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The following Act was passed by Parliament on 7 November 2023 and assented to by the President on 14 December 2023:—

**REPUBLIC OF SINGAPORE**

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**No. 39 of 2023.**

I assent.

THARMAN SHANMUGARATNAM,

*President.*

*14 December 2023.*

(LS)

An Act to amend the Economic Expansion Incentives (Relief from Income Tax) Act 1967 and to make consequential amendments to the Income Tax Act 1947.

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 Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2023.

(2) Sections 2, 9, 10, 12, 17(c), (d), (e) and (f), 21 and 22(7), (8) and (9) are deemed to have come into operation on 1 April 2023.

**Amendment of section 3**

2. In the Economic Expansion Incentives (Relief from Income Tax) Act 1967 (called in this Act the principal Act), in section 3, before the definition of “approved foreign loan”, insert —

““approved activity”, in relation to a company, means an activity that has been approved under section 40A or 40E(1)(b) as an approved activity for the company;

“approved activity certificate” means a certificate issued under section 40A(4)(b);”.

**Amendment of section 5**

3. In the principal Act, in section 5(4), replace “1 January 2024” with “1 January 2029”.

**Amendment of section 14**

4. In the principal Act, in section 14(1) —

(a) replace “—” with “any direction made under section 9.”; and

(b) delete paragraphs (a) and (b).

**Amendment of section 17**

5. In the principal Act, in section 17(4), replace “1 January 2024” with “1 January 2029”.

**Amendment of section 21**

6. In the principal Act, in section 21(4), replace “1 January 2024” with “1 January 2029”.

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**Amendment of section 33**

7. In the principal Act, in section 33(6), replace “1 January 2024” with “1 January 2029”.

**Amendment of section 35**

8. In the principal Act, in section 35, replace subsections (2) and (3) with —

“(2) Without affecting section 61, where, on or after the date of commencement of section 8 of the Economic Expansion Incentives (Relief from Income Tax) (Amendment) Act 2023, a company contravenes section 34, or any condition under section 33(4)(a), in respect of an approved foreign loan, the Minister may revoke the approval for the loan under section 33(4)(a) with effect from a date determined by the Minister, which may be a date that is before the date on which notice of the revocation is given (including a date before the date of contravention).

(3) Where the approval of any loan is revoked under subsection (2) or section 61, the amount of tax which, but for subsection (1), would have been deductible by the company from the interest payable by it to the foreign lender under section 45 of the Income Tax Act 1947 —

- (a) is considered to have been deducted from any interest that was payable from and including the date determined by the Minister under subsection (2) or section 61(3), as the case may be;
- (b) is a debt due from the company to the Government; and
- (c) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act 1947.

(4) The Minister charged with the responsibility for finance may waive all or a part of any debt due from a company under subsection (3) that arises from the revocation of any approval

under subsection (2), if that Minister is satisfied that the company did not knowingly or intentionally contravene —

(a) section 34; or

(b) the condition imposed under section 33(4)(a),

as the case may be.”.

### **New Division heading of Part 7**

9. In the principal Act, in Part 7, before section 37, insert —

*“Division 1 — Approved royalties, fees and contributions”.*

### **Amendment of section 37**

10. In the principal Act, in section 37 —

(a) in subsection (1), replace “Part” with “Division”; and

(b) in subsection (4), replace “1 January 2024” with “1 April 2023”.

### **Amendment of section 39**

11. In the principal Act, in section 39 —

(a) replace subsection (2) with —

“(2) Without affecting section 61, where —

(a) on or after 19 April 2016, a company contravenes section 38(2), or any condition under section 37(3), in respect of any approved royalties, fees or contributions; and

(b) the Minister is of the view that it is in the public interest to do so,

the Minister may revoke the approval for the royalties, fees or contributions under section 37(3)(a) with effect from a date determined by the Minister, which may be a date that is before the date on which notice of the revocation is given (including a date before the date of contravention).”;

