

ZYT v The Comptroller of Income Tax

[2026] SGITBR 3

Case Number : Income Tax Appeal No 19 of 2020 & Nos 36 to 40 of 2021

Decision Date : 16 June 2026

Tribunal/Court : Income Tax Board of Review

Coram : Thian Yee Sze; Yeo Wico; Simon Poh

Counsel Name(s) : Leon Kwong Wing and Kwek Jia Hao for the appellant; Flora Koh for the respondent

Parties : ZYT — The Comptroller of Income Tax

Revenue Law – Income taxation – Appeals – Tax avoidance – Application of section 33 of the Income Tax Act

Revenue Law – Income taxation – Appeals – Exercise of the Comptroller’s discretion

16 June 2026

Judgment reserved.

Income Tax Board of Review Chairperson Thian Yee Sze (delivering the decision of the Board):

Introduction

1 The taxpayer is an ophthalmologist who has, since 2000, carried on her medical practice through RTZ Pte Ltd (“the Company”)^[note: 1], through which she received her remuneration, as well as dividends *qua* shareholder of the Company.

2 At the heart of the appeal before the Board is whether the taxpayer was entitled to benefit from the one-tier corporate tax system in Singapore, under which the dividends she received from the Company were exempt from tax, or whether she was liable to pay tax at the personal income tax rate in accordance with her annual income bracket on the basis that what she had received as dividends should rightfully have been classified as gains and profits from her employment with the Company in the Years of Assessment (“YA”) in dispute from YA 2014 to YA 2019 (“the disputed YAs”), and hence subject to income tax under section 10(1)(b) of the Income Tax Act 1947 (“the Act”). Section 10(1)(b) provides that income tax is payable for each year of assessment upon the income of any person accruing in or derived from Singapore or received in Singapore from outside Singapore in respect of gains or profits from any employment. This in turn depended on whether the Comptroller correctly invoked section 33(1) of the Act to disregard the Company when determining the taxpayer’s income which was liable to personal income tax.

Facts

3 Both the taxpayer and the Comptroller did not file affidavits and did not testify at the hearing before the Board. Neither did they call other witnesses to give evidence on their behalf. The taxpayer's counsel confirmed at the hearing that parties would not be calling any witnesses and would be relying on documentary evidence before the Board^[note: 2]. To this end, all the documentary evidence submitted by parties was admitted without objections^[note: 3].

4 The Company commenced business in April 1998^[note: 4]. It had two directors, AEL and PHA, and its principal activities were "in development of software and multimedia works"^[note: 5]. The taxpayer joined the Company and replaced PHA as a director in 2000^[note: 6], and held 50% of the shares in the Company, with AEL holding the other 50%.^[note: 7] It was also stated in the Company's Annual Report 2000 that the Company changed its activities to include carrying on and maintaining medical centres, clinics and health centres^[note: 8]. While AEL resigned as a director on 16 September 2015^[note: 9], the taxpayer and AEL continued to hold equal shareholdings in the Company during the relevant period.

The taxpayer's business arrangements through the Company prior to June 2013

5 According to the taxpayer, the Company operated under a service agreement, first with CHD Pte Ltd till 2006, and with YOJ Pte Ltd from 2006 and 2008^[note: 10]. While there are no documents to support the existence of such agreements, this is not material as nothing in the parties' submissions turns on the existence or nature of these agreements.

6 According to the taxpayer, after the service agreement with YOJ Pte Ltd ended, the Company started renting clinic space at ROM Medical Centre from ALO Pte Ltd ("ALO"), employed a nurse assistant and operated as an independent practice. The Company paid a monthly rent of \$2,200 to ALO to conduct three clinic sessions each week and paid for the use of medical equipment on a per-use basis^[note: 11]. This arrangement with ALO was captured in an agreement entered into on 18 May 2010 between ESS Medical Pte Ltd ("ESS Medical"), a wholly-owned subsidiary of ALO^[note: 12], the Company and the taxpayer ("the 2010 agreement"). The agreement set out the provision of premises by ESS Medical for the Company to conduct clinic sessions over three half days for a monthly fee of \$2,200, the additional services and medication which were provided by ESS Medical to the Company chargeable at specific rates, as well as other operational tasks which were to be handled by the Company at its own costs, including the hiring of staff to that end. The pertinent clauses of the agreement were as follows:

Clinic Sessions

1. The Company has requested for and (ESS) has agreed to an arrangement whereby the Company may conduct 3 clinic sessions per week during the Designated Hours at the premises on the terms set out below.
2. It is agreed that the weekly clinic sessions shall be as follows:

Monday and Friday mornings from 8.30am to 12.30pm ... ;

Tuesday afternoons from 2pm to 5.30pm ...

(the "Designated Hours")

...

Monthly Fee

3. The Company agrees to pay (ESS) \$2,200 per month (the "Fee") for being allowed to conduct the clinic sessions as aforesaid during the Designated Hours. ...

Additional Fees

4. In the event the Company wishes to conduct clinic sessions on the premises outside the Designated Hours due to urgent cases or unforeseen circumstances, the Company shall give (ESS) urgent notice of the request and such request is subject to (ESS)'s consent ... If the Company does conduct such clinic sessions ... the Company shall pay (ESS) an additional amount of S\$25 per patient seen ("Additional Fees"). Payment of Additional Fees for a particular month shall be deducted from the Collection of that particular month.

Collection of fees

5. In the event the patients seen by (the taxpayer) wish to make payment by credit cards and/or NETS, the Clinic agrees to collect such payments on behalf of the Company (the "Collection"). The Company will be given monthly statements pertaining to the Collection. The balance from the Collection (after deduction of the Fees, Additional Fees and pharmaceuticals) will be paid to the Company by the 10th day of each following month. In the event the Collection is insufficient to pay for the Fees, Additional Fees and pharmaceuticals, the Company shall pay the shortfall to (ESS) within ten (10) days from the end of the relevant month.

...

Operational Matters

10. The Company shall at its own cost and expense take care of and deal with:-

- (a) all registration of the patients,
- (b) all billing and collection of the patients;
- (c) initial and follow up examinations and consultations of the patients
- (d) dispensing of medications to its patients,
- (e) all other matters necessary to run its own practice

11. In order to carry out the above matters set out in Clause 10 herein, the Company shall hire its own staff at its own costs. For the avoidance of doubt, there should not be more than 2 staff of the Company at the premises unless prior written approval is obtained ... (ESS) is not obliged to provide any staff support to the Company ... but may do so upon mutually agreed terms.

Facilities

12. In addition to the above, the Company would from time to time require the use of certain facilities of (ESS) and/or medication which (ESS) may have or supply at the premises. ...

13. In relation to the use of the above facilities or the purchase of medication and eye drops, parties agree that the Company will be (*sic*) pay (ESS) the rates as set out in Schedule 2 herein. ...

14. Payment for the items used or purchased by the Company per month shall be deducted from the Collection.

7 The revenue of the Company, the remuneration received by the taxpayer, the retained earnings or accumulated loss, and the total amount of dividends paid to both shareholders, from 2000 to 2012 (i.e. for YA 2001 to YA 2013) as extracted from the table in the Addendum to the Respondent's Submissions ("RSA-1 – 6"), Appellant's Reply to Addendum to Respondent's Submissions (Revised) ("ASA") and Exhibit R4, the figures of which were agreed to and verified by parties, are as follows:

Financial Year (YA)	Revenue of the Company ^[note: 13]	Taxpayer's Salary/ Bonus/ Director's Fees from the Company ^[note: 14]	Retained earnings/ Accumulated Losses ^[note: 15]	Total Dividends Paid to Shareholders ^[note: 16]
2000 (YA 2001)	\$287,940	\$96,000	-\$5,925	Nil
2001 (YA 2002)	\$470,243	\$126,720	-\$10,992	Nil
2002 (YA 2003)	\$372,188	Not verifiable Total employment income reported in Form B1 for YA 2003: \$127,600	-\$16,916	Nil
2003 (YA 2004)	\$406,115	Not verifiable Total employment income reported in Form B1 for YA 2004: \$105,600	-\$15,509	Nil

2004 (YA 2005)	\$653,406	Not verifiable Total employment income reported in Form B1 for YA 2005: \$105,600	-\$22,828	Nil
2005 (YA 2006)	\$630,845	\$185,600	-\$20,428	Nil
2006 (YA 2007)	\$372,481	Not verifiable Total employment income reported in Form B1 for YA 2007: \$92,400	-\$5,111	Nil
2007 (YA 2008)	\$469,199	Not verifiable Total employment income reported in Form B1 for YA 2008: \$92,400	\$92,645	Nil
2008 (YA 2009)	\$504,475	Not verifiable Total employment income reported in Form B1 for YA 2009: \$92,400	\$186,881	Nil

2009 (YA 2010)	\$468,451	Not verifiable Total employment income reported in Form B1 for YA 2010: \$102,400	\$261,022	Nil
2010 (YA 2011)	\$520,300	Not verifiable Total employment income reported in Form B1 for YA 2011: \$101,640	\$234,274	\$150,000
2011 (YA 2012)	\$296,188	Not verifiable Total employment income reported in Form B1 for YA 2012: \$92,400	\$64,398	\$140,000
2012 (YA 2013)	\$223,295	Not verifiable Total employment income reported in Form B1 for YA 2013: \$92,400	\$25,109	Nil

8 In 2003, Parliament passed legislation to introduce the one-tier corporate tax system. Under this system, from 1 January 2003, the tax paid by the company on its chargeable income based on the prevailing corporate tax rate is the final tax, and the dividends paid to shareholders are exempt from tax in the hands of the shareholders. It is noted that prior to YA 2011, the Company did not pay any dividends to the two shareholders.

