Income Tax (Singapore — Ethiopia) (Avoidance of Double Taxation Agreement) Order 2017

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No. S 704

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — ETHIOPIA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2017

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 have effect in relation to tax under the Act despite anything in any written law:

AND WHEREAS by an Agreement dated 24 August 2016, between the Government of the Republic of Singapore and the Government of the Federal Democratic Republic of Ethiopia, arrangements were made, amongst other things, for the avoidance of double

taxation:

AND WHEREAS by a Protocol dated 24 August 2016, between the Government of the Republic of Singapore and the Government of the Federal Democratic Republic of Ethiopia, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

NOW, THEREFORE, it is 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 Federal Democratic Republic of Ethiopia; and

(*b*) that it is expedient that those arrangements should have effect despite anything in any written law.

THE SCHEDULE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

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 Federal Democratic Republic of Ethiopia,

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

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 political 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.

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

(*a*) in the case of Singapore:

— the income tax

(hereinafter referred to as "Singapore tax");

(*b*) in the case of Ethiopia:

(i) the tax on income and profit; and

(ii) the tax on income from mining, petroleum and agricultural activities;

(hereinafter referred to as "Ethiopian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the 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 terms "a Contracting State" and "the other Contracting State" mean Singapore or Ethiopia, as the context requires; and the term "Contracting States" means Singapore and Ethiopia;

(*b*) 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;

(*c*) the term "Ethiopia" means the Federal Democratic Republic of Ethiopia, and when used in a geographical sense, it means the national territory and any other area which in accordance with international law and the laws of Ethiopia is or may be designated as an area in which Ethiopia exercises sovereign rights or jurisdiction;

(*d*) the term "person" includes an individual, a company and 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", in relation to a Contracting State, means:

(i) any individual possessing the nationality or citizenship of that Contracting State; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

(*i*) the term "competent authority" means:

(i) in the case of Singapore, the Minister for Finance or his authorised representative;

(ii) in the case of Ethiopia, the Minister of Finance and Economic Cooperation or his authorised representative.

2. As regards the application of the 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 State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that 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 State, is liable to tax therein by reason of his domicile, residence, place of incorporation or registration, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph 1 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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) if the 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 State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(*c*) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(*d*) in any other case, 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 only of the State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 sales outlet;

(*f*) a workshop;

(*g*) a commercial warehouse;

(*h*) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on; and

(*i*) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities last more than six months.

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 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, display or delivery;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the