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- (b) in subsection (4), after “subsection (2)”, insert “or section 61”;
- (c) in subsection (4), replace “paid” with “payable”;
- (d) in subsection (4)(a), replace “the royalties, fees and contributions” with “any royalties, fees or contributions that were payable from and including the date determined by the Minister under subsection (2) or section 61(3), as the case may be”; and
- (e) replace subsection (5) with —
- “(5) The Minister charged with the responsibility for finance may waive all or a part of any debt due from a company under subsection (4) that arises from the revocation of any approval under subsection (2), if that Minister is satisfied that the company did not knowingly or intentionally contravene —
- (a) section 38(2); or
- (b) the condition imposed under section 37(3), as the case may be.”.

## **New Division 2 of Part 7**

- 12.** In the principal Act, after section 40, insert —

*“Division 2 — Approved activities*

### **Application for approval of activities**

**40A.**—(1) A company engaged in any industry may apply to the Minister for an activity to be approved as an approved activity for the company for the purposes of this Division if —

- (a) the company is engaged in or desires to engage in that activity; and
- (b) for the purposes of carrying on that activity, the company has entered into or is desirous of entering into an agreement or arrangement with a non-resident person under which royalties or technical assistance

fees or contributions to research and development costs are or will be payable to the non-resident person.

(2) A company may make an application under subsection (1) for more than one activity.

(3) An application under subsection (1) must be made in writing, in the form and contain the particulars specified by the Minister.

(4) Where the Minister is satisfied as to the bona fides of an application and that it is expedient in the public interest to do so, the Minister may —

(a) subject to any conditions that the Minister considers appropriate, approve an activity in the application as an approved activity for the company; and

(b) issue to the company a certificate certifying the approval.

(5) Every approved activity certificate issued to a company must specify —

(a) the approved activity; and

(b) the period of approval for the approved activity.

(6) Where the Minister grants approval to a company for 2 or more activities, the Minister may issue a single certificate in respect of those activities.

(7) Approval under this section may only be granted during the period between 1 April 2023 and 31 December 2028 (both dates inclusive).

(8) This section applies whether the agreement or arrangement mentioned in subsection (1) was or is entered into before, on or after 1 April 2023.

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**Reduction of tax for royalties, fees or contributions payable under agreements or arrangements for purposes of approved activities**

**40B.**—(1) The Minister may specify, in an approved activity certificate issued to a company in respect of an approved activity, that any relevant royalties, fees or contributions for that activity that are payable to a non-resident person during the period of approval for that activity as specified in that certificate (called in this section the approval period) are subject to a tax incentive specified in that certificate, subject to any conditions that the Minister may specify in the certificate.

(2) For the purposes of subsection (1), the Minister may specify different tax incentives (including different concessionary rates) for different classes, categories or descriptions of —

- (a) approved activities;
- (b) relevant royalties, fees or contributions for an approved activity; or
- (c) non-resident persons to whom relevant royalties, fees or contributions for an approved activity are payable.

(3) Without limiting subsection (1), the Minister may under subsection (1) impose the condition in subsection (4) for the application of a tax incentive to any item of relevant royalties, fees or contributions for an approved activity payable to a non-resident person.

(4) The condition is that the tax incentive only applies if, at the time the item of relevant royalties, fees or contributions is payable to the non-resident person, the highest rate of tax of a similar character to income tax imposed by the Income Tax Act 1947 (by whatever name called) that is levied —

- (a) under the law of the territory that the non-resident person is a tax resident in; and

(b) on any gains or profits from any trade or business carried on by the non-resident person in that territory at that time,

is more than 0%.

(5) Despite section 43(1) of the Income Tax Act 1947, subject to subsection (7), where an approved activity certificate specifies that any relevant royalties, fees or contributions for an approved activity that are payable to a non-resident person during the approval period for that activity are exempt from tax, then those relevant royalties, fees or contributions are exempt from tax if the conditions specified in the certificate for that tax incentive are satisfied.

