Income Tax (Amendment) Bill 2018

Bill No. /2018.

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EXPLANATORY STATEMENT

This Bill seeks to implement the tax changes in the Government's 2018 Budget Statement in the Income Tax Act (Cap. 134) (the Act) and to make certain other amendments to the Act.

Clause 2 amends section 2 (Interpretation) to insert a new definition of "specially authorised officer", used in the amended section 65B and the new sections 65F to 65J. Clause 2 also inserts a definition for "private hire car" in that section, used in sections 15(1)(*k*) and 19(5).

Clause 3 inserts a new subsection (5) in section 4 (Powers of Comptroller) to empower the Comptroller to authorise a person who has been authorised by the Comptroller to investigate an offence under the Act, to exercise the powers of forced entry, search of persons, and arrest, conferred by the amendments made to section 65B and the new sections 65F to 65J.

Clause 4 amends section 6 (Official secrecy) to empower the Comptroller to disclose information to the head of any law enforcement agency any information —

(*a*) required for the purpose of investigating an offence specified under the First or Second Schedule of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A); or

(*b*) that the Comptroller has reasonable grounds to suspect affords evidence of the commission of any such offence.

Any onward disclosure by the head of the law enforcement agency or a person under his command, as well as by a person who has been given such information under the exception, is prohibited except where it is necessary for the investigation or prosecution of the offence for which the information was first disclosed to the head of the law enforcement agency.

Clause 5 amends section 10 (Charge of income tax) to provide that with effect from the year of assessment 2020, the taxable benefit of a place of residence provided by an employer to his or her employee is the rent paid by the employer for that place and for any furniture and fittings in that place. Where no such rent is paid by the employer, the taxable benefit of such place of residence remains the annual value of that place. Where it appears to the Comptroller that the rent paid by the employer for the place is below the rent which it may reasonably be expected to be leased, the Comptroller may adopt the annual value for that place, or (if no annual value is ascribed to that place) any other value that appears reasonable in the circumstances.

Clause 5 also amends section 10 to extend by 5 years (till 31 December 2023) the period within which qualifying debt securities are to be issued for subsection (20A)(*f*)(ii) and (*h*) to apply. Under that provision, a distribution by a

designated unit trust to a unit holder out of certain income from qualifying debt securities, that do not form part of the statutory income of the designated unit trust because of section 35(12), is treated as the income of the unit holder unless the unit holder is a foreign investor. The clause also amends section 10 to correct a cross reference in subsection (20A).

Clause 6 amends section 10D (Income from finance or operating lease) to clarify that, in the case of a finance lease that is treated as a sale by regulations made under subsection (1), the part of any payment that is attributable to repayment of the principal, is not considered the income of the lessor.

Clause 7 amends section 10F (Ascertainment of income from certain public-private partnership arrangements). The section provides for the ascertainment of income derived under a contract entered into under a public-private arrangement between the Government or an approved statutory body and any person, and which is or which contains a finance lease recognised as such by the lessor under certain financial reporting standards. The section is amended by including new financial reporting standards, namely, FRS 116, SFRS (I) 1-17, SFRS (I) 16, SFRS (I) INT 4, and SFRS (I) INT 12.

Clause 8 amends section 12 (Sources of income) —

(*a*) to clarify that the reference in section 12(6) to "interest" includes a payment made under a finance lease treated by regulations made under section 10D(1) as a sale, that is considered income of the lessor under the amendment made to section 10D; and

(*b*) to provide that the reference in section 12(7) to payment made under an agreement or arrangement for the use of movable property, includes any payment that is made under a finance lease that is not treated by regulations made under section 10D(1) as a sale.

Section 12(6) and (7) treats certain types of income as being derived from Singapore.

Clause 9 amends section 13 (Exempt income) for the following purposes:

(*a*) to extend by 5 years (till 31 December 2023) the period within which qualifying debt securities are to be issued for various provisions in that section to apply. The various provisions provide exemption from tax for certain types of income derived by certain descriptions of persons from those securities;

(*b*) to provide that the exemption from tax under subsection (1)(v) only applies to Asian Dollar Bonds issued on or before 31 December 2018;

(*c*) to delete a part of the definition of "deposit" that is obsolete in light of the deletion of subsection (1)(*zc*) by the Income Tax (Amendment No.3) Act 2016 (Act 34 of 2016);

(*d*) to provide that distributions from a real estate investment trust made out of income that is subject to tax transparency under section 43, to an individual unit holder are not exempt from tax if made on or after 31 March 2020;

(*e*) to provide that distributions from a REIT exchange-traded fund that is approved for the purposes of section 43(2), out of income that is subject to tax transparency under section 43, to an individual unit holder is exempt from tax if made between 1 July 2018 and 31 March 2020;

(*f*) to grant exemption from tax of any income of an entity whose sole object is to underwrite sovereign disaster risks.

