

Income Tax (Amendment) Bill 2020

Bill No. /2020.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Income Tax Act (Chapter 134 of the 2014 Revised Edition) and to make related amendments to the Stamp Duties Act (Chapter 312 of the 2006 Revised Edition).

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

EXPLANATORY STATEMENT

This Bill seeks to implement the tax changes in the Government's 2020 Budget Statement in the Income Tax Act (Cap. 134) (the Act) and to make certain other amendments to the Act. It also makes related amendments to the Stamp Duties Act (Cap. 312).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (Interpretation) to amend the definition of "incapacitated person" for the following purposes:

- (a) to replace the existing reference to "infant" with a reference to an individual who is below 21 years of age;
- (b) to replace the existing reference to "lunatic, idiot or insane person" with a reference to an individual who is unable to make a decision for himself or herself in relation to any matter at the material time concerned because of an impairment of, or a disturbance in the functioning of, the mind or brain. Such impairment or disturbance may be permanent or temporary.

Clause 3 inserts a new section 3A to provide that the Minister, after consultation with the responsible Minister of a public body, may assign a function or power under a section of the principal Act (called an incentive provision) to the public body (called an authorised body). If so assigned, the public body is treated as carrying out a function or exercising a power conferred on the public body under the Act that establishes it. The new section 3A also provides the following:

- (a) a member of the public body who is not from the public sector must not be involved in the carrying out of a function or exercise of a power under an incentive provision by the public body;
- (b) the public body must not delegate a function or power under an incentive provision to any of its members, or any other person, who is not from the public sector;
- (c) a member of the public body who is from the public sector, or any other person to whom the function or power has been delegated to, that receives or obtains information for the purposes of the incentive provision, must not disclose or provide access to the information to a member of the public body who is not from the public sector;
- (d) the public body may carry out a function or exercise a power under the incentive provision despite the absence of a quorum at any meeting of the public body resulting from paragraph (a) or (c), and the absence of

quorum does not affect the validity of any function carried out or power exercised by the public body.

The prohibition in paragraph (c) does not apply to the following information:

- (a) information the disclosure of which has been approved by the Minister;
- (b) information relating to a person —
 - (i) for which consent for disclosure has been obtained from the person; or
 - (ii) that is already in the possession of the public body;
- (c) information that is publicly available.

Clause 4 amends section 6 (Official secrecy) to allow for the disclosure of any information relating to any person to an authorised officer of the government of another country if express written consent of the person is provided. The disclosure must be for a prescribed purpose and must satisfy the prescribed conditions.

The amendment also allows the Comptroller to provide any information to the chief executive officer of the Inland Revenue Authority of Singapore or any officer authorised by the chief executive officer of the Inland Revenue Authority of Singapore that is required for the performance of the official duties of these officers in administering any public scheme that is specified in the new Ninth Schedule.

Clause 5 amends section 7 (Rules) to empower the Minister to make rules to prescribe the mode of payment for any refund to be made under the Act to any person or class of persons.

Clause 6 amends section 10E (Ascertainment of income from business of making investments) which (among other things) provides that expenses incurred for an investment business of a company or property trust, and allowances relating to such business, may only be deducted against income from such business, and any excess is to be disregarded. The section is amended to provide that where the investment is an immovable property, the section applies only if the company or trustee of a property trust is the legal owner of the property, or otherwise has a proprietary interest in the property and would receive consideration if the proprietary interest is disposed of or transferred, for example, by way of an assignment or a novation.

Clause 7 amends section 10H (Ascertainment of income from business of hiring out motor cars or providing driving instruction). The section provides that in determining the income derived by any person for any year of assessment from any business of hiring out motor cars or of providing driving instruction using motor cars, any outgoings and expenses incurred in respect of, and capital allowances relating to, that business may only be deducted against or allowed as a deduction against the income derived from that business. Any excess of such

outgoings, expenses or allowances is not available as a deduction against any other income of that person or available for transfer under section 37C.

The amendment provides for the section to apply in determining the income derived by any person from any business of providing chauffeur services using motor cars for the year of assessment 2021 or any subsequent year of assessment.

Clause 8 amends section 10O (Additional Tier 1 capital instruments) which provides that any distribution liable to be made in respect of an Additional Tier 1 instrument in the basis period for the year of assessment 2015 or a subsequent year of assessment is deemed to be interest derived from a debt security for that year of assessment. The amendment amends the definition of “MAS Notice 637” to replace the reference to section 55 of the Banking Act (Cap. 19) with a reference to sections 10A(1) and 10B(1) of that Act as that Notice is now issued under those sections of that Act.

