Income Tax (Singapore — France) (Avoidance of Double Taxation Convention) Order 1975

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INCOME TAX ACT
(CHAPTER 134, SECTION 49)

INCOME TAX (SINGAPORE — FRANCE)
(AVOIDANCE OF DOUBLE TAXATION CONVENTION)
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G.N. No. S 195/1975

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(25th March 1992)

[1st August 1975]

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 a Convention dated the 9th day of September 1974, between the Government of the Republic of Singapore and the Government of the French Republic,

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 to this Order have been made with the Government of the French Republic; and

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

THE SCHEDULE

CONVENTION BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE FRENCH REPUBLIC

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 French Republic,

Desiring to conclude a Convention 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 Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.

2. The existing taxes which are the subject of this Convention are —

(*a*) in Singapore:

the income tax

(hereinafter referred to as "Singapore tax");

(*b*) in France:

(i) the income tax; and

(ii) the corporation tax;

including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes

(hereinafter referred to as "French tax").

3. This Convention 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 important changes which have been made in their respective taxation laws.

4. If by reason of changes made in the taxation law of either Contracting State, it seems desirable to amend any article of this Convention 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 Convention:

(*a*) the term "Singapore" means the Republic of Singapore;

(*b*) the term "France" means the European and overseas departments (Guadeloupe, Guyane, Martinique and Reunion) of the French Republic, including any area outside the territorial sea of France which is, in accordance with international law, an area within which France may exercise rights with respect to the sea bed and sub-soil and their natural resources;

(*c*) the terms "a Contracting State" and "the other Contracting State" mean Singapore or France, as the context requires;

(*d*) the term "tax" means Singapore tax or French tax, as the context requires;

(*e*) the term "person" comprises an individual, a company and any association with or without juridical personality;

(*f*) the term "company" means any body corporate or any entity which is treated as a body

corporate for tax purposes;

(*g*) the terms "Singapore enterprise" and "French enterprise" mean, respectively, an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of Singapore and an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of France;

(*h*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean a Singapore enterprise or a French enterprise, as the context requires;

(*i*) the term "competent authority" means, in the case of Singapore, the Minister for Finance or his authorised representative; in the case of France the Minister of Economy and Finance or his authorised representative; and in the case of any territory to which this Convention is extended under Article 29, the competent authority for the administration in such territory of the taxes to which this Convention applies.

2. As regards the application of this Convention 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 Convention.

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who is a resident of a Contracting State for tax purposes of that Contracting State.

2. Where by reason 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 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 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 Contracting State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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 farm or plantation;

(*g*) a mine, oil well, quarry or other place of extraction of natural resources;

(*h*) a building site or construction or assembly project which exists for more than six months.

3. The term “permanent establishment” shall not be deemed 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 purpose 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. An enterprise of a Contracting State, notwithstanding it has no fixed place of business in the other Contracting State, shall be deemed to have a permanent establishment in that other Contracting State if it carries on supervisory activities therein for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of independent status to whom paragraph 6 applies), notwithstanding he has no fixed place of business in the former Contracting State, shall be deemed to be a permanent establishment therein if —

(*a*) he has, and habitually exercises in the former Contracting State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*b*) he maintains in the former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

6. 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 Contracting State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.