

**Income Tax (Singapore — Korea) (Avoidance of Double Taxation Convention)
Order 1981**

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(AVOIDANCE OF DOUBLE TAXATION CONVENTION)
ORDER 1981**

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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 a Convention dated the 6th day of November 1979, between the Government of the Republic of Singapore and the Government of the Republic of

Korea, 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 Republic of Korea; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

CONVENTION BETWEEN THE REPUBLIC OF SINGAPORE AND THE REPUBLIC OF KOREA 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 Republic of Korea,

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. The taxes which are the subject of this Convention are:

(a) in Singapore:

the income tax

(hereinafter referred to as “Singapore tax”);

(b) in Korea:

(i) the income tax;

(ii) the corporation tax; and

(iii) the inhabitant tax;

(hereinafter referred to as “Korean tax”).

2. This Convention shall also apply to any other taxes of a substantially similar character which are subsequently imposed in addition to, or in place of, the existing taxes.

3. 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. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term “Korea” means the Republic of Korea, and, when used in a geographical sense, it includes any area over which the sovereign rights of the Republic of Korea may be exercised;
- (b) the term “Singapore” means the Republic of Singapore;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Korea, as the context requires;
- (d) the term “tax” means Singapore tax or Korean tax, as the context requires;
- (e) the term “person” comprises an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (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 “nationals or citizens” means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in a 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 “competent authority” means, in the case of Korea, the Minister for Finance or his authorised representative; and in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of this Convention by either 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, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of head or main office, 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 his status shall be determined as follows:

- (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 management and control is situated. In case of doubts the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 mine, oil well, quarry or other place of extraction of natural resources;
- (g) a building site or construction or installation and assembly project which exist 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 in that other Contracting State for more than six months in connection with construction, installation and assembly project.

5. 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 6 applies) notwithstanding he has no fixed place of business in the first-mentioned Contracting State shall be deemed to be a permanent establishment in that Contracting State if:

- (a) he has, and habitually exercises an authority in the first-mentioned Contracting State to conclude contracts in the name of the enterprise; or
- (b) he maintains in the first-mentioned 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 persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

ARTICLE 6