The taxpayer's business arrangements through the Company from June 2013

9 It is not disputed that the taxpayer ceased to carry on an independent medical practice from June/July 2013 when the taxpayer and the Company entered into a service agreement with ALO^[note: 17]. According to the taxpayer's counsel, as the taxpayer worked part-time and the Company was only operating three half-day sessions each week, it suited her better for the Company to operate under a service agreement with a medical group^[note: 18].

10 Under this new agreement with ALO, the consultations and procedures conducted by the taxpayer were by appointment at ALO during the week except Thursdays and Saturdays^[note: 19]. The detailed mechanics of the arrangement between parties were encapsulated in the service agreement between ALO, the taxpayer^[note: 20] and the Company^[note: 21] dated 2 September 2016 ("the 2016 agreement")^[note: 22]. The following key provisions stipulated the scope of services to be rendered by the taxpayer and through the Company, and the use of ALO's premises, facilities and support staff in the provision of these services:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement and in the Schedules unless the context requires otherwise:

...

"Consultation Revenue" means the fees charged to Patients by (ALO) for the provision of non-surgical consultancy procedures by (the Company);

...

"Lasik Revenue" means the fees charged to Patients by (ALO) for the provision of lasik surgical procedures by (the Company);

...

"Premises" means the (ALO) ophthalmology clinics located in [...] and such other premises as (ALO) may operate clinics from time to time ...

...

"Revenue" means the aggregate revenue earned by (ALO) in any given calendar month from Lasik Revenue, Surgical Revenue and Consultation Revenue;

...

"Services" means the provision of medical services by (the Company) through (the taxpayer) in connection with the practice of ophthalmology, including lasik surgical procedures, non-lasik surgical procedures and non-surgical consultancy services;

...

"Surgical Revenue" means the fees charged to Patients by (ALO) for the provision of non-lasik surgical procedures by (the Company).

...

2. THE SERVICES

2.1 (ALO) hereby engages (the Company) and (the Company) hereby agrees to be engaged, as an independent contractor to provide the Services.

2.2 (The Company) shall provide the Services during the clinical sessions conducted at (ALO)'s Premises or such other clinics or premises as (ALO) may from time to time reasonably direct. The scheduling of such clinical sessions shall be determined by mutual agreement ...

3. USE OF PREMISES AND SUPPORT

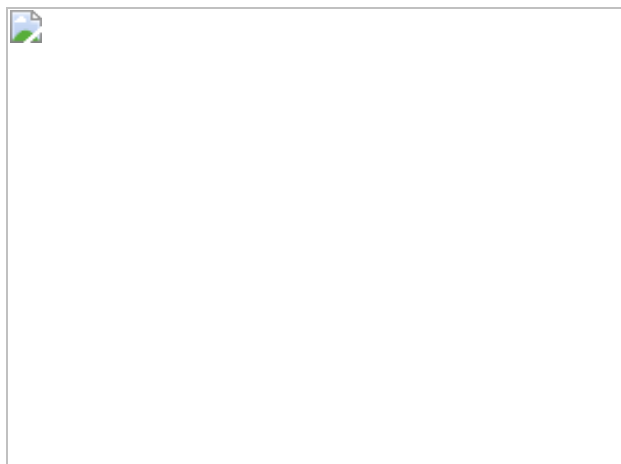
3.1 (ALO) grants (the Company) a revocable bare licence to use of its Premises and (the Company) shall avail itself to the equipment and support staff situated at the Premises for the sole purpose of providing the Services during the clinical sessions in accordance with the directions of the Board.

11 Clause 4.1 of the 2016 agreement stated that "the Revenue" as defined in Clause 1.1 would be dealt with on the terms and in the manner set out in Schedule 2. Schedule 2 stipulated the allocation of the revenue between ALO and the Company which was earned by ALO for the services provided by the Company through the taxpayer:

SCHEDULE 2

PROPORTION OF THE REVENUE TO BE RETAINED BY THE COMPANY AND PAID TO (THE COMPANY)

1. The Parties hereby agree that the proportion of the Revenue to be retained by (ALO) is set out in column (II) of Table A below and the proportion of the Revenue to be paid by (ALO) to (the Company) (the "Retained Revenue") in accordance with the terms and conditions of this Agreement is set out in column (III) of Table A below:



12 The taxpayer's counsel informed the Principal Tax Auditor at the Inland Revenue Authority of Singapore ("IRAS") that prior to the Company adopting ALO's platform under this arrangement, it "ran its own clinic, paid rent to ALO for premises, paid ALO for the use of equipment, paid the remuneration of a nurse/assistant, etc" (at ABOD-142). With the change in June/July 2013:

The company ceased to pay rent, to pay for the use of equipment, to pay remuneration, etc; these costs were borne by (ALO). There was a shift or change in the business model from a smaller, independent practice to a larger commercial platform. As a result, the company's income in 2013 was, so to speak partly "from (ALO)" and partly "other income". Nonetheless and in fact all of the income was the same income for the same medical consultations, procedures, and pharmaceuticals.

[ABOD-142 at paragraph 2.3; emphasis added]

13 With the new service agreement with ALO in place, the revenue of the Company, the remuneration received by the taxpayer, the retained earnings or accumulated loss, and the total amount of dividends paid to both shareholders, between 2013 and 2018, representing the disputed YAs, were as follows:

Financial Year (YA)	Revenue of the Company ^[note: 23]	Taxpayer's Salary/ Bonus/ Director's Fees from the Company ^[note: 24]	Retained earnings/ Accumulated Losses ^[note: 25]	Total Dividends Paid to Shareholders ^[note: 26]
2013 (YA 2014)	\$187,912	\$76,200	\$66,687	Nil
2014 (YA 2015)	\$187,328	\$60,000	\$128,150	Nil
2015 (YA 2016)	\$184,837	\$60,000	\$25,814	\$175,000
2016 (YA 2017)	\$238,177	\$60,000	\$140,577	Nil
2017 (YA 2018)	\$294,518	\$60,000	\$191,991	\$105,387
2018 (YA 2019)	\$479,764	\$60,000	\$192,357	\$300,000

Total	\$1,572,536	\$376,200	N.A. (retained earnings / accumulated losses in one YA, if any, would be carried over to the following YA)	\$580,387
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14 It should be pointed out that the sums reflected under “Taxpayer’s Salary/ Bonus/ Director’s Fees from the Company” in the tables in [7] and [13] do not include the employer’s Central Provident Fund (“CPF”) contributions, which in any event are not taxable as part of the employee’s income tax^[note: 27].

15 The cumulative revenue of the Company, the taxpayer’s remuneration, retained earnings and dividends paid over the course of the duration of the arrangement with ESS Medical, and later with ALO during the disputed YAs, were as follows:



Audit of the taxpayer by the Comptroller for YA 2014 – YA 2019

16 On 18 November 2018, the Principal Tax Auditor wrote to the taxpayer to seek an explanation for the non-declaration of trade income from ALO in her tax returns for YAs 2014 – 2017. The taxpayer replied that the income had been reported through the Company as the service agreement was signed between the Company and ALO.

17 There was further correspondence between IRAS and the taxpayer’s counsel in February 2019, in the course of which more information on the taxpayer’s employment details and the Company’s operations during this period were provided by the taxpayer, including the fact that the taxpayer was the Company’s sole employee and drew a monthly salary of \$8,000, and that each of the two shareholders, namely the taxpayer and AEL, received one-half of the dividends paid by the Company in 2015 and 2017^[note: 28].

18 After several email exchanges between IRAS and the taxpayer’s counsel, the Comptroller raised the Notice of Assessment (Amended) for YA 2014, and Notices of Assessment (Additional) for YA 2015 – YA 2019 on 10 October 2019, substantially increasing the taxpayer’s assessable income and hence tax payable as a result^[note: 29]. The Comptroller explained the reasons for doing so in his letter to the taxpayer dated 10 October 2019 enclosing the revised assessments^[note: 30]:

... we are of the view that there are no bona fide commercial reasons in arranging to receive income due to (the taxpayer) through (the Company), which has minimal functions, assets and risk.

...

We would like to clarify that the Comptroller has no intention to interfere in the way individuals carry on their businesses, and the use of a specific business model is a choice exercised by taxpayer based on business and commercial considerations. However, for income tax purposes, when the Comptroller discovers in the course of an audit that the income derived is not properly declared and hence, not taxed appropriately, the Comptroller will revise the assessments and bring the income to tax in the hands of the individual instead of the company.

We will amend the corporate tax assessment raised under (the Company) for YA2014 and vacate the corporate tax assessments raised under (the Company) for the YAs 2015 – 2018 after you agree with our audit adjustments and the corporate tax refunds will be used to offset your tax payable in your individual income tax account.

19 The taxpayer's counsel submitted a Notice of Objection to the amended/additional Notices of Assessment for YA 2014 to YA 2019 on 8 November 2019 on the following grounds^[note: 31]:

- (a) The income in the assessments was the income of the Company, and not the taxpayer's personally.
- (b) The taxpayer had carried on her medical practice as the Company for a long time. This was a legitimate choice of business form.
- (c) There was no scheme to avoid tax and no tax advantage for the Comptroller to counteract.
- (d) Although the Comptroller took the view that it was not acceptable for income tax purposes that retained earnings from the Company were extracted *via* the payment of tax-exempt dividends, the taxpayer started her company first and it was only later that the government scrapped the taxation of dividends and replaced it with the one-tier corporate tax system. The alleged "tax advantage" was due to the government, and had nothing to do with the taxpayer or the Company.
- (e) More than 36% of the earnings was retained in the Company and not extracted.
- (f) The revised assessments treated the Company as a legitimate choice of business form up to 30 June 2014 (*sic*) but as an abusive scheme to avoid tax from 1 July 2014 (*sic*). There was no reason for it since there was no setting up of more than one entity for tax advantage, no change in business form and no attribution of income not aligned with economic reality during the disputed YAs.

