

Income Tax (Singapore — Bangladesh) (Avoidance of Double Taxation Agreement) Order 1982

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**INCOME TAX ACT
(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — BANGLADESH) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) ORDER 1982**

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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 by an Agreement dated the 19th day of December 1980, between the Government of the Republic of Singapore and the Government of the People's Republic of Bangladesh, arrangements were made amongst other things for the

avoidance of double taxation:

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

- (a) that the arrangements specified in the Schedule have been made with the Government of the People's Republic of Bangladesh; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of the People's Republic of Bangladesh,

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

Have agreed as follows:

ARTICLE 1

PERSONAL SCOPE

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 each Contracting State 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.

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

- (a) in the case of the People's Republic of Bangladesh:
 - (i) the income tax; and

(ii) the super tax;

(hereinafter referred to as “Bangladesh tax”);

(b) in the case of the Republic of Singapore:

the income tax;

(hereinafter referred to as “Singapore tax”).

4. This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws and furnish copies of relevant enactments and regulations.

5. If by reason of changes made in the taxation law of either Contracting States, it seems desirable to amend any article of this Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

ARTICLE 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:

- (a) the term “Bangladesh” means the People’s Republic of Bangladesh;
- (b) the term “Singapore” means the Republic of Singapore;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Bangladesh or Singapore as the context requires;
- (d) the term “tax” means Bangladesh tax or Singapore tax as the context requires;
- (e) the term “person” includes an individual, a company and any other entity which is treated as a taxable entity under the tax laws of the respective Contracting States;
- (f) the term “company” means any company, body corporate or any other entity which is treated as a company under the tax laws of the respective Contracting States;
- (g) the terms “resident of a Contracting State” and “resident of the other Contracting State” means a person who is a resident of Bangladesh or a person who is a resident of Singapore as the context requires;
- (h) 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;
- (i) the term “national” means all individuals possessing the nationality or citizenship of the respective Contracting States and also any legal person, partnership and association deriving their status as such from the laws in force in the respective Contracting States;
- (j) the term “competent authority” means in the case of Bangladesh, the National Board of

Revenue or their authorised representative and in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term “a resident of a Contracting State” means any person who is resident in a Contracting State for tax purposes of that Contracting State.

2. Where by reasons of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident 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 of the Contracting State with which his personal and economic relations are closest (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 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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the 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 in which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse, in relation to a person providing storage facilities for others;

- (g) a mine, quarry or other place of extraction of natural resources;
- (h) a building site or construction or assembly project which exists for more than 183 days.

3. The term “permanent establishment” shall not be deemed to include:

- (a) the use of facilities solely for the purposes of storage or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purposes of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 of this Article applies — shall be deemed to be a permanent establishment in the first-mentioned State, if —

- (a) he has, and habitually exercises, in the first-mentioned State a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise, or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which that person regularly delivers goods or merchandise for or on behalf of the enterprise, or
- (c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State, wholly or almost wholly, for the enterprise itself, or for the enterprise or other enterprise which are controlled by it or have controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business and their activities do not fall within the scope of paragraph 4(c) above.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

7. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on a business which consists of providing the services of public entertainers (such as stage, motion picture, radio or television artistes and musicians) or athletes in that other Contracting State unless such services are provided within the scope of a cultural or sports exchange programme agreed to by both the Contracting States.