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The following Act was passed by Parliament on 2 October 2017 and assented to by the President on 19 October 2017:—

**REPUBLIC OF SINGAPORE**

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**No. 39 of 2017.**

I assent.

HALIMAH YACOB,  
*President.*  
19 October 2017.



An Act to amend the Income Tax Act (Chapter 134 of the 2014 Revised Edition) and to make a consequential amendment to the Economic Expansion Incentives (Relief from Income Tax) Act (Chapter 86 of the 2005 Revised Edition).

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

**Short title and commencement**

- 1.—(1) This Act is the Income Tax (Amendment) Act 2017.
- (2) Section 7 is deemed to have come into operation on 22 February 2010.
- (3) Section 27(*a*) is deemed to have come into operation on 21 May 2010.
- (4) Section 32(*d*) is deemed to have come into operation on 2 June 2011.
- (5) Section 6(*e*) is deemed to have come into operation on 1 April 2014.
- (6) Section 35 is deemed to have come into operation on 1 April 2015.
- (7) Section 26(*c*) and (*e*) is deemed to have come into operation on 1 April 2016.
- (8) Section 24 is deemed to have come into operation on 1 January 2017.
- (9) Section 22 is deemed to have come into operation on 21 February 2017.
- (10) Sections 6(*a*), (*b*), (*d*) and (*f*), 29, 30 and 31 are deemed to have come into operation on 1 April 2017.
- (11) Sections 17(*b*), (*d*) and (*g*) to (*r*), 23, 26(*a*), (*b*) and (*d*), 28 and 44(*b*) are deemed to have come into operation on 1 June 2017.

**Amendment of section 8**

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

- (*a*) by deleting the words “a notice may be served” in subsection (1) and substituting the words “the Comptroller may serve a notice, direction or other document”;
- (*b*) by deleting paragraph (*c*) of subsection (1) and substituting the following paragraph:

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

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

“(3A) Where a notice, direction or other document is served on any person through the electronic service under subsection (1)(c), the notice, direction or other document is taken to have been served at the time when an electronic record of it enters the person’s account with the electronic service.”;

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

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

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

### **Amendment of section 8A**

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

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

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

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

person by transmitting an electronic record of it to that account.”;

- (c) by deleting the words “, or any notice that was served, through the electronic service” in subsections (8)(a) and (9)(a) and substituting in each case the words “through the electronic service, or any notice, direction or other document that was served through the electronic service in accordance with regulations made under subsections (13)(ba) and (13A)”;
- (d) by inserting, immediately after the words “this section” in subsection (13), the words “and section 8(1)(c)”;
- (e) by inserting, immediately after paragraph (b) of subsection (13), the following paragraph:
  - “(ba) the circumstances in which the Comptroller may serve any notice, direction or other document through the electronic service on a person assigned an account with the electronic service;”;
- (f) by deleting paragraph (c) of subsection (13) and substituting the following paragraph:
  - “(c) the manner in which a person who has been served through the electronic service with any notice, direction or other document is to be notified of the transmission of an electronic record of it to the person’s account with the electronic service;” and
- (g) by inserting, immediately after subsection (13), the following subsection:
  - “(13A) Regulations made for the purpose of subsection (13)(ba) —
    - (a) may provide for service of any notice, direction or other document through the electronic service in circumstances where —

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- (i) the person consents to such service;  
or
  - (ii) the Comptroller gives the person notice of the Comptroller's intention of such service and the person does not refuse such service;
- (b) may make provision with respect to the giving of any notice of the Comptroller's intention, or the person's consent or refusal, mentioned in paragraph (a), including —
- (i) the matters that must be contained in the notice; and
  - (ii) the time within which, and the form and manner in which, the consent or refusal must be received by the Comptroller;
- (c) may provide when the consent or refusal of the person takes effect and when the Comptroller must give effect to such consent or refusal; and
- (d) may provide for any other matter necessary or incidental to the purposes in subsection (13)(ba) and paragraphs (a), (b) and (c).”.

#### **Amendment of section 10C**

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

“(5B) The maximum amount is —

- (a) \$1,500 per year (for contributions made before 2018);  
or
- (b) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

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

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

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

- (a) by inserting, immediately after the words “FRS 11 construction or upgrade services” in subsection (1B), the words “, or FRS 115 construction or upgrade services,”;
- (b) by inserting, immediately after the words “FRS 11 construction or upgrade services” in subsections (1C)(a) and (1D)(a), the words “or FRS 115 construction or upgrade services (as the case may be)”;
- (c) by deleting the definitions of “FRS 11”, “FRS 17”, “INT FRS 104” and “INT FRS 112” in subsection (2) and substituting the following definitions:

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

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

- (a) Financial Reporting Standard 11 (Construction Contracts);
- (b) Financial Reporting Standard 17 (Leases);
- (c) Financial Reporting Standard 115 (Revenue from Contracts with Customers);

- (d) Interpretation of Financial Reporting Standard 104 (Determining whether an arrangement contains a lease); and
- (e) Interpretation of Financial Reporting Standard 112 (Service Concession Arrangements).”.

