (3) (b) and (c) is less than nil, it shall be deemed as nil.

*Subsection (3) (d), (e) (f) and (g) was deleted by Act 21 of 2003.

[24/2001;21/2003]

(6) For the purposes of determining the date of acquisition or donation of the shares and the cost of the shares acquired —

(a) rights issues shall be deemed to have been acquired on the date the rights were exercised; and the cost in respect of each share after the exercise of the rights shall be the price paid for the acquisition of the shares; and

(b) bonus shares and shares arising from a share split (referred to in this subsection as split shares) shall be deemed to have been acquired or donated —

(i) where the original shares upon which the bonus shares or split shares are derived were acquired on or after 1st April 2003, on the date of acquisition of the original shares; and for this purpose, the cost in respect of each share after the bonus issue or the share split shall be determined in accordance with the formula

$$\frac{X}{Y},$$

Y

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

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

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

[21/2003]

(7) The Minister may make regulations which are necessary or expedient for carrying out the purposes of this section.

[24/2001]

(8) In this section —

"disposal" , in relation to any properties —

(a) means the assignment, sale, settlement or transfer of the properties, whether by agreement or otherwise; and

(b) includes the creation of a trust in respect of the properties,

but does not include the conversion of debt securities to equity securities where the conversion is in accordance with the terms and conditions of the issue of the debt securities;

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

[24/2001; 21/2003]

Exemption of tax on income derived by non-ordinarily resident individual

13N. —(1) Where an NOR individual is resident in Singapore in any year of assessment within the period he is an NOR individual, he may, within such time in that year of assessment and in such manner as may be specified by the Comptroller, elect for all or any of his following income to be exempt from tax for that year of assessment:

(a) any relevant employment income for the year preceding that year of assessment, if he —

(i) is not physically present in Singapore for at least 90 days in the year preceding that year of assessment by reason of the exercise of any employment in Singapore; and

(ii) has a notional tax payable by him on his gains or profits from the exercise of any employment in Singapore for the year preceding that year of assessment exceeding 10% of such gains or profits;

(b) any income derived from outside Singapore before he resides in Singapore, and received in Singapore during the year preceding that year of assessment;

(c) notwithstanding section 10C (11), any contribution up to the relevant amount made by his employer to any non-obligatory pension or provident fund constituted outside Singapore in the year

preceding that year of assessment, if he is neither a citizen of Singapore nor a Singapore permanent resident at the time such contribution is made.

[37/2002]

(2) Where the notional tax payable on the apportioned employment income by an NOR individual who has elected for tax exemption under subsection (1) is less than 10% of the gains or profits from the exercise of any employment in Singapore by him —

(a) the apportioned employment income shall be readjusted such that the notional tax payable on the readjusted apportioned employment income shall be 10% of the gains or profits from the exercise of any employment in Singapore by him; and

(b) the relevant employment income shall be reduced by the difference between the readjusted apportioned employment income and the apportioned employment income.

[37/2002]

(3) Any individual who satisfies any of the following criteria may apply to the Comptroller in such manner as he may determine to be approved as an NOR individual for the specified period:

(a) if he is not resident in Singapore for any year of assessment before 1st January 2003, but is resident in Singapore for every succeeding year of assessment up to and including year of assessment 2003, for a period of 5 consecutive years from the first year of assessment in which he is resident in Singapore;

(b) if he is resident in Singapore in year of assessment 2004, but is not resident in Singapore in year of assessment 2003, for a period of 5 consecutive years from year of assessment 2004;

(c) if he is resident in Singapore in year of assessment 2005, but is not resident in Singapore in years of assessment 2003 and 2004, for a period of 5 consecutive years from year of assessment 2005; or

(d) if he is resident in Singapore in any year of assessment on or after 1st January 2006, but is not resident in Singapore for all the 3 years of assessment immediately preceding that year of assessment, for a period of 5 consecutive years commencing from that year of assessment in which he is resident in Singapore.

[37/2002]

(4) The Comptroller may, subject to such terms and conditions as he may impose, approve the application of an individual to be an NOR individual.

[37/2002]

(5) Where an individual has been approved as an NOR individual, no approval shall be given under subsection (4) before the expiry of the period he is an NOR individual.

[37/2002]

(6) Any election under subsection (1) and any approval under subsection (4) shall be irrevocable.

[37/2002]

(7) In this section —

"apportioned employment income", in relation to an NOR individual, means total gains or profits from the exercise of any employment in Singapore by the NOR individual after deducting relevant employment income;

"NOR individual" means any individual who is for the time being approved as an NOR individual under subsection (4);

"notional tax payable", in relation to gains or profits from the exercise of any employment in Singapore by an individual, apportioned employment income or readjusted apportioned employment income, as the case may be, means the amount of tax computed in accordance with the rates specified in Part A of the Second Schedule in respect of gains or profits from the exercise of any employment in Singapore by the individual, apportioned employment income or readjusted apportioned employment income, as the case may be, before any deduction under sections 37 and 39;

"obligatory" means required under any foreign written law;

"relevant amount", in relation to an NOR individual, means —

- (a) nil if $A \geq B$; or
 (b) $B - A$ if $A < B$,

where A is the total amount of contributions made by the employer in respect of the NOR individual to any obligatory pension or provident fund constituted outside Singapore and for which the amount is not deemed as income accruing to the NOR individual under section 10C (11); and B is the amount of contribution which would have been required to be made by the employer under section 7 of the Central Provident Fund Act (Cap. 36) if the NOR individual were an employee and a citizen of Singapore;

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

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

- where
- C is the number of days in the year preceding that year of assessment for which the NOR individual is not physically present in Singapore by reason of the exercise of any employment in Singapore;
 - D is the number of days in the year preceding that year of assessment for which the NOR individual exercises any employment in Singapore; and
 - E is the gains or profits from the exercise of any employment in Singapore by the NOR individual referred to in section 10 (2) (a), (6) and (7), but excluding —
 - (a) such perquisite as may be determined by the Comptroller;
 - (b) leave pay; and
 - (c) director’s fee.

Exemption of income of foreign account of philanthropic purpose trust

130. —(1) There shall be exempt from tax such income derived from —

- (a) any funds or assets in any foreign account of a philanthropic purpose trust constituted on or after 18th February 2005 and administered by a trustee company in Singapore; and
- (b) any funds or assets of an eligible holding company established for the purposes of that philanthropic purpose trust which are held for the foreign account of that trust, as the Minister may by regulations prescribe.

(2) In this section —

"eligible holding company" means a company —

- (a) which is incorporated outside Singapore;
- (b) which is set up to hold assets of a philanthropic purpose trust administered by a trustee company;
- (c) whose operations consist solely of trading or making investments for the purpose of the philanthropic purpose trust;
- (d) which does not claim any relief under any arrangement made under section 49 or any tax credit under section 50A; and
- (e) all the shares of which are held by the trustees of the philanthropic purpose trust or by their nominee;

"foreign account" , in relation to a philanthropic purpose trust, means an account into which funds or assets are injected solely by settlors who or which are —

- (a) individuals that are neither citizens of Singapore nor resident in Singapore, unless the Minister otherwise by regulations prescribes;
- (b) companies that are neither incorporated nor resident in Singapore and —
 - (i) where the company has not more than 50 shareholders, all of the issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore; or

(ii) where the company has more than 50 shareholders, not less than 95% of the total number of the issued shares of the company are beneficially owned, directly or indirectly, by persons who are neither citizens of Singapore nor resident in Singapore;

(c) foreign trusts;

(d) other philanthropic purpose trusts that inject funds or assets from their foreign accounts; or

(e) any other persons that are neither —

(i) resident in Singapore; nor

(ii) constituted or registered under any written laws in Singapore;

"foreign trust" has the same meaning as in section 13G;

"philanthropic purpose trust" means a trust established in writing under any law for a purpose which is for the public benefit and which falls within any of the following descriptions of purposes:

(a) the prevention or relief of poverty;

(b) the advancement of education;

(c) the advancement of religion;

(d) the advancement of health;

(e) the advancement of citizenship or community development;

(f) the advancement of the arts, heritage or science;

(g) the advancement of environmental protection or improvement;

(h) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;

(i) the advancement of animal welfare;

(j) the advancement of any sport which involves physical skill and exertion;

(k) any other purpose beneficial to the community;

"trustee company" has the same meaning as in section 43J (2).

Exemption of income derived from asset securitisation transaction

13P. —(1) There shall be exempt from tax, subject to such conditions as may be prescribed by regulations, income derived by an approved securitisation company resident in Singapore from asset securitisation transaction entered into during the period from 27th February 2004 to 31st December 2008 (both dates inclusive).

(2) Regulations made under subsection (1) may provide for the deduction of expenses, allowances, losses and donations of an approved securitisation company otherwise than in accordance with this Act.

(3) Notwithstanding anything in this section, where it appears to the Comptroller that any income of an approved securitisation company which has been exempted from tax under subsection (1) ought not to have been so exempted for any year of assessment, the Comptroller may, at any time within 6 years after the expiration of that year of assessment, make such assessment or additional assessment on the company as may appear to be necessary in order to make good any loss of tax.

(4) In this section —

"approved securitisation company" means a company incorporated in Singapore principally to conduct asset securitisation transaction and is approved by the Minister or such person as he may appoint;

"asset securitisation transaction" means the acquisition of assets (other than immovable property in Singapore) or risks by an approved securitisation company where the acquisition of such assets or risks is funded through the issuance of asset-backed securities by the company.

PART V

DEDUCTIONS AGAINST INCOME

Deductions allowed

14. —(1) For the purpose of ascertaining the income of any person for any period from any source

chargeable with tax under this Act (referred to in this Part as the income), there shall be deducted all outgoings and expenses wholly and exclusively incurred during that period by that person in the production of the income, including —

- (a) except as provided in this section, any sum payable by way of interest upon any money borrowed by that person where the Comptroller is satisfied that the interest was payable on capital employed in acquiring the income;
- (b) rent payable by any person in respect of any land or building or part thereof occupied by him for the purpose of acquiring the income;
- (c) any expenses incurred for repair of premises, plant, machinery or fixtures employed in acquiring the income or for the renewal, repair or alteration of any implement, utensil or article so employed: Provided that no deduction shall be made for the cost of renewal of any plant, machinery or fixture, which is the subject of an allowance under section 19 or 19A; or for the cost of reconstruction or rebuilding of any premises, buildings, structures or works of a permanent nature;
- (d) bad debts incurred in any trade, business, profession or vocation, which have become bad during the period for which the income is being ascertained, and doubtful debts to the extent that they are respectively estimated, to the satisfaction of the Comptroller, to have become bad during that period, notwithstanding that those bad or doubtful debts were due and payable before the commencement of that period:

Provided that —

- (i) all sums recovered during that period on account of amounts previously written off or allowed in respect of bad or doubtful debts, other than debts incurred before the commencement of the basis period for the first year of assessment under this Act, shall for the purposes of this Act be treated as receipts of the trade, business, profession or vocation for that period;
- (ii) the debts in respect of which a deduction is claimed were included as a trading receipt in the income of the year within which they were incurred;
- (e) any sum contributed by an employer to an approved pension or provident fund or society or any pension or provident fund constituted outside Singapore in respect of any of his employees engaged in activities relating to the production of the income of the employer, the contribution of which sum by the employer was obligatory by reason of any contract of employment or of any provision in the rules or constitution of the fund or society:

Provided that in the case of any contribution to the Central Provident Fund or any approved pension or provident fund designated by the Minister under section 39 (8) —

- (i) a deduction in respect of any such contribution by an employer in respect of an employee for any period —

- (A) commencing on or after 1st July 1993 and before 1st July 1994 shall not exceed $18\frac{1}{2}\%$;
- (B) commencing on or after 1st July 1994 and before 1st January 1999 shall not exceed 20%;
- (C) commencing on or after 1st January 1999 and before 1st April 2000 shall not exceed 10%;
- (D) commencing on or after 1st April 2000 and before 1st January 2001 shall not exceed 12%;
- (E) commencing on or after 1st January 2001 shall not exceed 16%;
- (F) commencing on or after 1st October 2003 shall not exceed 13%;

of the remuneration paid by the employer to the employee for that period, and “remuneration” in this proviso means that part of an employee’s emoluments by reference to which his employer’s contributions are calculated;

- (ii) where any such fund or society is first established and a special contribution is made thereto by the employer whereby persons in his employment whose employment commenced prior to the establishment of the fund or society may qualify for the benefits thereunder in respect of such prior employment, the Comptroller may, when approving the fund or society, authorise such deductions in respect of that special contribution as he thinks fit;

- (iii) no deduction shall be allowed in respect of any sum contributed by an employer for the period on or after 1st January 1999 to the Central Provident Fund in respect of an employee who holds a

professional visit pass, an employment pass or a work permit or who would be required to obtain such a pass or permit if he were to work in Singapore;

(f) any sum contributed by an employer in any calendar year to the medisave account maintained under the Central Provident Fund Act (Cap. 36) in respect of any of his employees engaged in activities relating to the production of the income of the employer and which is not deemed to be the income of the employee under section 10C (4), subject to a maximum deduction of \$1,500 for that year for each employee:

Provided that no deduction shall be allowed in respect of any sum contributed by an employer for the period on or after 1st January 1999 to the medisave account maintained under the Central Provident Fund Act (Cap. 36) in respect of an employee who holds a professional visit pass, an employment pass or a work permit or who would be required to obtain such a pass or permit if he were to work in Singapore;

(g) zakat, fitrah or any religious dues, payment of which is made under any written law;

(h) where the income is derived from the working of a mine or other source of mineral deposits of a wasting nature, such deductions in respect of capital expenditure as may be prescribed in rules made under section 7.

[37/75;7/79;28/80;5/83;7/85;31/86;1/90;23/90;2/92;26/93;11/94;32/95;1/98;32/99;24/2001;21/2003]

(2) Notwithstanding subsection (1), payments made by way of compensation for injuries or death, salaries, wages or similar emoluments or death gratuities to an employee (or his legal representative) who is the husband, wife or child of —

(a) any employer;

(b) any partner of the firm in which that employee is employed;

(c) any individual who by himself or with his spouse or child or all of them have the ability to control, directly or indirectly, the company in which that employee is employed; or

(d) any individual whose spouse or child or all of them have the ability to control, directly or indirectly, the company in which that employee is employed,

shall be allowed as deductions only to the extent to which, in the opinion of the Comptroller, they are reasonable in amount having regard to the services performed by that employee.

[26/93]

(3) Notwithstanding subsection (1), where outgoings and expenses falling within that subsection are incurred, whether directly or in the form of reimbursements, in respect of a motor car (whether or not owned by the person incurring the outgoings and expenses) to which this subsection applies, the sum to be allowed as a deduction shall be limited to the amount which bears to such outgoings and expenses the same proportion as \$35,000 bear to the capital expenditure incurred by the owner in respect of the motor car, where such capital expenditure exceeds \$35,000.

[7/79]

(3A) Any deduction for the cost of renewal of a motor car to which subsection (3) applies shall not exceed \$35,000.

(4) Subsections (3) and (3A) shall apply to a motor car which is constructed or adapted for the carriage of not more than 7 passengers exclusive of the driver and the weight of which unladen does not exceed 3,000 kilograms and which —

(a) was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) but excludes such a motor car which is —

(i) used principally for instructional purposes; and

(ii) acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor's licence issued under that Act; or

(b) is registered outside Singapore and used exclusively outside Singapore.

[32/99]

(5) Notwithstanding subsection (1), where, in the basis period for any year of assessment, any employer (other than an employer who derives any income from any trade, business, profession or

vocation which is wholly or partly exempt from tax or subject to tax at a concessionary rate of tax under this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86)) incurs medical expenses falling within that subsection in excess of the specified percentage of the total remuneration of his employees in that basis period, the amount of the excess medical expenses shall not be allowed as deductions.

[26/93]

(6) Where, in the basis period for any year of assessment, any employer derives any income from any trade, business, profession or vocation which is wholly or partly exempt from tax or subject to tax at a concessionary rate of tax under this Act or the Economic Expansion Incentives (Relief from Income Tax) Act and incurs medical expenses in excess of the specified percentage of the total remuneration of his employees in that basis period, an amount equal to the excess medical expenses shall be deemed to be income of the employer chargeable to tax at the rate of tax under section 42 (1) or 43 (1), as the case may be, for that year of assessment.

[26/93]

(6A) For the purpose of subsections (5) and (6), the specified percentage for any year of assessment shall be —

(a) 2% in the case of an employer who has —

(i) contributed the specified amount into the medisave accounts maintained under the Central Provident Fund of —

(A) at least 20% of the number of local employees who are employed by him as at the first day of the basis period for that year of assessment, for every calendar month in that basis period they are employed by the employer; and

(B) every local employee who commences his employment with him during the basis period for that year of assessment, for the calendar month he commences his employment and every subsequent calendar month in that basis period he is employed by the employer; or

(ii) incurred expenses in or in connection with the provision of a specified insurance plan to cover, for every calendar month in the basis period for that year of assessment, the cost of medical treatment of at least 50% of the number of local employees who are employed by him as at the first day of that basis period; and

(b) 1% in any other case.

(6B) Subsection (6A) shall apply to the year of assessment relating to the basis period which commenced on or after 1st April 2004 and any subsequent year of assessment.

(7) The references to medical expenses in subsections (5) and (6) shall be read as references to medical expenses which would, but for subsection (5), be allowable as deductions under this Act.

[26/93]

(8) In this section —

"gross rate of pay" has the same meaning as in section 2 of the Employment Act (Cap. 91);

"local employee" means a full-time or part-time employee who is a citizen or permanent resident of Singapore;

"medical expenses" means expenses incurred in or in connection with the provision of medical treatment and includes —

(a) expenses incurred in or in connection with the provision of maternity health care, natal care, and preventive and therapeutic treatment;

(b) expenses incurred in or in connection with the provision of a medical clinic by the employer;

(c) cash allowance in lieu of medical expenses;

(d) expenses incurred in or in connection with the provision of insurance against the cost of medical treatment; and

(e) contributions which are deductible under subsection (1) (f);

"medical treatment" includes all forms of treatment for, and procedures for diagnosing, any physical or mental ailment, infirmity or defect;

"part-time employee" has the same meaning as in section 66A of the Employment Act;

"remuneration" means any wage, salary, leave pay, fee, commission, bonus, gratuity, allowance, other emoluments paid in cash by or on behalf of an employer and contributions to any approved pension or provident fund by any employer which are allowable as deductions under this Act, but does not include any director's fee, medical expense, cash allowance in lieu of medical expenses and benefit-in-kind;

[26/93; 32/95]

"specified amount" , in relation to any calendar month, means —

(a) in the case of a full-time employee who falls under subsection (6A) (a) (i), an amount equal to at least 1% of the employee's gross rate of pay for the calendar month, subject to a minimum contribution of \$16 per calendar month;

(b) in the case of a part-time employee who falls under subsection (6A) (a) (i), an amount equal to at least 1% of the employee's gross rate of pay for the calendar month;

"specified insurance plan" means a medical insurance plan sponsored by an employer that —

(a) confers hospitalisation benefits during the period of employment of an employee and up to a period of 12 months immediately after the employee leaves his employment for any reason; and

(b) treats the employee as being continuously insured when he is employed by another employer who provides him with an insurance plan that confers the hospitalisation benefits described in paragraph (a).

Deduction for patenting costs

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

[21/2003]

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

(a) there is an undertaking by the person that he would be the proprietor of the patent when the patent is granted; and

(b) the claim is made by the person in such manner and subject to such conditions as the Comptroller may require.

[21/2003]

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

[21/2003]

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

[21/2003]

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

[21/2003]

(6) In this section —

"patenting costs" means the fees paid to —

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

(i) filing of a patent;

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

(iii) grant of a patent; and

(b) any registered patent agent for —

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

- (ii) preparing specifications or other documents for the purposes of the Patents Act (Cap. 221) or the patents law of any other country; or
 - (iii) giving advice on the validity or infringement of the patent;
- "registered patent agent" has the same meaning as in the Patents Act (Cap. 221).

*[14P
[21/2003]*

Further deduction for expenses relating to approved trade fairs, exhibitions or trade missions or to maintenance of overseas trade office

14B. —(1) Subject to this section, where the Comptroller is satisfied that the expenses specified in subsection (2) have been incurred by an approved company or firm resident in or having a permanent establishment in Singapore for the primary purpose of —

- (a) promoting the trading of goods or the provision of services; or
- (b) the provision of services in connection with the use of any right under a master franchise or master intellectual property licence where the company or firm is the holder of the franchise or licence,

there shall be allowed a further deduction of the amount of such expenses in addition to the amount allowed under section 14.

[31/98]

(2) The expenses referred to in subsection (1) are —

- (a) expenses in establishing, maintaining or otherwise participating in an approved trade fair, trade exhibition, trade mission or trade promotion activity;
- (b) expenses in maintaining an approved overseas trade office; or
- (c) market development expenditure for the carrying out of any approved marketing project.

[31/98]

(3) The Minister may specify the maximum amount of expenditure (or any item thereof) to be allowed under subsection (1).

[26/93;31/98]

(4) No deduction shall be allowed under this section in respect of —

- (a) any expenses which are not allowed as deductions under section 14;
- (b) travelling, accommodation and subsistence expenses or allowances for more than the approved number of employees taking part in the approved trade fair, trade exhibition, trade mission, trade promotion activity or the approved marketing project;
- (c) any expenses relating to an approved overseas trade office —
 - (i) which are incurred in the establishment of the approved overseas trade office;
 - (ii) by way of remuneration, travelling, accommodation and subsistence expenses or allowances for more than the approved number of employees of the approved overseas trade office;
 - (iii) which are specifically excluded as a condition for the approval of the overseas trade office under this section;
 - (iv) which are incurred after the end of the approved number of years from the date of establishment of the approved overseas trade office; and
 - (v) which are incurred by a firm or company having a permanent establishment subject to tax in the country in which the approved trade office is established.

[26/93;31/98;32/99]

(5) Subject to subsection (6), as soon as any amount of further deduction is allowed to any company under this section, section 14E, 14J or 14L, a sum equal to that amount shall be credited to an account (referred to in this section as the further deduction account) to be kept by the company for the purposes of any of those sections.

[28/92;21/2003]

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

- (a) the sum transferred shall not be credited to the further deduction account to be kept by the transferor company;
- (b) for the purposes of this section, section 14E, 14J or 14L, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and
- (c) in relation to the sum transferred under paragraph (a), subsections (7) to (10) shall apply to the claimant company.

[21/2003]

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

- (a) debit from that account such amount as would have been the chargeable income had the further deduction not been allowed or the amount of the credit in that account, whichever is the less; and
- (b) credit the amount debited under paragraph (a) to an account to be called a tax exempt account which shall be kept by the company for the purposes of this section, section 14E, 14J or 14L, and any remaining balance in the further deduction account shall be carried forward to be used by the company in the first subsequent year of assessment when the company has chargeable income had the further deduction not been allowed, and so on for subsequent years of assessment until the credit in the further deduction account has been fully used.

[28/92]

(8) Where a tax exempt account of a company is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the tax exempt account.

[28/92]

(9) Section 13B (4) to (7) shall apply, with the necessary modifications, in respect of any dividend paid out of the tax exempt account of the company.

[28/92]

(10) Notwithstanding anything in this section, where it appears to the Comptroller that in any year of assessment —

- (a) any further deduction which has been allowed under this section, section 14E, 14J or 14L; or
- (b) any dividend which has been exempted from tax in the hands of any shareholder, ought not to have been so allowed or exempted, as the case may be, the Comptroller may, within the year of assessment or within 6 years after the expiration thereof —
 - (i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or
 - (ii) direct the company to debit its tax exempt account with such amount as the circumstances require.

[28/92;11/94;31/98;37/2002]

(11) In this section —

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

"market development expenditure" means —

- (a) approved expenses directly attributable to the carrying out of market research or obtaining of market information, including any feasibility study;
- (b) expenses in respect of advertisements placed in approved media;
- (c) expenses incurred on approved promotion campaigns; or
- (d) approved expenses incurred in the design of packaging, or in the certification of goods or services where such certification is carried out by an approved person;

"master franchise" means any agreement under which the franchisor authorises or permits the franchisee to use in Singapore or overseas a business system owned or controlled by the franchisor, including the sub-franchising of the business system;

"master intellectual property licence" means any licence under which the licensor authorises or permits the licensee to use in Singapore or overseas the rights under a patent, copyright, trademark, design or know-how, including the sub-licensing of the same.

[32/95; 31/98]

Further deduction for logistics expenses

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

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

(a) specify the items of logistics expenses to be allowed to an approved company under subsection (1);

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

(c) specify the number of years of assessment for which deduction is to be allowed to an approved company under subsection (1), up to a maximum of 10 years of assessment; and

(d) impose such conditions as he thinks fit when approving a company for the purpose of this section.

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

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

where	E_1, E_2, E_3, E_n	is the total amount of logistics expenses allowed to the company under subsection (1) for each year of assessment falling within the relevant period in which such failure occurs;
	C_1, C_2, C_3, C_n	is the rate of tax under section 43 (1) (a) or concessionary rate of tax, or both such rates, as the case may be, applicable to the income of the company for each year of assessment falling within the relevant period in which such failure occurs; and
	D	is the rate of tax under section 43 (1) (a) or concessionary rate of tax, or both such rates, as the case may be, applicable to the income of the company for the year of assessment relating to the basis period in which such failure occurs.

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

(6) In this section —

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

"approved company" means a company resident in Singapore which —

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

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

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

"concessionary rate of tax" means the rate of tax in accordance with —

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

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

(c) section 19J(5) of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86); "logistics expenses" means expenses incurred by an approved company which are —

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

(b) paid to a service provider that carries out the company's logistic activities in Singapore, but excludes such expenses on international freight;

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

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

Expenditure on research and development

14D. —(1) For the purpose of ascertaining the income of any person carrying on a manufacturing trade or business or a trade or business for the provision of any services, the following expenditure incurred (other than any amount which is allowable as a deduction under section 14) by that person shall be allowed as a deduction:

(a) expenditure incurred on research and development undertaken directly by him and related to that trade or business (except to the extent that it is capital expenditure on plant, machinery, land or buildings or on alterations, additions or extensions to buildings or in the acquisition of rights in or arising out of research and development); and

(b) payments made by that person to a research and development organisation for undertaking on his behalf research and development related to that trade or business.

[28/80;3/89;24/2000;37/2002]

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

(3) If the research and development organisation referred to in subsection (1) (b) is outside Singapore, a claim for deduction shall be allowed to a person only if —

(a) there is an undertaking by the person that any benefit which may arise from the conduct of the research and development shall accrue to the person; and

(b) the claim is made by the person in such manner and subject to such conditions as the Comptroller may require.

[37/2002]

Further deduction for expenditure on research and development project

14E. —(1) Subject to this section, where the Comptroller is satisfied that —

(a) a person carrying on a manufacturing trade or business, or a trade or business for the provision of any services has incurred expenditure in undertaking directly by himself, or in paying a research and development organisation to undertake on his behalf, an approved research and development project in Singapore which is related to that trade or business; or

(b) a research and development organisation has incurred expenditure in undertaking an approved research and development project in Singapore and no deduction under this section has been allowed to another person in respect of any expenditure for that project or for another project of which that project forms a part,

there shall be allowed to that person or research and development organisation a further deduction of the amount of such expenditure in addition to the deduction allowed under section 14 or 14D.

[28/80;3/89;37/2002]

(2) The Minister may —

(a) specify the maximum amount of the expenditure (or any item thereof) incurred to be allowed under subsection (1);

(b) impose such conditions as he thinks fit when approving the research and development project; and

(c) specify the period or periods for which deduction is to be allowed under this section.
(3) No deduction shall be allowed under this section in respect of any expenditure which is not allowed under section 14 or 14D.

(4) In this section, "approved" means approved by the Minister or such person as he may appoint.

[3/89;37/2002]

Management expenses of investment companies

14F. —(1) Subject to this section, for the purpose of ascertaining the income for the basis period for any year of assessment of an approved investment company, there shall be allowed as a deduction any expenses for the management of its investments paid to any person who is a resident of or has a permanent establishment in Singapore and the amount of the deduction shall be ascertained by the formula

$$\frac{A \times B}{2C}$$

2C

where A is the total expenses for the management of its investments paid for that basis period;

B is the total interest and dividends chargeable to tax in that basis period; and

C is the total investment income (whether chargeable to tax or not) for that basis period.

[1/82]

(2) The deduction allowed under this section for any year of assessment shall not exceed the total interest and dividends chargeable to tax of the approved investment company in the basis period for that year of assessment.

(3) This section shall not apply to any investment company which has been approved under section 10A or any unit trust which has been approved under section 10B or any unit trust designated under section 35 (14).

[3/89;23/90;32/95]

(4) In this section —

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

"investment company" means any company whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom, and includes any unit trust.

14G. *(Repealed by Act 21/2003)*

Expenditure on building modifications for benefit of disabled employees

14H. —(1) Subject to subsections (2) and (3), where any person being the owner or lessee of any premises and carrying on a trade, business or profession at those premises has incurred approved expenditure on any addition or alteration to those premises for the purpose of facilitating the mobility or work of any disabled employee, there shall, in ascertaining the income of that person for the basis period during which the expenditure was incurred, be allowed as a deduction an amount equal to that expenditure.

[1/90]

(2) Where any person has been allowed a deduction under subsection (1), no deduction shall be allowed under any other provision of this Act in respect of the expenditure for which the deduction was allowed.

(3) Where a person has been allowed a deduction or deductions under this section amounting to \$100,000, whether for one or more years of assessment, no further deduction shall be allowed to that person under this section.

(4) In this section, "approved" means approved by the Minister or such person as he may appoint.

Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments

14I. —(1) Subject to this section, for the purpose of ascertaining the income for the basis period for any year of assessment of a bank or qualifying finance company, there shall be allowed as a deduction an amount in respect of the provision for doubtful debts arising from its loans and the provision for diminution in the value of its investments in securities, made in that basis period.

[2/92;28/96]

(2) Where in the basis period for any year of assessment —

(a) any amount of the provisions is written back, that amount shall be treated as having been allowed as a deduction under this section and shall be deemed to be a trading receipt of the bank or qualifying finance company for that basis period;

(b) the bank or qualifying finance company permanently ceases to carry on business in Singapore, any provisions in the account of the bank or qualifying finance company as at the date of the cessation shall be deemed to be a trading receipt of the bank or qualifying finance company for that basis period.

[28/96]

(3) The total amount deemed as trading receipts under subsection (2) shall not exceed the total amount of all deductions previously allowed under this section.

(4) Where in a scheme of amalgamation involving 2 or more banks or finance companies whereby the whole or substantially the whole of the undertaking of any bank or finance company is transferred to another bank or finance company, the Minister may, if he thinks fit and on such conditions as he may impose, by order declare that any provisions in the account of the transferor bank or transferor finance company which have been transferred to the transferee bank or transferee finance company shall not be deemed under subsection (2) (b) to be a trading receipt of the transferor bank or transferor finance company; and the provisions so declared shall for the purposes of this section be treated as having been allowed to the transferee bank or transferee finance company as a deduction under this section.

[28/96]

(5) Subject to subsection (6), the total amount of the provisions to be allowed as a deduction under this section for any year of assessment shall not exceed the lowest of —

(a) 25% of the qualifying profits for the basis period for that year of assessment;

(b) $\frac{1}{2}$ % of the prescribed value of the loans and investments in securities in the basis period for that year of assessment; or

(c) 3% of the prescribed value of the loans and investments in securities in the basis period for that year of assessment, less the total amount of all deductions previously allowed under this section which have not been deemed to be trading receipts under subsections (2) and (3).

[32/95;1/98;32/99]

(6) No deduction shall be allowed for any year of assessment —

(a) where there are no qualifying profits in the basis period for that year of assessment; or

(b) where the total amount of all deductions previously allowed under this section, which have not been deemed to be trading receipts under subsections (2) and (3), is in excess of 3% of the prescribed value of the loans and investments in securities for the relevant basis period for that year of assessment.

[1/98;32/99]

(7) In this section —

"bank" means a bank licensed under the Banking Act (Cap. 19) or a merchant bank approved by the Monetary Authority of Singapore;

"capital funds" has the same meaning as in the Finance Companies Act (Cap. 108);

"loan" means any loan, advance or credit facility made or granted by a bank or qualifying finance company, including an overdraft except for —

(a) loans to and placements with financial institutions in Singapore or any other country;

(b) loans to the Government of Singapore or the government of any other country;

(c) loans to and placements with the Monetary Authority of Singapore or the central bank or other monetary authority of any other country;

(d) loans to statutory bodies or corporations guaranteed by the Government of Singapore or the government of any other country; and

(e) such other loans or advances as may be prescribed;

"prescribed value of loans and investments in securities" , in relation to the basis period for any year of assessment, means the value (ascertained in such manner as the Comptroller may determine) of the loans and investments in securities (excluding any loan or investment in respect of which any deduction has been allowed under any other section of this Act) as at the last day of each month in that basis period added together and divided by the number of months in that basis period;

"provisions" means the provision for doubtful debts arising from the loans of a bank or qualifying finance company and the provision for diminution in the value of its investments in securities;

"qualifying finance company" means a company licensed under the Finance Companies Act (Cap. 108) to carry on financing business which has, in the basis period for any year of assessment for which the deduction under this section is first allowed, capital funds of not less than \$50 million and a capital adequacy ratio of not less than 12% as determined under that Act;

"qualifying profit" means the net profit (excluding any extraordinary gain which is not subject to tax) as shown in the audited accounts of the bank or qualifying finance company before deducting provision for taxation, tax paid, any extraordinary loss not allowed as a deduction, provision for doubtful debts arising from loans and provision for diminution in value of investments in securities;

"securities" means —

(a) debentures, stocks, shares, bonds or notes excluding —

(i) those issued or guaranteed by the Government of Singapore or the government of any other country; and

(ii) stocks and shares held by a bank or qualifying finance company and issued by any company in which 5% or more of the total number of its issued shares are beneficially owned, directly or indirectly, by the bank or qualifying finance company at any time during the basis period for the relevant year of assessment;

(b) any right or option in respect of any debentures, stocks, shares, bonds or notes referred to in paragraph (a); or

(c) units in any unit trust within the meaning of section 10B.

[28/96]

Further deduction for expenditure on research and development of new financial activities

14J. —(1) Subject to this section, where the Comptroller is satisfied that the following expenses have been incurred by a financial institution, there shall be allowed a further deduction of the amount of such expenses in addition to the amount allowed under section 14 —

(a) salary, wages and other benefits paid or granted in respect of employment (excluding director's fees), whether in money or otherwise, to an approved employee engaged in the research and development of any approved new financial activity;

(b) legal expenses, excluding expenses incurred in respect of litigation, which, in the opinion of the Comptroller, are directly attributable to the research and development of any approved new financial activity;

(c) expenses incurred in respect of any approved course of instruction or training conducted in Singapore by an approved employee; and

(d) fees and other benefits paid or granted under or arising out of a contract for financial consultancy services, whether in money or otherwise, to an approved consultant engaged in the research and development of any approved new financial activity, where —

(i) the contract is for a period of not less than 6 months; and

(ii) the approved consultant is not absent from Singapore for more than 30 days in the aggregate during the period of the contract.

[28/92;26/93;32/95]

(2) The maximum amount of expenses to be allowed under subsection (1) to any financial institution in the basis period for any year of assessment shall not exceed 30% of such amount as would have been the statutory income of the financial institution for that year of assessment had the further deduction not been allowed.

(3) Any expenses in excess of the amount allowed under subsection (2) shall not be carried forward to any subsequent year of assessment.

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

(a) approve any financial institution for such period not exceeding 5 years as he may specify and such approval may be extended for further periods not exceeding 5 years at a time; and

(b) impose such conditions as he thinks fit when approving the institution, employee or new financial activity and may specify the period or periods for which deduction is to be allowed under this section.

(5) No deduction shall be allowed to a financial institution in respect of any expenses which are not allowed as a deduction under section 14.

(6) In this section —

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

"financial institution" means a bank, merchant bank, securities dealer, investment adviser or futures broker which is approved for the purposes of this section;

"new financial activity" means a new or innovative financial activity or instrument which falls within the following categories of activities or instruments:

(a) derivatives trading including share options, currency options and interest rate options;

(b) swap transactions excluding plain vanilla swaps;

(c) technical trading computer systems and software;

(d) risk management services which employ sophisticated hedging techniques and instruments;

(e) development of synthetic securities and instruments linked to derivatives;

(f) research on foreign securities; and

(g) such other category of activities or instruments as may be prescribed.

Further or double deduction for overseas investment development expenditure

14K. —(1) Where the Comptroller is satisfied that —

(a) any investment development expenditure for the carrying out of an approved investment project overseas; or

(b) any expense for the maintenance of an approved overseas project development office, has been incurred by an approved firm or company resident in Singapore and carrying on business in Singapore, there shall be allowed —

(i) where such expenditure or expense is allowable as a deduction under section 14, a further deduction of the amount of such expenditure or expense in addition to the deduction allowed under that section; and

(ii) where such expenditure or expense is not allowable as a deduction under section 14, a deduction equal to twice the amount of such expenditure or expense.

[26/93]

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

(a) specify the maximum amount of investment development expenditure for the carrying out of an approved investment project overseas or expenses for the maintenance of an approved overseas project development office (or any item thereof) to be allowed under subsection (1); and

(b) impose such conditions as he thinks fit when approving the investment project or the overseas project development office for which the deduction is to be allowed under this section.

(3) No deduction shall be allowed under this section in respect of —

(a) travelling, accommodation and subsistence expenses or allowances for more than 2 employees taking part in an approved investment project overseas;

(b) any expenses for the maintenance of an approved overseas project development office —

(i) which are incurred for the establishment of that office;

(ii) by way of remuneration, travelling, accommodation and subsistence expenses or allowances for more than 3 employees of that office;

(iii) which are specifically excluded as a condition of approval for that office under this section;

(iv) which are incurred after the end of the first 6 months of the establishment of that office; and

(v) which are incurred by the approved firm or company having a permanent establishment which has, during the first 6 months of the establishment of that office, income chargeable to tax in the country in which that office is established.

(4) Subject to subsection (5), as soon as any amount of deduction is allowed to any company under subsection (1), a sum equal to the amount of the expenditure or expense incurred by the company which qualified for the deduction under subsection (1) shall be credited to an account (referred to in this section as the further deduction account) to be kept by the company for the purposes of this section.

[21/2003]

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

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

(b) for the purposes of this section, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and

(c) in relation to the sum transferred under paragraph (a), subsection (6) shall apply to the claimant company.

[21/2003]

(6) Section 14B (7) to (10) shall apply, with the necessary modifications, to any company to which a deduction is allowed under subsection (1) and, in relation to a deduction allowed to any company under subsection (1) (ii), the references to further deduction in those subsections shall be read as references to a deduction of a sum equal to the amount of the expenditure or expense incurred by the company which qualified for the deduction under subsection (1) (ii).

(7) In this section —

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

"investment development expenditure" means expenses directly attributable to the carrying out of

(a) any study to identify investment overseas; and

(b) any feasibility or due diligence study on any approved investment overseas;

"overseas project development office" means any office established for the purpose of identifying, initiating and developing any approved investment overseas.

Further deduction for expenses incurred in relocation or recruitment of overseas talent

14L. The Minister may by regulations provide that, for the purpose of ascertaining the income of any person or class of persons carrying on a trade, profession or business, there shall be allowed to such person or class of persons a further deduction, in addition to the deduction allowed under section 14, of any prescribed expenses incurred in relocating or recruiting any prescribed employee from outside Singapore to be employed in Singapore by the person or class of persons.

[31/98]

Deduction for hotel refurbishment expenditure

14M. —(1) Where any person carrying on a hotel trade or business at any hotel premises proposes to carry out a project for any refurbishment of the hotel premises, he may apply to the Minister, or such person as he may appoint, on or before 30th June 2003 for that project (which shall be completed on or before 30th June 2006) to be approved for the purposes of claiming a deduction under this section in respect of expenditure incurred by him on the refurbishment project.

[21/2003]

(2) Where the Minister, or such person as he may appoint, considers it expedient in the public interest to do so, he may approve the refurbishment project subject to such terms and conditions as he may impose.

[32/99]

- (3) Every approval given under this section shall specify —
- (a) the qualifying period during which the approved refurbishment project is to be carried out;
 - (b) the qualifying expenditure and the maximum amount thereof to be allowed as a deduction under this section; and
 - (c) a percentage, exceeding 100% but not exceeding 150%, of the qualifying expenditure to be allowed as a deduction under this section.

[32/99]

- (4) Where in the basis period for any year of assessment the person has incurred any qualifying expenditure on the approved refurbishment project, he shall be allowed, on due claim, for a period of 5 years (consecutive or otherwise) a deduction against the income from his hotel trade or business computed in accordance with subsection (5).

[32/99]

- (5) The amount of deduction under subsection (4) for any year of assessment shall be ascertained by the formula

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

where A is the percentage referred to in subsection (3) (c); and
B is the amount of qualifying expenditure incurred.

- (6) No deduction shall be allowed under this section in respect of —

- (a) any expenditure which is not incurred during the qualifying period referred to in subsection (3) (a);
- (b) any expenditure which was incurred before 1st July 1998; and
- (c) any year of assessment relating to any basis period during which the hotel premises are not used for the purposes of a hotel trade or business of the person who incurs the qualifying expenditure.

[32/99]

- (7) Where any person has been allowed a deduction under this section in respect of any qualifying expenditure, no deduction shall be allowed under any other provision of this Act in respect of the expenditure for which the deduction was allowed.

[32/99]

- (8) Subject to subsection (9), as soon as a deduction is allowed under this section to a company resident in Singapore, an amount (referred to in this section as further deduction) computed in accordance with the formula

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

shall be credited to an account (referred to in this section as further deduction account) to be kept by the company for the purposes of this section, where A and B have the same meanings as in subsection (5).

[21/2003]

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

- (a) the sum transferred shall not be credited to the further deduction account to be kept by the transferor company;
- (b) for the purposes of this section, upon the transfer of the sum under paragraph (a), the sum transferred shall be credited to the further deduction account to be kept by the claimant company; and
- (c) in relation to the sum transferred under paragraph (a), subsections (10) to (17) and subsection (23) shall apply to the claimant company.

[21/2003]

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

(a) debit from that account such amount as would have been the chargeable income had the further deduction not been allowed or the amount of the credit in that account, whichever is the less; and
(b) credit the amount debited under paragraph (a) to an account to be called a tax exempt account which shall be kept by the company for the purposes of this section,

and any remaining balance in the further deduction account shall be carried forward to be used by the company in the first subsequent year of assessment when the company has chargeable income had the further deduction not been allowed, and so on for subsequent years of assessment until the credit in the further deduction account has been fully used.

[21/2003]

(11) Where the tax exempt account is in credit at the date on which any dividends are paid by the company out of the amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the tax exempt account.

[21/2003]

(12) So much of the amount of any dividends so debited to the tax exempt account as is received by a shareholder of the company shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

[21/2003]

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

[21/2003]

(14) Where an amount of dividends exempt from tax under this section has been received by a shareholder, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders.

[21/2003]

(15) Notwithstanding subsections (12) and (14), no dividend paid on any share of a preferential nature shall be exempt from tax under this section in the hands of the shareholder.

[21/2003]

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

[21/2003]

(17) The company shall deliver to the Comptroller a copy of the tax exempt account made up to any date specified by him whenever called upon to do so by notice in writing.

[21/2003]

(18) During the qualifying period referred to in subsection (3) (a) or within 5 years after the date of completion of the approved refurbishment project, a person who has been allowed any deduction under this section shall not, without the written approval of the Minister or such person as he may appoint —

(a) sell, lease out or otherwise dispose of any asset in respect of which a deduction has been allowed under this section;

(b) cease to use the hotel premises or any part thereof for his hotel trade or business; or

(c) sell, lease out or otherwise dispose of the hotel premises or any part thereof.

[32/99]

(19) Where any of the events referred to in subsection (18) occurs in the basis period for any year of assessment, the person shall be deemed to have derived an amount of income for that year of assessment equal to the total amount of deduction which has been allowed under this section in respect of the assets or any part of the hotel premises to which the event relates.

[32/99]

(20) Notwithstanding subsection (19), the Minister or such person as he may appoint may, subject to such terms and conditions as he may impose and upon any application by the person deemed to have derived income under that subsection, reduce the amount of income so deemed.

[32/99]

(21) Where any deduction allowed under this section is in respect of any capital expenditure incurred by a person on any machinery or plant and where at any time after 5 years from the date of completion of the approved refurbishment project any of the events referred to in section 20 (1) occurs in respect of that machinery or plant, section 20 (1) to (3) shall apply, with the necessary modifications, and a balancing allowance or a balancing charge shall be made to or, as the case may be, on that person for the year of assessment in the basis period for which that event occurs.

[32/99]

(22) For the purposes of subsection (21) —

(a) any reference in section 20 (1) to allowances made under section 19 or 19A shall be read as a reference to a deduction allowed under this section;

(b) the amount of the capital expenditure on the provision of the machinery or plant still unallowed as at the time of the occurrence of the event shall be ascertained by the formula

$$C - \frac{C \times D}{5}$$

where C is the amount of capital expenditure incurred on the provision of the machinery or plant; and

D is the number of years of assessment for which any deduction has been allowed under this section in respect of that capital expenditure; and

(c) notwithstanding anything in section 20 (3), in no case shall the amount on which a balancing charge is made on a person exceed an amount computed in accordance with the formula

$$\frac{C \times D}{5}$$

where C and D have the same meanings as in paragraph (b).

[32/99]

(23) Where it appears to the Comptroller that in any year of assessment —

(a) any deduction allowed under this section; or

(b) any dividend exempted in the hands of any shareholder under this section,

ought not to have been so allowed or exempted, as the case may be, the Comptroller may, in the year of assessment or within 6 years after the expiration thereof —

(i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or

(ii) direct the company to debit its tax exempt account with such amount as the circumstances require.

