ANOTHER YEAR OF TAX 'HAND-OUTS' — THE INCOME TAX (AMENDMENT) ACT 1984

THE 1984 Budget Statement contained the usual proposals for tax changes.[1] These were implemented by the Income Tax (Amendment) Act 1984[2] (hereinafter referred to as the Amendment Act). The tax changes were made with two objectives in mind. These were stated by the Minister of Finance (hereinafter referred to as the Minister) to be:

(1) the encouragement of greater efficiency and productivity in companies; and

(2) the rewarding of individual enterprise and hard work.[3]

Guided by these objectives, the Amendment Act has given tax concessions to companies by way of accelerated depreciation allowances for expenditure on plant and machinery and tax exemption for income earned from syndicated credit facilities and for income of the newly formed Singapore International Monetary Exchange Limited (SIMEX). There is also a general reduction in the personal income tax rate and the highest marginal rate is now only 40 per cent for every dollar of assessable income exceeding $750,000.

Apart from such tax bonuses, which have been coming the tax-payers' way for some years,[4] there are other amendments to the Income Tax Act[5] (hereinafter referred to as "the Act") brought about by the Amendment Act. The most important of these is the amendment to section 13(3) of the Act. This section may in fact affect the tax jurisdiction of Singapore.

Remittance Basis of Taxation In Singapore

In Singapore, tax is imposed by section 10(1) of the Act on any income "accruing in or derived from Singapore or received in Singapore from outside Singapore" in respect of six categories of activities, including trade, business and employment. The use of these three phrases, "accruing in", "derived from" and "received in Singapore from outside Singapore" has given rise to two bases of taxation in Singapore *viz,* territorial and remittance.

Under the territorial basis of taxation, if an income has a Singapore source, then it is derived from Singapore and is liable to tax. It is not clear whether "accruing in" adds anything to "derived from" but it is not within the scope of this paper to comment on this. It suffices to say that the Privy Council has attached no special meaning to the

[1] See The Parliamentary Debates of Singapore, Official Report, Volume 43, No. 5, col. 426, especially cols. 446 to 459.

[2] No. 13 of 1984.

[3] *Supra* n. 1 at col. 447.

[4] See *e.g.*, the Income Tax (Amendment) Act 1980 (Act No. 9 of 1980), the Income Tax (Amendment No. 2) Act 1980 (Act No. 28 of 1980) and the Income Tax (Amendment) Act 1984 (Act No. 15 of 1983). See also T. Shue, "A Year of Tax 'Hand-Outs'" (1981) 23 Mal. L.R. 156.

[5] Cap. 141, Singapore Statutes 1970 Revised Edition, reprinted in 1976.

word "derived". It has treated "derived" as being synonymous with "arising" or "accruing".[6]

Under the remittance basis of taxation, income of a foreign source is taxable if received in Singapore, provided it is received by a resident. This restriction is indirectly imposed by section 13(3) which, as amended by the Amendment Act,[7] reads as follows:

> There shall be exempt from tax for any year of assessment any income arising from sources outside Singapore and received by any individual who is not resident in Singapore in that year of assessment.

Following from this sub-section, it seems clear that only if a resident receives a foreign source income in Singapore will it be liable for tax.

To determine when an individual is "not resident" in Singapore, and thus entitled to the exemption, one has to refer to the definition of "resident" in section 2 of the Act which is as follows,

> "resident in Singapore"—
>
> (a) in relation to an individual, means a person who, in the year preceding the year of assessment, resides in Singapore except for such temporary absences therefrom as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore, and includes a person who is physically present or who exercises an employment (other than as a director of a company) in Singapore for 183 days or more during the year preceding the year of assessment.

At this juncture, it may be useful to juxtapose the old section 13(3), in order to appreciate the significance of the amendment. Section 13(3) before the amendment reads as follows:

> There shall be exempt from tax any income arising from sources outside Singapore and received therein by any person who is in Singapore for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Singapore at one or more times for a period equal in the whole to six months in the year of assessment.

The Minister of Finance during the Second Reading of the Bill suggested that the amendment to section 13(3) is only "a drafting amendment... to make clear that the section applies only to individuals and not companies."[8] Subsequently in response to a question from a member of the House, he added that, "The amendment was introduced merely to remove any misinterpretation. No change in policy is intended."[9]

One can see, even from a cursory examination of the old and new section 13(3), that the scope of the amendment is much wider than was

[6] In *Commissioners of Taxation* v. *Kirk* [1900] A.C. 588, 592. It should however be noted that, it is possible to read another Privy Council decision in *C.I.T.* v. *Chunilal Metha* [1938] I.T.R. 521 as drawing a distinction between the two words.