(6) Despite section 43(1) of the Income Tax Act 1947, subject to subsection (7), where an approved activity certificate specifies that a concessionary rate of tax is to be levied on any relevant royalties, fees or contributions for an approved activity that are payable to a non-resident person during the approval period for that activity, then tax at that rate is levied and payable on those relevant royalties, fees or contributions, if the conditions specified in the certificate for that tax incentive are satisfied.

(7) Any tax incentive specified in an approved activity certificate for an approved activity does not apply to any relevant royalties, fees or contributions of the approved activity that are approved royalties, fees or contributions under Division 1 of this Part at the time the relevant royalties, fees or contributions are payable to the non-resident person.

(8) In this section —

“relevant royalties, fees or contributions”, in relation to an approved activity, means any royalties or technical assistance fees or contributions to research and development costs payable by the company to the non-resident person —

(a) under an agreement or arrangement which the company entered into with the non-resident



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person for the purposes of carrying on that approved activity; and

- (b) where the agreement or arrangement is subsequently amended or varied, under the amended or varied agreement or arrangement if the amendment or variation was for the purposes of carrying on that approved activity;

“tax incentive” means —

- (a) an exemption from tax; or  
(b) a concessionary rate of tax.

### **Revocation of approval of approved royalties, fees or contributions**

**40C.**—(1) Where the royalties or technical assistance fees or contributions to research and development costs mentioned in section 40A(1)(b) in relation to the activity mentioned in that provision (called in this section the relevant approved activity) are already approved royalties, fees or contributions under Division 1 of this Part, the company may apply under subsection (2) or (3) for the revocation of the approval of the approved royalties, fees or contributions (granted under section 37(3)(a)).

(2) The company may, in the application under section 40A(1), apply for the approval of the approved royalties, fees or contributions (granted under section 37(3)(a)) to be revoked under this section together with the grant of the application under section 40A(1).

(3) The company may, at any time after the application under section 40A(1) is granted, apply for the approval of the approved royalties, fees or contributions (granted under section 37(3)(a)) to be revoked under this section.

(4) Where the Minister is satisfied as to the bona fides of the application for revocation under subsection (2) or (3) and that it is expedient in the public interest to do so, the Minister may —

- (a) approve the revocation; and

(b) amend the relevant certificate issued under section 37 to specify the date from which the revocation takes effect.

(5) Where the application for revocation is made under subsection (3), in approving the revocation, the Minister may add to, vary or revoke any condition imposed on the company under section 40A(4)(a) in respect of the relevant approved activity.

(6) Where a revocation is approved under subsection (4)(a), Division 1 of this Part ceases to have effect in relation to the royalties, fees or contributions mentioned in subsection (1) that are payable on or after the date mentioned in subsection (4)(b).

(7) A reference in this section to an approval under section 37(3)(a) is, in the case of an approval given under section 61 of this Act as in force before 24 February 2015, a reference to a certificate under that section as in force immediately before that date.

### **Retrospective revocation of approval of approved royalties, fees or contributions**

**40D.**—(1) Where —

- (a) a company has an approval under Division 1 of this Part for royalties, fees or contributions payable under an agreement or arrangement (*A*);
- (b) the company is granted an approval under section 40A for an activity where, for the purposes of carrying on that activity, the company had entered into agreement or arrangement *A*; and

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- (c) the Minister revokes the approval mentioned in paragraph (a) under section 39(2) with effect from a date (called in this section the effective revocation date) that is before the date on which notice of revocation of the approval is given to the company (called in this section the date of revocation notice),

then —

- (d) where the commencement of the approval period is before the effective revocation date, section 40B(5) and (6) applies to any royalties, fees or contributions payable under agreement or arrangement *A* on or after the effective revocation date; and
- (e) where the effective revocation date is before the commencement of the approval period, section 40B(5) and (6) applies to any royalties, fees or contributions payable under agreement or arrangement *A* on or after the commencement of the approval period.

(2) Where subsection (1) applies and the tax relief amount under section 39 for the relevant period is more than the tax relief amount under section 40B for the relevant period, the difference between the amounts —

- (a) is considered to have been deducted from the royalties, fees and contributions payable by the company under agreement or arrangement *A* during the relevant period under section 45A of the Income Tax Act 1947;
- (b) is a debt due from the company to the Government; and
- (c) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act 1947.

