

ANNEX C: PROPOSED NON-BUDGET AMENDMENTS TO THE INCOME TAX ACT

S/N	Proposed Legislative Change	Brief Description of Proposed Legislative Changes	Amendment to ITA [Clause in Draft Income Tax (Amendment) Bill 2020]
1	Introduce a surcharge for tax avoidance arrangements	<p>The ITA allows the Comptroller to disregard or vary arrangements that are carried out with tax avoidance as one of their main purposes and not for bona fide commercial reasons; and to make relevant tax adjustments to counteract any tax avoidance under that arrangement. Currently, these tax adjustments only restore taxpayers to their initial tax position, as if the arrangement had not been entered into.</p> <p>To further deter tax avoidance arrangements, the proposed amendment in the ITA introduces a surcharge equal to 50% of the amount of additional income tax imposed by the Comptroller as a result of the adjustments made to counteract the tax avoidance arrangement. Under the draft Bill, the proposed surcharge is to apply to adjustments made to the tax assessment for YA2023 and subsequent YAs.</p> <p>The SDA contains a similar provision as the ITA in respect of tax avoidance arrangements. Therefore, as a related amendment, we are also proposing to introduce in the SDA a surcharge equal to 50% of the amount of additional stamp duties imposed by the Commissioner of Stamp Duties as a result of the adjustments made to counteract the tax avoidance arrangement. Under the draft Bill, the proposed surcharge is to apply to instruments or deemed instruments executed</p>	<p>Sections 33, 33A, and 34</p> <p>[Clauses 30 and 31]</p> <p>Related amendments to the Stamp Duties Act</p> <p>[Clause 63]</p>

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		<p>or deemed executed on or after the date the Amendment Act is published in the Gazette.</p> <p>A similar amendment will be proposed for the draft Goods and Services Tax (Amendment) Bill 2020.</p>	
2	Mandate electronic tax refunds	<p>To harness digital technologies to transform how the Government serves the public, general provisions will be proposed in the ITA to prescribe mandatory electronic tax refunds of corporate income tax by the IRAS to companies and Goods and Services Tax (“GST”) to GST-registered businesses, unless the Minister or such other persons may otherwise permit. A similar amendment will be proposed to the draft Goods and Services Tax (Amendment) Bill 2020 to provide for mandatory electronic refunds of GST by the IRAS to taxpayers.</p> <p>Under the draft Bill, the proposed amendment is to take effect from 1 January 2021, with regulations to prescribe mandatory electronic tax refunds for companies sometime in 2021.</p>	Section 7 [Clause 5]
3	Allow deduction of car-related expenses and CA on cars used in the business of providing chauffeur services	The proposed amendment seeks to keep up with changes in the business environment, where chauffeur services may no longer be provided as incidental to the main business of renting out cars. The proposed amendment is to take effect from YA2021.	Sections 10H, 15, and 19 [Clauses 7, 23, and 26]
4	Update definition of “incapacitated person” in the ITA	The proposed amendment seeks to delete the current definition of “any infant, lunatic, idiot or insane person”, and replace it with a definition that refers to:	Section 2 [Clause 2]

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		<p>a) An individual who is below 21 years of age; or</p> <p>b) An individual who lacks capacity to make a decision for himself/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, whether such impairment or disturbance is permanent or temporary.</p> <p>Under the draft Bill, this proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	
5	Amend Section 6 of the ITA (Official Secrecy) to introduce an exception based on taxpayers' consent, under prescribed circumstances	<p>The proposed amendment seeks to introduce a new exception to the Section 6 secrecy provisions to facilitate the disclosure of information to foreign tax authorities, with taxpayer's consent, for the purposes of Singapore's participation in multilateral tax compliance programmes, that will be specified in rules prescribed by the Minister, going forward.</p> <p>The proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	Section 6 [Clause 4]
6	Repeal Section 14F of the ITA	The proposed amendment seeks to repeal Section 14F of the ITA, which was introduced in 1981 to promote fund management activities in Singapore. With our periodic review of schemes, Section 14F is assessed to be no longer relevant. Over the years, we have made	Repeal of obsolete provisions [Clause 62]