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

- (a) to extend till 31 March 2022, the period in which income derived by a non-resident individual from acting as an arbitrator is exempt from tax;
- (b) to extend till 31 March 2022, the period in which income derived by a non-resident qualifying mediator (as defined in that section) for providing the services of a mediator for a mediation in Singapore (or that would have taken place in Singapore but for the settlement of the dispute or withdrawal of the claim in question) is exempt from tax;
- (c) to extend till 31 March 2022, the period in which income derived by a non-resident individual for providing the services of a mediator for a qualifying mediation (as defined in that section) in Singapore (or that would have taken place in Singapore but for the settlement of the dispute or withdrawal of the claim in question) is exempt from tax;
- (d) to clarify that the reference to a charter of a ship in subsection (1)(oa) does not include a finance lease of the ship.

Clause 10 amends section 13A (Exemption of shipping profits) which provides for certain income of a shipping enterprise to be exempt from tax under that section. The amendment provides that the tax exemption applies to certain income derived on or after 19 February 2020 by a shipping enterprise in respect of a ship that is provisionally registered under the Merchant Shipping Act, and which registry is not closed, deemed to be closed or suspended.

Clause 11 amends section 13F (Exemption of international shipping profits) which provides for certain income of an approved international shipping enterprise to be exempt from tax under that section. The amendment provides that, to qualify for tax exemption, prescribed ship management services may be provided by an approved international shipping enterprise to its qualifying shareholder or a qualifying special purpose vehicle of the approved international shipping enterprise or another approved international shipping enterprise, in

respect of ships owned or operated by the qualifying shareholder or the qualifying special purpose vehicle. The tax exemption applies to income derived on or after 19 February 2020. “Qualifying shareholder” is defined as a company that is incorporated and resident in Singapore, and beneficially owns (whether directly or indirectly) at least 50% of the total number of the issued ordinary shares of the approved international shipping enterprise.

Clause 11 further extends the last date (till 31 December 2026) on which an international shipping enterprise that does not meet the qualifying conditions for the purposes of subsection (2)(a) may be approved for the purposes of the section.

Clause 12 amends section 13H (Exemption of income of venture company). The section enables regulations to be made to exempt from tax specified income derived by an approved venture company from making certain investments. The amendments —

- (a) extend the last date on which an approval may be granted under the section to 31 December 2025;
- (b) provide that the tax exemption may in the first instance be specified to be for a period of 15 years (instead of the existing cap of 10 years). Where the specified period is less than 15 years, the Minister or person appointed by the Minister may extend that period, but the total period of the tax exemption must not exceed 15 years;
- (c) remove the requirement that the investments be approved by the Minister or person appointed by the Minister; and
- (d) provide for authorised investments for the purposes of the section to be prescribed by regulations for income derived on or after 1 April 2020;

Clause 13 amends section 13S (Exemption of income of shipping investment enterprise). The section provides for certain income derived by an approved shipping investment enterprise to be exempt from tax. The amendment extends the last date (till 31 December 2026) on which a shipping investment enterprise or its related party may be approved under that section.

Clause 14 amends section 13Y (Exemption of certain income of prescribed sovereign fund entity and approved foreign government-owned entity) which exempts from tax certain prescribed income of —

- (a) a prescribed sovereign fund entity arising from its funds that are managed in Singapore by an approved foreign government-owned entity; or
- (b) an approved foreign government-owned entity arising from its funds that are managed in Singapore, and from managing in Singapore the funds of, or providing in Singapore any investment advisory service to, a prescribed sovereign fund entity.

The amendments define “sovereign fund entity” and “foreign government-owned entity” to include —

- (a) an entity that is incorporated, formed or established by the government or other public authority of a foreign country either directly or through one or more intermediate entities;
- (b) an entity that is incorporated, formed or established by the law of a foreign country, and that is not a public authority of that foreign country; and
- (c) an entity that is incorporated, formed or established by an entity mentioned in paragraph (b) either directly or indirectly through one or more intermediate entities.