(3) Where subsection (1) applies and the tax relief amount under section 39 for the relevant period is less than the tax relief amount under section 40B for the relevant period, the

Comptroller must refund the company the difference between those amounts.

(4) Where —

- (a) a company is applying for or has been granted approval under section 40A for a relevant approved activity, and the company is also applying for revocation under section 40C(1) of the approval of the royalties or technical assistance fees or contributions to research and development costs in relation to that activity;
- (b) on or before the date of its application under section 40C, the company —
  - (i) contravenes or had contravened section 38(2) in respect of the agreement or arrangement under which the approved royalties, fees or contributions mentioned in section 40C(1) were payable; or
  - (ii) contravenes or had contravened any condition under section 37(3)(a) in respect of the approval for those approved royalties, fees or contributions;
- (c) the company did not disclose the contravention to the Minister at any time prior to or when making the application under section 40C;
- (d) the Minister revokes the approval for those approved royalties, fees or contributions under section 40C(4)(a); and
- (e) the contravention by the company subsequently comes to the knowledge of the Minister,

then the consequences in subsection (5) follow.

(5) The consequences for subsection (4) are as follows:

- (a) the Minister may rescind his or her approval of the application for revocation under section 40C, and instead revoke the approval of the approved royalties,

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fees or contributions under section 39(2) with effect from an earlier date (called in this section the earlier date);

(b) upon the Minister revoking the approval under paragraph (a) —

(i) the consequences in subsections (1)(d) and (e), (2) and (3) apply as if the earlier date were the effective revocation date for the purposes of those provisions; and

(ii) without affecting sub-paragraph (i), where the earlier date is a date before the commencement of the approval period, the amount of tax which, but for section 39(1), would have been deductible by the company from the royalties, fees or contributions payable by it to the non-resident person under section 45A of the Income Tax Act 1947, for the period between the earlier date and the day before the commencement of the approval period (both dates inclusive) —

(A) is considered to have been deducted from the royalties, fees and contributions payable by the company to the non-resident person during that period;

(B) is a debt due from the company to the Government; and

(C) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act 1947.

(6) In this section —

“commencement of the approval period”, in relation to a relevant approved activity, means the date on which the period of approval for the relevant approved activity

commences, as specified in the approved activity certificate for the relevant approved activity;

“relevant approved activity” means —

- (a) for the purposes of subsections (1), (2) and (3), the activity mentioned in subsection (1)(b); and
- (b) for the purposes of subsections (4) and (5), the activity mentioned in section 40C(1);

“relevant period” means —

- (a) where subsection (1)(d) applies, the period between the effective revocation date and the date immediately before the date of revocation notice (both dates inclusive); and
- (b) where subsection (1)(e) applies, the period between the commencement of the approval period and the date immediately before the date of revocation notice (both dates inclusive);

“tax relief amount under section 39 for the relevant period” means the amount of tax which, prior to the date of revocation notice, a company had, in reliance on section 39(1), not deducted from the royalties, fees or contributions payable to a non-resident person under section 45A of the Income Tax Act 1947 during the relevant period;

“tax relief amount under section 40B for the relevant period” means the amount of tax which, but for section 40B(5) and (6) (read with subsection (1)), would have been deductible by a company under section 45A of the Income Tax Act 1947 from any royalties, fees or contributions payable by the company to a non-resident person during the relevant period.

### **Amendment of approved activity certificate**

**40E.**—(1) The Minister may, upon the application of a company —

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- (a) revoke the approval for an approved activity for that company by removing that activity from an approved activity certificate of the company and specifying in the certificate the date from which the revocation takes effect; or
- (b) subject to any conditions that the Minister considers appropriate, approve an activity as an approved activity for that company by adding to an approved activity certificate of the company that activity, the date from and including which the activity is an approved activity, and the period of approval for that activity, if —
- (i) section 40A(1)(a) and (b) is satisfied in relation to that activity; and
  - (ii) the Minister is satisfied —
    - (A) as to the bona fides of the application; and
    - (B) that it is expedient in the public interest to do so.

