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28 July 2008

Ministry of Finance
100 High Street
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Singapore 179434

**Attention: Mr Harvey Koenig
Deputy Director (Tax Policy)**

BY E-MAIL AND POST

E-mail: Harvey.KOENIG@mof.gov.sg
No. of pages: 4 page(s)
(including this page)

Dear Sirs

PUBLIC CONSULTATION ON INCOME TAX (AMENDMENT) BILL 2008

We refer to your e-mail request dated 27 June 2008 inviting the Law Society and our members to give our comments on the draft amendments to the Income Tax Act.

We disseminated information on the Income Tax (Amendment) Bill 2008 and invited feedback from our members.

We received 1 member's views on the Income Tax (Amendment) Bill 2008 and we append his comments as Annex A to this letter for your attention.

Yours faithfully



Kenneth Goh
Director, Representation & Law Reform

Enc.



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Public Consultation of Income Tax (Amendment) Bill 2008 - Submission of Comments

Summary of feedback:	<p>Allowing depreciation relief over a 3 year period for renovation and refurbishing works should be covered under an amended section 19, not through the introduction of a section 14Q.</p> <p>Incentivising R&D activities with complex double deduction schemes and investment (or tax) allowance schemes is not meaningful to companies under low or zero tax regimes. Consideration should be given to replacing such deduction schemes with funding assistance schemes outside the tax system.</p> <p>It is difficult to rationalize why exemption of contributions to overseas pension fund for an NOR expatriate is being made conditional on an employer not taking a tax deduction under S14(1)(e).</p> <p>The denial of writing down allowance to the buyer of IP rights under section 19B when he buys them from a related party is justified only if the latter does not include the consideration he receives in his chargeable income.</p> <p>The partial tax exemption system for companies in respect of the first \$300,000 of chargeable income is biased against unincorporated enterprises. If it is not the intention of the Government to remove this bias, consideration should be given for anti-abuse provisions to counter the possible abuse of Section 43(6)-(6A).</p>
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Public Consultation of Income Tax (Amendment) Bill 2008 - Submission of Comments

DETAILS

No.	Tax Change_ Amendment to Income Tax Act ^a	Comments ^b	Proposed change to draft Income Tax (Amendment) Bill
1.	S13(9)	Subsection 9A is inserted to define "subject to tax" as meaning tax paid or to be paid. However "to be paid" could be construed to mean also "deferred tax" as determined under accounting methodology to account for timing differences between pre-tax accounting profit and taxable income. If this is not the intention, it should be made clear in the amending legislation.	Amend Clause 6(f). Income "subject to tax " should be construed to mean tax paid or payable on that income excluding deferred tax charges which stem from application of accounting methodology to account for tax timing differences.
2	Enhancement and refinement of Not-Ordinarily Resident (NOR) Scheme S13N	Why should NOR benefits on contributions to overseas provident funds be conditional on employer not taking a deduction for the payment under S14(1)(e). CPF contributions made by employer for employee are tax deductible even though the employee is exempt from personal income tax on such contributions.	Delete Clause 13(b)(iii) .
3	Tax Incentive for fixtures/fittings S14Q	A separate section, 14Q, has been introduced to provide for deductions over 3 years in respect of capital expenditure on renovation and refurbishment works with a cap of \$150,000 every 3 years. Unutilised deductions are also not allowed group relief transfers. Is it necessary and relevant for potential revenue losses to be recaptured in this way? It creates undue complexity. It is more efficient for IRAS to treat such types expenditure as comparable to costs of furniture and fittings for which capital allowance relief under sections 19-19A is allowed.	Rather than introduce S14Q, clause 23 should amend section 19 to provide for such types of capital expenditure to be treated as costs of depreciable furniture fittings up to prescribed limits.

Public Consultation of Income Tax (Amendment) Bill 2008 - Submission of Comments

No.	Tax Change_ Amendment to Income Tax Act ^a	Comments ^b	Proposed change to draft Income Tax (Amendment) Bill
4	Section 19 B writing down allowances for intellectual property (IP) rights S19B	Why deny writing-down allowance to a person who incurs capital expenditure on acquisition of IP rights from a related party if latter is taxed on consideration received?	Amend Clause 27 to deny writing down allowance to purchaser of IP rights from related company only in cases where proceeds are not included in chargeable income of seller.
5	R&D incentive for Start-up Enterprise (RISE) S14DA, 14E, 37G, 37H	Very complex provisions have been drafted for incentivising the undertaking of Research and Development work by taxpaying Singapore companies in the form of double deduction and tax allowance relief. Tax deductions are only meaningful to taxpayers who are subject to high tax rate regimes. Companies under low or zero tax regimes would find non-tax incentives more meaningful. Consider replacing provisions for all extra expense deduction reliefs with funding assistance from Government outside the tax system.	Consider replacing the provisions of S14DA, 14E, 37G and 37H with Funding assistance schemes outside the tax system.
6	Liberalise start-up exemption scheme to encourage entrepreneurship S43(6)-(6A)	Current Legislation provides partially tax exempt regimes to only incorporated enterprises– particularly start-up enterprises. And clause 36 of the amendment bill provides an even more liberal definition of a qualifying start-up company. The system is biased against unincorporated enterprises. If it is not the intention of Govt to remove this bias in the near future, anti-avoidance provisions may need to be introduced in sections 43(6)-(6A) to prevent abuse.	The partial exemption tax regime for companies is biased towards enterprises which are incorporated. Should this be reviewed?

^a To quote the title of the tax change as well as the relevant Section(s) of the draft Income Tax (Amendment) Bill 2008. Please refer to the Summary Table for reference.

^b Illustrations and diagrams could be attached as Annexes.