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CHAPTER 86

Economic Expansion Incentives (Relief from Income Tax) Act

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An Act relating to incentives for the establishment of pioneer industries and for economic expansion generally, by way of providing relief from income tax.

[15th December 1967]

PART I

PRELIMINARY

1. This Act may be cited as the Economic Expansion Incentives (Relief from Income Tax) Act. Short title.

2. This Act shall, unless otherwise expressly provided for in this Act, be construed as one with the Income Tax Act. Construction. Cap. 134.

Interpretation. 34/84.

3. In this Act, unless the context otherwise requires —

"approved foreign loan" means a loan which is certified under section 57 to be an approved foreign loan;

"approved product" means a product declared under section 20 to be an approved product;

"approved royalties, fees or contributions" means royalties, technical assistance fees or contributions to research and development costs which have been certified under section 61 to be approved royalties, fees or contributions;

"company" means any company incorporated or registered in accordance with the provisions of any written law relating to companies;

"Comptroller" means the Comptroller of Income Tax appointed under the Income Tax Act; Cap. 134.

"expanding enterprise" means any company which has been approved by the Minister and to which an expansion certificate has been issued under section 21;

"expansion certificate" means an expansion certificate issued under section 21;

"expansion day", in relation to an expanding enterprise, means the date specified in its expansion certificate under section 21 (4) or (5);

"export enterprise" means any company which has been approved by the Minister and to which an export enterprise certificate has been issued under section 30;

"export enterprise certificate" means an export enterprise certificate issued under section 30;

"export produce" means the produce of deep-sea fisheries, including fresh or frozen fish, approved under section 29 as export produce;

"export product" means a product approved under section 29 as an export product;

"export year" means the year specified in the export enterprise certificate under section 30 (3) or 31;

"foreign loan certificate" means a foreign loan certificate issued under section 57;

"manufacture", in relation to a product, includes any process or method used in making or developing the product;

"new trade or business" means the trade or business of a pioneer enterprise deemed under section 7 to have been set up and commenced on the day following the end of its tax relief period;

"officer of customs" and "senior officer of customs" have the same meanings as in the Customs Act; Cap. 70.

"old trade or business" means the trade or business of a pioneer enterprise carried on by it during its tax relief period in accordance with section 7, and which either ceases within or is deemed, under that section, to cease at the end of that period;

"pioneer certificate" means a pioneer certificate issued under section 5;

"pioneer enterprise" means any company which has been approved by the Minister and to which a pioneer certificate has been issued under section 5;

"pioneer industry" means an industry declared under section 4 to be a pioneer industry;

"pioneer product" means a product declared under section 4 to be a pioneer product;

"production day", in relation to a pioneer enterprise, means the date specified in its pioneer certificate under section 5 (3) or (4) ;

"productive equipment" means machinery or plant which would normally qualify for deduction under sections 19, 19A, 20, 21 and 22 of the Income Tax Act; Cap. 134.

"royalties, fees or contributions certificate" means a certificate issued under section 61;

"royalties or technical assistance fees" includes —

(*a*) any royalties, rentals or other amounts paid as consideration for the use of, or the right to use, copyright, scientific works, patents, designs, plans, secret processes, formulae, trade marks, licences or other like property or rights;

(*b*) income derived from the alienation of property or information mentioned in paragraph (*a*); and

(*c*) other amounts paid in consideration of services rendered by a non-resident person or his employee in connection with the use of property or rights belonging to, or the initial operation of any plant, machinery or other apparatus purchased from, the non-resident person,

but does not include royalties, rentals or other amounts paid in respect of the operation of mines, quarries or other places of extraction of natural resources; or fees paid to an individual for the performance of professional services in Singapore other than as an employee;

Cap. 134. "tax" means income tax imposed by the Income Tax Act.

PART II

PIONEER INDUSTRIES

Power and procedure for declaring an industry and a product a pioneer industry and a pioneer product.

4.—(1) Subject to subsection (2), the Minister may, if he considers it expedient in the public interest to do so, by order declare an industry, which is not being carried on in Singapore on a scale adequate to the economic needs of Singapore and for which in his opinion there are favourable prospects for development, to be a pioneer industry and any specific product of that industry to be a pioneer product.

(2) Before making any order under subsection (1), the Minister shall —

(*a*) cause a notice to be published in the *Gazette* setting out the order which it is proposed to make and inviting any person who may object to the making of the order to give notice in writing of his objection and the grounds thereof to the Minister on or before such date (not being a date less than 30 days from the date of publication of the notice) as may be specified in the notice; and

(*b*) consider any objection which has been received pursuant to the notice.

(3) The Minister may, if he considers it necessary, call for further particulars of the grounds of any such objection from any person who has given due notice of the objection.

(4) The Minister may revoke any order made under this section but any such revocation shall not affect the operation of any pioneer certificate issued to any pioneer enterprise before the revocation.

Power to issue and amend a pioneer certificate.

5.—(1) Any company which is desirous of producing a pioneer product may make an application in writing to the Minister to be approved as a pioneer enterprise in such form and with such particulars as may be prescribed.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so and, in particular, having regard to the production or anticipated production of the pioneer product from all sources of production in Singapore, he may approve that company as a pioneer enterprise and issue a pioneer certificate to the company, subject to such conditions as he thinks fit.

(3) Every pioneer certificate issued under this section shall specify —

(*a*) the date on or before which it is expected that the pioneer enterprise will commence to produce in marketable quantities the product specified in the certificate; and

(*b*) the rate of production of that product which it is expected will be attained on or before that date,

and that date shall be deemed to be the production day of the pioneer enterprise for the purposes of this Act.

(4) The Minister may, in his discretion, upon the application of any pioneer enterprise, amend its pioneer certificate by substituting for the production day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Act shall have effect as if the date so substituted were the production day in relation to that pioneer enterprise.

Tax relief period of pioneer enterprise.

6. The tax relief period of a pioneer enterprise shall commence on its production day and shall continue for a period of 5 years or such longer period, not exceeding 10 years, as the Minister may determine.

Provisions governing old and new trade or business. Cap. 134.

7. For the purposes of the Income Tax Act and this Act —

(*a*) the old trade or business of a pioneer enterprise shall be deemed to have permanently ceased at the end of its tax relief period;

(*b*) the pioneer enterprise shall be deemed to have set up and commenced a new trade or business on the day immediately following the end of its tax relief period;

(*c*) the pioneer enterprise shall make up accounts of its old trade or business for a period not exceeding one year, commencing on its production day, for successive periods of one year thereafter and for the period not exceeding one year ending at the date when its tax relief period ends; and

(*d*) in making up the first accounts of its new trade or business the pioneer enterprise shall take as the opening figures for those accounts the closing figures in respect of its assets and liabilities as shown in its last accounts in respect of its tax relief period, and its next accounts of its new trade or business shall be made up by reference to the closing figures in such first accounts and any subsequent accounts shall be similarly made up by reference to the closing figures of the preceding accounts of its new trade or business.

Restrictions on trading before end of tax relief period.

8.—(1) During its tax relief period, a pioneer enterprise shall not carry on any trade or business other than the trade or business relating to the relevant pioneer product, unless the Minister has given his permission in writing therefor.

(2) Where the carrying on of a separate trade or business has been permitted under subsection (1), separate accounts shall be maintained in respect of that trade or business and in respect of the same accounting period.

(3) Where the carrying on of such separate trade results in a loss in any accounting period, the loss shall be brought into the computation of the income of the pioneer enterprise for that period unless the Comptroller, having regard to all the circumstances of the case, is satisfied that the loss was not incurred for the purpose of obtaining a tax advantage. 22/87.

(4) Where the carrying on of such separate trade results in a profit in any accounting period, and the profit, computed in accordance with the provisions of the Income Tax Act as modified by this section, amounts to less than 5% of the full sum receivable from the sale of goods or the provision of services, the statutory income from that source shall be deemed to be 5% (or such lower rate as the Minister may specify in any particular case) of the full sum so receivable and the income of the pioneer enterprise shall be abated accordingly. 22/87. Cap. 134.

(5) Where in the opinion of the Comptroller the carrying on of such separate trade is subordinate and incidental to the carrying on of the trade or business relating to the relevant pioneer product, the income or loss arising from such activities shall be deemed to form part of the income or loss of the pioneer enterprise.

(6) For the purposes of this section, "relevant pioneer product" means the pioneer product specified in its pioneer certificate.

9. For the purposes of the Income Tax Act and this Act, the Comptroller may direct that — Power to give directions.

(*a*) any sums payable to a pioneer enterprise in any accounting period which, but for the provisions of this Act, might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Comptroller thinks fit and, where that date is after the end of the tax relief period of the pioneer enterprise, as having been so payable, on that date, as a sum payable in respect of its new trade or business; and

(*b*) any expense incurred by a pioneer enterprise within one year after the end of its tax relief period which, but for the provisions of this Act, might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred for the purposes of its old trade or business and on such date, during its tax relief period, as the Comptroller thinks fit.

Ascertainment of income in respect of old trade or business. Cap. 134.

10.—(1) The income of a pioneer enterprise in respect of its old trade or business shall be ascertained in accordance with the provisions of the Income Tax Act after making such adjustments as may be necessary in consequence of any direction given under section 9:

Provided that in determining the income of the pioneer enterprise, the allowances provided for in sections 16, 17, 18, 19, 20, 21 and 22 of the Income Tax Act shall be taken into account notwithstanding that no claim for such allowances has been made.

36/93. (from Y/A 1993).

(1A) Where the tax relief period of a pioneer enterprise referred to in subsection (1) expires during the basis period for any year of assessment, for the purpose of determining the income in respect of its old trade or business and its new trade or business for that year of assessment, there shall be deducted allowances provided for in sections 16, 17, 18, 19, 20, 21 and 22 of the Income Tax Act notwithstanding that no claim for such allowances has been made; and for the purpose of computing such allowances —

(*a*) the allowances for that year of assessment shall be computed as if the old trade or business of the pioneer enterprise had not been deemed to have permanently ceased at the end of the tax relief period; and

(*b*) the allowances computed in accordance with paragraph (*a*) shall be apportioned between the old trade or business and the new trade or business of the pioneer enterprise in such manner as

appears to the Comptroller to be reasonable in the circumstances.

(2) Where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to the allowances mentioned in subsection (1), then the balance of the allowances shall be added to, and be deemed to form part of, the corresponding allowances, if any, for the next succeeding year of assessment, and, if no such corresponding allowances fall to be made for that year, shall be deemed to constitute the corresponding allowances for that year, and so on for subsequent years of assessment.

(3) Notwithstanding subsection (1), where a pioneer enterprise has incurred or has given a written undertaking to the Minister to incur a fixed capital expenditure of not less than $150 million and — 29/91.

(*a*) more than 50% of the paid-up capital of the pioneer enterprise is held by persons permanently resident in Singapore; and

(*b*) such capital expenditure has been approved by the Minister as promoting or enhancing the economic or technological development of Singapore,

the capital expenditure so incurred by the pioneer enterprise within its tax relief period in respect of any asset used for the purposes of its new trade or business shall, subject to such conditions as the Minister may impose, be deemed, for the purposes of sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act, to have been incurred on the day immediately following the last day of its tax relief period: Cap. 134.

Provided that where the carrying on of a separate trade or business has been permitted under section 8 (1), and an industrial building, plant or machinery is used both for the purposes of that trade or business and the trade or business relating to the relevant pioneer product, this subsection shall apply to that building, plant or machinery.

(3A) Where a pioneer enterprise has, before 16th August 1991, incurred a fixed capital expenditure of not less than $1,000 million, subsection (3) shall apply to that enterprise 29/91.

in respect of that expenditure notwithstanding that the enterprise has not complied with paragraphs (*a*) and (*b*) of that subsection.

S 143/89. 29/91. (4) Where a pioneer enterprise referred to in subsection (3) or (3A) is the holder of two pioneer certificates in respect of different periods of time, and capital expenditure has been incurred in respect of any industrial building, plant or machinery which is jointly used in carrying on the trade or business of the two pioneer industries, no deduction shall be made in respect of such expenditure under any of the provisions contained in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act until after the expiration of the tax relief period that is later in time.

Cap. 134.

29/91. (5) For the purposes of subsections (3) and (3A), "fixed capital expenditure" means capital expenditure in connection with a pioneer product, on factory building (excluding land) in Singapore and on any new plant or new machinery used in Singapore and, subject to the approval of the Minister, on any secondhand plant or secondhand machinery used in Singapore.

Application of Part X of Income Tax Act.

11. Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the income of a pioneer enterprise in respect of its old trade or business were chargeable to tax.

Comptroller to issue statement of income.

12. For each year of assessment, the Comptroller shall issue to the pioneer enterprise a statement showing the amount of income for that year of assessment, and Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, as if that statement were a notice of assessment given under those provisions.

Exemption from income tax.

13. Subject to section 14 (6), where any statement issued under section 12 has become final and conclusive, the amount of the income shown by the statement shall not form part of the statutory income of the pioneer enterprise for any year of assessment and shall be exempt from tax:

Provided that the Comptroller may, in his discretion and before such a statement has become final and conclusive, declare that a specified part of the amount of such income is not in dispute and such an undisputed amount of income is exempt from tax, pending such a statement becoming final and conclusive.

Certain dividends exempted from income tax.

14.—(1) As soon as any amount of income of a pioneer enterprise has become exempt under section 13, that amount shall be credited to an account to be kept by the pioneer enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the pioneer enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as is received by a shareholder of the pioneer enterprise shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder:

Provided that where the dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(4) Any dividends debited to that account shall be treated as having been distributed to the shareholders of the pioneer enterprise or any particular class of those shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(5) The pioneer enterprise shall deliver to the Comptroller a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(6) Notwithstanding section 13 and subsections (1) to (5) of this section, where it appears to the Comptroller that —

(*a*) any amount of exempted income of a pioneer enterprise; or

(*b*) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (9) applies,

ought not to have been exempted by reason of any direction made under section 9 or the revocation under section 99 of a pioneer certificate issued to the pioneer enterprise, the Comptroller may at any time within 12 years from the date of any such direction or revocation —

(i) make such assessment or additional assessment upon the pioneer enterprise or any such shareholder as may appear to be necessary in order to counteract any profit obtained from any such amount; or

(ii) direct the pioneer enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

Cap. 134. (7) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under subsection (6) as if it were a notice of assessment given under those provisions.