[32/99]

Deduction of upfront land premium

14N. —(1) Where the Comptroller is satisfied that an upfront land premium has been paid by a lessee to a relevant body in respect of a designated lease for the construction or use of a building or structure for the purposes of carrying on any qualifying activity in that building or structure, there shall, subject to this section, be allowed to the lessee, for each year of assessment in the basis period for which the qualifying activity is carried on, a deduction of an amount of such expenditure ascertained by the formula

$$\frac{A}{B}$$

where A is the amount of upfront land premium paid; and

B is the number of years of the term of the designated lease for which the upfront land premium was paid.

[32/99]

(2) Where an assignee has incurred any expenditure in acquiring the remaining term of a designated lease for the construction or use of a building or structure for the purposes of carrying on any qualifying activity, there shall, subject to this section, be allowed to the assignee, for each year of assessment in the basis period for which the qualifying activity is carried on, a deduction of an amount of such expenditure ascertained by the formula

$$\frac{C}{D}$$

where C is —

- (a) the residual expenditure immediately after the assignment; or
 - (b) the upfront land premium at the time of the assignment as determined by the relevant body for the remaining term of the designated lease,
- whichever is the lower; and

D is the remaining number of years (excluding any part of a year) of the term of the designated lease for which the upfront land premium was paid.

[32/99]

(3) Subsection (2) shall apply, with the necessary modifications, to any subsequent assignment of the remaining term of the designated lease.

[32/99]

(4) The total amount of deductions to be allowed —

- (a) to a lessee under subsection (1), shall not exceed the amount of the upfront land premium paid by him to the relevant body in respect of the designated lease; and
- (b) to an assignee under subsection (2) or (3), as the case may be, shall not exceed the amount of C as ascertained in the formula in subsection (2).

[32/99]

(5) Where more than $\frac{1}{10}$ of the total built-up area of a building or structure constructed on any industrial land under a designated lease is not in use for any qualifying activity, no deduction under subsection (1), (2) or (3) shall be allowed in respect of such part of the building or structure which is not in use for any qualifying activity.

[32/99]

(6) No deduction shall be allowed under this section to any person for any year of assessment if the building or structure constructed on any industrial land under a designated lease is not in use for any qualifying activity at the end of the basis period for that year of assessment.

[32/99]

(7) The following provisions shall apply where a designated lease is assigned:

- (a) where the consideration received by the assignor for the remaining term of the designated lease is less than the residual expenditure immediately before the assignment, the difference shall be allowed as a deduction to the assignor for the year of assessment in the basis period in which he assigns the remaining term of the designated lease;
- (b) where the consideration received by the assignor for the remaining term of the designated lease is more than the residual expenditure immediately before the assignment, the difference shall be deemed to be income subject to tax under section 10 (1) (g) and shall be included as income of the assignor for the year of assessment in the basis period in which he assigns the remaining term of the designated lease.

[32/99]

(8) The amount deemed to be income of an assignor for the purposes of subsection (7) (b) shall not exceed the total amount of deduction allowed to the assignor under subsection (1), (2) or (3), as the case may be.

(9) In this section —

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

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

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

and includes an assignment of such a lease;

"industrial land" means any land permitted to be used for industrial purposes under the Planning Act (Cap. 232);

"qualifying activity" means —

(a) any activity in respect of any of the purposes referred to in section 18 (1) other than the activities for purposes referred to in section 18 (1) (h) and (i);

(b) any activity in respect of any prescribed purposes under section 18 (1) (j) other than any activity relating to postal services or to organisation or management of exhibitions and conferences; and

(c) any activity relating to the examination of motor vehicles for the purposes of section 90 of the Road Traffic Act (Cap. 276) and the rules made thereunder;

"relevant body" means —

(a) the Housing and Development Board constituted under the Housing and Development Act (Cap. 129); or

(b) the Jurong Town Corporation constituted under the Jurong Town Corporation Act (Cap. 150);

"residual expenditure" , in relation to an assignment of a designated lease, shall be the amount of expenditure available for deduction to the assignor reduced by —

(a) the amount of any deduction allowed to the assignor under this section; and

(b) the amount of any deduction not allowed to the assignor under subsection (5) or (6),

and increased by any amount deemed to be income of the assignor under subsection (7) (b);

"upfront land premium" , in relation to a designated lease, means the lump sum payment paid by a lessee to a relevant body at the commencement of the term of the designated lease.

[32/99; 21/2003]

Deduction for special reserve of approved general insurer

14O. —(1) The Minister may by regulations provide that, for the purpose of ascertaining the income of a general insurer approved by the Minister or such person as he may appoint from carrying on the business of insuring and reinsuring offshore risks, there shall be allowed for a period of 10 years a deduction for the prescribed amount of special reserves set aside by the approved general insurer for prescribed offshore risks.

[37/2002]

(2) Regulations made under subsection (1) may provide for —

(a) any amount transferred to the special reserve on an earlier date to be deemed to have been transferred out of the special reserve first;

(b) the circumstances in which any amount which has been allowed as deduction under this section may be deemed as trading receipt for any basis period;

(c) the adjustment of any amount deemed as trading receipt for any basis period in respect of any amount which has been allowed as deduction under this section; and

(d) generally for giving full effect to or for carrying out the purposes of this section.

[37/2002]

(3) In this section —

"insurer" has the same meaning as in section 43C;

"offshore risk" has the same meaning as in section 26.

Deductions not allowed

15. —(1) Notwithstanding the provisions of this Act, for the purpose of ascertaining the income of any person, no deduction shall be allowed in respect of —

(a) domestic or private expenses except as provided in section 14 (1) (g);

- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital except as provided in section 14 (1) (h);
- (d) any capital employed in improvements other than improvements effected in the replanting of a plantation;
- (e) any sum recoverable under an insurance or contract of indemnity;
- (f) rent or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income;
- (g) any amount paid or payable in respect of income tax in Singapore, or in respect of any tax on income (by whatever name called) in any country outside Singapore;
- (h) any amount paid or payable in respect of goods and services tax by the person if he, being required to be registered under the Goods and Services Tax Act (Cap. 117A), has failed to do so, or if he is entitled under that Act to credit that amount of tax as an input tax;
- (i) any payment to any provident, savings, widows" and orphans" or other society or fund, including the Supplementary Retirement Scheme, except such payments as are allowed under sections 14 (1) (e) and (f) and 39 (2) (g) and (o);
- (j) any sum payable by way of interest by any person out of Singapore to another person out of Singapore except where tax has been deducted and accounted for under section 45;
- (k) any outgoings and expenses, whether directly or in the form of reimbursements, and any claim for the cost of renewal incurred on or after 1st April 1998 in respect of a motor car (whether owned by him or any other person) which is constructed or adapted for the carriage of not more than 7 passengers (exclusive of the driver) and the weight of which unladen does not exceed 3,000 kilograms except —
 - (i) a taxi;
 - (ii) a motor car registered outside Singapore and used exclusively outside Singapore;
 - (iii) a private hire car if the person is carrying on the business of hiring out cars and the private hire car is used by the person principally for hiring;
 - (iv) a motor car which was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276); and
 - (v) a motor car registered on or after 1st April 1998 which is used principally for instructional purposes if the person is carrying on the business of providing driving instruction and holds a driving school licence or driving instructor's licence issued under the Road Traffic Act;
- (l) any outgoings and expenses incurred in respect of any unit trust designated under section 35 (14) if the person is a unit holder of such trust;
- (m) any amount of output tax paid or payable under the Goods and Services Tax Act (Cap. 117A) which is borne by the person if he is registered as a taxable person under that Act;
- (n) any outgoings and expenses incurred in respect of any approved CPF unit trust as defined in section 35 (14) if the person is a unit holder who has purchased any unit in such trust using moneys other than those standing to his credit in the Central Provident Fund;
- (o) any sum of money, other than any compensatory payment, paid by a transferee to a transferor after the transferee has failed to notify such person within such period as the Comptroller may require under section 10N (6) (b), in place of any dividend derived from Singapore from which tax has been deducted under section 44 in respect of transferred securities under a securities lending or repurchase arrangement to which section 10N applies; and
- (p) any outgoings and expenses, whether directly or in the form of reimbursements, incurred in respect of any right or benefit granted to any person to acquire shares on or after 1st January 2002 in any company, if the right or benefit is not granted by reason of any office or employment held in Singapore by the person.

[7/79;9/80;15/83;11/94;32/95;31/98;32/99;24/2001;37/2002]

(2) Subsection (1) (b) and (d) shall not apply to any expenditure which qualifies for deduction under section 14D, 14E, 14F, 14H, 14I, 14K, 14M, 14N, 14O or 14P.

[9/80;28/80;1/82;20/91;2/92;26/93;32/99;21/2003]

PART VI

CAPITAL ALLOWANCES

Initial and annual allowances for industrial buildings and structures

16. —(1) Where, in or after the basis period for the first year of assessment under this Act, a person incurs capital expenditure on the construction of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade, there shall be made to the person who incurred the expenditure for the year of assessment in the basis period for which the expenditure was incurred an allowance to be known as an “initial allowance” equal to 25% thereof.

[7/79]

(2) For the purposes of subsection (1) —

(a) where 2 basis periods overlap, the period common to both shall be deemed to fall in the first basis period only;

(b) where there is an interval between the end of the basis period for a year of assessment and the commencement of a basis period for the next succeeding year of assessment, then, unless the second mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and

(c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the commencement of the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

(3) Any capital expenditure incurred for the purposes of a trade by a person about to carry on that trade shall be treated for the purposes of subsection (1) as if it had been incurred by that person on the first day on which he does carry on that trade.

(4) Where any person is, at the end of the basis period for any year of assessment, entitled to an interest in a building or structure which is an industrial building or structure and where that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure, an allowance, to be known as an “annual allowance”, equal to 3% of that expenditure shall be made to him for that year of assessment.

[7/79]

(5) Where at any time in or after the basis period for the first year of assessment under this Act the interest in a building or structure which is the relevant interest in relation to any expenditure is sold while the building or structure is an industrial building or structure or after it has ceased to be one, the annual allowance, in the years of assessment the basis periods for which end after the time of that sale, shall be computed by reference to the residue of that expenditure immediately after the sale and shall be —

(a) the fraction of that residue the numerator of which is one and the denominator of which is the number of years of assessment comprised in the period which begins with the first year of assessment for which the buyer is entitled to an annual allowance or would be so entitled if the building or structure had at all material times continued to be an industrial building or structure, and ends with the fiftieth year after that in which the building or structure was first used; or

(b) 3% of that residue,

whichever is the greater, and so on for any subsequent sales.

[7/79;21/2003]

(6) No annual allowance shall be made to any person for any year of assessment after the end of the fiftieth year after that in which the building or structure was first used.

(7) For the purposes of application to any industrial building or structure occupied for the purposes of a trade in intensive poultry production and approved by the Minister under section 18 (1), the reference to 3% in subsections (4) and (5) and in section 18 (9) shall be read as a reference to 5%.

[7/79;21/2003]

(8) For the purposes of application to any industrial building or structure occupied for the purposes of a hotel on the island of Sentosa and approved by the Minister under section 18 (1) —

(a) the reference to 25% in subsection (1) shall be read as a reference to 20%;

(b) the reference to 3% in subsections (4) and (5) and in section 18 (9) shall be read as a reference to 2%; and

(c) the reference to capital expenditure in subsections (1) and (4) shall not include any capital expenditure incurred before 1st January 1982.

[1/82]

(9) For the purposes of application to any industrial building or structure used for the purposes of a project for the promotion of the tourist industry (other than a hotel) in Singapore and approved by the Minister under section 18 (1) (i) —

(a) the reference to 25% in subsection (1) shall be read as a reference to 20%;

(b) the reference to 3% in subsections (4) and (5) and in section 18 (9) shall be read as a reference to 2%; and

(c) the reference to capital expenditure in subsections (1), (3) and (4) shall not include any capital expenditure incurred before 1st January 1986.

[1/88]

(10) Notwithstanding anything in this section and section 17, where a person carrying out a project for the promotion of the tourist industry approved by the Minister under section 18 (1) (i) fails to comply with any condition imposed by the Minister, the Minister may revoke the approval and thereupon the Comptroller may at any time within 6 years from the date of the revocation make such assessment or additional assessment upon the person as may appear necessary in order to recover any tax which ought to have been paid by that person if any allowances under those sections had not been made to him.

[1/88;11/94]

(11) Notwithstanding anything in this section, in no case shall the amount of an annual allowance made to a person for any year of assessment in respect of any expenditure exceed what, apart from the writing off falling to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of his basis period for that year of assessment.

(12) For the purposes of subsection (1), where a person has incurred capital expenditure on the purchase of an industrial building or structure (including the purchase of a leasehold interest therein of not less than 25 years) which has not previously been used by any person, he shall be deemed to have incurred expenditure on the construction of that industrial building or structure equal to the cost of construction of that industrial building or structure or to the net price paid by him for that industrial building or structure or the interest therein, whichever is the less, if —

(a) the person claiming the initial allowance by virtue of this subsection purchased the industrial building or structure or acquired the leasehold interest therein from the person who constructed that building or structure; and

(b) no initial allowance has been granted under subsection (1) in respect of that industrial building or structure to the person who constructed that building or structure.

[7/79]

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

Balancing allowances and charges for industrial buildings and structures

17. —(1) Where any capital expenditure has been incurred on the construction of a building or structure and, in or after the basis period for the first year of assessment under this Act, any of the following events occurs while the building or structure is an industrial building or structure or after it has ceased to be one:

- (a) the relevant interest in the building or structure is sold;
- (b) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon; or
- (c) the building or structure is demolished or destroyed or, without being demolished or destroyed, ceases altogether to be used,

an allowance or charge, to be known as a “balancing allowance” or a “balancing charge” shall, in the circumstances mentioned in this section, be made to or, as the case may be, on the person entitled to the relevant interest immediately before that event occurs for the year of assessment in the basis period for which that event occurs.

[21/2003]

(2) No balancing allowance or balancing charge shall be made to or on any person for any year of assessment by reason of any event occurring after the end of the fiftieth year after that in which the building or structure was first used.

(3) No balancing allowance shall be made to any person —

(a) on the sale of the relevant interest in the building or structure unless the person proves to the satisfaction of the Comptroller that the value of the building or structure to the person is less than the capital expenditure incurred in the construction of the building or structure reduced by the amount of any initial and annual allowances made (including an amount of 3% of the capital expenditure for each year in which no initial or annual allowance was made); and

(b) where the relevant interest in the building or structure is not sold but the building or structure is or would be redeveloped for any use other than as an industrial building or structure.

[21/2003]

(4) Where there are no sale, insurance, salvage or compensation moneys, or where the residue of the expenditure immediately before the event exceeds those moneys, a balancing allowance shall be made and the amount thereof shall be the amount of the residue or, as the case may be, of the excess thereof over the moneys.

(5) If the sale, insurance, salvage or compensation moneys exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the excess or, where the residue is nil, to the moneys.

(6) Notwithstanding anything in subsection (5) but subject to subsection (7), in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts:

(a) the amount of the initial allowance, if any, made to him in respect of the expenditure in question; and

(b) the amount of the annual allowances, if any, made to him in respect of the expenditure in question.

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

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

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

Definitions for sections 16 and 17

18. —(1) Subject to this section, in sections 16 and 17, “industrial building or structure” means a building or structure in use —

- (a) for the purposes of a trade carried on in a mill, factory or other similar premises;
 - (b) for the purposes of a transport, dock, water or electricity undertaking;
 - (c) for the purposes of a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process;
 - (d) for the purposes of a trade which consists in the storage of goods or materials which are to be used in the manufacture of other goods or to be subjected, in the course of a trade, to any process;
 - (e) for the purposes of a trade which consists of the storage of goods or materials on their arrival in Singapore;
 - (f) for the purposes of a trade in intensive poultry production as may be approved by the Minister or such person as he may appoint;
 - (g) by a research and development organisation in carrying out research and development activities for any manufacturing trade or business;
 - (h) for the purposes of a hotel on the island of Sentosa and approved by the Minister or such person as he may appoint (referred to in this section as a Sentosa hotel);
 - (i) for the purposes of a project for the promotion of the tourist industry (other than a hotel) in Singapore and approved by the Minister or such person as he may appoint subject to such conditions as he may impose; or
 - (j) for prescribed purposes and where such building or structure has been approved by the Minister or such person as he may appoint,
- and includes any building or structure provided by the person carrying on such a trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose, but does not include a building or structure in respect of which a deduction is prescribed under section 14 (1) (h).

[26/73;28/80;1/82;1/88;3/89;2/92;21/2003]

(2) A building or structure shall not be deemed, by reason only of its falling or having fallen into temporary disuse, to have thereby ceased altogether to be used for one of the purposes specified in subsection (1) if, immediately prior to falling into such temporary disuse, it was in use for such a purpose and if, during the period of such temporary disuse, it is constantly maintained in readiness to be brought back into use for such a purpose.

(3) If, in the circumstances mentioned in subsection (2), the building or structure at any time during disuse ceases to be ready for use for any of the purposes mentioned in that subsection, or if at any time, for any reason, the disuse of the building or structure can no longer be reasonably regarded as temporary, then and in any such case, the building or structure shall be deemed to have ceased, on the commencement of the period of disuse, to be used for any of the purposes specified in subsection (1).

(4) Subsection (1) shall apply in relation to a part of a trade or undertaking as it applies to a trade or undertaking.

(5) Where part only of a trade or undertaking complies with the conditions set out in subsection (1), a building or structure shall not, by virtue of subsection (4), be an industrial building or structure unless it is in use for the purposes of that part of that trade or undertaking.

(6) Notwithstanding anything in subsection (1), (2), (3), (4) or (5), “industrial building or structure” does not include any building or structure in use as, or as part of, a dwelling-house, retail shop, showroom, hotel (other than a Sentosa hotel) or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, showroom, hotel (other than a Sentosa hotel) or office.

[1/82]

(7) Where part of a building or structure is, and part thereof is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-tenth of the total capital expenditure which has been incurred

on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure.

(8) In sections 16 and 17 —

"relevant interest" , in relation to any expenditure incurred on the construction of a building or structure, means the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it;

"residue of expenditure" shall be the amount of the capital expenditure incurred in the construction of a building or structure reduced by —

(a) the amount of any initial allowance made;

(b) any annual allowance made; and

(c) any balancing allowances granted,

and increased by any balancing charges made.

(9) For the purpose of computing the residue of expenditure, there shall be written off an amount of 3% of the expenditure in respect of any year in which no initial or annual allowance has been made.

[7/79]

Initial and annual allowances for machinery or plant

19. —(1) Where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purposes of that trade, profession or business, there shall be made to him, on due claim for the year of assessment in the basis period for which the expenditure is incurred an allowance, to be known as an "initial allowance", equal to one-fifth of that expenditure or such other allowance as may be prescribed either generally or for any person or class of persons in respect of any machinery or plant or class of machinery or plant.

[7/79]

(1A) For the purposes of subsection (1), in the case of any trade, profession or business —

(a) where 2 basis periods overlap, the period common to both shall be deemed to fall in the first basis period only;

(b) where there is an interval between the end of the basis period for a year of assessment and the commencement of a basis period for the next succeeding year of assessment, then, unless the second mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and

(c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the commencement of the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

(1B) Any capital expenditure incurred for the purposes of a trade by a person about to carry on that trade shall be treated for the purposes of subsection (1) as if it had been incurred by that person on the first day on which he does carry on that trade.

(2) Where at the end of the basis period for any year of assessment, a person has in use machinery or plant for the purpose of his trade, profession or business, there shall be made to him, on due claim, in respect of that year of assessment an allowance for depreciation by wear and tear of those assets (to be known as an annual allowance) which shall be calculated in accordance with the following provisions:

(a) the annual allowance in respect of any machinery or plant shall —

(i) in the case of an asset, other than an asset acquired under a hire-purchase agreement, be the amount ascertained by dividing the excess of the original cost of the asset over any initial allowance granted under subsection (1) by the number of years of working life of the asset as specified in the Sixth Schedule unless otherwise provided under paragraph (b);

(ii) in the case of an asset acquired under a hire-purchase agreement, be the amount ascertained by dividing the excess of the original cost of the asset over the total amount of initial allowance allowable in respect of the asset under subsection (1) by the number of years of working life of the asset as specified in the Sixth Schedule unless otherwise provided under paragraph (b);

- (b) for the purposes of paragraph (a), in the case of any aircraft which is acquired on or after 1st March 1995 by a leasing company carrying on the business of offshore leasing within the meaning of section 43I, the number of years of working life of the aircraft specified in the Sixth Schedule may, on the application of the leasing company, be extended irrevocably for such period not exceeding 20 years as approved by the Minister or such person as he may appoint;
- (c) notwithstanding paragraphs (a) and (b), the annual allowance in respect of any asset for any year of assessment may, at the election of a person to whom a certificate has been issued before 1st January 1981 (or after 1st January 1981 where application for the certificate has been approved before that date) under Part II, IV, VI, VII, XI or XII of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), be ascertained during his tax relief period as determined in accordance with that certificate at the rates applicable immediately before 4th December 1980 and shall be computed on the reducing value of the asset, which shall be the original cost of the asset reduced by any initial allowance and annual allowances granted under this section;
- (d) where an election under paragraph (c) has been made by a person with respect to any asset, the annual allowance in respect of the same asset to be made to that person for any year of assessment after his tax relief period shall be computed in accordance with the formula

$$\frac{C}{D}$$

D

where C is the amount of the capital expenditure still unallowed under this section in respect of that asset after the end of his tax relief period; and

D is the number of years of working life of the asset as specified in the Sixth Schedule reduced by the number of whole years the asset has been put into use as at the end of the basis period in which his tax relief ends and if the result is less than 1, D shall be deemed to be 1;

(e) the annual allowance in respect of any asset for any year of assessment shall not exceed the amount of the capital expenditure of the asset still unallowed under this section as at the beginning of the basis period for that year of assessment;

(f) for the purposes of the Sixth Schedule, where any question arises as to the classification of an asset under any item of that Schedule, the asset shall be treated as falling under such item as the Comptroller considers proper.

[28/80;32/95]

(3) Notwithstanding subsections (1) and (2), in respect of a motor car to which this subsection applies —

(a) the initial allowance to be made under subsection (1) shall be calculated on an amount equal to the capital expenditure incurred in respect of that motor car or \$35,000, whichever is the less;

(b) the annual allowance to be made under subsection (2) shall be calculated on the basis that the original cost of that motor car is the capital expenditure incurred or \$35,000, whichever is the less; and

(c) the aggregate of the initial and annual allowances to be made under this subsection for all relevant years of assessment shall not exceed \$35,000.

[37/75;5/83]

(4) Subsection (3) shall apply to a motor car which is constructed or adapted for the carriage of not more than 7 passengers (exclusive of the driver) and the weight of which unladen does not exceed 3,000 kilograms and which —

(a) was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276) but excludes such a motor car which is —

(i) used principally for instructional purposes; and

(ii) acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor's licence issued under that Act; or

(b) is registered outside Singapore and used exclusively outside Singapore.

[32/99]

(5) No allowance under this section shall be made in respect of a motor car which is constructed or adapted for the carriage of not more than 7 passengers (exclusive of the driver) and the weight of which unladen does not exceed 3,000 kilograms except —

(a) a taxi;

(b) a motor car registered outside Singapore and used exclusively outside Singapore;

(c) a private hire car acquired by a person who carries on the business of hiring out cars and which is used by the person principally for hiring;

(d) a motor car which was registered before 1st April 1998 as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276); and

(e) a motor car registered on or after 1st April 1998 which is used principally for instructional purposes and acquired by a person who carries on the business of providing driving instruction and who holds a driving school licence or driving instructor's licence issued under the Road Traffic Act.

[32/99]

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

(6) In subsection (1), “prescribed” means prescribed by an order made by the Minister.

(7) Every order made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Allowances of 3 years write off for machinery and plant, and 100% write off for computer, prescribed office automation equipment and robot, etc.

19A. —(1) Notwithstanding section 19, where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purposes of that trade, profession or business, he shall, in lieu of the allowances provided by section 19, be entitled for a period of 3 years to an annual allowance of $33\frac{1}{3}\%$ in respect of the capital expenditure incurred.

[13/84;7/85]

(2) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has installed a computer or other prescribed automation equipment for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of that computer or automation equipment.

[15/83;13/84;7/85]

(3) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has, for the purposes of a trade, business or profession carried on by him, installed a generator in any office or factory for the supply of electrical power to that office or factory in the event of a disruption in the normal supply of electrical power, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of that generator.

[20/91]

(4) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has installed a robot for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of that robot.

[13/84]

(5) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has installed on or after 1st January 1996 any efficient pollution control equipment or device for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in

respect of the capital expenditure incurred on the provision of the efficient pollution control equipment or device.

[28/96]

(6) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has installed 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, for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of the certified energy-efficient equipment or certified energy-saving equipment.

[28/96;31/98]

(7) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has, on or after 1st January 1998, installed any new —

(a) certified low-decibel machine, equipment or system;

(b) certified effective noise control device which is a distinct entity or an accessory of any new or existing machine, equipment or system; or

(c) certified effective engineering noise control measure for any existing machine, equipment or process,

for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of the certified machine, equipment or system, or the certified effective noise control device or measure.

[31/98]

(8) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has, on or after 1st January 1998, installed any new —

(a) certified machine, equipment or system which reduces or eliminates exposure to chemical risk;

(b) certified effective chemical hazard control device which is a distinct entity or an accessory of any new or existing machine, equipment or process; or

(c) certified effective chemical hazard control measure for any existing machine, equipment or process,

for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of the certified machine, equipment or system, or the certified effective chemical hazard control device or measure.

[31/98]

(9) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has, on or after 27th February 1999, registered any new vehicle as a replacement for an existing vehicle, for the purposes of a trade, business or profession carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of 100% in respect of the capital expenditure incurred on the provision of that new vehicle.

[32/99]

(10) Notwithstanding section 19, where a person proves to the satisfaction of the Comptroller that he has incurred capital expenditure on the provision of a website for the purposes of a trade, business or profession carried on by him, he shall be entitled to an allowance of 100% in respect of the capital expenditure incurred on the provision of that website, and for this purpose, a website is deemed to be machinery or plant.

[37/2002]

(10A) Notwithstanding section 19 and subject to subsection (10B), where a person proves to the satisfaction of the Comptroller that he has incurred capital expenditure not exceeding \$1,000 on the provision of any item of machinery or plant for the purposes of a trade, profession or business

carried on by him, he shall, in lieu of the allowances provided by subsection (1) or section 19, be entitled, if he so elects, to an allowance of —

(a) 100% in respect of that capital expenditure; or

(b) where allowances have been made under subsection (1) or section 19 for any previous year of assessment under subsection (10B), the amount of that capital expenditure still unallowed.

(10B) The aggregate amount of allowances claimed by any person under subsection (10A) for any year of assessment shall not exceed \$30,000; and allowances may be made under subsection (1) or section 19 in respect of any capital expenditure still unallowed.

(10C) No allowance shall be made under subsection (10A) in respect of any item of machinery or plant which is acquired under a hire-purchase agreement and the original cost of that item of machinery or plant exceeds \$1,000.

(11) Any claim by a person for allowances in respect of any machinery or plant under this section for any year of assessment shall not be disallowed by reason only that the person has not in use the machinery or plant at the end of the basis period for that year of assessment.

[28/96;31/98;37/2002]

(12) Any claim for allowances under this section shall be made at the time of lodgment of the return of income for the relevant years of assessment or within such further time as the Comptroller, in his discretion, may allow.

(13) Where any allowance has been claimed and allowed under this section for any year of assessment, no allowances shall be made in any subsequent year of assessment under section 19 in respect of such expenditure.

(14) Subject to subsection (10A), where any allowance has been claimed and allowed under section 19 in respect of any expenditure, no allowances shall, except with the approval of the Minister or the Comptroller and subject to such conditions as he may impose, be made in any subsequent year of assessment under this section in respect of the amount of that expenditure remaining unallowed under section 19.

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

(15) In this section —

"automation equipment" means any machinery or plant designed for the automation of functions or services in any office or factory within the meaning of section 5 of the Workplace Safety and Health Act 2006;

"certificate of entitlement" means a permit issued or deemed to be issued under section 10A of the Road Traffic Act (Cap. 276);

"certified effective chemical hazard control device" means —

(a) any local exhaust ventilation system;

(b) any fugitive emission control equipment or system; or

(c) any dilution ventilation system,

which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"certified effective chemical hazard control measure" means —

(a) any enclosed or automated system; or

(b) any modification to machine, equipment or process,

which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"certified effective engineering noise control measure" means —

(a) any detachable personnel acoustic enclosure;

(b) any acoustic barrier or shield;
(c) any acoustic absorption device; or
(d) any modification to machine, equipment or process,
which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"certified effective noise control device" means —

(a) any acoustic enclosure for machine, equipment or process;
(b) any acoustic silencer or muffler;
(c) any vibration absorption, isolation or damping device; or
(d) any active noise control device,
which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"certified energy-efficient equipment" means —

(a) any air-conditioning system;
(b) any boiler;
(c) any water pumping system;
(d) any washing or dry-cleaning machine system;
(e) any refrigeration system;
(f) any lift or escalator; and
(g) any instant hot water system,
which has been certified by a professional engineer registered under the Professional Engineers Act (Cap. 253) to be more energy-efficient than the equipment which it replaces;

"certified energy-saving equipment" means —

(a) any solar heating or cooling system;
(b) any solar energy collection system;
(c) any heat recovery system;
(d) any power factor controller;
(e) any high efficiency electric motor;
(f) any variable speed drive motor control system;
(g) any high frequency lighting system;
(h) any computerised energy management system; and
(i) any other energy-saving equipment or device,
which has been certified by the Standards, Productivity and Innovation Board to be an energy-saving equipment;

"certified low-decibel machine, equipment or system" means —

(a) any concrete crusher or splitter;
(b) any plastic granulator or crusher;
(c) any automatic sawing machine;
(d) any metal press or stamping machine;
(e) any machine with active noise control feature; or
(f) any other machine, equipment or system,
which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"certified machine, equipment or system which reduces or eliminates exposure to chemical risk" means —

(a) any water-based degreasing machine or system;
(b) any automated bagging or packing machine or system;
(c) any automated degreasing machine or system; or
(d) any other machine, equipment or system,
which has been certified by the Standards, Productivity and Innovation Board or the National University of Singapore to have satisfied the prescribed criteria;

"computer" means any computer used for automatic data processing and includes any part thereof;
"efficient pollution control equipment or device" means any equipment or device for the purposes of preventing, controlling or reducing air pollution or water pollution which satisfies the prescribed criteria;

"existing vehicle" means any goods vehicle or bus using diesel oil as fuel, and registered before 1st January 1991, which —

(a) is not a vehicle registered under the RU index marks;

(b) is deregistered on or after 27th February 1999 but not later than one year before the last day on which a renewal of registration licence can be issued under the Road Traffic Act (Cap. 276) in respect of the vehicle; and

(c) has, unless the vehicle has been exempted from obtaining a certificate of entitlement, at the date of deregistration of the vehicle —

(i) at least one year remaining in its certificate of entitlement; or

(ii) a certificate of entitlement which can be renewed after its expiration;

"goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods;

"new vehicle" means any new goods vehicle or new bus which —

(a) is registered within one month before, or within 6 months after, the deregistration of the existing vehicle; and

(b) bears an index mark which is the same as that of the index mark of the existing vehicle, and for this purpose, where the new goods vehicle and the existing vehicle have a maximum laden weight exceeding 3.0 metric tons but not exceeding 3.5 metric tons, the new goods vehicle shall be deemed to bear an index mark which is the same as that of the existing vehicle;

"website" means a collection of programmes, data and images which is accessible over the Internet or any network using a browser or any other form of access.

[15/83; 13/84; 7/85; 1/90; 28/96; 31/98; 32/99; 24/2000; 18/2002; 37/2002]

(16) For the purpose of subsection (1), machinery or plant shall be deemed not to include the following motor vehicles within the meaning of the Road Traffic Act (Cap. 276):

(a) a motor car;

(b) a motor cycle;

(c) a goods vehicle the maximum weight of which laden does not exceed 3,000 kilograms.

Writing-down allowances for intellectual property rights

19B. —(1) Subject to this section, where a company carrying on a trade or business has incurred on or after 1st November 2003 capital expenditure in acquiring any intellectual property rights for use in that trade or business, writing-down allowances in respect of that expenditure shall be made to it during a writing-down period of 5 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred.

[24/2001; 21/2003]

(2) The writing-down allowances to be made to a company under this section for any year of assessment shall be an amount equal to 20% of the capital expenditure incurred by it on the acquisition of the intellectual property rights.

[24/2001; 21/2003]

(2A) The writing-down allowances to be made to a company under this section shall be allowed only if —

(a) there is an undertaking by the company that it is an assignee of the intellectual property rights; and

(b) the claim is made by the company in such manner and subject to such conditions as the Comptroller may require.

[21/2003]

(3) Any capital expenditure incurred on the acquisition of any intellectual property rights by a company before the commencement of its trade or business shall be treated for the purpose of this section as if it had been incurred by it on the first day it commences that trade or business.

[24/2001;21/2003]

(4) Where writing-down allowances have been made to any company under this section in respect of any intellectual property rights and, before the end of the writing-down period, any of the following events occurs:

- (a) the rights come to an end without being subsequently revived;
- (b) the company sells, transfers or assigns all or any part of those rights;
- (c) the company permanently ceases to carry on the trade or business,

no writing-down allowance in respect of the intellectual property rights shall be made to that company for the year of assessment relating to the basis period in which the event occurs or for any subsequent year of assessment, and any writing-down allowances made under subsection (1) shall be brought to charge as if the writing-down allowances were not made, and deemed as income for the year of assessment relating to the basis period in which the event occurs.

[24/2001;21/2003]

(5) Where a company to whom writing-down allowances have been made under subsection (1) in respect of any intellectual property rights sells, transfers or assigns all or any part of those rights after the writing-down period, there shall be made on the company for the year of assessment relating to the basis period in which the sale, transfer or assignment occurs, a charge in an amount equal to the price which the rights were sold, transferred or assigned or in an amount equal to the capital expenditure incurred in acquiring the rights, whichever is the less.

[24/2001;21/2003]

(6) For the purposes of subsection (5), where there is more than one sale, transfer or assignment of any part of any intellectual property rights, the amount of the capital expenditure incurred in acquiring the intellectual property rights for the year of assessment relating to the basis period in which the sale, transfer or assignment of that part of the rights occurs shall be ascertained in accordance with the formula

$$A - B,$$

where A is the capital expenditure incurred in acquiring the intellectual property rights; and B is the total amount of any charges made under this section in any previous years of assessment in respect of that expenditure.

[24/2001; 21/2003]

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

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

(7) For the purpose of this section, any sale, transfer or assignment of any intellectual property rights which occurs after the date on which the trade or business of a company permanently ceases shall be deemed to have occurred immediately before the cessation.

[24/2001;21/2003]

(8) Notwithstanding the repeal of section 19B by the Income Tax (Amendment) Act 2001 (Act 24 of 2001), the repealed section 19B shall continue to apply and have effect to any approved know-how or patent rights for which writing-down allowances had been made before the repeal as if that Act had not been enacted.

[24/2001]

(9) Notwithstanding the amendment of section 19B by the Income Tax (Amendment) Act 2003 (Act 21 of 2003), section 19B in force immediately before 1st November 2003 shall continue to apply and have effect to any intellectual property rights approved before that date.

[21/2003]

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

[21/2003]

(11) In this section —

"capital expenditure" does not include legal fees, registration fees, stamp duty and other costs related to the acquisition of any intellectual property rights;

"intellectual property rights" means the right to do or authorise the doing of anything which would, but for that right, be an infringement of any patent, copyright, trademark, registered design, geographical indication, lay-out design of integrated circuit, trade secret or information that has commercial value.

[24/2001; 21/2003]

Writing-down allowances for approved cost-sharing agreement for research and development activities

19C. —(1) Subject to this section, where a person carrying on a trade or business has incurred expenditure under any approved cost-sharing agreement in respect of research and development activities for the purposes of that trade or business (referred to in this section as the relevant trade or business), writing-down allowances in respect of that expenditure shall be made to him during a writing-down period of 5 years, or such shorter period as may be approved, beginning with the year of assessment relating to the basis period in which that expenditure is incurred, subject to such conditions as may be imposed by the Minister or such person as he may appoint.

[26/93]

(2) The Minister may specify the maximum amount of expenditure in respect of which writing-down allowances are to be made under subsection (1).

[26/93]

(3) No writing-down allowance shall be made under subsection (1) to any person in respect of any payment or contribution paid by him for the right to become a party to any existing approved cost-sharing agreement.

(4) The writing-down allowance to be made to a person under this section for any year of assessment in respect of any expenditure incurred by him shall be the amount of that expenditure allowable under this section divided by 5 or the number of years approved under subsection (1), as the case may be.

(5) Any expenditure incurred by a person under any approved cost-sharing agreement before the commencement of his trade or business shall be treated for the purpose of this section as if it had been incurred by him on the first day he commences that trade or business.

(6) Where a person to whom writing-down allowances have been made under this section —

(a) sells, assigns or otherwise disposes of any right under any approved cost-sharing agreement to which he is a party;

(b) sells, assigns or otherwise disposes of the whole or part of any technology or know-how developed from the research and development activities carried out under any approved cost-sharing agreement to which he is a party;

(c) receives any consideration from any other person for permitting that other person to become a party to any approved cost-sharing agreement to which he is a party; or

(d) receives any consideration from the disposal of any machinery, plant or building acquired under any approved cost-sharing agreement to which he is a party,

the amount or value of any consideration therefor shall, so far as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes as a trading receipt of the relevant trade or

business for the year of assessment which relates to the basis period in which the event in paragraph (a), (b), (c) or (d) occurs.

(7) For the purpose of subsection (6), in relation to any consideration referred to in subsection (6) (d), the amount or value of the consideration to be treated as a trading receipt shall not exceed the amount of expenditure allowable under this section in respect of the machinery, plant or building.

(8) Where no writing-down allowances have been made to any person in respect of expenditure incurred by him by virtue of subsection (2) or in respect of any payment or contribution made by him by virtue of subsection (3), the Minister may for the purposes of subsection (6) exempt such part of the amount or value of the consideration as he thinks fit.

(9) Where a person to whom writing-down allowances have been made under this section in respect of any approved cost-sharing agreement ceases to carry on the relevant trade or business, an allowance equal to the amount of the expenditure incurred under that agreement remaining unallowed shall be made to him in computing his income for the year of assessment which relates to the basis period in which the cessation occurs.

(10) Any event referred to in subsection (6) which occurs after the date on which the relevant trade or business permanently ceases shall be deemed to have occurred immediately before the cessation.

(11) Where a person to whom writing-down allowances have been made under this section is entitled to royalty or other payments in one lump sum or otherwise for the use of or right to use any technology or know-how developed from the research and development activities carried out under any approved cost-sharing agreement, such royalty or payments shall be deemed to be income derived from Singapore for the year of assessment which relates to the basis period in which the person is entitled to the royalty or payments, as the case may be.

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

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

(12) In this section —

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

"cost-sharing agreement" means any agreement or arrangement made by 2 or more persons to share the expenditure of research and development activities to be carried out under the agreement or arrangement.

Writing-down allowance for IRU

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

[21/2003]

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

[21/2003]

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

$$\frac{A}{B}$$

where A is the amount of capital expenditure incurred for the acquisition of the IRU; and B is the writing-down period for the IRU.

[21/2003]

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

[21/2003]

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

[21/2003]

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

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

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

[21/2003]

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

[21/2003]

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

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

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

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

[21/2003]

(9) Where writing-down allowances in respect of any IRU have been made to any person under this section and the person sells, transfers or assigns all or any part of the IRU and the consideration for the sale, transfer or assignment of the IRU exceeds the amount of capital expenditure remaining

unallowed for the IRU, if any, there shall be made on the person, a balancing charge, which shall be based on an amount equal to —

(a) the excess of the consideration for the sale, transfer or assignment of the IRU over the amount of capital expenditure remaining unallowed for the IRU; or

(b) the consideration for the sale, transfer or assignment of the IRU, where the amount of capital expenditure remaining unallowed for the IRU is nil,

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

[21/2003]

(10) Where writing-down allowances in respect of any IRU have been made to any person under this section and the person sells, transfers or assigns any part of the IRU, and the consideration for the sale, transfer or assignment of the IRU is less than the amount of capital expenditure remaining unallowed for the IRU, the amount of any writing-down allowances made in respect of the IRU for the year of assessment relating to the basis period in which the sale, transfer or assignment of the IRU occurs or any subsequent year of assessment shall be the amount determined by the formula

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

E

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

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

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

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

[21/2003]

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

[21/2003]

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

[21/2003]

(12A) Unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where, in the basis period for any year of assessment, the relevant trade, business or profession produces income that is exempt from tax as well as income chargeable with tax, the allowances for that year of assessment shall be made against each income in that year of assessment in such proportion as appears reasonable to the Comptroller in the circumstances.

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

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

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

(13) In this section —

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

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

(a) any writing-down allowances made in respect of that capital expenditure for the years of assessment before the year of assessment relating to the basis period in which any event referred to in subsection (6), (8), (9) or (10) occurs; and

(b) the consideration for any prior sale, transfer or assignment by the person who incurred the capital expenditure of any part of the IRU acquired by the capital expenditure;

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

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

(a) the price which the IRU would have fetched if sold in the open market at the time any event referred to in subsection (6), (8), (9) or (10) occurs; or

(b) where the Comptroller is satisfied by reason of the special nature of any IRU that it is not practicable to determine the open-market price, such other value as appears to him to be reasonable in the circumstances.

[21/2003]

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

[21/2003]

Balancing allowances and charges for machinery or plant

20. —(1) Except as provided in this section, where at any time after the setting up and on or before the permanent discontinuance of a trade, profession or business, any event occurs whereby machinery or plant in respect of which allowances under section 19 or 19A have been made to a person carrying on a trade, profession or business —

(a) ceases to belong to that person (whether on a sale of the machinery or plant or in any other circumstances of any description); or

(b) while continuing to belong to that person, permanently ceases to be used for the purpose of a trade, profession or business carried on by him in Singapore (whether by reason of the discontinuance of the trade, profession or business, or discontinuance of use of such machinery or plant in a trade, profession or business which continues to be carried on in Singapore), an allowance or charge, to be known as a balancing allowance or a balancing charge, shall in the circumstances mentioned in this section be made to or, as the case may be, on that person for the year of assessment in the basis period for which that event occurs.

(1A) Where the property in machinery or plant passes at less than the open-market price, then for the purpose of determining the amount of any balancing allowance or balancing charge the event shall be treated as if it had given rise to sale moneys of an amount equal to the open-market price of the machinery or plant.

(2) Where machinery or plant continues to belong to that person after the date on which it permanently ceases to be used for the purposes of a trade, profession or business carried on by him in Singapore, it shall be deemed to have been sold on the date of permanent cessation of use at the open-market price on that date.

(2A) Where there are no sale, insurance, salvage or compensation moneys or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event exceeds those moneys, a balancing allowance shall be made, and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid or, as the case may be, the excess thereof over those moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the amount, if any, of the said expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the said amount still unallowed is nil, to those moneys.

(4) Notwithstanding anything in subsection (3), in no case shall the amount on which a balancing charge is made on a person exceed —

(a) the aggregate of the initial allowance, if any, and the annual allowances, if any, made to him under section 19 in respect of the expenditure in question; and

(b) the special allowances, if any, made to him under section 19A in respect of the expenditure in question.

[13/84]

(5) Notwithstanding anything in this section but subject to subsection (6A), where a balancing allowance or balancing charge falls to be made under subsection (1) in respect of a motor car to which section 19 (3) applies, the sum to be taken in lieu of the open-market price or sale, insurance, salvage or compensation moneys for the purpose of calculating such balancing allowance or charge shall be ascertained in accordance with the formula

$$\frac{35,000A}{B}$$

B

where A is the open-market price or sale, insurance, salvage or compensation moneys in respect of the motor car; and

B is the capital expenditure incurred in respect of the motor car.

[37/75; 9/80;5/83]

(6) Notwithstanding anything in this section, no balancing allowance shall be made in respect of a motor car within the meaning of section 19 (4) (a) which is not, for any basis period after the basis period for the year of assessment 1981, registered as a business service passenger vehicle for the purposes of the Road Traffic Act (Cap. 276).

[9/80;1/98]

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

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

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

(7) In this section, “open-market price”, in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question; except that where the Comptroller is satisfied by reason of the special nature of any machinery or plant that it is not practicable to determine an open-market price, he may adopt such other value as appears to him to be reasonable in the circumstances.

Replacement of machinery or plant

21. —(1) Where machinery or plant in the case of which any of the events mentioned in section 20 (1) has occurred is replaced by the owner thereof and a balancing charge falls to be made on him by reason of that event or, but for this section, would have fallen to be made on him by reason thereof, then, if by notice in writing to the Comptroller he so elects, this section shall have effect.

(2) If the amount on which the charge would have been made is greater than the capital expenditure on providing the new machinery or plant —

(a) the charge shall be made only on an amount equal to the difference;

(b) no initial allowance, no balancing allowance and no annual allowance shall be made or allowed in respect of the new machinery or plant or the expenditure on the provision thereof; and

(c) in considering whether any, and if so what, balancing charge falls to be made in respect of the expenditure on the new machinery or plant, there shall be deemed to have been made in respect of that expenditure an initial allowance equal to the full amount of that expenditure.

