Annex A

Summary of key public feedback received on the Income Tax (Amendment) (No. 3) Bill 2016

1. Introduction of the Business and Institute of a Public Character (IPC) Partnership Scheme (BIPS)

Feedback: There is no definition of what constitutes “employee’s working hours” for the purpose of determining expenditure that qualifies for 250% tax deduction. In practice, it may be difficult to define this term. For example, employees could perform services outside of official working hours but are given time-off (which affects the number of employee working hours from an employer’s perspective).

MOF’s response: *Accepted. The Bill will be amended to allow salary expenditure attributable to the period of time-off given to employees for services performed outside working hours to also qualify for tax deduction under BIPS.*

2. Introduction of a specific anti-avoidance mechanism for writing down allowances on intellectual property rights (IPRs) transfers

Feedback: There is an inconsistency in how the open market prices of IPRs are determined when IPRs are acquired by instalment payment and when they are not. When IPRs are acquired by instalment payment, the open market price refers to the price in which those rights could have been purchased in the open market at the time of the signing of the agreement. On the other hand, when IPRs are not acquired by instalment payment, a reference is made to the acquisition date of the IPRs, which is defined to be the date on which those rights are assigned to the company, in determining the open market price of those rights. The provisions should be amended to align the definition of open market price of IPRs across different modes of payments.

MOF’s response: *Accepted. The definition of acquisition date of IPRs under section 19B will be amended to ensure consistency in how the open market prices of IPRs are determined across the different payment arrangements.*

Feedback: A provision should be included to treat transactions between unrelated parties as having taken place at open market prices. This will clarify that the intent of the anti-avoidance mechanism for IPRs transfer is to target only abusive situations.

MOF’s response: Not accepted. The introduction of an anti-avoidance mechanism for IPRs transfer is to ensure that writing-down allowances under section 19B are granted based on transacted values that are reflective of the open market prices of the IPRs. This is independent of whether the transaction occurs between unrelated or related parties.

3. Provide for allocation of pre-commencement expenses to income streams that are assessed to tax under different tax rates

Feedback: It is unclear whether the allocation of pre-commencement expenses under section 14Z of the ITA applies to pre-commencement expenses incurred before the deemed date of commencement of business under the concession for enterprise development, as well as expenses incurred after the deemed date of commencement of business but before the business earns its first dollar of business receipt.

MOF's response: Accepted. The allocation of pre-commencement expenses under section 14Z of the ITA will be amended to make it clear that it applies to both sets of expenses.

4. Introduce a definition for income support payments (ISP) derived by REITs

Feedback: There can be situations where a related party of the person who sold the property to the trustee of the REIT is a payer of the ISP. The draft should expand the scope of the payers of ISP to include related party of the seller.

MOF's response: *Not accepted. There is no need to expand the scope of payers to include related party of a seller, as there is a provision to allow Comptroller of Income Tax to approve any person to be a payer of ISP.*

5. Tax deduction of up to 200% for issuance costs attributable to retail bonds issuances

Feedback: It is unclear when is the qualifying period for which the double tax deduction for costs attributable to issuance of retail bonds can be claimed.

MOF's response: *Accepted. Section 14ZA accords a tax deduction of up to 200% for qualifying expenditure incurred on qualifying issuances (i.e. an issue of qualifying debentures from 19 May 2016 to 18 May 2021, or making available debentures for secondary trading within five years from their issue). This section will be amended to make clear that qualifying expenditure for qualifying issuances, for which a tax deduction of up to 200% can be claimed, must be incurred on or after 19 May 2016.*