20 On 7 February 2020, the Comptroller wrote to the taxpayer to maintain the decision to revise the income tax assessments as "there were no *bona fide* commercial reasons in arranging to receive income due to (her) through (the Company), which (had) minimal functions, assets and risk"^[note: 32]. The Comptroller made certain adjustments to the revised assessments to take into account some other expenses.

21 Upon the taxpayer's counsel's request on 15 August 2000^[note: 33], on 3 September 2020, the Comptroller issued the relevant Notices of Refusal to Amend the assessments dated 7 February 2020 for YA 2014 to YA 2019^[note: 34].

The taxpayer's appeal against the income tax assessments dated 7 February 2020

22 The taxpayer lodged Notices of Appeal against the Comptroller's income tax assessments dated 7 February 2020 over six years from YA 2014 to YA 2019. In her Petition of Appeal, in addition to the points stated in the Notice of Objection on 8 November 2019 at [19] above, the taxpayer also raised the following grounds of appeal:

(a) Dividends were not paid in every YA under contention. Even in the years when dividends were paid, the Company still retained undistributed earnings. The dividends paid in YA 2016, YA 2018 and YA 2019 were also received by both shareholders and not just the taxpayer alone.

(b) The Company has had the same two shareholders all these years.

(c) The Company was not set up to take advantage of the one-tier tax-exempt dividends. When it was set up, there was no such thing as one-tier tax-exempt dividends. Dividends were fully taxable at the shareholders' personal income tax rates. It was Parliament which changed the tax consequences of the Company as a business form for the taxpayer later. The taxpayer was hence entitled to continue to practise through the Company without the Comptroller's misconceived interference.

Burden and standard of proof

23 In this appeal, the onus of proving that the Comptroller's assessment is excessive falls on the taxpayer: section 80(4) of the Act. The standard of proof required of the taxpayer is on a balance of probabilities: *GCH v Comptroller of Income Tax* [2018] SGITBR 1 at [5] and *ND v Comptroller of Income Tax* [2006] SGITBR 3 at [24], as cited in *GIP v Comptroller of Income Tax* [2024] SGITBR 2 ("**GIP**") at [67].

24 In this appeal, to prove that the Comptroller's assessment was excessive, the taxpayer needs to satisfy us on a balance of probabilities that section 33(1) of the Act was wrongly invoked by the Comptroller – see *GIP* at [70] and [72].

The law governing the interpretation and application of section 33 of the Act

25 Section 33 of the Act was amended to its current form with effect from 7 December 2020. The operative version of section 33 applicable to the disputed YAs is that prior to prior to 7 December 2020, which provided as follows:

33.—(1) Where the Comptroller is satisfied that the *purpose or effect of any arrangement* is directly or indirectly —

(a) *to alter the incidence of any tax which is payable by or which would otherwise have been payable by any person;*

(b) *to relieve any person from any liability to pay tax or to make a return under this Act; or*

(c) *to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act,*

The Comptroller may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate, including the computation or recomputation of gains or profits, or the imposition of liability to tax, so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.

(2) In this section, "*arrangement*" means any scheme, trust, grant, covenant, agreement, disposition, transaction and includes all steps by which it is carried into effect.

(3) This section shall not apply to —

(a) any arrangement made or entered into before 29th January 1988; or

(b) *any arrangement carried out for bona fide commercial reasons and had not as one of its main purposes the avoidance or reduction of tax.*

[emphasis added]

26 We note that the above provisions are in *pari materia* with the current version of section 33.

27 This Board set out in detail the law governing the interpretation and application of section 33(1) in *GIP* at [32] – [44], which we adopt for the purposes of this appeal. We shall refer to the relevant legal principles as stated in *GIP* which are germane to the appeal before us.

28 The then-Minister for Finance, Dr Richard Hu Tsu Tau ("Dr Hu"), explained during the Second Reading of the Bill why it was necessary to enact section 33. In essence, it was to meet the need for a more effective general anti-avoidance provision to deal with increasingly sophisticated tax avoidance schemes (see Singapore Parliamentary Debates, Official Report (13 January 1988) vol 50 at cols 358–359):

... The need to strengthen section 33 *stems from the fact that tax avoidance schemes are getting increasingly complex and are becoming "tailor-made" to suit specific clients*, thereby adding to this difficulty in identifying them. The existing section 33 is grossly inadequate to deal with these schemes. Most countries have taken steps to strengthen their legislation to combat tax avoidance. Even Hong Kong has far wider provisions than our proposed amendment.

In assessing whether a particular scheme would fall under the ambit of section 33, the Inland Revenue Department would, among other things, look for the presence of artificiality, *the interposing of various intermediaries* or transactions to reduce or avoid tax and transfer pricing. It should be stressed that *the aim is to reduce blatant or contrived tax avoidance arrangements and is not intended to affect normal commercial transactions*. I would also like to clarify that companies and individuals granted tax exemptions and concessions under specific incentive schemes would not be affected by the new section 33. They will continue to enjoy the tax concessions.

...

I would like to reiterate that *the sole objective of the amendment is to curb the proliferation of blatant tax avoidance schemes in Singapore and is not intended to affect normal commercial transactions*.

[emphasis added]

29 The leading authority on the interpretation and application of section 33 is the Court of Appeal's decision in *Comptroller of Income Tax v AQQ and anor* [2014] 2 SLR 847 ("AQQ"). In *AQQ*, the court laid down the principles and the detailed analytical framework for determining if a particular arrangement falls foul of the prohibition against tax reduction or avoidance in section 33.

30 In interpreting the ambit of section 33, the Court of Appeal acknowledged that there was a conceptual conundrum which was presented when an overarching general anti-avoidance provision in a taxing statute such as section 33(1) seemed “to pull in the opposite direction from other provisions that appear to exist for the taxpayer’s benefit”: at [94]. The court addressed the tension between specific provisions in the Act and the general anti-avoidance provision. It described the conundrum in this way:

94 ... how is the general anti-avoidance provision to be construed in a manner that is compatible with the other specific provisions of the statute that appear, on their face, to define the taxpayer’s obligations and liabilities and entitle a taxpayer to structure his affairs accordingly in order to reduce his tax liability?

31 In arriving at a purposive interpretation of section 33 to guard against the potentially over-inclusive reach that would follow from a literal interpretation of the threshold limbs of s 33(1), the court reviewed Australian and New Zealand jurisprudence to develop adequate safeguards and held that the correct approach in construing section 33 together with other specific provisions of the Act was the “scheme and purpose approach” adopted by the majority of the Supreme Court of New Zealand in *Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue* [2009] 2 NZLR 289 (“*Ben Nevis*”).

32 The “scheme and purpose approach” as explained by the majority in *Ben Nevis* was summarised in *AQQ* at [104(b)]:

... the legislature’s purpose was best served by construing specific tax provisions and the general anti-avoidance provision to give appropriate effect to each instead of considering one as overriding the other (at [103]). Where the taxpayer relies on specific provisions, the taxpayer must satisfy the court that the use of the specific provision was within its intended scope and that the use of the provision, viewed in the light of the arrangement as a whole, has altered the incidence of tax in a way that was within the contemplation and purpose of the legislature. If it was not, it will be a tax avoidance arrangement for the purposes of the general anti-avoidance provision (at [107]). The court is not confined as to the matters which may be taken into account in deciding whether a tax avoidance arrangement exists, and a classic indicator is when the taxpayer obtains the benefit of the statutory provision in an artificial or contrived way (at [108]). The court is also not limited to purely legal considerations, but may consider whether the impugned arrangement, viewed in a commercially and economically realistic way, uses the specific provision in a manner that is consistent with the legislature’s purpose (at [109]).

33 In endorsing the scheme and purpose approach, Menon CJ explained its advantages in the interpretation of tax legislation as follows:

108 We also agree with the reasoning of the majority in *Ben Nevis* that a general anti-avoidance provision should not be read as “overriding” any specific provision of the Act or *vice versa* and would respectfully adopt Richardson J’s approach in *Challenge (CA)* on the purposive interpretation of s 33. An arrangement should not be construed as having the purpose and effect of, for example, reducing or avoiding liability imposed by the Act within the meaning of s 33(1) if the arrangement results in a tax effect or advantage that is *in fact contemplated* by the use of the specific provision in the Act; there is thus, in a legal sense, no *reduction* or *avoidance* of liability that would otherwise have been imposed by the Act. This would enable s 33 to be read purposively, as a provision that can be understood within the context of the Act and in accordance with s 9A(1) of the Interpretation Act (Cap 1, 2002 Rev Ed) (“Interpretation Act”) as promoting the overall purpose and object underlying the Act.

109 The scheme and purpose approach provides a conceptual methodology for analysis that combines tax policy and principle to deal with the question of whether a taxpayer is entitled to point to the use of a specific provision of the Act as not constituting a tax avoidance arrangement under s 33. We acknowledge the force of some of the criticisms that Mr Singh levied against the scheme and purpose approach, but the

majority in *Ben Nevis* did not assume that discerning whether the use of a specific provision was within the contemplation or purpose of Parliament would be an easy task, and nor do we. Tax legislation evolves in a fragmented manner according to policy shifts at any single point in time and it may not be always possible to identify a coherent set of intentions within the Act; but the advantage of the scheme and purpose approach is that it provides a helpful framework in applying s 33(1), instead of asserting a doctrinal position that leans entirely in favour of the taxpayer's choice.

34 The court then set out at [110] the scheme and purpose approach that ought to be adopted with respect to the interpretation of section 33 as follows:

- (a) consider whether an arrangement *prima facie* falls within any of the three threshold limbs of s 33(1) such that the taxpayer has derived a tax advantage (1st Stage); and if so,
- (b) consider whether the taxpayer may avail himself of the statutory exception under s 33(3)(b) (2nd Stage); and if not,
- (c) ascertain whether the taxpayer has satisfied the court that the tax advantage obtained arose from the use of a specific provision in the Act that was within the intended scope and Parliament's contemplation and purpose, both as a matter of legal form and economic reality within the context of the entire arrangement (3rd Stage).