(3) If the capital expenditure on providing the new machinery or plant is equal to or greater than the amount on which the charge would have been made —

(a) the charge shall not be made;

(b) the amount of any initial allowance in respect of the said expenditure shall be calculated as if the expenditure had been reduced by the amount on which the charge would have been made;

(c) in considering what annual allowance is to be made in respect of the new machinery or plant, there shall be left out of account a proportion of the machinery or plant equal to the proportion which the amount on which the charge would have been made bears to the amount of the said expenditure; and

(d) in considering whether any, and if so what, balancing allowance or balancing charge falls to be made in respect of the new machinery or plant, the initial allowance in respect thereof shall be deemed to have been increased by an amount equal to the amount on which the charge would have been made.

(4) This section shall not apply to the provision of any new motor car for which no allowance is allowed by virtue of section 19 (5).

[32/99]

(5) For the purpose of this section, where the capital expenditure incurred in providing a new motor car registered outside Singapore and used exclusively outside Singapore exceeds \$35,000, the expenditure incurred shall be deemed to be \$35,000.

[32/99]

Expenditure on machinery or plant

22. Expenditure on the provision of machinery or plant shall include capital expenditure on alterations to an existing building incidental to the installation of that machinery or plant for the purposes of the trade, profession or business.

Order of set-off of allowances

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

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

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

[21/2003]

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

[21/2003]

Carry forward of allowances

23. —(1) Where, in any year of assessment, full effect cannot, by reason of an insufficiency of gains or profits chargeable for that year of assessment, be given to any allowance falling to be made under section 16, 17, 18A (repealed), 19, 19A, 19B, 19C, 19D or 20, then, so long as the person entitled thereto continues to carry on the trade, profession or business in respect of the gains or profits of which the allowance falls to be made, the balance of the allowance shall, subject to subsection (3), be added to, and be deemed to form part of, the corresponding allowance, if any, for the next succeeding year of assessment, and, if no such corresponding allowance falls to be made

for that year, shall be deemed to constitute the corresponding allowance for that year, and so on for subsequent years of assessment.

[28/80;26/93;37/2002;21/2003]

(2) Where any person entitled to the allowances under sections 16 and 17 in respect of an industrial building or structure derives income from the letting of that building or structure, subsection (1) shall, in relation to the allowances under those sections, apply to him so long as he continues to derive such income, whether or not he is carrying on a business in respect of the letting of the building or structure.

[13/84]

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

[21/2003]

(4) No balance shall be added to and be deemed to form part of the corresponding allowance, if any, to be given to a company under subsection (1) unless the Comptroller is satisfied that the shareholders of the company on the last day of the year in which the allowances arose were substantially the same as the shareholders of the company on the first day of the year of assessment in which such allowances would otherwise be available under this section and such a balance shall not be allowed in any subsequent year of assessment.

[26/73]

(5) The Minister or such person as he may appoint may, where there is a substantial change in the shareholders of a company and he is satisfied that such change is not for the purpose of deriving any tax benefit or obtaining any tax advantage, exempt that company from the provisions of subsection (4).

[3/89;11/94]

(6) Upon such exemption the balance of the allowances referred to in subsection (1) may be added to and be deemed to form part of the corresponding allowance to be given to that company under that subsection but only for deduction against the gains or profits derived from the same trade or business in respect of which the allowances would have been made.

[3/89;11/94]

(7) For the purpose of subsection (4) —

(a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;

(b) shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and

(c) shares held by or on behalf of the trustee of the estate of a deceased shareholder or by or on behalf of the person entitled to those shares as beneficiaries under the will or any intestacy of a deceased shareholder shall be deemed to be held by that deceased shareholder.

[26/73]

(8) For the purpose of subsection (7), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

A

—,

B

- where
- A is the amount that has not been paid in respect of the share; and
- B is the total amount payable in respect of the share.

Special provisions as to certain sales

24. —(1) This section, except subsection (5), shall have effect in relation to any sale of any property where the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and buyer are bodies of persons and some other person has control over both of them, and the sale is not one to which section 33 applies.

(2) References in subsection (1) to a body of persons include references to a company or a partnership.

(3) Where the parties to the sale by notice in writing to the Comptroller so elect —

(a) the like consequences shall ensue for the purposes of sections 16 to 21 as would have ensued if the property had been sold —

(i) in the case of an industrial building or structure, for a sum equal to the residue of expenditure on the construction of that building or structure immediately before the sale, computed in accordance with section 17;

(ii) in the case of machinery or plant, for a sum equal to the amount of the expenditure on the provision thereof still unallowed immediately before the sale, computed in accordance with section 20;

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

(b) notwithstanding anything in section 19, where the sale is a sale of machinery or plant, no initial allowance shall be made to the buyer;

(c) notwithstanding anything in section 19A, where the sale is a sale of machinery or plant, the special allowances provided under that section shall continue to be available as if no sale had taken place;

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

(e) notwithstanding anything in the preceding provisions of this section or in sections 17, 19D and 20, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances and deductions in connection therewith as were done by or allowed to the buyer.

[13/84;21/2003]

(4) No election may be made under subsection (3) unless before the sale in the case of the seller and after the sale in the case of the buyer the property is used in the production of income chargeable under the provisions of this Act and unless the machinery or plant was not leased by the seller to the buyer before the sale.

[13/84]

(5) Where a change occurs in a partnership of persons carrying on any trade, business or profession by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, and where no election is made under subsection (3), any property of the partnership shall be treated as if the property had been sold —

(a) to all the remaining partners and new partners of the partnership on the date the change occurs; and

(b) at the open-market price.

(6) In subsection (5), “open-market price” has the same meaning as in section 20 (7).

25. (*Spent*).

PART VII

ASCERTAINMENT OF CERTAIN INCOME

Profits of insurance companies

26. —(1) This section has effect notwithstanding anything to the contrary in this Act except that nothing in this section shall affect the chargeability to tax of any income of an insurance company under section 10.

[28/92]

Separate accounts to be maintained for business of insuring and reinsuring offshore risks

(2) An insurance company shall maintain separate accounts for the income derived by it from carrying on offshore life business or the business (other than the business of life assurance) of insuring and reinsuring offshore risks.

[7/79;9/80;20/91]

Insurance companies other than life insurance companies

(3) In the case of an insurance company whether mutual or proprietary (other than a life insurance company) where the gains or profits accrue in part outside Singapore, the gains or profits on which tax is payable shall be ascertained by —

- (a) taking the gross premiums and interest and other income received or receivable in Singapore (less any premiums returned to the insured and premiums paid on reinsurances);
- (b) deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the gains or profits are being ascertained;
- (c) adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of that period; and
- (d) from the net amount so arrived at, deducting the actual losses (less the amount recovered in respect thereof under reinsurance), the agency expenses in Singapore and a fair proportion of the expenses of the head office of the company.

(4) For the purposes of subsection (3), in ascertaining the gains or profits derived by an insurance company from carrying on the business (other than the business of life assurance) of insuring and reinsuring offshore risks or any other risks for the purposes of any concessionary rate of tax or exemption from tax prescribed by regulations made under section 43C —

- (a) no income other than income from premiums or from such dividends, interest and gains or profits realised from the sale of investments as may be specified in those regulations shall be included;
- (b) income in respect of dividends, interest and gains or profits realised from the sale of investments shall be apportioned in such manner as may be prescribed by those regulations; and
- (c) any item of expenditure not directly attributable to that business shall be apportioned in such manner as may be prescribed by those regulations.

[7/79;9/80;20/91;26/93;21/2003]

Export credit insurance companies

(5) In the case of an insurance company engaged primarily in the business of export credit insurance, the gains or profits on which tax is payable shall be ascertained by such underwriting accounting method as the Comptroller may approve.

[1/82]

Life insurance companies

(6) In the case of a life insurance company, whether mutual or proprietary, the gains or profits on which tax is payable shall be ascertained by taking the aggregate of —

- (a) the life insurance surplus;
- (b) the income of the shareholders' fund established in Singapore less any expenses (including management expenses) incurred in the production of such income; and

(c) the offshore life insurance surplus less such income of that surplus that is subject to tax at the concessionary rate of tax prescribed by regulations made under section 43C.

[28/92]

(7) Notwithstanding subsection (6), in the case of a life insurance company 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 —

(a) only such part of the following income as may be specified in those regulations shall be included:

(i) the offshore life insurance surplus; and

(ii) the income of the shareholders' fund established in Singapore as is attributable to the offshore life business; and

(b) the income referred to in paragraph (a) and any item of expenditure not directly incurred in the production of such income shall be apportioned in such manner as may be prescribed by those regulations.

[28/92]

(8) In ascertaining the gains or profits of a life insurance company whether mutual or proprietary —

(a) the Comptroller shall determine the manner and extent to which —

(i) any allowances under section 19, 19A, 20, 21, 22 or 23 and expenses and donations allowable under this Act are to be deducted; and

(ii) any losses incurred by the company may be deducted under section 37;

(b) the allowances under section 19, 19A, 20, 21, 22 or 23 or the losses under section 37 in respect of such part of the income of the company as is apportioned to the policyholders of the company in accordance with regulations made under section 43 (9) or 43C in any year of assessment —

(i) shall only be available for deduction against such part of the income as is so apportioned in accordance with regulations made under section 43 (9) or 43C for that year of assessment, as the case may be; and

(ii) the balance of such allowances or losses shall be added to, and be deemed to form part of, the corresponding allowances or losses, if any, for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37, as the case may be;

(c) section 37B shall apply, with the necessary modifications, in relation to the deduction of allowances under section 19, 19A, 20, 21, 22 or 23 or the losses under section 37 in respect of such part of the income of the company as is subject to tax at the rate of tax under section 43 (1) (a) and of such part of the income of the company as is apportioned to the shareholders of the company in accordance with regulations made under section 43C; and for the purpose of such application any reference in section 37B to income of a company subject to tax at a lower rate of tax or income of the company subject to tax at a lower rate of tax, as the case may be, shall be read as a reference to such part of the income of the company as is apportioned to the shareholders of the company in accordance with regulations made under section 43C; and

(d) where any income of the life insurance company which had been charged to tax at the rate of tax under section 43 (9) is subsequently paid to the shareholders of the company, the Comptroller may make such adjustment to the tax liability of the company as he thinks fit.

[28/92;26/93;24/2001;37/2002]

Composite insurance companies

(9) In the case of an insurance company carrying on life insurance business in conjunction with any other insurance business, the assessment of the gains or profits on which tax is payable shall be made in one sum, but the gains or profits arising from the life insurance business shall be computed in accordance with subsections (6), (7) and (8) as if such life insurance business were a separate business from the other insurance business carried on by the company.

[28/92]

Definitions

(10) In this section and section 43C —

"income of the shareholders' fund" means —

- (a) gains or profits on the sale of investments of the shareholders' fund, whether derived from Singapore or elsewhere; and
- (b) investment income and other income of the shareholders' fund derived from Singapore or received in Singapore from outside Singapore;

"life insurance surplus" means the amount ascertained —

- (a) by taking the aggregate of —

- (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from Singapore life policies of any life insurance fund established under the Insurance Act (Cap. 142) (less any premiums returned to the insured and premiums paid or payable on reinsurance);

- (ii) the net decrease between the beginning and ending balances in the actuarial reserves of any life insurance fund established under the Insurance Act relating to Singapore life policies of the period for which the gains or profits are ascertained, both balances being determined at the lower figure derived from the minimum basis under the Insurance Act (Cap. 142) or such other basis as approved by the Monetary Authority of Singapore thereunder; and

- (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 established under the Insurance Act relating to Singapore life policies; and

- (b) by deducting from that aggregate —

- (i) agency expenses (including agents' commissions) and management expenses incurred in the production of the income referred to in paragraph (a); and, in respect of a branch in Singapore, a fair proportion of the expenses of the head office of the company;

- (ii) policy moneys paid or payable in respect of Singapore life policies (less any amount recovered or recoverable in respect thereof under reinsurance);

- (iii) moneys paid or payable on the surrender of Singapore life policies; and

- (iv) the net increase between the beginning and ending balances in the actuarial reserves of any life insurance fund established under the Insurance Act relating to Singapore life policies of the period for which the gains or profits are ascertained, both balances being determined at the lower figure derived from the minimum basis under the Insurance Act or such other basis as approved by the Monetary Authority of Singapore thereunder;

"life policy" has the same meaning as in the Insurance Act;

"offshore life business" means the business of insuring or reinsuring the liability under any of the following life policies of any life insurance fund established under the Insurance Act:

- (a) in relation to direct life insurance, any life policy other than a Singapore life policy;

- (b) in relation to facultative life reinsurance, a policy issued to reinsure liability under any life policy referred to in paragraph (a); and

- (c) in relation to treaty life reinsurance, a reinsurance policy where —

- (i) the ceding party is a company incorporated outside Singapore and not resident in Singapore, or is not a permanent establishment in Singapore; or

- (ii) the liability in respect of any life policy referred to in paragraph (a) is ceded by a party which is a company incorporated and resident in Singapore or a permanent establishment in Singapore;

"offshore life insurance surplus" means the amount ascertained —

- (a) by taking the aggregate of —

- (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from offshore life policies of any life insurance fund established under the Insurance Act (Cap. 142) (less any premiums returned to the insured and premiums paid or payable on reinsurance);

- (ii) the net decrease between the beginning and ending balances in the actuarial reserves of any life insurance fund established under the Insurance Act relating to offshore life policies of the period for which the gains or profits are ascertained, both balances being determined at the lower figure derived from the minimum basis under the Insurance Act or such other basis as approved by the Monetary Authority of Singapore thereunder; and

(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 established under the Insurance Act relating to offshore life policies; and

(b) by deducting from that aggregate —

(i) agency expenses (including agents' commissions) and management expenses incurred in the production of the income referred to in paragraph (a); and, in respect of a branch in Singapore, a fair proportion of the expenses of the head office of the company;

(ii) policy moneys paid or payable in respect of offshore life policies (less any amount recovered or recoverable in respect thereof under reinsurance);

(iii) moneys paid or payable on the surrender of offshore life policies; and

(iv) the net increase between the beginning and ending balances in the actuarial reserves of any life insurance fund established under the Insurance Act (Cap. 142) relating to offshore life policies of the period for which the gains or profits are ascertained, both balances being determined at the lower figure derived from the minimum basis under the Insurance Act or such other basis as approved by the Monetary Authority of Singapore thereunder;

"offshore life policy" means a policy issued in respect of offshore life insurance business;

"offshore risk" means any risk outside Singapore and —

(a) in relation to direct general insurance or facultative general reinsurance, the insured is not a person resident in Singapore or a permanent establishment in Singapore; and

(b) in relation to treaty general reinsurance, not less than 75% of the total risk in terms of gross premiums is outside Singapore,

and where any such risk is in transit in Singapore, it shall be deemed to be outside Singapore;

"policy moneys" has the same meaning as in the Insurance Act;

"Singapore life policy" means a life policy as described in the definition of "Singapore policy" in the Insurance Act (Cap. 142).

[28/92]

Profits of non-resident shipowner or charterer

27. —(1) Where a non-resident person carries on the business of shipowner or charterer, the income on which tax is payable shall be ascertained as provided in this section.

(2) Where, for any period, the non-resident person produces a certificate complying with subsection

(3) —

(a) the profits accruing in Singapore from the business for that period shall be deemed to be a sum bearing the same ratio to the sums receivable in respect of the carriage of passengers, mails, livestock and goods shipped in Singapore as the total profits for that period bear to the total sum receivable by him in respect of the carriage of passengers, mails, livestock and goods, as shown by the certificate; and

(b) the depreciation allowable against such profits shall similarly be deemed to be a sum bearing the same ratio to the sum receivable in respect of the carriage of passengers, mails, livestock and goods shipped in Singapore as the total depreciation for the period bears to the total sum receivable by him in respect of the carriage of passengers, mails, livestock and goods, as shown by the certificate.

(3) The certificate referred to in subsection (2) shall —

(a) be one issued by or on behalf of the income tax authority of the place of residence of the non-resident person;

(b) be acceptable for the purposes of this section only where the Comptroller is satisfied that the relevant income tax authority —

(i) computes and assesses the full profits of the non-resident person from his shipping business on a basis not materially different from the basis of assessment provided by this Act for the assessment of a resident of Singapore carrying on a similar business; and

(ii) accepts any certificate issued by the Comptroller for the purpose of computing the profits derived by a resident of Singapore from carrying on the business of a shipowner or charterer and assesses the income of that resident on the basis of and without making any adjustment to the

profits or loss or the allowance for depreciation as stated in the certificate issued by the Comptroller and in the same manner as the income of the non-resident person is assessed under subsection (2);

(c) contain, in respect of the relevant accounting period, the following information:

(i) the ratio of the profits or, where there are no profits, of the loss, as computed for the purposes of income tax by that authority, without making any allowance by way of depreciation, to the total sum receivable in respect of the carriage of passengers, mails, livestock and goods;

(ii) the ratio of the allowance for depreciation as computed by that authority to that total sum receivable in respect of the carriage of passengers, mails, livestock and goods.

[5/83]

(4) Where, for any period, a non-resident person does not, for any reason, produce a certificate complying with subsection (3), the profits accruing in Singapore shall be deemed to be a sum equal to 5% of the full sum receivable on account of the carriage of passengers, mails, livestock and goods shipped in Singapore.

(5) Where a non-resident person has been assessed under subsection (4) because a certificate had not been issued at the time of assessment, he shall be entitled, on the subsequent production of such a certificate to claim at any time within 2 years after the end of such year of assessment, or such further time as the Comptroller may consider reasonable in the circumstances, that his liability to tax for the year be determined on the basis provided by subsection (2).

(6) Where the Comptroller decides that the call of a ship belonging to a particular non-resident shipowner or charterer at a port in Singapore is casual and that further calls by that ship or others in the same ownership are improbable, this section shall not apply to the profits of that ship and no tax shall be chargeable on them.

(7) Notwithstanding anything in subsections (1) to (6), if in computing the profits derived by a resident in Singapore from carrying on the business of a shipowner or charterer, the tax authority of a foreign country determines such profits to be an amount which exceeds 5% of the full sum receivable on account of the carriage of passengers, mails, livestock and goods shipped in that foreign country, the Minister may if he thinks fit direct that, in computing the profits derived in Singapore by a non-resident shipowner or charterer who is resident in that foreign country, the Comptroller shall determine the amount of such profits in such manner as may be substantially similar to that adopted by the tax authority of that foreign country.

[37/75]

Profits of non-resident air transport and cable undertakings

28. Where a non-resident person carries on the business of air transport or of transmission of messages by cable or by any form of wireless apparatus, he shall be assessable to tax as if he were a non-resident shipowner and section 27 shall apply, with the necessary modifications, to the computation of the gains or profits of the business.

Income from certain dividends to include tax thereon

29. The income of a person from a dividend (other than a dividend paid by virtue of section 44 (3)) paid by a company liable to tax under this Act or Commonwealth income tax within the meaning of section 48 (5), shall, where any such tax has been deducted therefrom, be the gross amount before making such deduction; where no such deduction has been made, the income shall be deemed to be such a gross amount as after deduction of tax at the maximum rate deductible at the date of payment would be equal to the amount received.

[32/95]

Certain undistributed profits may be treated as distributed

30. Where it appears to the Comptroller that, with a view to the avoidance or reduction of tax, a company has not distributed to its shareholders as dividend profits made in any period which could be distributed without detriment to the company's business, he may treat any such undistributed profits as distributed, and the persons concerned shall be assessable accordingly.

Income arising from settlements

31. —(1) Where under the terms of any settlement and during the life of the settlor any income, or

assets representing it, will or may become payable or applicable to or for the benefit of any relative of the settlor and at the commencement of the year of assessment such relative is unmarried and has not attained the age of 21 years, such income or assets shall be deemed to be income of the settlor and not income of any other person.

(2) If and so long as the terms of any settlement are such that —

(a) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof; and

(b) in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property then comprised in the settlement, or of the income arising from the whole or any part of the property so comprised, all income arising under the settlement from the property comprised in the settlement shall be deemed to be income of the settlor and not income of any other person.

(3) Subsection (2) shall not apply by reason only that the settlor or the wife or husband of the settlor will or may become beneficially entitled to any income or property relating to the interest of any beneficiary under the settlement in the event that the beneficiary should die before him.

(4) Where in any year of assessment the settlor or any relative of the settlor or any person under the direct or indirect control of the settlor or of any of his relatives, whether by borrowing or otherwise, makes use of any income arising or of any accumulated income which has arisen under a settlement to which he is not entitled thereunder, then the amount of such income or accumulated income so made use of shall be deemed to be income of the settlor for that year of assessment and not income of any other person.

(5) Where under the terms of any settlement to which this section applies any tax is charged on and paid by the person by whom the settlement is made, that person shall be entitled to recover from any trustee or other person to whom income is paid under the settlement the amount of the tax so paid, and for that purpose to require the Comptroller to furnish a certificate specifying the amount of tax so paid; and any certificate so furnished shall be conclusive evidence of the facts appearing therein.

(6) If any question arises as to the amount of any payment of income or as to any apportionment of income under this section that question shall be decided by the Comptroller whose decision shall be final.

(7) This section shall apply to every settlement wheresoever it was made or entered into and whether it was made or entered into before or after 1st January 1960 and shall (where there is more than one settlor or more than one person who made the settlement) have effect in relation to each settlor as if he were the only settlor.

(8) In this section —

"child" shall include a step-child, a child who has been de facto adopted by the settlor or by the husband or by the wife of the settlor, whether or not such adoption has been registered in accordance with the provisions of any written law, and a child of whom the settlor has the custody or whom he maintains wholly or partly at his own expense;

"relative" means any person who is a wife, grandchild, child, brother, sister, uncle, aunt, nephew, niece or cousin of the settlor;

"settlement" includes any disposition, trust, covenant, agreement, whether reciprocal or collateral, arrangement or transfer of assets or income, but does not include —

(a) a settlement which in the opinion of the Comptroller is made for valuable and adequate consideration;

(b) a settlement resulting from an order of a court; or

(c) any agreement made by an employer to pay to an employee or to the widow or any relative or dependant of such employee after his death such remuneration or pension or lump sum as in the opinion of the Comptroller is fair and reasonable;

"settlor" , in relation to a settlement, includes any person by whom the settlement was made or entered into, directly or indirectly, and any person who has provided or undertaken to provide funds or credit, directly or indirectly, for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

Valuation of trading stock on discontinuance or transfer of trade or business

32. —(1) In computing for any purpose of this Act the gains or profits of a trade or business which has been discontinued or transferred, any trading stock belonging to the trade or business at the discontinuance or transfer thereof shall be valued as follows:

(a) in the case of any such trading stock —

(i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a trade or business in Singapore; and

(ii) the cost whereof may be deducted by the purchaser as an expense in computing for any such purpose the gains or profits of that trade or business,

the value thereof shall be taken to be the amount realised on the sale or the value of the consideration given for the transfer; and

(b) in the case of any other such trading stock, the value thereof shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance or transfer of the trade or business.

(2) In computing for any purpose of this Act the gains or profits of the purchaser of the trading stock of any trade or business which has been discontinued or transferred, such trading stock shall be valued as provided in subsection (1).

(3) Any question arising under subsection (1) regarding the value attributable to the trading stock belonging to any trade or business which has been discontinued or transferred shall be determined by the Comptroller.

(4) In this section, "trading stock", in relation to any trade or business, means property of any description, whether movable or immovable, being either —

(a) property such as is sold in the ordinary course of trade or business or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

(b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a).

Comptroller may disregard certain transactions and dispositions

33. —(1) Where the Comptroller is satisfied that the purpose or effect of any arrangement is directly or indirectly —

(a) to alter the incidence of any tax which is payable by or which would otherwise have been payable by any person;

(b) to relieve any person from any liability to pay tax or to make a return under this Act; or

(c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act,

the Comptroller may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate, including the computation or recomputation of gains or profits, or the imposition of liability to tax, so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.

(2) In this section, "arrangement" means any scheme, trust, grant, covenant, agreement, disposition, transaction and includes all steps by which it is carried into effect.

[1/88]

(3) This section shall not apply to —

(a) any arrangement made or entered into before 29th January 1988; or

(b) any arrangement carried out for bona fide commercial reasons and had not as one of its main purposes the avoidance or reduction of tax.

[1/88]

Discretion no bar to appeal

34. Nothing in section 30, 32 or 33 shall prevent the decision of the Comptroller in the exercise of any discretion given to him by any such section from being questioned in an appeal against an assessment in accordance with Part XVIII.

PART VIII

ASCERTAINMENT OF STATUTORY INCOME

Basis for computing statutory income

35. —(1) Except as provided in this section, the income of any person for each year of assessment (referred to in this Act as the statutory income) shall be the full amount of his income for the year preceding the year of assessment from each source of income after the deduction provided under subsection (2).

[21/2003]

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

[21/2003]

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

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

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

[21/2003]

(4) Where the Comptroller is satisfied that any person usually makes up the accounts of a trade, business, profession or vocation carried on or exercised by him, to some day other than that immediately preceding any year of assessment, he may direct that the statutory income from that source be computed on the amount of gains or profits of the year ending on that day in the year preceding the year of assessment.

(5) Notwithstanding any other provisions of this Act, where any dividend derived from Singapore by any person is assessed to tax on a basis period ending on a date other than 31st December, any such dividend —

- (a) derived during the period from 1st January 1992 to 31st December 1992 shall be treated as his statutory income for the year of assessment 1993 and be charged to tax at the rate applicable to him for that year of assessment;
- (b) derived during the period from 1st January 1995 to 31st December 1995 shall be treated as his statutory income for the year of assessment 1996 and be charged to tax at the rate applicable to him for that year of assessment;
- (c) derived during the period from 1st January 1999 to 31st December 1999 shall be treated as his statutory income for the year of assessment 2000 and be charged to tax at the rate applicable to him for that year of assessment;
- (d) derived during the period from 1st January 2000 to 31st December 2000 shall be treated as his statutory income for the year of assessment 2001 and be charged to tax at the rate applicable to him for that year of assessment;
- (e) derived during the period from 1st January 2001 to 31st December 2001 shall be treated as his statutory income for the year of assessment 2002 and be charged to tax at the rate applicable to him for that year of assessment

[1/90;20/91;28/92;26/93;1/98;24/2000;24/2001;37/2002]

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

(6) Where the statutory income of any person from a trade, business, profession or vocation has been computed by reference to an account made up to a certain day, and such person fails for any reason whatsoever to make up an account to the corresponding day in the year following, the statutory income from the trade, business, profession or vocation both of the year of assessment in which such failure occurs and of the 2 years of assessment following shall be computed on such basis as the Comptroller in his discretion thinks fit.

(7) Where in the case of any trade, business, profession or vocation it is necessary in order to arrive at the income of any year of assessment or other period, to divide and apportion to specific periods the income of any period for which accounts have been made up, or to aggregate such income or any apportioned parts thereof, it shall be lawful to make such a division, and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods, unless the Comptroller, having regard to any special circumstances, otherwise directs.

(8) The statutory income of an executor of a deceased person for any year of assessment shall be the income of the estate administered by such executor computed in accordance with subsections (1) to (7).

(9) In the case of an estate administered in Singapore a deduction shall be allowed in respect of any income included in the computation of the statutory income which is received by, distributed to or applied to the benefit of any beneficiary of the estate before 31st March in the year next following the year of assessment.

(10) The statutory income of any beneficiary of such estate shall be the amount so received by, or distributed to him, or applied to his benefit during the year preceding the year of assessment.

(11) The statutory income of a trustee (not being the trustee of an incapacitated person) for any year of assessment shall be computed in accordance with subsections (1) to (7).

(12) The following income shall not form part of the statutory income of any designated unit trust or any approved CPF unit trust for any year of assessment:

- (a) gains or profits derived from Singapore or elsewhere from the disposal of securities;
- (b) interest (other than interest for which tax has been deducted under section 45); and
- (c) dividends derived from outside Singapore and received in Singapore.

[32/95;31/98]

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

(13) No deduction under section 14 shall be allowed in respect of any outgoings and expenses (including any expenses arising from the management of investments) incurred by any designated unit trust or any approved CPF unit trust against any income derived by the unit trust from —

- (a) dividends paid by any company resident in Singapore; and
- (b) interest for which tax has been deducted under section 45.

[32/95;31/98]

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

(14) In subsections (12), (13) and (13A) —

"approved CPF unit trust" means any unit trust scheme approved for the purposes of any investment scheme under the Central Provident Fund Act (Cap. 36);

"compensatory payment" has the same meaning as in section 10N(12);

"designated" means designated by the Minister or such person as he may appoint;

"securities" has the same meaning as in section 10A;

“unit” and “unit trust” have the same meanings as in section 10B.

[32/95; 31/98]

(15) The statutory income for any year of assessment of any beneficiary under a trust shall be that share of the statutory income of the trustee for that year of assessment which corresponds to the share of the trust income to which the beneficiary is entitled for the year preceding the year of assessment.

Cessation of source of income commenced before 1st January 1969

35A. —(1) This section shall only apply to any trade, business, profession, vocation or employment (except subsidiary employment which had not been treated as a new source on commencement) which commenced before 1st January 1969.

(2) Subject to subsection (3), where a person permanently ceases to carry on or exercise any trade, business, profession, vocation or employment to which this section applies, his statutory income therefrom shall be —

(a) as regards the year of assessment in which the cessation occurs — the amount of the income of that year; and

(b) as regards the year of assessment preceding that in which the cessation occurs — the amount of income as computed in accordance with section 35, or the amount of income of that year, whichever is the greater.

(3) Subsection (2) shall not apply to a company which ceases to carry on any trade or business on or after 15th October 1969 where such trade or business or part thereof is transferred to or carried on by any person as that person’s trade or business, whether with or without any alteration.

(4) For the purposes of this section, where a change occurs in a partnership of persons carrying on any trade, business or profession by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, every such person who is not a company shall be deemed to cease to carry on that trade, business or profession as from the date the change occurs.

Partnership

36. —(1) Where a trade, business, profession or vocation is carried on by 2 or more persons jointly —

(a) the income of any partner from the partnership for any period shall be deemed to be the share to which he was entitled during that period in the income of the partnership, such income being ascertained in accordance with the provisions of this Act, and shall be included in the return of income to be made by such partner under the provisions of this Act; and

(b) the statutory income of any partner from the partnership shall be computed in accordance with section 35 by treating his share of the divisible income of the partnership as though it were income of a trade, business, profession or vocation carried on or exercised by him.

(2) This section shall not be deemed to apply to any trade, business, profession or vocation carried on by a Hindu joint family.

Limited liability partnership

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

(a) all the activities of the partnership shall be treated as carried on in partnership by its partners (and not by the partnership as such);

(b) anything done by, to or in relation to the partnership for the purposes of, or in connection with, any of its activities shall be treated as done by, to or in relation to the partners; and

(c) the property of the partnership shall be treated as held by the partners as partnership property.

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

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

(b) references to partners of a partnership include partners of such a limited liability partnership;

(c) references to a company do not include such a limited liability partnership; and

(d) references to shareholders of a company do not include partners of such a limited liability partnership.

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

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

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

$$A - B;$$

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

$$A - B - C;$$

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

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

(d) in the case of a carry-back deduction allowed to or transferred by him, an amount equal to the amount ascertained in accordance with the formula

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

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

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

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

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

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

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

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

—

- (i) where he is admitted to the limited liability partnership as a partner, sold to him by all the remaining partners; or
 - (ii) where he withdraws from the limited liability partnership as a partner, sold by him to all the remaining partners.
- (8) The precedent partner of a limited liability partnership shall make and deliver, together with a return of the income of the limited liability partnership under section 71 or when required by the Comptroller by notice in writing, a return of the contributed capital of each partner of the limited liability partnership for any year of assessment.
- (9) For the purposes of this section, the Minister may make regulations to provide generally for giving full effect to or for carrying out the purposes of this section.
- (10) In this section —
- "activities of the limited liability partnership" means anything done by the limited liability partnership, whether or not in the course of carrying on a trade, business, profession or vocation;
- "carry-back deductions" , in relation to a partner of a limited liability partnership in any year of assessment, means —
- (a) any deduction allowed to the partner of any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is made against his assessable income from any other source for the immediate preceding year of assessment under section 37E; or
 - (b) any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is transferred by him to a spouse under section 37F;
- "contributed capital" , in relation to a partner of a limited liability partnership for any year of assessment, means the aggregate of —
- (a) the amount, as at the end of the basis period for the year of assessment to be determined by the Comptroller, which he has contributed (in cash or in kind but not including any loan by him to the limited liability partnership) to the limited liability partnership as capital, and has not, directly or indirectly, drawn out or received back (whether as a distribution or a loan from the limited liability partnership or otherwise); and
 - (b) the amount, as at the end of the basis period for the year of assessment to be determined by the Comptroller, of any profits or gains of the trade, business, profession or vocation from any past year of assessment to which he is entitled as a partner but which he has not, directly or indirectly, received (whether as a distribution or a loan from the limited liability partnership or otherwise);
- "past relevant deductions" , in relation to a partner of a limited liability partnership in any year of assessment, means the aggregate of any relevant deductions allowed to the partner less any amount deemed under subsection (5) to be income chargeable with tax in any year of assessment before that year of assessment;
- "precedent partner" has the same meaning as in section 71;
- "relevant deductions" , in relation to a partner of a limited liability partnership, means —
- (a) any deduction allowed to the partner under section 35 (2) of any allowance arising from any trade, business or profession carried on by the limited liability partnership;
 - (b) any deduction allowed to the partner under section 37 (3) (a) of any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is made against his statutory income from any other source;
 - (c) any transferred deduction transferred by the partner; or
 - (d) any carry-back deduction allowed to or transferred by the partner,
- as the case may be;
- "transferred deduction" , in relation to a partner of a limited liability partnership, means any allowance arising from any trade, business or profession, or any loss incurred in any trade, business, profession or vocation carried on by the limited liability partnership that is transferred by him to a claimant company under section 37C or to a spouse under section 37D.

Registered business trusts

36B. —(1) For the purposes of this Act, except as otherwise provided, references to a company shall be read as including a reference to a registered business trust or, as the context requires, to the trustee-manager of a registered business trust subject to the following modifications:

(a) sections 23 and 37 shall apply to a registered business trust except that —

(i) any reference to the shareholders of a company shall be read as a reference to the unitholders of a registered business trust;

(ii) the unitholders of a registered business trust at any date shall not be deemed to be substantially the same as the unitholders at any other date unless, on both those dates —

(A) the same unitholders are entitled to not less than 50% of any residual profits of the registered business trust available for distribution; and

(B) the same unitholders are entitled to not less than 50% of any residual assets of the registered business trust available for distribution on winding up;

(iii) units in a registered business trust held by or on behalf of a company shall be deemed to be held by the shareholders of the company; and

(iv) units held by or on behalf of the trustee of the estate of a deceased unitholder or by or on behalf of the person entitled to those units as beneficiaries under the will or any intestacy of a deceased unitholder shall be deemed to be held by that deceased unitholder;

(b) for the purpose of section 24 (1) —

(i) a body of persons shall be deemed to have control over a registered business trust if —

(A) the body of persons is a company and it holds more than 50% of the units in the registered business trust; or

(B) the body of persons is another registered business trust and they hold on trust for their unitholders more than 50% of the units in the first mentioned registered business trust;

(ii) a registered business trust shall be deemed to have control over a company if —

(A) the trustee-manager of the registered business trust holds on trust for its unitholders more than 50% of the total number of issued shares of the company; or

(B) the unitholders of the registered business trust hold more than 50% of the total number of issued shares of the company;

(c) for the purpose of section 37C —

(i) a registered business trust shall be deemed to be a Singapore company if —

(A) the registered business trust is established in Singapore; and

(B) the trust deed of the registered business trust is executed in Singapore and is governed by Singapore law;

(ii) any reference to ordinary share or ordinary share capital in a company shall be read as a reference to the units in a registered business trust; and

(iii) any reference to residual assets or residual profits in a company shall be read as a reference to the residual assets and residual profits of a registered business trust; and

(d) sections 10I, 10J, 10K and 10M shall not apply to a registered business trust.

(2) The statutory income of a registered business trust shall be computed in accordance with section 35 (11).

(3) Sections 35 (15), 43 (2) and 46 (1) (b) shall not apply to any registered business trust or unitholders of any registered business trust.

(4) In this section, “business trust”, “registered business trust”, “trustee-manager”, “unit” and “unitholder” have the same meanings as in the Business Trusts Act (Cap. 31A).

PART IX

ASCERTAINMENT OF ASSESSABLE INCOME

Assessable income

37. —(1) The assessable income of any person from all sources chargeable with tax under this Act for any year of assessment shall be the remainder of his statutory income for that year after the deductions allowed in this Part have been made.

[23/69]

(2) For the purposes of this section, unless otherwise provided in this Act or the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86), where a person is a company whose income, if any, is subject to tax at different rates of tax for any year of assessment, the Comptroller shall apportion any sum allowable under subsection (3) (b), (c), (d) or (f) among the different rates of tax on such basis he considers reasonable.

[21/2003]

(3) Subject to subsection (2), there shall be deducted —

(a) the amount of loss incurred by that person in any trade, business, profession or vocation, which, if it had been a profit would have been assessable under this Act, in the following order:

(i) firstly, any balance of such loss which remains unabsorbed at the end of the basis period for the previous year of assessment; and

(ii) secondly, the amount incurred during the basis period for the year of assessment;

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

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

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

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

(c) an amount equivalent to twice the amount of any donation of money made by him in the year preceding the year of assessment to the Government or to any institution of a public character approved by the Minister, Comptroller or any Central Fund Administrator on application by that institution;

(d) an amount equivalent to twice the value of any donation of a computer (including computer software and peripherals) approved by the Minister or such person as he may appoint and made by any company in the year preceding the year of assessment to —

(i) any institution of a public character approved by the Minister, Comptroller or any Central Fund Administrator on application by that institution; or

(ii) a prescribed educational, research or other institution in Singapore;

(e) an amount equivalent to —

(i) twice the value of any donation of shares in a company listed on the Singapore Exchange; or

(ii) twice the value of any donation of units in unit trusts traded in Singapore or listed on the Singapore Exchange,

made by an individual in the year preceding the year of assessment to any institution of a public character approved by the Minister, Comptroller or any Central Fund Administrator on the application by that institution; and

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

[31/86;1/90;26/93;31/98;24/2001;37/2002;21/2003]

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

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

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

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

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

(5) Where, in any year of assessment, the amount of loss incurred by any person during the year preceding the year of assessment is not fully deducted under subsection (3) (a) (ii), the balance of such loss, after deducting any amount of such loss transferred to a claimant company under section 37C or to a spouse under section 37D or 37F, or deducted against income for the immediate preceding year of assessment under section 37E, shall be available for deduction against his statutory income for subsequent year of assessment under subsection (3) (a) (i).

[37/2002]

(6) Deleted by Act 34/2005, wef 01/01/2005.

(7) A deduction under this section to any person in respect of any sum allowable under subsection (3) (b), (c), (d), (e) or (f) shall only be allowed against his statutory income after the deduction under subsection (3) (a).

[37/2002;21/2003]

(8) Subject to subsections (2), (7) and (12), the deduction to any person in respect of any sum allowable under subsection (3) (b), (c), (d), (e) or (f) shall be allowed —

(a) as far as possible against his statutory income of the first year of assessment after the year in which the donation was made by him; and

(b) so far as the deduction cannot be so allowed, after deducting any of such sum transferred to a claimant company under section 37C or to a spouse under section 37D, then from his statutory income of the next year of assessment,

and so on, except that any balance of the donation not deducted against his statutory income of the sixth year of assessment from the first year of assessment in which the donation was made shall be disregarded.

[37/2002;21/2003]

(9) For the purposes of subsections (7) and (8), any sum allowable under subsection (3) (b), (c), (d), (e) or (f) in respect of any donation made on an earlier date shall be deemed to have been deducted first.

[37/2002;21/2003]

(10) For the purposes of subsection (3), the loss incurred during any year shall be computed, where the Comptroller so decides, by reference to the year ending on a day in such year which would have been adopted under section 35 (4) for the computation of the statutory income of the following year of assessment if a profit had arisen.

(11) No deduction shall be allowed under this section to any person in respect of any sum which has been allowed as a deduction under this section against the income of his or her spouse chargeable in his or her own name.

(12) Notwithstanding subsection (3), the amount of any loss incurred by a company in any trade or business or any sum allowable under subsection (3) (b), (c), (d), (e) or (f) to a company in respect of any donation shall be disregarded unless the Comptroller is satisfied that the shareholders of the company on the last day of the year in which the loss was incurred or the donation was made, as the case may be, were substantially the same as the shareholders of the company on the first day of the year of assessment in which such loss or donation would otherwise be deductible under subsection (3).

[37/2002;21/2003]

(13) A loss or donation disregarded under subsection (12) shall not be allowed in any subsequent year of assessment.

[37/2002]

(14) For the purposes of subsection (12) —

(a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;

(b) shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and

(c) shares held by or on behalf of the trustee of the estate of a deceased shareholder or by or on behalf of the person entitled to those shares as beneficiaries under the will or any intestacy of a deceased shareholder shall be deemed to be held by that deceased shareholder.

(14A) For the purpose of subsection (14), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

A
—,
B

where A is the amount that has not been paid in respect of the share; and
B is the total amount payable in respect of the share.

(15) The Minister or such person as he may appoint may, where there is a substantial change in the shareholders of a company and he is satisfied that such change is not for the purpose of deriving any tax benefit or obtaining any tax advantage, exempt that company from the provisions of subsection (12)

[37/2002]

(16) Upon an exemption under subsection (15) —

(a) any loss referred to in subsection (3) (a) incurred by a company may only be deducted against the profits from the same trade or business of the company in respect of which that loss was incurred; and

(b) any balance of the donation referred to in subsection (8) shall be allowed against the statutory income of the person of the year of assessment in which such donation would otherwise be deductible under that subsection.

[37/2002]

(17) For the purposes of subsection (3) (e) —

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

(b) the amount in respect of any donation of units in unit trusts traded in Singapore (other than those listed on the Singapore Exchange) shall be the bid price of such units immediately after the date of the donation quoted by the manager of the unit trusts; and

(c) “date of the donation”, in relation to any shares or units referred to in paragraph (a) or (b), as the case may be, means the date of legal transfer to the institution of a public character of the donation of such shares or units.

[24/2001;37/2002;21/2003]

(18) *Act 34/2005, wef 01/01/2005:2005-ACT-34*

Restriction on deduction of trading losses against dividends

37A. —(1) Notwithstanding anything in this Act but subject to subsection (2), in computing the assessable income of any company for any year of assessment, no deduction shall be allowed for any loss incurred by that company (referred to in this Act as the loss company) against any dividends received by it from an associated company.

(2) The Comptroller may allow such deduction if he is satisfied, having regard to all the circumstances of the case, that the object or one of the main objects of the declaration of dividends by the associated company to the loss company is not for the purpose of receiving any benefit or obtaining any advantage in relation to the application of this Act.

(3) Subsection (1) shall not apply —

(a) in respect of any loss incurred by the loss company after the end of its accounting period during which the relevant date occurs; and

(b) in respect of any dividends paid by the associated company out of the profits of the associated company derived after the end of its accounting period during which the relevant date occurs.

(4) For the purposes of this section —

(a) “private company” and “public company” have the same meanings as in the Companies Act (Cap. 50);

(b) “relevant date” means the date when the associated company first became an associated company of the loss company;

(c) a company shall be deemed to be an associated company of a loss company if —

(i) in the case of a private company at least 25% of the total number of its issued shares are beneficially owned, directly or indirectly, by the loss company;

(ii) in the case of a public company at least 50% of its issued capital is beneficially owned, directly or indirectly, by the loss company;

(d) any dividends received by the loss company from an associated company, being dividends which are paid by the associated company out of income representing, wholly or in part, dividends paid by another associated company of the loss company to the first-mentioned associated company shall be deemed to be dividends received by the loss company from the second-mentioned associated company; and this provision shall apply notwithstanding any company or companies interposed between the first-mentioned associated company and the second-mentioned associated company;

(e) where a loss company beneficially owns, directly or indirectly, a fraction of the total number of issued shares of a second company which in turn beneficially owns, directly or indirectly, a fraction of the total number of issued shares of a third company, the loss company shall be deemed to have a beneficial ownership of the number of issued shares of the third company equal to such fraction of the total number as results from the multiplication of those 2 fractions; and where the third company beneficially owns, directly or indirectly, a fraction of the total number of issued shares of a fourth company, the loss company shall be deemed to have a beneficial ownership of the number of issued shares of the fourth company equal to such fraction of the total number as results from the multiplication of those 3 fractions, and so on.

Adjustment of capital allowances, losses or donations between income subject to tax at different rates

37B. —(1) This section shall apply to any company whose income for any year of assessment is subject to tax at different rates.

[26/93;37/2002]

(2) Where, for any year of assessment, there are any unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a lower rate of tax to which this section applies, and there is any chargeable income of the company subject to tax at a higher rate of tax to which this section applies, those unabsorbed allowances, losses or donations shall be deducted against that chargeable income in accordance with the following provisions:

(a) in the case where those unabsorbed allowances, losses or donations do not exceed that chargeable income multiplied by the adjustment factor, that chargeable income shall be reduced by an amount arrived at by dividing those unabsorbed allowances, losses or donations by the adjustment factor, and those unabsorbed allowances, losses or donations shall be nil; and

(b) in any other case, those unabsorbed allowances, losses or donations shall be reduced by an amount arrived at by multiplying that chargeable income by the adjustment factor, and those unabsorbed allowances, losses or donations so reduced shall be added to, and be deemed to form part of, the corresponding allowances, losses or donations in respect of the income subject to tax at the lower rate of tax, for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37, as the case may be, and that chargeable income shall be nil.

