

**Income Tax (Singapore — Belgium) (Avoidance of Double Taxation Convention)
Order 1973**

Table of Contents

Enacting Formula

THE SCHEDULE

Legislative History

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

**INCOME TAX (SINGAPORE — BELGIUM) (AVOIDANCE OF DOUBLE
TAXATION CONVENTION) ORDER 1973**

O 8

G.N. No. S 336/1973

REVISED EDITION 1990

(25th March 1992)

[3rd October 1973]

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 8th day of February 1972, between the Government of the Republic of Singapore and the Government of the Kingdom of Belgium, 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 Kingdom of Belgium; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of the Kingdom of Belgium,

Desiring to conclude a Convention for the avoidance of double taxation 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. This Convention shall apply to taxes on income imposed on behalf of each Contracting State 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 Convention shall apply are, in particular:

- (a) in the case of Belgium:
 - (i) the individual income tax (l'impôt des personnes physiques);
 - (ii) the corporate income tax (l'impôt des sociétés);

- (iii) the income tax on legal entities (l'impôt des personnes morales);
- (iv) the income tax on non-residents (l'impôt des non-résidents);
- (v) the prepayments and additional prepayments (les précomptes et compléments de précomptes); and
- (vi) the surcharges (décimes et centimes additionnels) on any of the taxes referred to in (i) to (v) above, including the communal supplement to the individual income tax (taxe communale additionnelle à l'impôt des personnes physiques),

(hereinafter referred to as “Belgian tax”);

- (b) in the case of Singapore:

the income tax

(hereinafter referred to as “Singapore tax”).

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed 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 which have been made in their respective taxation laws.

5. 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.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term “Belgium” means the Kingdom of Belgium; it includes any area outside the Belgian national sovereignty which has been or may hereafter be designated, under the Belgian laws concerning the continental shelf and in accordance with international law, as an area within which the rights of Belgium with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term “Singapore” means the Republic of Singapore;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Belgium or Singapore, as the context requires;
- (d) the term “tax” means Belgian tax or Singapore tax, as the context requires;
- (e) the term “person” includes 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 in the Contracting State of which it is a resident;

- (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 “competent authorities” means in the case of Belgium, the competent authority according to Belgian legislation, and in the case of Singapore, the Minister for Finance or his authorised representative.

2. As regards the application of the Convention by a 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 the Convention.

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Convention, 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 provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (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 effective management is situated.

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, quarry or other place of exploitation of natural resources;
- (g) a farm or plantation;
- (h) a building site or construction or assembly project which exists 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 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 more than six months in connection with a building site, construction, installation or assembly project which is being undertaken in that other Contracting State.

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 — shall be deemed to be a permanent establishment in the first-mentioned Contracting State if —

- (a) he has, and habitually exercises in that first-mentioned Contracting State, any authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for 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 either company a permanent establishment of the other.