35 Both parties accept that the analytical framework in *AQQ*, including the three-stage inquiry laid down in [34] above applies to this appeal: see NE 92/18-20 and the Respondent's Submissions ("RS-1 – 40") at [24].

The taxpayer's arguments

36 The taxpayer's position is that she is entitled to continue her medical practice through the Company and that the Comptroller should not interfere with that for the following reasons:

- (a) The taxpayer has carried on her medical practice through the Company, which is a legitimate business structure, since 2000. The Company has had the same two shareholders throughout this time. The business structure has not changed all this while. It is the law which changed when Parliament introduced the one-tier corporate tax system in 2003, resulting in the dividends received by the taxpayer being exempt from tax, when prior to that, dividends were fully taxable as personal income tax. The Company, which was set up prior to 2003, was clearly not set up to take advantage of the tax system as it predated the 2003 legislative amendments. The Comptroller also did not raise any issues with the taxpayer's practice through the Company prior to the audit in 2018.
- (b) Following from the position in [36(a)], there is no "arrangement" to speak of under section 33(1) as the business form or business structure through which the taxpayer has carried on her practice, "namely, the Company, its employee and its shareholders"^[note: 35], have remained unchanged. While there was a change in the business model, i.e. from the Company being run as an independent practice to one with a service agreement with ALO, such a change in the business model is a "distinct and different thin(g)"^[note: 36] and should not be confused with a change in the business structure. The move from an independent practice to an operating model under a service agreement did not result in the dividends being tax-exempt as under both models, they were exempt from tax^[note: 37]. According to the taxpayer's line of reasoning, an offending "arrangement" would require there to be a change in business structure.

(c) For there to be an “arrangement” for the purposes of tax avoidance within the definition of section 33(1), two elements must be shown: (1) the incorporation of a company and (2) payment of tax-exempt dividends^[note: 38]. The Company was incorporated before the one-tier corporate tax system was introduced, and there was no change in the structure at any time. Tax-exempt dividends had also been paid periodically over the years before and after the Company entered into the service agreement with ALO. Hence, the argument that the taxpayer put in place a tax-avoiding scheme fails.

(d) The way in which dividends were paid out over the years also did not support the contention that there was a tax-avoiding scheme or that the taxpayer was taking advantage of the tax system which was not intended by the law. First, the dividends were paid to both shareholders, not just the taxpayer. Second, dividends were declared only in three of the six YAs in dispute and even in those years when dividends were paid, the Company still retained some of the Company’s profits. From the fact that “income was left in the Company and dividends were only paid occasionally”^[note: 39], it could be inferred that the salary which the taxpayer drew was adequate and not artificially low.

37 At the hearing before us, the taxpayer’s counsel confirmed that the taxpayer’s case rested wholly on whether there was an arrangement within the definition of section 33(1) of the Act and that their case stood or fell on their arguments in respect of the 1st Stage of the three-stage inquiry in *AQQ*. He also confirmed that the taxpayer was not relying on and would not be making submissions in relation to the 2nd and 3rd Stages of the inquiry in *AQQ*^[note: 40].

The Comptroller’s arguments

38 The Comptroller’s contention is that the taxpayer put in place an arrangement during the disputed YAs that reduced her liability to pay income tax by \$138,249.53^[note: 41]. According to the Comptroller, this tax-avoiding arrangement (“the Arrangement”) comprised three component steps^[note: 42]:

(a) The interposition of the Company between the taxpayer and ALO. Through the interposition of the Company, the taxpayer provided medical services to the patients of ALO and ALO would receive payments from the patients and retain a percentage of the payments received, with the remaining amount paid to the Company. The taxpayer also had the Company receive payment for the vitamins and supplements which she sold. There was no reason for the interposition of the Company between the taxpayer and ALO save for tax purposes;

(b) Payment of an artificially low salary by the Company to the taxpayer; and

(c) The issuance or extraction of substantial tax-exempt dividends to the taxpayer/shareholders.

39 As such, the Comptroller invoked his power under section 33(1) of the Act to disregard the Arrangement and “tax the income earned by the Company during the (disputed) YAs in the hands of the (taxpayer)”^[note: 43].

40 Applying the 1st Stage of the inquiry in *AQQ*, the Comptroller submits that the purpose or effect of the Arrangement falls within the definition of sections 33(1)(a) and (c) of the Act in light of the substantial tax savings. While the Company had to pay tax on the income from her medical services and sale of vitamins and supplements, the tax rate applicable to the Company was lower than that for the taxpayer. The Company also enjoyed corporate tax rebates and exceptions, including the Partial Tax Exemption (“PTE”) Scheme during the disputed YAs^[note: 44].

41 Applying the 2nd Stage of the inquiry in *AQQ*, the Comptroller argues that the Arrangement did not serve any *bona fide* commercial purpose – the Company had minimal assets, minimal expenses aside from the remuneration paid to the taxpayer, and with the taxpayer as its sole active employee, who carried out all the critical and revenue generating roles and functions. There is also no evidence that the Arrangement was for a *bona fide* commercial purpose. The Comptroller further submits that the main purpose of the Arrangement was to reduce the taxpayer's tax liability, as evidenced by the fact that the taxpayer had the Company pay out substantial dividends while paying her a low salary at the same time.

42 Applying the 3rd Stage of the inquiry in *AQQ*, the Comptroller submits that it could not have been within Parliament's contemplation and purpose for the taxpayer to benefit from the lower corporate income tax rate, corporate tax rebates and the PTE Scheme by funnelling her income through the Company^[note: 45]. With regard to the PTE Scheme, there is no evidence that the taxpayer had used the retained profits in the Company to grow its business, which was the purpose for introducing it.

Issues to be considered

43 In determining if the Comptroller correctly invoked section 33(1) to disregard the Arrangement and to tax the income earned by the Company from the provision of the taxpayer's medical services and the sale of vitamins and supplements during the disputed YAs in the hands of the taxpayer, the following issues will be examined by the Board:

- (a) Whether there was an arrangement which fell within section 33(1)(a) and/or section 33(1)(c) of the Act;
- (b) Whether the taxpayer could have availed herself of the statutory exception under section 33(3)(b) of the Act; and
- (c) Whether the taxpayer could have relied on a tax advantage from the use of a specific provision in the Act that was within the intended scope of Parliament's contemplation and purpose.

44 These issues will be considered in turn.

Whether there was an arrangement which fell within section 33(1)(a) and/or section 33(1)(c) of the Act

45 According to the Comptroller, the component steps of the Arrangement consist of the imposition of the Company, the payment of an artificially low salary to the taxpayer and the issuance of substantial tax-exempt dividends. In the 1st Stage of the inquiry, as set out in *AQQ*, the Board has to consider whether what the Comptroller has particularised to be the arrangement *prima facie* falls within any of the three threshold limbs of s 33(1) such that the taxpayer has derived a tax advantage.

46 In this regard, we need to first determine if there was an "arrangement" in place during the disputed YAs, and second, whether the "purpose or effect" of the arrangement directly or indirectly (i) alters the incidence of any tax payable by or which would be otherwise payable by the taxpayer, and/or (ii) reduces or avoids any liability imposed or which would otherwise have been imposed on the taxpayer.

Whether there was an arrangement in place during the disputed YAs

Definition of "arrangement"

47 Section 33(2) defines the word, "arrangement", to mean "any *scheme*, trust, grant, covenant, agreement, disposition, transaction and *includes all steps by which it is carried into effect*" [emphasis added]. The Court of Appeal stated that the word is a composite term that means the overarching scheme, agreement or transaction and includes the component steps that carry into an effect an arrangement. In this light, the court clarified that "a tax avoidance arrangement may constitute a combination of steps that may be individually unobjectionable" at [43] of AQQ. It cited with approval the decision of the Privy Council in *Peterson v Commissioner of Inland Revenue* [2006] 3 NZLR 433 in which Lord Millett explained how a tax avoidance arrangement could be identified at [33]:

Their Lordships consider that the *Commissioner is entitled at his option to identify the whole or any part or parts of a single composite scheme* as the "contract, agreement, plan or understanding" which constitutes the "arrangement" for the purpose of section 99. *Whether there was a single "arrangement" or two or more connected but distinct "arrangements"* (as there were in *Commissioner of Inland Revenue v BNZ Investments Ltd* [2002] 1 NZLR 450) *is a question of fact for the [Commissioner]. ...*

[emphasis added]

48 The Court of Appeal in AQQ then applied the above definition of "arrangement" to the appeal before them in this way at [44]:

The Comptroller had chosen – before the Board, the High Court and indeed before us – to particularise the impugned arrangement as the composite scheme that comprised both the Corporate Restructuring and Financing Arrangement. It was on this basis that the Comptroller sought to apply the purpose and effect test in s 33(1). In our judgment he was entitled to do this and we accept that the composite scheme falls within the definition of "arrangement" in s 33(2). Our ensuing analysis will proceed on this broad premise, with references to the term "Financing Arrangement" used generally where the tax avoidance element can be found in the relevant component steps.

First component step – interposition of the Company

49 Parties disagree as to whether the interposition of the Company between the taxpayer and ALO could constitute part of an arrangement. The taxpayer's position is that there was no "arrangement" within the meaning of section 33(1) to speak of in the first place as the Company was incorporated long before the entering into of the service agreement between the Company and ALO and it could not hence be argued that the Company was established for the purposes of taking advantage of the one-tier corporate tax system which was put in place after that. The taxpayer had consistently conducted her medical practice using the same corporate structure, *i.e.* the Company, all these years. There was no change in the business *structure* since 2000. While there was a change in the business model when the Company moved from being run as an independent practice to one with a service agreement with another medical group, the fact remained that the business structure remained unchanged. The thrust of the taxpayer's argument is that for there to be an arrangement, there must be the act of the *incorporation*, not just *interposition*, of the Company for the purposes of the tax treatment in the disputed YAs.

