

Income Tax (Singapore — Bermuda) (Agreement for the Exchange of Information on Tax Matters) Order 2012

Table of Contents

Enacting Formula

THE SCHEDULE

No. S 601

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — BERMUDA)
(AGREEMENT FOR THE EXCHANGE OF INFORMATION
ON TAX MATTERS)
ORDER 2012

WHEREAS it is provided by section 105BA of the Income Tax Act that if the Minister by order declares that an arrangement specified in the order has been made with the government of any country outside Singapore for the exchange of information concerning the tax positions of persons, and that it is expedient that that arrangement should have effect, then the arrangement shall have effect 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 or an exchange of information arrangement as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by an Agreement dated 29th October 2012 between the Government of the Republic of Singapore and the Government of Bermuda, arrangements were made to facilitate the exchange of information on tax matters

covered by the Agreement:

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 Bermuda for the exchange of information concerning the tax positions of persons;
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law; and
- (c) that those arrangements specified in the Schedule 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 BERMUDA
(AS AUTHORIZED BY THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND)

FOR

THE EXCHANGE OF INFORMATION ON TAX MATTERS

The Government of the Republic of Singapore and the Government of Bermuda,

Desiring to facilitate the exchange of information with respect to taxes,

Have agreed as follows:

ARTICLE 1

OBJECTIVE AND SCOPE OF THE AGREEMENT

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information

shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 7. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

ARTICLE 2

JURISDICTION

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

ARTICLE 3

TAXES COVERED

1. The taxes which are the subject of this Agreement are:

(a) in Singapore:

- Income Tax;
- Property Tax;
- Goods and Services Tax;
- Stamp Duties.

(b) in Bermuda:

- Direct taxes of every kind and description.

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Contracting Parties so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

ARTICLE 4

DEFINITION

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

- (a) the term “Singapore” means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed,

- the subsoil and the natural resources;
- (b) the term “Bermuda” means the islands of Bermuda;
 - (c) the term “Contracting Party” means Singapore or Bermuda as the context requires;
 - (d) the term “competent authority” means
 - (i) in Singapore, the Minister for Finance or his authorised representative;
 - (ii) in Bermuda, the Minister of Finance or his authorised representative;
 - (e) the term “person” includes an individual, a company and any other body of persons;
 - (f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (g) the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
 - (h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
 - (i) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
 - (j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
 - (k) the term “tax” means any tax to which the Agreement applies;
 - (l) the term “applicant Party” means the Contracting Party requesting information;
 - (m) the term “requested Party” means the Contracting Party requested to provide information;
 - (n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
 - (o) the term “information” means any fact, statement or record in any form whatever.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 5