### **Amendment of section 13**

#### **6. Section 13 of the principal Act is amended —**

- (a) by deleting the words “1st November 2006 to 31st March 2017” in subsections (1)(b)(i), (2C)(a) and (2D)(a) and substituting in each case the words “1 November 2006 to 31 December 2022”;
- (b) by deleting the words “15th February 2007 to 31st March 2017” in subsections (1)(b)(ii), (2C)(b) and (2D)(b) and substituting in each case the words “15 February 2007 to 31 December 2022”;
- (c) by deleting paragraph (jd) of subsection (1) and substituting the following paragraph:

“(jd) any voluntary contribution in cash made in 2013 or any subsequent year by a person of a description prescribed by the Minister, to the medisave account maintained under the Central Provident Fund Act of a self-employed individual, up to —

- (i) \$1,500 per year (for contributions made before 2018); or
- (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

less any previous contribution that is made to the same medisave account in the same year by the person of the prescribed description in the person’s capacity as an

employer (if applicable), and that is not treated as income under section 10C(5A);”;

- (d) by deleting the words “1st January 2007 to 31st March 2017 (both dates inclusive) and, if such contract is renewed or extended, the period for which it is renewed or extended commences before 1st April 2017” in subsection (1)(zj)(ii)(B) and (zj)(iii)(B) and substituting in each case the words “1 January 2007 to 31 March 2021 (both dates inclusive) and, if such contract is renewed or extended, the period for which the contract is renewed or extended commences before 1 April 2021”;
- (e) by deleting the words “National Service Recognition Award” in subsection (1)(zr) and substituting the words “National Service Housing, Medical and Education Awards”; and
- (f) by deleting the words “31st March 2017” in paragraph (a)(ii) and (iii) of the definition of “qualifying project debt securities” in subsection (16) and substituting in each case the words “31st December 2022”.

### **Amendment of section 13A**

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

- (a) by deleting paragraph (d) of the definition of “ship management services” and substituting the following paragraph:
  - “(d) awarding contracts, entering into alliances, or deciding on pooling, in respect of it;”;
- (b) by deleting paragraphs (f), (g) and (h) of the definition of “ship management services” and substituting the following paragraphs:
  - “(f) planning its route and tonnage, including the issuance of voyage instructions;
  - (g) appointing a ship manager, ship agent or stevedore for it;

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- (h) collecting or arranging for the collection of freight, charter hire, or other payment in exchange for its use;”;
- (c) by deleting paragraphs (j), (k) and (l) of the definition of “ship management services” and substituting the following paragraphs:
- “(j) undertaking crew-related matters for it, including the provision of qualified crew, the appointment of a crew manager, the provision of crew training or the arrangement of crew insurance;
- (k) arranging or supervising dry-docking, repair, overhaul, alteration, maintenance or lay-up of it;
- (l) ensuring that it is adequately equipped with supplies, provisions, spares, stores and lubricating oil;”;
- (d) by deleting paragraph (n) of the definition of “ship management services” and substituting the following paragraph:
- “(n) liaising with the relevant competent authorities or bodies on safety and manning requirements for it and any other similar matters;”.

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

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

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

**Amendment of section 13Z**

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

- (a) by deleting the words “or SFRS for Small Entities” in subsections (6)(d) and (7)(b) and substituting in each case the words “, SFRS for Small Entities or FRS 109”; and
- (b) by deleting the full-stop at the end of the definitions of “FRS 39” and “SFRS for Small Entities” in subsection (9) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

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

**Amendment of section 14**

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

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

- (i) \$1,500 per year (for contributions made before 2018); or
- (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

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

Provided that no deduction is allowed in respect of any sum contributed by an employer to the medisave account maintained under the Central Provident Fund

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Act in respect of an employee who holds a professional visit pass or a work pass or who would be required to obtain such a pass if the employee were to work in Singapore;

- (*fc*) any voluntary contribution in cash made in 2013 or any subsequent year by a person of a description prescribed by the Minister for the purposes of this paragraph, to the medisave account of a self-employed individual maintained under the Central Provident Fund Act, up to a maximum deduction for each individual's medisave account, of —
- (i) \$1,500 per year (for contributions made before 2018); or
  - (ii) \$2,730 per year (for contributions made in 2018 and in each subsequent year),

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

### **Amendment of section 14D**

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

- (*a*) by deleting the words “the year of assessment 2012 or a subsequent year of assessment” in subsection (1)(*e*) and substituting the words “a year of assessment between the years of assessment 2012 and 2017 (both years inclusive)”;
- (*b*) by deleting the words “(excluding any payment made by him for the right to become a party to the cost-sharing agreement)” in subsection (1)(*e*) and (*f*);
- (*c*) by deleting the word “and” at the end of subsection (1)(*e*);
- (*d*) by deleting “2025” in subsection (1)(*f*) and substituting “2017”;