50 We disagree. The taxpayer's interpretation of what amounts to an "arrangement" is too narrow and not supported by the broad legislative language in section 33(2), which defines the arrangement sought to be impugned to include any "scheme" and "includes all steps by which it is carried into effect". To adopt such an unnecessarily restrictive definition of an "arrangement" also undermines Parliament's intention of having an effective general anti-avoidance provision to deal with the increasingly complex and sophisticated tax avoidance schemes through the enactment of section 33^[note: 46]. If a necessary component of such an arrangement or

scheme is the requirement for a new company to be incorporated as opposed to a company, new or existing, being interposed, it will lead to a result where an existing company can easily be used as a vehicle to structure the financing arrangements of a group of companies to reduce or avoid the incidence of tax, such as was the case in *AQQ*, or to fundamentally alter the company's functions and operations, or to allow for payment of remuneration to an individual *qua* employee which was way below the market rate coupled with the payment of tax-exempt dividends to that same individual *qua* shareholder, all without adverse consequences under section 33, albeit with a clear or discernible purpose or objective of reducing or avoiding an individual's liability to pay income tax. To allow so would easily negate the statutory effectiveness of section 33 in tackling the incidence of tax avoidance (being the legislative mischief sought to be addressed by it).

51 The taxpayer has also pointed to the Circular issued by IRAS in November 2019, "Incorporation of Companies by Medical Professionals and Relevant Tax Implications"^[note: 47], and in particular the illustrations used, to support her interpretation of the word "arrangement" as requiring the incorporation of a company. We do not think that the IRAS circular assists the taxpayer's case as there is a clear disclaimer in the circular that the guidelines and examples therein are not exhaustive and that arrangements which are not covered in the circular "should not be taken as definitely falling outside the ambit of section 33(1) ... and acceptable to the (Comptroller)"^[note: 48].

52 The taxpayer further argues that the cases in which there was an offending arrangement involved the incorporation of a company as a component step of the arrangement, e.g. *Wee Teng Yau v Comptroller of Income Tax and anor* [2021] 3 SLR 1290, *GBF v The Comptroller of Income Tax* [2016] SGITBR 1 and *GIP*. In *AQQ*, the incorporation of the taxpayer company itself was a key step in the impugned arrangement. While the incorporation of a company when none existed previously to create a vehicle for the ends of tax avoidance is one of the common modalities for putting in place such an arrangement, it is not the only way to do so. As we have opined in [50] above, the legislative definition of "arrangement" is much broader in scope.

53 As a matter of fact, in *Penny v Commissioner of Inland Revenue* [2012] 1 NZLR 433 ("*Penny*"), which both parties cited in support of their respective cases, even though the taxpayer, an orthopaedic surgeon, had established the company-cum-family trust structure several years before the increase in the maximum individual tax rate and at a time when he would have obtained no tax advantage from the use of the structure, as is the case before us, the Supreme Court of New Zealand found that the structure used constituted a tax avoidance arrangement for the purposes of section BG 1 of the Income Tax Act 1994, the scope and effect of which is akin to section 33 of the Act. In *Penny*, from the point when the maximum personal tax rate was increased, the taxpayer received from his company remuneration well below the level he had earned when he conducted the practice in his own name. The balance of the annual net practice income was then distributed to the family trust as a dividend, which was taxed at a lower rate. The effect of the arrangement was to relieve the taxpayer and his family from payment of the additional tax as a result of the personal tax rate increase. What was pertinent to the court's decision was the fact that after the personal tax rate was increased, the taxpayer limited the level of his salary and arranged for his family trust to lend back to him (interest free and with no repayment terms) a large part of the distributions of company profits that it received by way of dividend.

54 As is clear from the parliamentary statement of the then-Minister for Finance when introducing section 33, *AQQ* and *Penny*, the adoption of a corporate vehicle to carry out one's business based on normal commercial considerations is entirely proper and valid. The mischief which is sought to be addressed here is not whether it is proper or valid to carry out one's business *per se* through a company structure, but whether the company structure is used for the purpose or objective of avoiding or reducing the income tax payable through the interposition of that company as an intermediary.

55 Following from this, we agree with the Comptroller's argument that it is not relevant *when* the Company was incorporated but *how* the Company was utilised: see NE 119/9-120/16:

Turning to the appellant's argument that there was no arrangement put in place and the appellant has been operating through the company for the last 20 years, we submit that it's not relevant when the company was incorporated. The point is how was the company used. So, prior to July 2013, the appellant had been carrying out her own medical practice and as my learned friend had said that the company bore the expenses relating to the appellant's medical practice, the staff expenses, the rent and et cetera. But this business model changed after she and the company entered into the arrangement of (ALO) in July 2013.

Now, the term "business structure" or "business model" was really semantic. What the comptroller is referring to is that after July 2013, the company ceased to have any functions, assets and risks. It ceased to employ a nurse assistant, ceased to rent premises and the bulk of the expenses were the appellant's salary.

So the case -- our case is that this present arrangement is similar to the cases of *GBF* which I have cited at tab 1 of my respondent's supplementary bundle of authorities. *GIP* and *Wee Teng Yau*. I think, briefly, the common feature that runs through these three cases is that in each of these cases, the taxpayers use the company to receive income from their provision of medical services and paid themselves artificially low salary and extracted significant amounts of tax-exempt dividends. So these are the similarities to the present case. The only difference is that instead of incorporating a fresh company, the appellant had used an existing corporate structure that was in place, i.e. (RTZ) Pte Ltd.

56 There is no dispute that when the Company entered into the service agreement with ALO, the taxpayer ceased to carry on an independent medical practice through the Company. There was clearly a change in the business model or in the way the Company functioned or was used. In contrast with the business arrangements prior to June/July 2013 such as that in the 2010 agreement, under the agreement with ALO, from June/July 2013, the Company no longer paid rent to use ALO's premises, no longer hired and paid the remuneration of a nurse assistant, no longer dealt with patient registration, billing and the collection of medical fees, which patients paid to ALO^[note: 49], and no longer took on other operational tasks of and incurred other overheads for running a clinic. The primary expenses of the Company were in the form of the taxpayer's remuneration. In reality, from June/July 2013 onwards, the Company no longer served any function since all the ordinary functions of running a business were undertaken by ALO. The only function of the Company, which was interposed between the taxpayer and ALO, was to receive the allocated revenue in accordance with the stipulations in the 2016 agreement for the services provided by the Company through the taxpayer. Essentially, the Company functioned as an intermediary, nothing more.

57 The taxpayer further submits that the Comptroller had not taken issue with the taxpayer's practice through the Company prior to the audit in 2018 and "had no issue with the "bona fide commercial reasons" for the business form or structure before July 2013"^[note: 50]. The Comptroller explained during the hearing before us that the reason why the earlier YAs were not covered by the audit was because the Comptroller "(was) not able to audit those periods because of the four-year time bar"^[note: 51]. In light of the explanation, which we accept, it would not be accurate to say that the Comptroller did not take issue with the interposition of the Company prior to YA 2014 as the reality was that they had not been subjected to the Comptroller's audit process for the reasons given. We cannot therefore place any weight on this submission by the taxpayer. In any event, parties agree that whether the Comptroller had or did not have an issue with the nature of the business form or structure prior to July 2013 is not material to the determination of the appeal^[note: 52].

58 By virtue of the foregoing analysis, it is clear to our mind that the interposition of the Company (even though it existed and had been in use before such interposition) as an intermediary between the taxpayer and ALO is a component step of the arrangement sought to be impugned.

Second component step – payment of an artificially low salary

59 Both before and after the Company entered into the service agreement with ALO in 2013, the taxpayer was the sole revenue generator of the Company. It is not disputed that the taxpayer was the only doctor conducting the clinic sessions and rendering medical services under the auspices of the Company, and this is reflected both in the 2010 agreement and the 2016 agreement. During the audit by the Comptroller for YA 2014 – YA 2019, the taxpayer's counsel informed IRAS that the taxpayer had always operated her medical practice as an ophthalmologist through the Company and that she was its sole employee^[note: 53]. As counsel explained in greater detail in his email on 28 June 2019^[note: 54] pursuant to IRAS' further queries, the income of the Company all these years was generated from the medical consultations and procedures conducted by the taxpayer, as well as the sale of pharmaceutical products:

2.1 **The company has had the same business and source of income for all years.** (The Company) has a single business and a single source of income both before and during the period under audit and both with or without (ALO).

2.2 **All income up to H1 2013 is 'other income'.** In 2013 (and earlier) (the Company) ran its own clinic, paid rent to (ALO) for premises, paid (ALO) for the use of equipment, paid the remuneration of a nurse/assistant, etc. All of the company's income was, so to speak "other income" in the sense that there was no income "from (ALO)".

2.3 **It is the same income whether "from (ALO)" or "other income".** Part way through 2013, the company adopted (ALO)'s platform. (The Company) ceased to pay rent, to pay for the use of equipment, to pay remuneration, etc; these costs were borne by (ALO) ... As a result, (the Company's) income in 2013 was, so to speak partly "from (ALO)" and partly "other income". *Nonetheless and in fact all the income was the same income for the same medical consultations, procedures, and pharmaceuticals.*

2.4 **Pharmaceuticals.** Pharmaceuticals, supplements and vitamins provide (and have always provided) a (small) part of (the Company's) revenue. From 2014, the supply of these items to (ALO) and other clinics constituted the "other income" because all of (the Company's) revenue for consultations and procedures were received through (ALO). Having said that, since the pharmaceuticals and such were also supplied to (ALO), part of this "other income" was therefore in that sense also "from (ALO)".

...