(8) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

(9) Where an amount has been received by way of dividend from a pioneer enterprise by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company (referred to in this section as the holding company) which holds, throughout its tax relief period, the beneficial interest in all the issued shares of the pioneer enterprise (or in not less than such proportion of those shares as the Minister may require at the time when the pioneer certificate is issued to that pioneer enterprise) any dividends paid on or after 1st January 1968 by the holding 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 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt:

Provided that any holding company may, with the approval of the Minister and subject to such conditions as he may impose, pay such exempt dividends to its shareholders even if it has not held the requisite shareholding in the pioneer enterprise for the whole of the tax relief period.

Carry forward of loss and allowance. 22/87. Cap. 134.

15.—(1) Where a pioneer enterprise has, during its tax relief period, incurred a loss for any year, that loss shall be deducted as provided for in section 37 (2) of the Income Tax Act but only against the income of the pioneer enterprise as ascertained under section 10, except that the balance of any such loss which remains unabsorbed at the end of its tax relief period is available to the new trade or business in accordance with that Act.

22/87.

(2) Notwithstanding section 7 (*a*), the balance of any allowance as provided for in section 10 which remains unabsorbed at the end of the tax relief period of the pioneer enterprise is available to the new trade or business in accordance with the Income Tax Act.

PART III

PIONEER SERVICE COMPANIES

Interpretation of this Part. 34/84.

16. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to a pioneer service company, means the date specified under section 17 (3) or (4) in the certificate issued to that company under that section;

"pioneer service company" means a company which has been issued with a certificate under section 17;

"qualifying activity" means any of the following:

(*a*) any engineering or technical services including laboratory, consultancy and research and development activities;

(*b*) computer-based information and other computer related services;

(*c*) the development or production of any industrial design; and

(*d*) such other services or activities as may be prescribed.

Application for and issue and amendment of certificate for pioneer service company. 34/84.

17.—(1) Where a company is engaged in any qualifying activity, the company may apply in the prescribed form to the Minister for approval as a pioneer service company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date (not earlier than 1st April 1983) as the commencement day from which the company shall be entitled to tax relief under this Part.

(4) The Minister may, in his discretion, upon the application of the company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of pioneer service company. 34/84.

18. The tax relief period of a pioneer service company, in relation to any qualifying activity specified in any certificate issued to that company under section 17, shall commence on the commencement day and shall continue for a period of 5 years or such longer period, not exceeding 10 years, as the Minister may determine.

Application of sections 7 to 15 to pioneer service company. 34/84.

19. Sections 7 to 15 shall apply to a pioneer service company under this Part and for the purposes of such application —

(*a*) any reference to a pioneer enterprise shall be read as a reference to a pioneer service company;

(*b*) any reference to a pioneer product shall be read as a reference to a qualifying activity;

(*c*) any reference to the production day of a pioneer enterprise shall be read as a reference to the commencement day of a pioneer service company;

(*d*) any reference to a pioneer certificate shall be read as a reference to a certificate issued under section 17.

PART IIIA

POST-PIONEER COMPANIES

Interpretation of this Part. 22/87.

19A. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to a post-pioneer company, means the date specified under section 19B (3) in the certificate issued to that company under that section;

"post-pioneer company" means a company which has been issued with a certificate under section 19B (2);

"qualifying activity", in relation to a post-pioneer company, means its trade or business in respect of which tax relief had been granted under Part II, III or VI and any other trade or business approved by the Minister.

Application for and issue of certificate to post-pioneer company. 22/87.

19B.—(1) Any company which is —

(*a*) a pioneer enterprise or a pioneer service company on or after 1st April 1986;

(*b*) an export enterprise on or after 1st April 1986 and which had been a pioneer enterprise immediately before its tax relief period as an export enterprise,

may apply in the prescribed form to the Minister for approval as a post-pioneer company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he may impose.

(3) Every certificate issued to a post-pioneer company under this section shall specify —

(*a*) a date as the commencement day from which the company shall be entitled to tax relief under this Part;

(*b*) its qualifying activities; and

(*c*) the concessionary rate of tax to be levied for the purposes of this Part.

(4) The Minister may, in his discretion, upon an application of a post-pioneer company, amend its certificate by substituting for the commencement day specified therein such other date as he thinks fit and thereupon the provisions of this Part shall have effect as if that date were the commencement day in relation to that certificate.

Cap. 134.

(5) Notwithstanding section 43 of the Income Tax Act, tax at such concessionary rate, not being less than 10% as the Minister may specify, shall be levied and paid for each year of assessment upon the income derived by a post-pioneer company during its tax relief period from its qualifying activities.

Tax relief period of post-pioneer company. 22/87 29/91.

19C.—(1) The tax relief period of a post-pioneer company shall commence on its commencement day and shall continue for a period not exceeding 5 years as the Minister may determine.

29/91.

(2) The Minister may, subject to such terms and conditions as he may impose, extend the tax relief period of a post-pioneer company for such further period or periods as the Minister may determine except that the tax relief period of the company shall not in the aggregate exceed 10 years.

Ascertainment of income in respect of other trade or business. 22/87.

19D.—(1) Where during its tax relief period a post-pioneer company carries on any trade or business other than its qualifying activities, separate accounts shall be maintained in respect of that other trade or business and in respect of the same accounting period and the income from that other trade or business shall be computed and assessed in accordance with the Income Tax Act with such adjustments as the Comptroller thinks reasonable and proper.

(2) Where in the opinion of the Comptroller the carrying on of such other trade or business is subordinate or incidental to the carrying on of the qualifying activities of the post-pioneer company, the income or loss arising from such other trade or business shall be deemed to form part of the income or loss of the post-pioneer company in respect of its qualifying activities.

19E. The Minister may, in relation to post-pioneer companies, by regulations provide for — Deduction of losses. 22/87.

(*a*) the manner in which expenses, capital allowances and donations allowable under the Income Tax Act are to be deducted; and Cap. 134.

(*b*) the deduction of capital allowances and of losses otherwise than in accordance with sections 23 and 37 (2) of the Income Tax Act.

19F.—(1) As soon as any amount of income of a post-pioneer company has been subject to tax at the concessionary rate under section 19B, 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 post-pioneer company for the purposes of this section. Certain dividends exempted from income tax. 22/87.

(2) Where the account is in credit at the date on which any dividends are paid by the post-pioneer 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.

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

Provided that where the dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(4) Section 44 of the Income Tax Act shall not apply in respect of any dividends or part thereof which are debited to the account.

(5) Where an amount of dividends debited to the account has been received by a shareholder, and that shareholder is a company (referred to in this section as the holding company) which holds, throughout its tax relief period, the beneficial interest in all the issued shares of the post-pioneer company (or in not less than such proportion of those shares as the Minister may require at the time when the post-

pioneer certificate is issued to the post-pioneer company) any dividends paid by the holding company to its shareholders, to the extent that the Comptroller is satisfied that those dividends are paid out of such amount, shall be exempt from tax in the hands of those shareholders; and section 44 of the Income Tax Act shall not apply to any such dividends or part thereof so exempt:

Cap. 134.

Provided that the holding company may, with the approval of the Minister and subject to such conditions as he may impose, pay such exempt dividends to its shareholders even if it has not held the requisite shareholding in the post-pioneer company for the whole of the tax relief period.

(6) 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.

(7) Notwithstanding subsections (1) to (6), where it appears to the Comptroller that —

(*a*) any income of a post-pioneer company which has been subject to tax at the concessionary rate under section 19B; or

(*b*) any dividend, including a dividend paid by a holding company under subsection (5), which has been exempted from tax in the hands of any shareholder,

ought not to have been so taxed or exempted for any year of assessment, the Comptroller may within 12 years after the end of that year of assessment —

(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.

Power to give directions. 29/91.

19G. For the purposes of the Income Tax Act and this Act, the Comptroller may direct that —

(*a*) any sums payable to a post-pioneer company in the tax relief period which might reasonably and

properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Comptroller thinks fit; and

(*b*) any expense incurred by a post-pioneer company within one year after the end of its tax relief period which might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred for the purposes of its qualifying activities and on such date, during its tax relief period, as the Comptroller thinks fit.

Ascertainment of income in respect of qualifying activities. 29/91 36/93. Cap. 134.

19H.—(1) The qualifying income of a post-pioneer company shall, subject to subsections (2) and (3), be ascertained in accordance with the provisions of the Income Tax Act after making such adjustments as may be necessary in consequence of any direction given under section 19G.

36/93 (from Y/A 1994).

(2) In determining the qualifying income of the post-pioneer company for the basis period for any year of assessment —

(*a*) the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act shall be taken into account notwithstanding that no claim for such allowances has been made;

(*b*) the allowances referred to in paragraph (*a*) for that year of assessment shall firstly be deducted against the qualifying income, and any unabsorbed allowances shall be deducted against the other income of the company subject to tax at the rate of tax under section 43 (1) (*a*) of the Income Tax Act in accordance with subsection (3);

(*c*) the balance, if any, of the allowances after the deduction in paragraph (*b*) shall be available for deduction for any subsequent year of assessment

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in accordance with section 23 of the Income Tax Act and shall be made in the manner provided in paragraph (*b*);

(*d*) any loss incurred for that basis period shall be deducted in accordance with subsection (3) against the other income of the company subject to tax at the rate of tax under section 43 (1) (*a*) of the Income Tax Act; and

(*e*) the balance, if any, of the losses after the deduction in paragraph (*d*) shall be available for deduction for any subsequent year of assessment in accordance with section 37 of the Income Tax Act firstly against the qualifying income, and any balance of the losses shall be deducted against the other income of the company subject to tax at the rate of tax under section 43 (1) (*a*) of the Income Tax Act in accordance with subsection (3).

36/93 (from Y/A 1994).

(3) Section 37B of the Income Tax Act shall apply with such modifications as may be necessary in relation to the deduction of the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of that Act or the losses under section 37 of that Act in respect of the qualifying income of the post-pioneer company and such part of its income as is subject to tax at the rate of tax under section 43 (1) (*a*) of that Act; and for the purpose of such application any reference in section 37B of that Act to —

(*a*) concessionary income shall be read as a reference to its qualifying income; and

(*b*) normal income shall be read as a reference to such part of its income as is subject to tax at the rate of tax under section 43 (1) (*a*) of that Act.

36/93 (from Y/A 1994).

(4) In this section, "qualifying income" means the income of a post-pioneer company in respect of its qualifying activities.

PART IV*

EXPANSION OF ESTABLISHED ENTERPRISES

Power and procedure for declaring an industry and a product an approved industry and an approved product.

20.—(1) Subject to subsection (2), where the Minister is satisfied that the increased manufacture of the product of any industry would be of economic benefit to Singapore, he may, if he considers it expedient in the public interest to do so, by order, declare that industry to be an approved industry and the product thereof to be an approved product for the purposes of this Part.

(2) Before making any order under subsection (1), the Minister shall —

(*a*) cause a notice to be published in the *Gazette* setting out the order which it is proposed to make and inviting any person who may object to the making of the order to give notice in writing of his objection and the grounds thereof to the Minister on or before such date (not being a date less than 30 days from the date of publication of the notice) as may be specified in the notice; and

(*b*) consider any objection which has been received pursuant to the notice.

(3) The Minister may, if he considers it necessary, call for further particulars of the grounds of any such objection from any person who has given due notice of the objection.

(4) The Minister may revoke any order made under this section but any such revocation shall not affect the operation of any expansion certificate issued to any expanding enterprise before the revocation.

Issue of expansion certificate and amendment thereof.

21.—(1) Any company intending to incur new capital expenditure for the purpose of the manufacture or increased manufacture of an approved product may, where the expenditure exceeds $10 million, make an application in writing to the Minister to be approved as an expanding enterprise, in such form and with such particulars as may be prescribed.

*From year of assessment 1967.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so, he may approve that company as an expanding enterprise and issue an expansion certificate to the company, subject to such conditions as he thinks fit.

(3) For the purposes of this Part, "new capital expenditure" means expenditure incurred by a company in the purchase of productive equipment which is intended to increase its production or profitability:

Provided that expenditure incurred in the purchase of productive equipment which is not new shall be deemed not to be new capital expenditure unless it is proved to the satisfaction of the Minister that —

(*a*) the purchase of the productive equipment is economically justifiable; and

(*b*) the purchase price represents a fair open market value of the productive equipment.

(4) Every expansion certificate issued under this section shall specify the date on or before which the productive equipment shall be put into operation and that date shall be deemed to be the expansion day for the purposes of this Part.

(5) The Minister may, in his discretion, upon the application of any expanding enterprise, amend its expansion certificate by substituting for the expansion day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the expansion day in relation to that expanding enterprise.

Tax relief period of expanding enterprise. 34/84.

22. The tax relief period of an expanding enterprise shall —

(*a*) commence on its expansion day; or

(*b*) if the expansion day falls within the tax relief period specified in any certificate previously issued to the enterprise under Part II, Part VI or under this Part for the same or similar product, commence on the day immediately following the expiry of that tax relief period,

and shall continue for such period, not exceeding 5 years, as the Minister may, in his discretion, determine.

23. Section 9 shall apply, mutatis mutandis, to an expanding enterprise as it applies to a pioneer enterprise. Application of section 9 to expanding enterprise.

24.—(1) Subject to the provisions of this Act, an expanding enterprise is entitled, during its tax relief period, to relief in the manner provided by this section. Tax relief. 34/84.

(2) The income of the expanding enterprise in respect of its trade or business to which its expansion certificate relates (referred to in this Part as the expansion income) shall be ascertained, for any accounting period during its tax relief period, in accordance with the provisions of the Income Tax Act and any regulations made under this Act: Cap. 134.

Provided that in determining the income of the expanding enterprise, the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act shall be taken into account notwithstanding that no claim for such allowances has been made.

(3) Where an expanding enterprise carries on trading activities other than those to which its expansion certificate relates, the expansion income to be ascertained for the purposes of this section shall be determined in such manner as appears to the Comptroller to be reasonable in the circumstances.