Clause 15 amends section 13Z (Exemption of gains or profits from disposal of ordinary shares) —

- (a) to extend the period for tax exemption on gains or profits derived by a company from the disposal of ordinary shares in another company, to 31 December 2027;
- (b) to clarify the scope of subsection (8)(b), which provides that the tax exemption does not apply to a disposal of shares in certain companies; and
- (c) to provide that the tax exemption does not apply to a disposal made on or after 1 June 2022 of unlisted shares in a company that the Comptroller is satisfied is in the business of trading, or mainly carries on the activity of holding, immovable properties situated in Singapore or abroad, or had undertaken property development unless the property developed was used in carrying on the company’s trade or business and the company did not undertake any property development in the period of 60 months before the disposal.

Clause 16 inserts new section 13ZA to exempt from tax certain payments that are made in connection with COVID-19, or any law or administrative order or direction of a country made by reason of or in connection with COVID-19 (called a COVID-19 event). These payments include —

- (a) payments made in connection with various public schemes established to mitigate impact of COVID-19 events on persons;
- (b) rent or value of accommodation in Singapore, value of basic necessities for consumption or use in Singapore, and allowances for such accommodation or basic necessities, that are provided by an employer to an employee to enable him or her to reside in Singapore to ensure the continuity of the employer’s trade or business during a COVID-19 event, or reduce the risk of contagion of COVID-19;

- (c) a benefit (in the form of monetary payment) of the reduction in property tax resulting from a remission given for any immovable property, that the owner of the property is required to pass on to the lessee or licensee under the COVID-19 (Temporary Measures) Act 2020 (Act 14 of 2020); and
- (d) any other monetary payment from a lessor or licensor of such immovable property to his or her lessee or licensee, that the Comptroller is satisfied is given to mitigate the impact of a COVID-19 event on the lessee or licensee's ability to pay the rent or licence fee for the property.

Clause 17 amends section 14B (Further deduction for expenses relating to approved trade fairs, exhibitions or trade missions or to maintenance of overseas trade office) —

- (a) to extend the date by which a firm or company may be approved for the tax deduction under this section to 31 December 2025; and
- (b) to include new expenses that are approved for the firm or company to qualify for a tax deduction under this section. The new expenses are —
 - (i) expenses to secure speaking spots, for the transportation of materials or samples and to engage a consultant to arrange a business networking event, for a trade mission or trade promotion activity outside Singapore; and
 - (ii) expenses to engage a consultant to identify suitable persons to promote the trading of goods or provision of services or to build up a business network in a country outside Singapore.

Clause 18 amends section 14I (Provisions by banks and qualifying finance companies for doubtful debts and diminution in value of investments) to disapply subsections (5) and (6) for the years of assessment 2021 and 2022. Subsection (5) sets out the maximum amount of deduction that may be allowed to a bank or qualifying finance company for provisions for doubtful debts arising from its loans and provisions for diminution in the value of its investments in securities. Subsection (6) disallows such deduction if the bank or qualifying finance company has no qualifying profits in the basis period for a year of assessment, or where the total amount of all deductions previously allowed, that have not been deemed trading receipts under the section, exceeds 3% of the value of the loans and investments prescribed for the basis period for a year of assessment.

Clause 19 amends section 14K (Further or double deduction for overseas investment development expenditure) to extend the date by which —

- (a) a firm or company may be approved for the purposes of a deduction for expenditure to carry out an approved investment project overseas; and
- (b) an investment project may be approved for the purposes of such deduction,

to 31 December 2025.

Clause 20 amends section 14KA (Further or double deduction for salary expenditure for employees posted overseas) to extend the date by which a firm or company may be approved for the purposes of a deduction under that section, to 31 December 2025.

Clause 21 amends section 14Q (Deduction for renovation or refurbishment expenditure). The amendment deletes the existing subsection (3A) which is spent and substitutes a new subsection (3A) to allow the full amount of such renovation or refurbishment expenditure incurred by a person during the basis period relating to the year of assessment 2021 to be deducted in that year of assessment, instead of over 3 years of assessment under subsection (3). However, the taxpayer may elect for the deduction to be made in accordance with subsection (3).

Clause 22 inserts new sections 14ZE and 14ZF that are related to the new section 13ZA.

The new section 14ZE allows an entity set out in the Tenth Schedule to be given a deduction against its income for the year of assessment 2021 or 2022 for —

- (a) the value of benefits given by the entity to self-employed individuals who drive chauffeured private hire cars or taxis in connection with an amount received by the entity out of a payment by the Government to the Special Relief Fund under a public scheme known as the Point-to-Point Support Package;
- (b) any monetary payment given by the entity to individuals that the Comptroller is satisfied is given to mitigate income loss arising from a COVID-19 event.