(2) Section 40B applies to a company in relation to an activity (A) approved as an approved activity under subsection (1)(b), as if a reference to a certificate issued to a company in respect of an approved activity is a reference to a certificate amended under subsection (1)(b) to add activity A.

(3) Section 40C applies to a company in relation to any application for the approval of an activity (B) under subsection (1)(b), with the following modifications:

- (a) any reference to royalties or technical assistance fees or contributions to research and development costs mentioned in section 40A(1)(b) is a reference to royalties or technical assistance fees or contributions to research and development costs payable to a non-resident person, under an agreement or arrangement with that non-resident person, that the company has entered into or is desirous of entering into for the purposes of carrying on activity B;

- (b) any reference to an application under section 40A(1) is a reference to such an application for approval of activity *B* under subsection (1)(b);
- (c) any reference to a condition imposed on the company under section 40A(4)(a) is a reference to a condition imposed for activity *B* under subsection (1)(b).

(4) Section 40D applies to a company in relation to an activity (*C*) approved as an approved activity under subsection (1)(b), as if a reference to an approval under section 40A for an activity is a reference to an approval of activity *C* under subsection (1)(b).

(5) The Minister may, upon the application of a company or on the Minister's own initiative, amend an approved activity certificate issued to a company by extending or shortening the approval period of an approved activity specified in the certificate under section 40A(5)(b) or subsection (1)(b).

(6) The Minister may, upon the application of a company or on the Minister's own initiative, amend an approved activity certificate of the company —

- (a) by replacing any tax incentive specified in the certificate for an approved activity, with another tax incentive (including, in the case of a concessional rate of tax, a different concessional rate of tax) for the purpose of any relevant royalties, fees or contributions for the approved activity that is payable on or after a specified date to a non-resident person; or
- (b) by adding to, varying or revoking any condition in the certificate for the application of a tax incentive to any relevant royalties, fees or contributions for an approved activity that is payable on or after a specified date to a non-resident person,

and section 40B(5) and (6) applies accordingly to such relevant royalties, fees or contributions payable to the non-resident person on or after that specified date.



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(7) In this section, “approval period”, “relevant royalties, fees or contributions” and “tax incentive” have the meanings given by section 40B(1) and (8).

### **Revocation of approval for activity**

**40F.**—(1) Without affecting section 61, the Minister may, if the Minister is satisfied that a company has contravened any condition of an approval given to the company for an activity under section 40A(4)(a) or 40E(1)(b), revoke the approval for that activity with effect from a date determined by the Minister, which may be a date that is before the date on which notice of the revocation is given (including a date before the date of contravention).

(2) Where the Minister revokes the approval of an activity under this section or section 61, the Minister must remove the activity from the relevant approved activity certificate and specify on that approved activity certificate the date from which the removal has effect.

### **Recovery of tax**

**40G.**—(1) Where the approval for an activity is revoked under section 40E(1)(a), 40F(1) or 61, the amount of tax that, but for section 40B(5) or (6), would have been deductible by the company from the royalties, fees or contributions payable by it to a non-resident person under section 45A of the Income Tax Act 1947 —

- (a) is considered to have been deducted from any royalties, fees and contributions payable from and including the date mentioned in section 40E(1)(a), 40F(1) or 61(3), as the case may be;
- (b) is a debt due from the company to the Government; and
- (c) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act 1947.

(2) The Minister charged with the responsibility for finance may waive all or a part of any debt due from a company under subsection (1) that arises from the revocation of any approval under section 40F(1), if that Minister is satisfied that the company did not knowingly or intentionally contravene the condition mentioned in section 40F(1).”.

### **Amendment of section 41**

**13.** In the principal Act, in section 41 —

- (a) in subsection (1), in the definition of “fixed capital expenditure”, in paragraph (c), delete “, (i)”; and
- (b) in subsection (2)(c), delete “, (i)”.