(4) Where in the opinion of the Comptroller the carrying on of such trading activities is subordinate or incidental to the carrying on of the trade or business to which its expansion certificate relates, the income or loss arising from such activities shall be deemed to form part of the expansion income of the expanding enterprise.

(5) The expansion income so ascertained shall be compared with the average corresponding income (referred to in this section as the pre-relief income) of the expanding enterprise as determined in subsection (6) and relief shall be given to the following extent: 34/84.

(*a*) where the pre-relief income equals or exceeds the expansion income, no relief shall be given;

(*b*) where the expansion income exceeds the pre-relief income, the amount of the excess shall not form part of the statutory income of the expanding enterprise for any year of assessment and shall be exempt from tax:

Provided that the amount of exempt income shall not, unless the Minister in his discretion otherwise decides, exceed the sum which bears the same proportion to the expansion income as the new capital expenditure on productive equipment bears to the total of such new capital expenditure and the value at original cost of the productive equipment owned or used by the expanding enterprise prior to its expansion.

34/84. (6) For the purposes of subsection (5), the average corresponding income of an expanding enterprise, in relation to a certificate issued under section 21, shall be determined by taking one-third of the total of the corresponding income of the expanding enterprise for the 3 years immediately preceding the expansion day specified in that certificate:

Provided that where the expanding enterprise has carried on the trade or business to which its certificate relates for less than 3 years immediately prior to its expansion day or where the expanding enterprise has no corresponding income for any of those 3 years, the Minister may specify such amount to be its average corresponding income as he thinks fit.

(7) Where an expanding enterprise has been approved as a pioneer enterprise or as an export enterprise or as both, the total amount of income exempted under this section and Part II or VI shall not exceed 100% of the expansion income.

34/84. (8) The provisions of this section which were in force immediately before 30th November 1984 shall continue to apply to an expanding enterprise in respect of any certificate issued before that date to that enterprise under section 21.

Exemption from income tax of dividends from expanding enterprise.

25.—(1) As soon as any amount of expansion income has become exempt under section 24, that amount shall be credited to an account to be kept by the expanding enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the expanding enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as is received by a shareholder of the expanding enterprise shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder:

Provided that where the dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(4) Any dividends debited to that account shall be treated as having been distributed to the shareholders of the expanding enterprise or any particular class of those shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(5) The expanding enterprise shall deliver to the Comptroller a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(6) Notwithstanding section 24 and subsections (1) to (5) of this section where it appears to the Comptroller that —

(*a*) any amount of exempted income of an expanding enterprise; or

(*b*) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (9) applies,

ought not to have been exempted by reason of a direction under section 9 (as applied to this Part by section 23) or the revocation under section 99 of an expansion certificate issued to the expanding enterprise, the Comptroller may, at any time within 12 years of the date of any such direction or revocation —

(i) make such assessment or additional assessment upon the expanding enterprise or any such shareholder as may appear to be necessary in order to counteract any profit obtained from any such amount; or

(ii) direct the expanding enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

Cap. 134. (7) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under subsection (6) as if it were a notice of assessment given under those provisions.

(8) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

29/91. (9) Where an amount has been received by way of dividend from an expanding enterprise by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company (referred to in this section as the holding company) which holds, at the time any dividend is declared, the beneficial interest in all the issued shares of the expanding enterprise (or in not less than such proportion of those shares as the Minister may approve), any dividends paid on or after 1st January 1970 by the holding 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 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.

Part V

Expanding Service Companies

Application for and issue and amendment of certificate for expanding service company. 34/84.

26.—(1) Where a company engaged in any qualifying activity as defined in section 16 intends to substantially increase the volume of that activity, it may make an application in writing to the Minister to be approved as an expanding service company.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so, he may approve that company as an expanding service company and issue a certificate to the company, subject to such conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date (not earlier than 1st April 1983) on or before which the expansion of the qualifying activity shall commence and that date shall be deemed to be the expansion day for the purposes of this Part.

Tax relief period of expanding service company. 34/84.

27. The tax relief period of an expanding service company shall —

(*a*) commence on its expansion day; or

(*b*) if the expansion day falls within the tax relief period specified in any certificate previously issued to the company for the same or similar qualifying activity under Part III or under this Part, commence on the day immediately following the expiry of that tax relief period,

and shall continue for such period, not exceeding 5 years, as the Minister may, in his discretion, determine.

Application of certain sections to expanding service company. 34/84.

28. Section 21 (5) and sections 23 to 25 shall apply to an expanding service company under this Part and for the purposes of such application —

(*a*) any reference to an expanding enterprise shall be read as a reference to an expanding service company;

(*b*) any reference to an expansion certificate shall be read as a reference to a certificate issued under section 26 (2);

(*c*) the proviso to section 24 (5) (*b*) shall not have effect.

PART VI*

PRODUCTION FOR EXPORT

Power to approve a product or produce as an export product or export produce.

29. The Minister may, if he considers it expedient in the public interest to do so, approve any product manufactured in Singapore or the produce of deep-sea fisheries as an export product or export produce for the purposes of this Part.

Procedure and power for applying for and issuing an export enterprise certificate.

30.—(1) The Minister may, on the application of any company which is manufacturing or proposes to manufacture any export product or is engaged or proposes to engage in deep-sea fishery, either wholly or partly for export, approve the company as an export enterprise and issue to the company an export enterprise certificate subject to such conditions as he thinks fit.

(2) The application shall be in such form and with such particulars as may be prescribed.

(3) Every export enterprise certificate issued under this section shall specify the accounting period in which it is expected that the export sales of the export product or export produce —

(*a*) will be not less than 20% of the value of its total sales; and

(*b*) will be not less than $100,000,

and that accounting period shall be deemed to be the export year of the export enterprise for the purposes of this Part.

(4) For the purposes of this Part —

"export sales" means export sales (f.o.b.) whether made directly by the export enterprise or through an agent or independent contractor;

"f.o.b." means free on board.

*From year of assessment 1967.

Amendment of export enterprise certificate.

31. The Minister may, in his discretion upon the application of the export enterprise, amend its export enterprise certificate by substituting for the export year specified therein such other earlier or later accounting period as he thinks fit and thereupon the provisions of this Part shall have effect as if the accounting period so substituted were the export year in relation to that export enterprise.

Tax relief period.

32.—(1) Except as provided in subsection (2), the tax relief period of an export enterprise —

(*a*) not being a pioneer enterprise, commences from its export year and continues for a period of 5 years inclusive of the export year; or

(*b*) being a pioneer enterprise, commences on the first day of its export year or, if the export year falls within the period of its old trade or business, on the date of the commencement of its new trade or business, and continues for a period of 3 years.

(2) Notwithstanding subsection (1), where an export enterprise has incurred or is intending to incur a fixed capital expenditure of —

(*a*) not less than $1,000 million; or

(*b*) not less than $150 million but less than $1,000 million and —

(i) more than 50% of the paid-up capital of the export enterprise is held by persons permanently resident in Singapore; and

(ii) in the opinion of the Minister the export enterprise will promote or enhance the economic or technological development of Singapore,

its tax relief period —

(A) where the export enterprise is not a pioneer enterprise, shall commence from its export year and continue for a period of 15 years inclusive of the export year; or

(B) where the export enterprise is a pioneer enterprise, shall commence from its export year or, if the

export year falls within the period of its old trade or business, from the date of the commencement of its new trade or business, and continue for such period as together with its tax relief period as a pioneer enterprise will extend in the aggregate to 15 years.

22/87. (3) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any export enterprise for such further period as he thinks fit.

(4) For the purposes of subsection (2), "fixed capital expenditure" means capital expenditure which has been or is intended to be incurred by the export enterprise, in connection with its export product, on its factory building (excluding land) in Singapore, and on any new plant or new machinery used in Singapore and, subject to the approval of the Minister, on any secondhand plant or secondhand machinery used in Singapore.

Power to give directions.

33. Section 9 shall apply, mutatis mutandis, to an export enterprise as it applies to a pioneer enterprise.

Application of Part X of Income Tax Act. Cap. 134.

34.—(1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of an export enterprise in respect of its export profits were chargeable to tax.

(2) The annual return of income shall be accompanied by a separate export statement showing the quantity and value at f.o.b. prices of its export product or export produce exported during the accounting period in respect of which the return is furnished, together with such further evidence as, in the opinion of the Comptroller, is necessary to verify the accuracy of the export statement.

Cognizance of export.

35. For the purposes of tax relief in relation to an export enterprise, the Comptroller may take cognizance of the export of any export product or export produce when the export has been made in accordance with the provisions of the Registration of Imports and Exports Act, the Control of Imports and Exports Act or the Customs Act, or any regulations made thereunder, as the case may be, but if the

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Comptroller is satisfied that in the course of the export of the product or produce a breach of the provisions of this Act or any regulations made thereunder has been committed, he may refuse to take cognizance of the export of the product or produce and refuse a claim for tax relief in respect of the export.

Export to be in accordance with regulations and conditions.

36. No export product or export produce shall be exported by an export enterprise except in accordance with such regulations as are prescribed and under such conditions as may be approved by the Comptroller or delegated by him to the Trade Development Board or the Director-General of Customs and Excise for approval.

Computation of export profits. 32/79.

37.—(1) The income of an export enterprise in respect of its trade or business to which its export enterprise certificate relates shall be ascertained (after making any necessary adjustments in consequence of a direction under section 9, as applied to this Part by section 33) for any accounting period during its tax relief period in accordance with the provisions of the Income Tax Act, before taking into account the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of that Act. Cap. 134.

(2) The total export profits of an export enterprise shall be deemed to be that part of the income so ascertained which bears the same proportion to that income as the total value of the export sales (f.o.b.) of its export product or export produce whether made, directly or indirectly, by sale to an independent exporter (referred to in this Part as the export sales) bears to the total value of the sums receivable in respect of —

(*a*) its domestic sales of manufactured products or produce at ex-factory prices;

(*b*) its export sales (f.o.b.) of its export product and export produce;

(*c*) its export sales (f.o.b.) of other products; and

(*d*) all other sales and provisions of service,

(referred to in this Part as the total sales).

(3) Where a company exports any products or produce to which its export enterprise certificate relates, the amount of

its export profit arising from the export of those products or produce which will qualify for the relief provided by section 39 is the excess of that profit over a fixed sum to be determined in the following manner:

(*a*) in the case of a company which has previously exported those products or produce, the average annual export profit of the company shall be ascertained in the manner provided by subsection (4); and

(*b*) in the case of a company which has not prior to its application under section 30 exported those products or produce for 3 years immediately preceding its application, the fixed sum shall be such an amount as the Minister may determine having regard to the total sales of the company and the percentage of the total sales of other major export enterprises exporting like articles:

Provided that where such a company is a pioneer enterprise, this subsection shall apply notwithstanding that the company was deemed to commence a new trade or business at the end of its tax relief period as a pioneer enterprise.

(4) For the purposes of this section, "average annual export profit" means a sum equal to one-third of the total export profits of the company from the export of those products or produce ascertained in the manner provided by subsection (2) during the 3 years immediately preceding the date of its application under section 30:

Provided that where the company has adopted an accounting period ending on a date other than 31st December, the Comptroller may make such adjustment on a time basis as appears to him to be reasonable in ascertaining the total export profits of that period.

Conditions for relief.

38.—(1) The tax relief provided under this Part applies to an export enterprise during its tax relief period subject to the following conditions:

(*a*) in respect of the first year of assessment, for which the export year forms the basis period, the export sales shall amount, in proportion, to not less than

20% of the total sales and, in value, to not less than $100,000 during that accounting period;

(*b*) in respect of subsequent years of assessment, subject to the export sales having satisfied that minimum proportion and value in the export year or where a direction has been made by the Minister under subsection (2) in respect of that year, the export sales shall amount in value to not less than $100,000 during the relevant accounting period; and

(*c*) where the minimum requirements as to proportion and value have not been satisfied in the export year, and no direction has been made by the Minister under subsection (2), the relief provided by this Part shall apply for the first time only in respect of a year of assessment where during the relevant accounting period the minimum requirements as to proportion and value have both been satisfied or where a direction to this effect has been made by the Minister under subsection (2), and thereafter shall continue to be available where during the relevant accounting period the minimum requirement as to value has been satisfied.

(2) Notwithstanding subsection (1), where, in its export year, the export sales of an export enterprise amount in value to $100,000 or more, but in proportion, to less than 20% of the total sales, and the Minister is satisfied, on the representations of the enterprise that the failure to realise that proportion of the total sales was due to causes beyond the control of the enterprise, or having regard to the quantum of its output and sales other than export sales, it is reasonable and expedient in the public interest to do so, the Minister may direct that the relief provided under this Part shall apply in respect of the year of assessment corresponding to its export year or in respect of any subsequent year of assessment during its tax relief period.

Tax relief on export profits. 32/79.

39.—(1) Where an amount of the export profit of an export enterprise qualifies under sections 37 and 38 for the relief provided by this section (referred to in this section as the qualifying export profit), there shall be deducted from

that amount such part of the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act as may be attributable to the qualifying export profit; and the part of the allowances so attributable to the qualifying export profit shall be deemed to be such amount which bears the same proportion to the total allowances deductible by the export enterprise under sections 16, 17, 18, 19, 19A, 20, 21 and 22 of the Income Tax Act (notwithstanding that no claim for such allowances has been made) as the amount of the qualifying export profit bears to the income of the export enterprise ascertained under section 37 (1).

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(2) For each year of assessment the Comptroller shall issue to the export enterprise a statement for that year of assessment showing the balance of the qualifying export profit after deduction of the allowances under subsection (1) and the provisions of Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, as if such a statement were a notice of assessment given under those provisions.

(3) Subject to section 40 (6), where any statement issued under subsection (2) has become final and conclusive, an amount equal to 90% of the balance of such qualifying export profit shall not form part of the statutory income of the export enterprise for that year of assessment and shall be exempt from tax.

Dividends exempted.