The new section 14ZF allows a lessor or licensor of immovable property that is entitled to property tax remission under the Property Tax (Non-Residential Properties) (Remission) Order 2020 (G.N. No. S 155/2020), to be given a deduction against his or her income for the year of assessment 2021 or 2022 for —

- (a) a benefit (in the form of monetary payment) of the reduction in property tax resulting from the remission, that the lessor or licensor is required to pass on to a lessee or licensee of that property under the COVID-19 (Temporary Measures) Act 2020; and
- (b) any other monetary payment that the lessor or licensor gives to that lessee or licensee, that the Comptroller is satisfied is given to mitigate the impact of a COVID-19 event on the lessee or licensee's ability to pay the rent or licence fee for the property.

Clause 23 amends section 15 (Deductions not allowed) to allow a person that is in the business of providing chauffeur services to claim a tax deduction for outgoings and expenses or cost of renewal incurred in respect of a chauffeured

private hire car, if the car is principally used by the person for that business. This amendment only applies for the year of assessment 2021 and subsequent years of assessment.

Clause 24 inserts a new section 15A to disallow a lessee or licensee to claim a deduction against his or her expenditure on the leasing or licensing of property, of an amount that corresponds to the amount of exemption that the lessee or licensee enjoys under the new section 13ZA(4).

Clause 25 amends section 18C (Initial and annual allowances for certain buildings and structures). The section provides for allowance to be made to a person for qualifying capital expenditure incurred on any approved construction or renovation of a building or structure on industrial land, port land or airport. The amendment extends the last date on which an approval may be granted under that section to 31 December 2025. The amendment also provides that an application under subsection (1) or (1A) may be made on or after 1 July 2010 or 22 February 2014 (whichever is applicable).

Clause 26 amends section 19 (Initial and annual allowances for machinery or plant) which provides that where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purposes of that trade, profession or business —

- (a) an initial allowance is to be made to the person for the year of assessment in the basis period in which the capital expenditure is incurred; and
- (b) an annual allowance is to be made to the person for any year of assessment if the person has in use the machinery or plant for the person's trade, profession or business in the basis period for that year of assessment, which is determined by reference to the working life of the asset as specified in the Sixth Schedule.

The amendment provides that in the case of an asset acquired by a person for the basis period in the year of assessment 2023 or any subsequent year of assessment or under a hire purchase agreement signed in the basis period in the year of assessment 2023 or any subsequent year of assessment, the number of years of working life of the asset is any of the years mentioned below, as elected by the person:

- (a) where the number of years of its working life as specified in the Sixth Schedule is less than 16 years — 6 or 12 years;
- (b) where the number of years of its working life as specified in the Sixth Schedule is 16 years — 6, 12 or 16 years.

The election must be made at the time of lodgment of the person's return of income for the year of assessment relating to the basis period in which the asset was acquired or the hire-purchase agreement was signed, or within such further time as the Comptroller may allow.

Further, where an asset is acquired in the basis period for any year of assessment before the year of assessment 2023 or under a hire-purchase agreement signed in the basis period for any year of assessment before the year of assessment 2023, and no claim for an initial or annual allowance has been made on the asset, an election may be made (for the purpose of working out the annual allowance for the asset) for the number of years of its working life to be 6, 12 or 16 years (depending on the number of years of the asset's working life specified in the Sixth Schedule). The election must be made to the Comptroller at the time of lodgement of the person's return of income for the year of assessment 2023, or within such further time as the Comptroller may allow.

In addition, clause 26 amends section 19 to allow capital allowance to be made in respect of a chauffeured private hire car to any person in the business of providing chauffeur services if the car —

- (a) is acquired by the person in the basis period for the year of assessment 2021 or a subsequent year of assessment; and
- (b) is used principally by the person for the provision of chauffeur services.

Clause 27 amends section 19A (Allowances of 3 years or 2 years write off for machinery and plant, and 100% write off for computer, prescribed automation equipment and robot, *etc.*). The section provides that where a person carrying on a trade, profession or business incurs capital expenditure on the provision of machinery or plant for the purpose of that trade, profession or business, the person may be allowed (in lieu of the allowances provided under section 19) for any year of assessment, an annual allowance of $33\frac{1}{3}\%$ in respect of the capital expenditure incurred.

The amendment enables a person that incurs such capital expenditure in the basis period for the year of assessment 2021, to make an irrevocable election for the following allowances instead:

- (a) for the year of assessment 2021, an annual allowance of 75% in respect of the capital expenditure incurred;
- (b) for the year of assessment 2022, an annual allowance of 25% in respect of the capital expenditure incurred.

