

**Income Tax (Singapore — Korea) (Avoidance of Double Taxation Agreement)
Order 2019**

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Enacting Formula

**THE SCHEDULE Agreement between the Government of the Republic of
Singapore and the Government of the Republic of Korea for the elimination of
double taxation with respect to taxes on income and the prevention of tax
evasion and avoidance**

No. S 828

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — KOREA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2019**

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 13 May 2019, between the Government of the Republic of Singapore and the Government of the Republic of Korea, arrangements were made, among other things, for the avoidance of double taxation:

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 Republic of Korea; 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 REPUBLIC OF KOREA

FOR

THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND
THE PREVENTION OF TAX EVASION AND AVOIDANCE

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

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States),

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 Korea:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special tax for rural development; and
 - (iv) the local income tax;(hereinafter referred to as “Korean tax”);
- (b) in Singapore:
 - the income tax(hereinafter referred to as “Singapore 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 taxation laws.

ARTICLE 3 — GENERAL DEFINITIONS

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

- (a) the term “Korea” means the Republic of Korea, and when used in a geographical sense, the territory of the Republic of Korea including its territorial sea, and any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights or jurisdiction of the Republic of Korea with respect to the sea, sea-bed and subsoil, and their natural resources may be exercised;
- (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 terms “a Contracting State” and “the other Contracting State” mean Korea or Singapore, as the context requires;
- (d) the term “tax” means Korean tax or Singapore tax, as the context requires;
- (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 “enterprise” applies to the carrying on of any business;
- (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 “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) 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;
- (k) the term “competent authority” means:
 - (i) in Korea, the Minister of Strategy and Finance or the Minister’s authorised representative;
 - (ii) in Singapore, the Minister for Finance or the Minister’s authorised representative;
- (l) the term “business” includes the performance of professional services and of other activities of an independent character.

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 that person’s domicile, residence, place of head or main office, 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 that individual’s status shall be determined as follows:

- (a) that individual shall be deemed to be a resident only of the State in which there is a permanent home available to that individual; if there is a permanent home available to that individual in both States, that individual shall be deemed to be a resident only of the State with which that individual’s personal and economic relations are closer (centre of vital interests);

- (b) if the State in which that individual has that individual's centre of vital interests cannot be determined, or if there is not a permanent home available to that individual in either State, that individual shall be deemed to be a resident only of the State in which that individual has an habitual abode;
- (c) if that individual has an habitual abode in both States or in neither of them, that individual shall be deemed to be a resident only of the State of which that individual 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.

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 workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activities last more than twelve 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 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 of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;