Clause 10 amends section 13CA (Exemption of income of prescribed persons arising from funds managed by fund manager in Singapore) to expand the term "issued securities" to include any other instrument that confers or represents a legal or beneficial ownership interest in a company. The reason for this is to enable a company that does not issue debentures, stocks or shares to qualify as a "prescribed person" under the section.

Clause 11 amends section 13P (Exemption of income derived from asset securitisation transaction) to extend by 5 years (till 31 December 2023) the period within which an asset securitisation transaction must be entered into in order for income from it to enjoy tax exemption under that section.

Clause 12 amends section 13X (Exemption of income arising from funds managed by fund manager in Singapore) to expand the types of investment vehicle that may be used in producing the income covered by that section. The table below summarises the changes made:

Provision of section 13X	**Current scope**	**New scope**
Subsection (1)(*a*)	The investment vehicle must be a — (*a*) company (*b*) limited partnership; or (*c*) trust fund	The investment vehicle may be in any form, including a non-legal entity.
Subsection (1)(*b*) (Master-feeder fund structure)	The master fund or feeder fund must be a — (*a*) company (*b*) limited partnership; or (*c*) trust fund	The master fund or feeder fund may be in any form, including a non-legal entity.

Subsection (1)(*c*) (Master-feeder fund-SPV structure)	The feeder fund must be a — (*a*) company (*b*) limited partnership; or (*c*) trust fund	The feeder fund may be in any form, including a non-legal entity.

Clause 13 amends section 14A (Deduction for costs for protecting intellectual property) by —

(*a*) extending to the year of assessment 2025, the tax deduction allowable for qualifying intellectual property registration costs incurred for the purposes of a trade or business; and

(*b*) enhancing the tax deduction for qualifying intellectual property registration costs incurred for the purpose of a trade or business, for the years of assessment 2019 to 2025 (both years inclusive). The enhanced deduction is the amount of the costs up to $100,000 for each year of assessment.

Clause 14 amends section 14B (Further deduction for expenses relating to approved trade fairs, exhibitions or trade missions or to maintenance of overseas trade office) to adjust the maximum amount of expenses for which a deduction may be allowed for an unapproved firm or company under this section and section 14K(1A). The maximum amount starting with the year of assessment 2019 is $150,000 instead of $100,000.

Clause 15 amends section 14D (Expenditure on research and development) to clarify the application of subsection (2). Subsection (2) provides that expenditure on research and development incurred before the commencement of a trade or business is treated as incurred on the first day of the trade or business. After the amendment, the subsection will not apply in a case where the expenditure has been allowed a deduction under the section in a previous year of assessment. For example, if a person has been allowed a deduction under section 14D for expenditure on research and development that is not related to the person's trade or business, but is related to another trade or business of the person that has yet to commence, that expenditure will subsequently not be allowed a deduction under subsection (1) for the same expenditure by the operation of subsection (2).

Clause 16 amends section 14DA (Enhanced deduction for qualifying expenditure on research and development) to increase the amount of enhanced tax deduction for qualifying expenditure for research and development under that section, from 50% to 150% of the expenditure. The amendment is effective for each year of assessment from years of assessment 2019 to 2025 (both years inclusive).

Clause 17 amends section 14E (Further deduction for expenditure on research and development project) to provide that the amount of deductions allowed under that section must not (after adding the deductions allowed for the same expenditure under sections 14, 14D and 14DA) result in the total deductions for that expenditure exceeding 200% of the expenditure.

Clause 18 amends section 14I (Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments), which gives banks and qualifying finance companies a deduction for provisions made for doubtful debts from its loans and a diminution in value of its investments in securities under subsection (1), and treats as trading receipts any reversal of such provisions under subsection (2). The amendments are mainly made because of the following:

(*a*) the adoption by banks and qualifying finance companies of the financial reporting standards known as Financial Reporting Standard 109 (Financial Instruments) (FRS 109) and Singapore FRS (International) 9 (Financial Instruments) (SFRS(I) 9) for accounting periods beginning on or after 1 January 2018. Under these financial reporting standards, banks and qualifying finance companies are required to account for expected credit losses from loans and investments in securities;

(*b*) the revision of existing notices issued by the Monetary Authority of Singapore to banks and qualifying finance companies. Under the revised notices, banks and qualifying finance companies are required to make allowances over and above those expected credit losses, if the expected credit losses fall below the minimum level of allowance required by the revised notices.