[7] See section 3(d) of the Amendment Act.

[8] The Parliamentary Debates of Singapore, Official Report, Volume 43, No. 18 col. 1913.

[9] *Ibid.,* col. 1921.

originally contemplated. If the intention was merely to make it clear that the exemption provided under section 13(3) will be available only to individuals and not companies, then all that was needed was to replace "any person" in the original wording of section 13(3) with the term "any individual". Even then, this may arguably have been an exercise *ex abundanti cautela,* for even though a "person" is defined in section 2 of the Act to include a company, and therefore *prima facie* the exemption would seem to avail both individuals and companies, it is submitted that the context of the old section 13(3) made it clear that it was not intended to apply to companies. In most jurisdictions, residence of a company for tax purposes is usually determined by one of two criteria; either the place of incorporation or the place where control and management is exercised.[10] It is submitted that a company is not capable of being in a place "for some temporary purpose only and not with any intent to establish his residence therein"; it is either resident or not resident in a country.

What then is the substantial difference, (if any), between showing that one is not a resident under section 2 (which is the present criterion for exemption) and that one is (as described in the marginal notes to the old section 13(3)) a temporary resident (which was in effect, the previous criterion).

It would appear that to be a resident in Singapore, one must have resided in Singapore during the relevant year. This suggests that there must be physical presence for a period of time during the relevant year; whereas to show that one is a temporary resident under the old section 13(3) required that one be in Singapore for some temporary purpose only and not with any intent to establish one's residence. The distinction sought to be drawn is between residing and maintaining a residence. A person who lives in Singapore all his life but is absent for the whole of a relevant year, may still maintain a residence here, especially if his absence is for some temporary purpose, such as study abroad or for medical reasons; but such a person would not have resided here at all during the relevant year and therefore is not a resident within section 2.

This distinction was also drawn in the English case of *Turnbull* v. Foster.[11] In this case the taxpayer merchant who carried on business in Madras and had his usual residence there visited the United Kingdom in nearly every year prior to the year of assessment. He did not visit the United Kingdom at all during that year. The court held that he did not reside there in that year. Lord Trayner pointed out that tax is imposed on a person "residing in the United Kingdom" and this is not the same as having a residence there. Although the court was concerned with the word "residing" and not "resides", it is submitted that the effect is the same.

The practical significance of this distinction was that, in the case of the individual hypothesised above, if he received income in Singapore from a foreign source during the relevant year in which he was away from Singapore, under the old section 13(3), such income would not have been exempt; the taxpayer would not have been categorized as

[10] The latter is the test adopted by section 2 of the Act and also at common law see *De Beers Consolidated Mines, Ltd.* v. *Howe, 5* T.C. 213.
[11] (1904) 6 T.C. 206.

a person who was in Singapore "for some temporary purpose and not with any intent to establish his residence therein." In fact he had a residence here; whereas under the new section 13(3) he would be exempt. This is because, having been absent from Singapore for the whole of the relevant year, he is not a resident of Singapore (as defined in section 2), for that year, since he did not reside here at all.

This change, even if unintended is certainly welcome. The concept of temporary resident is not used anywhere else in the Act and there appears to be no good reason for its use in section 13(3). It merely creates confusion and it is better that the exemption be accorded to a non-resident.

It should also be noted that there is a presumption of residence if an individual is in Singapore for 183 days or more. In this regard the new section 2(2)[12] is of interest. This sub-section provides that, "where an individual is present in Singapore for any part of a day his presence on that day shall be counted as one day."

Extension of Tax Exemption

There are also several amendments to section 13(1) of the Act which provides for exemption of income. The first is to paragraph (j) which used to exempt:

> sums withdrawn by individuals on retirement from any approved pension or provident fund or society;

The exemption now is provided for:

> sums standing to the account of an individual in any approved pension or provident fund or society, or withdrawn therefrom.

The new paragraph (j) makes it clear that sums standing to an individual's credit with the Central Provident Fund and other pension schemes are exempt from tax as also are sums withdrawn from such funds whether before or after retirement.