The above amendment also applies to an instalment paid during the basis period for the year of assessment 2021 or a subsequent basis period under a hire-purchase agreement entered into in the basis period for the year of assessment 2021.

Clause 28 amends section 19D (Writing-down allowance for IRU). The section provides for writing-down allowances to be made to a person in respect of capital expenditure incurred by the person for the acquisition of an indefeasible right to use any international telecommunications submarine cable system (IRU) for the purposes of the person's trade, business or profession. The amendment extends by

5 years (till 31 December 2025) the last date on which such capital expenditure may be incurred to be eligible for the writing-down allowance.

Clause 29 makes an amendment to section 23 (Carry forward of allowances) that is consequential on the amendments to section 37E.

Clause 30 repeals and re-enacts section 33 (Comptroller may disregard certain transactions and dispositions). The re-enacted section 33 requires the Comptroller to disregard or vary a tax avoidance arrangement described in that section and to make adjustments in order to counteract any tax advantage obtained or obtainable by the person under that arrangement. Tax advantage obtained or obtainable by a company incorporated in Singapore includes any qualifying deduction for any year of assessment of that company that has been transferred under section 37C to another company of the same group.

The amendment also provides that the issue of whether subsection (1)(a), (b) or (c) applies to a case, and any action taken by the Comptroller under that section in a case, may be questioned in an appeal against an assessment in accordance with Part XVIII.

Clause 30 also inserts a new section 33A that provides that if in the year of assessment 2023 or a subsequent year of assessment, the Comptroller imposes a liability to tax on a person for that year of assessment under section 33, or recomputes any gain, profit or loss of, any capital allowance allowed to, or any deductions for a donation made by, a person for that year of assessment under that section which results in the imposition of liability to tax on that person for any year of assessment, a surcharge equal to 50% of the amount of tax imposed on the person is recoverable by the Comptroller from the person as a debt due to the Government.

However, in a case where an adjustment is made under section 33 and a consequential adjustment is made to a qualifying deduction that has been transferred under section 37C by a company incorporated in Singapore (transferor company) to another company (claimant company), and the Comptroller makes an assessment on the claimant company) under section 74 following a reduction or disregarding of the qualifying deduction that has been transferred, the surcharge is imposed on the transferor company.

Clause 31 amends section 34 (Decision of Comptroller no bar to appeal) to delete the reference to section 33 as the right of appeal is now provided under the re-enacted section 33.

Clause 32 makes an amendment to section 34G (Modification of provisions for companies redomiciled in Singapore) that is the consequential on the amendment to section 19A.

Clause 33 amends section 34J (Tax treatment arising from adoption of FRS 116 or SFRS(I) 16). The section allows a recipient of a Maritime Sector Incentive (MSI) (*i.e.* a company, partnership or registered business trust entitled

to a tax incentive for its income under section 13A, 13F, 13S or 43ZA) that has prepared its financial accounts in accordance with the financial reporting standard known as FRS 116 or SFRS(I) 16, to elect for the tax treatment set out in the section.

The amendment provides that the Comptroller's power to reverse any tax treatment that has been applied under the section in relation to any provisionally-registered ship if that ship subsequently fails to obtain a permanent certificate of registry under the Merchant Shipping Act, does not apply if the electing MSI recipient derives the income mentioned in section 13A(1), (1B), (1C), (1CA), (1CD), (1CE), (1CF), (1CG), (1CH), (1CI), (1CJ), (1CK) or (1CL) in respect of that ship on or after 19 February 2020 (but not before that date).

Clauses 34, 35 and 36 amend sections 36A (Limited liability partnership), 36C (Limited partnership) and 37 (Assessable income) respectively that are consequential on the amendments to section 37E.

Clause 37 repeals and re-enacts a new section 37B (Adjustment of capital allowances, losses or donations between income subject to tax at different rates). The section provides that where a company derives income for any year of assessment that is subject to tax at different rates, and there are unabsorbed allowances, losses or donations in respect of income that is subject to tax at one rate, such unabsorbed allowances, losses or donations may be deducted against any chargeable income of the company subject to tax at a higher or lower rate of tax in accordance with that section.

The amount of the unabsorbed allowances, losses or donations deductible against the chargeable income subject to the higher or lower tax rate (as the case may be) is to be reduced by the application of an "adjustment factor".