4.1 ... (The Company) has had two shareholders and (the taxpayer) has been practising through (the Company) for 21 years ...

[emphasis added].

60 As the sole revenue generator and the solo employee of the Company since she started her medical practice through the Company, the taxpayer received remuneration from the Company *qua* employee over the years, as reflected in the tables at [7] and [13].

61 In respect of the period from YA 2001 to YA 2013, before the Arrangement as contended by the Comptroller was said to be put in place, while the taxpayer's total remuneration from the Company could not be definitively verified, having reviewed the relevant Form B1 across these YAs^[note: 55], we accept that the total employment income reported in Form B1 in each of the YAs during this period represented her annual remuneration from the Company. We have done so having regard to the fact that the only known substantive employer-employee relationship the taxpayer had was with the Company, the consistency in the method of her reporting of

employment income in Form B1 throughout this period, the relative consistency in the quantum of annual employment report, the taxpayer's intimation to IRAS through her counsel that the nature of her medical practice remained the same during this period, and in the absence of any evidence adduced to the contrary.

62 Between YA 2001 and YA 2013, the taxpayer's monthly taxable income was between \$7,700^[note: 56] (in YAs 2007, 2008, 2009, 2012 and 2013) and \$10,634^[note: 57] (in YA 2003). In YA 2006, her monthly taxable income went up to \$15,467^[note: 58]. After the service agreement with ALO was entered into in June/July 2013, her monthly taxable income dropped to \$6,350^[note: 59] in YA 2014 and dropped further in YA 2015 – YA 2019 to \$5,000^[note: 60]. This represented a significant drop in remuneration of between 17.5% ^[note: 61] and 53%^[note: 62].

63 In our view, the sheer extent of the remuneration drop amid a continuity of business and income clearly points to an artificially low salary being paid to the taxpayer by the Company. First, the taxpayer was the solo employee of the Company and the sole revenue generator of the medical practice operating under the auspices of the Company throughout. The income or revenue stream of the Company also remained the same before or after the service agreement with ALO – as was represented to IRAS at [59] above, "in fact all the income was the same income for the same medical consultations, procedures, and pharmaceuticals". In *Wee Teng Yau* and *GIP*, two cases in which the Board found that the company concerned paid the taxpayer an artificially low annual salary, the role of the respective taxpayers through the rendering of dental or medical services had not changed throughout the relevant period. Such is the case before us. There is no objective reason why, for the same scope of medical services rendered through the same sole efforts of the taxpayer, her remuneration should or would have dropped so substantially by at least 17.5% and up to 53%.

64 In *Penny*, which also concerned the setting of an artificially low level of salary as a step in the tax avoidance arrangement, Blanchard J of the Supreme Court of New Zealand opined that if there was no good financial or commercial explanation for the low salary, it was a good indication that it involved tax avoidance:

[34] Tax avoidance can be found in an individual step in a wider arrangement. That step, when taken, can make the wider arrangement a tax avoidance arrangement. Where a particular step is done repetitively, such as in this case in the annual setting of the salary levels, the step may or may not amount to a tax avoidance *depending on its purpose or effect on each occasion*. If, for example, in one year the salary was set so as to absorb all the company profits, it could hardly be said that any avoidance was involved. Similarly, the salary might be set at a relatively low level *because the company had a commercial need to retain funds in order to make a capital expenditure*. Again, no question of avoidance could arise. That would also be the position *if the company was experiencing financial difficulties or reasonably considered that it might do so in the future*, and could not afford to pay the family member employee the equivalent of a commercial rate for the time being, or reasonably took the view that *it was not in the meantime financially prudent to do so*. On the other hand, if the setting of the annual salary is influenced in more than an incidental way by a consideration of the impact of taxation, the use of the structure in that way will be tax avoidance. *The question to be asked is therefore why the salary was fixed as it was on a particular occasion. Whether that involved tax avoidance can be answered by looking at the effect produced by the fixing of the level of the salary in combination with the operation of the other features of the structure.*

[35] The fixing of the low salary enabled most of the profits of the company from the professional practice to be transferred by way of dividends straight through to the trust, avoiding payment of the highest personal tax rate, ...

[emphasis added]

65 Applying the guidance in *Penny* to the case before us, there is no explanation put forth by the taxpayer as to why the monthly or annual remuneration paid by the Company to the taxpayer was substantially lower in the disputed YAs compared to the previous YAs. If we were to compare the annual revenue of the Company during the

time it had an agreement with ESS Medical between YA 2010 and YA 2013 with that of the Company after it entered into a service agreement with ALO, the Company's revenue remained substantial and gradually went up over the years during the disputed YAs. There were also no losses incurred. In fact, there was a healthy balance of retaining earnings in each YA during the disputed YAs.

66 Second, we accept the Comptroller's argument that an indicator that the taxpayer's remuneration was artificially low is the fact that her remuneration during the disputed YAs, at \$376,200, was only about 24% of the Company's total revenue of \$1,572,536 during this period^[note: 63] when the revenue of the Company should and would have been received by the taxpayer as the sole revenue generator had the Company not been interposed between her and ALO.

67 The Comptroller submits that the facts in this case are similar to those in *GIP*. In *GIP*, the taxpayer entered into a partnership with NRM, a leading medical service provider, first in his own name ("1st partnership") and later in the name of the company he incorporated ("2nd partnership"), to carry on the business of operating a clinic. The terms of both the 1st and 2nd partnerships were substantially the same. Importantly, the obligations of the taxpayer in the day-to-day running of the clinic, including the provision of medical services and the keeping of proper patient records, were exactly the same under the 1st partnership and 2nd partnership. Under the 2nd partnership, while the taxpayer was paid a salary of \$7,000 a month, the profits of the partnership were received by the company in place of the taxpayer. In coming to its finding that the taxpayer had caused the company to pay him a low annual salary, the Board highlighted that given that he was the sole revenue generator of the business, the company's cumulative revenue in YA 2013 to YA 2018 at over \$1.8 million (or between \$21,700 to \$29,600 per month, more than three times his monthly pay) "represented the value and worth of the taxpayer's role in the partnership both before and after the incorporation of the Company": at [80] of *GIP*. In concluding that the taxpayer's salary was artificially low, the Board pointed to the fact that "the taxpayer's annual salary as a direct effect of the arrangement was 43.1% of the remuneration he would have received if he, instead of the Company, was the partner": at [81] of *GIP*.

68 This too was exactly the situation before us. The taxpayer was the sole employee and sole revenue generator of the Company under the service agreement with ALO and the revenue of the Company between YA 2014 and YA 2019 at \$1,572,536 represented the value and worth of her role in the Company, out of which she received only 24% of that amount as a direct result of the interposition of the Company. This is another clear indication of the setting of an artificially low salary.

69 The taxpayer's counsel contended, in response to the Comptroller's reference to the percentage of the taxpayer's salary over the Company's revenue, that one should instead compare the salary against the profits of the Company^[note: 64]. We do not find this argument persuasive, let alone compelling in this case. No explanation has been given as to the correlation between the taxpayer's salary and the profits of the Company in determining if an artificially low salary had been set. It should also be noted that the profits of the Company are arrived at after the expenses of the Company, including salaries paid, are taken into account. No logical nexus was advanced by the taxpayer's counsel between the profits of the Company and the salaries paid for the very purpose of determining whether and how one's salary had been set at an artificially low level to avoid tax.

70 As for the taxpayer's argument that it could be inferred the taxpayer's salary was adequate given that dividends were paid only in three out of the six years in dispute, coupled with the fact that there were retained earnings, with respect, we do not see how the retention of revenue or profits in the Company goes to show that the taxpayer's salary was not kept artificially low. If there was a cogent commercial or financial reason to keep the taxpayer's salary low and retain part of the revenue in the Company, e.g. to expand the business, support capital expenditure or the Company's substantive operations, that can point to there being no tax avoidance involved. Here, there was no evidence adduced by the taxpayer as to why the taxpayer's salary was fixed at that particular level and if it served a commercial, financial or other purpose in the interest of the Company.

71 In the circumstances, we are satisfied that the payment by the Company of an artificially low salary to the taxpayer is another component step of the arrangement sought to be impugned.

Third component step – issuance of substantial tax-exempt dividends

72 In addition to the payment of an artificially low salary, we also find that substantial tax-exempt dividends were declared and which, but for the interposition of the Company as an intermediary, should and would have been received by the taxpayer as the sole revenue generator in the Company. We have come to this view having regard to the following evidence:

(a) Over the course of the disputed YAs, out of the Company's cumulative profits before tax, which amounted to \$793,146^[note: 65], \$580,387 in tax-exempt dividends^[note: 66], or 73% of the profits, were distributed to the shareholders. This was a very substantial amount of money and proportion of profits extracted in the form of dividends from the Company. At the same time, although all the Company's revenue was generated through the sole efforts of the taxpayer, the cumulative remuneration paid to her during this period, at \$376,200, was considerably less than the total amount of dividends paid out – the amount of taxable remuneration she received was only about 65% of the tax-exempt dividends issued during the disputed YAs.

(b) It bears repeating that throughout the relevant period, the revenue of the Company was solely generated by the taxpayer. In addition, with the change of the taxpayer's business model from an independent medical practice to one operating under a service agreement, without the attendant expenses of running a practice such as rental, staff expenses (aside from the taxpayer herself) and other operational expenses, the Company served little other purpose save to receive its share of the revenue which was derived from the taxpayer's medical services from ALO. If the Company was not interposed between the taxpayer and ALO, the revenue would have been received by the taxpayer, just as it was in *GIP*. No dividends would have been paid out to the shareholders of the Company since there would have been no revenue received by the Company in that scenario.