### **Amendment of section 43**

**14.** In the principal Act, in section 43 —

- (a) in subsection (1), delete paragraph (i);
- (b) in subsection (3), delete “, (i)”;
- (c) delete subsection (6);
- (d) in subsection (8), replace “1 January 2024” with “1 January 2029”; and
- (e) in subsection (9), replace “31 December 2023” with “31 December 2028”.

### **Deletion of section 48**

**15.** In the principal Act, delete section 48.

### **Deletion of Part 9**

**16.** In the principal Act, delete Part 9.

### **Amendment of section 61**

**17.** In the principal Act, in section 61 —

- (a) in subsection (2), after “letter”, insert “with effect from a date determined by the Minister”;

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(b) replace subsection (3) with —

“(3) Where a certificate or letter is revoked under subsection (2), the provisions of this Act cease to have effect from the date determined by the Minister under that subsection.”;

(c) in subsection (4), replace “or 37” with “, 37, 40A or 40E(1)(b)”;

(d) in subsection (4)(a), replace “or the approval of royalties, fees or contributions under section 37” with “, the approval of royalties, fees or contributions under section 37, or the approval of an activity under section 40A or 40E(1)(b)”;

(e) in subsection (4)(b), replace “or 37(3)(a)” with “, 37(3)(a), 40A(4)(a) or 40E(1)(b)”;

(f) in subsection (4)(e), replace “or the approved royalties, fees or contributions” with “, the approved royalties, fees or contributions, or the approved activity”.

### **New section 61A**

**18.** In the principal Act, after section 61, insert —

#### **“Revocation of tax incentive and recovery of tax**

**61A.—(1)** Where under any provision of this Act, the Minister may, upon the contravention of a provision of this Act or a term or condition of an approval, certificate or letter —

(a) remove any activity, agreement, arrangement, product or other matter whatsoever from a certificate or letter;  
or

(b) revoke any approval, certificate or letter,

with effect from a date determined by the Minister, that date may be a date that is before the date on which notice of the removal or revocation is given (including a date before the date of contravention).

(2) Without limiting any other powers of the Comptroller under this Act, where —

- (a) a tax incentive is, at the time of its application, validly applied to any income of a person derived on any date under this Act; and
- (b) due to subsequent circumstances, such application of the tax incentive ceases to be valid,

the Comptroller may, subject to section 74 of the Income Tax Act 1947, make an assessment or additional assessment upon the person of an amount that appears to the Comptroller to be necessary to counteract any profit obtained by the person as a result of the application of the tax incentive ceasing to be valid.

(3) For the purpose of subsection (2)(b), the subsequent circumstances include any of the following that occurs after the tax incentive is applied:

- (a) any grant of approval, or any certificate or letter, under which the tax incentive was validly applied, is revoked as from the date the income was derived, or the relevant expenditure was incurred (as the case may be) or any earlier date;
- (b) any activity, agreement, arrangement, product, or other matter whatsoever pursuant to whose inclusion in an approval, certificate or letter the tax incentive was validly applied, is removed from the approval, certificate or letter as from the date the income was derived, or the relevant expenditure was incurred (as the case may be) or any earlier date;
- (c) the tax incentive that was validly applied, being an exemption from tax, is substituted with a concessionary rate of tax as from the date the income was derived or any earlier date;
- (d) the tax incentive that was validly applied, being a concessionary rate of tax, is substituted with a higher concessionary rate of tax as from the date the income was derived or any earlier date.

(4) Parts 17 and 18 of the Income Tax Act 1947 (relating to assessments, objections and appeals) and any rules made under

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that Act apply, with the necessary modifications, to an assessment or additional assessment under subsection (2) as if it were a notice of assessment under those Parts.