[37/2002]

(3) Where, for any year of assessment, there are any unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a higher rate of tax to which this section applies, and there is any chargeable income of the company subject to tax at a lower rate of tax to which this section applies, those unabsorbed allowances, losses or donations shall be deducted against that chargeable income in accordance with the following provisions:

(a) in the case where those unabsorbed allowances, losses or donations do not exceed that chargeable income divided by the adjustment factor, that chargeable income shall be reduced by an amount arrived at by multiplying those unabsorbed allowances, losses or donations by the adjustment factor, and those unabsorbed allowances, losses or donations shall be nil; and

(b) in any other case, those unabsorbed allowances, losses or donations shall be reduced by an amount arrived at by dividing that chargeable income by the adjustment factor, and those unabsorbed allowances, losses or donations so reduced shall be added to, and be deemed to form part of, the corresponding allowances, losses or donations in respect of the income subject to tax at the higher rate of tax, for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37, as the case may be, and that chargeable income shall be nil.

[37/2002]

(4) Where a company to which this section applies ceases to derive income subject to tax at a lower rate of tax in the basis period for any year of assessment but derives income subject to tax at a higher rate of tax in that basis period, subsection (2) shall apply, with the necessary modifications, to any unabsorbed allowances, losses or donations in respect of the income of the company subject to tax at the lower rate of tax for any year of assessment subsequent to that year of assessment.

[37/2002]

(5) Where a company to which this section applies ceases to derive income subject to tax at a higher rate of tax in the basis period for any year of assessment but derives income subject to tax at a lower rate of tax in that basis period, subsection (3) shall apply, with the necessary modifications, to any unabsorbed allowances, losses or donations in respect of the income of the company subject to tax at the higher rate of tax for any year of assessment subsequent to that year of assessment.

[37/2002]

(6) Nothing in this section shall be construed as affecting the application of section 23 or 37 unless otherwise provided in this section.

(7) In this section —

"adjustment factor" , in relation to any year of assessment, means the factor ascertained in accordance with the formula

$$\frac{A}{B}$$

B

where A is the higher rate of tax for that year of assessment; and

B is the lower rate of tax for that year of assessment;

"allowances" means allowances under section 16, 17, 19, 19A, 19B, 19C, 19D, 20, 21, 22 or 23 including unabsorbed allowances which arose in any year of assessment before the year of assessment 1994;

"chargeable income of the company subject to tax at a higher rate of tax" means income subject to tax at a higher rate of tax after deducting expenses, donations, allowances or losses allowable under this Act against that income;

"chargeable income of the company subject to tax at a lower rate of tax" means income subject to tax at a lower rate of tax after deducting expenses, donations, allowances or losses allowable under this Act against that income;

"donations" means donations which are deductible including any unabsorbed donations allowable under section 37;

"higher rate of tax" or "lower rate of tax" means the rate of tax under section 43 (1) (a) or the concessionary rate of tax in accordance with —

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

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

"losses" means losses which are deductible under section 37 including unabsorbed losses incurred in respect of any year of assessment before the year of assessment 1994;

"unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a higher rate of tax" means the balance of such allowances, losses or donations after deducting expenses, donations, allowances or losses allowable under this Act against the income subject to tax at a higher rate of tax;

"unabsorbed allowances, losses or donations in respect of the income of a company subject to tax at a lower rate of tax" means the balance of such allowances, losses or donations after deducting expenses, donations, allowances or losses allowable under this Act against the income subject to tax at a lower rate of tax.

[37/2002; 21/2003]

Group relief for Singapore companies

37C. —(1) Subject to the provisions of this section, a transferor company may transfer any qualifying deduction for any year of assessment to a claimant company of the same group which has claimed the qualifying deduction against its assessable income for the same year of assessment.

[37/2002]

(2) A transfer of a qualifying deduction for any year of assessment shall be made only if the transferor company and the claimant company, for that year of assessment —

(a) are members of the same group on the last day of the basis period;

(b) have accounting periods ending on the same day; and

(c) have made an election under subsection (11).

[37/2002]

(3) For the purposes of this section, 2 Singapore companies are members of the same group if —

(a) at least 75% of the total number of issued ordinary shares in one company are beneficially held, directly or indirectly, by the other; or

(b) at least 75% of the total number of issued ordinary shares in each of the 2 companies are beneficially held, directly or indirectly, by a third Singapore company.

[37/2002]

(4) Notwithstanding that a Singapore company beneficially holds, directly or indirectly, at least 75% of the total number of issued ordinary shares in another Singapore company, it shall not be treated to have satisfied subsection (3) unless additionally it is beneficially entitled to at least 75% of —

(a) any residual profits of the other company available for distribution to that company's equity holders; and

(b) any residual assets of the other company available for distribution to that company's equity holders on a winding up.

[37/2002]

(5) For the purpose of subsection (3), where a Singapore company beneficially owns, directly or indirectly, a fraction of the total number of issued ordinary shares of a second Singapore company which in turn beneficially owns, directly or indirectly, a fraction of the total number of issued ordinary shares of a third Singapore company, the Singapore company shall be deemed to have a beneficial ownership of the number of issued ordinary shares of the third Singapore company equal to such fraction of the total number as results from the multiplication of those 2 fractions; and where the third Singapore company beneficially owns, directly or indirectly, a fraction of the total number of issued ordinary shares of a fourth Singapore company, the Singapore company shall be deemed to have a beneficial ownership of the number of issued ordinary shares of the fourth Singapore company equal to such fraction of the total number as results from the multiplication of those 3 fractions, and so on.

[37/2002]

(6) A transfer of qualifying deduction may be —

(a) made by a transferor company to more than one claimant company, provided that the amount of qualifying deduction transferred is fully deducted against the assessable income of the first claimant company before any excess qualifying deduction is transferred and deducted against the assessable income of the second claimant company and so on; or

(b) claimed by a claimant company from more than one transferor company, provided that the amount of qualifying deduction transferred from the first transferor company is fully deducted against the assessable income of the claimant company before any qualifying deduction transferred from a second transferor company is deducted against the assessable income of the claimant company and so on.

[37/2002]

(7) Qualifying deductions shall be transferred to a claimant company in accordance with the priority specified in the election made under subsection (11), and in the following order:

(a) any allowance specified in subsection (14) (a);

(b) any loss specified in subsection (14) (b); and

(c) any donation specified in subsection (14) (c).

[37/2002]

(8) Where, in any year of assessment, a transfer of qualifying deduction cannot be effected in accordance with the order of priority specified by any transferor company or claimant company in its election made under subsection (11), the transfer shall be allowed in such manner as the Comptroller thinks reasonable and proper.

[37/2002]

(9) Subject to subsection (10), the amount of qualifying deduction that may be transferred to a claimant company from a transferor company for any year of assessment shall be —

(a) the available assessable income of the claimant company equal to

$$\frac{A}{B} \times C,$$

where A is the number of days in the continuous period ending on the last day of the basis period for that year of assessment during which the companies are members of the same group or, if the continuous periods of the transferor company and the claimant company are different, the number of days in the shorter of the continuous periods;

B is the number of days in the basis period of the claimant company for that year of assessment; and C is the assessable income of the claimant company for that year of assessment; or

(b) the available qualifying deduction of the transferor company equal to

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

where A has the same meaning as in paragraph (a);

D is the number of days in the basis period of the transferor company for that year of assessment;
and
E is the amount of qualifying deduction of the transferor company for that year of assessment,
whichever is the lower.

[37/2002]

(10) Where, for any year of assessment, there are 2 or more —
(a) claims for any qualifying deduction by a claimant company, the available assessable income of the claimant company shall, for the purpose of subsection (9) (a), be

$$\frac{A}{B} \times C - F,$$

where A, B and C have the same meanings as in subsection (9) (a); and
F is the aggregate of the amounts of qualifying deductions previously claimed from any other transferor company for the same year of assessment, if any;

(b) transfers of any qualifying deduction by a transferor company, the available qualifying deduction of the transferor company shall, for the purpose of subsection (9) (b), be

$$\frac{A}{D} \times E - G,$$

where A, D and E have the same meanings as in subsection (9) (b); and
G is the aggregate of the amounts of qualifying deductions previously transferred to any other claimant company for the same year of assessment, if any.

[37/2002]

(11) Every transferor company and every claimant company of the same group shall, at the time of lodgment of their returns of income for any year of assessment or within such further time as the Comptroller may allow, make an irrevocable election to transfer or claim qualifying deductions, as the case may be.

[37/2002]

(12) An election under subsection (11) shall be accompanied by —

(a) such particulars as the Comptroller may require; and

(b) a list of companies, in order of priority, to which qualifying deductions would be transferred or from which such deductions would be claimed, as the case may be.

[37/2002]

(13) Notwithstanding subsection (11), where at the time of furnishing its return of income under section 62 (1) for any year of assessment —

(a) a company has assessable income, but is subsequently determined by the Comptroller to have any qualifying deduction for that year of assessment; or

(b) a company has any qualifying deduction, but is subsequently determined by the Comptroller to have assessable income for that year of assessment,
the Comptroller may —

(i) allow the company to make an election under subsection (11); and

(ii) allow any company of the same group to include that company in its list of companies submitted previously by it under subsection (11),

within such time and in such manner as the Comptroller may determine.

[37/2002]

(14) For the purposes of this section, subject to subsection (15) and sections 35, 37 and 37B, qualifying deductions, in relation to a transferor company, for each year of assessment, are —

(a) any allowance falling to be made under section 16, 17, 18A (repealed), 19, 19A, 19B, 19C, 19D or 20 for that year of assessment that is in excess of the transferor company's income from all sources chargeable to tax for that year of assessment;

(b) any loss incurred by the transferor company in the basis period for that year of assessment in any trade or business which, if it had been a profit would have been assessable under this Act, and

which is not deducted for that year of assessment because of insufficiency of statutory income of the transferor company; and

(c) any donation made by the transferor company under section 37 (3) (b), (c), (d) or (f) in the year preceding that year of assessment that is not deducted for that year of assessment because of insufficiency of statutory income of the transferor company.

[37/2002;21/2003]

(15) Notwithstanding subsection (14), the following companies shall not be entitled to transfer the following items of qualifying deductions:

(a) any company to which section 10E applies, in respect of qualifying deductions under subsection (14) (a) and (b);

(b) any company to which section 97D or 97G of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004 or section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act applies, in respect of qualifying deductions under subsection (14) (a) where the loss is deemed to be a loss incurred from a trade or business for the purposes of any of those sections; and

(c) any company, in respect of qualifying deductions under subsection (14) relating to any income that is fully exempt from tax under the provisions of this Act or the Economic Expansion Incentives (Relief from Income Tax) Act.

[37/2002]

(16) Notwithstanding subsections (9) and (10), where the Comptroller discovers that any transfer or claim of qualifying deduction which has been made from or to any company is or has become excessive, he may make an assessment upon the company under section 74 on the amount which, in his opinion, ought to have been charged to tax.

[37/2002]

(17) Section 37B shall apply, with the necessary modifications, to the transfer of any qualifying deduction from a transferor company to a claimant company, where applicable, and for the purpose of such application, any reference in section 37B (2) and (3) to —

(a) unabsorbed allowances, losses or donations shall be read as a reference to qualifying deductions;

(b) corresponding allowances, losses or donations shall be read as a reference to allowances, losses or donations;

(c) income of a company subject to tax at a higher or lower rate of tax, as the case may be, shall be read as a reference to income of a transferor company subject to tax at a higher or lower rate of tax, respectively; and

(d) chargeable income of the company shall be read as a reference to chargeable income of a claimant company.

[37/2002]

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

[37/2002]

(19) In this section —

"assessable income", in relation to a claimant company or transferor company, means assessable income of the company as determined under section 37 after deducting any investment allowance under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86);

"claimant company" or "transferor company" means a Singapore company that claims or transfers, respectively, any qualifying deduction under subsection (1) but shall not include a company approved as —

(a) a technology company under section 94 (2) of the Economic Expansion Incentives (Relief from Income Tax) Act in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004;

- (b) a venture company under section 97B (2) of the Economic Expansion Incentives (Relief from Income Tax) Act in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004;
- (c) a technology investment company under section 97C (2) of the Economic Expansion Incentives (Relief from Income Tax) Act in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004;
- (d) an overseas investment company under section 97C (4) of the Economic Expansion Incentives (Relief from Income Tax) Act in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004; or
- (e) a start-up company under section 97T (2) of the Economic Expansion Incentives (Relief from Income Tax) Act;

"commercial loan" means any borrowing which entitles the creditor to any return which is of only

—
(a) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or

(b) a fixed rate per cent of the profits of the company;

"equity holder" , in relation to a Singapore company, means any holder of ordinary shares in the company or any creditor of the company in respect of any non-commercial loan;

"non-commercial loan" means any borrowing other than a commercial loan;

"ordinary share" means any share other than a treasury share or a share which carries only a right to any dividend which is of —

(a) a fixed amount or at a fixed rate per cent of the value of the shares; or

(b) a fixed rate per cent of the profits of the company;

"residual assets" , in relation to a Singapore company, means net assets of the company after distribution made to —

(a) creditors of the company in respect of commercial loans; and

(b) holders of shares other than ordinary shares,

and where the company has no residual asset, a notional amount of \$100 is deemed to be the residual assets of the company;

"residual profits" , in relation to a Singapore company, means profits of the company after deducting any dividend which is of —

(a) a fixed amount or at a fixed rate per cent of the value of the shares of the company; or

(b) a fixed rate per cent of the profits of the company,

but before deducting any return due to any non-commercial loan creditor which is not of —

(i) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or

(ii) a fixed rate per cent of the profits of the company,

and where the company has no residual profit, a notional amount of \$100 is deemed to be the residual profits of the company;

"Singapore company" means any company incorporated in Singapore.

[37/2002]

Transfer of qualifying deduction between spouses

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

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

(a) any allowance specified in subsection (8) (a);

(b) any loss specified in subsection (8) (b); and

(c) any donation specified in subsection (8) (c).

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

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

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

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

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

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

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

- (a) any allowance falling to be made under section 16, 17, 19, 19A, 19C, 19D or 20 that is in excess of the individual's income from all sources chargeable with tax for that year of assessment;
- (b) any loss incurred by the individual in any trade, business, profession or vocation which, if it had been a profit, would have been assessable under this Act, and which is not deducted for that year of assessment because of insufficiency of statutory income of the individual; and
- (c) any donation made by the individual under section 37 (3) (b), (c), (e) or (f) that is not deducted for that year of assessment because of insufficiency of statutory income of the individual.

Carry-back of capital allowances and losses

37E. —(1) Subject to the provisions of this section, a person may deduct any qualifying deduction for any year of assessment against his assessable income for the immediate preceding year of assessment.

(2) Qualifying deductions shall be deducted in the following order:

- (a) any allowance specified in subsection (9) (a); and
- (b) any loss specified in subsection (9) (b).

(3) The amount of qualifying deduction to be deducted for any year of assessment is the lower of —

- (a) the amount of qualifying deduction available for deduction for that year of assessment; and
- (b) the assessable income of the person for the immediate preceding year of assessment.

(4) Subject to the provisions of this section, section 37B shall apply, with the necessary modifications, to the deduction of any qualifying deduction by any company for any year of assessment against its assessable income for the immediate preceding year of assessment, where applicable, as if the income for the immediate preceding year of assessment is income for that year of assessment, and for the purpose of such application, any reference in section 37B (2) and (3) to —

- (a) unabsorbed allowances, losses or donations shall be read as a reference to qualifying deductions;
- (b) corresponding allowances, losses or donations shall be read as a reference to allowances or losses; and
- (c) chargeable income of the company shall be read as a reference to assessable income for the immediate preceding year of assessment of the company.

(5) The amount of qualifying deduction to be deducted for any year of assessment shall not exceed \$100,000; and in the case of a company shall be determined by the formula

$$A + B,$$

where	A	is any amount deducted against assessable income subject to tax at the rate of tax specified in section 43 (1) (a); and
	B	is any amount deducted against assessable income subject to tax at any concessionary rate of tax divided by the adjustment factor for that concessionary rate of tax.

(6) Any person deducting any qualifying deduction for any year of assessment against his assessable income for the immediate preceding year of assessment under this section shall notify the Comptroller and make an election to make such deduction —

(a) in the case of an individual, not later than 30 days from the date of service of the notice of assessment on him; and

(b) in the case of any other person, not later than the time of lodgment of his return of income for the year of assessment,

or within such further time as the Comptroller may allow.

(7) Any election made under subsection (6) shall be irrevocable and shall be accompanied by such particulars as the Comptroller may require.

(8) Where the Comptroller discovers that any deduction made under this section against the assessable income of any person for any year of assessment is or has become excessive, he may make an assessment on the person on the amount, which, in his opinion, ought to have been charged to tax in that year of assessment within 7 years after the expiration of that year of assessment.

(9) For the purposes of this section, subject to sections 35, 37 and 37B, qualifying deductions, in relation to any person, for each year of assessment, are —

(a) any allowance falling to be made under section 16, 17, 19, 19A, 19B, 19C, 19D or 20 that is in excess of the person's income from all sources chargeable to tax for that year of assessment and is not transferred under section 37C or 37D; and

(b) any loss incurred by the person in any trade, business, profession or vocation which is not deducted for that year of assessment because of insufficiency of statutory income of the person and is not transferred under section 37C or 37D.

(10) Notwithstanding subsection (9), any loss deemed to be a loss incurred from a trade or business for the purpose of section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall not be deductible.

(11) Notwithstanding subsection (9), any allowance specified in subsection (9) (a) made to a person for any year of assessment shall not be deductible against assessable income for the immediate preceding year of assessment if the person did not carry on that trade, business or profession in the basis period for the immediate preceding year of assessment.

(12) Notwithstanding subsection (9), any allowance specified in subsection (9) (a) made to or any loss specified in subsection (9) (b) incurred by a company for any year of assessment shall not be deductible against income for the immediate preceding year of assessment unless the Comptroller is satisfied that the shareholders of the company on the first day of the year in which the allowances arose or in which the loss was incurred, as the case may be, were substantially the same as the shareholders of the company on the last day of the immediate preceding year of assessment.

(13) For the purposes of subsection (12) —

(a) the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders at any other date unless, on both those dates, not less than 50% of the total number of issued shares of the company are held by or on behalf of the same persons;

(b) shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and

(c) shares held by or on behalf of the trustee of the estate of a deceased shareholder or by or on behalf of the person entitled to those shares as beneficiaries under the will or any intestacy of a deceased shareholder shall be deemed to be held by that deceased shareholder.

(14) For the purpose of subsection (13) (a), where any part of a share of a shareholder is not fully paid up, there shall be disregarded a proportion equal to

A

—,

B

where A is the amount that has not been paid in respect of the share; and
B is the total amount payable in respect of the share.

(15) The Minister or such person as he may appoint may, where there is a substantial change in the shareholders of a company and he is satisfied that such change is not for the purpose of deriving any tax benefit or obtaining any tax advantage, exempt that company from the provisions of subsection (12).

(16) Upon an exemption under subsection (15), any allowance specified in subsection (9) (a) made to or any loss specified in subsection (9) (b) incurred by a company may only be deducted against the profits from the same trade or business of the company in respect of which the allowance was made or the loss was incurred.

(17) In this section —

"adjustment factor" , in relation to a concessionary rate of tax, means the factor ascertained in accordance with the formula

C

—,

D

where C is the rate of tax specified in section 43 (1) (a); and
D is the concessionary rate of tax;

"assessable income" means —

(a) in relation to a company, assessable income of the company as determined under section 37 after deducting any investment allowance under Part X of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) and any deductions claimed under section 37C;

(b) in relation to an individual, assessable income of the individual as determined under section 37 after deducting any deductions claimed under section 37D; and

(c) in relation to any other person, assessable income of the person as determined under section 37;
"concessionary rate of tax" means any rate of tax lower than the rate specified in section 43 (1) (a) in accordance with —

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

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

(18) This section shall not apply to any company to which section 10E applies.

Carry-back of capital allowances and losses between spouses

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

qualifying deduction under this section against her or his assessable income for the immediate preceding year of assessment.

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

(a) any allowance specified in subsection (10) (a); and

(b) any loss specified in subsection (10) (b).

(3) The amount of qualifying deduction for any year of assessment to be transferred by a transferor to a claimant spouse is the lower of —

(a) the amount of qualifying deduction available for transfer for that year of assessment; and

(b) the assessable income of the claimant spouse for the immediate preceding year of assessment.

(4) The amount of qualifying deduction for any year of assessment to be transferred by a transferor to a claimant spouse shall not exceed an amount equal to

\$100,000 — A,

where A is any amount deducted by the transferor against his or her assessable income for the immediate preceding year of assessment under section 37E.

(5) No transfer shall be allowed under subsection (1) in any year of assessment if the transferor has assessable income for the immediate preceding year of assessment but no claim for relief has been made under section 37E.

(6) No transfer shall be allowed under subsection (1) in any year of assessment if the claimant spouse has assessable income for the year of assessment but no transfer of any qualifying deduction from the transferor to the claimant spouse has been made under section 37D.

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

(8) An election made by an individual under subsection (7) shall be irrevocable and shall be accompanied by such particulars as the Comptroller may require.

(9) Where the Comptroller discovers that any transfer of qualifying deduction under this section against the assessable income of a claimant spouse for any year of assessment is or has become excessive, he may make an assessment on the claimant spouse on the amount, which, in his opinion, ought to have been charged to tax in that year of assessment within 7 years after the expiration of that year of assessment.

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

(a) any allowance falling to be made under section 16, 17, 19, 19A, 19C, 19D or 20 that is in excess of the individual's income from all sources chargeable to tax for that year of assessment and is not deducted under section 37E or transferred under section 37D; and

(b) any loss incurred by the individual in any trade, business, profession or vocation which is not deducted for that year of assessment because of insufficiency of statutory income of the individual and is not deducted under section 37E or transferred under section 37D.

(11) Notwithstanding subsection (10), any loss deemed to be a loss incurred from a trade or business for the purpose of section 97V of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) shall not be transferable.

(12) Notwithstanding subsection (10), any allowance specified in subsection (10) (a) made to a transferor for any year of assessment shall not be transferable if the transferor did not carry on that trade, business or profession in the basis period for the immediate preceding year of assessment.

(13) In this section, “assessable income”, in relation to an individual, means assessable income of the individual as determined under section 37 after deducting any deductions claimed under sections 37D and 37E.

PART X

ASCERTAINMENT OF CHARGEABLE INCOME AND PERSONAL RELIEFS

Chargeable income

38. The chargeable income of any person for any year of assessment shall be the remainder of his assessable income for that year after the reliefs and deductions allowed in this Part have been made.

Relief and deduction for resident individual and Hindu joint family

39. —(1) In the case of an individual or Hindu joint family resident in Singapore in the year of assessment, there shall be allowed a deduction, in respect of earned income, which shall be —

- (a) in the case of an individual not falling within any other paragraph or a Hindu joint family, the sum of \$1,000 or the amount of the earned income;
- (b) without prejudice to any deduction allowable under paragraph (c) or (d), in the case of an individual who, in the year immediately preceding the year of assessment, was totally blind or suffering from any physical or mental disability which permanently and severely restricted his capacity for work, the sum of \$2,000 or the amount of the earned income;
- (c) in the case of an individual who, at any time in the year immediately preceding the year of assessment, was above 55 years of age but was not above 60 years of age, the sum of \$3,000 or the amount of the earned income; and
- (d) in the case of an individual who, at any time in the year immediately preceding the year of assessment, was above 60 years of age, the sum of \$4,000 or the amount of earned income, whichever is the less.

[37/75;1/82;15/83;26/93;37/2002]

(2) In the case of an individual resident in Singapore in the year of assessment who, in the year immediately preceding the year of assessment —

Deduction for wife

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

Deduction for alimony

(b) paid alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction, there shall be allowed a deduction of the amount of such alimony or \$2,000, whichever is the less;

Deduction for payments under order or deed

(c) made payments in accordance with an order of court or deed of separation to a wife from whom he was separated by such order or deed, there shall be allowed a deduction of the amount of such payments or \$2,000, whichever is the less:

Provided that the total deductions allowed to any individual under this paragraph and paragraphs (a) and (b) shall not exceed \$2,000;

Deduction for handicapped spouse

(d) maintained a spouse or previous spouse, as the case may be —

(i) who was incapacitated by reason of physical or mental infirmity;

(ii) whose income (other than payment of maintenance or alimony received from that individual under an order of court or deed of separation) was not more than \$2,000 in that year; and

(iii) in respect of whom no deduction has been claimed by another person under paragraph (i) or (j), there shall be allowed in respect of —

(A) such spouse a deduction of \$3,500;

(B) such spouse from whom he was separated by an order of court or deed of separation, a deduction of the amount of payments made in accordance with such order or deed or \$3,500, whichever is the less; or

(C) such previous spouse whose marriage with him has been dissolved by any court of competent jurisdiction, a deduction of the amount of alimony paid to the previous spouse or \$3,500, whichever is the less:

Provided that the total deductions allowed to the individual under this paragraph and paragraph (a), (b) or (c) shall not exceed \$3,500;

Deduction for children

(e) maintained an unmarried child —

(i) being below the age of 16 years at any time during the year preceding the year of assessment;

(ii) receiving full-time instruction at any university, college, school or other educational institution;

(iii) serving under articles or indentures with a view to qualifying in a trade or profession; or

(iv) incapacitated from maintaining himself by reason of physical or mental infirmity,

there shall be allowed in respect of each such child according to his age among those eligible, a deduction in accordance with the Fifth Schedule:

Provided that in the case of any unmarried child incapacitated from maintaining himself by reason of physical or mental infirmity whose income was not more than \$2,000 in that year and in respect of whom —

(A) a deduction is allowable under paragraph 1 of the Fifth Schedule, the deduction shall be increased to \$3,500;

(B) no deduction is allowable under the Fifth Schedule, there shall be allowed a deduction of \$3,500;

Deduction for delivery and hospitalisation expenses

(f) incurred delivery and hospitalisation expenses in respect of a legitimate 4th child born to him during the period from 1st January 1988 to 31st July 2004 and maintained by him, there shall be allowed a deduction against his earned income of the amount of such expenses or \$3,000, whichever is the less:

Provided that where more than one individual is entitled to claim such deduction, the deduction shall be apportioned between the individuals in question in such proportion as they agree, or, in the absence of such agreement, in such proportion as appears to the Comptroller to be reasonable;

Deduction for life insurance and contributions to approved pension, provident fund or society

(g) has made insurance on his life or on the life of his wife with any insurance company or has contributed as an employee to an approved pension or provident fund or society or has made any contribution or suffered any abatement from his salary or pension under any Act for the time being in force in Singapore relating to widows' and orphans' pensions or under any approved scheme within the meaning of any such Act, there shall be allowed a deduction of the aggregate of all premiums for such insurance and all such contributions and abatements paid, made or suffered by him in that year:

Provided that —

(i) in the case of any policy securing a capital sum on death (whether in conjunction with any other benefit or not), the amount to be deducted in respect of that policy shall not exceed 7% of that capital sum, exclusive of any additional benefit by way of bonus, profits or otherwise;

(ii) no deduction shall be allowed in excess of \$5,000 except that where the contributions made to an approved pension or provident fund or the Central Provident Fund exceed \$5,000, the excess contributions shall, subject to subsections (6) to (10), be allowed as a deduction;

(iii) no such deduction shall include any sum contributed to an approved pension or provident fund or society unless the contribution of such sum thereto was obligatory by reason of any contract of employment or of any provision in the rules or constitution of the fund or society;

(iv) no such deduction shall include any sum which has been claimed and allowed to a husband or wife under this paragraph;

- (v) no such deduction shall be allowed unless the insurance company has an office or a branch in Singapore but this sub-paragraph shall not apply to any insurance contract entered into by an individual resident in Singapore before 10th August 1973;
- (vi) in the case of an individual who has made contributions to an approved pension or provident fund, no such deduction shall exceed the contributions which would have been recoverable under section 7 (2) of the Central Provident Fund Act (Cap. 36) had contributions been payable in respect of him to the Central Provident Fund;
- (vii) notwithstanding sub-paragraph (iii), no deduction shall be allowed in respect of any sum contributed to the Central Provident Fund for any period on or after 1st January 1999 by an employee who holds a professional visit pass, an employment pass or a work permit;
- (viii) no such deduction shall be allowed where the premiums for such insurance are paid with funds standing in his SRS account;
- (ix) in the case of an NOR individual who has elected for tax exemption under section 13N (1) for the year of assessment, no deduction shall exceed the contributions which would have been recoverable under section 7 (2) of the Central Provident Fund Act (Cap. 36) in respect of his apportioned employment income for the year immediately preceding the year of assessment;

Deduction for CPF contributions by self-employed

(h) has carried on a trade, business, profession or vocation and has made contributions to the Central Provident Fund on his own account, or has derived income from a trade, business, profession or vocation and has made contributions in respect of such income to the Fund which were obligatory under the Central Provident Fund Act (Cap. 36), there shall be allowed a deduction, in respect of such contributions, of an amount not exceeding 33% or such other rate as may be prescribed of his assessable income for that year of assessment derived from such trade, business, profession or vocation or \$28,050 or such other amount as may be prescribed, whichever is the less: Provided that —

- (i) where the contributions to any approved pension or provident fund or society under paragraph (g) and this paragraph do not exceed \$5,000, the total deductions allowable under paragraph (g) and this paragraph shall not exceed \$5,000, and where such contributions exceed \$5,000 no deduction shall be allowed in respect of premiums for life insurance;
- (ii) the total deductions allowable under paragraph (g) and this paragraph in respect of contributions to any approved pension or provident fund or society shall not exceed \$28,050 or such other amount as may be prescribed where the deduction allowable under paragraph (g) is less than \$28,050 or such other amount as may be prescribed in respect of such contributions;
- (iii) no deduction shall be allowed under this paragraph where a deduction of \$28,050 or such other amount as may be prescribed or more has been allowed under paragraph (g) in respect of contributions to any approved pension or provident fund or society;
- (iv) where the total deductions allowable under this paragraph in respect of contributions which are obligatory under the Central Provident Fund Act and under paragraph (g) in respect of contributions to any approved pension or provident fund or society exceed \$28,050 or such other amount as may be prescribed, sub-paragraphs (ii) and (iii) shall not apply to such amount of contributions in excess of \$28,050 or such other amount as may be prescribed which are allowable under this paragraph;
- (v) *Deleted by Act 34/2005, wef 01/01/2005.*

Deduction for aged parents

- (i) maintained any dependant living in Singapore —
 - (i) who was his or his spouse's parent, grandparent or great-grandparent;
 - (ii) whose income was not more than \$2,000 in that year; and
 - (iii) in respect of whom no deduction has been claimed by another person under paragraph (a), (b), (c) or (d),
- there shall be allowed, under sub-paragraph (A) or (B) but not both, in respect of —
- (A) each such dependant who was not less than 55 years of age —
 - (AA) a deduction of \$5,000, where the dependant was living with him in the same household; or

(AB) a deduction of \$3,500, where the dependant was not living with him in the same household but in respect of whom a sum of not less than \$2,000, or such lower sum as the Comptroller may determine, was incurred in that year by the individual in maintaining the dependant; or

(B) each such dependant who was incapacitated from maintaining himself by reason of physical or mental infirmity —

(BA) a deduction of \$8,000, where the dependant was living with him in the same household; or

(BB) a deduction of \$6,500, where the dependant was not living with him in the same household but in respect of whom a sum of not less than \$2,000, or such lower sum as the Comptroller may determine, was incurred in that year by the individual in maintaining the dependant:

Provided that a deduction under this paragraph in respect of any one dependant shall be allowed to one individual only and no individual may obtain a deduction under this paragraph for more than 2 dependants, and where more than one individual claims a deduction in respect of the same dependant, a deduction shall be allowed to such claimant as the individuals may agree or, failing such agreement, to such claimant as determined by the Comptroller whose decision shall be final;

Deduction for maintenance for handicapped siblings

(j) maintained any dependant living in Singapore —

(i) who is his or his spouse's brother or sister;

(ii) who was incapacitated from maintaining himself by reason of physical or mental infirmity;

(iii) whose income was not more than \$2,000 in that year;

(iv) in respect of whom no deduction has been claimed by another person under paragraph (a), (b), (c), (d) or (e); and

(v) who was living with him in the same household or in respect of whom a sum of not less than \$2,000, or such lower sum as the Comptroller may determine, was incurred in that year by the individual in maintaining the dependant,

there shall be allowed in respect of each such dependant a deduction of \$3,500; and where more than one individual is entitled to claim a deduction in respect of the same dependant the deduction shall be apportioned in such manner as appears to the Comptroller to be reasonable;

Deduction for course fees

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

Deduction in respect of operationally ready national servicemen

(l) was an operationally ready national serviceman who —

(i) had performed operationally ready national service and held a valid certificate issued by the proper authority certifying that he is entitled to the deduction under this sub-paragraph, there shall be allowed a deduction of \$3,000; or

(ii) had not performed operationally ready national service but held a valid certificate issued by the proper authority certifying that he is entitled to the deduction under this sub-paragraph, there shall be allowed a deduction of \$1,500;

(m) was the wife or widow of an operationally ready national serviceman and was a citizen of Singapore who had not made a claim under paragraph (n), there shall be allowed a deduction of \$750 subject to the following provisions:

(i) the marriage to such national serviceman had not been dissolved by divorce or annulment at the end of the basis period for that year of assessment;

(ii) where the wife of such national serviceman dies during the basis period for that year of assessment, her executor shall not be entitled to a deduction under this paragraph if such national serviceman remarries during that basis period;

- (iii) where such national serviceman has more than one wife, the deduction under this paragraph in respect of such national serviceman shall be allowed to any one wife as such national serviceman may nominate;
- (iv) where such national serviceman has more than one widow, only the widow who was nominated under sub-paragraph (iii) shall be allowed a deduction under this paragraph;
- (v) no deduction under this paragraph shall be allowed to a wife of such national serviceman who is not entitled to a deduction under paragraph (l) for that year of assessment; and
- (vi) where such national serviceman dies during the basis period for any year of assessment for which he is not entitled to a deduction under paragraph (l), no deduction under this paragraph shall be allowed to his widow for that year of assessment;
- (n) was a parent of an operationally ready national serviceman and was a citizen of Singapore who had not made a claim under paragraph (l) or (m), there shall be allowed a deduction of \$750 subject to the following provisions:
 - (i) such national serviceman is a legitimate child, step-child or child adopted under any written law relating to the adoption of children;
 - (ii) where more than 2 parents claim the deduction under this paragraph in respect of such national serviceman, the deduction in respect of such national serviceman shall be allowed to any 2 parents as such national serviceman may nominate;
 - (iii) where such national serviceman has died, his parents shall continue to be allowed a deduction under this paragraph, except that where he dies during the basis period for any year of assessment for which he is not entitled to a deduction under paragraph (l), his parents shall not be allowed a deduction under this paragraph for that year of assessment;
 - (iv) where a parent has more than one child who is an operationally ready national serviceman, the deduction under this paragraph shall be allowed to the parent in respect of only one such national serviceman; and
 - (v) no deduction under this paragraph shall be allowed to a parent of an operationally ready national serviceman who is not entitled to a deduction under paragraph (l) for that year of assessment;

Deduction for contributions under Supplementary Retirement Scheme

(o) has contributed to an SRS account with an SRS operator, there shall be allowed a deduction of the amount of such contribution up to the amount of the SRS contribution cap applicable to him as determined in accordance with regulations made under section 10L (11), except that no deduction shall be allowed if —

- (i) Deleted by Act 34/2005, wef 01/01/2005.
- (ii) the amount of such contribution is withdrawn from his SRS account within the year immediately preceding the year of assessment:

Provided that —

- (i) where an SRS member derives income from a trade, business, profession or vocation or the exercise of an employment outside Singapore, no deduction shall exceed the amount of income remitted to, transmitted or brought into Singapore from outside Singapore;
- (ii) where an SRS member is an NOR individual who has elected for tax exemption under section 13N (1) for the year of assessment, no deduction shall exceed the contributions to the SRS account in respect of his apportioned employment income for the year immediately preceding the year of assessment;

[26/73; 4/75;
37/75; 1/82; 5/83; 31/86; 1/88; 1/90; 23/90; 20/91; 2/92; 28/92; 26/93; 11/94; 32/95; 28/96; 1/98; 32/99; 24/
2000; 24/2001; 37/2002; 21/2003]

Deduction for grandparent caregiver

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

- (i) was living in Singapore;

(ii) was looking after any of her children who is a citizen of Singapore and is 12 years old and below at any time during the year preceding the year of assessment ; and
(iii) was not carrying on any trade, business, profession, vocation or employment in that year, there shall be allowed against her earned income a deduction of \$3,000 in respect of one such parent or grandparent only:

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

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

(4) The total deduction allowed under subsection (3) in respect of any amount paid by a person to his, his spouse's, his parent's and his grandparent's retirement accounts shall not exceed such amount as may be prescribed; and where more than one person is entitled to claim such deduction in respect of the same spouse, parent or grandparent, the deduction shall be apportioned in such manner as appears to the Comptroller to be reasonable.

[24/2000]

(5) For the purposes of subsection (3), a claim for deduction shall only be granted if the claim contains such particulars and is supported by such proof as the Comptroller may require.

[1/88]

(6) Where in any year an individual has made contributions to the Central Provident Fund in respect of additional wages paid to him in that year, no such deduction shall include any contributions in respect of that part of the additional wages which exceeds \$25,000 paid to him in that year, except

—
(a) where all his ordinary wages paid in that year do not exceed \$60,000 and his total wages paid in the same year do not exceed \$85,000; or

(b) where all his ordinary wages paid in that year do not exceed \$60,000 but his total wages paid in the same year exceed \$85,000, the contributions on that part of his total wages up to \$100,000 shall be allowed as a deduction.

[23/90]

(7) Where in any year an individual is employed by 2 or more employers and the employers are related to each other within the meaning of section 10C (9), subsection (6) shall apply, with the necessary modifications, as if all the ordinary and additional wages from those related employers were paid by one employer.

(8) Subsections (6) and (7) shall apply, with the necessary modifications, to contributions made by an individual to an approved pension or provident fund as if those contributions were contributions made to the Central Provident Fund; except that subsection (6) (a) and (b) shall only apply to an approved pension or provident fund designated by the Minister for this purpose.

(9) Where in any year an individual has made contributions to the Central Provident Fund or to a pension or provident fund designated under subsection (8), in addition to any other approved pension or provident fund, no deduction shall be allowed in respect of the whole of the contributions made to that approved pension or provident fund.

(10) For the purposes of subsection (2) (g), where in any year an individual has made contributions (not being contributions under section 7 (2) of the Central Provident Fund Act (Cap. 36)) to the

Central Provident Fund in respect of overseas ordinary wages or overseas additional wages paid to him by any relevant employer in that year, no deduction shall be allowed for any contributions in respect of overseas ordinary wages or overseas additional wages arising from sources outside Singapore.

(11) In the case of a woman resident in Singapore who, in the year immediately preceding the year of assessment, is —

(a) living with her husband;

(b) married and her husband is not resident in Singapore; or

(c) married but separated from her husband, a divorcee or a widow and who, in the year immediately preceding the year of assessment, has any unmarried child or children living with her in the same household in Singapore in respect of whom she may be allowed a deduction under subsection (2) (e),

there shall be allowed a deduction against her earned income equal to twice the amount of levy imposed under the Employment of Foreign Workers Act (Cap. 91A) (excluding any amount paid by way of penalty) and paid in the year immediately preceding the year of assessment in respect of one domestic servant employed by her or her husband.

[20/91]

(12) Where an individual has commenced a new trade, business, profession, vocation or employment within 2 years of assessment from the year of assessment relating to the year in which he completed any course of study or attended any seminar or conference on or after 1st January 2003 (other than those referred to in subsection (2) (k) or where a deduction in respect of which has been allowed under section 14) which is related to the new trade, business, profession, vocation or employment, there shall be allowed to him on due claim a deduction of the amount incurred by him on the fees for such course, seminar or conference (including examination, tuition and registration fees), subject to a maximum deduction of \$3,500 and the following conditions:

(a) the individual is resident in Singapore in the year of assessment in which he makes the claim;

(b) the claim is made within 2 years of assessment from the year of assessment relating to the year in which he completed the course or attended the seminar or conference; and

(c) the claim is made in the year of assessment relating to the year in which he commences the new trade, business, profession, vocation or employment or in the year of assessment immediately following that year of assessment.

[21/2003]

(13) In this section —

"additional wages" has the same meaning as in the Central Provident Fund Act (Cap. 36);

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

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

"NOR individual" has the same meaning as in section 13N (7);

"operationally ready national serviceman" means any person who has completed national service under the Enlistment Act (Cap. 93) or been deemed to have completed such service by the proper authority;

"ordinary wages" has the same meaning as "ordinary wages for the month" in the Central Provident Fund Act (Cap. 36);

"overseas additional wages", "overseas ordinary wages", "overseas total wages" and "relevant employer" have the same meanings as in section 10C (12);

"proper authority" means such person as the Minister may appoint;

"total wages", in relation to any year, means the total of the ordinary and additional wages in that year received by an employee;

"year" means any year from 1st January to 31st December.

[7/85; 28/92; 11/94; 28/96]

Relief for non-resident citizens and certain other non-residents

40. —(1) Any individual who in any year of assessment is not resident in, but is a citizen of,

Singapore shall be allowed such relief, if any, as will reduce the amount of tax payable by him in respect of that year to an amount which bears the same proportion to the amount of tax which would be so payable if he were resident in Singapore in that year, and if the tax were charged on his aggregate income, reduced by any deductions which would be allowable under section 39 (except subsections (2) (k) and (12) thereof), as the amount of his assessable income (other than specified income) bears to his aggregate income.

[4/75;31/86;3/89;28/96;21/2003]

(2) The amount of tax which would be so payable if the person referred to in subsection (1) were resident in Singapore for the purposes of this section shall be ascertained in accordance with the rates of tax specified in Part C of the Second Schedule.

[7/79;11/94]

(3) Any individual who, in any year of assessment, is neither resident in nor a citizen of Singapore shall, if the tax payable by him in respect of that year is attributable in whole or in part to any pension, be entitled to a like relief to that conferred by subsection (1), but as if —

(a) the reference in that subsection to the amount of tax payable by him in respect of that year were a reference to so much only of that amount as is attributable to the pension; and

(b) the reference therein to his assessable income (other than specified income) were a reference to so much only of that income as is so attributable.

(4) Any individual who, in any year of assessment, is neither resident in, nor a citizen of, Singapore, but is resident in another country, which pursuant to any arrangements entered into under section 49, affords to individuals who are residents of Singapore the same personal allowances, reliefs and reductions as are afforded to citizens of that country not resident in that country, shall be entitled to a like relief to that conferred by subsection (1).

(5) In this section —

"aggregate income" means the sum total of all income (other than specified income), whether accruing in, derived from or received in Singapore or elsewhere, computed in accordance with the provisions of this Act other than section 39;

"pension" means any pension or annuity derived from Singapore and payable either in respect of services rendered or pursuant to the provisions or rules of an approved pension or provident fund or society;

"specified income" means any income of a person not resident in Singapore which is subject to tax at the rate specified in section 43 (3), (3A) and (4) (a).

[28/96; 37/2002]

(6) For the purposes of this section —

(a) relief under section 48 shall be left out of account in computing the amount of tax payable by an individual; and

(b) relief under sections 48, 50 and 50A shall be left out of account in computing the amount of tax which would be payable by an individual if he were resident in Singapore, and charged to tax, as mentioned in subsection (1).

[11/94]

Relief for non-resident public entertainers

40A. —(1) This section shall apply to a person who, in any year of assessment, is not resident in Singapore and who derives income as a public entertainer or derives such income and income from any other source in the year preceding that year of assessment which does not include —

(a) any withdrawal from his SRS account deemed to be income subject to tax under section 10L; or
(b) income from the exercise of any other employment in Singapore.

[24/2001]

(2) Any person to whom this section applies shall, if the tax payable by him in respect of that year is attributable to income derived as a public entertainer, be allowed relief in respect of that year in the following manner:

- (a) where the only source of income in Singapore is such activity as a public entertainer, by reduction of the rate of tax to 15% on every dollar of the chargeable income;
- (b) where such person possesses any other source of income in Singapore and the total assessable income exceeds the statutory income attributable to such activity as a public entertainer, by reduction of the rate of tax to 15% on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to such activity as a public entertainer bears to the total assessable income;
- (c) where such person possesses any other source of income in Singapore and the total assessable income is equal to or less than the statutory income attributable to such activity as a public entertainer, by reduction of the rate of tax to 15% on every dollar of the chargeable income.

[24/2001]

(3) Where any person is entitled to relief under this section and is also entitled to relief under section 40 (1) or (4), he shall be entitled to whichever relief is the greater in respect of the income to which this section relates.

[24/2001]

(4) In this section —

"public entertainer" means a stage, radio or television artiste, a musician, an athlete or an individual exercising any profession, vocation or employment of a similar nature;

"statutory income attributable to such activity as a public entertainer" means the statutory income derived from such source ascertained in accordance with section 35 (1);

"total assessable income" means the remainder of the statutory income of any person after the deduction allowed under section 37 (3) (a) has been made.

[48/70; 24/2001]

Relief for non-resident employees

40B. —(1) This section shall apply to a person who, in any year of assessment, is not resident in Singapore and who derives income from the exercise of any employment in Singapore or derives such income and income from any other source in the year preceding that year of assessment which does not include —

- (a) any withdrawal from his SRS account deemed to be income subject to tax under section 10L; or
- (b) income derived as a public entertainer within the meaning of section 40A.

[24/2001]

(2) Any person to whom this section applies shall, if the tax payable by him in respect of that year is attributable to income derived from the exercise of an employment in Singapore, be allowed relief in respect of that year in the following manner:

- (a) where the only source of income in Singapore is such activity as a non-resident employee, by reduction of the rate of tax to 15% on every dollar of the chargeable income;
- (b) where such person possesses any other source of income in Singapore and the total assessable income exceeds the statutory income attributable to such activity as a non-resident employee, by reduction of the rate of tax to 15% on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to such activity as a non-resident employee bears to the total assessable income;
- (c) where such person possesses any other source of income in Singapore and the total assessable income is equal to or less than the statutory income attributable to such activity as a non-resident employee, by reduction of the rate of tax to 15% on every dollar of the chargeable income.