(c) While it can be argued that the receipt of dividends from profits and retained earnings by shareholders is an entitlement enjoyed by shareholders, this by itself is not an answer to an inquiry into whether there is a tax-avoiding arrangement which engages section 33(1) when one of the component step involves the interposition of an intermediary such as a corporate vehicle. This is because, given that we had established that the shareholder was the sole revenue generator, as was the case in *GIP*, if she did not interpose the Company as an intermediary "to funnel the income from her medical services"^[note: 67], as the Comptroller put it, and if she had entered into the service agreement with ALO in her personal capacity instead of through the Company, there would have been no dividends to declare to the shareholders in the first place. As a corollary to this, it does not matter whether there was one, two or more shareholders in the Company as the same reasoning would apply – without the interposition of the Company as an intermediary, the question of the payment of dividends would not even arise.

73 As for the argument that the Comptroller did not raise any issue with regard to the previous YAs before YA 2014 even though substantial dividends were also declared, the Comptroller had explained that there was no audit carried out for those YAs because of the four-year time bar (and not for any other reason). We observe that during the years when the Company had an arrangement with ESS Medical, the taxpayer's cumulative remuneration in that period covering YA 2010 to YA 2013 was in fact higher than the cumulative dividends declared, although nothing turns on that in our case.

Objective purpose or effect of the Arrangement

74 Having determined that there was an arrangement in place during the disputed YAs comprising the above three component steps within the meaning of section 33(1), we turn to consider if the objective purpose or effect of the arrangement *prima facie* alters the incidence of tax payable or reduces any tax liability such that the taxpayer has derived a tax advantage.

75 Applying the “predication principle”, the Court of Appeal in AQQ construed the phrase “purpose or effect” *conjunctively* so as to refer to the *objectively ascertained effect* of the arrangement in question:

45 AQQ and the Comptroller both agreed with the interpretation that the Judge attached to the phrase “purpose or effect” ... Applying the “predication principle” that emerges from Lord Denning’s judgment in *Lauri Joseph Newton and others v Commissioner of Taxation of the Commonwealth of Australia* [1958] 1 AC 450 (“*Newton*”), the words are to be construed conjunctively so as to refer to the *objectively ascertained effect* of the arrangement in question. In *Newton*, Lord Denning explained the like phrase found in s 260 of the Income Tax and Social Services Contribution Assessment Act 1936-1951 (Cth) (Aust) then in force in the following terms (at 465–466):

They show that the section is not concerned with the motives of individuals. It is not concerned with their desire to avoid tax, *but only with the means which they employ to do it*. It affects every “contract, agreement or arrangement” (which their Lordships will henceforward refer to compendiously as “arrangement”) which has the purpose or effect of avoiding tax. *In applying the section you must, by the very words of it, look at the arrangement itself and see which is its effect - which it does - irrespective of the motives of the persons who made it. ...*

In order to bring the arrangement within the section you must be able to predicate - by looking at the overt acts by which it was implemented - that it was implemented in that particular way so as to avoid tax. If you cannot so predicate, but have to acknowledge that the transactions are capable of explanation by reference to ordinary business or family dealing, without necessarily being labelled as a means to avoid tax, then the arrangement does not come within the section.

[emphasis in original omitted; emphasis added]

46 Read as a whole, the “predication principle” is thus concerned with the characterisation of the objective ends of an arrangement, that is, *whether it may be predicated from the observable acts by which an arrangement is implemented that it was implemented in that way so as to achieve the ends stated in any of the limbs* in s 33(1).

47 As articulated by Lord Denning, an arrangement would not be predicated as a tax avoidance arrangement if the arrangement is capable of explanation “by reference to ordinary business or family dealing, without necessarily being labelled as a means to avoid tax” (see *Newton* at 466). ...

76 It is not disputed that with the Arrangement in place, the taxpayer enjoyed substantial tax savings totalling \$138,249.53 during the disputed YAs: see RS at [20]. Before the Comptroller’s audit of the taxpayer, her income tax for YA 2014 to YA 2019 was originally assessed at \$22,397.67. After the audit, income tax was assessed at \$160,647.20, more than seven times that of the original assessment.

77 Following from our analysis at [49] – [72] on the component steps of the Arrangement and their effects on the tax liability of the taxpayer, we agree with the Comptroller’s position that section 33(1)(a) and section 33(1)(c) are satisfied. Applying the predication principle laid down in AQQ, the objectively ascertained effect of the Arrangement

was to alter the incidence of and reduce the taxpayer's income tax liability. We also note that the taxpayer has not put forth any evidence to suggest that there was any other purpose or effect which was sought to be achieved through the Arrangement.

78 In this regard, it may hence be predicated from the observable acts, which we have identified above, by which the Arrangement was implemented, viz through the three component steps, that the Arrangement was implemented in a way such as to alter the incidence of and reduce the amount of tax which the taxpayer herself was liable to pay. As we have explained in our analysis of the three component steps, without the Arrangement, all the revenue of the Company (after taking into account the relevant expenses), which was entirely derived from the sole efforts and contributions of the taxpayer, would have been received by the taxpayer and subject to personal income tax in section 10(1)(b) of the Act. Aside from receiving the allocated revenue from ALO, the Company essentially did not have any other functions with the change in business model under the service agreement with ALO: see our findings in [56] above. As a result of the Arrangement, pursuant to which the Company was interposed between the taxpayer and ALO to receive the revenue earned by the taxpayer as the sole revenue generator, coupled with the setting of an artificially low remuneration and the issuance of substantial tax-exempt dividends, the taxpayer benefited from substantial tax savings of almost \$140,000 over six years as the revenue was subject to tax in the hands of the Company instead of the taxpayer.

79 In summary, we find that the Arrangement fell within the ambit of section 33(1)(a) and section 33(1)(c) of the Act based on the objectively ascertainable effect of the three component steps which operated to both alter the incidence of tax payable by the taxpayer given that the taxable revenue earned through her sole efforts was paid to the Company instead of her, as well as to reduce her liability in income tax.

80 Following from that, if an arrangement is caught by section 33, the Comptroller would be entitled to "disregard ... the arrangement ... so as to counteract any tax advantage obtained or obtainable": section 33(1). In the case before us, this means that upon the Arrangement being impugned, the Comptroller will be entitled to tax the revenue of the Company in the hands of the taxpayer to counteract any tax advantage obtained by the taxpayer through the artificially low remuneration and the tax-exempt dividends unless she is able to fall within the scope of the exceptions in the 2nd or 3rd Stage of the inquiry in AQQ.

81 As the taxpayer's case rested entirely on her arguments in respect of the 1st Stage of the analytical framework in AQQ and it was confirmed that she would not be relying on the 2nd and 3rd Stages of the inquiry (at [37] above), our findings in relation to the 1st Stage would be sufficient to dispose of the appeal.

82 However, for completeness, as the Comptroller has made submissions on this, we shall make brief observations in relation to the 2nd and 3rd Stages of the inquiry in the context of the factual matrix before us.

Whether the taxpayer could have availed herself of the statutory exception under section 33(3)(b)

83 To avail herself of the statutory exception under section 33(3)(b), the taxpayer has to prove that the Arrangement (i) must have been carried out for *bona fide* commercial reasons; and (ii) must not have had as one of its main purposes the avoidance or reduction of tax.

84 As we stated in *GIP* at [87] and [88], which we adopt here, this conjunctive inquiry is a subjective one – as was held in *AQQ* at [74], the first limb of section 33(3)(b) is concerned with the taxpayer's subjective commercial motives for entering into a transaction, and the second limb is concerned with the subjective consequences that the taxpayer wishes to obtain. In determining the subjective intentions of the motives of the taxpayer, as such subjective intentions might not be readily apparent, the Board or Judge may ascertain this by reference to evidence or testimony of the taxpayer's actual contemporaneous state of mind and assess the veracity of this by

drawing the requisite inferences from the surrounding objective evidence or features of the arrangement: at [82]. This fact-sensitive inquiry was reiterated by the High Court in *Wee Teng Yau v Comptroller of Income Tax* [2021] 3 SLR 1290 (“*Wee Teng Yau*”) at [18]:

I agree ... that s 33(3)(b) has an extremely broad reach. That is because it declares that s 33 does not apply to any arrangement which “had not as one of its main purposes” the avoidance of tax, and the court cannot redraft it by replacing “one of” with “the”. Hence, *we have to read “bona fide commercial reasons” and “had not as one of its main purposes” together*. The Court must inquire into the tax advantage the taxpayer hopes to obtain from the arrangement in question. *If the taxpayer’s intentions, as inferred from the surrounding evidence or features of the arrangement, were to reduce or avoid tax liability, s 33(3)(b) does not apply for his benefit* (AQQ at [74] and [82]). One should bear in mind that s 33(3)(b) is supplemental to s 33(1) and is intended to facilitate the interpretation of that provision.

[emphasis added]

85 In the case before us, the taxpayer has not stated any commercial reason for the Arrangement and has not adduced evidence to show what her commercial motives or justifications for entering into the Arrangement are. While it may be that the decision for the Company to operate under a service agreement with a medical group instead of it being run as an independent medical practice suited the taxpayer better given that she was working part-time, as contended by the taxpayer’s counsel, this is a decision borne out of her personal considerations rather than a commercial one. We should add that there was no indication or evidence before us that this change in business model was informed by commercial reasons or objectives.

86 Set against that, aside from receiving the revenue generated by the taxpayer from ALO, there is no evidence that the Company served any other function or purpose. There was no evidence led as to the role AEL, the other shareholder who was entitled to half of the dividends declared, played in the Company or as the contributions which she made which were in furtherance of a commercial function. The Company did not pay any rent, had minimal assets, did not hire any staff and did not take on the usual operational tasks of running a clinic as all this was undertaken by ALO – see our findings in [56] above.

87 Having regard to the features of the Arrangement and the objective evidence which we have analysed in the preceding paragraphs, given that the effect of the Arrangement is to enable the taxpayer to enjoy substantial tax savings in the disputed YAs, the clear inference to be drawn is that one of the main subjective purposes of the Arrangement was to reduce or avoid tax on the part of the taxpayer. The taxpayer has also not adduced any evidence to show otherwise.