These amendments are given effect to in the new subsections (2A) to (2G).

The new subsections (2A) and (2B) provide that an amount computed by the formula A+B+C for a basis period beginning on or after 1 January 2018 is either treated as an amount of provision made for doubtful debts or a diminution in the value of investment in securities (and eligible for a deduction), or as a reversal of those provisions (and subject to tax).

The following examples illustrate the operation of subsections (2A) and (2B).

Example 1: Bank A recognises the following for the basis period 1 January 2019 to 31 December 2019.

	In $ millions	Denoted by Formula
Provision for expected credit losses on loans that are not credit-impaired, determined under FRS 109 and reported in Bank A's profit and loss statement	100	A = –100

Reversal of expected credit losses on debt securities that are not credit-impaired, determined under FRS 109 and reported in Bank A's profit and loss statement	60	B = +60
Allowance for loans and securities that are not credit-impaired, determined under MAS notice dated 29 December 2017 and reported in Bank A's retained earnings account	20	C = –20
Total amount = A + B + C = (–100) + (60) + (–20) = –60 Amount computed is a negative 60. Hence, the amount of 60 is to be allowed under subsection (1), subject to the limit under subsection (5).		

Example 2: Bank B recognises the following for the basis period 1 January 2019 to 31 December 2019.

	In $ millions	Denoted by Formula
Provision for expected credit losses on loans that are not credit-impaired, determined under FRS 109 and reported in Bank B's profit and loss statement	100	A = –100
Reversal of expected credit losses on debt securities that are not credit-impaired, determined under FRS 109 and reported in Bank B's profit and loss statement	80	B = +80
Reversal of allowance for loans and securities that are not credit-impaired, determined under MAS notice dated 29 December 2017 and reported in Bank B's retained earnings account	20	C = +20
Total amount = A + B + C = (–100) + (80) + (20) = 0 Amount computed is zero. Hence, no amount is to be allowed or taxed under subsection (1) or (2)(*a*) respectively.		

Example 3: Bank C recognises the following for the basis period 1 January 2019 to 31 December 2019.

	In $ millions	Denoted by Formula

Reversal of expected credit losses on loans that are not credit-impaired, determined under FRS 109 and reported in Bank C's profit and loss statement	70	A = +70
Reversal of expected credit losses on debt securities that are not credit-impaired, determined under FRS 109 and reported in Bank C's profit and loss statement	80	B = +80
Allowance for loans and securities that are not credit-impaired, determined under MAS notice dated 29 December 2017 and reported in Bank C's retained earnings account	50	C = –50
Total amount = A + B + C = (70) + (80) + (–50) = 100 Amount computed is a positive 100. Hence, the amount of 100 is to be taxed under subsection (2)(*a*), subject to the limit under subsection (3).		

The new subsection (2D) provides that if a bank or qualifying finance company permanently ceases to carry on business in Singapore in a basis period beginning on or after 1 January 2018, then the amount treated as its trading receipts is the sum of all provisions in its expected credit loss allowance account as at the date of the cessation, and the provisions in its reserve account as at the date of cessation. The amount treated as the bank or qualifying finance company's trading receipts is subject to the limit in subsection (3).

The new subsections (2E) to (2G) make special provisions for a bank or qualifying finance company that adopted FRS 109 or SFRS(I) 9 before the date it is required to do so. The amount of deduction to be allowed under subsection (1) or taxed under subsection (2) is the sum of A and B, explained above.

Clause 18 also makes the following other amendments to section 14I:

(*a*) to provide that subsection (1) ceases to apply starting from the year of assessment for a basis period that begins on or after 1 January 2024. As a related amendment, the restriction of the application of subsection (6A) (which provides that the section applies to an allowance required by an MAS notice as it applies to provisions made for doubtful debts, etc.) to a period prescribed by regulations, is removed;

(*b*) to omit accounting terms that are obsolete from the definition of "qualifying profit";

(*c*) to modify the definition of "securities" as a result of the adoption of FRS 109 and SFRS(I) 9 by banks and qualifying finance companies;

(*d*) to modify the definition of "qualifying finance company" to omit requirements already found in the Finance Companies Act (Cap. 108);

(*e*) to include a cross reference (to subsection (4A)(*a*)(ii)) in subsections (3), (5)(*c*) and (6)(*b*), which was inadvertently omitted when subsection (4A) was inserted.

Clause 19 amends section 14K (Further or double deduction for overseas investment development expenditure) for a similar reason as the amendment made to section 14B.

