

Income Tax (Singapore — Luxembourg) (Avoidance of Double Taxation Agreement) Order 1996

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(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — LUXEMBOURG) (AVOIDANCE OF DOUBLE
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G.N. No. S 233/1996

REVISED EDITION 1997

(15th June 1997)

[24th May 1996]

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 6th day of March 1993, between the Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg, 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 Government of the Grand Duchy of Luxembourg; 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 GRAND DUCHY OF LUXEMBOURG

FOR

THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME
AND ON CAPITAL

The Government of the Republic of Singapore and the Government of the Grand Duchy of Luxembourg,

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on 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 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, 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:

(a) in the Grand Duchy of Luxembourg:

- (i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);
- (ii) the corporation tax (l'impôt sur le revenu des collectivités);
- (iii) the tax on fees of directors of companies (l'impôt spécial sur les tantièmes);
- (iv) the capital tax (l'impôt sur la fortune); and
- (v) the communal trade tax (l'impôt commercial communal);
(hereinafter referred to as "Luxembourg tax").

(b) in 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.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a)
 - (i) the term "Singapore" means the Republic of Singapore;
 - (ii) the term "Luxembourg" means the Grand Duchy of Luxembourg;
- (b) the terms "a Contracting State" and "the other Contracting State" mean Singapore or Luxembourg as the context requires;
- (c) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
- (d) the term "company" means any body corporate or any other entity which is treated as a body

corporate for tax purposes;

- (e) 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;
- (f) the term “competent authority” means:
 - (i) in Singapore, the Minister for Finance or his authorized representative;
 - (ii) in Luxembourg, the Minister of Finance or his authorised representative;
- (g) the term “tax” means Singapore tax or Luxembourg tax as the context requires;
- (h) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which 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 or solely between such places and one or more structures used for the exploration or exploitation of natural resources situated in waters adjacent to the territorial waters of that other Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who is resident in a Contracting State for tax purposes of that Contracting State.
2. Where by reason of the provision 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 (hereinafter referred to as his “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 two 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, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 but is not limited to:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a store or other sales outlet;
- (e) a factory;
- (f) a workshop;
- (g) a warehouse, except where used for purposes mentioned in paragraph 5; and
- (h) a mine, an oil or gas well, a quarry or any other place of natural resources.

3. The term “permanent establishment” also includes:

- (a) a building site, or a construction, installation or assembly project, but only where such site or project or any combination of them continues for a period or periods aggregating more than six months within any 12-month period;
- (b) the furnishing of services, including consultancy services, by a resident of a Contracting State through employees or other personnel.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for a period or periods aggregating more than six months within any 12-month period in connection with a construction, installation or assembly project or any combination of them which are being undertaken in that other Contracting State.

5. The term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage or display 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 or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the