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

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

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

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

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

“(6) In this section —

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

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

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

### **Amendment of section 14DA**

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

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

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

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

(A) for any local research and development; or

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

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

(ii) in the case of a year of assessment between the years of assessment 2018 and 2025 (both years inclusive), if the person makes any payment during the basis period under a cost-sharing agreement, the sum of certain expenditure and payments (up to the amount in subsection (2AA)) that a party to the agreement (whether or

not that person) has agreed to bear, and for which a deduction has not previously been allowed to the firstmentioned person under this sub-paragraph, namely —

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

(B) the amount mentioned in subsection (2AB) of payments made by that person to a research and development organisation for undertaking a local research and development, or a part of a mixed research and development in Singapore, on that person's behalf.”;

- (b) by inserting, immediately before the words “the amount referred to in subsection (2A)” in paragraph (b) of the definition of X in subsection (2)(b), the words “subject to subsection (2AD),”;
- (c) by deleting the words “(excluding any payment made by him for the right to become a party to the cost-sharing agreement)” in paragraph (b) of the definition of X in subsection (2)(b);
- (d) by deleting the words “the definitions of V and X in subsections (1) and (2)” in subsection (2A) and substituting the words “paragraphs (a) and (b)(i) of the definition of V in subsection (1), and paragraphs (a) and (b) of the definition of X in subsection (2)”;

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

“(2AA) The amount mentioned in paragraph (b)(ii) of the definition of V in subsection (1) is the amount of the payments made during the basis period by the person under the cost-sharing agreement.

(2AB) In paragraph (b)(ii)(B) of the definition of V in subsection (1), the amount is the higher of the following:

- (a) the part of those payments made to the research and development organisation that are qualifying expenditure;
- (b) 60% (or such other percentage as may be prescribed by rules made under section 7) of the sum of all of the payments made to the research and development organisation.

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

- (a) first, calculate each amount in those provisions relating to a cost-sharing agreement or research and development organisation for every agreement or organisation; and
- (b) then, add up all amounts calculated under paragraph (a).

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

- (a) A is the amount of the payments made during the basis period by the person under the cost-sharing agreement; and
  - (b) B is the amount computed under paragraph (b)(ii) of the definition of V in subsection (1) in relation to the same cost-sharing agreement that qualifies for the deduction under subsection (1).”; and
- (f) by inserting, immediately after subsection (12), the following subsections:

“(13) In this section —

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

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

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

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

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

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“(4A) Where —

- (a) loans or securities are transferred by a bank or qualifying finance company (called in this subsection the transferor) to another person (called in this subsection the transferee);
- (b) the transfer is not pursuant to a scheme of amalgamation;
- (c) provision for doubtful debts arising from those loans, or for diminution in the value of investments in those securities, is also transferred by the transferor to the transferee; and
- (d) a deduction of an amount in respect of that provision was previously allowed under this section to the transferor,

then —

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

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

“(6A) The provisions in this section apply, for such period as may be prescribed by rules made under section 7, to any allowance made by a bank or qualifying finance company for loans or securities as

required by a notice or direction of the Monetary Authority of Singapore given under —

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

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

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

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

#### **Amendment of section 15**

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

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

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

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

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**Amendment of section 22**

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

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

**Amendment of section 26**

17. Section 26 of the principal Act is amended —

- (a) by deleting the words “section 34A” in subsection (1) and substituting the words “sections 34A and 34AA”;
- (b) by deleting subsection (2) (including the subsection heading) and substituting the following subsection heading and subsection:

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

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

- (a) onshore life business;
  - (b) offshore life business;
  - (c) the business (other than the business of life assurance) of insuring and reinsuring onshore risks;
  - (d) the business (other than the business of life assurance) of insuring and reinsuring offshore risks.”;
- (c) by deleting paragraphs (b) and (c) of subsection (3) and substituting the following paragraph:

“(b) either —

- (i) deducting from the balance so arrived at the net increase between the beginning and ending values of the period for which the gains or profits are ascertained, of the liabilities of the insurer in respect of policies other than life policies, both values being determined in accordance with the Insurance Act (Cap. 142); or
  - (ii) adding to the balance so arrived at the net decrease between the beginning and ending values of the period for which the gains or profits are ascertained, of the liabilities of the insurer in respect of policies other than life policies, both values being determined in accordance with the Insurance Act; and”;
- (d) by deleting the words “offshore risks or any other risks” in subsection (4) and substituting the words “any risks”;
- (e) by deleting the words “income from premiums or” in subsection (4)(a) and substituting the words “underwriting income or income”;
- (f) by inserting, immediately after subsection (4), the following subsection:
- “(5) For the purposes of subsection (3)(b), if, during the period for which the gains or profits are ascertained, any insurance business (excluding life business) is transferred by or to the insurer, then —
- (a) in a case where the business is transferred by the insurer, the liabilities of the insurer immediately before the date of the transfer, in respect of policies that form part of that