Clause 20 introduces a new section 14WA to provide for a deduction (in addition to the deduction under section 14 or 14D) for expenditure in the form of licence fees incurred by a taxpayer on licensing from another person of any intellectual property rights, other than trade marks or software user rights. The deduction is granted on up to $100,000 of such expenditure incurred for each year of assessment from years of assessment 2019 to 2025 (both years inclusive). No deduction is allowed for expenditure incurred by a taxpayer on licensing from a related party of any intellectual property rights, among other restrictions.

Clause 21 amends section 14ZB (Deduction for expenditure for services or secondment to institutions of a public character) to extend the period during which qualifying expenditure incurred for the provision of certain services to an institution of a public character, or for the secondment of a qualifying employee to such an institution during that period, may be allowed a deduction under that section. The period is extended by 3 years till 31 December 2021.

Clause 22 inserts a new section 14ZC to enable an individual who derives income from driving a chauffeured private hire car or taxi for the carriage of passengers or to provide a courier pick-up and delivery service, to claim a deduction for outgoings and expenses of an amount that is determined by a prescribed formula, instead of the actual amount of such outgoings and expenses. The following are features of the new section:

(*a*) it only applies if the individual is the holder of the relevant vocational licence issued under the Road Traffic Act (Cap. 276);

(*b*) it only applies to income derived in the basis period for the year of assessment 2019 or a subsequent year of assessment;

(*c*) it only applies to income chargeable to tax under section 10(1)(*a*);

(*d*) it does not apply to income derived by an individual through a partnership;

(*e*) no deduction is allowed under this section for any service fee incurred by the individual. Service fee is any fee payable to a private hire car booking service operator in connection with the provision of a

ride-sourcing service, or to the provider of a third-party taxi booking service in connection with the provision of such service;

(*f*) an individual may elect to disapply the new section to his or her income. If an individual so elects, any excess of any outgoings or expenses over the income is not available as a deduction against any other income of the individual.

Clause 23 amends section 15 (Deductions not allowed) to allow an individual who drives a chauffeured private hire car, and who holds a chauffeured private hire car licence under section 110 of the Road Traffic Act, to claim a tax deduction for outgoings and expenses (excluding any cost of renewal) incurred when driving the car for the carriage of passengers or the provision of a courier pick-up and delivery service. This amendment only applies for the year of assessment 2019 or a subsequent year of assessment.

Clause 24 amends section 19 (Initial and annual allowances for machinery or plant) to disallow capital allowance to be given in respect of a taxi to any person unless —

(*a*) the person is not an individual and holds a taxi service operator licence;

(*b*) the person is an individual who is a partner of the partnership that acquired the taxi and holds such a licence; or

(*c*) the person is an individual who holds such a licence, and the licence was first issued to the person at any time before 1 January 1975.

Clause 25 amends section 34A (Adjustment on change of basis of computing profits of financial instruments resulting from FRS 39 or SFRS for Small Entities) to disapply that section to a person who is treated as a qualifying person under section 34AA for the year of assessment concerned on the basis that the person applied to the Comptroller to be such qualifying person under section 34AA(6). Essentially, a person may only be a qualifying person under section 34A or 34AA but not both.

Clause 26 extends the scope of section 34AA (Adjustment on change of basis of computing profits of financial instruments resulting from FRS 109), which provides for changes to the basis of computing profits, losses or expenses in respect of financial instruments arising from the adoption of the financial reporting standard known as Financial Reporting Standard 109 (Financial Instruments). The amended section 34AA applies those changes in relation to the financial reporting standard known as Singapore Financial Reporting Standard (International) 9 (Financial Instruments).

The clause also amends subsection (3)(*h*) (read with subsection (13)(*a*)) of section 34AA which provides for the application of section 14I for a period prescribed by regulations, to provisions made for expected credit losses recognised under FRS 109 in respect of loans and securities which are not

credit-impaired. The reference to the application of section 14I for a period prescribed by regulations is removed, as the relevant requirement will be set out in the amended section 14I instead.

Clause 27 inserts a new section 34AB to provide that, in a case where a person undertakes a transaction that is to be settled in a currency that is different from the currency in which the person maintains his financial statements, any change in the value of payables or receivables in the person's financial statements concerning that transaction, that arises from movements in the rates of those 2 currencies, is a gain (to be taxed) or an expense (to be deducted) in the basis period in which that change is recognised in the financial statements as a gain or loss. This does not apply to any transaction if the gain or loss from that transaction is capital in nature.

The new section does not apply to a person who elected, in his return of income for the year of assessment 2004 not to be subject to the tax treatment. However, such a person may subsequently make an irrevocable election to be subject to this section, and if the Comptroller approves such election, this section will apply to the person.