Any remaining unabsorbed allowances, losses or donations after the deduction are added to, and deemed to form part of, the corresponding allowances, losses or donations in respect of the income subject to the higher or lower tax rate (as the case may be), for the next succeeding year of assessment and any subsequent year of assessment in accordance with section 23 or 37.

The re-enacted section 37B clarifies the provision as follows:

- (a) it applies where —
 - (i) a company has income subject to different rates of tax for the year of assessment concerned, or has income subject to one rate of tax for the year of assessment concerned and income subject to a different rate of tax for an earlier year of assessment, and
 - (ii) there are unabsorbed allowances, losses or donations in respect of the income that is subject to tax at one of those rates;
- (b) for the purpose of paragraph (a), income may be subject to different rates of tax even if the income is derived by the company from carrying on

the same trade or business. This may happen if, for example, the income is subject to a concessionary rate of tax in a year of assessment but subject to the normal rate of tax in a subsequent year of assessment;

- (c) the re-enacted section does not apply to unabsorbed allowances, losses or donations in respect of income that is subject to the rate of tax mentioned in section 43(1)(a), and the rate of tax under that provision is amended in a subsequent year of assessment;
- (d) for the purposes of subsections (4) and (5), the rate of tax for the income having unabsorbed allowances, losses or donations to be used for the adjustment factor is the rate of tax that the income is subject when the unabsorbed allowances, losses or donations arose;
- (e) the re-enacted section also applies where a company has income subject to 3 or more tax rates in a year of assessment. In such a case, the company may elect its income that is subject to one of those tax rates as its income that is subject to a higher or lower tax rate (as the case may be) for the purposes of the application of subsection (4) or (5).

Clause 38 makes an amendment to section 37C (Group relief for Singapore companies) that is consequential on the repeal and re-enactment of section 37B.

Clause 39 amends section 37E (Carry-back of capital allowances and losses) to allow a taxpayer to elect for qualifying deductions for the year of assessment 2020 to be carried back and offset against any of the taxpayer's assessable income for the years of assessment 2019, 2018 and 2017. This is set out in the new subsection (1A). The deduction must first be made against the assessable income for the year of assessment 2017. Any balance of the deduction must be made against the assessable income for the year of assessment 2018. Any balance thereafter may then be made against the assessable income for the year of assessment 2019.

If the taxpayer is entitled to make a deduction under both the new subsection (1A) and the existing subsection (1) (which allows a person to carry back qualifying deductions to only the immediate preceding year of assessment) against the person's assessable income for the year of assessment 2017 or 2018, a deduction must first be made under subsection (1) against the assessable income, before a deduction under subsection (1A) is made against the assessable income.

A person may elect for a qualifying deduction for the year of assessment 2020 to be deducted under subsection (1) or the new subsection (1A).

Clause 39 also amends section 37E to enable the Comptroller to raise an assessment within 7 years after the expiration of the year of assessment 2017 or within 6 years after the expiration of the year of assessment 2018, where the Comptroller discovers that any qualifying deduction made under the new subsection (1A) for the year of assessment 2020 against the assessable income of

any person for the year of assessment 2017 or the year of assessment 2018 (as the case may be) is excessive.

Clause 39 also makes a further amendment to section 37E that is consequential on the repeal and re-enactment of section 37B.

Clause 40 amends section 37K (Deduction for qualifying investments in qualifying start-up companies). The section allows a deduction to be made to an individual approved as a qualifying person for expenditure incurred by the individual in making a qualifying investment in a qualifying start-up company.

The amendment provides that to qualify for the deduction, a qualifying investment must be made during the period that is specified to the qualifying person. The amendment also provides that no approval may be granted under the section after 31 March 2020, and the period of approval must commence between 1 July 2010 and 31 March 2020 (both dates inclusive).

Clause 40 also amends the definition of “relevant date” to include a case where only one qualifying investment in a qualifying start-up company is made by a qualifying person. Under the section, a deduction for an investment in a qualifying start-up company may only be given if the qualifying person held the shares or convertible loans that are the subject of the qualifying investment for 2 years from the relevant date.

Clause 41 amends section 37L (Deduction for acquisition of shares of companies). The section provides that deductions may be made for any capital expenditure and transaction costs incurred by a Singapore company (called the acquiring company) or its wholly-owned subsidiary incorporated for the primary purpose of being a holding company, for any qualifying acquisition (as specified in that section) of ordinary shares in another company. The amendment extends the last date (till 31 December 2025) on which a qualifying acquisition may be made in order for the acquiring company to claim the deductions for capital expenditure incurred under that section.