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business, are to be added to the ending value mentioned in that provision; and

- (b) in a case where the business is transferred to the insurer, the liabilities of the transferor immediately before the date of the transfer, in respect of policies that form part of that business, are to be added to the beginning value mentioned in that provision.”;
- (g) by inserting, immediately before the words “life insurance surplus” in subsection (6)(a)(v), the word “onshore”;
- (h) by deleting the word “; and” at the end of subsection (6)(c)(v) and substituting a full-stop;
- (i) by deleting sub-paragraph (vi) of subsection (6)(c);
- (j) by deleting the words “Notwithstanding subsection (6), in the case of a life insurer which has income subject to tax at the concessionary rate of tax prescribed by regulations made under section 43C, in ascertaining the income for the purposes of those regulations —” in subsection (7) and substituting the words “Despite subsection (6), where a life insurer is approved under section 43C before 1 June 2017 and its income is subject to tax at the concessionary rate by regulations made under section 43C(1)(a), the following paragraphs apply for the purposes of ascertaining that income:”;
- (k) by inserting, immediately after subsection (7), the following subsection:
- “(7A) Despite subsection (6), where a life insurer is approved under section 43C on or after 1 June 2017 and its income is subject to tax at a concessionary rate by regulations made under section 43C(1)(aa), the following paragraphs apply for the purposes of ascertaining that income:
- (a) only such part of the following income relating to reinsurance policies as may be

specified in those regulations may be included:

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

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- (p) by deleting the words “that Act” in paragraphs (a)(ii) and (b)(iv) of the definition of “offshore life insurance surplus” in subsection (12) and substituting in each case the words “the Insurance Act”;
- (q) by inserting, immediately after the definition of “offshore life insurance surplus” in subsection (12), the following definitions:

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

(a) add the following:

- (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from its offshore non-participating reinsurance policies of any life insurance fund (less any premiums returned to the insured and premiums paid or payable on reinsurance);
- (ii) the net decrease between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its offshore non-participating reinsurance policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act;
- (iii) the investment income and gains or profits derived from the sale of investments and

other income, whether derived from Singapore or elsewhere, of the part of any life insurance fund relating to its offshore non-participating reinsurance policies;

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

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

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determined in accordance with the Insurance Act;

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

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

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

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

(a) add the following:

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

(ii) the net decrease between the beginning and ending values of the policy liabilities of the part of any life insurance fund relating to its Singapore

non-participating reinsurance policies for the period for which the gains or profits are ascertained, both values being determined in accordance with the Insurance Act;

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

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

(i) distribution expenses and management expenses incurred in the production of the income in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office;

(ii) policy moneys paid or payable in respect of its Singapore non-participating reinsurance policies (less any amount recovered or recoverable in respect of those policies under reinsurance);

(iii) moneys paid or payable on the surrender of its Singapore non-participating reinsurance policies;

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

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

(a) add the following:

- (i) the gross premiums (including consideration paid or payable for the purchase of annuities) from Singapore non-participating and Singapore investment-linked policies of any life insurance fund (less any premiums returned to the insured and premiums paid or payable on reinsurance);
- (ii) the net decrease between the beginning and ending values of the policy liabilities of any life insurance fund relating to Singapore non-participating and Singapore investment-linked policies for the period for which the gains

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

- (iii) the investment income and gains or profits derived from the sale of investments and other income, whether derived from Singapore or elsewhere, of any life insurance fund relating to Singapore non-participating and Singapore investment-linked policies;
- (b) subtract from the total under paragraph (a), all of the following:
- (i) distribution expenses and management expenses incurred in the production of the income in paragraph (a) and, in respect of a branch in Singapore, a fair proportion of the expenses of its head office;
  - (ii) policy moneys paid or payable in respect of Singapore non-participating and Singapore investment-linked policies (less any amount recovered or recoverable in respect of those policies under reinsurance);
  - (iii) moneys paid or payable on the surrender of Singapore non-participating and Singapore investment-linked policies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) for debt securities issued in the basis period relating to the year of assessment 2008 or subsequent years of assessment, is treated as equal to the difference between the amount paid on the maturity or redemption of the debt securities and the amount for which the debt securities were first issued; or
  - (ii) for debt securities issued before the basis period relating to the year of assessment 2008, is treated as equal to the part of the difference in sub-paragraph (i) that would be attributable to the year of assessment 2008 and subsequent years of assessment;
- (l) in a case where —
- (i) a qualifying person issues debt securities at a discount or redeems issued debt securities at a premium;
  - (ii) the debt securities were issued with an embedded derivative to acquire shares or units in the qualifying person; and
  - (iii) the outgoing represented by such discount or premium is deductible under section 14(1),
- such part of the outgoing that is attributable to the embedded derivative is not deductible;
- (m) where a financial instrument on revenue account of a qualifying person (being a financial liability measured at fair value through profit or loss) matures or is sold, bought back or redeemed, any gain or loss to the qualifying person that is realised on such maturity or from such sale, buy back or redemption (being a gain or loss that is recognised in other comprehensive income in accordance with FRS 109) is chargeable to tax, or is to be allowed as a deduction.