Clause 28 amends section 34G (Modification of provisions for companies redomiciled in Singapore) to extend the tax treatment in that section of a redomiciled company that has not carried on any trade or business in Singapore before the date of its redomiciliation (called its registration date), to a redomiciled company that carried on a trade or business in Singapore before its registration date. The extension of the tax treatment to the secondmentioned company is only in respect of its trade or business carried on outside Singapore before that date (called the foreign trade or business). Specifically —

(*a*) if the redomiciled company has any debt owed to it in respect of the foreign trade or business and that was incurred before its registration date, and such debt is written off as bad on or after that date, or is one for which provision is made for any impairment loss on or after that date, no deduction may be made for the debt or any provision made for it. Correspondingly, any amount recovered from the debt or any reversal of the impairment loss is not chargeable with tax;

(*b*) any amount reversed after the registration date of an impairment loss from a financial asset acquired for the foreign trade or business is not chargeable to tax;

(*c*) any impairment loss incurred on or after the registration date from a financial asset acquired before that date for the foreign trade or business, is allowed a deduction to the extent the financial asset is credit-impaired, but only if it is incurred in the course of carrying on a trade or business in Singapore. Correspondingly, any amount of that loss that is subsequently reversed is chargeable to tax;

(*d*) no deduction is allowed under section 14 for any expense incurred for the foreign trade or business before the registration date for which the company was given a deduction or relief by the income tax law of another country;

(*e*) the value of any trading stock acquired before its registration date for the foreign trade or business to be used to determine a deduction to be allowed to the company under any provision of the Act, is the lower of the cost of the trading stock to the company, and its net realisable value.

Clause 28 also deletes and substitutes subsection (9) of section 34G so that it does not apply to a redomiciled company that had carried on a trade or business in Singapore before its registration date, and to modify its application. Under the amended subsection (9), a deduction may only be given to the company under section 14A (Deductions for costs for protecting intellectual property), 14D (Expenditure on research and development), 14Q (Deduction for renovation or refurbishment expenditure), 14S (Deduction for qualifying design expenditure) or 14U (Deduction for expenses incurred before first dollar of income from trade, business, profession or vocation), for expenditure incurred before its registration date if it is for the purpose of a trade or business in Singapore, and if it did not carry on the same trade or business outside Singapore before that date.

In addition, clause 28 amends the scope of subsections (11) to (18) of section 34G, which modify sections 19, 19A and 19B for the purpose of making capital allowances to a redomiciled company for capital expenditure incurred before its registration date in acquiring property for use in a trade or business in Singapore. With the amendment, the subsections only apply to property initially acquired for the purpose of a foreign trade or business and now used for the purpose of a trade or business in Singapore.

Lastly, clause 28 amends section 34G by inserting new subsections (20A), (20B) and (20C). The new subsections deal with a case where a redomiciled company carried on general or life insurance business outside Singapore before its registration date and carries on the same business in Singapore after that date, and its registration date falls in a period for which its taxable income is to be ascertained. The liabilities of the redomiciled company immediately before its registration date in respect of the business continued in Singapore are be added to the beginning value of its policy liabilities in that period for the purpose of ascertaining its taxable income.

Clause 29 amends section 34I (Adjustments arising from adoption of FRS 115) which makes adjustments to the chargeable income or exempt income of a person for a year of assessment, that are necessitated by the adoption for the first time of FRS 115 in preparing financial accounts. By reason of such adoption, the revenue amount in the financial accounts in a previous basis period may be retrospectively adjusted. If the income assessed for a past year of assessment (amount B) is different from the amount that would have been computed (amount A) had the

Comptroller used an amount of profit that included the adjusted revenue amount as the starting point for the computation, then the excess amount (called the excess) is treated as income chargeable to tax, to be deducted from the amount of exempt income, or allowable as a deduction (as the case may be) for the year of assessment of the basis period in which FRS 115 is first applied.

Clause 29 amends the amounts A and B in section 34I. The amounts are now the sum of the person's chargeable income (amount X) and exempt income (amount Y), less the sum of each deduction or allowance for any expenditure, donation or loss, that remains unabsorbed after ascertaining the chargeable income and exempt income (amount Z).

Clause 29 also amends the amounts D and E in section 34I, which are used to determine the portion of the excess that is subject to a particular tax treatment. The amounts D and E include the amount of deduction allowed or allowance made for each expenditure, donation or loss which is used in ascertaining the chargeable income or exempt income. Any part of such deduction or allowance that remains unabsorbed after ascertaining such chargeable income or exempt income is excluded from amounts D and E.

