

	A	B	C
	\$	\$	\$
YA 2015			
Amount claimable:			
100% deduction for leasing expenditure under s 14	550,000	300,000	100,000
100% allowances under s 19A(2)	550,000	300,000	100,000
Total amount claimable under PIC (s 14T(4)):			
- 300% × Lower (\$1,100,000 or (\$1,200,000 – \$600,000))	1,800,000		
- 300% × Lower of (\$600,000 or (\$1,200,000 – \$1,100,000))		300,000	
- 300% × Lower of (\$200,000 or (\$1,200,000 – \$1,200,000))			0
Total claims	2,900,000	900,000	200,000
Total claims over YA 2013, YA 2014 and YA 2015	5,300,000	5,300,000	5,300,000

¶8-242 Plant or machinery provided for R&D purposes

From YA 2009, a taxpayer who is carrying on any trade or business can claim capital allowances under s 19 or 19A, subject to conditions, for capital expenditure incurred on the provision of plant or machinery for R&D purposes even though the plant or machinery is not provided for the taxpayer's trade or business (s 19(8) and 19A(14B)). The qualifying capital expenditure must be incurred during the basis periods for the relevant YAs (YA 2009 to YA 2015) either directly by the taxpayer or by a R&D organisation that carries out the qualifying activities in Singapore on the taxpayer's behalf. See IRAS e-Tax Guide "Research and Development Tax Measures" published on 31 October 2008 and revised on 12 December 2008 for more details.

¶8-243 Plant or machinery used for dual purposes

In practice, individuals are granted capital allowances in respect of the capital expenditure they incurred on the provision of plant or machinery that are being used for their TBP and for private purposes. The Comptroller permits a reasonable apportionment between business and non-business use.

Example 17

Assume that the annual allowance for a van is \$4,667 and the Comptroller has determined that private usage accounts for 20% of total usage. The annual allowance to be granted as deduction against business income would be \$3,734 (ie 80% of \$4,667).

¶8-245 Integrated industrial capital allowance (IICA)

The integrated industrial capital allowances (IICA) scheme has been withdrawn following the introduction of the Integrated Investment Allowance (IIA) scheme on 17 February 2012.

The IICA scheme was available to companies who locate their headquarters and marketing activities in Singapore while their manufacturing activities are located in lower-cost countries in the region.

Before the IICA incentive was introduced, capital allowances were granted only on plant or machinery that were used for the purposes of a company's own trade or business. Under the IICA incentive, which took effect from 1 March 2003, Singapore entities were allowed to claim capital allowances on their own plant and machinery used by their wholly owned subsidiaries outside Singapore. The EDB is the approving agency. The incentive is for an initial period of 10 years (see Pt XIID of the *Economic Expansion Incentives (Relief from Income Tax) Act (Cap 86, 2005 Ed)* (the "EEIA") and ¶19-750).

The IIA scheme which was introduced in the 2012 Budget provides an additional allowance on top of capital allowance on fixed capital expenditure incurred for productive equipment placed overseas on approved projects. The IIA scheme took effect from YA 2013 for a period of five years for qualifying capital expenditure incurred on or after 17 February 2012. The EDB will administer this incentive. See ¶19-755 for more details.

¶8-250 Relationship between capital allowances and the renewal or replacement basis of deduction

Section 14(1)(c) provides, *inter alia*, that an expense incurred for the renewal of any implement, utensil or article is deductible. In the case of plant and machinery, a deduction for the renewal of such assets can be allowed only if capital allowances have not previously been claimed on them.

The renewal or replacement basis of deduction is not granted for the expenditure incurred to acquire the original asset. The claimant may also be required to prove that there is no element of improvement in the new item replacing the old one to qualify for the full deduction. In this regard, a claim for renewal deduction is generally less favourable than a claim for capital allowances. In practice, the renewal deduction is therefore normally claimed on items that do not qualify for capital allowances. These items include loose tools, implements, curtains and furnishings, moulds, uniforms and other items that have a relatively short life. The s 14(1)(c) renewal deduction is applicable

also to assets that are used in the production of income other than income from a TBP. For example, a landlord who derives rental income under s 10(1)(f) can claim a deduction for the cost of replacement curtains.