[24/2001]

(3) The relief available to any person under subsection (2) shall be so limited that the tax payable in respect of such income shall not be less than that which would be payable by a resident of Singapore in the same circumstances.

[24/2001]

(4) Where any person is entitled to relief under this section and is also entitled to relief under section 40 (1) or (4), he shall be entitled to whichever relief is the greater in respect of the income to which this section relates.

[24/2001]

(5) In this section —

"non-resident employee" means an individual who has exercised an employment in Singapore for such period of time as not to qualify for the status of a resident and includes an individual who is in receipt of leave pay attributable to a period of employment in Singapore but excludes a director of a company;

"statutory income attributable to such activity as a non-resident employee" means the statutory income derived from such source ascertained in accordance with section 35 (1);

"total assessable income" means the remainder of the statutory income of any person after the deduction allowed under section 37 (3) (a) has been made.

[26/73; 24/2001]

Relief for non-resident SRS members

40C. —(1) This section shall apply to a person who, in any year of assessment, is not resident in Singapore and who makes any withdrawal from his SRS account which is deemed to be income subject to tax under section 10L or derives such income and income from any other source in the year preceding that year of assessment which does not include —

(a) income from the exercise of any employment in Singapore; or

(b) income derived as a public entertainer within the meaning of section 40A.

[24/2001]

(2) Any person to whom this section applies shall, if the tax payable by him in respect of that year of assessment is attributable to withdrawals from his SRS account, be allowed relief in respect of that year of assessment in the following manner:

(a) where the withdrawals from his SRS account are his only source of income, by reduction of the rate of tax to 15% on every dollar of the chargeable income;

(b) where the person possesses any other source of income in Singapore and the total assessable income exceeds the statutory income attributable to the withdrawals from his SRS account, by reduction of the rate of tax to 15% on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to the withdrawals from his SRS account bears to the total assessable income;

(c) where the person possesses any other source of income in Singapore and the total assessable income is equal to or less than the statutory income attributable to the withdrawals from his SRS account, by reduction of the rate of tax to 15% on every dollar of the chargeable income.

[24/2001]

(3) The relief available to any person under subsection (2) shall be so limited that the tax payable in respect of such income shall not be less than that which would be payable by a resident of Singapore in the same circumstances.

[24/2001]

(4) Where any person is entitled to relief under this section and is also entitled to relief under section 40 (1) or (4), he shall be entitled to whichever relief is the greater in respect of the income to which this section relates.

[24/2001]

(5) In this section —

"statutory income attributable to the withdrawals from his SRS account" means the statutory income of a person derived from such source as ascertained under section 35 (1);

"total assessable income" means the remainder of the statutory income of a person after the deduction allowed under section 37 (3) (a) has been made;

"withdrawals from his SRS account" means all withdrawals from the SRS account of a person which are deemed to be income subject to tax under section 10L.

[24/2001]

Relief for non-resident deriving income from activity as public entertainer and employee, etc.

40D. —(1) This section shall apply to a person who, in any year of assessment, is not resident in Singapore and who derives income from 2 or more of the following sources (referred to in this section as relevant income) in the year preceding that year of assessment —

- (a) income derived as a public entertainer within the meaning of section 40A;
- (b) income from the exercise of any employment in Singapore; and
- (c) any withdrawal from his SRS account.

[24/2001]

(2) Any person to whom this section applies shall, if the tax payable by him in respect of that year of assessment is attributable to the relevant income, be allowed relief in respect of that year of assessment in the following manner:

- (a) where he only derives the relevant income in Singapore, by reduction of the rate of tax to the rate specified under section 40A, 40B or 40C, as the case may be, on every dollar of the chargeable income attributable to the source of income referred to in subsection (1) (a), (b) or (c), respectively;
- (b) where the person possesses any other source of income in Singapore and the total assessable income exceeds the statutory income attributable to the sources giving rise to the relevant income, by reduction of the rate of tax to —

- (i) the rate of tax specified in section 40A (2) on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to such activity as a public entertainer bears to the total assessable income;

- (ii) the rate of tax specified in section 40B (2) on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to such activity as a non-resident employee bears to the total assessable income; and

- (iii) the rate of tax specified in section 40C (2) on such part of the chargeable income as bears the same proportion to the total chargeable income as the statutory income attributable to the withdrawals from his SRS account bears to the total assessable income;

- (c) where the person possesses any other source of income in Singapore and the total assessable income is equal to or less than the statutory income attributable to the sources giving rise to the relevant income, by reduction of the rate of tax to —

- (i) the lowest of the rates specified under sections 40A (2), 40B (2), 40C (2) and 43 (1) (b), as the case may be, on every dollar of the chargeable income or the amount of statutory income attributable to that source which is subject to tax at that lowest rate, whichever is the less;

- (ii) the second lowest of the rates specified under sections 40A (2), 40B (2), 40C (2) and 43 (1) (b), as the case may be, on every dollar of the chargeable income in excess of the statutory income taxed at the lowest rate, or the amount of statutory income attributable to that source which is subject to tax at that second lowest rate, whichever is the less; and

- (iii) the third lowest of the rates specified under sections 40A (2), 40B (2), 40C (2) and 43 (1) (b), as the case may be, on every dollar of the chargeable income in excess of the statutory income taxed at the other 2 lower rates, or the amount of statutory income attributable to that source which is subject to tax at that third lowest rate, whichever is the less.

[24/2001]

(3) The relief available to any person under subsection (2) shall be so limited that the tax payable in respect of such income referred to in subsection (1) (b) or (c), shall not be less than that which would be payable by a resident of Singapore in the same circumstances.

[24/2001]

(4) For the purposes of computing the tax payable by a resident of Singapore in the same circumstances referred to in subsection (3), the statutory income derived as a public entertainer by a person to whom this section applies shall be excluded.

[24/2001]

(5) Where any person is entitled to relief under this section and is also entitled to relief under section 40 (1) or (4), he shall be entitled to whichever relief is the greater in respect of the income to which this section relates.

[24/2001]

(6) In this section —

"non-resident employee" has the same meaning as in section 40B;

"public entertainer" has the same meaning as in section 40A;

"statutory income attributable to such activity as a non-resident employee" has the same meaning as in section 40B;

"statutory income attributable to such activity as a public entertainer" has the same meaning as in section 40A;

"statutory income attributable to the withdrawals from his SRS account" has the same meaning as in section 40C;

"total assessable income" means the remainder of the statutory income of a person after the deduction allowed under section 37 (3) (a) has been made;

"withdrawals from his SRS account" has the same meaning as in section 40C.

[24/2001]

Proof of claims for deduction or relief

41. —(1) Every individual who claims any deduction or relief under this Part shall make his claim on the proper form.

(2) Such deduction or relief shall be granted if the claim contains such particulars and is supported by such proof as the Comptroller may require.

PART XI

RATES OF TAX

Rates of tax upon individuals

42. —(1) Subject to subsections (2), (4) and (6), there shall be levied and paid for each year of assessment upon the chargeable income of every person (other than a company, a person not resident in Singapore, a trustee who is not the trustee of an incapacitated person, or an executor) tax in accordance with the rates specified in —

(a) Part A of the Second Schedule in respect of the chargeable income of an individual or Hindu joint family;

(b) Part B of the Second Schedule in respect of the chargeable income of a person other than an individual or Hindu joint family.

[7/79;1/88;37/2002]

(2) Without prejudice to section 50, the rate of tax applicable to the income of an individual or Hindu joint family received in Singapore from outside Singapore shall be determined by reference to that income together with all other income and shall be deemed to be the highest rate applicable to his total income.

[31/86;26/93;28/96]

(3) Where dividends are received by any institution, authority, person or fund specified in the First Schedule and such dividends are not exempt under section 13 (1) (e), the gross amount of the dividends shall be taxed at the same rate as is applicable to a company.

[1/88]

(4) Notwithstanding Part B of the Second Schedule, where the effective rate of tax of a person other than an individual determined by dividing the tax chargeable on his chargeable income by the amount of that income exceeds the effective rate of tax for companies as determined under subsection (5), the rate of tax applicable to that person on every dollar of his chargeable income shall be the effective rate of tax for companies as so determined.

[24/2001]

(5) For the purposes of subsection (4), the effective rate of tax for companies shall be determined in accordance with the formula

$$\frac{A}{B} \times 100\%,$$

where A is the tax chargeable on the chargeable income of the person for the year of assessment calculated in accordance with section 43 (6) as if the person is a company; and
B is the chargeable income of the person for the year of assessment.

[24/2001]

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

- (a) interest from qualifying debt securities;
- (b) discount from qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008; and
- (c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008.

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

- (a) any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2008;
- (b) any discount derived from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008; and
- (c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest, discount or amount payable, as the case may be, is derived by any body of persons —

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

(8) In this section —

"Islamic debt securities" has the same meaning as in section 43N (4);

"qualifying debt securities" and "related party" have the same meanings as in section 13 (16).

Rebate for second, third and fourth child of family

42A. —(1) Where an individual resident in Singapore has —

- (a) a legitimate second child of the family born to him; or
- (b) a second child of the family adopted by him under any written law relating to the adoption of children,

on or after 1st January 2004, there shall, in respect of that child, be allowed for the year of assessment immediately following the year of birth or adoption of that child, a rebate of \$10,000 against the tax payable by that individual; but where more than one individual is entitled to claim such rebate in respect of that child, the rebate shall be apportioned between them in such proportion as they may agree, or, in the absence of any agreement, in such manner as appears to the Comptroller to be reasonable.

(2) Where an individual resident in Singapore has —

- (a) a legitimate third or fourth child of the family born to him; or
- (b) a third or fourth child of the family adopted by him under any written law relating to the adoption of children,

on or after 1st January 2004, there shall, in respect of that child, be allowed for the year of assessment immediately following the year of birth or adoption of that child, a rebate of \$20,000 against the tax payable by that individual; but where more than one individual is entitled to claim such rebate in respect of that child, the rebate shall be apportioned between them in such proportion as they may agree, or, in the absence of any agreement, in such manner as appears to the Comptroller to be reasonable.

(3) For the purposes of subsections (1) and (2), where full effect cannot be given to the rebate in respect of any child by reason of an insufficiency of the tax payable by an individual for that year of assessment, the balance of the unabsorbed rebate shall be available for deduction against the tax payable by the individual for the year of assessment immediately following that year of assessment and any subsequent year of assessment.

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

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

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

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

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

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

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

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

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

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

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

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

(9) Where a marriage was dissolved by divorce or annulment before 1st January 2002 and an individual would, but for section 42A (3) (e) in force immediately before that date, have been entitled to claim any rebate or balance of the unabsorbed rebate under section 42A (1) or (2) in force immediately before 1st January 2005, such rebate or balance shall, subject to subsection 42A (4) (a) to (d) in force immediately before 1st January 2005, be available for deduction against the tax payable by that individual only on due claim by that individual after that date and only for any year of assessment from the year of the claim.

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

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

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

(11) In this section —

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

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

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

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

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

Rate of tax upon companies and others

43. —(1) Subject to section 40, there shall be levied and paid for each year of assessment upon the chargeable income of —

(a) every company, tax at the rate of 20% on every dollar of the chargeable income thereof;

(b) every person (other than a company) not resident in Singapore, trustee (other than the trustee of an incapacitated person) and executor, tax at the rate of 20% on every dollar of the chargeable income thereof.

[31/86;1/90;20/91;28/92;26/93;28/96;24/2001;37/2002]

(2) Where any trustee proves to the satisfaction of the Comptroller that any beneficiary of the trust is entitled to a share of the trust income, a corresponding share of the statutory income of the trustee may be charged at a lower rate or not charged with any tax, as the Comptroller shall determine.

(3) Notwithstanding anything in this Act but subject to subsection (3A), tax at the rate of 15% shall be levied and paid on the gross amount of —

(a) any income referred to in section 12 (6); and

(b) any income referred to in section 12 (7) (a), (b) and (d) but excluding the incomes specified in subsection (7),

accruing in or derived from Singapore on or after 28th February 1996 by a person not resident in Singapore which is not derived by the person from any trade, business, profession or vocation carried on or exercised by him in Singapore and which is not effectively connected with any permanent establishment in Singapore of the person.

[28/96]

(3A) Notwithstanding anything in this Act, tax at the rate of 10% shall be levied and paid on the gross amount of any income referred to in section 12 (7) (a) and (b) but excluding the incomes specified in subsection (7), accruing in or derived from Singapore on or after 1st January 2005 by a person not resident in Singapore which is not derived by the person from any trade, business, profession or vocation carried on or exercised by him in Singapore and which is not effectively connected with any permanent establishment in Singapore of the person.

(3B) Notwithstanding anything in this Act, tax at the rate of 10% shall be levied and paid on the gross amount of any distribution (except distribution made out of Singapore dividends) made during the period from 18th February 2005 to 17th February 2010 by a trustee of any real estate investment trust listed on the Singapore Exchange to a person (other than an individual) not resident in Singapore —

(a) who does not have any permanent establishment in Singapore; or

(b) who carries on any operation in Singapore through a permanent establishment in Singapore, where the funds used by that person to acquire the units in that real estate investment trust are not obtained from that operation.

(4) Notwithstanding anything in this Act but subject to subsection (5) and sections 13 (1) (r) and 40A, tax at the rate of 15% shall be levied and paid on the gross amount of any income accruing in or derived from Singapore on or after 3rd May 2002 from any profession or vocation carried on by —

(a) an individual not resident in Singapore and whose principal place of business is situated outside Singapore; or

(b) a foreign firm.

[37/2002]

(5) Any individual or foreign firm to which subsection (4) applies may make an irrevocable option to be taxed under subsection (1) (b) within 45 days from the date of payment of the income to the individual or firm or, where such payment was made before 10th December 2002, within 30 days after that date.

[37/2002;21/2003]

(6) Notwithstanding subsection (1) but subject to subsection (6A), for the year of assessment 2002 and subsequent years of assessment, there shall be levied and paid for each year of assessment upon the chargeable income of every company, tax at the rate prescribed in subsection (1) (a) on every dollar of the chargeable income thereof except that —

(a) for every dollar of the first \$10,000 of the chargeable income (excluding Singapore dividends), only 25% shall be charged with tax; and

(b) for every dollar of the next \$90,000 of the chargeable income (excluding Singapore dividends), only 50% shall be charged with tax.

[24/2001]

(6A) Notwithstanding subsections (1) and (6), for each of the first 3 years of assessment, falling within the years of assessment 2005 to 2009, of a qualifying company, there shall be levied and paid upon the chargeable income of the company tax at the rate prescribed in subsection (1) (a) on every dollar of the chargeable income thereof except that every dollar of the first \$100,000 of the chargeable income (excluding Singapore dividends) shall be exempt from tax.

(7) The incomes excluded under subsections (3) (b) and (3A) are —

(a) any royalty and other payments referred to in section 10 (14) or (16) which are derived by the person not resident in Singapore; and

(b) any payment to a person not resident in Singapore for the rendering of assistance or service in connection with the application or use of scientific, technical, industrial or commercial knowledge or information.

[28/96]

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

(9) Notwithstanding subsection (1) (a), the tax to be levied and paid upon such income of a life insurance company apportioned to the policyholders of the company as the Minister may by regulations specify shall be at the rate of 10% or such other prescribed rate.

[28/92]

(10) In this section —

"foreign firm" means an unincorporated body of 2 or more persons who have entered into partnership with one another with a view to carrying on business for profit and whose principal place of business is situated outside Singapore;

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

"gross amount" , in relation to any income referred to in subsections (3), (3A), (3B) and (4), means the full amount of the income without any deduction and relief being allowed against the income under the provisions of this Act;

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

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

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

"immovable property-related assets" means listed or unlisted debt securities and listed shares issued by property corporations, mortgage-backed securities, other property funds, and assets incidental to the ownership of immovable property;

"real estate investment trust" means a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Cap. 289) and offered to the public for subscription, and that invests or proposes to invest in immovable property and immovable property-related assets;

"Singapore dividends" means any dividend derived from Singapore from which tax is deducted or deductible under section 44.

Concessionary rate of tax for Asian Currency Unit, Fund Manager and securities company

43A. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate be levied and paid for each year of assessment upon such income derived before 1st January 2004 as the Minister may specify of —

(a) a financial institution with an Asian Currency Unit;

(b) a Fund Manager;

(c) a company holding a capital markets services licence under the Securities and Futures Act (Cap. 289) to deal in securities or that is exempted under that Act from holding such a licence, approved by the Minister or such person as he may appoint.

[1/88;42/2001;37/2002;21/2003]

(2) Regulations made under subsection (1) may provide for —

(a) exemption from tax of any income referred to in that subsection;

(b) exemption from tax of such income as the Minister may specify of —

(i) a bank licensed under the Banking Act (Cap. 19) or a merchant bank approved by the Monetary Authority of Singapore; and

(ii) a company approved under subsection (1) (c),

derived by it from any approved syndicated offshore credit or guarantee facility or any other syndicated offshore credit or guarantee facility made before 1st January 2004 which satisfies the prescribed criteria; and

(c) deduction of losses otherwise than in accordance with section 37 (3).

[31/98;32/99;21/2003]

Special rate of tax for non-resident shipowner or charterer or air transport undertaking

43B. Notwithstanding section 43, where the tax authority of a foreign country taxes the profits derived by a person resident in Singapore from carrying on the business of a shipowner or charterer or of air transport at a rate which exceeds the rate prescribed by section 43, the Minister may direct that the profits derived in Singapore from the carrying on of such business by a non-resident person who is resident in that foreign country be charged to tax at a rate similar to that charged by the tax authority of that foreign country.

[37/75]

Exemption and concessionary rate of tax for insurance and reinsurance business

43C. —(1) Notwithstanding section 43, the Minister may by regulations provide for —

- (a) tax at the rate of 10% or such other concessionary rate to be levied and paid for each year of assessment upon the income derived by an insurer approved by the Minister or such person as he may appoint from carrying on offshore life business within the meaning of section 26 or the business (other than the business of life assurance) of insuring and reinsuring offshore risks;
- (b) exemption from tax of any income derived by an insurer approved by the Minister or such person as he may appoint from insurance and reinsurance business (other than the business of life assurance); and

(c) deduction of losses otherwise than in accordance with section 37 (3).

[21/2003]

(2) In this section, “insurer” means —

- (a) a company registered under the Insurance Act (Cap. 142) to carry on insurance business in Singapore; or
- (b) a person (including a partnership), other than an individual, permitted under the Insurance Act to carry on insurance business in Singapore under a foreign insurer scheme.

Concessionary rate of tax for offshore transactions on any market maintained by Singapore Exchange or its subsidiaries

43D. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of a futures member of the Singapore Exchange —

(a) derived from transactions in gold bullion or in any commodity or financial futures on any approved exchange or in any approved market with, or derived from any foreign exchange transaction with —

- (i) a bank licensed under the Banking Act (Cap. 19), or a merchant bank approved by the Monetary Authority of Singapore, which is a financial sector incentive company;
- (ii) another futures member of the Singapore Exchange;
- (iii) a person who is neither a resident of nor a permanent establishment in Singapore;
- (iv) a branch office outside Singapore of a company resident in Singapore; or
- (v) a foreign investor where such transaction is carried out through a financial sector incentive company;

(b) derived from transactions in any petroleum futures on any approved exchange with an oil trading company approved under section 43F;

(c) derived from transactions in derivatives products as approved by the Minister or such person as he may appoint and introduced during the period from 1st January 2002 to 31st December 2006, on any market maintained by the Singapore Exchange or its subsidiaries, with any of the persons mentioned in paragraph (a) (i) to (v) and any member of any securities market maintained by the Singapore Exchange Securities Trading Limited,

and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[13/84;1/90;28/92;26/93;32/99;24/2000;37/2002]

(2) Regulations made under subsection (1) may also provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income of any member of any securities market maintained by the Singapore Exchange Securities Trading Limited in respect of transactions described in subsection (1) (c).

[37/2002]

(3) In this section and sections 43A (2) (b), 43E, 43F, 43G, 43H, 43J, 43L, 43O, 43P, 43R and 43S, "approved" means approved by the Minister or such person as he may appoint.

[1/98;31/98;37/2002;21/2003]

(4) In this section —

"financial sector incentive company" has the same meaning as in section 43Q;

"futures member of the Singapore Exchange" means any company which holds membership of any class or description of a futures market, or of a clearing house for the futures market, maintained by the Singapore Exchange Limited or any of its subsidiaries.

Concessionary rate of tax for headquarters company

43E. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved headquarters company derived by it from —

(a) the provision of such qualifying services as may be prescribed to its offices, associated companies and other persons where such offices, associated companies and persons are outside Singapore; or

(b) such qualifying treasury, investment or financial activities as may be prescribed, and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[31/86;20/91]

(2) The concessionary rate of tax referred to in subsection (1) shall apply to an approved headquarters company —

(a) in respect of any qualifying service only where the qualifying service and the office, associated company or person to whom the service is rendered have been approved in relation to that headquarters company for such concessionary rate;

(b) in respect of any qualifying treasury, investment or financial activity only where the qualifying activity has been approved in relation to that headquarters company for such concessionary rate; and

(c) subject to such conditions as the Minister or such person appointed by him may impose.

[20/91]

(3) Regulations made under subsection (1) may provide for exemption from tax of income derived by an approved headquarters company from the provision of any qualifying service if —

(a) the qualifying service and the office, associated company or person to whom the service is rendered have been approved in relation to the approved headquarters company for the purposes of the exemption from tax; and

(b) the approved headquarters company has global responsibility for the provision of any qualifying service.

[32/99]

(4) In this section —

"associated company" , in relation to an approved headquarters company, means a company —

(a) the operations of which are or can be controlled, directly or indirectly, by that headquarters company;

(b) which controls or can control, directly or indirectly, the operations of that headquarters company; or

(c) the operations of which are or can be controlled, directly or indirectly, by a person or persons who control or can control, directly or indirectly, the operations of that headquarters company; "headquarters company" means a company carrying on the business in Singapore of providing management, technical or other supporting services to its offices outside Singapore or to its associated companies outside Singapore.

(5) For the purposes of subsection (4), a company shall be deemed to be an associated company in relation to an approved headquarters company if —

(a) at least 25% of the total number of its issued shares are beneficially owned, directly or indirectly, by the approved headquarters company; or

(b) at least 25% of the total number of the issued shares of the approved headquarters company are beneficially owned, directly or indirectly, by the first-mentioned company.

Concessionary rate of tax for oil trading company

43F. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate be levied and paid for each year of assessment upon such income as the Minister may specify of an approved oil trading company derived from such transactions in petroleum, petroleum products or petroleum futures as may be prescribed, and those regulations may provide for deduction of losses otherwise than in accordance with section 37 (3).

[1/90]

(2) In this section, "oil trading company" means a company carrying on a business of trading in petroleum, petroleum products or petroleum futures.

(3) No approval shall be granted under this section on or after 1st June 2001.

[37/2002]

Concessionary rate of tax for Finance and Treasury Centre

43G. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate be levied and paid for each year of assessment upon such income as he may specify of a company derived from —

(a) the operation of its approved Finance and Treasury Centre in respect of such qualifying activities carried out on its own account as may be prescribed; or

(b) such prescribed qualifying services as may be provided by its approved Finance and Treasury Centre to —

(i) its offices and associated companies outside Singapore; or

(ii) such of its offices and associated companies in Singapore as are approved on or after 18th February 2005,

and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[20/91]

(2) The concessionary rate of tax referred to in subsection (1) shall apply to an approved Finance and Treasury Centre —

(a) in respect of any qualifying service only where the qualifying service and the office or associated company to whom the service is rendered have been approved in relation to that Centre for such concessionary rate;

(b) in respect of any qualifying activity only where the qualifying activity has been approved in relation to that Centre for such concessionary rate; and

(c) subject to such conditions as the Minister or such person appointed by him may impose.

(3) In this section —

"associated company" , in relation to a company with an approved Finance and Treasury Centre, means a company —

(a) the operations of which are or can be controlled, directly or indirectly, by the company with the approved Centre;

- (b) which controls or can control, directly or indirectly, the operations of the company with the approved Centre; or
- (c) the operations of which are or can be controlled, directly or indirectly, by a person or persons who control or can control, directly or indirectly, the operations of the company with the approved Centre;

"Finance and Treasury Centre" means a division or department of a company which provides treasury, investment or financial services in Singapore for its offices or its associated companies.

(4) For the purposes of subsection (3), a company shall be deemed to be an associated company in relation to a company with an approved Finance and Treasury Centre if —

- (a) at least 25% of the total number of its issued shares are beneficially owned, directly or indirectly, by the company with the approved Centre; or
- (b) at least 25% of the total number of issued shares of the company with the approved Centre are beneficially owned, directly or indirectly, by the first-mentioned company.

Concessionary rate of tax for international commodity trading company

43H. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved international commodity trading company derived by it from such qualifying transactions in commodities or commodity futures as may be prescribed, and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[20/91]

- (2) In this section, "international commodity trading company" means a company carrying on the business of international trading of commodities other than petroleum or petroleum products.
- (3) No approval shall be granted under this section on or after 1st June 2001.

[37/2002]

Concessionary rate of tax for offshore leasing of machinery and plant

43I. —(1) Notwithstanding section 43, tax at the rate of 10% or such other concessionary rate as the Minister may by regulations prescribe shall be levied and paid for each year of assessment upon the income of a leasing company accruing in or derived from Singapore in respect of offshore leasing of any machinery or plant or such other activity as may be prescribed by regulations.

[20/91;31/98]

- (2) In determining the income of a leasing company from offshore leasing —
- (a) the allowances under section 19, 19A, 20, 21, 22 or 23 shall be taken into account notwithstanding that no claim for such allowances has been made;
- (b) the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of offshore finance leasing shall, subject to paragraph (c), only be deducted against the income from such leasing and any balance of the allowances shall not be available as a deduction against any other income or be available for transfer under section 37C;
- (c) where the leasing company ceases to derive income from offshore finance leasing in the basis period for any year of assessment, any balance of the allowances after the deduction in paragraph (b) shall be available as a deduction against any other income in accordance with regulations made under subsection (4);
- (d) the allowances under section 19, 19A, 20, 21, 22 or 23 in respect of offshore operating leasing shall firstly be deducted against the income from such leasing and any balance of the allowances shall, subject to paragraph (e), be deducted against the income from offshore finance leasing but not against any other income or be available for transfer under section 37C;
- (e) where the leasing company ceases to derive income from offshore operating leasing in the basis period for any year of assessment, any balance of the allowances after the deduction against the income from such leasing shall be available as a deduction against any other income in accordance with regulations made under subsection (4);

(f) the Comptroller shall determine the manner and extent to which allowances under section 19, 19A, 20, 21, 22 or 23 and any expenses and donations allowable under this Act are to be deducted;

(g) any losses incurred in respect of offshore finance leasing for any year of assessment shall, subject to paragraph (h), only be deducted against the income from offshore operating leasing but not against any other income or be available for transfer under section 37C for that year of assessment and any balance of the losses shall be available for deduction for any subsequent year of assessment in accordance with section 37 firstly against the income from offshore finance leasing and thereafter against the income from offshore operating leasing;

(h) where the leasing company ceases to derive income from offshore finance leasing in the basis period for any year of assessment, any losses under section 37 in respect of such leasing shall firstly be deducted against the income from such leasing and any balance of the losses shall be available as a deduction against any other income in accordance with regulations made under subsection (4);

(i) any losses incurred in respect of offshore operating leasing for any year of assessment shall, subject to paragraph (j), only be deducted against the income from offshore finance leasing but not against any other income or be available for transfer under section 37C for that year of assessment and any balance of the losses shall be available for deduction for any subsequent year of assessment in accordance with section 37 firstly against the income from offshore operating leasing and thereafter against the income from offshore finance leasing;

(j) where the leasing company ceases to derive income from offshore operating leasing in the basis period for any year of assessment, any losses under section 37 in respect of such leasing shall firstly be deducted against the income from such leasing and any balance of the losses shall be available as a deduction against any other income in accordance with regulations made under subsection (4).

[1/98;37/2002]

(3) Subsection (2) shall apply, with the necessary modifications, in determining the income of a leasing company from any activity prescribed by regulations made under subsection (1) as if such income were income from offshore operating leasing.

[31/98]

(4) The Minister may make regulations —

- (a) prescribing the manner and extent to which the allowances referred to in subsection (2) (c) or (e) or the losses referred to in subsection (2) (h) or (j) are to be deducted;
- (b) prescribing the manner and extent to which the allowance or loss referred to in subsection (8) (b) are to be deducted; and
- (c) generally for the determination of the income of a leasing company.

[1/98]

(5) Section 37B shall apply, with the necessary modifications, in relation to the deduction of allowances under section 19, 19A, 20, 21, 22 or 23 or losses under section 37 in respect of such part of the income of the leasing company as is subject to tax at the rate of tax under section 43 (1) (a) and of such part of the income of the leasing company as is subject to tax at the concessionary rate of tax under this section; and for the purpose of such application any reference in section 37B to income of a company subject to tax at a lower rate of tax or income of the company subject to tax at a lower rate of tax, as the case may be, shall be read as a reference to such part of the income of the leasing company as is subject to tax at the concessionary rate of tax under this section.

[1/98;37/2002]

(6) Notwithstanding subsection (1), a leasing company may, at any time, elect that the whole of its income accruing in or derived from Singapore in respect of offshore leasing of any machinery or plant shall be taxed at the rate prescribed by section 43 (1) (a).

[11/94]

(7) An election under subsection (6) shall be made by a leasing company by notice in writing to the Comptroller and shall be irrevocable.

[11/94]

(8) Where a leasing company has made an election under subsection (6) —

(a) subsections (1) to (5) shall not apply to the income of the leasing company for the year of assessment immediately following the year in which the election is made and for subsequent years of assessment; and

(b) any allowance or loss or the balance thereof which were not deducted against the income of the leasing company for any year of assessment during which the concessionary rate prescribed by subsection (1) applies shall be available as a deduction against its income for the first year of assessment to which paragraph (a) applies or for any subsequent year of assessment in such manner and extent as prescribed by regulations made under subsection (4).

[11/94;1/98]

(9) In this section —

"finance lease" has the same meaning as in section 10D (3);

"leasing company" means any company carrying on a business of leasing machinery or plant;

"offshore finance leasing" means the offshore leasing of any machinery or plant under any finance lease;

"offshore leasing" means the leasing of any machinery or plant, other than those which have been treated as though they had been sold pursuant to regulations made under section 10D (1), where such machinery or plant is used outside Singapore, and the payments under the lease —

(a) are in currencies other than Singapore dollars; and

(b) are not deductible against any income accruing in or derived from Singapore;

"offshore operating leasing" means the offshore leasing of any machinery or plant, other than offshore finance leasing.

[1/98]

Concessionary rate of tax for trustee company

43J. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved trustee company derived by it from such services as may be prescribed; and those regulations may provide for exemption from tax of any such income and for the deduction of losses otherwise than in accordance with section 37 (3).

[2/92]

(2) In this section, "trustee company" means —

(a) a company licensed as a trust company under the Trust Companies Act 2005; or

(b) a non-resident company incorporated outside Singapore having a branch in Singapore which provides services as a trustee or custodian.

[2/92]

Concessionary rate of tax for members of commodity futures exchange

43K. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of a member of a prescribed Commodity Futures Exchange derived from transactions in specified commodity futures on any specified exchange or in any specified market with —

(a) an Asian Currency Unit of a financial institution;

(b) another member of the prescribed Commodity Futures Exchange;

(c) a person who is neither a resident of nor a permanent establishment in Singapore; or

(d) a branch office outside Singapore of a company resident in Singapore,

and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[28/92]

(2) In this section —

"commodity" has the same meaning as in the Commodity Trading Act (Cap. 48A);

"Commodity Futures Exchange" means a body corporate approved as a Commodity Futures Exchange under section 5 of the Commodity Trading Act.

[28/92]

Concessionary rate of tax for art and antique dealers

43L. Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved company dealing in works of art, precious objects or antiquities on behalf of any person who is neither a resident of nor a permanent establishment in Singapore.

[26/93;32/95]

43M. (*Repealed by Act 21/2003*)

Concessionary rate of tax for income derived from debt securities

43N. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon —

- (a) interest derived by any company from any qualifying debt securities;
- (aa) discount derived by any company from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008;
- (ab) any amount payable to any company from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008;
- (b) income derived by any financial institution from trading in any debt securities during the period from 28th February 1998 to 31st December 2003; and
- (c) income derived by any financial institution during the period commencing from the first day of its basis period for the year of assessment 2001 to 31st December 2003 from —
 - (i) providing services as an intermediary in connection with any transaction involving interest rate or currency swaps; and
 - (ii) trading in interest rate or currency swaps.

[31/98;24/2000;21/2003]

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

- (a) any interest derived from any qualifying debt securities issued during the period from 10th May 1999 to 31st December 2008;
- (b) any discount from any qualifying debt securities which mature within one year from the date of issue of those securities and issued during the period from 27th February 2004 to 31st December 2008; and
- (c) any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, where 50% or more of the issue of those securities is beneficially held or funded, directly or indirectly, at any time during the life of the issue by related parties of the issuer of those securities and where such interest, discount or amount payable, as the case may be, is derived by —
 - (i) any company which is a related party of the issuer of those securities; or
 - (ii) any company where the funds used by such company to acquire those securities are obtained, directly or indirectly, from any related party of the issuer of those securities.

(3) Regulations made under subsection (1) may provide for exemption from tax of —

- (a) income derived before 1st January 2004 by any financial institution from arranging, underwriting or distributing any qualifying debt securities; and
- (b) income derived by a primary dealer from trading in any Singapore Government securities during the period from 27th February 1999 to 27th February 2008, and for deduction of losses otherwise than in accordance with section 37 (3).

[32/99;21/2003]

(4) In this section —

"debt securities" means bonds, notes, commercial papers, treasury bills and certificates of deposits;

“financial institution”, “qualifying debt securities” and “related party” have the same meanings as in section 13 (16);

"Islamic debt securities" means debt securities and trust certificates —

(a) which are endorsed by any *Shari'ah* council or body, or by any committee formed for the purpose of providing guidance on compliance with *Shari'ah* law; and

(b) the amounts payable from such securities and trust certificates are periodic and supported by a regular stream of receipts from underlying assets;

"primary dealer" means any financial institution specified in the First Schedule to the Government Securities Regulations (Cap. 121A, Rg 1);

"Singapore Government securities" means debt securities issued under the Government Securities Act (Cap. 121A), the Local Treasury Bills Act (Cap. 167) or any other written law;

[31/98; 32/99]

"trust certificates" means certificates evidencing beneficial ownership in underlying assets.

Concessionary rate of tax for cyber trading

43O. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% or such other concessionary rate shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved company derived by it from such qualifying electronic commerce transactions as may be prescribed.

[31/98]

(2) Regulations made under subsection (1) may provide for the deduction of losses of an approved company otherwise than in accordance with section 37 (3).

[31/98]

Concessionary rate of tax for global trading company

43P. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% or 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved global trading company derived by it from such qualifying transactions in commodities or commodities futures as may be prescribed, and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[37/2002;21/2003]

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

[21/2003]

(3) In this section, “global trading company” means a company carrying on the business of international trading of commodities or commodities futures, including petroleum and petroleum products.

[37/2002]

Concessionary rate of tax for financial sector incentive company

43Q. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 5% or 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify, derived on or after 1st January 2004 by a financial sector incentive company from such qualifying activities as may be prescribed, and those regulations may provide for the deduction of losses otherwise than in accordance with section 37 (3).

[21/2003]

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

[21/2003]

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

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

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

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

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

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

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

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

Concessionary rate of tax for commodity derivatives trading company

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

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

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

Concessionary rate of tax for income derived from securities lending or repurchase arrangement

43T. —(1) Notwithstanding section 43, the Minister may by regulations provide that tax at the rate of 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify of a qualifying securities lending or repurchase company derived by it on or after 18th February 2005 but before 1st January 2009 under a securities lending or repurchase arrangement.

(2) Regulations made under subsection (1) may provide for the conditions to be satisfied by a qualifying securities lending or repurchase company and for the deduction of losses otherwise than in accordance with section 37 (3).

(3) In this section —

"qualifying securities lending or repurchase company" means a company which has notified the Monetary Authority of Singapore for the purpose of this section;

"securities lending or repurchase arrangement" has the same meaning as in section 10N.

Concessionary rate of tax for income derived from organising or staging tourism event

43U. —(1) Notwithstanding section 43, tax at the rate of 10% shall be levied and paid for each year of assessment upon such income as the Minister may specify of an approved company incorporated or registered in Singapore derived by it on or after 1st April 2005 from organising or staging an approved tourism event, subject to such conditions as the Minister or such person appointed by him may impose.

(2) No approval shall be granted under this section after 31st March 2010.

(3) In this section, “approved” means approved by the Minister or such person as he may appoint.

PART XII

DEDUCTION OF TAX AT SOURCE

Deduction of tax from dividends of companies

44. —(1) Every company resident in Singapore which —

- (a) has paid dividend to any shareholder before 1st January 2003;
 - (b) has paid dividend to any shareholder at any time during the period from 1st January 2003 to 31st March 2003, and before paying the dividend, has not exercised an option under subsection (10); or
 - (c) at any time during the period from 1st April 2003 to 31st December 2007 —
 - (i) has paid dividend to any shareholder;
 - (ii) has a 44A balance of the company remaining on the day before the date of payment of the dividend after taking into account the tax assessed to be added to the 44A balance under section 44A (5); and
 - (iii) before paying the dividend, has not exercised an option under subsection (10),
- shall be entitled to deduct from the amount of dividend paid, tax at the relevant rate on every dollar of such dividend.

[37/2002;21/2003]

(2) Every company shall upon payment of a dividend from which tax has been deducted or is deductible, furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend; and where a dividend is deemed to have been received by a shareholder under section 10J (4) (b), such certificate shall also specify that the dividend is in respect of a share buyback through a special trading counter.

[24/2000;21/2003]

(3) The Minister may, if he is satisfied that it is expedient in the public interest to do so, authorise the Comptroller to pay a company to which subsection (1) applies in respect of such classes of its shareholders as the Minister may designate, a sum equal to the amount of tax which the designated company would be entitled to deduct under subsection (1) from dividends to be paid to the designated shareholders so as to enable the designated company to pay the dividends to those shareholders as if no tax had been deducted under that subsection.

[32/95;21/2003]

(4) Upon payment of a dividend by a company in any year of assessment before the year of assessment 2003 under subsection (1) (a) —

- (a) where such dividend is the first dividend paid in that year of assessment and where the amount of tax deducted under subsection (1) (a) exceeds the aggregate of the balance, if any, on 1st January of that year of assessment and any tax assessed during the period from 1st January of that year of assessment to the day before the date of payment of the dividend; or
- (b) where such dividend is the second or subsequent dividend paid in that year of assessment and where the amount of tax deducted under subsection (1) (a) exceeds the aggregate of the balance, if any, after the preceding dividend and any tax assessed during the period from the date of the payment of the preceding dividend to the day before the date of payment of the second or subsequent dividend,

a charge equal to the amount of such excess shall be paid to the Comptroller within 14 days from the date of payment of the dividend, and any amount of tax which remains unpaid on that date shall, notwithstanding section 85, be paid immediately to the Comptroller.

[1/88;37/2002]

(5) Where upon the payment of any dividend under subsection (1) (a) the aggregate of the balance, if any, after the date of payment of the preceding dividend and any tax assessed during the period from that date to the day before the date of payment of the first-mentioned dividend exceeds the tax deducted under subsection (1) (a) from the first-mentioned dividend, the excess shall be carried

forward as a balance to be set-off against the tax deducted from any ensuing dividend paid on or before 31st December 2002.

[1/88;37/2002]

(6) Upon payment of a dividend by a company during the period 1st January 2003 to 31st December 2007 from which tax has been deducted, whether the company is entitled to make the deduction or otherwise, the amount of tax deducted shall be deducted from the 44A balance of the company remaining on the day before the date of payment of the dividend, and in the event where the amount to be so deducted exceeds the said balance, a charge equal to the amount of such excess shall be paid to the Comptroller within 14 days from the date of payment of the dividend, and any amount of tax which remains unpaid on that date shall, notwithstanding section 85, be paid immediately to the Comptroller.

[37/2002]

(7) Upon the payment of any dividend referred to in subsection (1) (b) or (c), the 44A balance of the company, after deducting the tax deducted from the dividend, if any, remaining on the date of payment of the dividend, shall be carried forward as a balance to be set-off against the tax deducted from any ensuing dividend paid on or before 31st December 2007 so long as the company has not exercised an irrevocable option under subsection (10).

[37/2002;21/2003]

(8) For the purpose of subsection (6), where a dividend is paid by a company which has not been subjected to the provisions of section 44 in force immediately before 1st January 2003, or which has exercised an option under subsection (10) before payment of the dividend, the 44A balance of the company remaining on the day before the date of payment of the dividend shall be deemed to be nil.

[37/2002;21/2003]

(9) Subject to subsection (11), every company resident in Singapore which —

(a) whether has or has not, during the period from 1st January 2003 to 31st March 2003; or

(b) has, during the period from 1st April 2003 to 31st December 2007,

a 44A balance and has paid dividend at any time during those periods shall deduct tax from the dividend as provided under subsection (1) unless otherwise provided in this Act or unless the company has exercised an irrevocable option under subsection (10).

[37/2002]

(10) Any company to which subsection (9) applies may exercise an irrevocable option in writing not to deduct tax under subsection (1) and where such an option is made, the company shall not be entitled to deduct tax under subsection (1) upon the exercise of the option.

[37/2002;21/2003]

(11) Notwithstanding the exercise of an irrevocable option under subsection (10) by a company, section 44A shall continue to apply to the company.

[37/2002]

(12) Where at any date during the period from 1st April 2003 to 31st December 2007 a company which is resident in Singapore has not exercised an option under subsection (10), and the 44A balance of the company is reduced to nil, the company shall not be entitled to deduct tax from dividends under subsection (1) so long as the balance remains as nil on or after that date.

[37/2002]

(13) Where no charge is payable by a company under subsection (4) or (6) but the amount of tax deducted by the company under subsection (1) exceeds —

(a) the aggregate amount as computed under subsection (4) (a) or (b) less any amount of tax assessed on the company but not paid; or

(b) the amount as computed under subsection (6) less any amount of tax assessed on the company which formed part of the 44A balance of the company but not paid,

as the case may be, a sum equal to such excess shall be paid by the company to the Comptroller immediately on the date of payment of the dividend.

[37/2002]

(14) On the payment of any dividend from which tax has been deducted or is deductible, every company shall render to the Comptroller a statement, in such form as the Comptroller may direct, containing such particulars as may be required for the purpose of determining the balance, the 44A balance or charge immediately after the payment of the dividend.

[1/88;37/2002;21/2003]

(15) Without prejudice to subsection (14), within 3 months from the end of each year of assessment before the year of assessment 2008 or such longer period as the Comptroller may allow, every such company shall render to the Comptroller a statement, in such form as the Comptroller may direct, containing such particulars as may be required for the purpose of determining the balance or the 44A balance to be carried forward to the first day of the ensuing year of assessment.

[1/88;3/89;32/95;37/2002]

(16) Where any company has been convicted of an offence for failing to comply with subsection (15), the Comptroller may, by notice in writing, require the company to render to him, within such reasonable time as may be specified in the notice, the statement referred to in that subsection.

[28/92]

(17) Any charge or additional charge paid by a company to the Comptroller under subsection (4) shall be used to set-off any tax assessed on it subsequent to the charge or additional charge but before 1st January 2008 and the amount of such tax to be taken into account for computing the charge or balance under subsection (4) or (5) shall be reduced by the amount of the set-off.

[1/88;37/2002]

(18) Any charge or additional charge paid by a company to the Comptroller under subsection (6) shall only be used to set-off any tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in section 44A (5).

[37/2002]

(19) If any charge or additional charge referred to in subsection (4) or (6) or section 44A (8) is not paid to the Comptroller within the period prescribed for the payment of the charge, section 87 shall have effect in relation to the charge or additional charge, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of the charge or additional charge and penalties imposed thereon.

[37/2002]

(20) For the purposes of this section —

(a) subject to paragraph (b), where any dividend (other than any dividend paid by virtue of subsection (3)) has been paid under subsection (1) without deduction of tax, such dividend or part thereof, from which a company was entitled to deduct tax, shall be deemed to be a dividend of such a gross amount as after deduction of tax at the relevant rate applicable at the date of payment would be equal to the net amount paid; and a sum equal to the difference between such gross amount and the net amount paid shall be deemed to have been deducted from such dividend or part thereof as tax;

(b) where any dividend has been paid and any amount of the charge referred to in subsection (4) or (6) or any amount of tax payable referred to in subsection (4), (6) or (13) is not paid within 14 days from the date of payment of that dividend or by 31st December of the year in which the dividend is paid, whichever is the later, the dividend shall be chargeable to tax on the basis of the net amount received by the shareholder;

(c) in relation to any company, the balance on 1st January of any year of assessment before the year of assessment 2003 shall be the aggregate of —

(i) the balance carried forward after the payment of the last dividend in the preceding year of assessment as computed in accordance with subsection (5); and

(ii) any tax assessed during the period from the date of the payment of that dividend to the end of the preceding year of assessment;

(d) in determining under subsection (4), (6) or (13) the amount of tax assessed and not paid, any payment made to the Comptroller shall be applied first to the payment of any penalties before the payment of tax;

(e) tax assessed excludes —

(i) tax assessed at the rate of 10% or such other rate as may be prescribed under section 43 (9); and

(ii) tax assessed at the rate of 10% or such other concessionary rate as may be prescribed under section 13H, 43A, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43N, 43O or 43P, or section 19B of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) in force immediately before the date of commencement of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2004 or section 19J of the Economic Expansion Incentives (Relief from Income Tax) Act;

(f) any balance or tax assessed which has been taken into account for the purpose of determining the charge or balance under subsection (4), (5), (6) or (7) upon the payment of any dividend shall be regarded as having been utilised for that purpose notwithstanding that no set-off has been allowed in respect of that dividend under section 46 (3); and

(g) relevant rate of tax —

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

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

[1/88;28/92; 26/93; 32/95;1/98; 31/98; 32/99;24/2000;24/2001;37/2002;21/2003]

Transitional provisions for company subjected to former imputation system

44A. —(1) This section shall —

(a) have effect from 1st January 2003 to 31st December 2007; and

(b) apply to all companies resident in Singapore which, before 1st January 2003, had been subjected to the provisions of section 44 in force immediately before that date.