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

(5) In a case where —

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

then, despite any provision in this Act —

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

(6) A person who is not a qualifying person under paragraph (a) or (b) of the definition of that term in subsection (15), may apply to the Comptroller for approval to be a qualifying person; and if the Comptroller approves the

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application, that person is a qualifying person starting from the year of assessment of the basis period in which the approval is granted or such later year of assessment as the Comptroller may approve.

(7) If —

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

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

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

- (a) that was not charged with tax, or for which a deduction was allowed, for one or more past years of assessment, for the same reason as that in subsection (7)(b); and

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

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

(10) If —

- (a) any gain, loss or expense in respect of a financial instrument of a qualifying person to which subsection (1) applies is recognised under FRS 109 on a certain date;
- (b) it is not possible to determine, on the date the Comptroller makes an assessment of the amount of chargeable income of that person for the year of assessment of the basis period in which the date mentioned in paragraph (a) falls, whether that gain, loss or expense is capital or revenue in nature;
- (c) because of this, the gain was charged with tax or a deduction was not allowed for that loss or expense (as the case may be); and
- (d) the Comptroller later discovers (called the discovery time), with or without a claim made by the qualifying person, that the gain ought not to have been charged with tax as it is capital in nature, or a deduction ought to have been allowed for the loss or expense as it is revenue in nature (as the case may be),

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

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

- (a) that was charged with tax, or for which a deduction was not made, for one or more past years of assessment, for the same reason as that in subsection (10)(b); and
- (b) that is ascertained in accordance with the regulations made under subsection (13).

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

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

- (a) providing that section 14I applies to an allowance mentioned in subsection (3)(h) for a prescribed period;
- (b) providing for the computation of the additional amounts mentioned in subsections (8) and (11); and
- (c) providing for any transitional, supplementary or consequential matter, including —
  - (i) treating a specified amount of any profit in respect of a financial instrument of a person, being an amount recognised under FRS 109 as such profit as of a date before the date the person becomes a qualifying person, as the person's income for a specified year of assessment; and
  - (ii) allowing a specified amount of any loss or expense in respect of a financial instrument of a person, being an amount recognised under FRS 109 as such loss or expense as of a date before the date the person becomes a qualifying

person, as a deduction against the person's income for a specified year of assessment.

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

(15) In this section —

“bank”, “loan” and “qualifying finance company” have the same meanings as in section 14I(7);

“contractual interest rate”, in relation to any financial instrument, means the applicable interest rate specified in the financial instrument;

“debt securities” has the same meaning as in section 43N(4);

“FRS 109” means the financial reporting standard known as Financial Reporting Standard 109 (Financial Instruments) that is made, and amended from time to time, under Part III of the Accounting Standards Act (Cap. 2B);

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

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

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

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

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

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

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

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

“(1) Subsection (1A) applies where —

(a) 2 persons are related parties;

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

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

- (i) the amount of the income of one of those persons for a year of assessment that accrued in or is derived from Singapore, or is received in Singapore from outside Singapore, would be greater;
- (ii) the amount of any deduction that may be allowed to one of those persons for a year of assessment would be less; or
- (iii) the amount of any loss of one of those persons for a year of assessment would be less.

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

- (a) increase the amount of the income of the person mentioned in subsection (1)(c)(i) for the year of assessment;
- (b) reduce the amount of the deduction that may be allowed to the person mentioned in subsection (1)(c)(ii) for the year of assessment;
- (c) reduce the amount of the loss of the person mentioned in subsection (1)(c)(iii) for the year of assessment.

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

- (a) on the basis of the actual commercial or financial relations between the 2 persons; and
- (b) by taking into account both the form and substance of those relations, but disregarding the form of those relations to the extent it is inconsistent with their substance.

(1C) Despite subsection (1B) —

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

relations, then the identification of the arm's length conditions must be carried out on the basis of the absence of commercial or financial relations.

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

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

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

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

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

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

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

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

- (a) increases the amount of the income of a person under section 34D(1A)(a);
- (b) reduces the amount of any deduction allowed to a person under section 34D(1A)(b); or
- (c) reduces the amount of any loss of a person under section 34D(1A)(c),

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

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

- (a) within one month starting from the date a written notice of the surcharge is served personally or by registered post on the person; and
- (b) at the place stated in the notice.