88 In the circumstances, we do not see how the taxpayer could have availed herself of the statutory exception under section 33(3)(b) of the Act.

Whether the taxpayer could have relied on a tax advantage from the use of a specific provision in the Act that was within the intended scope of Parliament’s contemplation and purpose

89 This can be dealt with swiftly. Section 43(6A) of the Act provides for companies to enjoy Partial Tax Exemption (“PTE”) savings. It is submitted in the Appellant’s Reply Submissions (“ARS-1 – 4”) at [12] that “all companies have a partial tax exemption; which of itself is enough to dispose of the matter”.

The PTE scheme was introduced from YA2002 to promote entrepreneurship by assisting businesses in their entrepreneurial pursuits. Through the PTE scheme, companies were able to retain more of their earnings and profits and plough them back to grow their businesses. This is made clear in the Budget Statement of the then-Minister for Finance, which we explained in detail in *GIP* at [116] – [118], and which we adopt here:

116 In recognition of the fact that small businesses formed an important component of the Singapore economy, the PTE scheme was introduced from YA2002 to help them get established and grow. In his Budget Statement in 2001, the Minister for Finance explained the objective of the PTE scheme and how the partial tax exemption would assist such businesses in their entrepreneurial pursuits:

The Government also recognises that small businesses are an important component of the Singapore economy. To help such companies, I have decided to introduce a tax exemption scheme that will help them grow and get established.

With effect from YA2002, three-quarters of up to the first \$10,000 of a company's chargeable income, and one-half of up to the next \$90,000 will be exempt from corporate tax. The remaining chargeable income will be taxed at the newly lowered rate of 24.5%.

This means that many small and medium enterprises and start-ups will have their taxes reduced by more than half, for the same chargeable income. Based on current data, about two-thirds of taxable companies will be taxed at less than half the previous tax rate. Companies, most particularly, smaller enterprises, can look forward to being able to plough more of their profits back to their business to exploit growth opportunities.

All companies, not just the small and medium-sized ones, will enjoy the tax exemption. The benefits passed on to companies arising from the lower corporate tax rate under this new tax regime are estimated to amount to \$680 million annually. This overall lowering of the tax burden is a demonstration of the Government's resolve to keep our corporate tax rate competitive globally, and our belief in the importance of creating a pro-business environment that is conducive to entrepreneurship.

The tax exemption will not apply to Singapore dividends received by companies. Such dividends will be taxed at 24.5%.

...

118 *It is clear that the PTE and the SUTE schemes, taken collectively, are targeted at entrepreneurs who use the corporate vehicle to grow their businesses and pursue their businesses by reducing the amount of taxes they have to pay so that they can plough back or reinvest a larger portion of their earnings and profits in their business, and pursue business ideas and growth opportunities. The two schemes are not, as the taxpayer sought to argue, merely "natural benefits of incorporating a company", as is clear from the Budget Statements above. They were established with specific purposes and objectives in mind, in furtherance of spurring economic growth through the support of the entrepreneurial spirit and the pursuit of business ideas.*

[emphasis added]

90 As is clear from the above extract, a tax benefit under the PTE scheme is not merely a natural benefit flowing from the incorporation of a company, without more. It must be demonstrated that the company is engaged in entrepreneurial efforts and pursuits to grow the business. There was no evidence of this nature adduced before us. Hence, the taxpayer would not have been able to meet the requirements under the 3rd Stage of the inquiry in AQQ.

Conclusion

91 For the foregoing reasons, the taxpayer's appeal in Income Tax Appeal No 19 of 2020 and Nos 36 to 40 of 2021 is dismissed, with costs of the appeals to be awarded to the Comptroller, the quantum of which is to be agreed between parties, failing which they will be assessed by the Registrar, the Deputy Registrar or an Assistant Registrar of the Supreme Court pursuant to section 80(7) of the Act.

[note: 1] Parties agreed that the documents in the Agreed Bundle of Documents ("ABOD-1 - 963") show that the taxpayer only started carrying on her medical practice through the Company in 2000 and not in 1998 as earlier asserted by the taxpayer – see Notes of Evidence ("NE"), 31 July 2024, NE 28/19-22, NE 32/20-23.

[note: 2] At NE 2/14-18.

[note: 3] At (a) ABOD-1 - 963), (b) Appellant's Bundle of Documents ("ABD Tabs 1 – 8") (admitted at NE 4/4-18), (c) Respondent's Bundle of Documents ("RBOD-1 – 47") (admitted at NE 6/13-15 and 10/16-18), (d) Addendum to the Respondent's Submissions ("RSA-1 – 6") (admitted at NE 10/4 – 13), (e) the Appellant's Reply to Addendum to Respondent's Submissions (Revised) ("ASA") (see the Comptroller's agreement to the facts and figures in the ASA in the letter to the Board dated 16 September 2024 at paragraph 4 as follows: "In the Appellant's 16 Sept Email, the Appellant had indicated that "The Respondent has confirmed that he has no further objections to the figures set out in the Revised ASA." The Respondent only wishes to add for the avoidance of doubt that the Respondent is only agreeing with the figures insofar as they are verifiable with reference to the (ABOD) and/or relevant statutory provisions". This is to be read in conjunction with NE 82/1-9, during which the original version of the ASA was so admitted and marked subject to verification on the accuracy of the figures. Permission was also granted to parties to submit an amended version of the document should there be inaccuracies in the mathematical calculations, and to have the amended version admitted and marked on paper without requiring parties to attend before the Board), (f) Timeline of key events ("R1") (admitted at NE 77/16-21), (g) Table of factual inaccuracies ("R2") (admitted at NE 77/16-18, 21-22), (h) Supplement to Table B of the Respondent's submissions ("R3") (admitted at NE 86/16-22, and (i) Table showing the net profit/loss, dividends and retained earnings/accumulated losses of the Company since incorporation ("R4") (admitted at NE 88/14-16).

[note: 4] At ABOD-478.

[note: 5] At ABOD-480.

[note: 6] At ABOD-496 – 497, which stated that the taxpayer was appointed as a director on 1 March 2000, while at ABOD-515, it was stated that the taxpayer was so appointed on 17 February 2000.

[note: 7] As agreed between parties at NE 32/20-23.

[note: 8] At ABOD-516.

[note: 9] At ABOD-870.

[note: 10] At the Appellant's Submissions ("AS-1 – 11") at [6] – [7].

[note: 11] See AS at [8].

[note: 12] At Clause 1 of the recital to the 2010 agreement.

[note: 13] At ASA.

[note: 14] At RSA-1 – 5.

[note: 15] At ASA and R4.

[note: 16] At ASA and R4.

[note: 17] At [10] of AS and the Respondent's Submissions ("RS-1 – 40") at [10].

[note: 18] At [10] of AS.

[note: 19] See the taxpayer's counsel's email to IRAS dated 11 February 2019 read with the email dated 14 February 2019 at ABOD-90.

[note: 20] As defined in Schedule 1 of the 2016 agreement.

[note: 21] As defined in Schedule 1 of the 2016 agreement.

[note: 22] At ABOD-935 – 958.

[note: 23] At ASA and R3.

[note: 24] At RSA-5 – 6 and R3.

[note: 25] At ASA and R4.

[note: 26] At ASA and R4.

[note: 27] At NE 83/12-13.

[note: 28] At ABOD-20.

[note: 29] At ABOD-336 – 342.

[note: 30] At ABOD-334 – 335.

[note: 31] At ABOD-407 – 408.

[note: 32] At ABOD-452 – 454.

[note: 33] At ABOD-470.

[note: 34] At ABOD-472 – 477.

[note: 35] At the Appellant's Reply Submissions ("ARS-1 – 4") at [6].

[note: 36] At [6] of ARS.

[note: 37] At [34] of AS.

[note: 38] At [11] of ARS, NE 39/3-25 and NE 44/21-45/4.

[note: 39] At [39] of AS.

[note: 40] At NE 189/1-190/23.

[note: 41] At [20] of RS.

[note: 42] See NE 75/5-6, NE 119/2-8 and [2] of RS.

[note: 43] At [22] of RS.

[note: 44] At [29] of RS.

[note: 45] At [58] of RS.

[note: 46] At [28] above.

[note: 47] At Tab 4 of ABD.

[note: 48] At page 1 of Tab 4 of ABD.

[note: 49] At [11] of AS.

[note: 50] At [10] of ARS.

[note: 51] At NE 124/8-11 and NE 29/19-31/23.

[note: 52] At NE 29/4-18.

[note: 53] See the taxpayer's counsel's email to IRAS on 11 February 2019 at ABOD-90 – 91.

[note: 54] At ABOD-142 – 144.

[note: 55] See RBOD-4 – 43,

[note: 56] Based on the annual taxable income of \$92,400 in those YAs divided by 12 months.

[note: 57] Based on the annual taxable income of \$127,600 in YA 2003 divided by 12 months.

[note: 58] Based on the annual taxable income of \$127,600 in YA 2006 divided by 12 months.

[note: 59] Based on the annual taxable income of \$76,200 in YA 2014 divided by 12 months

[note: 60] Based on the annual taxable income of \$60,000 in YA 2015 – YA 2019 divided by 12 months.

[note: 61] Taking the higher monthly salary of \$6,350 in YA 2014 after the service agreement with EEC was entered into and the lowest monthly salary of \$7,700 in YA 2001 and YA 2013.

[note: 62] Taking the monthly salary of \$5000 from YA 2015 to YA 2019 and the highest monthly salary of \$10,634 in YA2003.

[note: 63] See the table at [15].

[note: 64] See NE 153/10-21.

[note: 65] See the table at [44] of RS.

[note: 66] See the table at [15] above.

[note: 67] At NE 99/19-21.

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