

**Income Tax (Singapore — Spain) (Avoidance of Double Taxation Agreement)
Order 2011**

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Enacting Formula

**THE SCHEDULE Agreement between the Republic of Singapore and the
Kingdom of Spain for the avoidance of double taxation and the prevention of
fiscal evasion with respect to taxes on income**

No. S 603

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX
(SINGAPORE — SPAIN)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2011**

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 it is provided by section 105C of the Income Tax Act that the Minister may by order declare an avoidance of double taxation arrangement as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by an Agreement dated 13th April 2011, between the Republic of

Singapore and the Kingdom of Spain, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 13th April 2011, between the Republic of Singapore and the Kingdom of Spain, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

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 Kingdom of Spain;
- (b) that it is expedient that those arrangements should have effect from 2nd February 2012 notwithstanding anything in any written law; and
[S 661/2011 wef 19/12/2011]
- (c) that those arrangements as modified by the said Protocol specified in the Schedule to this Order are a prescribed arrangement for the purposes of Part XXA of the Act.

THE SCHEDULE

AGREEMENT

BETWEEN

THE REPUBLIC OF SINGAPORE

AND

THE KINGDOM OF SPAIN

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Republic of Singapore and the Kingdom of Spain,

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:

CHAPTER I
SCOPE OF THE AGREEMENT

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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) in Singapore:

— the income tax

(hereinafter referred to as “Singapore tax”);

(b) in Spain:

(i) the income tax on individuals;

(ii) the corporation tax;

(iii) the income tax on non residents; and

(iv) the local taxes on income

(hereinafter referred to as “Spanish 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.

CHAPTER II
DEFINITIONS
ARTICLE 3

GENERAL DEFINITIONS

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

- (a) 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;
- (b) the term “Spain” means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain, including inland waters, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Spain or Singapore as the context requires;
- (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 term “enterprise” applies to the carrying on of any business;
- (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 “international traffic” means any transport by a ship or aircraft operated by an enterprise that 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;
- (i) the term “competent authority” means:
 - (i) in Singapore, the Minister for Finance or his authorised representative;
 - (ii) in Spain, the Minister of Economy and Finance or his authorised representative;
- (j) the term “national”, in relation to a Contracting State means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.
- (k) 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 his domicile, residence, 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.

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.