

Income Tax (Singapore — Saudi Arabia) (Avoidance of Double Taxation Agreement) Order 2011

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Enacting Formula

THE SCHEDULE

No. S 261

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(SINGAPORE — SAUDI ARABIA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2011**

WHEREAS it is provided by section 49 of the Income Tax Act that if the Minister by order declares that arrangements specified in the order have been made with the Government of any country outside Singapore with a view to affording relief from double taxation in relation to tax under the Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to tax under the Act notwithstanding anything in any written law:

AND WHEREAS it is provided by section 105C of the Income Tax Act that the Minister may by order declare an avoidance of double taxation arrangement as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by an Agreement dated 3rd May 2010, between the Government of the Republic of Singapore and the Government of the Kingdom of Saudi Arabia, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 3rd May 2010, between the Government of the Republic of Singapore and the Government of the Kingdom of Saudi Arabia, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

NOW, THEREFORE, it is hereby declared by the Minister for Finance —

- (a) that the arrangements specified in the Schedule to this Order have been made with the Government of the Kingdom of Saudi Arabia;
- (b) that it is expedient that those arrangements should have effect from 1st July 2011 notwithstanding anything in any written law; and
- (c) that those arrangements as modified by the said Protocol specified in the Schedule to this Order are a prescribed arrangement for the purposes of Part XXA of the Act.

THE SCHEDULE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF TAX EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of the Kingdom of Saudi Arabia,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which this Agreement shall apply are in particular:

(a) in the case of the Kingdom of Saudi Arabia:

— the Zakat

— the income tax including the natural gas investment tax

(hereinafter referred to as the “Saudi tax”);

(b) in the case of Singapore:

— the income tax

(hereinafter referred to as “Singapore tax”).

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term “Kingdom of Saudi Arabia” means the territory of the Kingdom of Saudi Arabia and the area outside the territorial waters, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights in their waters, sea bed, sub-soil and natural resources by virtue of its law and international law;

(b) the term “Singapore” means the Republic of Singapore and when used in a geographical sense, the term “Singapore” includes the territorial waters of Singapore and any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether

living or non-living;

- (c) the terms “a Contracting State” and “the other Contracting State” mean the Kingdom of Saudi Arabia or Singapore as the context requires;
- (d) the term “person” includes an individual, a company or any other body of persons;
- (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- (i) the term “competent authority” means:
 - (i) in the case of the Kingdom of Saudi Arabia, the Ministry of Finance represented by the Minister of Finance or his authorised representative;
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting State for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Contracting State and any administrative subdivision, local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident only of the Contracting State in which he has a

permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- (d) if his status cannot be determined according to sub-paragraphs (a) to (c) of this paragraph, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the Contracting State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” also includes:

- (a) a building site, a construction, installation or assembly project, or supervisory activities connected therewith, but only where such site, project or activities lasts for a period of more than 6 months;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 183 days within any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or