

ANNEX A

s/n	Tax Change	Brief description of tax change	Amendment to Income Tax Act	Explanation for Amendment
1	Defining the Limited Liability Partnership	This amendment defines the “limited liability partnership”.	Section 2(1) [Clause 2]	Clause 2 amends section 2(1) to define the term “limited liability partnership”.
2	Apportionment of capital allowances	As it is possible for LLP to produce income that is partially exempt from tax, it is hence necessary to make amendments to the sections governing capital allowance claims (i.e. 16, 17,19, 19A, 19B, 19C, 19D and 20) to allow the Comptroller of Income Tax to apportion the balancing allowance or charges as appropriate when it arises.	Sections 16, 17, 19, 19A, 19B, 19C, 19D and 20 [Clauses 3 to 10]	Clauses 3 to 10 make technical amendments to sections 16, 17, 19, 19A, 19B, 19C, 19D and 20 to clarify that where a trade, profession or business produces income that is exempt from tax as well as income that is chargeable with tax, any allowance, balancing allowance or balancing charge made in respect of that trade, profession or business shall be apportioned as appears reasonable to the Comptroller of Income Tax in the circumstances.
3	Continuity in capital allowance claims during change(s) in partner composition.	This amendment clarifies that whenever a change in partners of a partnership (including LLP) occurs, any allowances claimed in respect of any asset shall be available to the buyer and no balancing allowance or charge shall be made to the seller.	Section 24 [Clause 11]	Clause 11 makes a technical amendment to section 24 to clarify that where there is any change of partners in a partnership in the basis period for any year of assessment or where a sole proprietorship is converted into a partnership or vice versa, any allowance in respect of any asset sold to the partners of the new partnership or to the new sole proprietorship for that year of assessment shall only be available to the buyer (i.e. partners of the new partnership or the new sole proprietor) and no capital allowance, balancing allowance or charge shall be made to the seller.

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4	Clarifications to set-off orders	The technical amendments to sections 35 and 37 clarify the order in which unutilised allowances or losses from the LLP trade may be set off against income from other sources.	Section 35, 35(2A), 37(4) [Clause 12 and 14]	<p>Clauses 12 and 14 make technical amendments to sections 35 and 37 respectively to clarify the order in which unutilised allowances or losses may be set off against income from other sources.</p> <p>New section 35 (2A) provides that any unutilised allowances (not fully set off against income from the same source) in any year of assessment shall be set off firstly against income from any other trade, business, profession or vocation, and thereafter against income from any other source.</p> <p>New section 37 (4) provides that any loss shall be set off firstly against income from the same trade, business, profession or vocation (where the loss is carried forward from an earlier year of assessment), and secondly against income from any other trade, business, profession or vocation, and thirdly against income from any other source.</p>
5	General tax treatment of the limited liability partnership	<p>The new section 36A sets out the general tax treatment of the limited liability partnership as a partnership, not as a separate legal entity.</p> <p>Briefly the changes include the following:</p> <ul style="list-style-type: none"> ▪ Section 10E is extended to include LLPs carrying on the 	Section 27 [Clause 5]	<p>Clause 13 inserts a new section 36A to make provision for the tax treatment of any limited liability partnership.</p> <p>Section 36A (1) provides that the activities and property of a limited liability partnership shall be treated as those of its partners for the purposes of income tax.</p> <p>Section 36A (2) provides that a limited liability</p>

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		<p>business of making investment;</p> <ul style="list-style-type: none"> ▪ The aggregate amount of unutilised capital allowances/losses that can be set off by a limited partner is limited to his capital contribution. ▪ If a partner reduces his capital contribution, the <i>excess</i> of his aggregate amount of unutilised capital allowance and loss from the LLP business that has been set off against his income from any other source over such reduced capital contribution shall be deemed to be income chargeable with tax under section 10(1)(g). An equal amount would be treated as a loss incurred by him. 		<p>partnership shall be treated as an ordinary partnership, and not as a separate legal entity, for the purposes of income tax.</p> <p>Section 36A (3) provides that section 10E shall apply to a business of the making of investments carried on by the partners in a limited liability partnership.</p> <p>Section 36A (4) and (5) provide that the aggregate amount of unutilised capital allowances and loss from a trade, business, profession or vocation carried on by a partner in a limited liability partnership in respect of all years of assessment (including the current year of assessment) that can be set off against his income from any other source in a year of assessment shall not exceed the amount of his capital contribution to the limited liability partnership as at the end of the basis period relating to the year of assessment, as determined by the Comptroller.</p> <p>Section 36A (6) provides that if the capital contribution of a partner to a limited liability partnership as at the end of the basis period relating to a year of assessment is reduced (as compared with his capital contribution as at the end of the basis period relating to the previous year of assessment), the excess of the aggregate amount of unutilised capital allowance and loss from a trade, business, profession or vocation carried on by him in the limited liability</p>

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				<p>partnership that has been set off against his income from any other source over such reduced capital contribution shall be deemed to be income chargeable with tax under section 10(1)(g). An equal amount would be treated as a loss incurred by him in the trade, business, profession or vocation for the year of assessment and be available to be set off against income from the trade, business, profession or vocation.</p> <p>Section 36A (7) deems the manager of a limited liability partnership to be its precedent partner for the purposes of sections 62 and 71.</p> <p>Section 36A (8) requires the manager of a limited liability partnership to make a return of the capital contribution of every partner of the limited liability partnership for each year of assessment.</p> <p>Section 36A (9) defines certain terms used in the section.</p>
6	Duties of liquidator	This clause specifies the duty of the liquidator of an LLP.	Sections 59 [Clauses 15]	Clause 15 repeals and re-enacts section 59 to impose a duty on the liquidator of a limited liability partnership or a company which is being wound up to comply with the provisions of the Act in relation to the affairs of the limited liability partnership or the company.