If there was ever any doubt as to the taxability of moneys in such funds, the doubt must relate to the employers' contributions and not the employees' contributions. The employee's contribution forms part of his statutory income, but is allowed as a deduction[13] and thus is not subject to tax. The employer's contribution however is arguably a perquisite from the employment and thus liable to tax. The reason why it was though necessary and adequate to exempt sums withdrawn from such funds was probably because it was thought that the sums when credited to the funds were not sufficiently realised, in order to be liable to tax,[14] so that they are taxable only when withdrawn. This would have been a debatable point,[15] but it is now rendered otiose by the amendment.

[12] See section 2 of the Amendment Act.

[13] See section 39(2)(e).

[14] There is a principle in income tax law that profits to be liable to tax must be sufficiently realised. See *e.g., Willingale* v. *International Commercial Bank Ltd.* [1978] 1 All E.R. 754.

[15] The question of course would be whether the contributions have ennured sufficiently to the benefit of the employee. See *Dunmore* v. *McGowan* [1978] 2 All E.R. 85 and *C.I.T.* v. *A.B.* (1960) 26 M.L.J. 55. It is submitted that they have, since he could withdraw the money albeit for a limited purpose *e.g.,* purchase of property. If so the sums would have been taxable when credited, rendering the exemption under the old paragraph (j) otiose.

Another exemption comes in the form of an amendment to paragraph (y) of section 13(1), which was first introduced in 1983.[16] In its original form, paragraph (y) provided for the exemption of, "such income of a financial institution arising from syndicated offshore loans as may be prescribed by regulations under section 43A." Thereafter, the Income Tax (Income Arising From Syndicated Offshore Loans) Regulations 1984,[17] were passed, which exempt from tax the income of the Asian Currency Unit of a financial institution arising from such approved syndicated offshore loans. This is part of the government's effort to promote Singapore as an international financial centre.[18]

Paragraph (y) has now been amended by deleting the words "syndicated offshore loans" and substituting the words "the operation of its Asian Currency Unit." This deletion in fact extends the tax exemption scheme to other syndicated credit facilities and other financial activities carried on by the Asian Currency Unit of a financial institution. The Minister stated that the tax exemption will be granted to syndication of guarantees, performance bonds and certain underwriting facilities, such as underwriting of bonds, floating rate notes and revolving underwriting facilities.[19] Implementation of these goals will probably be achieved through the passage of new regulations.

The last exemption from tax granted by the Amendment Act can be found in the new paragraph (z), which exempts for a period of 5 years such income of SIMEX as may be prescribed. This financial futures market came into operation in July 1984. The exemption is given "to help the futures market get off to a successful start."[20]

Concessionary Rate of Tax

In addition to the exemption provided for income of SIMEX derived from financial futures activities, the concessionary rate of tax of 10 per cent has been extended by the new section 43D to apply to income derived by a member of SIMEX from certain financial transactions with non-residents, Asian Currency Units and other SIMEX members.

Accelerated Depreciation Allowance

The Act provides for two schemes of depreciation allowance for capital expenditure, on the provision of plant and machinery in a trade, business or profession. Under section 19, which applies to expenditure on machinery and plant generally, an initial allowance of 20 per cent of the expenditure incurred is allowed for the year of assessment, in the basis period for which the expenditure is incurred. Thereafter an annual allowance is granted over a number of years varying according to whether the asset was acquired before or after 1980.[21]

. Under section 19A, a scheme which provides for accelerated depreciation allowance was introduced, the expenditure on qualifying assets being written off over a three year period (that is, 1/3 of the expenditure

[16] Income Tax (Amendment Act) No. 15 of 1983, section 3(b).
[17] No. S74/84, w.e.f. year of assessment 1984.
[18] See the Annual Budget Statement for 1983 Singapore Parliamentary Debates, Official Report, Vol. 42 at Col. 410.
[19] See The Annual Budget Statement 1984 *supra,* n. 1, col. 451.
[20] *Per* the Minister of Finance, *supra,* n. 1 at col. 452.
[21] See section 19(2).

in each year). The accelerated allowance is available to manufacturing enterprises, for expenditure on pollution control equipment and for expenditure on research and development.

Under the amended section 19A, the accelerated allowance is made available for expenditure on any machinery or plant. This measure was taken because it was thought necessary "to emphasize that all firms should take the necessary steps to automate and upgrade their operations, regardless of whether they are manufacturing or non-manufacturing concerns."[22]

It might have been better if this had been done by specifying the kind of expenditure that would be entitled to the accelerated depreciation allowance in order to pursue the policy stated by the Minister, rather than to make it available for all expenditure on any plant or machinery. This is because the word 'plant' despite Lord Reid's view that it is used in the Income Tax Act "as an ordinary English word",[23] has been interpreted to include articles that are clearly out of accord with its ordinary English meaning.[24] It has in fact acquired a special meaning and has been held to include a horse,[25] a dry dock[26] and even a lawyer's books and law reports.[27] All these items and whatever else the court may someday include as 'plant' will be entitled to the accelerated allowance. It may well be that they were never within the contemplation of the Minister, whose object for the allowance is to encourage automation of industries.