(5) In this section —

(a) a tax incentive is any of the following:

(i) an exemption from tax;

(ii) a concessional rate of tax;

(iii) a deduction or an allowance;

(b) a tax incentive that is an exemption from tax is applied to a person's income if any income of the person becomes exempt from tax;

(c) a tax incentive that is a concessional rate of tax is applied to a person's income if tax is levied on any income of the person at that rate; and

(d) a tax incentive that is a deduction or an allowance is applied to a person's income if it is allowed or made for any expenditure in ascertaining the person's chargeable income.

(6) This section does not apply where section 35(3), 39(4), 40D(5)(b)(ii) or 40G(1) applies.”.

### **Consequential amendments to Income Tax Act 1947**

**19.** In the Income Tax Act 1947 —

(a) in section 19A, delete subsection (2IA);

(b) in section 19A(16B), delete “, (2IA)”;

(c) in section 37B(19), in the definition of “assessable income”, replace “, investment allowance under Part 8 of the Economic Expansion Incentives (Relief from Income Tax) Act 1967 and integrated investment allowance under Part 9 of that Act” with “and investment allowance under Part 8 of the Economic Expansion Incentives (Relief from Income Tax) Act 1967”;

- (d) in section 37D(17), in the definition of “assessable income”, in paragraph (a), delete “, integrated investment allowance under Part 9 of that Act”;
- (e) in section 37Q(1), delete “or 9”; and
- (f) in the Third Schedule, in Part 2, in section 34G(15)(d), delete “, (2IA)”.

### **Validation relating to section 3, etc.**

**20.**—(1) This section applies —

- (a) to any purported removal of an activity or a product from a certificate under section 5(8), 17(8) or 21(8) of the principal Act, before the date of commencement of section 18, with effect from a date that is before the date notice of such removal is given; and
- (b) to any purported revocation of an approval under section 39(2) of the principal Act, before the date of commencement of section 18, that is before the date notice of such revocation is given.

(2) Every removal or revocation mentioned in subsection (1) is, and is taken to always have been, by force of this section, validly made as if the amendment in section 18 were in force at the time of the removal or revocation; and no legal proceedings may be instituted on or after 3 October 2023 in any court on account of or in respect of the removal or revocation.

(3) The collection and recovery of any tax, or any other thing done, before the date of commencement of section 18 on the basis of that removal or revocation is, and is taken always to have been, by force of this section, validly done under the principal Act and the Income Tax Act 1947 as if the amendment in section 18 were in force at the time of the removal or revocation; and no legal proceedings may be instituted on or after 3 October 2023 in any court on account of or in respect of the removal or revocation.

(4) On or after the date of commencement of section 18, section 61A(2) of the principal Act (as in force on the date of

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commencement of section 18) has effect in relation to any removal or revocation mentioned in subsection (1).

### **Validation relating to section 37 of principal Act**

**21.**—(1) This section applies to an approval of royalties or technical assistance fees or contributions purportedly granted to a company under section 37 of the principal Act before 1 April 2023, being royalties, fees or contributions payable to a non-resident person under an agreement or arrangement already entered into between the company and the non-resident person before the date of the application for approval.

(2) The approval is, and is taken always to have been, by force of this section, validly granted in accordance with section 37 of the principal Act as if section 37 of the principal Act had at the material time allowed approval to be granted for an agreement or arrangement already entered into before the application for approval.

(3) Any exemption from tax of, or authorisation that tax at a concessionary rate be levied and paid on, those royalties, fees or contributions, or any other thing done, under the principal Act or the Income Tax Act 1947 whether before, on or after 1 April 2023, on the basis of the approval is, and is taken always to have been, by force of this section, valid or validly done under the principal Act or the Income Tax Act 1947, as the case may be.

### **Saving and transitional provisions**

**22.**—(1) Despite section 8, section 35(2) and (3) of the principal Act as in force immediately before the date of commencement of section 8 continues to apply in relation to any contravention mentioned in section 35(2) of the principal Act as in force immediately before that date (called in this section the repealed provision), that took place before that date.