The effects of these amendments are explained by the following illustration:

	Tax rate of 17%		**Tax rate of 10%**	
Gross trade revenue	5,000	(D_1)	6,000	(D_2)
Net profit/ (*loss*) before tax	2,000		(1,000)	
Less: Separate source income (*unremitted*)	(500)		(3,000)	
Add: Non-deductible expense	1,000		600	
Adjusted profit/ (*loss*)	2,500		(3,400)	
Less: Capital allowance	(600)			
Less: Investment allowance	(900)			
Chargeable income	1,000		0	

Computation of D:

$$D = \text{Part of income subject to same tax rate} + \text{Deduction allowed or allowance made for each expenditure, donation or loss in ascertaining the income}$$

$$D_1 = 1{,}000 + 2{,}500^* + 600 + 900 = 5{,}000$$

D_2 = 0 + 6,000** = 6,000

* Deduction allowed = (5,000 + 500) – 2,000 – 1,000 = 2,500

** Capped at gross trade revenue since any deduction or allowance (or any part thereof) that remains unabsorbed is to be excluded

Computation of E:

$E = D_1 + D_2 = 5{,}000 + 6{,}000 = 11{,}000$

Finally, clause 29 extends section 34I to adjustments to a person's financial accounts that are necessitated by the person's adoption for the first time of the accounting standard known as SFRS(I) 15. With the amendment, the section will also apply where the revenue amount in a person's financial statements in any previous basis period has to be retrospectively adjusted because of the person's adoption of SFRS(I) 15 for the first time in preparing the person's financial statements.

Clause 30 amends section 35 (Basis for computing statutory income) —

(*a*) to clarify that subsection (12) (which allows a trustee of a designated unit trust to elect for certain income not to form part of the trustee's statutory income) does not affect the operation of the amended section 43 to a designated unit trust that is also be a REIT exchange-traded fund approved for the purposes of section 43(2) (called an approved REIT exchange-traded fund). The amended section 43 gives tax transparency to certain other income of an approved REIT exchange-traded fund;

(*b*) to clarify that the tax transparency given to certain income of the trustee of an approved REIT exchange-traded fund under the amended section 43, applies to any statutory income of the trustee received in the trustee's capacity as a beneficiary of a trust. The trustee may receive such income as a beneficiary of a real estate investment trust; and

(*c*) to provide that the statutory income of a beneficiary of an approved REIT exchange-traded fund includes a distribution that is subject to tax transparency under the amended section 43.

Clause 31 amends section 37 (Assessable income) to extend by 3 years (till 31 December 2021) the period within which a qualifying donation made is entitled to a deduction of 2.5 times the amount or value of the donation.

Clause 32 amends section 43 (Rate of tax upon companies and others) —

(*a*) to give tax transparency to certain income of a trustee of a REIT exchange-traded fund approved for the purposes of section 43(2). This includes a distribution in cash received in the period between 1 July 2018 and 31 March 2020 from a real estate investment trust from certain income that is also subject to tax transparency;

(*b*) to clarify that the tax transparency treatment under paragraph (*a*) does not affect the operation of section 35(12) in relation to an approved REIT exchange-traded fund that is also a designated unit trust. Section 35(12) allows the trustee of a designated unit trust to elect for certain of its other income not to form part of its statutory income; and

(*c*) to provide for a concessionary tax rate of 10% to be levied on distributions to certain non-individuals from income of the trustee of an approved REIT exchange-traded fund that is subject to tax transparency.

Clause 32 also amends section 43 by revising the amount of chargeable income eligible for the partial tax exemption under subsection (6) for all companies and bodies of persons, and under subsection (6A) for qualifying new companies.

Clause 33 amends section 43N (Concessionary rate of tax for income derived from debt securities) for the following purposes:

(*a*) to extend by 5 years (till 31 December 2023) the period within which qualifying debt securities specified in subsection (1) must be issued. Under subsection (1), regulations may be made to apply a concessionary tax rate of 10% to qualifying income derived by certain persons from qualifying debt securities, subject to conditions;

(*b*) to extend by 5 years (till 31 December 2023) the period within which income derived by a primary dealer from trading in Singapore Government securities may be exempt from tax by regulations;

(*c*) to provide that regulations may not be made under subsection (1) to apply the concessionary rate of tax of 10% to income derived on or after 1 January 2014 by a financial sector incentive company that is approved as a financial sector incentive (capital market) company. Such income will be taxed in accordance with the provisions under section 43Q.