In addition, there is a transitional provision to extend the new accelerated allowance to existing assets which qualify for allowance under section 19 in respect of the capital expenditure remaining unclaimed.[28]

There is a specific exclusion from the accelerated allowance of motor cars, motor cycles and goods vehicles, the maximum laden weight of which do not exceed 3 tonnes.[29] This is of course in line with the government's policy to restrain the increase in passenger vehicles.

In addition to this accelerated allowance, which allows for write-off of capital expenditure during a three year period, the government also introduced in 1983, a 100 per cent write-off in the year of assessment relating to expenditure incurred in the relevant basis period.[30] This special accelerated allowance applies to expenditure on computer and certain office automation equipment.[31] This special accelerated allo-

[22] *Per* the Minister of Finance *supra,* n. 1 at col. 450.
[23] In *Hinton* v. *Maden & Ireland Ltd.* [1959] 3 All E.R. 356, 362.
[24] See Lord Denning's judgement in *Munby* v. *Furlong* [1977] 2 All E.R. 953, 956.
[25] See *Yarmouth* v. *France* (1887) 19 Q.B.D. 647.
[26] *C.I.R.* v. *Barclay, Curie & Co. Ltd.* 45 T.C. 221.
[27] See *Munby* v. *Furlong, supra,* n. 24.
[28] See the new section 19A(5).
[29] See the new section 19A(4)(b).
[30] By the Income Tax Amendment Act, No. 15 of 1983, see section 6 which added a new section 19(1A) setting out the 100 per cent write-off for computers and certain office equipment.
[31] The Minister has passed The Income Tax (Office Automation Equipment) Rules 1984, (S51/84) which list six categories of equipment which will qualify for the special accelerated allowance.

wance has been extended by the Amendment Act to include expenditure for the installation of robots.[32] There is no definition of a robot in the Amendment Act, but the Minister has stated that, "for administrative purposes, the Inland Revenue Department will accept any manipulator which can be programmed to perform various operations in a prescribed sequence without any human assistance as a robot which qualifies for the one-year write-off."[33] The write-off of the full expenditure in one year equates the capital allowance with a deductible expense.

All these measures will certainly encourage expenditure on these assets, as the trader is able to recoup his expenditure much faster. They also demonstrate the government's eagerness to encourage industries to move into high technology with the use of computers and robots.

Changes To The Mechanism For The Taking of Capital Allowances

Aside from the above substantial changes to the capital allowance schemes, there are a few technical amendments to the mechanism for claiming certain allowances. Section 21 of the Act allows the balancing charge arising on the sale or discontinuance of the use of machinery or plant to be set off against the expenditure incurred for its replacement. Section 6 of the Amendment Act, introduces a new sub-section (4) which disallows such a set-off in the case of a replacement of a old motor car by a new one, unless it is registered as a business service passenger vehicle; even then the expenditure on the new car entitled to the set-off is limited to $35,000. This is once against a measure to reinforce the government's policy of curbing the growth in the car population and so to remove any tax advantage that may attach to the purchase of cars.

There is also a technical amendment to section 23 which allows for the carry forward of unused capital allowances. This is subject to the condition that the person entitled to the allowance continues to carry on the business in respect of the gains or profits of which the allowance falls to be made. Under the new section 23(1A), this condition would seem to have been waived with regard to a taxpayer who derives income from the letting of an industrial building or structure.

It is provided by the new sub-section that where any person derives income from the letting of an industrial building or structure and is entitled to a capital allowance under sections 16 and 17, he shall be entitled to carry forward any unused allowance, so long as he continues to derive income from the letting of the building or structure, even if he is not carrying on a business of letting the building.