40.—(1) As soon as any amount of export income has become exempt under section 39, that amount shall be credited to an account to be kept by the export enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the export enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as are received by a shareholder of the export enterprise shall, if the Comptroller is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder:

Provided that where the dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(4) Any dividends debited to that account shall be treated as having been distributed to the shareholders of the enterprise or any particular class of the shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(5) The export enterprise shall deliver to the Comptroller a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(6) Notwithstanding section 39 and subsections (1) to (5) of this section, where it appears to the Comptroller that —

(*a*) any amount of exempted income of an export enterprise; or

(*b*) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (9) applies,

ought not to have been exempted by reason of a direction under section 9, as applied to this Part by section 33, having been made with respect to the export enterprise, after any income of that enterprise has been exempted under the provisions of this Act or the revocation under section 99 of a certificate issued to the export enterprise, the Comptroller may, at any time within 12 years of the date of any such direction or revocation —

(i) make such assessment or additional assessment upon the export enterprise or any such shareholders as may appear to be necessary in order to counteract any profit obtained from any such amount which ought not to have been exempted; or

(ii) direct the export enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

(7) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made there- Cap. 134.

under shall apply, mutatis mutandis, to any direction given under subsection (6) as if it were a notice of assessment given under those provisions.

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(8) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

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(9) Where an amount has been received by way of dividend from an export enterprise by a shareholder and the amount is exempt from tax under subsections (1) to (8), if that shareholder is a company (referred to in this section as the holding company) which holds, at the time any dividend is declared, the beneficial interest in all the issued shares of the export enterprise (or in not less than such proportion of those shares as the Minister may approve), any dividends paid on or after 1st January 1967 by the holding 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 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.

Power of entry into premises and taking of samples.

41. Any officer, authorised by the Comptroller or any senior officer of customs or any officer of customs authorised by a senior officer of customs for the purpose, shall at all times have access to any premises of an export enterprise or of an independent exporter of any export product or export produce or any place where any export product or export produce is stored, for the purpose of checking the production, storage and packing of the export product or export produce and all records and accounts thereof, and for such other purpose as may be deemed necessary, and may take samples of any goods therefrom.

No relanding of export product or export produce. Cap. 114.

42. No export product or export produce shall, unless the Comptroller otherwise authorises, be relanded at any time in Singapore (including any area declared to be a free trade zone under section 4 of the Free Trade Zones Act) after they have been exported.

Powers of search, seizure and arrest by officers of customs. Cap. 270. Cap. 56.

43. Notwithstanding any written law to the contrary, if there is reasonable cause to believe that an offence has been or is being committed under section 36 or 42 of this Act or the Registration of Imports and Exports Act, or the Control of Imports and Exports Act, or any regulations made thereunder in relation to any export product or export produce, sections 90 and 91 and Part XIII (relating to search, seizure and arrest) of the Customs Act shall apply, insofar as they are applicable, as if the export product or export produce were goods that were dutiable and uncustomed goods or goods liable to forfeiture under the Customs Act, and as if the offence had been or were being committed under that Act. Cap. 70.

Offence under other laws deemed to be an offence under this Act.

44. Where an export product or export produce is the subject-matter of an offence committed under the Registration of Imports and Exports Act or the Control of Imports and Exports Act or the Customs Act, or any regulations made thereunder, and the Comptroller is satisfied that, if the offence had not been detected, the export enterprise concerned in the commission of such an offence would have been able to claim relief from tax to which it was not entitled, then such an offence shall be deemed to be an offence under this Act whether a claim for tax relief has been made or not and may be dealt with accordingly but so that no person shall be punished more than once for the same offence.

PART VIA

EXPORT OF SERVICES

Interpretation of this Part. 22/87.

44A. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to an export service company or export service firm, means the date specified under section 44B (3) in the certificate issued to that company or firm under that section;

"export service company" means a company which has been issued with a certificate under section 44B (2);

"export service firm" means a firm which has been issued with a certificate under section 44B (2);

"qualifying services" means any of the following services undertaken with respect to overseas projects for persons who are neither residents of nor permanent establishments in Singapore:

(*a*) technical services including construction, distribution, design and engineering services;

(*b*) consultancy, management, supervisory or advisory services relating to any technical matter or to any trade or business;

(*c*) fabrication of machinery and equipment and procurement of materials, components and equipment;

(*d*) data processing, programming, computer software development, telecommunications and other computer services;

(*e*) professional services including accounting, legal, medical and architectural services;

(*f*) educational and training services;

(*g*) any other services as may be prescribed.

Application for and issue of certificate to export service company or export service firm. 22/87.

44B.—(1) Where a company or firm is engaged in any qualifying service, the company or firm may apply in the prescribed form to the Minister for approval as an export service company or export service firm.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company or firm with a certificate subject to such terms and conditions as he may impose.

(3) Every certificate issued to an export service company or firm under this section shall specify —

(*a*) a date as the commencement day from which the company or firm shall be entitled to tax relief under this Part;

(*b*) its qualifying services; and

(*c*) its base amount of income for the purpose of section 44E (2).

(4) The Minister may, in his discretion, upon the application of an export service company or firm, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of export service company or firm. 22/87.

44C.—(1) The tax relief period of an export service company or firm shall commence on its commencement day and shall continue for a period of 5 years.

(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any export service company or firm for such further periods, not exceeding 5 years at any one time, as he thinks fit.

Application of certain sections of this Act to export service company or firm. 22/87.

44D.—(1) Section 9 shall apply, with necessary modifications, to an export service company or firm as it applies to a pioneer enterprise.

(2) Section 40 shall apply, with necessary modifications, to an export service company as it applies to an export enterprise.

(3) Sections 49 and 50 shall apply, with necessary modifications, to an export service company or firm as they apply to an international trading company and for the purposes of such application, the reference in section 49 (2) to the export sales of qualifying manufactured goods, Singapore domestic produce and qualifying commodities shall be read as a reference to the provision of qualifying services.

Ascertainment of income of export service company or firm. 22/87. Cap. 134.

44E.—(1) The income of an export service company or firm in respect of its qualifying services shall be ascertained (after making such adjustments as may be necessary in consequence of a direction under section 9 as made applicable by section 44D) for any accounting period during its tax relief period in accordance with the Income Tax Act, and, in particular, the following provisions shall apply:

(*a*) income from sources other than the qualifying services shall be excluded and separately assessed;

(*b*) there shall be deducted in arriving at the income derived from the qualifying services —

(i) all direct costs and expenses incurred in respect of the qualifying services;

(ii) all indirect expenses which are reasonably and properly attributable to the qualifying services;

(*c*) the allowances provided for in sections 16 to 22 of the Income Tax Act attributable to income derived from the qualifying services during the tax relief period shall be taken into account notwithstanding that no claim for those allowances has been made; and

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(*d*) for the purposes of paragraphs (*b*) (ii) and (*c*), the amounts attributable to the qualifying services shall be determined on such basis as the Comptroller thinks reasonable and proper.

(2) The amount of income ascertained under subsection (1) which will qualify for the relief under section 44F shall be the excess of the amount of the income ascertained under subsection (1) over a base amount of income to be determined by the Minister.

Comptroller to issue statement of income. 22/87.

44F.—(1) For each year of assessment, the Comptroller shall issue to an export service company or firm a statement for that year of assessment showing the amount of income ascertained under section 44E (2) which will qualify for the relief provided by this section, and Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with necessary modifications, as if that statement were a notice of assessment given under those provisions.

(2) Subject to section 40 (6), where any statement issued under subsection (1) has become final and conclusive, 90% of the amount of the qualifying income referred to in subsection (1) shall not form part of the statutory income of the export service company or firm for the year of assessment to which the income relates and shall be exempt from tax.

Certification by auditor. 22/87.

44G. The Comptroller may require an auditor to certify the income derived by an export service company or firm from its qualifying services and any direct costs and expenses incurred therefor.

Application of this Part to partnership. 22/87.

44H. Where the export service firm is a partnership, this Part shall apply to the partners subject to such provisions as may be prescribed.

Deduction of allowances and losses. 22/87.

44I. The Minister may by regulations provide, in relation to an export service company or firm, for the deduction of —

(*a*) any unabsorbed allowances provided for under sections 16 to 22 of the Income Tax Act attributable to income derived from qualifying services by it during its tax relief period otherwise than in accordance with section 23 of that Act; and Cap. 134.

(*b*) losses incurred by it during its tax relief period otherwise than in accordance with section 37 (2) of the Income Tax Act.

PART VII

INTERNATIONAL TRADE INCENTIVES

Interpretation of this Part.

45. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to an international trading company, means the date specified in the certificate issued to the company as the date from which that company shall be entitled to tax relief under this Part;

"export sales" means export sales free on board but shall exclude the costs of samples, gifts, test-market materials, trade exhibits and other promotional materials;

"international trading company" means a company which has been issued with a certificate under section 46;

"qualifying commodities" means any commodities other than —

(*a*) tin in the form of ore, ingots or slabs;

(*b*) natural rubber;

(*c*) crude palm oil, palm kernel oil and palm kernels;

(*d*) crude coconut oil, copra and coconuts;

(*e*) logs including sawn timber;

(*f*) crude petroleum and petroleum products;

(*g*) spices (raw and unprocessed);

(*h*) pepper; and

(*i*) such other commodities as may be excluded by the Minister by notification in the *Gazette*;

"qualifying manufactured goods" means Singapore manufactured goods in respect of which one or more certificates of origin or other documents indicating that the goods are manufactured in Singapore have been issued by the Trade Development Board for the purpose of the export of such goods;

"relevant export sales" means the export sales of an international trading company in respect of qualifying manufactured goods and Singapore domestic produce or in respect of qualifying commodities, as the case may be;

"Singapore domestic produce" means eggs, chicken, orchids and aquarium fish produced in Singapore and such other domestic produce as may be approved by the Minister.

International trading company.

46.—(1) Where a company is engaged in —

(*a*) international trade in qualifying manufactured goods or Singapore domestic produce and the export sales of those goods or produce separately or in combination exceed or are expected to exceed $10 million per annum; or

(*b*) entrepot trade in any qualifying commodities and the export sales of those qualifying commodities exceed or are expected to exceed $20 million per annum,

the company may apply in the prescribed form to the Minister for approval as an international trading company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he thinks fit.

(3) The Minister may issue separate certificates to an international trading company for the purposes of subsection (1) (*a*) and (*b*).

(4) Every certificate issued under this section shall specify a date as the commencement day from which the company shall be entitled to tax relief under this Part.

(5) The Minister may, in his discretion, upon the application of an international trading company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

(6) A company shall furnish to the Minister at the time of application to be an international trading company a statement of all its associated companies and export agents and the activities they are engaged in and such other particulars as may be required; and where there is any change in the particulars, the company shall notify the Minister as soon as possible of the change.

Tax relief period of international trading company.

47. The tax relief period of an international trading company, in relation to any certificate issued to that company, shall commence on the commencement day and shall continue for a period of 5 years.

Power to give directions. Cap. 134.

48. For the purposes of the Income Tax Act and this Act, the Comptroller may direct that —

(*a*) any sums payable to an international trading company in any accounting period which, but for the provisions of this Act might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Comptroller thinks fit and, where that date is after the

end of the tax relief period of the international trading company, as having been so payable on that date as a sum payable in respect of its post tax relief trade or business; and

(*b*) any expenses incurred by an international trading company within one year after the end of its tax relief period which, but for the provisions of this Act might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred on such date, during its tax relief period, as the Comptroller thinks fit.

Application of Part X of Income Tax Act. Cap. 134.

49.—(1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of an international trading company were chargeable to tax.

(2) The annual return of income shall be accompanied by such evidence as, in the opinion of the Comptroller, is necessary to verify the income derived from the export sales of qualifying manufactured goods, Singapore domestic produce and qualifying commodities.

Ascertainment of income in respect of other trade or business.

50. Where during its tax relief period an international trading company carries on any trade or business which is distinct from the trade or business which includes its relevant export sales, separate accounts shall be maintained in respect of that distinct trade or business and in respect of the same accounting period, and the income from that distinct trade or business shall be computed and assessed in accordance with the provisions of the Income Tax Act with such adjustments as the Comptroller thinks reasonable and proper.

Computation of export income and exemption from tax. 17/82.

51.—(1) The total income of an international trading company, in respect of its trade or business which includes its relevant export sales, shall be ascertained (after making such adjustments as may be necessary in consequence of any direction given under section 48), for any accounting period during its tax relief period in accordance with the provisions

of the Income Tax Act, and, in particular, the following provisions shall apply: Cap 134.

(*a*) income from any commissions and other non-trading sources shall be excluded and separately assessed;

(*b*) the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 (where applicable) of the Income Tax Act shall be taken into account notwithstanding that no claim for those allowances has been made, and where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to those allowances, section 23 of the Income Tax Act shall apply;

(*c*) the amount of any unabsorbed allowances in respect of any year of assessment immediately preceding the tax relief period which would otherwise be available under section 23 (2) and (3) of the Income Tax Act shall be taken into account;

(*d*) section 37 of the Income Tax Act shall apply in respect of any loss incurred prior to or during its tax relief period;

(*e*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act and losses incurred in respect of any distinct trade or business shall be brought into the computation;

(*f*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act and losses incurred in respect of the trade or business referred to in this subsection shall, during the tax relief period, only be deducted against the income derived from that trade or business;

(*g*) subject to sections 23 and 37 of the Income Tax Act, any allowances and losses which remain unabsorbed at the end of the tax relief period shall be available for deduction in its post tax relief period.

(2) The amount of the export income of an international trading company which will qualify for the relief for any year of assessment shall be deemed to be such amount which bears to the total income ascertained under subsection (1) the same proportion as the excess of the total value of the relevant export sales over the relevant base export value bears to the total amount of the sums received or receivable in respect of its total sales; and subject to section 52, one-half of the amount of the export income which qualifies for the relief as ascertained in this subsection shall not form part of the chargeable income of the international trading company for that year of assessment and shall be exempt from tax.

(3) The relevant base export value referred to in subsection (2) shall be —

(*a*) for the basis period for the first year of assessment within the tax relief period of an international trading company, a sum equal to one-third of the total value of the relevant export sales during the 3 years immediately preceding the date of its application to be an international trading company; and

(*b*) for the basis period for any subsequent year of assessment within the tax relief period, a sum equal to one-third of the total value of the relevant export sales during the 3 qualifying years immediately preceding that basis period,

and for the purposes of this paragraph a "qualifying year" is a year in which the export sales —

(i) in respect of qualifying manufactured goods or Singapore domestic produce exceed $10 million; and

(ii) in respect of qualifying commodities exceed $20 million.