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

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

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

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

- (a) if the surcharge is increased, subsections (1) to (5) apply to the increased amount of the surcharge as they apply to the surcharge; or
- (b) if the surcharge is reduced or annulled and it has already been paid to the Comptroller, the amount of the reduction or the entire amount (including any interest paid on the amount) must be refunded.

### **Transfer pricing documentation**

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

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- (2) This section applies to a company, firm or trust —
- (a) if the gross revenue of the company, firm or trust derived from its trade or business for the basis period concerned is more than \$10 million; or
  - (b) if documentation under subsection (3) is required to be prepared for a transaction undertaken by the company, the firm, or the trustee of the trust on its behalf, in the basis period immediately before the basis period concerned.

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

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

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

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

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

(c) must comply with all other requirements as to their form and content as may be prescribed by rules under section 7.

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

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

(8) A person who —

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

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

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

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

(10) In this section —

“firm” includes a partnership;

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

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

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

- (a) that is registered as a company limited by shares under Part XA of the Companies Act (Cap. 50) (called in this section a redomiciled company); and
- (b) that has never, at any time before its registration date, carried on any trade or business in Singapore.

### ***Interpretation***

(2) In this section —

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

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

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

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

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

- (a) no deduction is allowed for the debt or any provision made for it; and
- (b) any amount recovered from the debt is not chargeable to tax.

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

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

(5) Where a redomiciled company incurs on or after its registration date any impairment loss from any financial asset

on revenue account that is acquired by the company before that date —

- (a) the company is allowed a deduction for that loss to the extent that it becomes credit-impaired within the meaning of FRS 109; and
- (b) any amount of that loss that is subsequently reversed is chargeable to tax to the extent of the deduction allowed under paragraph (a).

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

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

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

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

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

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

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

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

- (a) the company did not carry on any trade or business outside Singapore at any time before its registration date; and

- (b) such cost, payment or expenditure is incurred or made solely for the purpose of a trade or business in Singapore.

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

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

(11) Where a redomiciled company —

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

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

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

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

- (ii) the market value of the machinery or plant as of that date,
- and that lower amount is treated as the capital expenditure incurred in acquiring that machinery or plant, and the original cost of the machinery or plant;
- (d) for the purposes of making the initial allowance under section 19(1) to the company for any machinery or plant that is acquired under a hire-purchase agreement, the reference in that provision to the capital expenditure is a reference to an amount computed by the formula  $\frac{A}{B} \times C$ , where —
- (i) A is —
- (A) in the first year of claim for that allowance, the sum of all deposits and instalment payments (excluding finance charges) made up to the end of the basis period in which the date of commencement of the trade or business falls; and
- (B) in each subsequent year of claim for that allowance, the sum of all instalment payments (excluding finance charges) made in the basis period to which the claim relates;
- (ii) B is the sum of all deposits and instalment payments (excluding any finance charges) under the hire-purchase agreement; and
- (iii) C is the lower amount of the machinery or plant mentioned in paragraph (c);
- (e) for the purposes of making the initial allowance to the company, the capital expenditure is treated as having been incurred by the company on the first day on which it carries on that trade or business;
- (f) subsections (1B), (2)(b), (3), (4), (5) and (5B) of section 19 do not apply;

(g) such other modifications as may be prescribed.

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

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

(14) Where a redomiciled company —

- (a) incurred capital expenditure before its registration date to acquire any item mentioned in section 19A(1), (2), (3), (4), (5), (6), (7) or (8) or develop a website mentioned in section 19A(10); and
- (b) uses such item or website for the purposes of a trade or business in Singapore on or after that date,

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

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

- (a) the allowance may only be made under that section if the trade or business is carried on in Singapore on or after the registration date;
- (b) the capital expenditure is treated as having been incurred for the provision of the item or website for that trade or business;
- (c) the allowance may only be made in respect of the lower of the following:
  - (i) the net book value of the item or website as of the registration date;
  - (ii) the market value of the item or website as of that date,

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

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

(e) such other modifications as may be prescribed.

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

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

(17) Where a redomiciled company —

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

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

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

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

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

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

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- (c) the allowances may only be made in respect of the lower of the following:
- (i) the acquisition cost of the intellectual property rights less accumulated amortisation and impairment losses as of the registration date;
  - (ii) the open-market price of the rights as of that date,
- and that lower amount is treated as the capital expenditure incurred in acquiring those rights;
- (d) subsections (1), (1A), (1AA)(b), (1AC), (1B) to (1BC), (1C), (1D), (1E), (2B) to (2E), (8), (9), (10D) to (10K) and (12) of section 19B do not apply;
- (e) the election under section 19B(1AB) must be made at the time of lodgment of the company's return of income for the year of assessment relating to the later of the following:
- (i) the basis period in which the registration date falls;
  - (ii) the basis period in which the date of commencement of the trade or business falls;
- (f) such other modifications as may be prescribed.