Clause 34 amends section 43Y (Concessionary rate of tax for leasing of aircraft and aircraft engines) to provide for a transitional arrangement. Under the current section, incentivised income of an approved aircraft leasing company is subject to tax at either 5% or 10%, if it is approved before 1 April 2017, or 8%, if it is approved on or after that date. A company that is an approved aircraft leasing company on or before 31 March 2017, and is approved again at any time on or after 1 April 2017, may elect to apply the rate of tax which it enjoyed on its income during the previous approval period, to its income derived in the new approval period using an aircraft or aircraft engine that it owned, or of which it was a lessee (under a finance lease treated as a sale), as at the last day of the previous approval period, until the disposal of the aircraft or aircraft engine or 31 December 2027, whichever is earlier.

Clause 35 amends section 43ZC (Concessionary rate of tax for approved insurance brokers) —

(*a*) to provide that regulations under that section may only levy a concessionary tax rate of 10% on income derived by an approved insurance broker; and

(*b*) to extend the date by which an insurance broker may be approved for the purposes of the section to 31 December 2023".

Clause 36 amends section 43ZI, which provides for the levy of a concessionary rate of tax for each year of assessment upon a percentage of "qualifying intellectual property income" of an approved company that is derived —

(*a*) from a "qualifying intellectual property right" elected by the approved company for that year of assessment; and

(*b*) in the whole or any part of a basis period for that year of assessment that falls within the tax relief period applicable to the approved company.

"Qualifying intellectual property income", "qualifying intellectual property right", and the method for determining the percentage of qualifying intellectual property income of an approved company, are matters for the Minister to prescribe using regulations.

The Minister or a person appointed by the Minister may approve a company as an approved company, specify an initial tax relief period for an approved company that does not exceed 10 years, and extend the tax relief period for a further period or periods not exceeding 10 years for each period.

The concessionary rate of tax is determined in accordance with the formula A + B. A is a base rate of 5% or 10% as the Minister may determine, while B is the sum of every rate of increase specified by the Minister or an appointed person to the approved company. A rate of increase of at least 0.5% must be specified by the Minister or an appointed person for every 5-year period beginning with the third 5-year period of an approved company's tax relief period, and ending with the eighth 5-year period of its tax relief period. That rate of increase applies to years of assessment of all the basis periods within a 5-year period.

The example below illustrates how the concessionary rate of tax is determined.

A is an approved company that is given a 10-year tax relief period commencing on 1 July 2018. The Minister determines 5% as the base rate, which is the concessionary rate of tax applicable to *A* between 1 July 2018 and 30 June 2028.

A is later given an extension of its tax relief period for 10 years commencing on 1 July 2028. The Minister specifies a rate of increase of 0.5% to *A* that takes effect on 1 July 2028, and a rate of increase of 0.5% that takes effect on 1 July 2033. The concessionary rate of tax applicable to *A* between 1 July 2028 and 30 June 2033 is 5.5%, being the sum of the base rate of 5% and the rate of increase of 0.5%. The concessionary rate of tax applicable to *A* between 1 July 2033 and 30 June 2038 is 6%, being the sum of the base rate of 5% and the total rate of increase of 1%.

Clause 37 amends section 45 (Withholding of tax in respect of interest paid to non-resident persons) —

(*a*) to extend by 5 years (till 31 December 2023) the period within which qualifying debt securities must be issued for the withholding tax exemption under that section to apply;

(*b*) to extend by 5 years and 9 months (till 31 December 2022) the period within which qualifying project debt securities must be issued for the withholding tax exemption under that section to apply; and

(*c*) to clarify that the term "interest" includes a payment made under a finance lease treated by regulations made under section 10D(1) as a sale, that is considered income of the lessor under the amendment made to section 10D.

Clause 38 amends section 45A (Application of section 45 to royalties, management fees, etc.) for similar purposes to the amendments to section 45 in paragraphs (*a*) and (*b*) above.

Clause 39 amends section 45G (Application of section 45 to distribution from any real estate investment trust) to require tax to be withheld from a distribution by a trustee of a REIT exchange-traded fund that is approved for the purposes of the amended section 43(2). The withholding tax rate is 10% on a distribution that is made between 1 July 2018 and 31 March 2020.

Clause 40 makes an amendment to section 46 (Tax deducted from interests, etc.) that is consequential on the amendment to section 45G.

Clause 41 amends section 65B (Power of Comptroller to obtain information) to empower the Comptroller or an officer authorised by the Comptroller, to obtain from a person on any premises to which the Comptroller or officer has gained entry in exercise of his or her powers under that section, information that is relevant to an investigation of an offence under the Act, or to the prosecution of a person for such offence. The Comptroller may also give notice to a person to provide such information to the Comptroller by a specified means, including when attending before the Comptroller or an authorised officer.