(4) Where an international trading company —

(*a*) was engaged in the trading of qualifying manufactured goods, Singapore domestic produce or qualifying commodities for less than 3 years immediately preceding its application under this Part;

(*b*) during its tax relief period has acquired any sales in respect of qualifying manufactured goods, Singapore domestic produce or qualifying commodities from any person or has acquired the beneficial interest, directly or indirectly, of any company engaged in similar trade or business; or

(*c*) has less than 3 qualifying years for the purpose of determining its relevant base export value under subsection (3) (*b*),

the Minister may specify such other relevant base export value for one or more basis periods as he thinks fit having regard to the circumstances of the case.

Conditions for relief.

52. The tax relief provided under section 51 shall, for a year of assessment, apply only if —

(*a*) an international trading company has complied with the conditions stipulated under this Part and such other conditions as may be specified in its certificate; and

(*b*) in the case of a company engaged in international trade under section 46 (1) (*a*), the export sales in respect of the qualifying manufactured goods or Singapore domestic produce exceed $10 million in the basis period for that year of assessment; or

(*c*) in the case of a company engaged in entrepot trade under section 46 (1) (*b*), the export sales in respect of the qualifying commodities exceed $20 million in the basis period for that year of assessment.

Certain dividends exempted from income tax.

53.—(1) As soon as any amount of chargeable income of an international trading company has become exempt under section 51, that amount shall be credited to a tax exempt account to be kept by the company for the purposes of this Part.

(2) Where a tax exempt account is in credit at the date on which any dividends are paid by a company, out of income which has been so exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) 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:

Provided that where the dividend is paid on any share of a preferential nature, it shall not be exempt from tax in the hands of the shareholder.

(4) 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 those shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(5) The company shall deliver to the Comptroller a copy of the tax exempt account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(6) Where an amount has been received by way of dividend from a company by a shareholder and the amount is exempt from tax under this Part, 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.

Recovery of tax exempted.

54. Notwithstanding any other provisions of this Part, where it appears to the Comptroller that —

(*a*) any amount of exempted income of an international trading company; or

(*b*) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of a direction made under section 48 or the revocation under section 99 of the certificate issued under section 46 to the company, the Comptroller may at any time within 12 years from the date of the direction or revocation —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

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

Application of Parts XI and XII of Income Tax Act. Cap. 134.

55.—(1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under section 54 as if it were a notice of assessment given under those provisions.

(2) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

Application of certain sections of this Act to international trading company.

56. Sections 35, 36, 41, 42, 43 and 44 shall apply, mutatis mutandis, to an international trading company as they apply to an export enterprise and the reference to export product or export produce in those sections shall be read as a reference to qualifying manufactured goods, Singapore domestic produce or qualifying commodities.

PART VIII*

FOREIGN LOANS FOR PRODUCTIVE EQUIPMENT

Procedure and power for applying for and issuing an approved foreign loan certificate.

57.—(1) Where a company engaged in any industry is desirous of raising a loan of not less than $200,000 from a non-resident person (referred to in this Part as a foreign lender) by means of a financial agreement whereby credit facilities are granted for the purchase of productive equipment for the purposes of its trade or business, the company may apply to the Minister for a certificate certifying that foreign loan to be an approved foreign loan:

Provided that the Minister may, where he thinks it expedient to do so, consider an application for a foreign loan certificate in respect of a foreign loan of less than $200,000.

*From year of assessment 1967.

(2) The application shall be in such form and with such particulars as may be prescribed, and shall be accompanied by a copy of the financial agreement.

(3) Where the Minister is satisfied as to the bona fides of such an application and that it is expedient in the public interest to do so, he may issue a certificate certifying the loan specified in the application as an approved foreign loan.

(4) Every certificate issued under subsection (3) shall be in such form and contain such particulars as may be prescribed, and shall be subject to such conditions as the Minister thinks fit.

Restriction on disposal of specified productive equipment.

58. Any productive equipment purchased and financed from an approved foreign loan shall not be sold, transferred, or otherwise disposed of without the prior written permission of the Minister, unless the loan has been repaid in full.

Exemption of approved foreign loan interest from tax.

59.—(1) Subject to subsection (3), the interest on an approved foreign loan payable to a foreign lender shall be exempt from tax where it is proved to the satisfaction of the Comptroller that such an exemption does not result in an increase in liability to tax by the foreign lender in his country of residence.

(2) Where such exemption applies, the company upon paying such interest shall not deduct therefrom the tax which would otherwise have been deductible under section 45 of the Income Tax Act but shall forthwith submit a statement to the Comptroller of the amount which would otherwise have been deductible by the company under that section.

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(3) Where a company has contravened section 58 or any conditions imposed by the Minister under section 57 (4), the amount which, but for subsection (2), would have been deductible by the company from the interest paid by it to the foreign lender under section 45 of the Income Tax Act shall be deemed to have been deducted from that interest and shall be a debt due from the company to the Government and be recoverable in the manner provided by section 90 of the Income Tax Act.

(4) No action shall be taken by the Comptroller to recover any debt under subsection (3) without the prior sanction of the Minister.

Exemption of additional interest on approved foreign loan from tax.

60.—(1) Subject to subsection (2), section 59 shall apply to any additional interest payable on an approved foreign loan by reason of any arrangement whereby the period within which the loan must be repaid in full has been extended:

Provided that the rate of interest payable in respect of any such extended period shall not, without the prior sanction of the Minister, be higher than the rate of interest specified in the certificate relating to the approved foreign loan.

(2) Any company making any such arrangement shall give notice thereof in writing to the Minister within 30 days from the date on which the arrangement is made.

PART IX

ROYALTIES, FEES AND DEVELOPMENT CONTRIBUTIONS

Procedure and power for applying for and issuing an approved royalties, fees or contributions certificate.

61.—(1) A company engaged in any industry which is desirous of entering into an agreement or arrangement with a non-resident person whereby royalties or technical assistance fees or contributions to research and development costs are payable to the non-resident person, may apply to the Minister for a certificate certifying those royalties, fees or contributions to be approved royalties, fees or contributions, as the case may be, for the purposes of this Part.

(2) The application shall be in such form containing such particulars as may be prescribed, and shall be accompanied by a copy of the proposed agreement or arrangement certified by the non-resident person.

(3) Where the Minister is satisfied as to the bona fides of any application made under this section and that it is expedient in the public interest to do so, he may issue a certificate in the terms of the application, subject to such conditions as he thinks fit.

Notice of variation of terms of agreement.

62.—(1) If for any reason any approved royalties, fees or contributions payable by a company cease to become payable before the expiry of the period of agreement or arrangement related thereto, the company shall, within 30 days from the date on which the royalties, fees or contributions cease to become payable, give notice thereof to the Minister.

(2) The company to which a certificate has been issued under section 61 shall not, without the prior sanction of the Minister, amend or otherwise vary the terms of the agreement or arrangement related thereto, except in cases where for the same consideration the amount of the approved royalties, fees or contributions is to be reduced and in that event the company shall notify the Minister accordingly within 30 days from the date on which the amount is reduced.

Relief conditional on no increase in foreign tax.

63. The relief or exemption provided by sections 64 and 65 shall apply only where it is proved to the satisfaction of the Comptroller that such relief or exemption in respect of approved royalties, fees or contributions does not result in an increase in liability to tax by the non-resident person in his country of residence.

Reduction of, or exemption from, tax. 22/87. Cap. 134.

64.—(1) Notwithstanding section 43 (*b*) of the Income Tax Act, the Minister may, if he is satisfied that it is expedient in the public interest to do so, by an endorsement to that effect on the approved royalties, fees or contributions certificate exempt from tax wholly or in part any approved royalties, fees or contributions received by a non-resident person.

Exemption from tax where investment made in approved enterprise. 22/87.

65. Where, in accordance with section 64, the tax payable on any approved royalties, fees or contributions is at a reduced rate, and it is proved to the satisfaction of the Comptroller that the royalties, fees or contributions, either wholly or in part, have been expended in the acquisition of ordinary share capital in the company from which those payments were received, the amount of income equal to that expenditure shall be exempt from tax.

PART X

INVESTMENT ALLOWANCES

Interpretation of this Part. 29/80 17/82 34/84 22/87.

66.—(1) For the purposes of this Part, unless the context otherwise requires —

"approved project" means a project approved by the Minister under section 67 (2);

"construction operations" means —

(*a*) construction, alteration, repair, extension or demolition of buildings and structures;

(*b*) construction, alteration, repair, extension or demolition of any works forming, or to form, part of any land; or

(*c*) any operations which form an integral part of, or are preparatory to, or are for rendering complete the operations described in paragraph (*a*) or (*b*) including site clearance, earth-moving excavation, laying of foundations, site restoration, landscaping and the provision of drains and of roadways and other access works;

"fixed capital expenditure" means capital expenditure to be incurred on an approved project by a company on factory building (excluding land) in Singapore, on the acquisition of any know-how or patent rights, and on any new productive equipment (and, subject to the approval of the Minister, on any secondhand productive equipment) to be used in Singapore, and the reference to factory building in this definition shall, in relation to a project under section 67 (1) (*b*), (*c*), (*d*), (*f*) or (*g*), include a building or structure specially designed and used for carrying out that project;

"investment allowance account" means an account kept by a company for the purpose of calculating the amount of investment allowance granted under this Part;

"investment day", in relation to a company, means the date specified in its certificate as the date from which the company shall qualify for the investment allowance;

"research and development" has the same meaning as in the Income Tax Act. Cap. 134.

(2) For the purposes of this Part, fixed capital expenditure shall not be deemed to be incurred by a company unless —

(*a*) in the case of any factory building or productive equipment to be constructed or installed on site, the expenditure is attributable to payment against work done in the construction of the building or the construction or installation of the productive equipment;

(*b*) in the case of any productive equipment, other than that to be constructed or installed on site, the company has received delivery of the equipment in Singapore.

Capital expenditure investment allowance. 29/80 17/82 34/84 22/87.

67.—(1) Where a company proposes to carry out a project —

(*a*) for the manufacture or increased manufacture of any product;

(*b*) for the provision of specialised engineering or technical services;

(*c*) for research and development;

(*d*) for construction operations;

(*e*) for reducing the consumption of potable water;

(*f*) in relation to any qualifying activity as defined in section 16;

(*g*) for the promotion of the tourist industry (other than a hotel) in Singapore,

it may apply in the prescribed form to the Minister for the approval of an investment allowance in respect of the fixed capital expenditure for the project.

(2) Where the Minister considers it expedient, having regard to the economic, technical and other merits of the project, he may approve the project and issue the company with a certificate which shall qualify the company for an investment allowance as stipulated in the certificate in

respect of the fixed capital expenditure for the approved project subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date as the investment day from which the company shall be entitled to investment allowance under this Part.

(4) The Minister may, in his discretion, upon the application of a company amend its certificate by substituting for the investment day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the investment day in relation to that certificate.

Investment allowance. 17/82 22/87.

68.—(1) The investment allowance granted under section 67 shall be a specified percentage, not exceeding 50% of the amount (which may be subject to a specified maximum) of the fixed capital expenditure incurred on each item specified by the Minister under subsection (2) on an approved project:

Provided that the fixed capital expenditure is incurred —

(*a*) within such period (referred to in this Act as the qualifying period), not exceeding 5 years, commencing from the investment day as the Minister may determine; and

(*b*) in the case of a project under section 67 (1) (*g*), within such period (hereinafter referred to as the qualifying period), not exceeding 10 years, commencing from the investment day as the Minister may determine.

(2) The Minister —

(*a*) shall specify the items of the fixed capital expenditure for the purposes of subsection (1); and

(*b*) may specify the maximum amount of the investment allowance granted for the approved project.

(3) Where any question arises as to whether a particular item qualifies as one of the items under subsection (2) (*a*), it shall be determined by the Minister whose decision shall be final.

(4) In subsection (1), "specified" means specified by the Minister.

Crediting of investment allowances.

69.—(1) Where in the basis period for a year of assessment a company has incurred fixed capital expenditure, the company shall be given for that year of assessment an investment allowance in respect of such amount of the fixed capital expenditure as qualifies for the investment allowance under the terms and conditions of its certificate and in accordance with section 68.

(2) Any investment allowance given to a company on an approved project shall be credited to an account to be called an "investment allowance account" which shall be kept by the company for the purposes of this Part.

Prohibition to sell, lease out or dispose of assets.

70.—(1) During its qualifying period or within two years after the end of its qualifying period, a company shall not, without the written approval of the Minister, sell, lease out or otherwise dispose of any assets in respect of which an investment allowance has been given.

(2) Where during its qualifying period, or within two years after the end of its qualifying period, a company has sold, leased out or otherwise disposed of any assets in respect of which an investment allowance has been given, an amount equal to the aggregate of the investment allowance given in respect of those assets shall be recovered in the following manner:

(*a*) the amount shall be deducted from the investment allowance account; and

(*b*) where the investment allowance account is insufficient to give full effect to the recovery, an assessment or additional assessment in respect of the amount unrecovered shall be made upon the company or any shareholder of the company and the tax exempt account, kept in accordance with section 53 (as made applicable by section 72), shall be debited accordingly:

Provided that the Minister may waive wholly or partly the recovery of the investment allowance.

Exemption from income tax.

71. Where for any year of assessment an investment allowance account of a company is in credit and the company has for that year of assessment any chargeable income, an amount of the chargeable income, not exceeding the credit in the investment allowance account, shall be exempt from tax and the investment allowance account shall be debited with such amount; and any remaining balance in the investment allowance account shall be carried forward to be used by the company in the first subsequent year of assessment when the company has chargeable income, and so on for subsequent years of assessment until the credit in the investment allowance account has been fully used.

Certain dividends exempted from income tax.

72. Section 53 shall apply, mutatis mutandis, to a company which has been granted an investment allowance under this Part as it applies to an international trading company and the reference to section 51 in that section shall be read as a reference to section 71.

Recovery of tax exempted.