The amendment also sunsets the power under subsection (19A) of the Minister or person appointed by the Minister to waive the requirement that the ultimate holding company of the acquiring company must be (and remains) a Singapore company for the deductions to be made under that section. The power is not applicable to any qualifying acquisition made after 31 March 2020.

Clause 42 makes amendments to section 37M (Treatment of unabsorbed donations attributable to exempt income) that is consequential on the repeal and re-enactment of section 37B.

Clause 43 inserts a new section 37N to provide that a deduction or allowance under the principal Act or Part X or XIID of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86) may not be made or given in respect of any expenditure or payment to the extent that it is or is to be subsidised by a grant

or subsidy that is capital in nature and is from the Government or a statutory board. The exclusion applies to grants or subsidies approved on or after 1 January 2021.

Clause 44 amends subsection (2A) of section 40A (Relief for non-resident public entertainers) which applies the reduced tax rate of 10% to income derived by a non-resident person as a public entertainer during the period from 22 February 2010 to 31 March 2020 (both dates inclusive). The amendment extends the period to 31 March 2022.

Clause 45 amends subsection (1)(e) of section 43C (Exemption and concessionary rate of tax for insurance and reinsurance business), which enables the Minister to make regulations to provide for a concessionary tax rate of 10% to be levied on income derived from marine hull and liability insurance and reinsurance business by an approved insurer whose approval under that section is granted on or after 1 April 2016. The amendment provides that the last date on which such approval may be granted for the purposes of subsection (1)(e) is 31 March 2020.

Clause 46 amends section 43G (Concessionary rate of tax for Finance and Treasury Centre). The section enables the Minister to make regulations to provide for a specified concessionary tax rate to be levied on the income of a company that is derived from the operation of its approved Finance and Treasury Centre (as defined in that section) in respect of certain prescribed qualifying activities, or the provision of certain prescribed qualifying services by the approved Finance and Treasury Centre to the company's offices or associated companies. The amendment extends the last date on which a Finance and Treasury Centre may be approved as an approved Finance and Treasury Centre under that section till 31 December 2026.

Clause 47 amends section 43P (Concessionary rate of tax for global trading company and qualifying company) —

- (a) to provide that the concessionary tax rate of 5% or 10% may, subject to conditions, be applied to income of an approved global trading company from qualifying structured commodity financing activities, treasury activities, or advisory services in relation to mergers and acquisitions, derived on or after 19 February 2020;
- (b) to extend to 31 December 2026 the period in which a global trading company may be approved for the purpose of that section; and
- (c) to provide that any approval of a qualifying company for the purposes of this section must be granted on or before 31 March 2021, and the period of approval must commence on or before 31 March 2021.

Clause 48 amends section 43W (Concessionary rate of tax for shipping investment manager). The section enables the Minister to make regulations for a concessionary rate of tax of 10% to be levied on the income of an approved shipping investment manager derived from managing an approved shipping

investment enterprise or any other prescribed services or activities carried out for an approved shipping investment enterprise. The amendment extends the last date (till 31 December 2026) on which a shipping investment manager may be approved under that section.

Clause 49 amends section 43ZA (Concessionary rate of tax for container investment enterprise). The section provides for a concessionary rate of tax of 5% or 10% as the Minister may specify to be levied on the income of an approved container investment enterprise accruing in or derived from Singapore from various types of activities. The amendment extends the last date (till 31 December 2026) on which a container investment enterprise or its related party may be approved under that section.

Clause 50 amends section 43ZB (Concessionary rate of tax for container investment manager). The section enables the Minister to make regulations for a concessionary rate of tax of 10% to be levied on certain specified income of an approved container investment manager derived from managing an approved container investment enterprise or any other prescribed services or activities carried out for an approved container investment enterprise. The amendment extends the last date (till 31 December 2026) on which a container investment manager may be approved under that section.

Clause 51 amends section 43ZF (Concessionary rate of tax for shipping-related support services) —

- (a) to extend the last date for approving a company for the purposes of that section to 31 December 2026; and
- (b) to change the concessionary tax rate for income in excess of a base amount derived during an extended period of a company's approval. Currently, the rate is 10% or, if the company makes an election under subsection (5E), 10.5%. The new rate is A% or, if the company makes an election under the new subsection (5F), $0.5 + A\%$. A is the tax rate applicable to such income of the company that is derived immediately before the commencement of the period of extension concerned.