Clause 41 further amends section 65B to empower the Comptroller or an officer authorised by the Comptroller to exercise additional powers under the new section 4(5) (called a specially authorised officer), to gain entry by force to any building or place. This power is only exercisable if the Comptroller or officer —

(*a*) has reason to believe that there is in that building or place any document or thing, or any thing containing information, that may be relevant to an investigation of an offence under section 37J(3) or (4), 96 or 96A of the Act, or that may be required as evidence in proceedings for such offence;

(*b*) has reason to believe that the document, thing or information is likely to be concealed, removed, destroyed or deleted by any person; and

(*c*) cannot gain entry after making a demand.

Lastly, clause 41 amends section 65B to empower the Comptroller or a specially authorised officer to search any person found in a building or place for any document or thing that may be relevant to the investigation, or that may be required as evidence in proceedings for an offence under the Act.

Clause 42 inserts new sections 65F to 65K to empower the Comptroller or a specially authorised officer (called an arresting officer) to arrest a person for certain offences, and to search and examine an arrested person.

The new section 65F empowers an arresting officer to arrest without a warrant a person whom he or she has reason to believe —

(*a*) has committed an offence under section 37J(3) (giving false information to obtain a cash payout or PIC bonus or a higher amount of any of these), 37J(4) (falsifying books or using fraud, etc., to obtain a cash payout or PIC bonus or a higher amount of any of these), 96 (tax evasion or wilful action to obtain PIC bonus) or 96A (serious fraudulent tax evasion and action to obtain PIC bonus); or

(*b*) is destroying or attempting to destroy any document or thing, is deleting or attempting to delete any information contained in any thing, or is resisting or attempting to resist the taking of any document or thing, being any document, thing or information that may be relevant to an investigation of an offence under the Act, or that may be required as evidence in proceedings for any offence under the Act.

The new section 65F also provides for the maximum period an arrested person may be detained, the power to search the person, and the release of the person on provision of bail or bond.

The new section 65G provides that an arresting officer may use any reasonable means necessary to make an arrest if the person forcibly resists or tries to evade arrest. If necessary, the arrested person may be restrained using handcuffs or similar means of restraint.

The new section 65H provides that an arresting officer may be armed with batons and other accoutrements for the effective discharge of his or her duties under sections 65F and 65G.

The new section 65I provides that an arresting officer may enter and search a building or place if the arresting officer has reason to believe that a person liable to be arrested is inside the building or place.

The new section 65J provides that an arresting officer may examine orally an arrested person. An arrested person, when examined, need not state anything which he is under any statutory obligation to observe secrecy, or which is subject to legal privilege. The section provides for immunities against liability for information that is disclosed in breach of any other duty of secrecy.

The new section 65J also criminalises the failure by an arrested person to answer any question, or provide false or misleading information, during the examination.

The new section 65K provides for the disposal of items furnished to or seized by the Comptroller or an officer authorised by the Comptroller in the exercise of information gathering powers under section 65A or 65B and not produced in criminal proceedings.

Clause 43 amends section 92G (Remission of tax of companies for year of assessment 2018) to enhance the corporate tax rebate for the year of assessment 2018 to the lower of 40% of the tax payable and $15,000.

Clause 44 inserts a new section 92H to provide for a corporate tax rebate for the year of assessment 2019, of 20% of the tax payable and $10,000, whichever is lower.

Clause 45 repeals and re-enacts section 98 —

(*a*) to clarify that it applies to obstructing or hindering the Comptroller when discharging his or her duties;

(*b*) to clarify that it applies to obstructing or hindering the Comptroller or an officer when exercising his or her powers under the Act;

(*c*) to increase the penalties to make them the same as for a similar offence under the Goods and Services Tax Act; and

(*d*) to make it compoundable by the Comptroller.

Clause 46 and 47 amend sections 105F and 105N (Power of Comptroller to obtain information) respectively, to apply the new section 65K to the disposal of items obtained pursuant to the exercise of powers under those sections.

Clause 48 amends section 105P (Regulations to implement international tax compliance agreements, etc.) to set out in regulations the conditions for invoking what is commonly known as "local filing" under the Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 — 2015 Final Report published by the Organisation for Economic Co-operation and Development on 5 October 2015. Under the "local filing" mechanism, a domestic constituent entity that would otherwise not be required to file a country-by-country report with its revenue authority, is required to file an equivalent of that report with that authority in certain circumstances.

Clause 49 repeals section 47 and the Fourth Schedule of the Act as they are obsolete, and makes an amendment to section 106(3) consequential on the repeal.

Clause 50 renumbers certain cross references in various provisions of the Act to section 43(6A) of the Act, as a result of amendments made to that section in the Bill. It also makes amendments to various provisions that are consequential on the insertion of the new section 43ZI.

EXPENDITURE OF PUBLIC MONEY

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