¶8-255 Balancing allowance and charge

Known as balancing adjustments, a balancing allowance or a balancing charge is made if any of the following events takes place (s 20(1)):

- the plant or machinery ceases to belong to the taxpayer (eg if the asset is sold, scrapped or given in part exchange)
- the trade is permanently discontinued and the plant or machinery continues to belong to the taxpayer, or
- the plant or machinery permanently ceases to be used for the trade.

Situation (b) above applies also to a taxpayer who has been granted capital allowances (see ¶8-241) for plant and machinery that was provided for R&D undertaken by him or on his behalf and not for his trade or business (s 20(1)(b)).

The amount of balancing adjustment depends on the unallowed expenditure (ie the written-down value) of the plant or machinery and the sale, insurance, salvage proceeds or compensation received by the taxpayer. Thus, the total capital allowances made to a taxpayer will be equal to the original cost less whatever amount is received on the disposal of the asset.

Dismantling or disposal expenses

Where expenditure is incurred to dismantle or to dispose of plant or machinery, it should be deducted from the said receipts in calculating the balancing allowance or balancing charge.

If the written-down value of an asset exceeds the said receipts, a balancing allowance arises. If the said receipts exceed the written-down value, a balancing charge arises. The amount of balancing charge is, however, restricted to the total amount of capital allowances already granted on the asset.

Application of open-market price

If a sale is made at a price lower than the open-market price, the Comptroller has the power to apply the open-market price for purposes of calculating balancing adjustments (s 20(1A)). For this purpose, "open-market price" means the price that the machinery or plant would have fetched if it had been sold in the open market at the time of the event in question (s 20(7)).

Compensation money

The issue of whether an *ex gratia* payment received by a taxpayer from its landlord to help defray the cost of relocation of its business from one location to another could constitute "compensation money" under s 20(3) was examined in the Singapore Board of Review case *YE v CIT* (2008) SGITBR 1. The facts of the case established that the sum of moneys received by the

taxpayer was for dismantling, transportation and reinstallation of plant and machinery as well as for the replacement of unsalvageable civil, structural and mechanical and electrical works. The taxpayer's argument, that "compensation moneys" must refer to compensation moneys received for the plant and not compensation for financial assistance in the relocation, was agreed upon by the Board. The Board, applying the rule that the words of a taxing act should be strictly construed, held that "compensation moneys" in s 20(3) should not be construed without restriction to include all moneys received by a taxpayer as compensation for any loss arising when the plant or machinery ceased to be used in a trade or business or ceased to belong to the taxpayer.

¶8-260 Replacement of assets

Where a new item of machinery or plant is acquired to replace an existing one, and a balancing charge arises from the disposal of the latter, the taxpayer may elect to set off the balancing charge against the cost of the new item (s 21).

The effects of making a s 21 election are as follows:

- Where the balancing charge > cost of new asset
 - An amount equal to the difference will be the balancing charge to be made for the replaced asset.
 - No initial, annual or balancing allowances will be made or allowed for the new asset.
 - The written-down value of the new asset is nil as an initial allowance equal to its cost is deemed to have been granted. When the new asset is sold, a balancing charge equal to the amount of sale proceeds, if any (since the written-down value is nil), will occur. This balancing charge is restricted to the cost of the new asset.
- Where the balancing charge < cost of new asset
 - No balancing charge will be made for the replaced asset.
 - The initial and annual allowances for the new asset will be computed based on its cost after deducting the balancing charge arising on disposal of the replaced asset.
 - An initial allowance equal to the amount of balancing charge that had arisen on disposal of the replaced asset and that had been set off against the cost of the new asset is deemed to have been granted on the new asset. When the new asset is sold, this will be taken into account in calculating the balancing allowance or balancing charge.

A result of making a s 21 election is therefore to defer the balancing charge. If the company is profitable for tax purposes, this translates to a deferral of tax liability and an improvement in cash flow. However, the total amount of capital allowances granted on the eventual sale of the replacement asset will be the same regardless of whether or not a s 21 election has been made.

Section 21 does not apply to motor cars that do not qualify for capital allowances under s 19(5). In the case of a foreign registered motor car that is used exclusively outside Singapore, its replacement cost will be restricted to \$35,000 (s 21(5)).

¶8-270 Sales between persons under common control

Where the buyer and seller of plant or machinery are under common control, or where one has control over the other, they can make an election under s 24 to treat the written-down value of the asset sold as the deemed sale price. The sale must not be one to which the general anti-avoidance provision of s 33 applies (s 24).