73. Notwithstanding any other provisions of this Part, where it appears to the Comptroller that —

(*a*) any amount of exempted income of a company; or

(*b*) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of the revocation under section 99 of the certificate issued under section 67 to the company, the Comptroller may at any time within 12 years from the date of the revocation —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

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

Application of Parts XI and XII of Income Tax Act. Cap. 134.

74.—(1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under section 73 as if it were a notice of assessment given under those provisions.

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(2) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

PART XI

WAREHOUSING AND SERVICING INCENTIVES

Interpretation of this Part.

75. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to a warehousing company or a servicing company, means the date specified in its certificate as the date from which that company shall be entitled to tax relief under this Part;

"earnings" means —

(*a*) in relation to a warehousing company, the consideration received or receivable from the sales of goods (including the provision of services connected with or related to such sales) or the commissions received or receivable therefrom; and

(*b*) in relation to a servicing company, the consideration received or receivable from the provision of services;

"eligible goods or services", in relation to a warehousing company or a servicing company, means the eligible goods or services specified in the certificate issued to that company under section 76 (3);

"export earnings" means —

(*a*) in relation to a warehousing company, the consideration received or receivable from export sales free on board of eligible goods (including the provision of services connected with or related to such sales) or the commissions received or receivable therefrom; and

(*b*) in relation to a servicing company, the consideration received or receivable from the provision of eligible services to persons

outside Singapore who are not resident in Singapore;

"fixed capital expenditure" means capital expenditure to be incurred on any building (excluding land) and on any new productive equipment (and, subject to the approval of the Minister, on any secondhand productive equipment) to be used in Singapore;

"servicing company" means a company which has been approved as a servicing company under section 76;

"warehousing company" means a company which has been approved as a warehousing company under section 76.

Approved warehousing company or servicing company.

76.—(1) Any company intending to incur fixed capital expenditure of not less than $2 million for —

(*a*) the establishment or improvement of warehousing facilities wholly or mainly for the storage and distribution of manufactured goods to be sold and exported by the company, with or without processing or the provision of related services; or

(*b*) the purpose of providing technical or engineering services (or such other services as the Minister may, by notification in the *Gazette*, specify) wholly or mainly to persons outside Singapore who are not resident in Singapore,

may apply in the prescribed form to the Minister for approval as a warehousing company or a servicing company.

(2) Where the Minister considers it expedient in the public interest to do so, he may approve the application and issue a certificate to the company subject to such conditions as he thinks fit.

(3) Every certificate issued under this section shall specify —

(*a*) a date as the commencement day from which the company shall be entitled to tax relief under this Part; and

(*b*) the eligible goods or services for the purpose of tax relief under this Part.

(4) The Minister may, in his discretion, upon the application of a warehousing company or a servicing company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of warehousing company or servicing company.

77.—(1) The tax relief period of a warehousing company or a servicing company shall commence on its commencement day and shall continue for a period of 5 years.

36/93 (from Y/A 1994).

(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any warehousing company or servicing company for such further periods, not exceeding 5 years at any one time, as he thinks fit.

Prohibition of acquisition without approval.

78.—(1) During its tax relief period, a warehousing company shall not acquire any sales and a servicing company shall not acquire any services from any other person in connection with its trade or business without the written approval of the Minister.

(2) Where the Minister permits a warehousing company or a servicing company to acquire such sales or services, he may vary the base export earnings as determined under section 81 (3) and impose such conditions as he thinks fit.

Application of certain sections of this Act to warehousing company or servicing company.

79.—(1) Sections 48 and 50 shall apply, mutatis mutandis, to a warehousing company or a servicing company as they apply to an international trading company, and the reference in section 50 to relevant export sales shall be read as a reference to export of eligible goods or provision of eligible services.

(2) Sections 35, 36, 41, 42, 43 and 44 shall apply, mutatis mutandis, to a warehousing company as they apply to an export enterprise and the reference to export product or export produce in those sections shall be read as a reference to eligible goods.

Application of Part X of Income Tax Act. Cap. 134.

80.—(1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of a warehousing company or a servicing company were chargeable to tax.

(2) The annual return of income shall be accompanied by such evidence as, in the opinion of the Comptroller, is necessary to verify the income derived by a warehousing company or a servicing company.

Computation of export earnings and exemption from tax. 17/82.

81.—(1) The total income of a warehousing company or a servicing company in respect of its trade or business which includes its export of eligible goods or provision of eligible services shall be ascertained (after making such adjustments as may be necessary in consequence of any direction given under section 48 as made applicable by section 79), for any accounting period during its tax relief period in accordance with the provisions of the Income Tax Act, and in particular the following provisions shall apply:

(*a*) income from other non-trading sources shall be excluded and separately assessed;

(*b*) the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 (where applicable) of the Income Tax Act shall be taken into account notwithstanding that no claim for those allowances has been made, and where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to those allowances, section 23 of the Income Tax Act shall apply;

(*c*) the amount of any unabsorbed allowances in respect of any year of assessment immediately preceding the tax relief period which would otherwise be available under section 23 (2) and (3) of the Income Tax Act shall be taken into account;

(*d*) section 37 of the Income Tax Act shall apply in respect of any loss incurred prior to or during its tax relief period;

(*e*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act

and losses incurred in respect of any distinct trade or business shall be brought into the computation;

(*f*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act and losses incurred in respect of the trade or business referred to in this subsection shall, during the tax relief period, only be deducted against the income derived from that trade or business; and

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(*g*) subject to sections 23 and 37 of the Income Tax Act, any allowances and losses which remain unabsorbed at the end of the tax relief period shall be available for deduction in its post tax relief period.

(2) The amount of the export income of a warehousing company or a servicing company which will qualify for the relief for any year of assessment shall be deemed to be such amount which bears to the total income ascertained under subsection (1) the same proportion as the excess of the total amount of the export earnings of that company over its base export earnings bears to the total amount of its earnings; and one-half of the amount of the export income which qualifies for the relief as ascertained in this subsection shall not form part of the chargeable income of the company for that year of assessment and shall be exempt from tax.

(3) The base export earnings referred to in subsection (2) shall be where a warehousing company or a servicing company has been carrying on its trade or business —

(*a*) for 3 or more years immediately preceding the date of its application under this Part, an amount equal to one-third of the export earnings for the 3 years immediately preceding the date of its application under this Part; and

(*b*) for less than 3 years immediately preceding the date of its application under this Part, such amount as the Minister may specify having regard to the export earnings of other warehousing companies or servicing companies, as the case may be.

Certain dividends exempted from income tax.

82. Section 53 shall apply, mutatis mutandis, to a warehousing company or a servicing company as it applies to an international trading company and the reference to section 51 in section 53 (1) shall be read as a reference to section 81.

Recovery of tax exempted.

83. Notwithstanding any other provisions of this Part, where it appears to the Comptroller that —

(*a*) any amount of exempted income of a warehousing company or a servicing company; or

(*b*) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of a direction made under section 48 (as made applicable by section 79) or the revocation under section 99 of the certificate issued under section 76 to the warehousing company or the servicing company, the Comptroller may at any time within 12 years from the date of the direction or revocation —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

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

Application of Parts XI and XII of Income Tax Act. Cap. 134.

84.—(1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under section 83 as if it were a notice of assessment given under those provisions.

(2) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

PART XII

INTERNATIONAL CONSULTANCY SERVICES

Interpretation of this Part.

85. For the purposes of this Part, unless the context otherwise requires —

"approved overseas project", in relation to a consultancy company or a consultancy firm, means an overseas project of the kind specified in the certificate issued to that company or firm under section 86 (3);

"commencement day", in relation to a consultancy company or a consultancy firm, means the date specified in the certificate issued to that company or firm as the date from which that company or firm shall be entitled to tax relief under this Part;

"consultancy company" means a company which has been approved as a consultancy company under section 86;

"consultancy firm" means a firm which has been approved as a consultancy firm under section 86;

"consultancy revenue" means the gross revenue (excluding costs in respect of materials used or sub-contracts made) derived by a consultancy company or a consultancy firm from its profession or business;

"consultancy services" means any of the following services:

(*a*) advisory services relating to any technical, construction or engineering matter;

(*b*) design and engineering;

(*c*) fabrication of machinery and equipment;

(*d*) procurement of materials and equipment;

(*e*) management and supervision of the installation or construction of any project;

(*f*) data processing, programming and other computer services;

(*g*) any other services which the Minister may, by notification in the *Gazette*, declare to be consultancy services for the purposes of this Part;

"eligible consultancy revenue" means the gross revenue (excluding costs in respect of materials used or sub-contracts made) derived by a consultancy company or a consultancy firm from the

provision of consultancy services in respect of approved overseas projects.

Approved consultancy company or consultancy firm.

86.—(1) Any company or firm intending to provide consultancy services in connection with or in respect of any overseas project or projects may, where that part of its consultancy revenue which is attributable to those services exceeds or is expected to exceed $1,000,000 per annum, apply in the prescribed form to the Minister for approval as a consultancy company or a consultancy firm.

(2) Where the Minister considers it expedient in the public interest to do so, he may approve the application and issue a certificate to the company or firm subject to such conditions as he thinks fit.

(3) Every certificate issued under this section shall specify —

(*a*) a date as the commencement day from which the company or firm shall be entitled to tax relief under this Part; and

(*b*) the kinds of projects for the purposes of tax relief under this Part.

(4) The Minister may, in his discretion, upon the application of a consultancy company or a consultancy firm, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of consultancy company or consultancy firm.

87. The tax relief period of a consultancy company or a consultancy firm shall commence on its commencement day and shall continue for a period of 5 years.

Application of certain sections of this Act to consultancy company or consultancy firm.

88. Sections 48, 49 and 50 shall apply, mutatis mutandis, to a consultancy company or a consultancy firm as they apply to an international trading company and for the purposes of such application —

(*a*) the reference in section 49 (2) to the export sales of qualifying manufactured goods, Singapore

domestic produce and qualifying commodities shall be read as a reference to the provision of consultancy services on approved overseas projects; and

(*b*) in section 50 the reference to trade or business shall be read as a reference to profession or business and the reference to relevant export sales shall be read as a reference to consultancy services on approved overseas projects.

Computation of eligible consultancy revenue and exemption from tax. 17/82.

89.—(1) The total income of a consultancy company in respect of its profession or business which includes its consultancy services on approved overseas projects shall be ascertained (after making such adjustments as may be necessary in consequence of any direction given under section 48 as made applicable by section 88), for any accounting period during its tax relief period in accordance with the provisions of the Income Tax Act, and, in particular, the following provisions shall apply:

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(*a*) income from sources other than the consultancy services shall be excluded and separately assessed;

(*b*) the allowances provided for in sections 16, 17, 18, 19, 19A, 20, 21 and 22 (where applicable) of the Income Tax Act shall be taken into account notwithstanding that no claim for those allowances has been made, and where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to those allowances, section 23 of the Income Tax Act shall apply;

(*c*) the amount of any unabsorbed allowances in respect of any year of assessment immediately preceding the tax relief period which would otherwise be available under section 23 (2) and (3) of the Income Tax Act shall be taken into account;

(*d*) section 37 of the Income Tax Act shall apply in respect of any loss incurred prior to or during its tax relief period;

(*e*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act and losses incurred in respect of any distinct trade or business shall be brought into the computation; Cap. 134.

(*f*) any unabsorbed allowances granted under sections 16, 17, 19, 19A, 20 and 21 of the Income Tax Act and losses incurred in respect of the profession or business referred to in this subsection shall, during the tax relief period, only be deducted against the income derived from that profession or business; and

(*g*) subject to sections 23 and 37 of the Income Tax Act, any allowances and losses which remain unabsorbed at the end of the tax relief period shall be available for deduction in its post tax relief period.

(2) The amount of the income of a consultancy company which will qualify for the relief for any year of assessment shall be deemed to be such amount which bears to the total income ascertained under subsection (1) the same proportion as the excess of the total amount of the eligible consultancy revenue of that company over its base eligible consultancy revenue bears to the total amount of its consultancy revenue; and one-half of the amount of the income which qualifies for the relief as ascertained in this subsection shall not form part of the chargeable income of the company for that year of assessment and shall be exempt from tax.

(3) The base eligible consultancy revenue referred to in subsection (2) shall be —

(*a*) where a consultancy company has been carrying on such consultancy services for 3 or more years immediately preceding the date of its application under this Part, an amount equal to one-third of its consultancy revenue in respect of overseas projects which are in the opinion of the Minister of the same kind as that specified in its certificate for approved overseas projects for the 3 years immediately preceding the date of its application under this Part; and

(*b*) where a consultancy company has been carrying on such consultancy services for less than 3 years immediately preceding the date of its application under this Part, such amount as the Minister may specify having regard to the consultancy revenue of other consultancy companies.

(4) This section shall apply to a consultancy firm subject to such provisions as the Minister may by regulations prescribe for the purpose of ascertaining the amount of income which qualifies for the relief.

Certain dividends exempted from income tax.

90. Section 53 shall apply, mutatis mutandis, to a consultancy company as it applies to an international trading company and the reference to section 51 in section 53 (1) shall be read as a reference to section 89.

Recovery of tax exempted.

91. Notwithstanding any other provisions of this Part, where it appears to the Comptroller that —

(*a*) any amount of exempted income of a consultancy company or a consultancy firm; or

(*b*) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of a direction made under section 48 (as made applicable by section 88) or the revocation under section 99 of the certificate issued under section 86 to the consultancy company or the consultancy firm, the Comptroller may at any time within 12 years from the date of the direction or revocation —

(i) make such assessment or additional assessment upon the company or firm or any such shareholder or partner as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

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

92.—(1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under section 91 as if it were a notice of assessment given under those provisions. Application of Parts XI and XII of Income Tax Act. Cap. 134.

(2) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

Part XIII

Investments in New Technology Companies

93. For the purposes of this Part, unless the context otherwise requires — Interpretation of this Part. 37/84.

"eligible holding company", in relation to a technology company, means a company incorporated in Singapore —

(*a*) which is resident in Singapore;

(*b*) which holds shares in the technology company; and

(*c*) in respect of which not less than 50% of the paid-up capital is beneficially owned by citizens or permanent residents of Singapore throughout the whole of the qualifying period of the technology company, unless the Minister otherwise decides;

"qualifying period", in relation to a technology company, means a period of 3 years from the day it commences, for the purposes of the Income Tax Act, to carry on its relevant trade or business;

"relevant trade or business", in relation to a technology company, means the trade or business to which the certificate, issued to the company under section 94 (2), relates;

"technology company" means a company approved as a technology company under section 94 (2).

Application for and issue of certificate to technology company. 37/84.

94.—(1) Any company incorporated in Singapore which is desirous of using in Singapore a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a technology company.

(2) Where the Minister is satisfied that the technology, if introduced in Singapore, would promote or enhance the economic or technological development of Singapore, he may approve the company as a technology company and issue a certificate to that company subject to such conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a percentage, not exceeding 50%, of such amount of the paid-up capital of the technology company as is held by any eligible holding company for the purpose of determining the deduction under section 95.

Deductions allowable to eligible holding company. 37/84.

95.—(1) Where a technology company has incurred an overall loss in respect of its relevant trade or business at the end of its qualifying period, it may, within 5 years from that date, by notice in writing to the Comptroller elect for the overall loss (less any amount which has been deducted up to the date of the notice) and the amount of any unabsorbed capital allowances (less any amount which has been deducted up to the date of the notice) to be made available to an eligible holding company as a deduction against the statutory income of the eligible holding company.

(2) The deduction to be made available to an eligible holding company under subsection (1) shall be an amount to be ascertained by multiplying the overall loss (less any amount which has been deducted up to the date of the notice) or the unabsorbed capital allowances (less any amount which has been deducted up to the date of the notice), as the case may be, by the percentage of the paid-up capital of the technology company held by that eligible holding company throughout the whole of the qualifying period of the technology company:

Provided that the deduction shall not in the aggregate exceed such percentage as may be specified in the certificate issued to the technology company under section 94 of the paid-up capital of the technology company held by the

eligible holding company (excluding any shares acquired from other shareholders of the technology company) as at the end of such qualifying period.

(3) Notwithstanding subsection (2), where the percentage of the paid-up capital of the technology company held by an eligible holding company is increased at any time during the qualifying period of the technology company, the Minister may, upon the application by the eligible holding company, if he considers it just and reasonable to do so, increase the amount of the deduction available under subsection (2) up to 50% of the paid-up capital of the technology company held by the eligible holding company as at the end of such qualifying period.

(4) Where any deduction is made available to an eligible holding company in accordance with this section, any overall loss or unabsorbed capital allowances to the extent of the deduction so made available shall cease to be deductible by the technology company under section 23 or 37 of the Income Tax Act, and those sections shall apply to the eligible holding company in respect of the deduction made available as if the eligible holding company was carrying on the trade or business in respect of which the overall loss or the unabsorbed capital allowances were made. Cap. 134.

(5) The overall loss or unabsorbed capital allowances made available to an eligible holding company under this section shall first be deducted against the statutory income of the eligible holding company for the year of assessment immediately following the year in which the notice was given under subsection (1).

(6) In this section —

"overall loss", in relation to a technology company, means the amount by which the total of the losses exceed the total of the statutory income arising from its relevant trade or business for the whole of its qualifying period ascertained in accordance with the provisions of the Income Tax Act and subject to such regulations as may be prescribed under this Act;

"unabsorbed capital allowances", in relation to a technology company, means the balance of any allowance provided for in sections 16, 17, 18, 19, 19A,

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19B, 20, 21 and 22 of the Income Tax Act which remain unabsorbed at the end of the qualifying period of the company in respect of capital expenditure incurred for the purpose of its relevant trade or business before the end of the qualifying period.

(7) For the purposes of the Income Tax Act and this Part, the Comptroller may direct that —

(*a*) any sums payable to a technology company before or after its qualifying period which, but for the provisions of this Part, might reasonably and properly have been expected to be payable to the technology company, in the normal course of business, during its qualifying period shall be treated as having been payable on such date within the qualifying period, as the Comptroller thinks fit; and

(*b*) any expense incurred by a technology company during its qualifying period which, but for the provisions of this Part, might reasonably and properly have been expected to be incurred, in the normal course of business, before or after the qualifying period shall be treated as not having been incurred within the qualifying period but as having been incurred on such date before or after that qualifying period, as the Comptroller thinks fit.

Prohibition of other trade or business. 37/84.

96.—(1) During its qualifying period, a technology company shall not, without the written approval of the Minister, carry on any trade or business other than its relevant trade or business.

(2) Where the carrying on of a separate trade or business has been approved under subsection (1), separate accounts shall be maintained in respect of that trade or business.

Recovery of tax. 37/84.

97. Notwithstanding anything in this Part, where it appears to the Comptroller that any deduction under section 95 ought not to have been given to an eligible holding company by reason of any direction under section 95 (7) or the revocation under section 99 of a certificate issued to a technology company, the Comptroller may, at

any time within 12 years from the date of any such direction or revocation, make such assessment or additional assessment upon the eligible holding company or any of its shareholders as may be necessary in order to recover any tax which should have been payable by the eligible holding company.

Part XIIIA

Overseas Investment and Venture Capital Incentives

97A. For the purposes of this Part, unless the context otherwise requires — Interpretation of this Part. 22/87 24/89.

"eligible holding company", in relation to a venture company, a technology investment company or an overseas investment company, means a company incorporated in Singapore —

(*a*) which is resident in Singapore;

(*b*) which holds shares in the venture company, the technology investment company or the overseas investment company; and

(*c*) in respect of which not less than 50% of the paid-up capital is beneficially owned by citizens or permanent residents of Singapore throughout the period during which it holds shares in the venture company, the technology investment company or the overseas investment company, unless the Minister otherwise decides;

"eligible individual", in relation to a venture company, means an individual resident in Singapore who is a citizen or permanent resident of Singapore;

"overseas investment company" means a company approved as an overseas investment company under section 97C (4);

"technology investment company" means a company approved as a technology investment company under section 97C (2);

"venture company" means a company approved as a venture company under section 97B (2).

Application for and issue of certificate to venture company. 22/87.

97B.—(1) Any company incorporated in Singapore which is desirous of developing or using in Singapore a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a venture company.

(2) Where the Minister is satisfied that the technology, if introduced in Singapore, would promote or enhance the economic or technological development of Singapore, he may approve the company as a venture company and issue a certificate to the company subject to such conditions as he may impose.

Application for and issue of certificate to technology investment company or overseas investment company. 22/87 24/89.

97C.—(1) Any company, incorporated and resident in Singapore, desirous of investing in an overseas company which is developing or using a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a technology investment company.

(2) Where the Minister is satisfied in respect of any application under subsection (1) that the technology, if introduced in Singapore would promote or enhance the economic or technological development of Singapore, he may approve the company as a technology investment company and issue a certificate to the company subject to such conditions as he may impose.

24/89. (3) Any company, incorporated and resident in Singapore, desirous of investing in an overseas company for the purpose of acquiring for use in Singapore any technology from the overseas company or for the purpose of gaining access to any overseas market for its eligible holding company or any subsidiary thereof, may make an application in the prescribed form to the Minister to be approved as an overseas investment company.

24/89. (4) Where the Minister is satisfied in respect of any application under subsection (3) that the technology acquired, if introduced in Singapore or the access which would be gained to any overseas market, would promote or enhance the technological or economic development of Singapore, he may approve the company as an overseas investment company and issue a certificate to the company subject to such conditions as he may impose.

97D.—(1) Where any eligible holding company or eligible individual has incurred any loss arising from — Deduction of losses allowable to eligible holding company or eligible individual. 22/87 24/89.

(*a*) the sale of shares held by it or him in a venture company; or

(*b*) the liquidation of a venture company,

the loss shall be allowed as a deduction against the statutory income of the company or individual in accordance with section 37 (2) of the Income Tax Act as if the loss were incurred from a trade or business carried on by it or him. Cap. 134.

(2) Where any eligible holding company has incurred any loss arising from —

(*a*) the sale of shares held by it in a technology investment company or an overseas investment company; or

(*b*) the liquidation of a technology investment company or an overseas investment company,

the loss shall be allowed as a deduction against its statutory income in accordance with section 37 (2) of the Income Tax Act as if the loss were incurred from a trade or business carried on by it.

(3) Notwithstanding subsections (1) and (2), no deduction shall be allowed in respect of any loss referred to in those subsections if —

(*a*) the shares in respect of which the loss was incurred were held by an eligible holding company or eligible individual in a venture company, or by an eligible holding company in a technology investment company or in an overseas investment company, for a period of less than two years from the date of issue of the shares, unless the loss was incurred as a result of the liquidation of the venture company, technology investment company or overseas investment company; or

(*b*) the sale of shares or liquidation occurred after 8 years from the date of approval under this Part of the venture company, technology investment company or overseas investment company.

24/89. (4) The deduction under subsections (1) and (2) shall be available only —

(*a*) to a person to whom shares are allotted by a venture company or technology investment company on or after 1st April 1986;

(*b*) to a person to whom shares are allotted by an overseas investment company on or after 1st April 1988,

and shall not be available to any transferee of such shares.

(5) For the purposes of subsections (1) and (2), the loss shall be the excess of the purchase price of the shares —

(*a*) over the proceeds from the sale; and where the open market value at the date of the sale (or the value of net asset backing as determined by the Comptroller in the case of a company not quoted on any stock exchange) of the shares is greater than the sale proceeds, that value shall be deemed to be the proceeds from the sale; or

(*b*) over the proceeds from the liquidation,

as the case may be.

Prohibition of other trade or business. 22/87. **97E.**—(1) A venture company shall not, without the written approval of the Minister, carry on any trade or business other than the trade or business to which its certificate relates.

24/89. (2) A technology investment company and an overseas investment company shall not carry on any trade or business.

Recovery of tax. 22/87 24/89. **97F.** Notwithstanding anything in this Part, where it appears to the Comptroller that any deduction under section 97D ought not to have been given to an eligible holding company or eligible individual by reason of the revocation under section 99 of a certificate issued to a venture company, a technology investment company or an overseas investment company, the Comptroller may, at any time within 12 years from the date of the revocation, make such assessment or additional assessment upon the eligible holding company (or any of its shareholders) or any eligible

individual as may be necessary in order to recover any tax which should have been payable by the eligible holding company (or any of its shareholders) or the eligible individual.

Deduction of losses incurred overseas by eligible investment company. 36/93.

97G.—(1) Any company, incorporated and resident in Singapore, desirous of investing in an overseas company —

(*a*) which is developing or using a new technology in relation to a product, process or service; or

(*b*) for the purpose of acquiring for use in Singapore any technology from the overseas company or for the purpose of gaining access to any overseas market for itself or any of its subsidiaries,

may make an application in respect of the investment in that overseas company in the prescribed form to the Minister to be approved as an eligible investment company.

(2) Where the Minister is satisfied in respect of any application under subsection (1) that —

(*a*) the technology, if introduced in Singapore, or the access which would be gained to any overseas market, would promote or enhance the economic or technological development of Singapore; and

(*b*) not less than 50% of the paid-up capital of the company which makes the application is beneficially owned by citizens or permanent residents of Singapore unless the Minister otherwise decides,

he may approve the company as an eligible investment company and issue a certificate to the company subject to such conditions as he may impose.

(3) Any company approved by the Minister under subsection (2) shall maintain the shareholding referred to in subsection (2) (*b*) throughout the period during which it holds shares in the overseas company.

(4) Where, in the basis period for any year of assessment, an eligible investment company incurs any loss on the sale of any share in, or from the liquidation of, an overseas company, that loss shall be treated as if it were a loss incurred

from a trade or business carried on by the eligible investment company.

(5) The loss referred to in subsection (4) in relation to any overseas company shall be allowed as a deduction against the statutory income of the eligible investment company for any year of assessment in accordance with section 37 of the Income Tax Act, subject to the following provisions:

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(*a*) any gain made or loss incurred on the sale of any share in that overseas company which occurred during the period of less than two years from the date of issue of the share shall be disregarded;

(*b*) any gain made or loss incurred on the sale of any share in, or from the liquidation of, that overseas company which occurred after 8 years from the date of approval under this section of the eligible investment company in respect of that overseas company shall be disregarded;

(*c*) no deduction under this section shall be allowed unless the total losses in respect of the sale of any share in, or from the liquidation of, that overseas company up to the end of the basis period for that year of assessment exceed the total gains made in respect of the sale of any share in, or from the liquidation of, that overseas company up to the end of that basis period; and

(*d*) the amount of deduction under this section shall not exceed the excess of the total losses over the total gains referred to in paragraph (*c*).

(6) Where in the basis period for any year of assessment an eligible investment company makes a gain from the sale of any share in, or from the liquidation of, an overseas company and where any loss in relation to that overseas company has been allowed as a deduction to the eligible investment company under this section for any previous year of assessment, such gain shall, so far as it is not chargeable to tax as a revenue or trading receipt, be deemed to be income of the eligible investment company chargeable to tax for that year of assessment, except that —

(*a*) no gain shall be so deemed to be income unless the total amount of the losses allowed for previous years of assessment exceed the total amount of the gains deemed to be income for previous years of assessment;

(*b*) the amount of the gain chargeable to tax shall not exceed the excess of the total amount of the losses allowed for previous years of assessment over the total amount of the gains deemed to be income for previous years of assessment; and

(*c*) the losses and gains referred to in subsection (5) (*a*) and (*b*) shall be disregarded.

(7) For the purposes of this section, the loss shall be the excess of the purchase price of the shares —

(*a*) over the proceeds from the sale; and where the open market value at the date of the sale (or the value of net asset backing as determined by the Comptroller in the case of a company not quoted on any stock exchange) of the shares is greater than the sale proceeds, that value shall be deemed to be the proceeds from the sale; or

(*b*) over the proceeds from the liquidation,

as the case may be.

(8) For the purposes of this section, the gain shall be the excess of —

(*a*) the proceeds from the sale; and where the open market value at the date of the sale (or the value of net asset backing as determined by the Comptroller in the case of a company not quoted on any stock exchange) of the shares is greater than the sale proceeds, that value shall be deemed to be the proceeds from the sale; or

(*b*) the proceeds from the liquidation,

as the case may be, over the purchase price of the shares.

(9) For the purposes of this section, in computing the gain or loss from the sale of any share, the shares allotted on an earlier date shall be deemed to have been sold first.