[37/2002]

(2) Any excess carried forward by a company under section 44 (5) as at 31st December 2002 (referred to in this Act as the 44A balance) remaining as at any date during the period from 1st January 2003 to 31st December 2007 shall be computed in accordance with this section and section 44 (6).

[37/2002]

(3) Except as provided in subsections (5) and (12), any tax or additional tax assessed after 31st December 2002 on a company shall not be added to the 44A balance.

[37/2002]

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

(a) the amount of such dividend received by a shareholder shall be deemed to have been paid without deduction of tax and to be a dividend of such a gross amount as after deduction of tax at the rate of 20% would be equal to the net amount paid; and a sum equal to the difference between such gross amount and the net amount paid shall be deemed to have been deducted from the dividend as tax; and

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

(5) Notwithstanding subsection (3), where a company has furnished to the Comptroller an estimate of its chargeable income for the year of assessment 2003 on or before 31st March 2003, the tax assessed on or after 1st January 2003 on such chargeable income, after deducting any amount of such tax which is set-off under subsection (9) and section 44 (18), shall be added to the 44A balance of the company on the date such tax is assessed.

[37/2002]

(6) Where tax assessed on a company for any year of assessment is subsequently reduced at any time from 1st January 2003 to 31st December 2007 —

(a) the amount of tax reduced shall be deemed to be a reduction of tax for that year of assessment which has been previously assessed during the period from 1st January 2003 to the date of the reduction of tax (except for the tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in subsection (5)); and

(b) any remaining amount of tax reduced shall be deemed to be a reduction of tax for that year of assessment which has been assessed on or before 31st December 2002 and any tax assessed on the estimated chargeable income for the year of assessment 2003 referred to in subsection (5).

[37/2002]

(7) For the purpose of subsection (6), tax previously assessed during the period from 1st January 2003 to the date of the reduction of tax shall not include any amount of tax previously assessed which has been deemed to be tax restored under subsection (11) (b).

[37/2002]

(8) Where any amount of tax is deemed to be a reduction under subsection (6) (b), it shall be deducted from the 44A balance of the company remaining as at the day of the reduction, and where the amount to be so deducted exceeds the 44A balance, a charge or additional charge equal to the amount of such excess shall be paid by the company to the Comptroller within 14 days of the notice of charge or additional charge.

[37/2002]

(9) Any charge or additional charge paid by a company to the Comptroller under subsection (8) and any charge or additional charge payable under section 44 (6) in force immediately before 1st January 2003 shall be used to set-off any tax assessed prior to 1st January 2008 on it subsequent to the charge or additional charge.

[37/2002]

(10) Where any tax assessed after 31st December 2002 which has been set-off by any charge or additional charge paid by a company to the Comptroller under subsection (8), or section 44 (4) or (6) in force immediately before 1st January 2003, is subsequently reduced and the reduction is deemed to be a reduction under subsection (6) (a), the charge or additional charge paid under those subsections shall be restored by the amount of tax reduced, and the restored charge or additional charge shall be paid by the company to the Comptroller within 14 days from the date of the reduction of the tax assessed.

[21/2003]

(11) Where additional tax is assessed at any time from 1st January 2003 to 31st December 2007 on a company for any year of assessment subsequent to a reduction of tax during that period, the amount of additional tax assessed shall be deemed to be a restoration of the following:

(a) firstly, the amount of tax for that year of assessment previously deemed to be a reduction under subsection (6) (a); and

(b) secondly, where the amount of additional tax assessed for that year of assessment exceeds the amount referred to in paragraph (a), the amount of tax for that year of assessment previously deemed to be a reduction under subsection (6) (b),

and any remaining amount of additional tax assessed shall be an additional tax assessed which is not deemed to be tax restored in accordance with paragraphs (a) and (b) and shall not be added to the 44A balance of the company.

[37/2002]

(12) Where any amount of additional tax for a year of assessment is deemed to be tax restored under subsection (11) (b), such amount of additional tax, up to the aggregate of —

(a) the amount of such tax previously deducted from the 44A balance of the company under subsection (8); and

(b) the amount of such tax previously resulting in a charge or additional charge under subsection (8) which was used to set-off any subsequent tax assessed on estimated chargeable income for the year of assessment 2003 under subsection (5), after deducting any amount of such tax which is set-off under subsection (9) and section 44 (17) and (18), may upon the application of the company and subject to the submission of sufficient records and reconciliation of the additional tax to the Comptroller, be added back to the 44A balance of the company on the date which the additional tax is assessed.

[37/2002;21/2003]

(13) In this section, “tax assessed” and “relevant rate of tax” have the same meanings as in section 44 (20).

[37/2002]

Withholding of tax in respect of interest paid to non-resident persons

45. —(1) Where a person is liable to pay to another person not known to him to be resident in Singapore any interest which is chargeable to tax under this Act, the person paying the interest shall

—
(a) deduct therefrom tax at the rate of 20% or the rate specified in section 43 (3) or (3A), as the case may be, on every dollar of the interest; and

(b) immediately give notice of the deduction of tax in writing and pay to the Comptroller the amount so deducted,

and every such amount deducted shall be a debt due from him to the Government and shall be recoverable in the manner provided by section 89.

[37/75;31/86;1/90;20/91;28/92;26/93;28/96;24/2001;37/2002]

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

(2) The Comptroller may —

(a) if he thinks fit, allow any bank or financial institution to give notice of the deduction of tax and make payment of the amount so deducted within such other period and subject to such conditions as the Comptroller may determine;

(b) by notice in writing require any person who pays such interest to deduct and account for tax at a higher or lower rate than 20% or the rate specified in section 43 (3), as the case may be, on every dollar of such interest or permit such interest to be paid without deduction of tax.

[1/90;20/91;28/92;26/93;28/96;24/2001;37/2002]

(3) Where a person fails to make a deduction of tax which he is required to make under subsection (1) any amount which he fails to deduct shall be a debt due from him to the Government and shall be recoverable as such.

(4) If the amount of tax which is required to be deducted under subsection (1) is not paid to the Comptroller —

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

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

[26/93;21/2003]

(5) Without prejudice to any other provision of this Act, if any person after deducting the tax required to be deducted under subsection (1) fails to give notice of such deduction to the Comptroller by the time specified in subsection (4) (a), he shall be guilty of an offence and shall on conviction pay a penalty equal to 3 times the amount of tax so deducted and shall also be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

[26/93;21/2003]

(6) Where an individual has been convicted for 3 or more offences under this section the imprisonment he shall be liable to shall be not less than 6 months.

(7) The Comptroller may —

(a) compound an offence under subsection (5) and may before judgment stay or compound any proceedings thereunder; and

(b) for any good cause remit the whole or any part of the penalty payable under subsection (4).

(8) For the purposes of this section —

(a) the manager or principal officer of a company shall be answerable for doing all such acts, matters and things as are required to be done by the company under this section; and

(b) interest shall be deemed to have been paid by a person to another person although it is not actually paid over to the other person but is reinvested, accumulated, capitalised, carried to any reserve or credited to any account however designated, or otherwise dealt with on behalf of the other person.

(9) This section shall not apply to any interest derived from any qualifying debt securities issued during the period from 27th February 1999 to 31st December 2008, subject to such conditions as the Minister may impose.

[32/99;21/2003]

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

[32/99]

Application of section 45 to royalties, management fees, etc.

45A. —(1) Section 45 (1) to (8) shall apply in relation to the payment of any income referred to in section 12 (6) or (7) by any person to another person not known to him to be resident in Singapore as those provisions apply to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of such application, any reference in those provisions to interest shall be construed as a reference to the income referred to in section 12 (6) or (7).

[5/77;1/88]

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

(2A) Subsection (1) shall not apply to any amount payable from any Islamic debt securities which are qualifying debt securities, and issued during the period from 1st January 2005 to 31st December 2008, subject to such conditions as the Minister may impose.

(3) In this section —

"Islamic debt securities" has the same meaning as in section 43N (4);

"qualifying debt securities" has the same meaning as in section 13 (16).

Application of section 45 to non-resident director's remuneration

45B. —(1) Section 45 shall apply in relation to the payment of any remuneration by a company to any director of the company who is not resident in Singapore as those provisions apply to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of such application, any reference in those provisions to interest shall be construed as a reference to such remuneration.

[7/79]

(2) For the purposes of this section and section 45C, the references to interest therein shall be read as references to interest which is subject to deduction of tax at the rate of 20% on every dollar of the interest.

[28/96;24/2001;37/2002]

Application of section 45 to distribution by unit trust

45C. —(1) Section 45 shall apply in relation to any distribution made by a unit trust which is deemed to be income under section 10 (19), (20) and (21) as that section applies to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of

such application, any reference in that section to interest shall be construed as a reference to such distribution.

[23/90;32/95]

(2) Subsection (1) shall not apply to any distribution which is made on or after 28th February 1998 by a designated unit trust or an approved CPF unit trust referred to in section 35 (12).

[31/98]

Application of section 45 to gains from real property transaction

45D. —(1) Where any person whose income arising from the disposal of any real property is chargeable to tax under section 10 (1) (a) is a non-resident person, any designated person shall, before paying to the non-resident person any money which is the whole or part of the consideration for the disposal of the real property, notwithstanding any other written law, immediately deduct therefrom tax at the rate of 15% on every dollar of such payment.

[37/2002]

(2) Any designated person who has deducted any money under subsection (1) shall immediately give notice of the deduction of tax in writing to the Comptroller and shall, notwithstanding any other written law, pay the amount so deducted to the Comptroller by the 15th day of the month following the month in which the deduction was made and every such amount shall be a debt due from him to the Government and shall be recoverable in the manner provided under section 89.

[37/2002;21/2003]

(3) Section 45 (2) to (8) shall apply, with the necessary modifications, to any designated person as those provisions apply to any person referred to therein.

[37/2002]

(4) For the purpose of payment of any tax due from any income which is chargeable to tax under section 10 (1) (a) in respect of any disposal of any real property which is owned by 2 or more persons as joint owners, the designated person deducting the tax shall retain such amount as is presumed under subsection (5) to be owned by any non-resident person and pay over the tax due from such amount to the Comptroller.

[37/2002]

(5) It shall be presumed, until the contrary is proved, that the persons who own any real property as joint owners shall share the proceeds of disposal of the real property in equal shares.

[37/2002]

(6) In this section —

"designated person" , in relation to any disposal of any real property —

(a) in the case where an advocate and solicitor acts for the buyer of the real property in such disposal, means that advocate and solicitor; and

(b) in any other case, means the buyer of the real property;

"land" includes land of any tenure wherever situated in Singapore, whether or not held apart from the surface, and buildings or parts thereof (whether completed or otherwise and whether divided horizontally, vertically or in any other manner) and tenements and hereditaments, corporeal and incorporeal, and any estate or interest therein;

"non-resident person" means a person who is not known to be resident in Singapore to the designated person;

"real property" , in relation to a disposal of which the income is chargeable to tax under section 10

(1) (a), means any land and any interest, option or other right in or over any land.

[37/2002]

Application of section 45 to withdrawals by non-citizen SRS members, etc.

45E. —(1) Subject to subsection (2), section 45 shall apply in relation to —

(a) any withdrawal made —

(i) under section 10L or after the balance (excluding any life annuity) remaining in the SRS account is deemed withdrawn under section 10L (6) or (7) by an SRS member who is not a citizen of Singapore from his SRS account; or

(ii) after the sum standing in the SRS account is deemed withdrawn under section 10L (9) by the legal personal representative of a deceased SRS member who is not a citizen of Singapore from the SRS account,

as that section applies to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of such application, any reference in that section to interest shall be construed as a reference to such withdrawal from the SRS account; and

(b) any payment of any penalty under section 10L (2) which is imposed on any SRS member and paid by an SRS operator to the Comptroller as that section applies to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purposes of such application, any reference in that section to interest payable shall be construed as a reference to the penalty so payable by the SRS operator to the Comptroller.

[24/2001]

(2) For the purpose of subsection (1) (a), where a withdrawal is made —

(a) under section 10L (3) or (8) or after the balance (excluding any life annuity) remaining in the SRS account is deemed withdrawn under section 10L (6) or (7) by an SRS member; or

(b) after the sum standing in the SRS account is deemed withdrawn under section 10L (9), section 45 shall apply only in relation to 50% of the amount withdrawn from the SRS account.

[24/2001]

(3) For the purposes of this section, the amount to be deducted under section 45 in respect of withdrawals from the SRS account of an SRS member —

(a) under subsection (1) (a), shall be the amount computed based on the rate specified in section 43

(1) (b); and

(b) under subsection (1) (b), shall be the total penalty deducted by the SRS operator from the amount so withdrawn from the SRS account.

[24/2001]

(4) Subject to subsection (5), this section shall not apply to any withdrawal by an SRS member who is not a citizen of Singapore if the amount of withdrawal from his SRS account in any year does not exceed the amount of contribution to his SRS account in that year.

[24/2001;37/2002]

(5) Where a deduction for SRS contributions has been allowed in any year to an SRS member who is not a citizen of Singapore under an assessment made under section 73 (1) (b) and within that year the SRS member applies to withdraw an amount up to the amount he has contributed in that year, the SRS operator shall release the amount applied to the SRS member after deducting tax at the rate specified in section 43 (1) (b) on every dollar withdrawn.

[37/2002]

Application of section 45 to income from profession or vocation carried on by non-resident individual, etc.

45F. —(1) Subject to subsection (2), section 45 shall apply in relation to the payment of any income accruing in or derived from Singapore on or after 3rd May 2002 from —

(a) any profession or vocation (other than that derived by any public entertainer as defined in section 40A) by any person to any individual referred to in section 43 (4) (a) not known to him to be resident in Singapore; or

(b) any profession or vocation by any person to any foreign firm referred to in section 43 (4) (b), as section 45 applies to any interest paid by a person to another person not known to him to be resident in Singapore and, for the purpose of such application, any reference in that section to interest shall be construed as a reference to such payment.

[37/2002]

(2) For the purpose of this section, the deduction of tax under section 45 shall be at the rate of 15%.

[37/2002]

Application of section 45 to distribution from any real estate investment trust listed on Singapore Exchange

45G. —(1) Subject to subsections (2) and (3) and such conditions as the Comptroller may impose, section 45 shall apply in relation to any distribution (except distribution out of Singapore dividends from which tax is deducted or deductible under section 44) made on or after 18th February 2005 by a trustee of any real estate investment trust listed on the Singapore Exchange —

(a) to any person (other than an individual) not known to the trustee to be resident in Singapore to whom section 43 (3B) applies; or

(b) to any other person not known to the trustee to be —

(i) an individual;

(ii) a company incorporated and resident in Singapore;

(iii) a branch in Singapore of a company incorporated outside Singapore that has obtained the Comptroller's approval for distributions to be made by the trust to it without deduction of tax; or

(iv) a body of persons incorporated or registered in Singapore, including a charity registered under the Charities Act (Cap. 37) or established by any written law, a town council, a statutory board, a co-operative society registered under the Co-operative Societies Act (Cap. 62) or a trade union registered under the Trade Unions Act (Cap. 333),

as that section applies to any interest paid by a person to another person not known to him to be resident in Singapore, and for the purpose of such application, any reference in that section to interest shall be construed as a reference to such distribution.

(2) For the purpose of subsection (1) (a), the deduction of tax under section 45 shall be at the rate of 10% on every dollar of such distribution made during the period from 18th February 2005 to 17th February 2010.

(3) For the purpose of subsection (1) (b), the deduction of tax under section 45 shall be at the rate specified under section 43 (1) (a) on every dollar of such distribution.

(4) Subsection (1) shall not apply to any distribution made by the trustee of the real estate investment trust where tax has been paid by the trustee of the trust on the income from which the distribution is made.

(5) In this section, "real estate investment trust" has the same meaning as in section 43 (10).

PART XIII

ALLOWANCES FOR TAX CHARGED

Tax deducted from dividends, interests, etc.

46. —(1) Any tax —

(a) which a person has deducted or is entitled to deduct from any dividend under section 44 or has deducted from any interest or other payment under section 45, 45A, 45C, 45D or 45E (1) (a) or has deducted from any remuneration under section 45B;

(b) applicable to the share to which any person is entitled in the income of a body of persons or trust;

(c) which a person has deducted from any payment under section 45F in respect of income accrued to or derived by any person who has made an option under section 43 (5); or

(d) which a trustee of a real estate investment trust has deducted from any distribution to any person referred to in section 45G (1) (b),

shall, when the income from which the tax has been deducted or when the share referred to in paragraph (b) is included in the chargeable income of any person, be set-off for the purpose of collection against the tax charged on that chargeable income.

[7/79;23/90;23/96;24/2001;37/2002]

(1A) For the purpose of subsection (1), the amount of tax deducted from a dividend under section 44 (1) to be set-off for the purpose of collection against the tax charged on the chargeable income of any person shall not exceed —

(a) the actual amount of tax deducted from the dividend received by that person; or

(b) the amount of tax to be deducted from the dividend in accordance with the proportion of his shareholding in the company, whichever is the lower.

[37/2002]

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

(3) Notwithstanding subsection (1), if any amount of the charge referred to in section 44 (4) or (6), or any amount of tax payable referred to in section 44 (4), (6) or (13) is not paid within 14 days from the date of payment of any dividend to which the charge or tax relates or by 31st December of the year in which the dividend is paid, whichever is the later, no set-off against tax under subsection (1) shall be allowed in respect of the whole of the dividend.

[37/2002]

(4) No set-off shall be allowed under subsection (1) in respect of any dividend paid to any person by virtue of section 44 (3).

[32/95]

(5) Notwithstanding section 93 (1), where any person for any year of assessment has paid tax by deduction under section 44 in respect of any dividend deemed to be received by him under section 10J (4) (b) and the amount of tax allowed to him as a set-off under subsection (1) is in excess of the amount of tax payable by him for that year of assessment, he shall not be entitled to a refund of an amount of tax equal to —

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

(b) the amount of set-off in excess, where the amount of set-off in excess is less than the amount of tax so deducted.

[24/2000]

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

[24/2000;37/2002]

Special allowance for interest received as trading receipts

47. —(1) A person who receives as trading receipts interest on any bonds, securities, stock or fund specified in the Fourth Schedule shall be entitled to a credit of one-half of the tax chargeable on the gross amount of such interest.

(2) The credit under subsection (1) shall not exceed the total amount of tax payable by him for that year of assessment on the gross amount of such interest which has been brought to charge.

PART XIV

RELIEF AGAINST DOUBLE TAXATION

Relief in respect of Commonwealth income tax

48. —(1) If any person resident in Singapore who has paid, by deduction or otherwise, or is liable to pay, tax under this Act for any year of assessment on any part of his income, proves to the satisfaction of the Comptroller that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Singapore paid or payable by him on that part of his income at a rate thereon to be determined as follows:

(a) if the rate of Commonwealth income tax does not exceed one-half of the rate of tax appropriate to his case under this Act in Singapore, the rate at which relief is to be given shall be the rate of Commonwealth income tax;

(b) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Act.

(2) If any person not resident in Singapore who has paid, by deduction or otherwise, or is liable to pay, tax under this Act for any year of assessment on any part of his income (other than specified income) proves to the satisfaction of the Comptroller that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Act on that part of his income at a rate to be determined as follows:

(a) if the rate of Commonwealth income tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be one-half of the rate of Commonwealth income tax;

(b) if the rate of Commonwealth income tax appropriate to his case exceeds the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Act exceeds one-half of the rate of Commonwealth income tax.

[28/96]

(3) Where a person is for any year of assessment resident both in Singapore and in a place or territory in which Commonwealth income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

(4) Any person granted relief from tax in Singapore under this section on any income shall not be given any tax credit under section 50A in respect of that income.

[26/93;21/2003]

(5) In this section —

"Commonwealth income tax" means any income tax charged under any law in force in any part of the Commonwealth (other than Singapore), the legislature of which has provided for relief in respect of tax charged on income both in that part and Singapore in a manner which appears to the Comptroller to correspond to the relief granted by this section;

"rate of tax" , when applied to tax paid or payable under this Act, means the rate determined by dividing the amount of the tax paid or payable on any income other than specified income for the year (before the deduction of the relief granted under this section) by the amount of the income (other than specified income) in respect of which the tax paid or payable under this Act has been charged for that year except that, where the income (other than specified income) which is the subject of a claim to relief under this section is computed by reference to the provisions of this Act on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Comptroller; and the rate of Commonwealth income tax shall be computed in a similar manner;

"specified income" means any income of a person not resident in Singapore which is subject to tax at the rate specified in section 43 (3), (3A), (3B) and (4) (a).

[28/96; 37/2002]

Double taxation arrangements

49. —(1) If the Minister by order declares that arrangements specified in the order have been made with the government of any country outside Singapore with a view to affording relief from double taxation in relation to tax under this Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect notwithstanding anything in any written law.

(2) Any arrangements made with the government of another country —

(a) may provide for liability to tax by one country and for exemption from tax by the other country;

- (b) may provide for exemption, wholly or partly and with or without conditions, from tax in either or both countries and for any income so exempted to be taken into account in determining the effective rate of tax to be applicable to other income;
- (c) may deem the source of income to be wholly or partly in either or both of such countries; and
- (d) may provide for the charge to tax by the country in which the source is deemed to be situated, of any income derived from such source.

[5/77]

(2A) In subsection (2) (b), “effective rate of tax” means the rate of tax as ascertained in accordance with the formula

$$\frac{A}{B + C}$$

where A is the tax payable before allowance of credit under any arrangements having effect under this section on B + C computed in accordance with the provisions of this Act;

B is the exempt income; and

C is the other income.

[5/77]

(3) While any such arrangements are in force with any country within the Commonwealth, section 48 shall cease to have effect as respects that country except in so far as the arrangements otherwise provide.

(4) Any order made under this section may be revoked by a subsequent order.

(5) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 6 shall not prevent the disclosure to any authorised officer of the government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(6) The Minister may make rules for carrying out the provisions of any arrangements having effect under this section.

Tax credits

50. —(1) This section shall have effect where, under arrangements having effect under section 49, tax payable in respect of any income in the territory with the government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Singapore.

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit; except that credit shall not be allowed against income tax for any year of assessment unless the person entitled to the income is resident in Singapore during that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Act and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 49) on the assessable income of the person entitled to the income by the amount of his assessable income.

[7/79;31/86;26/93;28/96]

(4) Without prejudice to subsection (3), the total credit to be allowed to a person for any year of assessment for foreign tax under all arrangements having effect under section 49 shall not exceed the total income tax payable by him for that year of assessment, excluding any tax payable by him under section 45.

(5) In computing the amount of the income —

(a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);

(b) where the income tax chargeable depends on the amount received in Singapore, that amount shall be increased by the appropriate amount of the foreign tax in respect of the income;

(c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit; but notwithstanding anything in paragraphs (a) and (b) a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Subsection (5) (a) and (b) shall apply to the computation of assessable income for the purposes of determining the rate mentioned in subsection (3), and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 49.

(7) Where —

(a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide, then, if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any year of assessment if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than 2 years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Singapore or elsewhere, nothing in this Act limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than 2 years from the time when all such assessments, adjustments and other determinations have been made, whether in Singapore or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

(11) Nothing in this section shall authorise the reduction of any tax payable on income accruing in or derived from Singapore by virtue of the allowance of any credit under this section.

[5/77]

(12) In this section —

"foreign tax" means any tax payable in that territory which under the arrangements is to be so allowed;

"income tax" means tax chargeable under this Act.

Unilateral tax credits

50A. —(1) Notwithstanding that there are no arrangements for the time being in force under section 49 with the government of any territory outside Singapore, tax credit under section 50 shall, subject to this section, be given to any person resident in Singapore for tax payable under the law of that territory in respect of —

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

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

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

- (ii) deductible against any income accruing in or derived from Singapore;
- (c) any dividend derived therefrom;
- (d) any income from employment therein; or
- (e) any profit derived from outside Singapore by a branch in that territory of a company resident in Singapore.

[26/93;37/2002;21/2003]

(2) Where any dividend in respect of which tax credit is given under subsection (1) (c) is paid by a company which is resident outside Singapore to a person resident in Singapore who owns not less than 25% of the total number of issued shares of the company paying the dividend, the tax credit shall take into account any tax paid by that company in the country in which it is resident in respect of its income out of which the dividend is paid.

(3) Where under arrangements for the time being in force under section 49 with the government of any territory outside Singapore no provision is made for tax credit in respect of income out of which any dividend is paid by a company resident in that territory, tax credit under section 50 in respect of such income shall be given to any person resident in Singapore who owns not less than 25% of the total number of issued shares of the company paying the dividend.

(4) Section 50 shall, with the necessary modifications, apply for the purposes of this section as if any territory to which this section and the regulations have effect were a territory with which arrangements have been made under section 49.

[21/2003]

(5) Any person granted any tax credit under subsection (1) on any income shall not be given any tax relief under section 48 or tax credit under section 50 in respect of that income.

[21/2003]

(6) The Minister may, in any particular case, waive the requirement of 25% share ownership referred to in subsections (2) and (3).

[32/95]

PART XV

PERSONS CHARGEABLE

Husband and wife

Income of wife

51. —(1) The income of a married woman shall for the purposes of this Act be charged in her own name.

(2) *Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.*

(3) *Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.*

(4) Any amount payable by way of alimony or allowance under any judicial order or written agreement of separation or under any decree of divorce shall be returned as the separate income of the person to whom it is paid.

(5) For the purposes of this Act, a married woman shall be treated as living with her husband unless

- (a) they are separated under an order of court of competent jurisdiction or by deed of separation;
- (b) they are in fact separated in such circumstances that the separation is likely to be permanent; or
- (c) she is, and her husband is not, resident in Singapore.

(6) *Deleted by Act 49/2004, wef 30/11/2004.*

Trustees, agents and curators

Chargeability of trustees, etc.

52. —(1) A receiver appointed by the court, a trustee, guardian, curator or committee, having the direction, control or management of any property or concern on behalf of any incapacitated person shall be chargeable to tax in like manner and to the like amount as such person would be chargeable if he were not an incapacitated person.

(2) This section shall not be construed to make any person chargeable to tax in respect of an incapacitated person, liable in such respect, for a greater amount of tax than that for which the incapacitated person would have been liable had no receiver, trustee, guardian, curator or committee been appointed.

Chargeability of agent of person residing out of Singapore

53. —(1) A person not resident in Singapore (referred to in this section as a non-resident person) shall be assessable and chargeable to tax either directly or in the name of his trustee, guardian, or committee, or of any attorney, factor, agent, receiver, branch or manager, whether such attorney, factor, agent, receiver, branch or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in Singapore and in the actual receipt of such income; except that in the case of any individual who is not resident in Singapore, no deduction shall be allowed under section 39 except in such manner as is provided by section 40.

(1A) A non-resident person shall be assessable and chargeable in respect of any income arising, directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch or manager.

(2) A non-resident beneficiary of the estate of a deceased person shall, where the estate is being administered in Singapore, be assessable and chargeable in respect of the income received by or distributed to him or applied to his benefit in the name of the executor of the estate as if the executor were an agent of the non-resident beneficiary.

(2A) Where a non-resident person carries on business with a resident person and it appears to the Comptroller that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person the course of business between those persons can be so arranged and is so arranged that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained the Comptroller may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provisions of this Act relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged.

(3A) The amount of the percentage under subsection (3) shall in each case be determined with regard to the nature of the business and shall, when determined by the Comptroller, be subject to appeal in accordance with the provisions of Part XVIII.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the non-resident person, or person chargeable as if he were an agent in pursuance of subsections (2A) and (3), in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-resident persons in circumstances which would make him chargeable in pursuance of subsections (2A) and (3) in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced outside Singapore by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Comptroller to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Comptroller of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

(7) The master of any ship and the captain of any aircraft owned or chartered by a non-resident person who is chargeable under section 12 (2) shall (though not to the exclusion of any other agent) be deemed the agent of such non-resident person for all the purposes of this Act.

(8) The income of any non-resident partner or partners from a partnership shall be assessable in the name of the partnership or of any resident partner or of any agent of the partnership in Singapore, and the tax charged thereon shall be recoverable by all means provided in this Act out of the assets of the partnership or from any partner or from any such agent.

Liability of person chargeable in respect of incapacitated person

54. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident person is chargeable, shall be answerable for all matters required to be done by virtue of this Act for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Liability of managers of companies or bodies of persons

55. The manager or principal officer in Singapore of every company or body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Act for the assessment of the company or body of persons and payment of tax.

Indemnification of representative

56. Every person answerable under this Act for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of the other person so much thereof as shall be sufficient to pay the tax; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Act.

Power to appoint agent

57. —(1) The Comptroller may by notice in writing, if he thinks it necessary, declare any person to be the agent of any other person.

(1A) The person declared the agent under subsection (1) shall be the agent of such other person for the purposes of this Act and may be required to pay any tax due from any moneys, including pensions, salary, wages or any other remuneration, which, at the date of the receipt of the notice or at any time during the period of 90 days thereafter, may be held by him for or due by him to the person whose agent he has been declared to be.

(1B) In default of payment under subsection (1A) the tax shall be recoverable from him in the manner provided by section 89.

[11/94]

(2) For the purposes of this section, the Comptroller may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any other person.

(3) Where any person declared by the Comptroller to be the agent of any other person under subsection (1) is aggrieved by such declaration he may, by notice in writing to the Comptroller

within 14 days, or within such further time as the Comptroller in his discretion may allow, object to the declaration.

(4) The Comptroller shall examine the objection and may cancel, vary or confirm the declaration.

(5) Where the objector is aggrieved by the Comptroller's decision upon his objection, he may appeal against such decision to the Board of Review and the provisions of Part XVIII shall apply with the necessary modifications.

(5A) For the purposes of payment of any tax due from any moneys referred to in subsection (1A) in a joint account at any bank or from the proceeds of sale of any immovable property owned by 2 or more persons as joint owners, the following provisions shall apply:

(a) the person declared by the Comptroller under subsection (1) to be the agent of any person who is an owner of such moneys shall —

(i) within 14 days of the receipt of the notice under subsection (1A), send a notice by registered post addressed to every owner of such moneys at the address last known to the agent informing the owner of such declaration; and

(ii) retain such amount of the moneys as is presumed under paragraph (b) to be owned by the person from whom tax is due and subject to paragraph (e) within 42 days of the receipt of the notice under subsection (1A) pay over the tax due from such amount to the Comptroller;

(b) it shall be presumed, until the contrary is proved, that the holders of a joint account at any bank shall have equal share of the moneys in the account as at the date of receipt of the notice under subsection (1A) and that the joint owners of any immovable property shall share the proceeds of sale of the property equally;

(c) any owner of such moneys who objects to the share presumed under paragraph (b) shall give notice of his objection in writing to the person declared to be the agent under subsection (1) within 28 days of the receipt of the notice of the agent under paragraph (a) (i), or within such further period as the Comptroller in his discretion may allow, and furnish proof as to his share of the moneys;

(d) where an objection under paragraph (c) has been received, the person declared to be the agent shall —

(i) retain the amount of such moneys referred to in paragraph (a) (ii) until such time as the Comptroller by notice under paragraph (e) informs him of his decision on the objection; and

(ii) inform the Comptroller of the objection within 7 days of the receipt of the objection;

(e) the Comptroller shall consider the objection and shall by notice in writing inform the person declared to be the agent of his decision and the agent shall, notwithstanding any appeal under paragraph (f), pay over any tax due from the share of moneys decided by the Comptroller as the amount, not exceeding the amount presumed under paragraph (b) to be the share of the person by whom the tax is payable, held by him for or due by him to the person; and

(f) any owner of such moneys aggrieved by the decision of the Comptroller under paragraph (e) may appeal against the decision to the Board of Review and the provisions of Part XVIII shall apply, with the necessary modifications, to the appeal.

[32/95]

(6) Any person making any payment to the Comptroller under this section shall be deemed to have been acting under the authority of the person by whom any tax is payable and is hereby indemnified in respect of such payment.

[11/94]

(7) In this section —

"joint account" means any account in the names of 2 or more persons but excludes any partnership account, trust account and any account where a minor is one of the joint account holders;

"tax" includes any penalty or any other money which a person is liable to pay to the Comptroller under this Act.

[11/94; 32/95]

Deceased persons

58. —(1) Where an individual dies, then as respects income arising before his death all rights and duties which would have attached to him, and any liability to be charged with or to pay tax to which he would have been subject under this Act if he had not died, shall pass to his executor, and the amount of any tax payable by the executor under this section shall be a debt due from and payable out of the estate of the deceased.

(2) Any assessment or additional assessment on any such income shall not be made later than the end of the third year of assessment following that in which the individual died.

(3) Where, by reason of the death of the individual, a trade, business, profession, vocation or employment ceases to be carried on or exercised by him or the income from any other source ceases, and section 35 applies, the executor of the individual shall be liable for the tax for which the individual would have been liable if he had not died but, except in the case of dividends, a cessation had taken place at the date of his death.

(4) In the case of an individual dying during the year preceding the year of assessment, if his executor distributes the estate before the commencement of the year of assessment, such executor shall pay any tax for that year of assessment at the rate or rates in force at the date of distribution of the estate, if the rate of tax for that year of assessment has not been varied at that date.

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

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

(2) Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to its shareholders unless he has made provision for the payment in full of any tax which may be found payable by the company.

Chargeability of joint trustees

60. Where 2 or more persons act in the capacity of trustees of a trust they may be charged jointly or severally with the tax with which they are chargeable in that capacity and shall be jointly and severally liable for payment of the same.

Hindu joint families

61. The income of a Hindu joint family shall for the purposes of this Act be assessed and charged on the manager or “karta” of such Hindu joint family and he shall be liable for payment of the tax accordingly.

PART XVI

RETURNS

Notice of chargeability and returns

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

(a) the person is chargeable under this Act; and

(b) in the case of a precedent partner or such other person referred to in section 71, each partner in the partnership is chargeable.

(2) The Comptroller may, in any notice made under subsection (1), exempt from liability to furnish returns such classes of persons not liable to pay tax as he thinks fit, and any person so exempted need not furnish a return under that subsection unless he is required by the Comptroller to do so under subsection (3).

[2/92]

(3) Notwithstanding subsection (1), the Comptroller may, by notice in writing, require any person to furnish to the Comptroller in such form and manner and within such reasonable time as the Comptroller may determine, with a return of income and such particulars as may be required for the purpose of ascertaining the income, if any, for which such person is chargeable under this Act.

[2/92]

(4) Deleted by Act 49/2004, wef 30/11/2004.

(5) Every person chargeable with tax for any year of assessment who has not been required within 3 months after the commencement of such year of assessment to make a return of his income for that year as provided in subsection (1) or (3) shall, within 14 days after the end of that period, give notice to the Comptroller that he is so chargeable.

[2/92]

(6) Any individual who arrives in Singapore during any year of assessment shall give such notice within one month of the date of his arrival.

(7) Deleted by Act 49/2004, wef 30/11/2004.

(8) Any person who fails or neglects without reasonable excuse to comply with any of the provisions of this section shall be guilty of an offence.

[2/92]

The basic rule: Singapore dollar to be used

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

Currency other than Singapore dollar to be used in certain circumstances

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

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

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

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

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

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

be —

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

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

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

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

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

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

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

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

(10) This section shall also have effect for accounting periods beginning before 1st January 2003 of a person which had been approved by the Comptroller to furnish tax computations and particulars of income with a return of income made under section 62 or 71 denominated in a functional currency other than Singapore dollar for those accounting periods.

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

(a) such transitional, supplementary and consequential matters as he may consider necessary or expedient; and

(b) generally giving effect to or for carrying out the purposes of this section.

Furnishing of estimate of chargeable income if no return is made under section 62

63. —(1) Every person carrying on or exercising any trade, business, profession or vocation who has not made a return under section 62 for any year of assessment shall, within 3 months after the end of the accounting period relating to that year of assessment, furnish to the Comptroller an estimate of his chargeable income.

[11/94]

(2) Any person who fails or neglects without reasonable excuse to furnish the estimate of his chargeable income as required under subsection (1) shall be guilty of an offence.

[11/94]

Comptroller may call for further returns

64. The Comptroller may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within a reasonable time limited by such notice fuller or further returns respecting any matter as to which a return is required by or under this Act.

Power to call for returns, books, etc.

65. —(1) For the purpose of obtaining full information in respect of any person's income, the Comptroller may give notice to such person requiring him within the time limited by such notice, which time shall not be less than 30 days from the date of service of such notice, to complete and deliver to the Comptroller any return specified in such notice and in addition or alternatively

requiring him to attend personally before the Comptroller and to produce for examination any document which the Comptroller may consider necessary.

[37/2002]

(2) In this section and section 65B —

"document" includes, in addition to a document in writing —

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

[37/2002]

Statement of bank accounts, assets, etc.

65A. The Comptroller may give notice in writing to any person requiring him to furnish within the time limited by such notice, not being less than 30 days from the date of service of such notice, a statement containing particulars of —

- (a) all banking accounts, whether current or deposit, business or private, in his own name or in the name or names of his wife or wives, or in any other name, in which he is or has been interested, or on which he has or has had power to operate, jointly or solely, and which are in existence or which have existed at any time during the period stated in the notice;
- (b) all savings and loan accounts, deposits, building society and co-operative society accounts, in regard to which he has, or has had, any interest or power to operate jointly or solely during the periods aforesaid;
- (c) all assets, other than those referred to in paragraph (a) or (b) which he and his wife or wives possess, or have possessed, during the period aforesaid;
- (d) all sources of income not referred to in paragraph (a), (b) or (c) and the income derived therefrom; and
- (e) all facts bearing upon his liability to income tax to which he is, or has been, liable.

Power of Comptroller to obtain information

65B. —(1) The Comptroller or any officer authorised by him in that behalf —

- (a) shall at all times have full and free access to all buildings, places, documents, computers, computer programs and computer software (whether installed in a computer or otherwise) for any of the purposes of this Act;
- (b) shall have access to any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers into readable and comprehensive format or text for any of the purposes of this Act;
- (c) shall be entitled —
 - (i) without fee or reward, to inspect, copy or make extracts from any such document, computer, computer program, computer software or computer output; and
 - (ii) at any reasonable time to inspect and check the operation of any computer, device, apparatus or material which is or has been in use in connection with anything to which this section applies;
- (d) may take possession of any such document, computer, device, apparatus, material, computer program or computer software where in his opinion —

- (i) the inspection, checking, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;
 - (ii) any such items may be interfered with or destroyed unless possession is taken; or
 - (iii) any such items may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or penalty, or in proceedings by way of an appeal against an assessment; and
- (e) shall be entitled to require —
- (i) the person by whom or on whose behalf the computer is or has been used, or any person having charge of, or otherwise concerned with the operation of the computer, device, apparatus or material to provide the Comptroller or officer with such reasonable assistance as he may require for the purposes of this section; and
 - (ii) any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purpose of this section.

[37/2002]

- (2) No person shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.
- (3) The Comptroller may require any person to give orally or in writing, as may be required, all such information concerning his or any other person's income or assets or liabilities as may be demanded of him by the Comptroller for the purposes of this Act.
- (4) In this section, "computer" and "computer output" have the same meanings as in the Computer Misuse Act (Cap. 50A).

[37/2002]

Failure to comply with notices issued by Comptroller

65C. Any person who fails or neglects without reasonable excuse to comply with any notice issued by the Comptroller under section 64, 65, 65A or 65B shall be guilty of an offence.

[4/75]

Returns to be deemed to be furnished by due authority

66. —(1) A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved.

(2) Any person signing any such return, statement or form shall be deemed to be cognizant of all matters therein.

Keeping of books of account and giving of receipts

67. —(1) Subject to subsection (3), every person carrying on or exercising any trade, business, profession or vocation —

(a) shall keep and retain in safe custody sufficient records for a period of 7 years from the year of assessment to which any income relates to enable his income and allowable deductions under this Act to be readily ascertained by the Comptroller or any officer authorised in that behalf by the Comptroller; and

(b) shall, if the gross receipts from such trade, business, profession or vocation in the preceding calendar year exceeded \$18,000 from the sale of goods, or \$12,000 from the performance of services, issue a printed receipt serially numbered for every sum received in respect of goods sold or services performed in the course of or in connection with such trade, business, profession or vocation, and shall retain a duplicate of every such receipt.

(2) Where a machine is used for recording sales a receipt may be dispensed with if the Comptroller is satisfied that —

(a) such machine automatically records all sales made; and

(b) the total of all sales made in each day is transferred at the end of the day to a record of sales.

[11/94]

(3) The Comptroller may by notice in writing to any person carrying on or exercising any trade, business, profession or vocation, or by a notice in the *Gazette* in respect of any class or description of any such person, prescribe —

(a) the form of the records to be kept under subsection (1) (a), and the manner in which such records shall be kept and retained; and

(b) the form of the receipts to be issued and the duplicates to be retained under subsection (1) (b), and the manner in which such receipts shall be issued and such duplicates shall be retained, and every such person shall be bound to comply with such notice.

(4) The Comptroller may waive all or any of the provisions of subsection (1) in respect of any person or records or any class or description of persons or records.

(5) In this section, “records” includes —

(a) books of account recording receipts or payments or income or expenditure;

(b) invoices, vouchers, receipts, and such other documents as in the opinion of the Comptroller are necessary to verify the entries in any books of account; and

(c) any records relating to any trade, business, profession or vocation.

Official information and secrecy, and returns by employer

68. —(1) The Comptroller may require any officer in the employment of the Government or of any public authority or body corporate constituted by statute to supply such particulars as may be required for the purposes of this Act and which may be in the possession of the officer.

(1A) No such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

(2) The Comptroller may, by notice published in the *Gazette*, require every employer to prepare and deliver to the Comptroller or any person specified in the notice, for any year specified in the notice and within the time limited thereby, a return in such form as the Comptroller may determine containing —

(a) the names and places of residence of such classes of persons employed by him as may be specified in the notice; and

(b) the full amount of remuneration, whether in cash or otherwise, paid or payable to those persons in respect of such employment,

and every employer shall be bound to comply with any such notice within the time for compliance limited thereby.

[32/95]

(2A) It shall not be necessary to deliver nil returns under subsection (2).

(2B) Where an employer has granted an individual, other than a director to whom subsection (2C) applies, any right or benefit to acquire shares in any company incorporated in Singapore, the employer shall submit a return in such form and manner specified in subsection (2) including any gain or profit derived by the individual as computed under section 10 (6), notwithstanding that the individual has ceased to be employed by him at the time the gain or profit is derived.

[37/2002]

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

(3) Where the employer is a company or a body of persons, the manager or principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

(4) Where an employer commences to employ in Singapore an individual who is or is likely to be chargeable to tax under section 10 (1) (b), he shall give notice thereof in writing to the Comptroller

not later than 3 months after the date of commencement of such employment, stating the full name and address of the individual, the date of commencement and the terms of employment.

(5) Where an employer ceases or is about to cease to employ in Singapore an individual who is not a citizen of Singapore and who is or is likely to be chargeable to tax under section 10 (1) (b), he shall give notice thereof in writing to the Comptroller not later than one month before such individual ceases to be employed in Singapore, stating the name and address of the individual and the expected date of cessation.

[28/80]

(6) The employer of any individual who is chargeable to tax under section 10 (1) (b) and who is to the knowledge of such employer about to leave or intending to leave Singapore for any period exceeding 3 months shall give notice in writing to the Comptroller of the expected date of departure of such individual. Such notice shall be given not later than one month before the expected date of departure.

[28/80]

(6A) Subsection (6) shall not apply in the case of an individual who is required in the course of his employment to leave Singapore at frequent intervals or who is a citizen of Singapore.

(7) Where an employer has in his possession any moneys whatsoever which are or may be payable to or for the benefit of an employee who has ceased or is about to cease to be employed by him in Singapore he shall not, without the permission of the Comptroller, pay any part of such moneys to or for the benefit of such employee until the expiry of 30 days after the receipt by the Comptroller of such notice as is required to be given under subsection (5).

(8) Where any person ceases or is about to cease being a partner, and such person is likely to be chargeable to tax in Singapore, the partners present in Singapore shall, unless it is impracticable to do so, give one month's notice in writing to the Comptroller before such person ceases to be a partner, stating the name and address of such person and the expected date of such person ceasing to be a partner.

(9) Where any partner is leaving or intending to leave Singapore for any period exceeding 3 months and is likely to be chargeable to tax in Singapore, the partners present in Singapore shall, unless it is impracticable to do so, give one month's notice in writing to the Comptroller of the expected date of departure of such partner.

(10) Subsection (9) shall not apply in the case of a partner who is required in the course of his business to leave Singapore at frequent intervals.

(11) Where any person who has ceased or is about to cease being a partner in Singapore has moneys due or payable to him from the partnership, the partners present in Singapore shall not, without the written permission of the Comptroller, pay such moneys or any part thereof to that person.

(12) The Comptroller may under subsections (5), (6), (8) and (9) accept such shorter notice as he may consider reasonable.

Lists to be prepared by representative or agent

69. Every person who, in whatever capacity, is in receipt of any money or value being income arising from any of the sources mentioned in this Act or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Singapore and not an incapacitated person, shall whenever required to do so by any notice from the Comptroller, prepare and deliver within the period mentioned in the notice a return signed by him, containing —

- (a) a true and correct statement of all such income; and
- (b) the name and address of every person to whom the income belongs.

Occupiers to furnish return of rent payable

70. The Comptroller may give notice in writing to any person who is the occupier of any land or premises requiring him to furnish within the time limited by such notice, not being less than 30 days from the date of service of such notice, a return containing —

- (a) the name and address of the owner of such land or premises or the name and address of the person to whom he pays rent therefor; and

(b) a true and correct statement of the rent payable and any other consideration passing in respect of such occupation.

Return to be made by partnership

71. —(1) Where a trade, business, profession or vocation is carried on by 2 or more persons jointly, the precedent partner, that is to say, the partner who, of the partners personally present in Singapore

—
(a) is first named in the agreement of partnership;

(b) if there is no agreement, is specified by name or initial singly or with precedence to the other partners in the usual name of the firm; or

(c) is the precedent acting partner if the partner named with precedence is not an acting partner, shall, when required by the Comptroller by notice in writing or by notice published in the *Gazette* under section 62 (1), make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Act, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the income to which each partner was entitled for that year.

[2/92]

(2) Where no partner is personally present in Singapore, the return shall be made and delivered by the attorney, agent, manager or factor of the firm in Singapore.

71A. Deleted by Act 49/2004, wef 30/11/2004.

PART XVII

ASSESSMENTS AND OBJECTIONS

Comptroller to make assessments

72. —(1) The Comptroller shall proceed to assess every person chargeable with tax as soon as may be after the expiration of the time allowed to such person for the delivery of the return provided for in section 62.

(2) Where a person has delivered a return, the Comptroller may —

(a) accept the return and make an assessment accordingly; or

(b) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and make an assessment accordingly.

(3) Where a person has not delivered a return and the Comptroller is of the opinion that such person is liable to pay tax, the Comptroller may, according to the best of his judgment, determine the amount of the chargeable income of such person and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

Advance assessments

73. —(1) Notwithstanding section 72, where —

(a) in any year of assessment a person ceases to carry on a trade, business, profession, vocation or employment; or

(b) the Comptroller is of the opinion that any person possessing a source of income is about to leave Singapore and is likely to cease to possess that source in the year of assessment in which he leaves Singapore or in the following 2 years,

the Comptroller may make such assessment or additional assessments as may be necessary to bring to charge the full amount of the income from all sources derived or to be derived by such person up to the year in which the source of income ceases or is likely to cease.

(2) Where the income of a person is ascertained under section 27, the Comptroller may make an assessment in respect of any income of such person within the year in which the income is deemed to accrue.

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

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

(3) The Comptroller may, if he thinks fit, at any time during any year make an assessment in respect of the income derived by any person carrying on or exercising any trade, business, profession or vocation up to that year.

[11/94]

(3A) In making an assessment under subsection (3), the Comptroller may have regard to the estimate of chargeable income furnished under section 63 or he may make an assessment according to the best of his judgment where such estimate of chargeable income has not been furnished or has been rejected by him.

[5/77]

(4) Where the Comptroller has exercised his powers to make an advance assessment under this section, such assessment shall be made on the assumption that —

(a) the provisions of this Act in force during the year of assessment in which such assessment is made will continue in force for the year of assessment for which such assessment is made; and

(b) if such person so assessed is an individual, the personal circumstances of that person will be the same in the year of assessment as they were when such assessment is in fact made.

(5) If it appears to the Comptroller that by reason of such assumption an advance assessment so made has become less favourable to that person than it would have been if made under section 35 (1), he shall amend such assessment as to him seems reasonable.

(6) Nothing in this section shall affect the Comptroller's right to make any additional assessment due to any change of circumstances and without prejudice to the generality of section 74.

Additional assessments

74. —(1) Where it appears to the Comptroller that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Comptroller may, within the year of assessment or within 6 years after the expiration thereof, assess that person at such amount or additional amount as according to his judgment ought to have been charged.

[11/94]

(2) Notwithstanding subsection (1), where, in the opinion of the Comptroller, any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, the Comptroller may, for the purpose of making good any loss of tax attributable to fraud or wilful default, assess that person at any time.

(3) The provisions of this Act as to notice of assessment, appeal and other proceedings under this Act shall apply to any assessment or additional assessment made under subsection (1) or (2) and to tax charged thereunder.

(4) This section shall also apply, with the necessary modifications, to any assessment made under subsection (1) or (2) which results in any unabsorbed allowances or losses.

[32/99]

Revised assessments as relief for late GST registration

74A. Where —

(a) any person liable to tax, being required to be registered under the Goods and Services Tax Act (Cap. 117A), has failed to do so, and has been so registered on or after 1st December 2005; and

(b) his income chargeable to tax for any year of assessment relating to a basis period for which he ought to have been so registered includes an amount in respect of output tax paid or payable under the Goods and Services Tax Act,

the Comptroller shall according to the best of his judgment give, by way of revision of any assessment made on the person for that year of assessment, relief in respect of the amount so paid or payable.

Waiver of small assessments

75. Where it appears to the Comptroller that the amount of any tax or additional tax to which any person is liable does not exceed \$15 or such other amount as the Minister may by order prescribe, the Comptroller may waive the assessment of such tax.

[2/92]

Service of notices of assessment and revision of assessment

76. —(1) The Comptroller shall cause each person assessed to tax to be served, in accordance with section 8 (1), with —

(a) where tax is payable, a notice stating the amount of his chargeable income together with the amount of tax payable and the place at which such payment should be made; or

(b) where no tax is payable, a notice to that effect,

and in either case the Comptroller shall inform the person assessed to tax of his rights under subsections (2) and (3).

[32/99]

(2) If any person disputes the assessment, he may apply to the Comptroller, by notice of objection in writing, to review and to revise the assessment made upon him.

(3) Such application shall state precisely the grounds of his objections to the assessment and shall be made within 30 days from the date of the service of the notice of assessment.

(4) The Comptroller upon being satisfied that, owing to absence, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within the period referred to in subsection (3), shall extend the period as may be reasonable in the circumstances.

(5) On receipt of the notice of objection referred to in subsection (2), the Comptroller may —

(a) require the person giving the notice of objection to furnish such particulars as the Comptroller may consider necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income; and

(b) summon any person who he thinks is able to give evidence respecting the assessment to attend before him and may examine that person on oath or otherwise.

(6) In the event of any person who has objected to an assessment made upon him —

(a) agreeing with the Comptroller as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the revised assessment shall be served upon that person; or

(b) failing to agree with the Comptroller as to the amount at which he is liable to be assessed, the Comptroller shall, if any tax is payable, give him notice of refusal to amend the assessment as desired by that person and may revise the assessment to such amount as the Comptroller may determine, according to the best of his judgment, and the Comptroller shall give him notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment.

[32/99]

(7) Wherever requisite, any reference in this Act to an assessment or an additional assessment shall be construed as including a reference to an assessment or additional assessment as revised under subsection (6) (b).

Errors and defects in assessment and notice.

77. —(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if it is in substance and effect in conformity with or according to the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

- (2) An assessment shall not be impeached or affected —
- (a) by reason of a mistake therein as to —
- (i) the name or surname of a person liable;
- (ii) the description of any income; or
- (iii) the amount of tax charged; and
- (b) by reason of any variance between the assessment and the notice thereof.
- (3) In cases of assessment, the notice thereof shall be duly served on the person intended to be charged and such notice shall contain in substance and effect the particulars on which the assessment is made.

PART XVIII

APPEALS

Board of Review

78. —(1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a Board of Review (referred to in this Part as the Board) consisting of not more than 30 members appointed from time to time by the Minister.

[1/90]

- (2) Members of the Board shall hold office for such period as may be determined by the Minister and shall be eligible for re-appointment.
- (3) The Minister may at any time remove any member of the Board from office without assigning any reason.
- (4) A member may resign his office by notice in writing to the Minister.
- (5) The Minister may appoint from amongst the members of the Board —
- (a) a Chairman of the Board; and
- (b) such number of Deputy Chairmen of the Board as the Minister thinks fit.
- (6) No person may be appointed as Chairman of the Board or Deputy Chairman of the Board unless he is either qualified to be a District Judge or is an accountant.
- (6A) Meetings of the Board shall be presided by —
- (a) the Chairman of the Board;
- (b) in the absence of the Chairman of the Board —
- (i) where there is only one Deputy Chairman of the Board present, the Deputy Chairman; and
- (ii) where there is more than one Deputy Chairman of the Board present, such Deputy Chairman as may be chosen by the Deputy Chairmen present; and
- (c) where neither the Chairman of the Board nor any Deputy Chairman of the Board is present, such member of the Board as may be chosen by the members present.
- (7) The Minister may appoint a clerk or clerks to the Board and such other officers and employees of the Board as may be necessary.
- (8) All the powers, functions and duties of the Board may be exercised, discharged and performed by any committee of the Board consisting of not less than 3 members of the Board, at least one of whom shall be the Chairman of the Board or a Deputy Chairman of the Board.
- (9) Any act, finding or decision of any such committee shall be deemed to be the act, finding or decision of the Board.
- (10) The clerk shall, from time to time, summon such members of the Board as may be nominated by the Chairman to constitute a committee of the Board for the purposes of giving effect to the provisions of this Part, and it shall be the duty of such members to attend at the times and places specified in the summons.
- (10A) Meetings of a committee shall be presided by —
- (a) where the Chairman of the Board is a member of the committee, the Chairman;
- (b) where the Chairman of the Board is not a member of the committee and —

(i) there is only one Deputy Chairman of the Board on the committee, the Deputy Chairman; or
(ii) there is more than one Deputy Chairman of the Board on the committee, such Deputy Chairman as the Chairman may determine.

(10B) Where the Chairman of the Board or any Deputy Chairman of the Board, as the case may be, is absent from any meeting of a committee at which he ought under subsection (10A) to be presiding, the meeting shall be presided by —

(a) where there is only one Deputy Chairman who is a member of the committee present, the Deputy Chairman;

(b) where there is more than one Deputy Chairman who is a member of the committee present, such Deputy Chairman as may be chosen by the Deputy Chairmen present; and

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

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

(12) Members of the Board shall be entitled to receive such remuneration and such travelling and subsistence allowances as the Minister may determine.

(13) The Minister may make regulations —

(a) prescribing the manner in which appeals shall be made to the Board;

(b) prescribing the procedure to be adopted by the Board in hearing appeals and the records to be kept by the Board;

(c) prescribing the places where and the times at which appeals shall be heard by the Board;

(d) prescribing the fees to be paid in respect of any appeal under this Part;

(e) prescribing a scale of costs in respect of appeals to the Board; and

(f) generally for the better carrying out of the provisions of this Part.

Right of appeal

79. —(1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Comptroller in the manner provided in section 76 (6) may appeal to the Board by lodging with the clerk —

(a) within 7 days from the date of the refusal of the Comptroller to amend the assessment as desired, a written notice of appeal in duplicate; and

(b) within 30 days of the date on which such notice of appeal was lodged, a petition of appeal in quadruplicate containing a statement of the grounds of appeal.

(2) A notice of appeal shall contain —

(a) an address for service;

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

(c) the reasons for such objection.

(2A) An appellant shall not be entitled to object to the Chairman or any Deputy Chairman of the Board and to more than one-third of the total number of members of the Board.

(3) On receipt of a notice of appeal, the clerk shall forthwith forward one copy thereof to the Comptroller who may, within 3 days of the receipt of such copy, lodge with the clerk a list of any members of the Board to whom he objects and the reasons for such objection.

[7/79]

(3A) The Comptroller shall not be entitled to object to the Chairman or any Deputy Chairman of the Board and the number of members of the Board objected to by the Comptroller shall not, when added to the number objected to by the appellant, exceed one-half of the total number of members of the Board.

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

- (4A) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is valid, the member of the Board in respect of whom the objection was made shall not attend the hearing of the appeal of the appellant.
- (4B) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is not valid, the Chairman or Deputy Chairman shall reject that objection and inform the appellant or the Comptroller accordingly.
- (4C) Where an objection has been rejected by the Chairman of the Board or a Deputy Chairman of the Board under subsection (4B), the member of the Board in respect of whom that objection was made may attend the hearing of the appeal of the appellant.
- (4D) The decision of the Chairman of the Board or a Deputy Chairman of the Board under subsection (4) shall be final.
- (5) The Chairman of the Board may, in his discretion and on such terms as he thinks fit, permit any person to proceed with an appeal notwithstanding that the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section, if it is shown to the satisfaction of the Chairman that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on his part.
- (6) Except with the consent of the Board and on such terms as the Board may determine, an appellant may not at the hearing of his appeal rely on any grounds of appeal other than the grounds stated in his petition of appeal.

Hearing and disposal of appeals

- 80.** —(1) On receipt of a petition of appeal, the clerk shall forthwith forward one copy thereof to the Comptroller and shall, as soon as may be thereafter, fix a time and place for the hearing of the appeal and shall give 14 days' notice thereof both to the appellant and to the Comptroller.
- (2) The appellant and the Comptroller shall attend, either in person or by an advocate and solicitor or accountant, at such times and places as may be fixed for the hearing of the appeal.
- (3) If it is proved to the satisfaction of the Board that, owing to absence, sickness or other reasonable cause, any person is prevented from so attending, the Board may postpone the hearing of the appeal for such reasonable time as it thinks necessary.
- (4) The onus of proving that the assessment is excessive shall be on the appellant.
- (5) The Board shall have the following powers:
- (a) to summon to attend at the hearing of an appeal any person whom it may consider able to give evidence respecting the appeal, to examine such person as a witness either on oath or otherwise and to require such person to produce such books, papers or documents as the Board may think necessary for the purposes of the appeal;
- (b) to allow any person so attending any reasonable expenses necessarily incurred by him in so attending; such expenses shall form part of the costs of the appeal and, pending and subject to any order by the Board as to such costs, shall be paid by the appellant or the Comptroller, as the Board may direct;
- (c) all the powers of a District Court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt;
- (d) subject to section 79 (6), to admit or reject any evidence adduced, whether oral or documentary and whether admissible or inadmissible under the provisions of any written law for the time being in force relating to the admissibility of evidence.
- (6) Every person examined as a witness by or before the Board, whether on oath or otherwise, shall be legally bound to state the truth and to produce such books, papers or documents as the Board may require.
- (7) The costs of an appeal shall be in the discretion of the Board and shall either be fixed by the Board or, on the order of the Board, taxed by the Registrar or an Assistant Registrar of the Supreme Court in accordance with the scale prescribed by regulations made under section 78 (13).

(8) Where the Comptroller is awarded costs of an appeal, he shall be entitled to his full costs of the appeal, including a fee for any counsel appearing on his behalf in the appeal, and the amount of such costs shall be added to the tax charged and be recoverable therewith.

(9) Notwithstanding anything in section 85, the Board may, on the application of the Comptroller made at any time after notice of appeal has been given, require the appellant to furnish security, in such sum and within such time as may be specified, for payment of tax, and if security is not furnished in the sum and within the time specified, the tax assessed by the Comptroller shall become payable and recoverable forthwith.

(10) The Board may, after hearing an appeal, confirm, reduce, increase or annul the assessment or make such order thereon as it thinks fit.

(11) Where, under subsection (10), the Board does not reduce or annul the assessment, the Board may, if in its opinion the appeal was vexatious or frivolous, order the appellant to pay, as costs of the Board and in addition to any costs awarded to the Comptroller, a sum not exceeding \$250, which sum shall be added to the tax charged and be recoverable therewith.

(12) Every member of the Board, when and so long as he is acting as such, shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224) and shall enjoy the same judicial immunity as is enjoyed by a District Judge.

(13) All proceedings in appeals to the Board under this Act shall be deemed to be judicial proceedings within the meaning of the Penal Code (Cap. 224).

(14) Notice of the amount of tax payable under the assessment as determined by the Board shall be served by the Comptroller either personally or by registered post upon the appellant.

Appeals to High Court

81. —(1) Except as provided in this section, the decision of the Board shall be final.

(2) In any case in which the amount of tax payable, as determined by the Board (excluding the amount of any costs awarded) exceeds \$200, the appellant or the Comptroller may appeal to the High Court from the decision of the Board upon any question of law or of mixed law and fact.

(3) The procedure governing such appeals to the High Court shall be the same as for appeals to the High Court from decisions of District Courts in civil matters.

(4) The High Court shall hear and determine any such appeal and may confirm, reduce, increase or annul the assessment determined by the Board and make such further or other order on such appeal, whether as to costs or otherwise, as the Court may think fit.

(5) There shall be such further right of appeal from decisions of the High Court under this section as exists in the case of decisions made by that Court in the exercise of its original civil jurisdiction.

(6) The Rules Committee constituted and appointed under section 80 of the Supreme Court of Judicature Act (Cap. 322) may make rules regulating all matters relating to the costs of proceedings in appeals to the High Court or to the Court of Appeal under this section.

Cases stated for High Court

82. —(1) The Board may at any time and in regard to any appeal, with or without proceeding to the determination of the appeal, state a case on a question of law for the opinion of the High Court.

(2) A stated case shall set forth the facts and any finding of fact by the Board, the decision, if any, of the Board, and the question for the opinion of the High Court, and shall be signed by the officiating chairman or, in his absence, by any other member attending the sitting at which the appeal was heard.

(3) The clerk shall transmit the case, when stated and signed as aforesaid, to the High Court, and shall forward a copy thereof to the appellant and to the Comptroller.

(4) The High Court may cause a stated case to be sent back for amendment and thereupon the case shall be amended accordingly.

(5) In considering any stated case, the High Court shall afford opportunity for argument thereon to be put forward by or on behalf of the appellant and the Comptroller.

(6) The High Court shall hear and determine any question of law arising on a stated case and may in accordance with its decision thereon confirm, reduce, increase or annul any assessment determined

by the Board in the appeal, or may remit the case to the Board with the opinion of the Court thereon.

(7) Where a case is so remitted by the High Court, the Board shall be bound by the opinion of the Court and shall give effect thereto by its decision in the appeal or, as the case may be, by revising any previous decision made by it in the appeal to the extent, if any, to which that previous decision does not accord with the opinion of the Court.

Proceedings before Board and High Court

83. —(1) Subject to subsections (2) and (3), all proceedings before the Board and in appeals to, or in cases stated for the opinion of, the High Court under the provisions of this Part, and in appeals from decisions of the High Court under section 81 (5) shall be heard in camera.

[5/77]

(2) Where the Comptroller or the taxpayer applies to the Board or the High Court, as the case may be, that the proceedings be heard by way of a hearing open to the public, the Board or the Court may direct that the proceedings be so heard, notwithstanding any objection from the other party to the proceedings.

(3) Where in the opinion of the Board or the High Court any proceedings heard in camera ought to be reported, the Board or the Court may publish or authorise the publication of the facts of the case, the arguments and the decision relating to these proceedings without disclosing the name of the taxpayer concerned.

Assessments to be final and conclusive

84. —(1) Except as expressly provided in this Act, where no valid notice of appeal has been lodged within the time limited by this Part against an assessment, or where an assessment has been determined on appeal, the assessment as made or agreed to under section 76 (6), or determined on appeal, as the case may be, shall be final and conclusive for the purposes of this Act.

(2) Nothing in this section shall prevent the Comptroller from making any assessment or additional assessment under section 74 which does not involve reopening any matter which has been determined on appeal.

PART XIX

COLLECTION, RECOVERY AND REPAYMENT OF TAX

Time within which payment is to be made

85. —(1) Subject to section 91, tax for any year of assessment levied in accordance with the provisions of this Act shall, notwithstanding any objection or appeal against the assessment on which the tax is levied, be payable at the place stated in the notice given under section 76 within one month after the service of the notice.

[1/88]

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

[24/2000]

Recovery of tax from persons leaving Singapore

86. —(1) Where the Comptroller is of the opinion that any person is about or likely to leave Singapore without paying all tax assessed upon him, the Comptroller may issue a certificate containing particulars of such tax and a direction to the Commissioner of Police or the Controller of Immigration, or both, that such person be prevented from leaving Singapore without paying the tax or furnishing security to the satisfaction of the Comptroller for payment thereof.

(2) Subject to the provisions of any order issued or made under any law for the time being in force relating to banishment or immigration, the Commissioner of Police or the Controller of Immigration, or both, as the case may be, shall thereupon take, or cause to be taken by any police officer or immigration officer, such measures as may be necessary to prevent the person named in

the direction from leaving Singapore until payment of the tax has been made or secured as aforesaid, including the use of such force as may be necessary and, if appropriate, the detention of any passport, certificate of identity or travel document and any exit permit or other document authorising such person to leave Singapore.

(3) At the time of issue of the certificate, the Comptroller shall issue to such person a notification thereof by personal service or registered post; but the non-receipt thereof shall not invalidate any proceedings under this section.

(4) Payment of the tax to an officer in charge of a police station or to an immigration officer or production of a certificate signed by the Comptroller, a Deputy Comptroller or an Assistant Comptroller stating that the tax has been paid or secured as aforesaid shall be sufficient authority for allowing such person to leave Singapore.

(5) Any person who, knowing that a direction has been issued under this section for the prevention of his departure from Singapore, voluntarily leaves or attempts to leave Singapore without paying all tax assessed upon him or furnishing security to the satisfaction of the Comptroller for payment thereof shall be guilty of an offence and may be arrested, without warrant, by any police officer or immigration officer.

(6) No civil or criminal proceedings shall be instituted or maintained against the Government, the Commissioner of Police, the Controller of Immigration or any other police officer or immigration officer, in respect of anything lawfully done under the authority of this section.

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

[24/2000]

Penalty for non-payment of tax and enforcement of payment

87. —(1) Subject to subsection (2), if any tax is not paid within the periods prescribed in section 85

(a) a sum equal to 5% of the amount of tax payable shall be added thereto, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;

(b) the Comptroller shall serve a demand note upon the person assessed and if payment is not made within one month from the date of the service of such demand note, the Comptroller may proceed to enforce payment as hereinafter provided;

(c) notwithstanding paragraphs (a) and (b), if the amount of tax outstanding is not paid within 60 days of the imposition of the penalty as provided by paragraph (a), an additional penalty of 1% of the tax outstanding shall be payable for each completed month that the tax remains unpaid, but the total additional penalty shall not exceed 12% of the amount of tax outstanding, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such additional penalty;

(d) penalties imposed under paragraphs (a), (b) and (c) shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Act.

[26/73;1/88]

(2) The Comptroller may for any good cause shown remit the whole or any part of the penalty due under subsection (1).

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

[24/2000]

Change of address

88. —(1) Subject to subsection (2), every person liable to pay income tax under the provisions of this Act shall inform the Comptroller in writing of any change in his address.

[28/94]

(2) Where a person liable to pay income tax uses his residential address for the purposes of this Act, then, if he has changed his residential address and has made a report of the change under section 8 of the National Registration Act (Cap. 201) —

(a) he shall be deemed to have informed the Comptroller of the change of his residential address in compliance with subsection (1); and

(b) the new residential address as reported by him under section 8 of the National Registration Act shall, unless he informs the Comptroller in writing to the contrary, be deemed to be his last known address for the purpose of subsection (3).

[28/94]

(3) Any notice or process given or served upon any person by posting the same or a copy thereof by registered post to him at his last known address shall, notwithstanding section 8 (3), be deemed to have been duly given or served and shall be conclusive evidence of the fact of service.

Suit for tax by Comptroller

89. —(1) Notwithstanding the provisions of any other written law, tax, interest and any penalty imposed under this Act and any sum due to the Government under sections 44, 44A and 45, may be sued for by way of a specially endorsed writ of summons.

[24/2000;37/2002]

(2) The Comptroller may, in his own name, sue for any such tax, interest, penalty or other sum due and shall be entitled to all costs allowed by law against the person liable thereto.

[24/2000]

(3) The Comptroller may appear personally or by counsel in any suit instituted under this section.

(4) In any suit under this section, the production of a certificate signed by the Comptroller giving the name and address of the defendant and the amount of tax, interest or penalty due by him shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

[2/92;24/2000]

(5) In addition to any other powers of collection and recovery provided in this Act, the Comptroller may, with the approval of the Minister and, where the tax charged on the income of any person who carries on the business of shipowner or charterer or of air transport has been in default for more than 3 months, whether the person is assessed directly or in the name of some other person, issue to the Director-General of Customs, or other authority by whom clearance may be granted, a certificate containing the name or names of the person and particulars of the tax in default.

[4/2003]

(6) On receipt of such a certificate, the Director-General of Customs or other authority is hereby empowered and required to refuse clearance from any port, aerodrome or airport in Singapore to any ship or aircraft owned wholly or partly or chartered by that person until the tax has been paid.

[4/2003]

(7) No civil or criminal proceedings shall be instituted or maintained against the Government, the Director-General of Customs or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship or an aircraft is detained under this section affect the liability of the owner, charterer, or agent to pay harbour or other dues and charges for the period of detention.

[4/2003]

Statement of Comptroller sufficient

90. —(1) In any civil or criminal proceedings under this Act, every statement purporting to be under the hand of the Comptroller contained in the information, complaint, declaration or claim shall be prima facie evidence of the matter stated therein.

(2) This section shall apply to any matter so stated although —

(a) evidence in support or rebuttal of the matter stated or of any other matter is given; or

(b) the matter stated is a mixed question of law and fact, but in such case the statement shall be prima facie evidence of the fact only.

(3) This section shall not apply to —

(a) a statement of the intent of the defendant; or

(b) proceedings for an offence punishable by imprisonment.

Deduction of tax from emoluments and pensions

91. —(1) Where any income chargeable under section 10 (1) (b) or (e) is payable to any individual, deductions on account of tax which is or will be payable by him for any year of assessment shall, if the Comptroller so directs, be made out of the income or any arrears thereof.

(2) Subject to any rules made under section 7, deductions authorised by this section shall be made at such times and in such amounts as the Comptroller shall direct whether or not the tax has been assessed; except that if on the assessment becoming final and conclusive it appears that the deductions made exceed the tax payable, the tax overpaid by means of the previous deductions shall be repaid.

(3) Where any deduction has been made from the income so chargeable of any individual, he shall have the same right of objection or appeal against the deduction as he has against an assessment made upon him.

(4) Any amount deducted pursuant to any direction given by the Comptroller under this section shall be paid by the employer to the Comptroller within 10 days after the date of the deduction, and if any such amount is not paid —

(a) within that period of 10 days, a penalty equal to 5% of that amount shall be payable by the employer to the Comptroller;

(b) within one month after the date of the deduction, an additional penalty equal to 1% of that amount shall be payable by the employer to the Comptroller for each completed month that the amount remains unpaid, but the total additional penalty shall not exceed 12% of the amount outstanding.

[5/77]

(5) The Comptroller may for any good cause shown remit the whole or any part of the penalty due under subsection (4).

[5/77]

(6) If and so far as any such income is paid without deduction of tax as aforesaid, the tax may be collected and payment thereof enforced in accordance with sections 85, 86 and 87.

(7) For the purpose of section 85, the Comptroller shall determine the period within which the tax shall be payable.

(8) An employer who fails to comply with section 68 (7) shall be liable to pay the full amount of the tax which by reason of such failure cannot be recovered from such employee.

(9) The Comptroller shall apply any amount recovered by or paid to him in or towards payment of the tax payable by the employee.

(10) The employer may recover from the employee any amount which he has paid to the Comptroller or which has been recovered from him by the Comptroller under subsection (8).

(11) Any partner who fails to comply with section 68 (11) shall be liable to pay the amount of the tax which by reason of such failure cannot be recovered from the person who has ceased to be a partner.

(12) The liability of a remaining partner under subsection (11) shall not exceed the amount paid by that partner in contravention of section 68 (11).

(13) Nothing in subsection (11) shall preclude a partner who pays any amount of tax under that subsection from recovering such amount from the person who has ceased to be a partner.

Remission of tax

92. —(1) The Comptroller may remit, wholly or in part, the tax payable by any person on the ground of poverty.

(2) The Minister may, in his discretion, remit, wholly or in part, the tax payable by any person if he is satisfied that it is just and equitable to do so.

(3) Subject to rules made under subsection (4), there shall be remitted the tax payable by any company —

(a) for the year of assessment 2001, a sum equal to —

- (i) 50% on every dollar of the first \$25,500 of the specified tax payable by the company for that year of assessment; and
 - (ii) 5% on every dollar exceeding \$25,500 of the specified tax payable by the company for that year of assessment; and
 - (b) for the year of assessment 2002, a sum equal to 5% of the specified tax payable by the company for that year of assessment,
- where the Comptroller is satisfied that the remission of tax would be beneficial to the company.

[37/2002]

- (4) The Minister may make rules to provide for —
- (a) the exemption from tax of certain dividends received by a shareholder of a company which has been given the remission of tax under subsection (3) where the dividends are received by him from that company;
 - (b) the exemption from tax of certain dividends received by a shareholder of a company where the dividends are paid by the company out of any dividend which has been exempt from tax under this subsection;
 - (c) the computation of the amount of tax payable on any dividend derived from Singapore from which tax has been deducted under section 44 for the purposes of the remission under subsection (3); and
 - (d) generally giving effect to this section.

[32/99]

- (5) In this section, “specified tax payable”, in relation to a company for the year of assessment 2001 or 2002, as the case may be, means the amount of tax payable by the company ascertained by deducting from the tax payable of the company for the year of assessment 2001 or 2002, as the case may be, computed in accordance with this Act, and the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) if the company is given tax relief under that Act —
- (a) any tax payable on any dividend derived from Singapore from which tax has been deducted under section 44; and
 - (b) any tax payable on any income which is subject to tax at the rate of 15% under section 43 (3).

[32/99;37/2002]

Repayment of tax

93. —(1) If it is proved to the satisfaction of the Comptroller that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount payable under the provisions of this Act, such person shall be entitled to have the amount so paid in excess refunded.

[4/75]

- (2) Every claim for repayment under this section shall be made within 6 years from the end of the year of assessment to which the claim relates.
- (3) Nothing in this section shall operate to extend any time limit for appeal or validate any objection or appeal which is otherwise invalid or authorise the revision of any assessment or other matter which has become final and conclusive.
- (4) Any refund to be made under this section shall be reduced by the amount of charge or additional charge which has not been utilised for set-off under sections 44 (17) and 44A (9) on the date the refund arises, and where the amount of such charge or additional charge exceeds the amount to be refunded no refund shall be made under this section.

[1/88;37/2002]

(5) Where through death, incapacity, bankruptcy, liquidation or other cause a person who would, but for such cause, have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any tax paid in excess within the meaning of subsection (1).

(6) *Deleted by Act 49/2004. wef Y/A 2005 & Sub Ys/A*

(7) The Comptroller shall certify any amount repayable under this section and shall cause repayment to be made forthwith.

(8) Where an order or decision by the Board of Review or by any court gives rise to any claim for a refund of tax, the Comptroller may, where he has given written notice of his intention to appeal against such order or decision, withhold the refund until such time as the appeal is finally determined.

(9) Where a refund is withheld under subsection (8), the Comptroller shall pay interest at the rate of 5% per annum with effect from the date of the order or decision appealed against on the amount of refund ultimately determined to be due as a result of any appeal.

Relief in respect of error or mistake

93A. —(1) If any person who has paid tax for any year of assessment alleges that an assessment is excessive by reason of some error or mistake in the return or statement made by him for the purposes of the assessment, he may, at any time not later than 6 years after the end of the year of assessment within which the assessment was made, make an application in writing to the Comptroller for relief.

(2) On receiving any such application, the Comptroller shall inquire into the matter and shall, subject to this section, give by way of repayment of tax such relief in respect of the error or mistake as appears to him to be reasonable and just.

(3) No relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed when the return or statement was in fact made on the basis of or in accordance with the practice of the Comptroller generally prevailing at the time when the return or statement was made.

(4) In determining any application under this section, the Comptroller shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of income of the applicant, and for this purpose the Comptroller may take into consideration the liability of the applicant and assessments made upon him in respect of other years.

(5) Section 79 shall apply in respect of an appeal against a determination of the Comptroller under this section except that no such appeal shall be entertained until the sum of \$250 has been deposited with the clerk to the Board of Review.

(6) The sum referred to in subsection (5) shall be refunded in the event of the appeal being allowed.

(7) The Board of Review may, if in its opinion the appeal was vexatious or frivolous, order that the whole or any part of the aforesaid sum shall be forfeited and awarded to the Comptroller as costs.

PART XX

OFFENCES AND PENALTIES

General penalties

94. —(1) Any person who contravenes any of the provisions of this Act shall be guilty of an offence.

(2) Any person guilty of an offence under this Act for which no other penalty is provided shall be liable on conviction to a fine not exceeding \$1,000 and in default of payment to imprisonment for a term not exceeding 6 months.

(3) Except in the case of a notice published in the *Gazette* under section 62 (1) or 68 (2), no person shall be liable to prosecution for an offence under this Act in respect of failure to comply with the terms of any notice issued under the provisions of this Act unless the notice has been served on him personally or by registered post.

[2/92]

(4) Where any person has been convicted of an offence —

(a) for failing to comply with section 44 (16) and such conviction is subsequent to a conviction for an offence for failing to comply with section 44 (15);

(b) for failing to comply with section 62 (3) and such conviction is subsequent to a conviction for an offence for failing to comply with section 62 (1);
(c) under section 62 (8) or for failing to comply with section 71 and such conviction is a second or subsequent conviction; or
(d) for failing to comply with section 71 and such conviction is subsequent to a conviction for an offence under section 62 (8),
in respect of the same year of assessment, he shall be liable to a further penalty of \$50 for every day during which the offence is continued after such conviction.

[28/92]

(5) Where any person has been convicted of an offence under section 65C and such conviction is a second or subsequent conviction in respect of the same information required for the same period, he shall be liable to a further penalty of \$50 for every day during which the offence is continued after such conviction.

[28/92]

(6) The Comptroller may compound any offence punishable under this section, and may before judgment stay or compound any proceedings thereunder.

Penalty for incorrect return

95. —(1) Subject to the provisions of Part XVIII, every person who —

(a) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return; or
(b) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability of any other person or of a partnership,
shall be guilty of an offence for which, on conviction, he shall pay a penalty equal to the amount of tax which has been undercharged in consequence of such incorrect return or information, or which would have been so undercharged if the return or information had been accepted as correct.

[4/75]

(2) Every person who without reasonable excuse or through negligence —

(a) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return; or
(b) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability of any other person or of a partnership,
shall be guilty of an offence for which, on conviction, he shall pay a penalty equal to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or which would have been so undercharged if the return or information had been accepted as correct, and shall also be liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) The Comptroller may compound any offence punishable under subsection (1) or (2), and may before judgment stay or compound any proceedings thereunder.

Tax evasion

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

(a) omits from a return made under this Act any income which should be included;
(b) makes any false statement or entry in any return made under this Act; or
(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act,
shall be guilty of an offence for which, on conviction, he shall pay a penalty of treble the amount of tax which has been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected, and shall also be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

[4/75;21/2003]

(2) Where an individual has been convicted for —

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

(b) one offence under this section and one offence under section 96A, the imprisonment he shall be liable to shall not be less than 6 months.

[21/2003]

(3) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return furnished under this Act by or on behalf of any person, that person shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax.

[21/2003]

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

Serious fraudulent tax evasion

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

(a) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or
(b) makes use of any fraud, art or contrivance or authorises the use of any such fraud, art or contrivance,

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

[21/2003]

(2) Where an individual has been convicted for —

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

(b) one offence under this section and one offence under section 96, the imprisonment he shall be liable to shall not be less than 6 months.

[21/2003]

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

[21/2003]

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

[21/2003]

Penalties for offences by authorised and unauthorised persons

97. Any person who —

(a) being a person appointed for the due administration of this Act or any assistant employed in connection with the assessment and collection of tax —

(i) demands from any person an amount in excess of the authorised assessment or tax;

(ii) withholds for his own use or otherwise any portion of the amount of tax collected;

(iii) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him; or

(iv) defrauds any person, embezzles any money or otherwise uses his position so as to deal wrongfully either with the Comptroller or any other individual; or

(b) not being authorised under this Act to do so, collects or attempts to collect tax under this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Penalty for obstructing officers

98. Any person who obstructs or hinders any officer acting in the discharge of his duty under this Act shall be guilty of an offence.

Tax to be payable notwithstanding any proceedings for penalties

99. The institution of proceedings for, or the imposition of, a penalty, fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any tax for which he is or may be liable.

Provisions relating to penalty

100. —(1) Any interest imposed under section 85 (2) or penalty imposed under this Act shall not be deemed to be part of the tax paid for the purposes of claiming relief under any of the provisions of this Act.

[2/92;24/2000]

(2) Any penalty imposed under section 44 (19), 45 (4), 87 (1), 91 (4) or 107 (3) shall be deemed to be interest on tax for the purposes of section 33 (2) of the Limitation Act (Cap. 163).

[2/92;37/2002;21/2003]

Sanction for prosecution

101. —(1) No prosecution shall be commenced in respect of an offence under section 45 (5), 94, 95, 96 or 96A except at the instance or with the sanction of the Comptroller or the Attorney-General.

[37/75;21/2003]

(2) The Comptroller may authorise either generally or specifically an officer to sanction or compound any offence under sections 45, 94, 95, 96 and 96A.

[26/73;37/75;21/2003]

(3) No prosecution shall be commenced in respect of an offence under section 6, 97 or 98 except at the instance or with the sanction of the Attorney-General.

[37/75]

Service of summons

102. —(1) Every summons issued by a court against any person in connection with any offence under this Act may be served on the person —

(a) by delivering the summons to the person or to some adult member of his family at his last known place of residence;

(b) by leaving the summons at his usual or last known place of residence or business in an envelope addressed to the person;

(c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or

(d) where the person is a body of persons or a company —

(i) by delivering the summons to the secretary or other like officer of the body of persons or company at its registered office or principal place of business; or

(ii) by sending the summons by registered post addressed to the body of persons or company at its registered office or principal place of business.

[26/93]

(2) Any summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered and in proving service of the summons, it shall be sufficient to prove that the envelope containing the summons was properly addressed, stamped and posted by registered post.

Saving for criminal proceedings

103. The provisions of this Act shall not affect any criminal proceedings under any other written law.

Admissibility of certain statements and documents as evidence

104. —(1) Statements made or documents produced by or on behalf of any person shall not be inadmissible in evidence against him in any proceedings to which this section applies by reason only that he was or may have been induced to make the statements or produce the documents by any inducement or promise lawfully given or made by a person having any official duty under, or being employed in the administration of, this Act.

- (2) This section shall apply to any proceedings against the person in question —
(a) under section 95, 96 or 96A; or
(b) for the recovery of any sum due from him, whether by way of tax or penalty.

[21/2003]

Jurisdiction of court

105. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court or a Magistrate's Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

[4/75]

PART XXI

MISCELLANEOUS

Powers to amend Schedules

106. —(1) Parliament may, by resolution, add to, vary or revoke the whole or any part of any Schedule.

(2) Parliament may, by resolution, exempt any person or class of persons from all or any of the provisions of this Act.

(3) The Minister may, by order published in the *Gazette*, amend, add to or revoke the whole or any part of the First, Fourth, Sixth and Seventh Schedules.

[4/75;28/80]

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

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

[21/2003]

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

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

(i) for the approval of institutions of a public character; and

(ii) for the extension and revocation of the approval granted to institutions of a public character;

(aa) the regulation of any amendment of the constitution or any other governing instrument of any institution of a public character approved under section 37;

(b) the use of donations, issue of tax deduction receipts and maintenance of donation records and accounts by institutions of a public character approved under section 37; and

(c) generally giving effect to or for carrying out the purposes of this section.

[21/2003]

(3) Where any Central Fund Administrator appointed by the Minister or any institution of a public character approved by the Minister, Comptroller or any Central Fund Administrator under section 37 contravenes any regulations made under subsection (2) —

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

$0.4 \times$ the total value of the donations (as determined under section 37 (3)) which ought not to be allowed a deduction under section 37 (3) by reason of the contravention;

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

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

[21/2003]

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

[21/2003]

Advance rulings

108.—(1) The Comptroller may, on an application made by a person in accordance with Part I of the Seventh Schedule, make a ruling on any of the matters specified in that Part in accordance with that Part.

(2) Part I of the Seventh Schedule shall apply to and in connection with an application under subsection (1) and any ruling made by the Comptroller under that subsection.

(3) The fees specified in Part II of the Seventh Schedule shall be payable to and retained by the Authority in respect of any application under subsection (1).

(4) The Authority may, in exceptional circumstances in its discretion, waive in whole or in part any fee payable by an applicant under subsection (3).

(5) In this section, “Authority” means the Inland Revenue Authority of Singapore established under section 3 of the Inland Revenue Authority of Singapore Act (Cap. 138A).

FIRST SCHEDULE

Sections 13 (1) (e), 42 (3) and 106 (3)

INSTITUTION, AUTHORITY, PERSON OR FUND EXEMPTED

A. Public authorities, boards or funds constituted by statute in Singapore:

1. Bankruptcy Estates Account	Cap. 20.
2. Board of Legal Education — <i>Deleted by S 194/2006, wef 31/03/2006.</i>	
2A. Central Co-operative Fund	Cap. 62.
3. Central Sikh Gurdwara Board	Cap. 357.
4. Common Fund	Cap. 260.
5. Dependents’ Protection Insurance Fund	Cap. 36.
6. Education Finance Board	Cap. 87.
7. Hindu Endowments Board	Cap. 364.
8. Home Protection Fund	Cap. 36.
9. Hotels Licensing Board	Cap. 127.
10. <i>Deleted by Act 4/2004, wef 01/04/2004.</i>	
11. Institute of Technical Education, Singapore	Cap. 141A.
12. Land Surveyors Board	Cap. 156.
13. Law Society of Singapore — <i>Deleted by S 194/2006, wef 31/03/2006.</i>	
14. Majlis Ugama Islam, Singapura	Cap. 3.
15. MediShield Fund	Cap. 36.
16. Minister for Finance	Cap. 183.
17. National Arts Council	Cap. 193A.
18. National Council of Social Service	Cap. 195A.
19. National Heritage Board	Cap. 196A.

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| 20. National Library Board | Cap. 197. |
| 21. People's Association | Cap. 227. |
| 22. Science Centre Board | Cap. 286. |
| 23. Singapore Academy of Law | Cap. 294A. |
| 24. Singapore Corporation of Rehabilitative Enterprises | Cap. 298. |
| 25. Any specified statutory corporation within the meaning of section 3 of the Statutory Corporations (Contributions to Consolidated Fund) Act (Cap. 319A), as from the date of establishment of that statutory corporation. | |
| B. Clubs, corporations and institutions in Singapore: | |
| 1. Catholic Young Men's Association | |
| 2. Kwong-Wai-Shiu Free Hospital | Cap. 366. |
| 3. Lee Kuan Yew Exchange Fellowship | G.N. No. S 317/91. |
| 4. Metropolitan Young Men's Christian Association | |
| 5. National Crime Prevention Council of Singapore | G.N. No. S 158/82. |
| 6. SAFRA National Service Association | G.N. No. S 137/84. |
| 7. HomeTeamNS | |
| 8. Singapore Police Association for National Servicemen — <i>Deleted by S 194/2006, wef 22/04/2005.</i> | |
| 9. Titular Anglican Bishop of Singapore | Cap. 355. |
| 10. Titular Roman Catholic Archbishop of Singapore | Cap. 375. |
| 11. Young Men's Christian Association | |
| 12. Young Women's Christian Association | |

[29/95; 1/96; 7/96; 32/99; 41/99; 9/2000; 3/2001; 17/2001; S148/76; S38/77; S217/80; S158/82; S183/83; S137/84; S138/84; S217/84; S26/85; S79/88; S379/89; S380/89; S381/90; S382/90; S383/90; S317/91; S562/91; S210/92; S412/92; S259/95; S33/96; S67/96; S302/96; S372/97; S372/98; S267/99; S485/99; S220/2003]

SECOND SCHEDULE

Sections 13N (7), 40 (2) and 42 (1) and (4)

RATES OF TAX

PART A

RATES OF TAX ON CHARGEABLE INCOME OF AN INDIVIDUAL OR A HINDU JOINT FAMILY

<i>Chargeable Income</i>	<i>Rate of Tax</i>
For every dollar of the first \$20,000	Nil
For every dollar of the next \$10,000	3.75%

For every dollar of the next	\$10,000	5.75%
For every dollar of the next	\$40,000	8.75%
For every dollar of the next	\$80,000	14.5%
For every dollar of the next	\$160,000	18.0%
For every dollar exceeding	\$320,000	21.0%

PART B

RATES OF TAX ON CHARGEABLE INCOME OF A PERSON OTHER THAN AN INDIVIDUAL OR HINDU JOINT FAMILY

<i>Chargeable Income</i>		<i>Rate of Tax</i>
For every dollar of the first	\$ 2,500	6%
For every dollar of the next	\$ 2,500	9%
For every dollar of the next	\$ 2,500	12%
For every dollar of the next	\$ 2,500	15%
For every dollar of the next	\$ 5,000	20%
For every dollar of the next	\$ 5,000	23%
For every dollar of the next	\$ 5,000	25%
For every dollar of the next	\$ 10,000	30%
For every dollar of the next	\$ 15,000	40%
For every dollar of the next	\$ 50,000	50%
For every dollar exceeding	\$100,000	55%

[7/79]

PART C

RATES OF TAX FOR THE COMPUTATION OF RELIEF UNDER SECTION 40

<i>Chargeable Income</i>		<i>Rate of Tax</i>
For every dollar of the first	\$ 2,500	4%
For every dollar of the next	\$ 2,500	6%
For every dollar of the next	\$ 2,500	8%
For every dollar of the next	\$ 2,500	10%
For every dollar of the next	\$ 5,000	14%
For every dollar of the next	\$ 5,000	16%
For every dollar of the next	\$ 5,000	17%
For every dollar of the next	\$ 10,000	20%
For every dollar of the next	\$ 15,000	27%
For every dollar of the next	\$ 50,000	34%

For every dollar exceeding \$100,000 37%
[7/79; 11/94; 28/96]

THIRD SCHEDULE

(Repealed by Act 2/86)

FOURTH SCHEDULE

Sections 47 (1) and 106 (3)

NAME OF BOND, SECURITIES, STOCK OR FUND

1. Singapore Government Tax Free 61/4% Registered Stock 1976 (1993) Loan No. 3.
2. Singapore Government Tax Free 61/4% Registered Stock 1977 (1997) Loan No. 1.
3. Singapore Government Tax Free 61/4% Registered Stock 1977 (1995/97) Loan No. 2.
4. Singapore Government Tax Free 61/4% Registered Stock 1978 (1998) Loan No. 1.
5. Singapore Government Tax Free 61/4% Registered Stock 1978 (1998) Loan No. 2.
6. Singapore Government Tax Free 61/4% Registered Stock (Maturing 1st March 1999).
7. Singapore Government Tax Free 61/4% Registered Stock (Maturing 15th June 1999).
8. Singapore Government Tax Free 61/4% Registered Stock (Maturing 15th October 1999).
9. Singapore Government Tax Free 61/4% Registered Stock 1980 (Maturing 1st March 2000) Loan No. 1.
10. Singapore Government Tax Free 61/4% Registered Stocks 1980 (Maturing 15th July 2000) Loan No. 2.
11. Singapore Government Tax Free 61/4% Registered Stocks 1980 (Maturing 15th November 2000) Loan No. 3.
12. Singapore Government Tax Free 61/4% Registered Stocks 1982 (Maturing 15th April 2002) Loan No. 1.
13. Singapore Government Tax Free 61/4% Registered Stocks 1983 (Maturing 15th May 2003) Loan No. 1.

[S 169/71;S84/72;S85/72;S168/72;S239/72;S22/73;S176/73;S340/73;
S238/74;S171/75;S238/75;S4/76;S101/76;S159/76;S226/76;S87/77;S
257/77;S258/77;S113/78;S185/78;S275/78;S63/79;S148/79;S234/79;
S103/80;S251/80;S336/80;S129/82;S168/83]

FIFTH SCHEDULE

Section 39 (2) (e)

CHILD RELIEF

1. Subject to the provisions of this Schedule, the allowable deduction to an individual in respect of each of his eligible children shall be as follows:
 - (a) for the first, second and third child \$2,000
 - (b) for the fourth and fifth child if born before 1st August 1973 \$300
 - (c) for the fourth child if born on or after 1st January 1988 \$2,000.
2. Subject to paragraphs 1 (c) and 5 (d), no deduction shall be granted under any paragraph of this Schedule in respect of a child born on or after 1st August 1973 if that child is the fourth or subsequent child.

3. No deduction shall be allowed in respect of any child —

(a) whose income (excluding income to which the child is entitled as the holder of a scholarship, bursary or similar educational endowment) for the year preceding the year of assessment exceeded the appropriate deduction otherwise allowable under paragraph 1; or

(b) who was engaged in any employment, other than under articles or indentures, or carried on or exercised a trade, business, profession or vocation, during the year preceding the year of assessment.

4. Where more than one individual is entitled to claim a deduction in respect of the same child under this Schedule or the proviso to section 39 (2) (e), the deduction shall be apportioned in such manner as appears to the Comptroller to be reasonable.

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

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

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

(2) For the purpose of sub-paragraph (1), any deduction allowable under paragraph 1 or proviso (A) to section 39 (2) (e) shall first be allowed before a deduction, to the extent allowable under sub-paragraph (1), is allowed under paragraph 5.

7. Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.

8. Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.

9. In this Schedule —

(a) “child”, in relation to an individual claiming a deduction, means a legitimate child, step-child or child adopted in accordance with any written law relating to the adopting of children;

(b) Deleted by Act 49/2004, wef Y/A 2005 & Sub Ys/A.

(c) where any question arises as to the ranking of any child for the purpose of any deduction to be granted under this Schedule, it shall be determined by the Comptroller whose decision shall be final.

[26/73;4/75;13/84;1/88;1/90;26/93;37/2002;21/2003]

SIXTH SCHEDULE

Sections 19 (2) and 106 (3)

NUMBER OF YEARS OF WORKING LIFE OF ASSET

<i>Item</i>	<i>Number of years of working life of asset</i>
1. Aircraft	5
2. Bank vaults	16
3. Building and construction equipment (including assets such as rollers, mixers, piling and drilling plants,	6

loaders, dumpers, excavators, bull-dozers and support structure)	
4. Cable cars and equipment	12
5. Cables and related assets	16
6. Containers used for the carriage of goods by any mode of transportation	10
7. Electric, gas, water and steam, utility plant (including tanks and generators)	16
8. Electrical equipment (including assets such as electrical and industrial apparatus, domestic and commercial appliances, air-conditioning and ventilating equipment)	8
9. Electronic equipment (including assets such as electronic detection, guidance, control, radiation, computation, test and navigation equipment)	8
10. Equipment used in personal and professional services (including assets used in the provision of personal and professional services which are not elsewhere classified)	10
11. Farming equipment	8
12. Fire safety device	10
13. Floating and dry docks	16
14. Gas cylinders	16
15. Manufacturing and industrial processing plant and machinery	6
16. Materials and passenger handling equipment (including assets such as lifts, escalators, weighing machines, conveyor belts, forklifts, lifting gears, trolleys and cranes)	6
17. Motion picture films	5
18. Musical instruments and other related assets	10
19. Office equipment:	
(a) furniture and fixtures (including furniture and fixtures which are not a structural component of a building)	10
(b) data handling equipment (including typewriters, calculators, adding and accounting machines, copiers and duplicating equipment)	8
(c) telecommunication equipment	10
20. Plant for recreation and amusement purposes (including assets used in the provision of entertainment services on payment of a fee or admission charge, as in the operation of bowling alleys, billiard and pool establishments, theatres, cinemas, concert halls,	10

amusement parks and miniature golf courses)	
21. Railway wagons, lines and related equipment	16
22. Transport equipment:	
(a) buses	6
(b) business service passenger vehicles	6
(c) taxis	5
(d) trucks, lorries, trailers and vans	6
(e) motor cycles and bicycles	8
23. Vessels, barges, tugs and similar water transportation equipment	16
24. Wholesale and retail trade service assets (including assets used in such activities as the operation of restaurants and cafes)	8

[28/80]

SEVENTH SCHEDULE

Section 108 (1), (2) and (3)

ADVANCE RULINGS

PART I

- 1.** —(1) Subject to the provisions of this Part, on an application made by a person in accordance with this Part, the Comptroller shall make a ruling on how any provision of this Act applies, or would apply, to the person and to the arrangement for which the ruling is sought.
- (2) The Comptroller may make a ruling on how any provision of this Act applies to the arrangement described in an application whether or not reference was made to that provision in the application.
- (3) The Comptroller shall not make a ruling on a provision of this Act that authorises or requires the Comptroller to —
- (a) impose or remit a penalty;
 - (b) inquire into the correctness of any return or other information supplied by any person;
 - (c) prosecute any person; or
 - (d) recover any debt owing by any person.
- (4) An application for a ruling —
- (a) shall be made in such form as the Comptroller may determine; and
 - (b) shall comply with the disclosure requirements of paragraph 9.
- (5) An applicant for a ruling may at any time withdraw the application by notice in writing to the Comptroller.
- 2.** The Comptroller may decline to make a ruling if —
- (a) the application for the ruling would require the Comptroller to determine any question of fact;
 - (b) the Comptroller considers that the correctness of the ruling would depend on the making of assumptions, whether in respect of a future event or any other matter;
 - (c) the matter on which the ruling is sought is subject to an objection or appeal, whether in relation to the applicant or any other person;
 - (d) the applicant has outstanding debts relating to earlier ruling applications; or

(e) the matter on which the ruling is sought is the subject of a return which has been or is due to be lodged under this Act.

3. The Comptroller shall not make a ruling if —

(a) at the time the application is made or at any time before the ruling is issued, the Comptroller considers that the person to whom the ruling is to apply is not seriously contemplating the arrangement for which the ruling is sought;

(b) the application is frivolous or vexatious;

(c) the matter on which the ruling is sought —

(i) concerns tax (excluding estimated tax) that is due and payable, unless the application is received before the tax is due and payable;

(ii) involves the interpretation of any foreign law; or

(iii) is being dealt with, or in the Comptroller's opinion should be dealt with, by one or both competent authorities of the parties to an agreement to avoid double taxation;

(d) a ruling already exists on how the relevant provision of this Act applies to the person and the arrangement, and the proposed ruling would apply to a period or a year of assessment to which the existing ruling applies;

(e) an assessment (other than an assessment of any estimated tax) relating to the person, the arrangement, and a year of assessment to which the proposed ruling would apply has been made, unless the application is received by the Comptroller before the date the assessment is made;

(f) the Comptroller is undertaking an audit or investigation on how any provision of this Act applies to the applicant, or to an arrangement similar to the arrangement which is the subject of the application, during any period for which the proposed ruling would apply were the ruling to be made;

(g) in the Comptroller's opinion, the applicant has not provided sufficient information in relation to the application after the Comptroller has requested further information;

(h) in the Comptroller's opinion, it would be unreasonable to make a ruling in view of the resources available to the Comptroller; or

(i) the application for the ruling would require the Comptroller to form an opinion as to a generally accepted accounting principle or to form an opinion as to a commercially acceptable practice.

4. The Comptroller shall, where he has declined to make a ruling under paragraph 2 or has not made a ruling by virtue of paragraph 3, notify the applicant in writing of his decision and the reasons therefor.

5. Where the Comptroller has made a ruling to a person on the application of any provision of this Act in relation to an arrangement, and —

(a) the ruling applies in relation to the arrangement during the whole or any part of the period specified in the ruling; and

(b) the person has under paragraph 17 disclosed in the return provided under this Act that he has relied on the ruling in preparing and providing the return, the Comptroller shall apply the provision in relation to the person and the arrangement in respect of the whole of the period or the part of the period, as the case may be, in accordance with the ruling.

6. A ruling shall apply in relation to an arrangement as a ruling on a provision of this Act —

(a) only if the provision is expressly referred to in the ruling; and

(b) only for the period for which the ruling applies.

7. A ruling shall not apply to a person in relation to an arrangement if —

(a) the arrangement is materially different from the arrangement identified in the ruling;

(b) there was a material omission or misrepresentation in, or in connection with, the application for the ruling;

(c) the Comptroller makes an assumption about a future event or another matter that is material to the ruling, and the assumption subsequently proves to be incorrect; or

(d) the Comptroller stipulates a condition that is not satisfied.

8. —(1) A person, in his own right or on behalf of a person who is yet to come into legal existence, may apply to the Comptroller for a ruling on how a provision of this Act applies, or would apply, to —

- (a) the person making the application or the prospective person, as the case may be; and
- (b) an arrangement.

(2) Two or more persons may jointly apply, or a person on behalf of 2 or more persons who are yet to come into legal existence may apply, to the Comptroller for a ruling on how a provision of this Act applies, or would apply, to each person and to an arrangement.

9. —(1) An application for a ruling shall —

- (a) identify the applicant;
- (b) disclose all relevant facts (including the reasons for the arrangement, if applicable) and documents relating to the arrangement in respect of which the ruling is sought;
- (c) state the provision of this Act in respect of which the ruling is sought;
- (d) state the proposition of law (if any) which is relevant to the issues raised in the application;
- (e) state whether a previous application has been made on the same or any similar arrangement by the applicant and the result of any such application; and
- (f) provide a draft ruling.

(2) If the Comptroller considers that it would be unreasonable to require the applicant to comply with any of the requirements in sub-paragraph (1) (c) to (f), the Comptroller may waive those requirements.

(3) Any document provided by any person under this Schedule shall be retained by the Comptroller.

10. The Comptroller may at any time request further relevant information from an applicant for a ruling.

11. —(1) If the Comptroller considers that the correctness of a ruling would depend on assumptions being made about a future event or other matter, the Comptroller may make the assumptions that he considers to be most appropriate.

(2) The Comptroller may not make assumptions about information which the applicant can provide.

12. —(1) A ruling made by the Comptroller shall state —

- (a) that it is a ruling made under section 108;
- (b) the identity of the person, the provision of this Act, and the arrangement (which may be identified by reference to the arrangement in the application) to which the ruling applies;
- (c) how the provision of this Act applies to the arrangement and to the person;
- (d) the period or year of assessment for which the ruling applies;
- (e) the material assumptions about future events or other matters made by the Comptroller; and
- (f) the conditions (if any) stipulated by the Comptroller.

(2) The Comptroller shall notify the making of a ruling by sending a copy of the ruling to the person or persons who applied for it.

13. —(1) The Comptroller may at any time withdraw a ruling by notifying the person to whom the ruling applies in writing of the withdrawal and the reasons therefor.

(2) The ruling is withdrawn from the date specified in the notice of withdrawal.

(3) The date referred to in sub-paragraph (2) may not be earlier from the date on which the person could reasonably be expected to receive the notice of withdrawal.

(4) If the Comptroller withdraws a ruling —

(a) the ruling does not apply to any arrangement entered into or effected on or after the date of withdrawal; but

(b) the ruling shall continue to apply in relation to any arrangement for the remainder of the period specified in the ruling if the arrangement has been entered into or effected before the date of withdrawal.

- 14.** —(1) The Comptroller does not have to withdraw and reissue a new ruling to correct a typographical or a minor error if the correction does not change the meaning of the ruling.
 (2) A ruling that is not withdrawn and reissued remains valid.
- 15.** A ruling does not apply from the date a provision of this Act is repealed or amended to the extent that the repeal or amendment changes the way the provision applies in the ruling.
- 16.** The fact that there has been an application for a ruling does not affect a person's obligation to provide any return, make any payment, or do any other act, or the Comptroller's power to make or amend any assessment.
- 17.** Where —
- (a) a person has obtained a ruling;
 - (b) the person is required to provide a return under this Act; but
 - (c) in preparing the return the person is required to take into account the way in which a provision of this Act applies to the arrangement identified in the ruling, the person shall disclose in the return —
 - (i) the existence of the ruling;
 - (ii) whether or not the person has relied on the ruling in preparing and providing the return; and
 - (iii) any material changes to the arrangement identified in the ruling.

PART II

- 1.** The fees specified in respect of an application for a ruling made in accordance with Part I are as follows:
- (a) a non-refundable application fee of \$525 (inclusive of goods and services tax), which must accompany the application;
 - (b) a further fee, calculated at \$131.25 (inclusive of goods and services tax) per hour (or part hour), beyond the first 4 hours, spent in consideration of the application by the Comptroller, including any time spent by the Comptroller in consulting with the applicant;
 - (c) an additional fee, of up to 2 times the aggregate fee under sub-paragraphs (a) and (b), for the Comptroller to give priority to the application and to expedite his consideration thereof; and
 - (d) reimbursement fees in respect of —
 - (i) any fees paid by the Comptroller to any person, if the Comptroller requires external advice in relation to the ruling and the applicant agrees to the Comptroller seeking such external advice; and
 - (ii) any costs and reasonable disbursements incurred by the Comptroller in relation to the ruling.
- 2.** If an application for a ruling is withdrawn, the applicant is liable to pay all fees incurred before the Comptroller received notice of the withdrawal.
- 3.** The Comptroller must ensure as far as is reasonably practicable that every effort is made to minimise the fees to which an applicant is liable in respect of an application for a ruling.

LEGISLATION HISTORY

1. Ordinance 39 of 1947 — Income Tax Ordinance 1947

Date of First Reading	:	27.11.47 (Bill published on 10.11.47. No Bill number given)
Date of Second Reading	:	27.11.47
Date of Third Reading	:	4.12.47
Date of commencement	:	1.1.48

2. Ordinance 20 of 1948 — Income Tax (Amendment) Ordinance 1948

Date of First Reading	:	13.7.48 (Bill published on 2.7.48. No Bill
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		number given)
Date of Second and Third Readings	:	13.7.48
Date of commencement	:	1.1.48 (except section 20) 1.8.48 (section 20)

3. Ordinance 44 of 1950 — Income Tax (Amendment) Ordinance 1950

Date of First Reading	:	13.10.50 (Bill published on 20.10.50. No Bill number given)
Referred to Select Committee	:	Council Paper No. 92 of 1950 presented to Parliament on 21.11.50
Date of Second and Third Readings	:	21.11.50
Dates of commencement	:	1.1.50 (except sections 11, 13 (a) and 4) 1.1.48 (sections 11 and 13 (a)) 1.1.49 (section 4)

4. Ordinance 46 of 1950 — Income Tax (Amendment No. 2) Ordinance 1950

Date of First Reading	:	19.12.50 (Bill not published)
Date of Second and Third Readings	:	19.12.50
Date of commencement	:	1.1.51

5. Ordinance 29 of 1952 — Income Tax (Amendment) Ordinance 1952

Date of First Reading	:	15.7.52 (Bill No. 26/52 published on 18.7.52)
Date of Second and Third Readings	:	19.8.52
Date of commencement	:	1.1.52 (except section 3) 1.1.48 (section 3)

6. Ordinance 40 of 1953 — Income Tax (Amendment) Ordinance 1953

Date of First Reading	:	18.8.53 (Bill No. 18/53 published on 21.8.53)
Referred to Select Committee	:	Council Paper No. 73 of 1953 presented to Council on 24.11.53
Date of Second and Third Readings	:	15.12.53
Dates of commencement	:	1.1.48 (sections 2,3,4 and 8) 1.1.51 (section 5 (a)) 1.1.54 (sections 5 (b) and 6) 1.1.53 (sections 5 (c) and 7)

7. Ordinance 34 of 1954 — Income Tax (Amendment) Ordinance 1954

Date of First Reading	:	15.6.54 (Bill No. 21/54 published on 18.6.54)
Date of Second Reading	:	20.7.54
Date of Third Reading	:	14.12.54
Date of commencement	:	1.1.54

8. Ordinance 6 of 1956 — Income Tax (Amendment) Ordinance 1956

Date of First Reading	:	8.2.56 (Bill No. 37/56 published on 25.2.56)
Date of Second and Third Readings	:	7.3.56
Date of commencement	:	1.1.56

9. Ordinance 31 of 1958 — Legislative Assembly (Presentation of Subsidiary Legislation) Ordinance 1958

Date of First Reading	:	16.7.58 (Bill No. 158/58 published on 22.7.58)
Date of Second Reading	:	13.8.58
Date of Third Reading	:	10.9.58
Date of commencement	:	25.9.58

10. Ordinance 37 of 1958 — Income Tax (Amendment) Ordinance 1958

Date of First Reading	:	10.9.58 (Bill No. 171/58 published on 17.9.58)
Date of Second and Third Readings	:	8.10.58
Dates of commencement	:	1.1.59 (except section 3)
	:	1.1.56 (section 3)

11. Ordinance 49 of 1958 — Income Tax (Amendment No. 2) Ordinance 1958

Date of First Reading	:	3.12.58 (Bill No. 189/58 published on 5.12.58)
Date of Second and Third Readings	:	12.12.58
Date of commencement	:	1.1.59

12. Ordinance 71 of 1959 — Transfer of Powers Ordinance 1959

Date of First Reading	:	22.9.59 (Bill No. 30/59 published on 30.9.59)
Date of Second and Third Readings	:	11.11.59
Date of commencement	:	20.11.59

13. Ordinance 72 of 1959 — Transfer of Powers (No. 2) Ordinance 1959

Date of First Reading : 22.9.59 (Bill No. 31/59 published on 30.9.59)
Date of Second and Third Readings : 11.11.59
Date of commencement : 20.11.59

14. Ordinance 36 of 1960 — Income Tax (Amendment) Ordinance 1960

Date of First Reading : 6.4.60 (Bill No. 71/60 published on 22.4.60)
Dates of Second and Third Readings : 11.5.60 and 12.5.60
Dates of commencement : 1.1.60 (sections 2 (a), 3 to 5, 7 to 23)
1.1.61 (sections 2 (b) and 6)

15. Ordinance 60 of 1960 — Transfer of Powers Ordinance 1960

Date of First Reading : 20.10.60 (Bill No. 99/60 published on 28.10.60)
Date of Second and Third Readings : 16.11.60
Date of commencement : 9.12.60

16. Ordinance 77 of 1960 — Income Tax (Amendment No. 2) Ordinance 1960

Date of First Reading : 13.12.60 (Bill No. 118/60 published on 19.12.60)
Date of Second and Third Readings : 29.12.60
Date of commencement : 1.1.61

17. Ordinance 15 of 1962 — Income Tax (Amendment) Ordinance 1962

Date of First Reading : 14.3.62 (Bill No. 170/62 published on 16.3.62)
Date of Second and Third Readings : 26.3.62
Date of commencement : 1.1.62

18. Malaysia Act 21 of 1964 — Income Tax Act 1964

Date of First Reading : 6.7.64 (Bill published on 6.7.64. No Bill number given)
Date of Second and Third Readings : 14.7.64
Date of commencement : 30.7.64

19. Malaysia Act 2 of 1965 — Finance Act 1965

Date of First Reading : 24.12.64 (Bill published on 24.12.64. No Bill number given)

Date of Second and Third Readings : 29.12.64
Date of commencement : 1.1.65

20. Malaysia Act 43 of 1965 — Income Tax Laws (Singapore and the States of Malaya) (Amendment) Act 1965

Date of First Reading : 26.5.65 (Bill published on 26.5.65. No Bill number given)
Date of Second and Third Readings : 5.6.65
Date of commencement : 30.6.65

21. Act 29 of 1965 — Income Tax (Amendment) Act 1965

Date of First Reading : 13.12.65 (Bill No. 54/65 published on 20.12.65)
Date of Second and Third Readings : 31.12.65
Date of commencement : 1.1.66

22. Act 44 of 1966 — Income Tax (Amendment) Act 1966

Date of First Reading : 26.10.66 (Bill No. 43/66 published on 2.11.66)
Date of Second and Third Readings : 5.12.66
Date of commencement : 16.12.66

23. Act 33 of 1967 — Income Tax (Amendment) Act 1967

Date of First Reading : 31.10.67 (Bill No.30/67 published on 4.11.67)
Date of Second and Third Readings : 14.11.67
Date of commencement : 18.11.67

24. Act 23 of 1969 — Income Tax (Amendment) Act 1969

Date of First Reading : 15.10.69 (Bill No. 18/69 published on 18.10.69)
Date of Second and Third Readings : 23.12.69
Date of commencement : 1.1.70

25. Act 7 of 1970 — Income Tax (Amendment) Act 1970

Date of First Reading : 17.3.70 (Bill No. 8/70 published on 18.3.70)
Date of Second and Third Readings : 30.3.70
Date of commencement : 1.1.70

26. Act 48 of 1970 — Statute Law Revision Act 1970

Date of First Reading : 2.9.70 (Bill No. 36/70 published on 7.9.70)
Date of Second and Third Readings : 4.11.70
Date of commencement : 11.12.70

27. Act 26 of 1973 — Income Tax (Amendment) Act 1973

Date of First Reading : 11.7.73 (Bill No. 42/73 published on 14.7.73)
Date of Second and Third Readings : 26.7.73
Date of commencement : 10.8.73

28. Act 4 of 1975 — Income Tax (Amendment) Act 1975

Date of First Reading : 25.2.75 (Bill No. 8/75 published on 28.2.75)
Date of Second and Third Readings : 27.3.75
Date of commencement : 4.4.75

29. Act 37 of 1975 — Income Tax (Amendment No. 2) Act 1975

Date of First Reading : 11.11.75 (Bill No. 52/75 published on 11.11.75)
Date of Second and Third Readings : 20.11.75
Dates of commencement : 2.12.75 (except section 3 (a))
1.4.75 (section 3 (a))

30. Act 5 of 1977 — Income Tax (Amendment) Act 1977

Date of First Reading : 27.5.77 (Bill No. 8/77 published on 2.6.77)
Date of Second and Third Readings : 29.6.77
Date of commencement : 7.7.77

31. Act 7 of 1979 — Income Tax (Amendment) Act 1979

Date of First Reading : 5.3.79 (Bill No. 9/79 published on 12.3.79)
Date of Second and Third Readings : 30.3.79
Date of commencement : 16.4.79

32. Act 9 of 1980 — Income Tax (Amendment) Act 1980

Date of First Reading : 26.2.80 (Bill No. 6/80 published on 29.2.80)

Date of Second and Third Readings : 17.3.80
Date of commencement : 3.4.80

33. Act 28 of 1980 — Income Tax (Amendment No. 2) Act 1980

Date of First Reading : 31.10.80 (Bill No. 25/80 published on 7.11.80)
Date of Second and Third Readings : 28.11.80
Date of commencement : 4.12.80

34. Act 1 of 1982 — Income Tax (Amendment) Act 1982

Date of First Reading : 22.12.81 (Bill No. 30/81 published on 30.12.81)
Date of Second and Third Readings : 3.3.82
Date of commencement : 19.3.82

35. Act 5 of 1983 — Income Tax (Amendment) Act 1983

Date of First Reading : 4.3.83 (Bill No. 1/83 published on 9.3.83)
Date of Second and Third Readings : 24.3.83
Date of commencement : 8.4.83

36. Act 15 of 1983 — Income Tax (Amendment No. 2) Act 1983

Date of First Reading : 30.8.83 (Bill No. 10/83 published on 7.9.83)
Date of Second and Third Readings : 20.12.83
Date of commencement : 13.1.84

37. Act 13 of 1984 — Income Tax (Amendment) Act 1984

Date of First Reading : 29.6.84 (Bill No. 20/84 published on 9.7.84)
Date of Second and Third Readings : 26.7.84
Date of commencement : 10.8.84

38. Act 7 of 1985 — Income Tax (Amendment) Act 1985

Date of First Reading : 23.7.85 (Bill No. 10/85 published on 26.7.85)
Date of Second and Third Readings : 30.8.85
Date of commencement : 27.9.85

39. Act 2 of 1986 — Statute Law Revision Act 1986

Date of First Reading : 31.10.85 (Bill No. 12/85 published on 8.11.85)
Date of Second and Third Readings : 10.1.86
Date of commencement : 31.1.86

40. Act 31 of 1986 — Income Tax (Amendment) Act 1986

Date of First Reading : 27.10.86 (Bill No. 25/86 published on 31.10.86)
Date of Second and Third Readings : 9.12.86
Dates of commencement : 19.12.86 (except section 14 (a))
1.1.86 (section 14 (a))

41. Act 1 of 1988 — Income Tax (Amendment) Act 1988

Date of First Reading : 9.11.87 (Bill No. 22/87 published on 11.11.87)
Date of Second and Third Readings : 13.1.88
Dates of commencement : 29.1.88 and other dates
(see section 1 of the Act)

42. Act 3 of 1989 — Income Tax (Amendment) Act 1989

Date of First Reading : 16.1.89 (Bill No. 1/89 published on 16.1.89)
Date of Second and Third Readings : 26.1.89
Date of commencement : 17.2.89

43. Act 1 of 1990 — Income Tax (Amendment) Act 1990

Date of First Reading : 29.11.89 (Bill No. 42/89 published on 30.11.89)
Date of Second and Third Readings : 15.1.90
Dates of commencement : 9.2.90 and other dates
(see section 1 of the Act)

44. Act 23 of 1990 — Income Tax (Amendment No. 2) Act 1990

Date of First Reading : 4.10.90 (Bill No. 26/90 published on 5.10.90)
Date of Second and Third Readings : 9.11.90
Date of commencement : 30.11.90

45. Act 20 of 1991 — Income Tax (Amendment) Act 1991

Date of First Reading : 7.5.91 (Bill No. 16/91 published on 8.5.91)
Date of Second and Third Readings : 28.6.91
Dates of commencement : 19.7.91 (except sections 17 (a) and (c))
1.1.90 (sections 17 (a) and (c))

46. Act 2 of 1992 — Income Tax (Amendment) Act 1992

Date of First Reading : 14.1.92 (Bill No. 7/92 published on 15.1.92)
Date of Second and Third Readings : 27.2.92
Dates of commencement : 13.3.92 (except sections 13, 14, 16 and 18)
1.1.93 (sections 13, 14, 16 and 18)

47. Act 28 of 1992 — Income Tax (Amendment No. 2) Act 1992

Date of First Reading : 31.7.92 (Bill No. 32/92 published on 1.8.92)
Date of Second and Third Readings : 14.9.92
Dates of commencement : 2.10.92 and other dates
(see section 1 of the Act)

48. Act 26 of 1993 — Income Tax (Amendment) Act 1993

Date of First Reading : 30.7.93 (Bill No. 23/93 published on 31.7.93)
Date of Second and Third Readings : 30.8.93
Dates of commencement : 17.9.93 and other dates
(see section 1 of the Act)

49. Act 31 of 1993 — Goods and Services Tax Act 1993

(Consequential amendments made by)

Date of First Reading : 26.2.93 (Bill No. 14/93 published on 27.2.93)
Date of Second Reading : 19.3.93
Referred to Select Committee : Parl 4 of 1993 presented to Parliament on 7.9.93
Date of Third Reading : 12.10.93
Dates of commencement : 26.11.93 (except para (3) of Fifth Schedule)
1.4.94 (para (3) of Fifth Schedule)

50. Act 11 of 1994 — Income Tax (Amendment) Act 1994

Date of First Reading : 25.7.94 (Bill No. 17/94 published on 29.7.94)
Date of Second and Third Readings : 25.8.94

Dates of commencement : 16.9.94 and other dates
(see section 1 of the Act)

51. Act 19 of 1994 — Enlistment (Amendment) Act 1994

(Consequential amendments made by)

Date of First Reading : 25.7.94 (Bill No. 21/94 published on 29.7.94)
Date of Second and Third Readings : 31.10.94
Date of commencement : 1.12.94

52. Act 28 of 1994 — National Registration (Amendment) Act 1994

(Consequential amendments made by)

Date of First Reading : 31.10.94 (Bill No. 30/94 published on 1.11.94)
Date of Second and Third Readings : 5.12.94
Date of commencement : 1.3.95

53. Act 29 of 1995 — Rapid Transit Systems Act 1995

(Consequential amendments made by)

Date of First Reading : 7.7.95 (Bill No. 25/95 published on 8.7.95)
Date of Second and Third Readings : 7.8.95
Date of commencement : 1.9.95

54. Act 32 of 1995 — Income Tax (Amendment) Act 1995

Date of First Reading : 7.8.95 (Bill No. 28/95 published on 8.8.95)
Date of Second and Third Readings : 27.9.95
Dates of commencement : 13.10.95 (except sections 7 (c), 8 and 25)
1.3.95 (sections 7 (c), 8 and 25)

55. Act 1 of 1996 — Singapore Productivity and Standards Board Act 1995

(Consequential amendments made by)

Date of First Reading : 1.11.95 (Bill No. 39/95 published on 2.11.95)
Date of Second and Third Readings : 5.12.95
Date of commencement : 1.4.96

56. Act 7 of 1996 — Maritime and Port Authority of Singapore Act 1996

(Consequential amendments made by)

Date of First Reading : 5.12.95 (Bill No. 46/95 published on 6.12.95)
Date of Second and Third Readings : 18.1.96
Date of Commencement : 2.2.96

57. Act 23 of 1996 — Income Tax (Amendment) Act 1996

Date of First Reading : 21.5.96 (Bill No. 17/96 published on 22.5.96)
Date of Second and Third Readings : 12.7.96
Date of Commencement : 2.8.96

58. Act 28 of 1996 — Income Tax (Amendment No. 2) Act 1996

Date of First Reading : 12.7.96 (Bill No. 23/96 published on 13.7.96)
Date of Second and Third Readings : 27.8.96
Date of Commencement : 6.9.96

59. Act 1 of 1998 — Income Tax (Amendment) Act 1998

Date of First Reading : 19.11.97 (Bill No. 16/97 published on 20.11.98)
Date of Second and Third Readings : 14.1.98
Date of Commencement : 23.1.98

60. Act 31 of 1998 — Income Tax (Amendment No. 2) Act 1998

Date of First Reading : 29.6.98 (Bill No. 29/98 published on 30.6.98)
Date of Second and Third Readings : 31.7.98
Date of Commencement : 14.8.98 and other dates (see section 1 of the Act)

**61. Act 37 of 1998 — Post Office Savings Bank of Singapore (Transfer of Undertakings and Dissolution) Act 1998
(Consequential amendments made by)**

Date of First Reading : 31.7.98 (Bill No. 34/98 published on 1.8.98)
Date of Second and Third Readings : 12.10.98
Date of Commencement : 16.11.98
: 16.11.98 (Transfer Date)
: 21.5.99 (Appointed Day)

62. Act 32 of 1999 — Income Tax (Amendment) Act 1999

Date of First Reading : 6.7.99 (Bill No. 24/99 published on 7.7.99)

Date of Second and Third Readings : 17.8.99
Date of Commencement : 31.8.99 and other dates (see section 1 of the Act)

63. Act 41 of 1999 — Info-communications Development Authority of Singapore Act 1999
(Consequential amendments made by)

Date of First Reading : 11.10.99 (Bill No. 36/99 published on 12.10.99)
Date of Second and Third Readings : 23.11.99
Date of Commencement : 1.12.99

64. Act 9 of 2000 — Defence Science and Technology Agency Act 2000
(Consequential amendments made by)

Date of First Reading : 17.1.2000 (Bill No. 1/2000 published on 18.1.2000)
Date of Second and Third Readings : 21.2.2000
Date of Commencement : 15.3.2000

65. Act 24 of 2000 — Income Tax (Amendment) Act 2000

Date of First Reading : 30.6.2000 (Bill No. 20/2000 published on 1.7.2000)
Date of Second and Third Readings : 25.8.2000
Date of Commencement : 7.9.2000 and other dates
(see section 1 of the Act)

66. Act 3 of 2001 — Intellectual Property Office of Singapore Act 2001
(Consequential amendments made by)

Date of First Reading : 12.1.2001 (Bill No. 1/2001 published on 13.1.2001)
Date of Second and Third Readings : 22.2.2001
Date of Commencement : 1.4.2001

67. Act 17 of 2001 — Singapore Land Authority Act 2001
(Consequential amendments made by)

Date of First Reading : 5.3.2001 (Bill No. 17/2001 published on 7.3.2001)
Date of Second and Third Readings : 19.4.2001
Date of Commencement : 1.6.2001

68. Act 24 of 2001 — Income Tax (Amendment) Act 2001

Date of First Reading	:	11.7.2001 (Bill No. 25/2001 published on 12.7.2001)
Date of Second and Third Readings	:	25.7.2001
Date of Commencement	:	10.8.2001 and other dates (see section 1 of the Act)

69. Act 42 of 2001 — Securities and Futures Act 2001

(Consequential amendments made by)

Date of First Reading	:	25.9.2001 (Bill No. 33/2001 published on 26.9.2001)
Date of Second and Third Readings	:	5.10.2001
Date of Commencement	:	1.1.2002 Parts I, VIII, IX, X and XV (except sections 314 and 342 (1) and (3)), First Schedule, Second Schedule and items (4) (o) and (q) and 7 (c) of the Fourth Schedule. 1.7.2002 Parts XIII and XIV, and items (1) (a), (3) (a), (4) (a) (i), (iii) to (ix), (b), (c), (f), (g), (h), (i), (l), (m), (t) and (u), (7) (b), (12) and (13) of the Fourth Schedule 1.10.2002 Parts II to VII, XI and XII, sections 314 and 342 (1) and (3), Third Schedule and items (1) (b), (2), (3) (b), (4) (a) (ii), (d), (e), (j), (k), (n), (p), (r), (s) and (v), (5), (6) and (7) (a) and (d) and (8) to (11) of the Fourth Schedule

70. Act 25 of 2002 — Currency (Amendment) Act 2002

(Consequential amendments made by)

Date of First Reading	:	8.7.2002 (Bill No. 23/2002 published on 9.7.2002)
Date of Second and Third Readings	:	23.7.2002
Date of Commencement	:	1.10.2002

71. Act 37 of 2002 — Income Tax (Amendment) Act 2002

Date of First Reading	:	31.10.2002 (Bill No. 39/2002 published on 1.11.2002)
Date of Second and Third Readings	:	25.11.2002
Date of Commencement	:	10.12.2002 and other dates (see section 1 of the Act)

72. Act 4 of 2003 — Customs (Amendment) Act 2003

(Consequential amendments made by)

Date of First Reading	:	10.3.2003 (Bill No. 6/2003 published on 11.3.2003)
Date of Second and Third Readings	:	21.3.2003
Date of Commencement	:	1.4.2003

73. Act 21 of 2003 — Income Tax (Amendment) Act 2003

Date of First Reading	:	16.10.2003 (Bill No. 28/2003 published on 17.10.2003)
Date of Second and Third Readings	:	11.11.2003
Date of Commencement	:	3.12.2003 and other dates (see section 1 of the Act)

COMPARATIVE TABLE

The following provisions in the 2001 Revised Edition of the Income Tax Act have been renumbered by the Law Revision Commissioners in this 2004 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Income Tax Act.

2004 Ed.	2001 Ed.
2—(1) (Definition of “institution of a public character”)	37—(9) (Definition of “institution of a public character”)
10—(1) to (4)	10—(1) to (4)
(5)	(4A)
(6)	(5)
(7)	(5A)
(8)	(5B)
(9)	(6)
(10)	(6A)
(11)	(6B)
(12)	(7)
(13)	(8)
(14)	(9)
(15)	(9A)
(16)	(10)
(17)	(11)
(18)	(12)
(19)	(13)
(20)	(14)

(21)

(22)

(23)

(24)

(25)

(26)

10C—(1)

(2)

(3)

(4)

(5)

(6)

(7)

(8)

(9)

(10)

(11)

(12)

—

—

10J—(1) to (3)

(4)

(5)

(6)

(7)

(8)

(9)

(10)

(11)

(12)

13—(1) to (7)

(8)

(9)

(10)

(11)

(12)

(13)

(14)

(15)

(15)

(16)

(17)

(18)

(19)

(20)

10C—(1)

(1A)

(1B)

(1C)

(1D)

(1E)

(2)

(3)

(4)

(5)

(6)

(7)

10F (*Repealed by Act 37/2002*)

10G (*Repealed by Act 37/2002*)

10J—(1) to (3)

(3A)

(3B)

(4)

(4A)

(4B)

(5)

(6)

(6A)

(7)

13—(1) to (7)

(7A)

(7B)

(7C)

(7D)

(8)

(9)

(10)

(12)

(16)	(11) and (13)
13E —(1) to (4)	13E —(1) to (4)
(5)	(4A)
—	(4B) (<i>Deleted by Act 37/2002</i>)
—	(4C) (<i>Deleted by Act 37/2002</i>)
(6)	(5)
(7)	(6)
(8)	(7)
(9)	(8)
(10)	(9)
(11)	(10)
(12)	(11)
—	(12) (<i>Deleted by Act 37/2002</i>)
—	(13) (<i>Deleted by Act 37/2002</i>)
13G —(1) to (3)	13G —(1) to (3)
(4) (Definition of “trustee company”)	—
13J —(1) to (5)	13J —(1) to (5)
(6)	(7)
(7)	(8)
(8)	(9)
(9)	(10)
(10)	(6)
13M —(1) to (3)	13M —(1) to (3)
—	(4) (<i>Deleted by Act 21/2003</i>)
(4)	(5)
(5)	(6)
(6)	(7)
(7)	(9)
(8)	(8)
14A —(1) to (6)	14P —(1) to (6)
14B —(1) and (2)	14B —(1) and (2)
(3)	(2A)
(4)	(3)
(5)	(3A)
(6)	(3AA)
(7)	(3B)
(8)	(3C)
(9)	(3D)
(10)	(3E)

(11)

—

14K—(1) to (4)

(5)

(6)

(7)

14M—(1) to (8)

(9)

(10)

(11)

(12)

(13)

(14)

(15)

(16)

(17)

(18)

(19)

(20)

(21)

(22)

(23)

15—(1) (a) to (m)

Spent

(n)

(o)

(p)

(2)

Spent

17—(1)

(2)

(3)

(4)

(5)

(6)

18—(1) (a) to (e)

—

(f)

(g)

(4)

14G (*Repealed by Act 21/2003*)

14K—(1) to (4)

(4A)

(5)

(6)

14M—(1) to (8)

(8A)

(8B)

(8C)

(8D)

(8E)

(8F)

(8G)

(8H)

(8I)

(9)

(10)

(11)

(12)

(13)

(14)

15—(1) (a) to (m)

(n)

(o)

(p)

(q)

(2)

(3)

17—(1)

(1A)

(1B)

(2)

(3)

(4)

18—(1) (a) to (e)

(f) and (g) (*Deleted by Act 21/2003*)

(h)

(i)

(h)
(i)
(j)
(2) and (3)
(4)
(5)
(6)
(7)
(8)
(9)

—
19A—(1)

(2)
(3)
(4)
(5)
(6)
(7)
(8)
(9)
(10)
(11)
(12)
(13)

Spent

(14)
(15)
(16)

19B—(1) to (6)

(7)
(8)
(9)
(10)
(11)

23—(1)

(2)
(3)
(4)
(5)

(j)
(k)
(l)
(1A)
(2)
(2A)
(3)
(4)
(5)
(6)

18A (*Repealed by Act 21/2003*)

19A—(1)

(1A)
(1B)
(1C)
(1D)
(1E)
(1F)
(1G)
(1H)
(1J)
(1K)
(2)
(3)
(4)

(5)
(6) (except paragraph (b))

(6) (b)

19B—(1) to (6)

(8)
(9)
(10)
(11)
(7)

23—(1)

(1A)
(1B)
(2)
(2A)

(6)	(3)
(7)	(4)
24—(3) (d)	24—(3) (ca)
(e)	(d)
27—(1) to (4)	27—(1) to (4)
(5)	(4A)
(6)	(5)
(7)	(6)
31—(1) and (2)	31—(1) and (2)
(3)	(2A)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
(8)	(7)
35—(1)	35—(1)
(2)	(1A)
(3)	(1B)
(4)	(2)
(5)	(2A)
(6)	(3)
(7)	(4)
(8)	(5)
(9)	(5A)
(10)	(6)
(11)	(7)
(12)	(8)
(13)	(9)
(14)	(10)
(15)	(11)
37—(1)	37—(1)
(2)	(1A)
(3)	(2)
(4)	(2A)
(5)	(2B)
(6)	(2C)
(7)	(2D)
(8)	(2E)
(9)	(2F)

(10)

(11)

(12)

(13)

(14)

(15)

(16)

(17)

(18)

37A—(1)

(2)

(3)

(4) (a)

(b)

(c)

(d)

(e)

39—(1) to (11)

(12)

(13)

42A—(1) and (2)

(3)

(4)

(5)

(6)

(7)

(8)

(9)

43—(1) to (3)

(4)

(5)

(6)

(7) to (9)

(10)

43A—(1)

(2) (a)

(b) and (c)

43D—(1)

(2)

(3)

(4)

(5)

(6)

(7)

(8)

(8A)

(10)

(11)

37A—(1)

(1A)

(2)

(4) (a)

(3) (b)

(3) (a)

(3) (c)

(4) (b)

39—(1) to (11)

(11A)

(12)

42A—(1) and (2)

(2A)

(3)

(3A)

(3B)

(4)

(5)

(6)

43—(1) to (3)

(3A)

(3B)

(5)

(7) to (9)

(3C), (4) and (6)

43A—(1)

(2)

(3)

43D—(1)

(1A)

(3)
(4)
43E—(1) to (4)
(5)

43G—(1) to (3)
(4)

43I—(1) and (2)
(3)
(4)
(5)
(6)
(7)
(8)
(9)

—
43P—(1)
(2)
(3)

44—(1) to (5)
(6)
(7)
(8)
(9)
(10)
(11)
(12)
(13)
(14)
(15)
(16)
(17)
(18)
(19)
(20)

44A—(1) to (9)
(10)
(11)

(2)
(3)
43E—(1) to (4)
(4) (Proviso to the definition of “associated company”)

43G—(1) to (3)
(3) (Proviso to the definition of “associated company”)

43I—(1) and (2)
(2A)
(3)
(4)
(5)
(6)
(7)
(8)

43M (*Repealed by Act 21/2003*)

43P—(1)
(1A)
(2)

44—(1) to (5)
(5A)
(5B)
(5C)
(6)
(6A)
(6B)
(6C)
(7)
(8)
(9)
(10)
(11)
(12)
(13)
(14)

44A—(1) to (9)
(9A)
(10)

- (12)
- (13)
- 50A—(1) (a)**
- (b)
- (c)
- (d)
- (e)

—

- (2)
- (3)
- (4)
- (5)
- (6)

65B—(1)

- (2)
- (3)
- (4)

91—(1)

- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8)
- (9)
- (10)
- (11)
- (12)
- (13)

FIFTH SCHEDULE

1 and 2

—

- 3
- 4
- 5
- 6
- 7
- 8

- (11)
- (12)
- 50A—(1) (a)**
- (aa)
- (b)
- (c)
- (d)

(2) (*Deleted by Act 21/2003*)

- (3)
- (4)
- (5)
- (6)
- (7)

65B—(1)

- (4)
- (3)
- (2)

91—(1)

- (2) (Paragraph (a) of proviso)
- (Paragraph (b) of proviso)
- (2A)
- (2B)
- (3)
- (3A)
- (4)
- (4) (Paragraph (a) of proviso)
- (Paragraph (b) of proviso)
- (5)
- (6)
- (7)

FIFTH SCHEDULE

1 and 2

3 (*Deleted by Act 21/2003*)

- 4
- 5
- 6
- 7
- 8
- 9

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