The consequences of a s 24 election are as follows:

- No balancing allowance or balancing charge is made on the seller because the sale price is deemed to be the written-down value of the asset sold (s 24(3)(a)(ii)).
- If the seller has previously claimed s 19A allowances, such allowances continue to be available to the buyer and not to the seller, as if no sale had taken place (s 24(3)(c); see also *CIT v GE Pacific Ltd* (1994) 2 MSTC 7,252).
- If the seller has claimed s 19 allowances before the election, the buyer will continue to be granted s 19 allowances based on the written-down value after the election. The buyer is not granted any initial allowance (s 24(3)(b)).
- If the buyer subsequently sells the asset and a balancing charge arises on the sale, the buyer is treated as having been granted the total of initial and annual allowances made not only to him but also to the seller in the election (s 24(3)(e)). The amount of balancing charge will therefore be restricted to this total.

From 7 November 2005, where a change occurs in a partnership of persons carrying on any TBP by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, and where a s 24 election has not been made, any property of the partnership shall be treated as if the property had been sold:

- to all the remaining partners and new partners of the partnership on the date the change occurs, and
- at the open-market price (s 24(5)).

Example 18

A Ltd has two wholly owned subsidiaries, B Ltd and C Ltd. During the year 2011, B Ltd transferred a piece of machinery to C Ltd. This asset was acquired by B Ltd in 2008 at a cost of \$60,000. Both companies made the election under s 24. The machinery has six years of working life under the Sixth Schedule. Assume capital allowances were claimed under s 19.

(a) Assume B Ltd had claimed 33 $\frac{1}{3}$ % capital allowances under s 19A. The allowances for the relevant YAs would be:

B Ltd	\$
YA 2013	
Cost of machinery	60,000
Less: Accelerated allowances (YA 2011 and YA 2012)	(40,000)
Written-down value	20,000
Less: Deemed sale price	(20,000)
Balancing adjustment	<u>NA*</u>
* No balancing allowance or charge is computed because of s 24 election.	
Written-down value transferred to C Ltd in view of s 24 election	<u>20,000</u>

C Ltd	\$
YA 2012	
Written-down value transferred from B Ltd	<u>20,000</u>
C Ltd can claim annual allowance of \$20,000 for YA 2013.	

(b) Assume capital allowances were claimed by B Ltd under s 19. The allowances for the relevant YAs would be:

B Ltd	\$	\$
YA 2013		
Cost of machinery		60,000
Less: IA (YA 2011)	12,000	
AA (YA 2011 and YA 2012)	<u>16,000</u>	<u>28,000</u>
Written-down value		32,000
Less: Deemed sale price		<u>32,000</u>
Balancing adjustment		<u>NA*</u>
* No balancing allowance or charge is computed because of s 24 election		
Written-down value transferred to C Ltd in view of s 24 election		<u>32,000</u>

C Ltd	\$
YA 2013	
Written-down value transferred from B Ltd	<u>32,000</u>
C Ltd can claim annual allowance of \$8,000 for four years from YA 2013 to YA 2016.	

TAXATION OF NON-RESIDENT INDIVIDUALS

¶13-100 Taxation of non-resident individuals

Non-resident individuals are subject to tax on all Singapore-sourced income unless the income is exempt from tax, such as interest income from a deposit in an approved bank in Singapore (s 13(1)(t)). Foreign income received in Singapore by a non-resident individual is exempt from tax (s 13(7A)(a)).

A non-resident individual is subject to tax on Singapore-sourced income at 20% (from the year of assessment (YA) 2008) except the following, among others:

- Singapore employment income is assessed at a flat rate of 15% or at the applicable resident rates whichever results in a higher tax liability (s 40B)
- certain income deemed to be Singapore-sourced under s 12(6) or (7) (eg royalties, interest, know-how payments and rent from movable property) is subject to withholding tax at either 15% or 10% (as the case may be; the tax is a final tax (s 43(3) and 43(3A))
- gains from the disposal of any real property assessable under s 10(1)(a) of a non-resident real property trader are subject to withholding tax of 15% (s 45D(1))
- income derived from Singapore as a non-resident professional is subject to withholding tax at 15% (final tax) unless an election is made (in which case, a 20% tax rate on a non-final basis applies) (s 43(4), 43(5) and 45F), and
- income derived from Singapore as a non-resident public entertainer (from 22 February 2010 to 31 March 2015) is subject to withholding tax at 10% (final tax) (s 45GA).

Only resident individuals are entitled to personal reliefs under s 39 (see Chapter 12 at ¶12-100ff). Certain other reliefs are, however, available to non-resident individuals, eg s 40, 40A, 40B, 40C and 40D reliefs (see ¶13-110 to ¶13-150).

¶13-110 Relief for non-resident Singapore citizens and others

The s 40 relief is available to the following taxpayers with qualifying income:

Section	Eligible taxpayer	Income qualifying for relief
40(1)	Non-resident citizens of Singapore	All Singapore-sourced income taxable at 20% Singapore pension income
40(3)	Non-resident non-Singapore citizens deriving pension income from Singapore	
40(4)	Non-resident non-Singapore citizen who is resident in a treaty country which provides similar relief to a resident of Singapore (the Netherlands treaty (Art 23(2))).	All Singapore-sourced income taxable at 20%

The effect of s 40(1) and 40(4) reliefs on a qualifying non-resident individual is to reduce the tax payable on Singapore income to a proportionate basis as follows:

$$\frac{\text{Singapore income (Si)}}{\text{Worldwide income (Wi)}} \times \text{Singapore tax payable on worldwide income (T)}$$

The worldwide income includes all foreign income (whether remitted or not), Singapore income subject to 20% tax and Singapore employment income subject to 15% tax under s 40B. Singapore income that is subject to a final tax rate of 15% or 10% under s 43(3), 43(3A) and 43(4)(a) is not eligible for the relief (s 40(5)). Such income and any other income exempt in Singapore are excluded from worldwide income when calculating the s 40(1) relief. In calculating the Singapore tax on worldwide income, the non-resident would be treated as if he was resident in Singapore. The non-resident can claim personal reliefs under s 39 except for course fees (s 40(1)). The chargeable income would be subject to the tax rates in Pt C of the Second Schedule to the *Income Tax Act (Cap 134, 2008 Revised Ed)* (the "Act").

Example 1

Albert, a Singapore citizen who is resident in Malaysia, owns a flat in Singapore. During the year 2012, he derived net rental income of \$5,000 and his worldwide income excluding Singapore income was \$35,000. His Singapore tax liability for YA 2013 will be computed as follows:

	\$
Rental income	5,000
Tax @ 20%	1,000
Less: Relief under s 40(1)	(456)
Net tax payable	544

The relief under s 40(1) is calculated as follows:

Net rental derived from Singapore (Si)	\$
Income derived from outside Singapore	5,000
Assessable income (Wi)	35,000
Less: Personal reliefs (say)	40,000
Chargeable income	(8,500)
Net tax thereon (Second Schedule, Pt C rates)	31,500
	<u>4,350</u>

Proportionate tax payable on Singapore income would be:

$$\frac{Si (\$5,000) \times T (\$4,350)}{Wi (\$40,000)} = 544$$

Relief under s 40(1) relief:

- = tax payable at non-resident rate – proportionate tax payable on Singapore income
- = \$1,000 – \$544
- = \$456

Note that s 40(1) relief is given as the Singapore effective tax rate of 10.87% (\$4,350/\$40,000) is lower than the non-resident rate of 20%. If the effective tax rate exceeds 20%, the non-resident will be taxed at 20% on his Singapore rental income.

¶13-120 Relief for non-resident public entertainers

Non-resident public entertainers are given s 40A relief whereby their Singapore income net of allowable deductions is subject to tax at a flat rate of 15% or 10% depending on when the income was earned. Other Singapore-sourced income is generally subject to a 20% tax rate. Public entertainers mean stage, radio or television artistes, musicians and athletes or individuals exercising any profession, vocation or employment of a similar nature (s 40A(4)).

The s 40A relief does not apply to the following income of a non-resident public entertainer (s 40A(1)):

- any withdrawal from the non-resident's Supplementary Retirement Scheme (SRS) account deemed to be income subject to tax under s 10L, or
- income from the exercise of any other employment in Singapore.

Instead, the non-resident public entertainer can claim s 40D relief for the above income (see ¶13-150).

Gross income derived by a non-resident public entertainer from services performed in Singapore for the five-year period from 22 February 2010 to 31 March 2015 is subject to a withholding tax of 10% (s 40A(2A); s 45GA; IRAS e-Tax Guide "Tax on Gross Income Derived from Singapore by Non-Resident

Public Entertainers — Clarification on Obligations to Local Payer to Withhold Tax" published on 15 June 2007). This reduction in tax rate (from 15% to 10% for the five-year period is aimed at helping local organisers attract high quality performances to Singapore.

Gross income refers to both monetary and non-monetary payments including all fees, allowances and any benefits-in-kind provided (eg *per diem* allowances, airfare, food and accommodation). As an administrative concession, the cost of airfare and accommodation (excluding value of food) provided for 60 days or less in any calendar year will not be taxable. If the public entertainer paid for these expenses on his own, the public entertainer is allowed to deduct these expenses from his taxable income.

Example 2

Ms Young, a public entertainer, has a contract to perform in Singapore for 20 days in 2013 for a fee of \$10,000. She is provided with hotel accommodation at \$200 a day. Ms Young pays her own airfare of \$1,000. Her tax liability would be as follows:

	\$
Fees	10,000
Hotel accommodation provided (not taxable by concession)	—
	10,000
Less: Airfare paid by the public entertainer (concession)	(1,000)
Taxable income	<u>9,000</u>
Withholding tax @ 10%	<u>900</u>

If the contract provides for Ms Young's Singapore income tax to be borne by the sponsor, Ms Young will be taxable on that benefit as it constitutes income in her hands. Her net-of-tax amount will be \$9,000, and the calculations are as follows:

	\$
Taxable income, as above	<u>9,000</u>
Add: Income tax borne by sponsor (\$9,000 × 10/90)	1,000
Total taxable income	10,000
Withholding tax @ 10%	<u>1,000</u>

A public entertainer does not qualify for s 13(6) exemption merely because he is an employee by status and his visit to Singapore does not exceed 60 days in a calendar year (s 13(7)). The s 13(6) exemption would apply only if, as an additional condition, his visit was substantially supported from the public funds of the Government of a foreign country.

Foreign actors coming to Singapore in connection with the shooting of scenes are normally not regarded as public entertainers. If their status is that of an employee, any income from their employment exercised in Singapore is

deemed to be derived from Singapore under s 12(4). However, such employment income is exempt from tax if their stay in Singapore is not more than 60 days in a calendar year (s 13(6)). If they exercise employment in Singapore for more than 60 days in a year, then subject to the tax treaties, their employment income is taxable in Singapore and they are required to file a tax return to report their income applicable to the period they were in Singapore.

¶13-130 Relief for non-resident employees

A non-resident employee is assessed to tax on income derived from the exercise of employment in Singapore at either a flat rate of 15%, or the resident rates applicable to him, whichever gives a higher tax liability (s 40B). The 15% tax is applied on employment income net of deductible expenses but without any deduction for personal reliefs. All other Singapore-sourced income is subject to 20% tax, unless it qualifies for a reduced tax rate or is exempt from tax (eg interest income from a fixed deposit with an approved bank).

A non-resident employee is defined as an individual who has exercised an employment in Singapore for such period of time as not to qualify for the status of a resident and includes an individual who is in receipt of leave pay attributable to a period of employment in Singapore but excludes a company director. However, the current Inland Revenue Authority of Singapore (IRAS) practice is to extend the s 40B relief to a full-time working director.

In practice, therefore, s 40B relief applies to a non-resident individual who exercises an employment in Singapore for a period between 61 days and 182 days (inclusive) during the calendar year. The reason is that he would be exempt from tax on the Singapore employment income if he had exercised the employment in Singapore for 60 days or less, and he would have qualified to be a resident in Singapore if that period is 183 days or more (see Chapter 2, ¶2-610).

The s 40B relief does not apply to the following income of non-resident employees (s 40B(1)):

- any withdrawal from the employee's SRS account deemed to be income subject to tax under s 10L, or
- income derived as a public entertainer.

Example 3

Michael is unmarried and a resident of the US, a non-treaty country. He worked in Singapore for five months in 2012. His Singapore employment income was \$79,000. His tax liability for YA 2013 is as follows:

	\$
15% flat rate basis	
Employment income	81,000
Tax @ 15%	<u>12,150</u>

	\$
Resident basis	81,000
Employment income	<u>(1,000)</u>
Less: Earned income relief (assumed)	80,000
Chargeable income	<u>3,350</u>
Tax liability (Second Schedule, Pt A rates)	<u>3,350</u>

As tax payable under the resident basis is lower, Michael's tax payable will be \$12,150.

¶13-140 Relief for non-resident SRS members

A non-resident SRS member is entitled to s 40C relief for the withdrawals he makes from his SRS account which are deemed to be income under s 10L. The effect of s 40C relief is that the amount of the non-resident's SRS withdrawals deemed income (the amount is 50%) is assessed at the higher of 15% flat rate or the applicable resident rates. In order to claim this relief, the non-resident has to file his income tax return.

In the case of a non-citizen non-resident SRS member, the amount of SRS withdrawals deemed income is subject to withholding tax of 20% (s 45E).

¶13-150 Relief for non-resident deriving income from activity as public entertainer and employee, etc

Relief under s 40D is available to a non-resident individual who derives income from two or more of the following sources (ie "relevant income"):

- income derived as a public entertainer which qualifies for s 40A relief
- Singapore employment income, and
- withdrawals from his SRS account.

The effect of s 40D relief is that the proportionate tax on each of these types of income is reduced to the 15% tax rate but the tax payable on Singapore employment income and the SRS withdrawals cannot be less than that payable by a resident individual under similar circumstances.

¶13-300 Deemed-source provisions

Section 12 deems the source of the following income to be in Singapore:

- gains or profits from trading operations partly carried on by a non-resident person in Singapore (s 12(1))
- profits of non-resident operators of ships and aircraft arising from the outward shipment of passengers, mail, livestock and goods from Singapore (s 12(2))
- profits of non-resident persons in the business of cable or wireless undertakings where such profits arise from the transmission of messages in Singapore (s 12(3)) (see ¶13-850)

Qualifying Processing Services Company	¶18-550
Insurance business	
Offshore insurance business	¶18-610
Financial guarantee business	¶18-620
Captive insurance	¶18-630
Insurance tax incentive schemes	¶18-640
Finance and Treasury Centre	
Finance and Treasury Centre	¶18-650
Approved venture company	
Approved venture company	¶18-700
Global trading	
Approved global trading company	¶18-750
E-commerce	
Approved cyber trader	¶18-850
Maritime sector	
Maritime Sector Incentive (MSI)	¶18-900
Approved International Shipping Enterprise scheme	¶18-905
Maritime Finance Incentive	¶18-910
Ship brokers and Forward Freight Agreement (FFA) traders	¶18-915
Ship management services	¶18-920
Event organisers	
Event company	¶18-950
Holding companies	
Approved holding company	¶18-950
International arbitration	
International Arbitration Tax Incentive	¶18-970
Not-for-profit	
Tax exemption scheme for not-for-profit organisations (NPOs)	¶18-980
Investment holding	
Family-owned investment holding companies (FIHC)	¶18-985
Business trusts	
Provision of management services to business trusts	¶18-990
Corporate amalgamations	
Tax framework for facilitating corporate amalgamations	¶18-995
Merger and acquisition (M&A) allowance and stamp duty remission for qualifying M&A deals	¶18-996
Tax deduction for angel investors	¶18-997
Aviation sector	
Aircraft leasing scheme	¶18-998

OVERVIEW

¶18-100 Overview

Several enhancements to the existing tax incentive schemes were announced in the 2013 Budget. These initiatives include refinements to the Financial Sector Incentive (FSI) scheme to encourage the continued growth of financial sector activities in Singapore.

The FSI scheme, which will expire on 31 December 2013 (except FSI-Islamic Finance (FSI-IF)), is extended for five years to 31 December 2018. The FSI-IF award will expire on 31 March 2013 and will not be extended. The existing qualifying Islamic financing activities will be incentivised under the FSI-Standard Tier (FSI-ST) award.

The FSI scheme, which comprises 12 separate awards, will be refined as follows:

- the five separate subawards under the FSI-Derivatives Market (FSI-DM) will be merged to form a single FSI-DM award
- the FSI-Bond Market (FSI-BM) and FSI-Equity Market (FSI-EM) awards will be merged to form a single FSI-Capital Markets (FSI-CM) award
- the withholding tax (WHT) exemption will be granted automatically to recipients of the FSI-Headquarter (FSI-HQ) Services award on interest payments made during the period of their FSI-HQ Services award for qualifying loans with effect from 25 February 2013
- the range of incentivised activities and financial instruments will be broadened for the FSI-ST, FSI-CM and FSI-Credit Facilities Syndication awards.

These changes will take effect from 1 January 2014 unless otherwise stated. The Monetary Authority of Singapore (MAS) will release further details by June 2013.

¶18-110 Types of incentives and eligible taxpayers

This chapter deals with some of the incentives contained in the *Income Tax Act (Cap 134, 2008 Revised Ed)* (the "Act") and its subsidiary legislation. The incentives given to the selected group of taxpayers are either exemption from income tax or taxation at a reduced concessionary tax rate of usually 10% or 5%.

The following table gives the relevant sections of the Act for the different tax incentives subject to concessionary tax rate(s) as well as the corresponding Regulations:

Section	Tax incentive	Regulations*
43A	Asian Currency Unit, fund manager and securities company	4, S 183/2003, S 735/2005
43B	Non-resident shipowner or charterer or air transport undertaking	—
43C	Insurance and reinsurance business	25, 26, 27, 28
43D	Singapore Exchange or its subsidiaries	16, S 639/2003
43E	Headquarters company	6
43F	Oil trading company	15
43G	Finance and Treasury Centre	18
43H	International commodity trading	14
43I	Offshore leasing of machinery and plant	S 566/2008
43J	Trustee company	21
43K	Commodity future exchanges	S 316/2009
43N	Income derived from debt securities	32
43O	Cyber trading	33
43P	Global trading company	S 204/2003
43Q	Financial sector incentive company	S 735/2005
43R	Provision of processing services to financial institutions	S 348/2005
43S	Commodity derivatives trading company	S 672/2005
43T	Securities lending or repurchase company	S 259/2006
43U	Event company	—
43V	Clearing member of Singapore clearing house	S 96/2007
43W	Shipping investment manager	S 696/2010
43X	Singapore resident beneficiary of a trust	—
43Y	Aircraft leasing company	S 566/2008
43Z	Aircraft investment manager	S 565/2008
43ZA	Container investment enterprise	—
43ZB	Container investment manager	S 697/2010
43ZC	Approved insurance brokers	S 136/2009
43ZD	Income derived from managing qualifying registered business trust or company	S 155/2009
43ZE	Ship broker and forward freight agreement trader	—
43ZF	Shipping-related support services	S 4/2012

* Regulations refer to the legislation number assigned to the Regulations, eg *Income Tax (Concessionary Rate of Tax or Exemption for Income Derived from Debt Securities) Regulations* is Regulation (Rg) 32. Where there is no regulation number assigned, the gazette number is shown, eg S 637/2003.

¶18-120 Ascertaining exempt or concessionary income

The abovementioned sections of the Act or the Regulations provide the details for determining the exempt or concessionary income for each incentive.

For most incentives mentioned in this chapter, the following items allowable under the Act must be deducted in ascertaining the exempt income or income chargeable to tax at the concessionary rate (ie concessionary income):

- expenses incurred in the production of the exempt income or concessionary income
- capital allowances, and
- approved donations.

Furthermore, any losses arising from the qualifying activities must be deducted in accordance with the Act or the relevant Regulations. In all cases, the deduction of the capital allowances, losses and donations brought forward from prior years of assessment (YAs) against the company's assessable income would be subject to the shareholders' continuity test under s 37 (see Chapter 9 at ¶9-100ff).

In certain situations, eg where a financial institution or an approved securities company suffers any loss arising from syndicated offshore credit or underwriting facilities or syndicated guarantee facility, that loss can be set off only against future exempt income from this source.

¶18-130 Exempt dividends

With the one-tier corporate tax system fully in place on 1 January 2008, all dividend payments on or after 1 January 2008 are tax exempt in the hands of the shareholders. There is no requirement to distinguish between dividends paid out of taxable income and dividends paid out of income exempt from tax or income subject to concessionary tax rates.

FINANCIAL SERVICE SECTOR

¶18-160 Overview

To streamline the various tax incentives for the financial service industry, an umbrella FSI scheme was introduced to merge these incentives. The objective of this scheme is to encourage the development of high-growth and high value-added financial activities in Singapore. The FSI scheme came into effect on 1 January 2004 and is regulated by the MAS. The FSI scheme, which will expire on 31 December 2013 (except FSI-IF), is extended for another five years to 31 December 2018 (2013 Budget announcement). The FSI-IF award will expire on 31 March 2013 and will not be extended.