(10) The deduction under this section shall be available only to a person to whom shares are allotted by an overseas company on or after 1st April 1993 and shall not be available to any transferee of such shares.

(11) Notwithstanding anything in this section, where it appears to the Comptroller that any deduction under this section ought not to have been given to an eligible investment company by reason of the revocation under section 99 of a certificate issued to that company, the Comptroller may, at any time within 12 years from the date of the revocation, make such assessment or additional assessment upon the eligible investment company or any of its shareholders as may be necessary in order to recover any tax which should have been payable by the eligible investment company or any of its shareholders.

PART XIIIB

OVERSEAS ENTERPRISE INCENTIVE

Interpretation of this Part. 36/93 (from Y/A 1994).

97H. For the purposes of this Part, unless the context otherwise requires —

"qualifying activity" means any of the following activities in an overseas project:

(*a*) manufacturing activities or services;

(*b*) infrastructure development and management;

(*c*) tourism development and management;

(*d*) services referred to in paragraphs (*a*) to (*f*) of the definition of "qualifying services" in section 44A; and

(*e*) any other activities or services as may be prescribed;

"qualifying income" means —

(*a*) dividends received from any qualifying investment, specified in the certificate issued under section 97I (2), in any overseas company to the extent that the Comptroller is satisfied that such dividends are paid out of income of the overseas company derived from any qualifying activity; and

(*b*) income derived from Singapore or received in Singapore from outside Singapore from any qualifying activity;

"overseas enterprise" means a company approved as an overseas enterprise under section 97I (2) and in respect of which not less than 50% of the paid-up capital is beneficially owned by citizens or permanent residents of Singapore throughout the period during which it holds shares in an overseas company in the case of dividends received from qualifying investment in that overseas company or throughout the period during which it carries out any qualifying activity in the case of income derived from that qualifying activity, unless the Minister otherwise decides.

Application for and issue of certificate to overseas enterprise. 36/93 (from Y/A 1994).

97I.—(1) Any company, incorporated and resident in Singapore, which is desirous of expanding its business by investing in an overseas company or carrying out any qualifying activity may make an application to the Minister to be approved as an overseas enterprise in such form and with such particulars as may be prescribed.

(2) Where the Minister is satisfied in respect of any application under subsection (1) that the investment in the overseas company or qualifying activity would promote or enhance the economic or technological development of Singapore, he may approve the company as an overseas enterprise and issue a certificate to the company subject to such conditions as he may impose.

(3) Every certificate issued to an overseas enterprise under this section shall specify —

(*a*) a date as the commencement day from which the company shall be entitled to tax relief under this Part; and

(*b*) the qualifying investment in an overseas company or qualifying activity.

(4) The Minister may, in his discretion, upon the application of an overseas enterprise, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so

substituted were the commencement day in relation to that certificate.

Tax relief period of overseas enterprise. 36/93 (from Y/A 1994).

97J. The tax relief period of an overseas enterprise shall commence on its commencement day and shall continue for such period or periods, not exceeding 10 years in the aggregate, as the Minister may determine.

Separate accounts for qualifying activity. 36/93 (from Y/A 1994).

97K. An overseas enterprise shall maintain separate accounts in respect of each qualifying activity.

Power to give directions. 36/93 (from Y/A 1994). Cap. 134.

97L. For the purposes of the Income Tax Act and this Act, the Comptroller may direct that —

(*a*) any sums payable to an overseas enterprise in any accounting period which, but for the provisions of this Act, might reasonably and properly have been expected to be payable in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Comptroller thinks fit and, where that date is after the end of the tax relief period of the overseas enterprise, as having been so payable, on that date, as a sum payable in respect of its trade or business immediately after the end of its tax relief period; and

(*b*) any expense incurred by an overseas enterprise within one year after the end of its tax relief period which, but for the provisions of this Act, might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred for the purpose of its trade or business during its tax relief period and on such date, during its tax relief period, as the Comptroller thinks fit.

Qualifying income. 36/93 (from Y/A 1994). Cap. 134.

97M.—(1) The qualifying income of an overseas enterprise for any accounting period during its tax relief period shall be ascertained in accordance with the provisions of the Income Tax Act after making such adjustments as may be necessary in consequence of a direction given under section 97L and, in particular, the following provisions shall apply:

(*a*) income other than the qualifying income shall be excluded and separately assessed;

(*b*) there shall be deducted in arriving at the qualifying income —

(i) all direct costs and expenses incurred in respect of that qualifying income;

(ii) all indirect expenses which are reasonably and properly attributable to that qualifying income; and

(iii) donations allowable under the Income Tax Act which the Comptroller may allocate as he thinks fit;

(*c*) the allowances provided for in sections 16 to 22 (where applicable) of the Income Tax Act attributable to the qualifying income during the tax relief period shall be taken into account notwithstanding that no claim for those allowances has been made;

(*d*) where in any year of assessment full effect cannot, by reason of an insufficiency of qualifying income for that year of assessment, be given to those allowances, the balance of the allowances shall be added to, and be deemed to form part of, the corresponding allowances, if any, for the next succeeding year of assessment, and, if no such corresponding allowances fall to be made for that year, shall be deemed to constitute the corresponding allowances for that year, and so on for subsequent years of assessment, and shall, during the tax relief period, only be made against the qualifying income and the balance of such allowances shall not be available as a deduction against any other income;

(*e*) for the purposes of paragraphs (*b*) (ii) and (*c*), the amounts attributable to the qualifying income

shall be determined on such basis as the Comptroller thinks reasonable and proper;

(*f*) where the overseas enterprise has, during its tax relief period, incurred a loss for any year in respect of any qualifying activity, that loss shall during the tax relief period only be deducted against the qualifying income and the balance of such losses shall not be available as a deduction against any other income;

(*g*) for the purposes of paragraphs (*b*), (*c*) and (*f*), expenses, donations, allowances and losses attributable to any qualifying income derived from outside Singapore shall only be deducted against such income and the balance of such expenses, donations, allowances and losses shall not be available as a deduction against any other income; and

Cap. 134. (*h*) subject to sections 23 and 37 of the Income Tax Act, any allowances and losses attributable to any qualifying income derived from Singapore which remain unabsorbed at the end of its tax relief period shall be available for deduction in its post tax relief period.

Application of Part X of Income Tax Act. 36/93 (from Y/A 1994).

97N. Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the qualifying income of an overseas enterprise were chargeable to tax.

Statement of qualifying income. 36/93 (from Y/A 1994).

97O. For each year of assessment, the Comptroller shall issue to the overseas enterprise a statement showing the amount of qualifying income for that year of assessment, and Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, as if that statement were a notice of assessment given under those provisions.

Exemption from income tax. 36/93 (from Y/A 1994).

97P. Subject to section 97Q (6) where any statement issued under section 97O has become final and conclusive, the amount of the qualifying income shown by the statement shall not form part of the statutory income of the overseas

enterprise for any year of assessment and shall be exempt from tax:

Provided that the Comptroller may, in his discretion and before such a statement has become final and conclusive, declare that a specified part of the amount of such income is not in dispute and such an undisputed amount of income is exempt from tax, pending such a statement becoming final and conclusive.

Certain dividends exempted from income tax. 36/93 (from Y/A 1994).

97Q.—(1) As soon as any amount of qualifying income has become exempt from tax under section 97P, that amount shall be credited to an account to be kept by the overseas enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the overseas enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

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

(4) Notwithstanding subsections (3) and (9), where any dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(5) The overseas enterprise shall deliver to the Comptroller a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(6) Notwithstanding section 97P and subsections (1) to (5), where it appears to the Comptroller that —

(*a*) any amount of exempted income of an overseas enterprise; or

(*b*) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (9) applies,

ought not to have been exempted by reason of a direction under section 97L, having been made with respect to the overseas enterprise, after any income of that enterprise has been exempted under the provisions of this Act or the revocation under section 99 of a certificate issued to the overseas enterprise, the Comptroller may, at any time within 12 years of the date of any such direction or revocation —

(i) make such assessment or additional assessment upon the overseas enterprise or any such shareholders as may appear to be necessary in order to counteract any profit or income obtained from any such amount which ought not to have been exempted; or

(ii) direct the overseas enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

Cap. 134. (7) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, mutatis mutandis, to any direction given under subsection (6) as if it were a notice of assessment given under those provisions.

(8) Section 44 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

(9) Where an amount has been received by way of dividend from an overseas enterprise by a shareholder and the amount is exempt from tax under subsections (1) to (8), if that shareholder is a company (referred to in this section as the holding company) which holds, at the time any dividend is declared, the beneficial interest in all the issued shares of the overseas enterprise (or in not less than such proportion of those shares as the Minister may approve), any dividends paid by the holding 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 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.

97R. The Comptroller may require an auditor to certify the income derived by an overseas enterprise from its qualifying activity, any direct costs and expenses incurred therefor and any dividends from qualifying investment in an overseas company to have been paid out of income from its qualifying activity for the purposes of section 97P. Certification of income by auditor. 36/93 (from Y/A 1994).

PART XIV

MISCELLANEOUS PROVISIONS

98. The contents of any application made by, or of any certificate issued to, any company under any of the provisions of this Act shall not, except at the instance of the company, be published: Prohibition of publication of application and certificate.

Provided that the Minister may cause to be published by notification in the *Gazette* the name of any company to which any such certificate has been issued or whose certificate has been revoked, and the industry and product or produce to which the certificate relates.

99.—(1) Where the Minister is satisfied that any company to which a certificate has been issued under the provisions of this Act has contravened or has failed to comply with any of the provisions of this Act or any regulations made thereunder, or of any terms or conditions imposed on the certificate, he may, by notice in writing, require the company within 30 days from the date of service of the notice to show cause why the certificate should not be revoked; and if the Minister is satisfied that, having regard to all the circumstances of the case it is expedient to do so, he may revoke the certificate. Revocation of certificate.

(2) Where a certificate is revoked under subsection (1), the Minister shall specify the date, which may be the date of the certificate, from which its revocation shall be operative and the provisions of this Act shall cease to have effect in relation to the certificate from that date.

100. Except as otherwise provided, nothing in this Act shall exempt any company to which a certificate has been issued under the provisions of this Act from making any Provisions of Income Tax Act not affected.

return to the Comptroller or from complying with the provisions of the Income Tax Act in any respect so as to establish the liability to tax, if any, of the company. Cap. 134.

Offences and penalties.

101.—(1) Any person who contravenes or fails to comply with section 36 or 42 or any regulations made 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 2 years or to both.

(2) Any person who —

(*a*) obstructs or hinders any senior officer of customs or officer of customs acting in the discharge of his duty under this Act or any regulations made thereunder; or

(*b*) fails to produce to a senior officer of customs or officer of customs any invoices, bills of lading, certificates of origin or of analysis or any other documents relating to the export of any export product or export produce which the officer may require,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) (*a*) Any person required by a senior officer of customs or officer of customs to give information on any subject into which it is the officer's duty to inquire and which it is in the person's power to give, who refuses to give such information or furnishes as true information that which he knows or has reason to believe is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both.

(*b*) When any such information is proved to be untrue or incorrect, in whole or in part, it is no defence to allege that the information, or any part thereof, was furnished inadvertently, without criminal intent or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

(*c*) Nothing in this subsection shall oblige a person to furnish any information which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Attempts or abetments.

102. Any person who attempts to commit any offence punishable under section 36, 42 or 101 or any regulations made under this Act or abets the commission of any such offence shall be liable to the punishment provided for that offence.

Conduct of prosecution.

103. Any prosecution in respect of an offence under section 36, 42 or 101 or any regulations made under this Act may be conducted by an officer authorised by the Comptroller or a senior officer of customs.

Compounding of offences.

104.—(1) Any officer authorised by the Comptroller or any senior officer of customs may compound any offence which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding $1,000.

(2) On payment of that sum, the person reasonably suspected of having committed an offence, if in custody, shall be discharged, any property seized shall be released and no further proceedings shall be taken against that person or property.

Jurisdiction of Courts.

105. Notwithstanding the provisions of any written law to the contrary, a District Court or a Magistrate's Court shall have jurisdiction to try an offence under section 36, 42 or 101 and to award the full punishment for any such offence, except that a Magistrate's Court may not impose a sentence of imprisonment for a term exceeding 12 months.

Offences by companies and by employees and agents.

106.—(1) Where an offence under section 36, 42 or 101 or any regulations made under this Act has been committed by a company, any person who at the time of the commission of the offence was a director, secretary or other similar officer of the company, or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have

exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under section 36, 42 or 101 to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any employee or agent, or of the employee of an agent, provided that the act, omission, neglect or default was committed by the employee in the course of his employment or by the agent when acting on behalf of that person or by the employee of the agent when acting in the course of his employment in such circumstances that had the act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Action of officers no offence.

107. Nothing done by an officer of the Government in the course of his duties shall be deemed to be an offence under this Act.

Regulations.

108.—(1) The Minister may make such regulations as may be necessary or expedient for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters:

(*a*) any matters required by this Act to be prescribed;

(*b*) the procedure relating to applications for and the issue of certificates under this Act;

(*c*) the terms and conditions to be imposed on any certificate issued under this Act; and

(*d*) the furnishing of such information, including progress and sales reports and statements of accounts, as may be required for the purposes of this Act.

(3) The Minister may in writing authorise any person or authority to prescribe such forms as are required to be or may be prescribed under this Act.

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

Part XV

Transitional Provision

109.—(1) Notwithstanding the repeal of the Pioneer Industries (Relief from Income Tax) Ordinance 1959 by this Act — Transitional provision. Ord. 1 of 1959.

(*a*) any pioneer enterprise which was approved under that Ordinance shall be deemed to be a pioneer enterprise under this Act, and the provisions of this Act shall extend to the enterprise accordingly; and

(*b*) any application, declaration, direction, document, consent, certificate or notice prepared, made, given or issued under that Ordinance shall be deemed to have been prepared, made, given or issued, as the case may be, under this Act.

(2) In any other written law and in any other document, unless the context otherwise requires, any reference to the provisions of the Pioneer Industries (Relief from Income Tax) Ordinance 1959 shall be construed as a reference to the corresponding provisions of this Act.