

Income Tax (Singapore — Australia) (Avoidance of Double Taxation Agreement) (Supplementary) Order 1990

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**INCOME TAX ACT
(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — AUSTRALIA) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) (SUPPLEMENTARY) ORDER 1990**

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G.N. No. S 7/1990

REVISED EDITION 1990

(25th March 1992)

[5th January 1990]

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 11th February 1969 between the Government of the Republic of Singapore and the Government of the Commonwealth of Australia, arrangements were made amongst other things for the avoidance of double

taxation:

AND WHEREAS by an exchange of diplomatic notes dated 16th October 1989 between the Government of the Republic of Singapore and the Government of the Commonwealth of Australia, the operation of paragraph 3 of Article 18 of the said Agreement was extended to income derived in any year of income up to and including the year of income that ended on 30th June 1987:

AND WHEREAS by a Protocol dated 16th October 1989 between the Government of the Republic of Singapore and the Government of the Commonwealth of Australia, 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 as contained in the said exchange of diplomatic notes set out in the Schedule have been made with the Government of the Commonwealth of Australia;
- (b) that the arrangements as modified by the said Protocol specified in the Schedule have been made with the Government of the Commonwealth of Australia; and
- (c) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

16 October 1989

Sir,

I have the honour to refer to Paragraph (4) of Article 18 of the Agreement between the Government of the Republic of Singapore and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on 11 February 1969.

In this connection I have the honour to propose that the provisions of Paragraph (3) of Article 18 of the Agreement shall apply in relation to income derived in any year of income up to and including the year of income that ended on 30 June 1987.

In the event of this proposal being acceptable to the Government of Australia this Note, together with your Note accepting the proposal, shall constitute an Agreement between the two Governments for the purposes of Paragraph (4) of Article 18 of the Agreement, which shall enter into force on the date of your reply.

I avail myself of this opportunity, Sir, to renew to you the assurances of my highest consideration.

(Sg.) Joseph Francis Conceicao
High Commissioner
High Commission of
Republic of Singapore
Canberra, Australia.

The Hon Paul John Keating
Treasurer
Parliament House
Canberra
Australia

16 October 1989

Excellency,

I have the honour to acknowledge receipt of your Note of today's date which reads as follows:

“Sir,

I have the honour to refer to Paragraph (4) of Article 18 of the Agreement between the Government of the Republic of Singapore and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on 11 February 1969.

In this connection I have the honour to propose that the provisions of Paragraph (3) of Article 18 of the Agreement shall apply in relation to income derived in any year of income up to and including the year of income that ended on 30 June 1987.

In the event of this proposal being acceptable to the Government of Australia this Note, together with your Note accepting the proposal, shall constitute an Agreement between the two Governments for the purposes of Paragraph (4) of Article 18 of the Agreement, which shall enter into force on the date of your reply.

I avail myself of this opportunity, Sir, to renew to you the assurances of my highest consideration.”

I have the honour to inform you that the foregoing proposal is acceptable to the Government of Australia and that your Note of today's date and this Note shall together constitute an Agreement between the Government of Australia and the Government of the Republic of Singapore for the purposes of Paragraph (4) of Article 18, which shall enter into force on today's date.

I avail myself of this opportunity, Sir, to renew to you the assurances of my highest consideration.

(Sg.) Paul John Keating

His Excellency Mr Joseph Francis Conceicao
High Commissioner
Singapore High Commission
17 Forster Crescent

YARRALUMLA ACT 2600

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE
GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA
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 Australia,

Desiring to amend the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Canberra on 11 February 1969 (in this Protocol referred to as “the Agreement”),

Have agreed as follows:

ARTICLE 1

The following Article is inserted before Article 1 of the Agreement.

“ARTICLE 1A

This Agreement shall apply to persons who are residents of one or both of the Contracting States.”.

ARTICLE 2

Article 1 of the Agreement is amended by omitting sub-paragraph (1)(a) and substituting:

“(a) in Australia:

the income tax, and the petroleum resource rent tax in respect of offshore projects, imposed under the federal law of the Commonwealth of Australia;”.

ARTICLE 3

Article 2 of the Agreement is amended by inserting in paragraph (4) “from time to time in force” after “that Contracting State”.

ARTICLE 4

Article 4 of the Agreement is omitted and the following Article is substituted:

“ARTICLE 4

(1) For the purposes of this Agreement, the term “permanent establishment”, in relation to an enterprise, means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” includes 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 it is used solely for any of the purposes mentioned in paragraph (4);
- (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (i) 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 aggregating more than 6 months within any 12-month period.

(3) An enterprise of a Contracting State shall be deemed to have a permanent establishment and to carry on trade or business through that permanent establishment in the other Contracting State if —

- (a) it carries on supervisory activities in that other State for a period or periods aggregating more than 6 months within any 12-month period in connection with a building site, or a construction, installation or assembly project or any combination of them which is being undertaken in that other State; or
- (b) substantial equipment is being used in that other State by, for or under contract with the enterprise.

(4) An enterprise shall not be deemed to have a permanent establishment merely by reason of —

- (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 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 activities