The following seven tax incentive schemes were merged into the FSI scheme with effect from 1 January 2004:

- (a) Approved Bond Intermediaries (ABI) (¶18-210)
- (b) Asian Currency Units (ACUs) (¶18-250)
- (c) Approved Derivative Traders (ADT) (¶18-330)
- (d) Approved Fund Managers (AFM) (¶18-350)
- (e) Equity Capital Market Intermediaries (ECMI) (¶18-400)
- (f) Operational Headquarters (OHQ) (¶18-500), and
- (g) Syndicated Offshore Credit and Underwriting Facilities (Syndicated Facilities) (¶18-450).

Companies that were previously awarded any of the above incentives were automatically moved to the FSI scheme on 1 January 2004 and will continue to enjoy the respective tax incentives up to the expiry of their existing awards.

Tax treatment of income from qualifying activities

Under the FSI scheme, there are two types of FSI qualifying activities and the income derived from these categorised activities is subject to concessionary tax rates of 5% or 10% as follows (s 43Q(1)):

- *Enhanced-tier (ET) qualifying activities and awards*

All income derived from ET activities is taxed at the concessionary tax rate of 5% and is not subject to any qualifying base (QB) (see below). The initial tenure is expected to be 5 years and may be granted up to 10 years depending on the scope of activities of the company.

- *Standard-tier (ST) qualifying activities and awards*

Income derived from ST activities from 1 January 2004 in excess of the QB amount is taxed at the concessionary tax rate of 10%. The QB amount is taxed at the normal corporate tax rate of 17% (with effect from year of assessment (YA) 2010).

When a company transits into or applies for its first FSI award, it has to compute an initial QB, which will be the predetermined percentage to be applied to income from ST activities. The resulting QB amount will not qualify for the 10% tax rate but will be taxed at the normal corporate tax rate. The QB is based on the income from three YAs prior to the commencement of the FSI activities.

The MAS Circular FDD Cir 07/2003 (*Financial Sector Incentive (FSI) Scheme — Details for Implementation of Qualifying Base (QB)*) dated 17 July 2003 provides details on the determination of the QB.

The following companies that have been granted the FSI awards are not subject to the QB, ie all their income from the qualifying activities is taxed at 10%:

- companies with the FSI-HQ Services award, and
- companies engaged solely in fund management or investment advisory services.

The qualifying FSI activities and criteria given in the MAS Circular FDD Cir 05/2003 (*Details of Financial Sector Incentive (FSI) Scheme*) dated 1 April 2003 are reproduced in the paragraphs below. See *Income Tax (Concessionary Rate of Tax for Financial Sector Incentive Companies) Regulations 2005* for the prescribed qualifying activities and deduction of losses.

Removal of qualifying base

It was announced during the 2010 Budget that with effect from 1 January 2011, the QB will be removed and the concessionary tax rate of 10% under the FSI-ST award will be changed in tandem to 12%. The list of qualifying activities will also be updated. These changes were introduced to simplify the rules of the FSI scheme and lower compliance costs for the financial institutions.

Further enhancement to the liberalisation of the WHT exemption regime for banks

Approved banks gazetted under the Act enjoy WHT exemption on interest and other qualifying payments made to their branches or other banks outside Singapore under a remission for inter-bank/inter-branch payments granted under s 92(2). Banks also enjoy various WHT class exemptions on certain payments made to non-bank non-residents relating to specific transactions (eg payments relating to over-the-counter (OTC) financial derivatives, structured products, securities lending, etc).

To facilitate access to a wider range of funding sources for their lending business and strengthen Singapore's position as a regional funding centre, the following enhancements came into effect on 1 April 2011:

- (a) The WHT exemption is granted on interest and other qualifying payments falling within the ambit of s 12(6) made to all non-resident persons (excluding permanent establishments (PEs) in Singapore) if the payments are made for the purpose of their trade or business, and
- (b) The WHT exemption is extended to—
 - banks licensed under the *Banking Act (Cap 19)* or approved under the *Monetary Authority of Singapore Act (Cap 186)*
 - finance companies licensed under the *Finance Companies Act (Cap 108)*, and
 - approved financial institutions licensed under the *Securities and Futures Act (Cap 289)* that engage in lending as part of their regulated activities of dealing in securities in Singapore (such as investment banks).

The WHT exemption covered by the enhancements also applies to:

- (a) payments liable to be made during the period from 1 April 2011 to 31 March 2021 on contracts which take effect before 1 April 2011, and
- (b) payments liable to be made on contracts which take effect on or after 1 April 2011 to 31 March 2021.

A sunset clause with a deadline of 31 March 2021 applies for the enhanced scope of the WHT exemption.