The requirement in section 23(1) that a person continues to carry on the business in respect of the gains or profits of which the allowance falls to be made before he can carry forward unused allowance, makes sense with regard to section 19, (which provides for capital allowance for expenditure on machinery or plant), because section 19 itself requires that the machinery or plant be provided for the purpose of a business, trade or profession before the allowance can be taken. However this requirement of section 23(1) is not appropriate to sections 16 and 17,

[32] See section 4(d) of the Amendment Act which added a new section 19(c).
[33] See the Second Reading of The Bill, *supra,* n. 8 at col. 1921.

since there is no such requirement in the two sections. All that is required under section 16 is that the building or structure in respect of which construction expenditure the allowance is claimed, be "occupied for the purposes of a trade." If a person constructed a building which he lets out to others to use for the purpose of a trade, he is entitled to the allowance under section 16. However, if he has any unused allowance then he may not be able to carry it forward unless he shows that he is in a business of letting property and continues to do so. The amendment has removed this anomaly.

Another technical amendment is to section 24, which allows a company or partnership to sell an industrial building or structure and machinery or plant at its written down value, instead of its market value, to an associated company or partnership. The proviso to section 24(2)(a)(ii) has now been amended to disallow such a sale, where there was a lease of the machinery or plant. This amendment according to the Minister is "to deny related companies involved in a lease agreement from exploiting the tax advantage that may arise from such an election."[34]

Reduction of Personal Income Tax Rate

Over the last few years, there has been a gradual reduction of personal income tax rates. Between 1978 and 1982, rates were reduced three times.[35] The highest marginal rate was brought down from 55 per cent in 1979 to 45 per cent n 1982. Now the Amendment Act has again effected a general reduction of the tax rate. The marginal rates have been reduced by from two to five per cent, with taxpayers enjoying average reductions of 11.9 per cent to 13.5 per cent of tax payable.

The Singapore government has always been guided by the policy of rewarding hard work and enterprise. This, coupled with the belief that high tax rate may be a disincentive to work, has resulted in several years of tax reductions for individuals.[36]

It is certainly true that income tax reduces the net rate of compensation from work. However, whether higher income tax necessarily results in people shunning work or at least working less hard is more debatable. The reaction to a higher income tax may take one of two forms. First, it is possible that since the financial rewards of greater effort and risk taking are reduced, people will be less willing to engage in such efforts. Second, it may produce the reserve reaction and induce people to work harder since they need to generate more income because the after-tax income would then be less.

It has been said that "there is no *a priori* basis for deciding which effect is most important."[37] Another writer has, after analysing several empirical studies about the influence of income tax on work, concluded that, "... the influence of taxation on the amount of work done is uncertain and may be weaker than popular discussions imply."[38] The

[34] See the Second Reading Of The Bill, *supra,* n. 8 at col. 1913.
[35] In 1979, 1980 and 1982.
[36] This view has been articulated by both the present Minister for Finance, (see the Annual Budget Statement, *supra,* n. 1 at col. 453) and the previous Minister (see the Annual Budget Statement for 1979, Singapore Parliamentary Debates, Official Report Vol. 38, col. 324).
[37] See Pechman, Federal Tax Policy, 3rd Edn., Chapter 4.
[38] See Goode, The Individual Income Tax, 1976 Rev. Edn., Chapter Three.

reason for the inconclusiveness of the effect of income tax on work seems to be that there are many factors affecting one's attitude towards work. For example, work, especially for those who are most highly paid, provides satisfaction in itself. Further, work habits are also not easy to change. Moreover most people in society have very little choice about their hours of work so as to be able to increase or decrease their hours of work with the tax rate.

The writer is not suggesting that the government is taking a wrong step in lowering the tax rate but rather that it has taken a simplistic view of the whole matter, as a result the measure taken may not be the most effective to achieve its objectives. For example, studies may have to be done to determine the response of the various income groups to tax changes, so that tax changes can be directed at the most sensitive income group. These sorts of studies are worth undertaking, for the amount of revenue involved in tax changes is enormous. This year's reduction of tax rate alone is estimated to cause the government a loss of revenue of about 89 million dollars.[39]

Adjustments For Inflation

Inflation may affect tax burdens. This is because when prices rise, wages tend to rise too, although there may be no rise in the purchasing power of money or the dollar value. If the tax rate is not made to respond to this, then taxpayers will be pushed into higher tax brackets and the amount of tax they pay will be increased without an increase in real income.

With the spiralling rise in prices and inflationary conditions over the last decade, more countries are paying heed to this problem. Indexing is a way of adjusting tax brackets to prevent inflation from raising taxes without an increase in real income. There are other ways of doing this; such as by increasing personal exemptions or deductions to keep pace with inflation. Singapore has responded to this problem of "bracket-creep" with the occasional tax rebate. This was done in the year of assessment 1981, where a tax rebate of 10 per cent was given to all resident taxpayers.[40]

A similar measure has been adopted in the Amendment Act which introduces a new sub-section (3) to section 42 which reduced the tax payable on the first $10,000 of chargeable income by 10 per cent. This in effect is a reduction of $60 from the $600 tax payable on the first $10,000 of chargeable income.