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

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

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

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

***Regulations***

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

**Tax credits for approved redomiciled companies**

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

- (a) an approved redomiciled company has income (called in this section income A) that is chargeable to tax in one or more years of assessment beginning with the year of assessment for the basis period in which its registration date falls; and
- (b) the company's place of incorporation levies on the company tax of a similar character to income tax (by whatever name called) on an estimate of income A (called in this section income B).

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

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

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

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(c) D is the lower of the following:

- (i) the rate by which the part of income A derived or received in the basis period in which its registration date falls is chargeable to tax;
- (ii) the rate by which income B is chargeable to the tax described in subsection (1)(b).

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

- (a) is resident in Singapore; and
- (b) satisfies all of the conditions specified by the Minister to it at the time of its approval,

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

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

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

- (a) the expenses and donations allowable under this Act for that year of assessment that are attributable to or apportioned to the part of income A;
- (b) any capital allowances for that year of assessment attributable to the part of income A whether or not any claim for those allowances has been made;
- (c) any balance of the expenses, allowances and donations which have not been deducted under this subsection for the purpose of determining income E for any previous year of assessment.

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

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

- (a) after ascertaining the company's income E for the last of the specified years of assessment; or
- (b) as of the date of revocation of the approval of the company,

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

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

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

- (a) F is the total number of its specified years of assessment or 5, whichever is larger;
- (b) G is the total number of complete years where the company carried on a trade or business in Singapore; and
- (c) H is the total amount of tax credits already allowed against the tax chargeable on the income of the company under this section.

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(10) If the Comptroller is satisfied that —

- (a) the approved redomiciled company gave to the Comptroller information that is false in any material particular, or omitted any material particular from any information or document given to the Comptroller; and
- (b) as a result of the false information or omission, an amount of tax credit was allowed against tax chargeable on the company's income under this section,

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

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

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

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

(14) In this section —

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

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

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

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

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

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

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

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

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

- (a) if the income amount C of the person or partner for the initial year of assessment is subject to a single tax

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treatment, then the excess amount is subject to that tax treatment;

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

(i) D is the sum of —

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

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

(ii) E is the sum of —

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

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

(iii) F is the excess amount.

(4) Despite any provision of this Act, if amount B exceeds amount A, a deduction of the excess amount must be made against the total income of the person or partner (as the case may

be) or one or more parts of it for the initial year of assessment according to subsection (5).

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

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

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

(i) D is the sum of —

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

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

(ii) E is the sum of —

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

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

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production of, or apportioned to, the income amount C or a part of it; and

(iii) F is the excess amount.

(6) In this section —

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

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

(ii) exempt from tax;

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

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

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

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

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

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

(7) In this section —

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

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

### **Amendment of section 37**

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

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

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

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

### **Amendment of section 39**

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

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

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

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

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

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

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- “(aa) to provide for tax at the rate of 10% to be levied and paid for each year of assessment upon such income as the Minister may specify that is derived by an approved insurer, whose approval is granted on or after 1 June 2017, from the reinsurance of liabilities under policies relating to life business as defined in section 2(1)(a) of the Insurance Act (Cap. 142), or such description of general business within the meaning of section 2(1)(b) of that Act, as may be prescribed;”;
- (c) by deleting the words “or 22” in subsection (1)(f) and substituting the words “, 22 or 23”;
- (d) by inserting, immediately after the words “paragraph (a),” in subsection (2), “(aa),”; and
- (e) by inserting, immediately after the definition of “insurer” in subsection (3), the following definition:
- ““marine hull and liability insurance and reinsurance business” means the business of insuring and reinsuring risks involving marine hull and liability but excludes cargo, energy and aviation risks;”.

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

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

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

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

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

“qualifying company” means —

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

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

that carries on any qualifying structured commodity financing activities, treasury activities, or advisory services in relation to mergers and acquisitions, prescribed under subsection (1).”.

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

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

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

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

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

“(1) Despite section 43, tax at the following rate is levied, and must be paid, for each year of assessment upon the income of an approved aircraft leasing

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company accruing in or derived from Singapore in respect of the leasing of any aircraft or aircraft engine or such other activity as the Minister may by regulations prescribe:

- (a) where the company is approved before 1 April 2017, 5% or 10%, as specified by the Minister or such person as the Minister may appoint;
  - (b) where the company is approved on or after 1 April 2017, 8%.”; and
- (b) by deleting the words “1st March 2007 and 31st March 2017” in subsection (4) and substituting the words “1 March 2007 and 31 December 2022”.