(2) Where —

(a) before the date of commencement of section 8, a company contravened section 34 of the principal Act or a condition mentioned in the repealed provision; and

- (b) the Minister charged with the responsibility for finance is satisfied that the company did not knowingly or intentionally contravene section 34 of the principal Act or that condition, as the case may be,

that Minister may waive all or a part of any debt due from the company under the repealed provision, including the repealed provision as continued by subsection (1).

(3) Any application for approval under section 37 of the principal Act that was pending immediately before the publication date is deemed to have been withdrawn on the publication date.

(4) Where —

- (a) during the period between 1 April 2023 and the day immediately before the publication date (both dates inclusive) (called in this section the transitional period), the Minister approves, under section 37 of the principal Act as in force during the transitional period, any royalties or technical assistance fees or contributions to research and development costs payable under an agreement or arrangement (*A*) as approved royalties, fees or contributions of a company;
- (b) the company had entered into agreement or arrangement *A* for the purpose of carrying on an activity of the company (called in this section the relevant activity); and
- (c) on or after the publication date, the Minister approves, under section 40A of the principal Act as in force on the publication date, the relevant activity for the company for a period that includes any part of the transitional period,

then the consequences in subsection (5) apply.

(5) The consequences for subsection (4) are as follows:

- (a) where the Minister had approved the royalties, fees or contributions mentioned in subsection (4)(a) with effect from a date (called in this subsection the start date) that is before 1 April 2023, then, despite section 10(b) —



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- (i) the approval is treated as having been validly given under section 37 of the principal Act, as if section 10(b) had not been enacted, but only for the period between the start date and 31 March 2023 (both dates inclusive); and
    - (ii) the principal Act (as amended by this Act) applies in relation to such approval;
  - (b) where the tax relief amount under section 39 for the transitional period is more than the tax relief amount under section 40B for the transitional period, the difference between the amounts —
    - (i) is considered to have been deducted from the royalties, fees and contributions payable by the company under agreement or arrangement *A* during the transitional period under section 45A of the Income Tax Act 1947;
    - (ii) is a debt due from the company to the Government; and
    - (iii) is, with the prior sanction of the Minister, recoverable in the manner provided by section 89 of the Income Tax Act 1947;
  - (c) where the tax relief amount under section 39 for the transitional period is less than the tax relief amount under section 40B for the transitional period, the Comptroller must refund the company the difference between those amounts;
  - (d) if (whether in a case in paragraph (a) or otherwise) —
    - (i) during the transitional period, the company did or omitted to do anything that would have (but for section 10(b)) constituted a contravention of any condition of the approval under subsection (4)(a);
    - (ii) on or after the publication date, the Minister grants the approval under subsection (4)(c) for a period that

starts on or before the date of the contravention mentioned in sub-paragraph (i); and

- (iii) the Minister is satisfied that any condition of the approval under subsection (4)(c) is identical to or substantially the same as the condition mentioned in sub-paragraph (i),

then —

- (iv) the company is treated as having contravened the condition of the approval under subsection (4)(c); and
- (v) the principal Act as in force on or after the publication date applies to the contravention mentioned in sub-paragraph (iv).

- (6) For the purposes of subsections (4) and (5) —

“tax relief amount under section 39 for the transitional period” means the amount of tax which, prior to the publication date, a company had, in reliance on section 39(1) of the principal Act as in force during the transitional period, not deducted from the royalties, fees or contributions payable to a non-resident person under section 45A of the Income Tax Act 1947 during the transitional period;

“tax relief amount under section 40B for the transitional period” means the amount of tax which, but for section 40B(5) and (6) of the principal Act as in force on the publication date, would have been deductible by a company under section 45A of the Income Tax Act 1947 from any royalties, fees or contributions payable by the company to a non-resident person during the transitional period.

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

(8) Regulations made under subsection (7) that are consequent on the enactment of any provision of this Act mentioned in section 1(2)

ECONOMIC EXPANSION INCENTIVES  
(RELIEF FROM INCOME TAX)  
(AMENDMENT)

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may be made to operate retrospectively in relation to that provision to any date not being a date earlier than 1 April 2023.

(9) In this section, “publication date” means the date of publication of this Act in the *Gazette*.

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