

Income Tax (Singapore — Germany) (Avoidance of Double Taxation Agreement) Order 1973

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

**INCOME TAX (SINGAPORE — GERMANY) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) ORDER 1973**

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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 February, 1972, between the Government of the Republic of Singapore and the Government of the Federal Republic of Germany, 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 Federal Republic of Germany; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

AGREEMENT BETWEEN THE REPUBLIC OF SINGAPORE AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Republic of Singapore and the Federal Republic of Germany,

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

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 and on capital imposed on behalf of each Contracting State or of its Laender, political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

- (a) in the Federal Republic of Germany:

the Einkommensteuer (income tax) including the Ergänzungsabgabe (surcharge)

thereon,

the Körperschaftsteuer (corporation tax) including the Ergänzungsabgabe (surcharge) thereon,

the Vermögensteuer (capital tax) and

the Gewerbesteuer (trade tax)

(hereinafter referred to as “German tax”);

(b) in 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.

5. The provisions of this Agreement in respect of taxation of income or capital shall likewise apply to the German trade tax, computed on a basis other than income or capital.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term “Federal Republic of Germany”, when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force, as well as any area adjacent to the territorial waters of the Federal Republic of Germany designated, in accordance with international law as related to the rights which the Federal Republic of Germany may exercise with respect to the sea bed and sub-soil and their natural resources, as domestic area for tax purposes;
- (b) the term “Singapore” means the Republic of Singapore, and, when used in a geographical sense, the territory of Singapore as well as any area adjacent to the territorial waters of Singapore designated in accordance with international law as related to the rights which Singapore may exercise with respect to the sea bed and sub-soil and their natural resources, as domestic area for tax purposes;
- (c) the terms “a Contracting State” and “the other Contracting State” mean the Federal Republic of Germany or Singapore, as the context requires;
- (d) the term “person” includes an individual, a company and any body of persons treated as an entity for tax purposes;
- (e) the term “company” means any body corporate or any entity, which is treated as a body corporate for tax purposes;
- (f) the terms “resident of a Contracting State” and “resident of the other Contracting State” mean a person who is a resident of the Federal Republic of Germany or a person who is a

resident of Singapore, as the context requires;

- (g) 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;
- (h) the term “citizen” means:
 - (aa) in respect of the Federal Republic of Germany any German in the meaning of Article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the law in force in the Federal Republic of Germany;
 - (bb) in respect of Singapore any citizen of Singapore and any legal person, partnership and association deriving its status as such from the law in force in Singapore;
- (i) the term “competent authority” means in the case of the Federal Republic of Germany the Federal Minister for Economics and Finance, and in the case of Singapore the Minister for Finance or his authorised representative.

2. As regards the application of the 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 the Agreement.

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this 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 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 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. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if —
 - (a) he has, and habitually exercises in that 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;
 - (b) he has, and habitually exercises in that State, an authority to fill orders on behalf of the enterprise from a stock of goods or merchandise which he maintains in that State and which belongs to the enterprise.
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