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

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

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

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

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

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

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

risk management, internal audit, budgeting and forecasting, but excluding intellectual property management)”; and

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

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

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

### **Amendment of section 45**

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

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

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

### **Amendment of section 49**

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

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

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

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**Amendment of section 74**

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

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

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

(2B) Subsection (2A) does not apply to an agreement with an authority of the country outside Singapore on the transfer pricing criteria to be used in relation to a person’s transactions with the person’s related parties over a specified period (commonly called an advance pricing arrangement).”;

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

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

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

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

(6) In this section —

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

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

### **New section 80A**

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

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

**80A.—**(1) Despite anything in this Part, if, in the course of any appeal, or, in the case of a reserved judgment in any appeal, at any time before delivery of the judgment, any member of the Board hearing the appeal resigns or is unable, through illness or any other cause, to continue to hear or to determine the appeal, the remaining members of the Board (if 2 or more), must hear and determine the appeal unless the parties object.

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

(3) Despite section 78(14), in a case under subsection (1) —

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

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- (4) The appeal must be reheard —
- (a) if the parties do not consent to the proceedings continuing before the remaining members of the Board under subsection (1); or
  - (b) if the appeal is heard or determined by only 2 remaining members of the Board and they are unable to reach a unanimous decision.”.

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

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

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

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

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

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

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

- (a) 50% of the tax payable for that year of assessment (excluding any tax levied and paid or payable pursuant to section 43(3), (3A) and (3B));
- (b) \$25,000.

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

**92G.** Where the Comptroller is satisfied that the remission of tax would be beneficial to a company, then there is to be remitted

the tax payable for the year of assessment 2018 by the company of an amount equal to the lower of the following:

- (a) 20% of the tax payable for that year of assessment (excluding any tax levied and paid or payable pursuant to section 43(3), (3A) and (3B));
- (b) \$10,000.”.

### **Amendment of section 93A**

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

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

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

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

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

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

“(aa) a competent authority agreement between —

(i) the Government and —

(A) the government of another country; or

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

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

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- (A) the authority of another country that exercises a power or carries out a duty corresponding to a power or duty of the Minister or representative; or
  - (B) the authorities of 2 or more countries that exercise powers or carry out duties corresponding to a power or duty of the Minister or representative;
- (ab) a CbCR exchange agreement between —
- (i) the Government and —
    - (A) the government of another country; or
    - (B) the governments of 2 or more countries; or
  - (ii) the Minister or the Minister's authorised representative and —
    - (A) the authority of another country that exercises a power or carries out a duty corresponding to a power or duty of the Minister or representative; or
    - (B) the authorities of 2 or more countries that exercise powers or carry out duties corresponding to a power or duty of the Minister or representative;”;
- (b) by deleting paragraph (c) of subsection (1) and substituting the following paragraph:
- “(c) any other agreement or arrangement that makes provision corresponding, or

substantially similar, to that made by an agreement in paragraph (a), (aa), (ab) or (b), between —

(i) the Government and —

(A) the government of another country; or

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

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

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

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

(c) by inserting, immediately after the word “Singapore” in subsection (2), the words “or, where there is more than one agreement or arrangement under the order, may only take effect in relation to each agreement or arrangement on or after the date on which that agreement or arrangement enters into force for Singapore”.

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

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

(a) by deleting the definition of “local forces” in section 2(1);

(b) by —

(i) deleting paragraph (s) of section 13(1);

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- (ii) deleting subsections (8A) to (8D) of section 13 and subsections (1A), (1B), (1C), (3A), (5A) and (8A) of section 37E; and
    - (iii) repealing sections 14M and 43U;
  - (c) by deleting “43U,” in paragraph (b) of the definition of “concessionary rate of tax” in section 14D(5);
  - (d) by deleting “14M,” in section 15(2);
  - (e) by deleting the words “or any of the 3 immediate preceding years of assessment under section 37E(1A), as the case may be” in the following provisions:
    - (i) section 23(3);
    - (ii) paragraph (a) of the definition of “carry-back deductions” in sections 36A(10) and 36C(8);
    - (iii) section 37(6);
  - (f) by deleting “43U” in the following provisions and substituting in each case the words “43U (repealed)”:
    - (i) paragraph (b) of the definition of “higher rate of tax” or “lower rate of tax” in section 37B(7);
    - (ii) paragraph (b) of the definition of “concessionary rate of tax” in section 37E(17);
  - (g) by deleting the words “or any of the 3 immediate preceding years of assessment (as the case may be)” wherever they appear in section 37E(4) and (6);
  - (h) by deleting the words “or any one of the 3 immediate preceding years of assessment (as the case may be)” in section 37E(11) and (12); and
  - (i) by deleting the words “that preceding year of assessment” in section 37E(11) and (12) and substituting in each case the words “the immediate preceding year of assessment”.

**Miscellaneous amendments**

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

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

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

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

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

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

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

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

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

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

(b) the Government or the Minister or the Minister’s authorised representative has a CbCR exchange agreement with the government or an authority of that

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country, but the Minister is of the opinion that the agreement is not operating effectively.”.

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

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

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

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

- (a) 20% of the tax payable by that individual for that year of assessment;
- (b) \$500.

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

### **Saving and transitional provisions**

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

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

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