Clause 52 amends section 43ZG (Concessionary rate of tax for income derived from managing approved venture company). The section provides that tax at the rate of 5% is levied upon the management fees and performance bonus derived by an approved fund management company from managing certain investments of an approved venture company under section 13H.

The amendment extends the last date (till 31 December 2025) on which an approval may be granted under the section. The amendment also removes the existing cap of 15 years on the total period of approval (including any extension thereto) of a fund management company, but imposes a cap of 5 years for the period of approval at the first instance.

Clause 53 amends section 43ZI (Concessionary rate of tax for intellectual property income) which provides for a concessionary rate of tax to be levied for each year of assessment on the qualifying intellectual property income of an approved company that is derived from a qualifying intellectual property right elected by the approved company in so much of the basis period for that year of assessment which falls within the tax relief period applicable to the company. The amendment empowers the person appointed by the Minister to determine the base rate mentioned in subsection (5)(a) for the purposes of determining the concessionary rate of tax.

Clause 54 amends section 45A (Application of section 45 to royalties, management fees, etc.) to clarify that the reference to a charter of a ship in subsection (2D) does not include a finance lease of the ship.

Clause 55 amends section 45GA (Application of section 45 to income derived as public entertainer). The section provides that income derived from Singapore by a non-resident person as a public entertainer is subject to withholding tax. Subsection (2A) provides that the withholding tax rate for such income derived during the period from 22 February 2010 to 31 March 2020 (both dates inclusive) is 10%. The amendment extends the period to 31 March 2022.

Clause 56 inserts a new section 92I to provide for a corporate tax rebate for the year of assessment 2020, of 25% of the tax payable or \$15,000, whichever is lower.

Clause 57 amends section 106 (Powers to amend Schedules) to enable the Ninth Schedule (inserted by the Bill) to be amended by the Minister by an order.

Clause 58 amends section 107 (Variable capital companies or VCCs) to modify the application of section 13H and regulations made under it to an umbrella VCC. Specifically, the amendment provides that those provisions apply for the purpose of determining the exempt income of a sub-fund as if it were an approved venture company under section 13H if the umbrella VCC of the sub-fund is approved for the purpose of that section.

Clause 59 amends Part 1 of the Third Schedule (which sets out a replacement section 13Z for the purpose of determining the income of a sub-fund of an umbrella VCC), by making amendments to the replacement section that are similar to those made to section 13Z by clause 15.

Clause 59 also amends the Part 2 of the Third Schedule to make a consequential amendment as a result of the amendment to section 19A of the principal Act.

Clause 60 inserts a new Ninth Schedule for the purposes of the amendment to section 6(11A), and a Tenth Schedule which sets out entities for the purposes of the new sections 13ZA and 14ZE.

Clause 61 makes miscellaneous amendments to various provisions of the Act arising from the new section 3A.

Clause 62 repeals provisions of the principal Act that are obsolete.

Clause 63 makes amendments to the Stamp Duties Act (Cap. 312) that are similar those made to section 33 of the Act and the new section 33A of that Act. Specifically —

- (a) the re-enacted section 33A requires the Commissioner to disregard or vary a tax avoidance arrangement described in that section and to make adjustments in order to counteract any tax advantage obtained or obtainable by the person under that arrangement. The re-enacted section further provides that the Commissioner may make an adjustment even though there is no instrument;
- (b) the new section 33B provides that if the Commissioner makes any adjustment under section 33A, a surcharge equal to 50% of the amount of any duty or additional duty imposed on a person pursuant to the adjustment is recoverable from the person as a debt due to the Government;
- (c) the new section 33C provides for the collection and recovery of the duty and surcharge imposed under sections 33A and 33B;
- (d) section 39A (Notice of objection) is amended to enable an objection to be raised to an adjustment under the re-enacted section 33A; and
- (e) section 40 (Appeal to High Court) is amended to enable an appeal to be made to the High Court on the Commissioner's decision on an objection to an adjustment made under the re-enacted section 33A.

Clause 64 provides the saving and transitional provision arising from the enactment of the new section 3A. A person or matter that was approved by the Minister or a person appointed by the Minister under any section of the Act as in force immediately before the date of commencement of section 3 of the Income Tax (Amendment) Act 2020, and which approval remained in force immediately before that date, is treated to have been validly approved by an authorised body under that section of the Act as in force on that date. The deemed approval is subject to the same conditions to which the approval of the person or matter was subject immediately before the appointed date.

EXPENDITURE OF PUBLIC MONEY

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