This reduction will take effect from the year of assessment 1985 but is not a 'one-shot' benefit, as it will apply also to subsequent years of assessment. It is not clear whether this measure will fully compensate taxpayers for the "bracket-creep" phenomenon caused by inflation. The Minister thought that, "The rebate of 10 per cent will more than mitigate the erosion of real incomes by inflation which, according to the Consumer Price Index, rose by 5 per cent between 1981 and 1983."[41] The statement is misleading because the 10 per cent rebate is only for

[39] See the Annual Budget Statement *supra,* n. 1 at col. 454.

[40] Income Tax (Amendment) Act, No. 1 of 1982. See also T. Shue's Comment in (1982) 24 Mal. L.R. 157.

[41] See The Annual Budget Statement for 1984, *supra,* n. 1 at col. 453.

tax payable for the first $10,000 which in effect works out to be worth only $60!

Enhanced Child Relief

Over the last few years the government has used tax legislation to implement not only economic policy but also social policy. This is most evident with the enhanced child relief, which was first made available to a married woman who has obtained a degree from a University.[42] This relief has been increased by the Amendment Act, for the second and third child of a qualified woman from 5 per cent to 10 and 15 per cent of earned income respectively or $10,000 whichever is less. The relief for the first child remains at 5 per cent of earned income or $10,000 whichever is less. The relief is now also available not only to graduate women but also any married woman "with at least 5 subjects at ordinary level or has equivalent or higher educational qualification... ."[43]

This relief is quite substantial because it is given in addition to the usual child relief granted to parents.[44] The relief was made according to the Minister, "not only to induce our better educated married women to continue to work but, more important, to encourage them, hopefully, to have a second, if not a third child. This will go a little way towards correcting the present lop-sided pattern of procreation in Singapore which is a cause for concern."[45]

Miscellaneous Amendments

Finally, one other change that is worth noting is the amendment to the proviso to section 26(3). Section 26 provides that, in the case of a life insurance company, taxable income shall constitute investment income and gains or profits from the sale of investments. This clearly excludes from taxable income the premiums paid by policy holders. However the proviso originally provided that where an insurance company received premiums outside Singapore, then the taxable income should be the same proportion of the total investment income as the premiums received in Singapore bore to the total premiums.

This proviso is merely an attempt to allocate the source of the income of an insurance company when there is a foreign element involved viz., the receipt of premiums overseas. It has an effect similar to that of section 27 of the Act, which governs profits from a non-resident shipper or charterer. What the proviso amounts to is this: if the premiums received in Singapore bear a ratio of, say 1:2 to the total premiums received, then the taxable profit in Singapore will bear a similar ratio to the "total investment income."

Unfortunately, the proviso as worded, in fact created a tax advantage in favour of companies receiving premiums outside Singapore. This was because they were taxed only on a proportion (as calculated above) of total investment income; whereas other life insurance com-

[42] Paragraph 8 of the Fifth Schedule of the Act.

[43] The new paragraph 8 of the Fifth Schedule, effected by section 14 of the Amendment Act.

[44] See section 39(2){d) and paragraphs 1 and 2 of the Fifth Schedule of the Act.

[45] See The Annual Budget Statement 1984, *supra,* n. 1 at col. 456.

panics were taxed on investment income and profits realised on the sale of investments. This discrepancy was probably unintended and in fact would not arise if one read "total investment income" to include both categories of profits. As a matter of statutory interpretation this would be difficult, since investment income is used in sub-section (3) itself as a contrast to "profits on the sale of investments", unless one argues that the use of the word 'total' covered both types of profits.

This difficulty has now been removed with the new amendment. The amendment makes it clear that, where a life insurance company receives premiums from abroad, the tax will be the proportion (which remains the same) of the total investment income "and the total gains or profit realised from the sale of its investment."

The Minister stated during the Second Reading of the Bill that, "Clause 9 amends section 26(3) of the Act to make clear that premiums received by the company from outside Singapore are taxable."[46] It does no such thing. Premiums received by an insurance company, whether in Singapore or outside remain excluded from tax. The discrimination is as stated above and has been corrected. It is not a discrimination between taxing and not taxing premiums.

SOON CHOO HOCK

[46] *Supra,* n. 8 at col. 1913.