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		<p>changes to the tax system, including the introduction of fund schemes under Section 13CA, 13R and 13X of the ITA.</p> <p>The proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	
7	Clarify the application of Section 37B of the ITA to unabsorbed CA, losses and donations (hereafter referred to as “loss items”) in respect of income subject to tax at one rate, when such loss items are deducted against income subject to a different rate of tax	The proposed amendment clarifies the application of the Section 37B adjustment factor to loss items in respect of income subject to tax at one rate, when such loss items are deducted against income subject to a different rate of tax for the same YA or a different YA, whether the income is derived from the same or different trade or business.	Sections 37B, 37C, 37E, 37M [Clauses 37, 38, 39, 42]
8	Clarify the assignment of approving authority of tax incentives	<p>The proposed amendment clarifies the assignment of approving authority of tax incentives from MOF to economic agencies.</p> <p>Under the draft Bill, the proposed amendment is to take effect from the date of notification in the Gazette.</p>	Sections 3A, 43ZI, Miscellaneous amendments relating to Section 3A, and Saving and transitional provisions

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			[Clauses 3, 53, 61, and 64]
9	Clarify the scope of WHT exemption of charter fee payment made to non-residents	<p>The proposed amendment clarifies that payments made under a finance lease of a ship does not qualify for tax exemption under Section 13(1)(oa) and the obligation to withhold tax under Section 45A of the ITA applies.</p> <p>Under the draft Bill, the proposed amendment is to take effect from 12 December 2018 to align with the effective date of the enhancement of the MSI.</p>	<p>Sections 13 and 45A</p> <p>[Clauses 9 and 54]</p>
10	Clarify that the scope of Section 13Y of the ITA includes pension funds established by a foreign government	<p>The proposed amendment clarifies that the scope of funds covered under the tax incentive for sovereign funds include government-linked pension funds established by a foreign government.</p> <p>The proposed amendment is to take effect from 1 Apr 2010.</p>	<p>Section 13Y</p> <p>[Clause 14]</p>
11	Exclude certain non-owners of immovable properties from the provision of Section 10E of the ITA	<p>The proposed amendment clarifies that Section 10E does not apply to non-owners of immovable properties.</p> <p>Section 10E <u>will not</u> apply to taxpayers who:</p> <p>a) Are not legal owners of the immovable properties; and</p>	<p>Section 10E</p> <p>[Clause 6]</p>

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		<p>b) Are not in a position to receive any consideration from the disposal of the immovable properties or from the novation of leases relating to these immovable properties.</p> <p>The proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	
12	Technical amendment to ITA, following Banking Act Amendment Bill in 2019	<p>The proposed amendment seeks to update the sections of the Banking Act (Cap. 19) for which “MAS Notice 637” is currently issued under.</p> <p>The proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	Section 100 [Clause 8]
13	Repeal obsolete provisions in the ITA	<p>The proposed amendment seeks to repeal the obsolete provisions as listed in the Annex. They are no longer relevant as the relevant tax schemes or treatments have expired.</p> <p>The proposed amendment is to take effect from the date the Amendment Act is published in the Gazette.</p>	Repeal of obsolete provisions [Clause 62]

Annex: List of obsolete provisions to be repealed

S/N	Section	Description
1	Section 14L	This section provides further deduction on prescribed expenses incurred for the relocation or recruitment of overseas talent during the period from 1 October 1998 to 30 September 2013.
2	Section 40 with consequential amendments to 40A(3), 40B(4), 40C(4), 40D(5), 43(1), 53(1), and Second Schedule Part C – Rates of tax for the computation of relief under Section 40.	This section provides relief for non-resident citizens and certain other non-residents. This relief was removed from YA2016.
3	Section 43N(1)(aa)(i)	This provision grants the Minister power to make regulations to apply a 10% concessionary tax rate on discount derived by a company from qualifying debt securities issued during the period from 27 February 2004 to 16 February 2006, which mature within one year.
4	Section 43N(1)(b) and (c)	These provisions grant the Minister power to make regulations to apply a 10% concessionary tax rate on income derived by a financial institution from trading in debt securities during the period from 28 February 1998 to 31 December 2003, and other specified activities during the period commencing from the first day of the basis period for YA2001 to 31 December 2003.
5	Section 43N(2)(b)(i)	This provision provides that Section 43N(1)(aa)(i) (see S/N 3) will not apply unless otherwise approved by the Minister or such person as he may appoint.
6	Section 43N(3)(a)	This provision grants the Minister power to make regulations to exempt from tax income derived before 1 January 2004 by any financial institution from arranging, underwriting or distributing any qualifying debt securities.
7	Section 45A(2)(a)	This provision disapplies Section 45A on discount from qualifying debt securities issued during the period from 27 February 2004 to 16 February 2006, which mature within one year.
8	Section 100(2) – delete the following words “or Section	The words “or Section 44(19) in force immediately before 1st January 2014” were inserted when Section 44 was repealed in 2013, to preserve the Comptroller’s right to take action/issue

S/N	Section	Description
	44(19) in force immediately before 1st January 2014”	assessment to recover taxes in relation to Section 44 cases. There are no longer any outstanding Section 44 cases.