

Annex A: MOF's response to common feedback on the Income Tax (Amendment) Bill 2018

1. Allowing tax deduction on car-related expenses incurred by private-hire car (PHC) drivers against their driving income

- a) Feedback: Simplify the application of the prescribed deemed expense ratio, and increase the prescribed deemed expense ratio. The proposed expense ratio of "40% of all driving income less service fees" is difficult to apply as it still requires drivers to claim tax deduction for service fees paid to platform providers separately. The 40% ratio is also too low to accurately proxy the common expenses incurred by PHC and taxi drivers.

Response: Accepted.

- (i) For greater ease of compliance and simplicity, service fees will be included in the prescribed deemed expense ratio. Taxpayers can use the prescribed ratio to proxy all their deductible expenses, without having to claim tax deduction for service fees paid to platform providers separately.
- (ii) We have worked with the National Taxi Association and the National Private Hire Vehicle Association to study the common expenses incurred by PHC and taxi drivers. We will increase the prescribed deemed expense ratio (including service fees) to 60%.
- b) Feedback: Allow the prescribed deemed expense ratio to be optional, and to allow claims based on actual amount of expenses incurred.

Response: This was already the intent. As shared in the public consultation documents, PHC and taxi drivers will have the option to claim tax deduction based on either (i) the prescribed deemed expense ratio, or (ii) the actual amount of expenses incurred in earning driving income.

2. Enhancing the Inland Revenue Authority of Singapore (IRAS)'s powers to investigate tax crimes

- a) Feedback: Provide guidance on the proposed amendment to reduce the likelihood of unwarranted attacks and invasion of privacy against a potentially innocent individual.

Response: Accepted. IRAS will provide details on its website after the amendments are passed by Parliament.

- b) Feedback: Limit the arresting powers to prevent abuse of powers on innocent individuals who might be unaware of the significance of the document that was destroyed or deleted.

Response: Accepted. The legislative amendment will provide that the arrest powers are to apply where the arresting officer has reason to believe that the act (i.e. destroying / attempting to destroy any document or thing or deleting / attempting to delete any information in anything) is done with a view to hinder or obstruct an IRAS investigator in the exercise of his powers.

The arresting powers are to be exercised only when necessary, such as to secure evidence for the investigation of tax crimes. In addition, the arresting powers can only be exercised by designated tax investigators who have received training.

Within IRAS, there will be clear guidelines and operational protocols on situations which allow the exercise of these powers by designated trained tax investigators. The training of tax investigators, guidelines and protocols will be consistent with those in other law enforcement agencies (LEAs).

- c) Feedback: Include an exception to not arrest persons who resist the taking of any document or thing, which is information subject to legal privilege in section 65F(1)(b)(iii).

Response: Accepted. We note that individuals may, in limited circumstances, have valid reasons to refuse handing over documents or items to IRAS officers for investigation. The proposed new section 65F(1)(b)(iii) in the Bill will be amended such that a person may only be arrested if he or she resists the taking of any document or thing without reasonable excuse.

3. Facilitating the sharing of information by IRAS with LEAs to combat serious crimes

- a) Feedback: Include a right for taxpayers to be notified once their information has been shared, and provide more clarity on how IRAS will determine when to share such information and what information should be shared.

Response: Not accepted. The proposed amendment is intended to allow IRAS to share with LEAs information that IRAS assesses as necessary for investigation or prosecution of serious crimes only. Such serious crimes include drug dealing and corruption.

Notifying the taxpayer(s) of the information shared or how information may be shared will alert potential suspects on ongoing investigations into serious crimes, thereby prejudicing the investigations.

- b) Feedback: The extensive list in the First and Second Schedules of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA) seems unrelated to tax crimes and/or money laundering activities. This appears to be inconsistent with the legislative intent underlying the proposed amendments.

Response: The proposed amendment is intended to allow IRAS to share information with LEAs for serious non-tax crimes, such as drug dealing and corruption. These serious non-tax crimes are listed in the First and Second Schedules of the CDSA.

4. Clarifying the tax treatment for leases arising from the adoption of Financial Reporting Standard (FRS) 116 leases

Feedback: Guiding principles on what constitutes a finance lease and operating lease could be codified in the Income Tax Act or issued as an e-Tax Guide for clarity.

Response: Accepted. IRAS will be providing guidance on what constitutes a finance lease and operating lease via an e-Tax Guide.

5. Clarifying the tax treatment for Real Estate Investment Trust Exchange-Traded Funds (REIT ETFs)

Feedback: Tax exemption accorded to individuals on distributions made by Singapore-listed Real Estate Investment Trusts (S-REITs) and approved REIT ETFs is part of a broader tax exemption for Singapore-sourced investment income

derived by individuals from financial instruments. The tax exemption is not part of the package of tax concessions granted for S-REITs or approved REIT ETFs.

- Remove the review date of 31 March 2020 for the tax exemption accorded to individuals on distributions out of income of S-REITs that qualifies for tax transparency; and
- Remove the defined period (i.e. 1 July 2018 to 31 March 2020) when the tax exemption is granted to individuals on distributions made by approved REIT ETFs.

Response: Not accepted. The review date of 31 March 2020 is imposed on the tax transparency treatment granted to trustees of S-REITs and REIT ETFs. The tax transparency treatment allows qualifying income derived by the S-REITs and REIT ETFs to be taxed in the hands of the unitholders, rather than at the trustee level. With tax transparency, a unitholder who is an individual will be exempt from tax. Without this tax transparency treatment, tax will be imposed at the trustee level before the distributions are made to the unitholders. Hence, the tax exemption that is granted to individual unitholders is a consequence of the tax transparency treatment. A review date is necessary for us to periodically review whether to continue the tax transparency treatment.