

**Income Tax (Singapore — Portugal) (Avoidance of Double Taxation Agreement)
Order 2001**

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**INCOME TAX (SINGAPORE — PORTUGAL)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT) ORDER 2001**

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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 7th September 1999, between the Republic of Singapore and the Portuguese 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 have been made with the Portuguese Republic; 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 PORTUGUESE REPUBLIC FOR THE AVOIDANCE OF

DOUBLE TAXATION AND THE PREVENTION OF

FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Republic of Singapore and the Portuguese Republic, 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

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 imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income 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 the case of the Portuguese Republic:

- (i) the personal income tax (Imposto sobre o Rendimento das Pessoas Singulares — IRS);
 - (ii) the corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas — IRC);
 - (iii) the local surtax on corporate income tax (Derrama);
- (hereinafter referred to as “Portuguese tax”);

(b) in the case of the Republic of Singapore:

— the income tax

(hereinafter referred to as “Singapore tax”).

4. The Agreement shall apply also to any identical or substantially similar taxes which 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 substantial changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term “Portugal” means the territory of the Portuguese Republic situated in the European Continent, the Archipelagoes of Azores and Madeira, the respective territorial sea and any other zone in which, according to Portuguese and International Law, the Portuguese Republic has:
 - (i) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil; or
 - (ii) jurisdiction with respect to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the maritime environment;
- (b) the term “Singapore” means the territories of the Republic of Singapore, the territorial

waters of Singapore and the sea-bed and subsoil of the territorial waters, and when used in a geographical sense includes any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

- (c) the terms “a Contracting State” and “the other Contracting State” mean Portugal 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 which is treated as a body corporate for tax purposes;
- (f) 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;
- (g) 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;
- (h) the term “competent authority” means:
 - (i) in Portugal: the Minister of Finance, the Director General of Taxation (Director-Geral dos Impostos) or their authorised representative;
 - (ii) in Singapore: the Minister for Finance or his authorised representative;
- (i) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

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 which 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 or administrative subdivision or 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) if he is a national of both States or of 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 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. The term “permanent establishment” also includes:

- (a) a building site, a construction, installation or assembly project, or supervisory activities in connection therewith, but only where such site, project or activities last more than 12 months;
- (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State for a period or periods aggregating more than 120 days within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include: