

**Income Tax (Exchange of Information Arrangement) (United States of America)  
Order 2020**

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**THE SCHEDULE Agreement between the Republic of Singapore and the United States of America for the Exchange of Information relating to Taxes done at Singapore on 13 November 2018**

**No. S 85**

**INCOME TAX ACT  
(CHAPTER 134)**

**INCOME TAX  
(EXCHANGE OF INFORMATION ARRANGEMENT)  
(UNITED STATES OF AMERICA) ORDER 2020**

In exercise of the powers conferred by section 105BA of the Income Tax Act, the Minister for Finance makes the following Order:

**Citation and commencement**

**1.** This Order is the Income Tax (Exchange of Information Arrangement) (United States of America) Order 2020 and comes into operation on 1 January 2021.

## **Definition**

2. In this Order, “Agreement” means the Agreement between the Republic of Singapore and the United States of America for the Exchange of Information relating to Taxes done at Singapore on 13 November 2018, set out in the Schedule.

## **Declaration of Exchange of Information Arrangement**

3. It is declared that —

- (a) Singapore is a party to the Agreement, being a bilateral arrangement the purpose or one of the purposes of which is the exchange of information concerning the tax positions of persons, and accordingly an arrangement mentioned in section 105BA(1) of the Act; and
- (b) it is expedient that the arrangement should have effect.

## **THE SCHEDULE**

Paragraph 2

### **AGREEMENT BETWEEN THE REPUBLIC OF SINGAPORE AND THE UNITED STATES OF AMERICA FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES DONE AT SINGAPORE ON 13 NOVEMBER 2018**

The Republic of Singapore (“Singapore”) and the United States of America (the “United States”), desiring to facilitate the exchange of information with respect to taxes, have agreed as follows:

## **ARTICLE 1**

### **Object and Scope of this Agreement**

The competent authorities of the Parties shall provide assistance to each other through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 9 (Confidentiality).

## **ARTICLE 2**

### **Jurisdiction**

A requested Party shall not be obligated to provide information that is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction. With respect to information held by its authorities or in the possession or control of persons who are within its territorial jurisdiction, however, the requested Party shall provide information in accordance with this Agreement

regardless of whether the person to whom the information relates is, or whether the information is held by, a resident or national of a Party.

### **ARTICLE 3**

#### **Taxes Covered**

1. This Agreement shall apply to the following taxes imposed by the Parties:

- a) in the case of the United States, all federal taxes; and
- b) in the case of Singapore:
  - i) Income Tax;
  - ii) Property Tax;
  - iii) Goods and Services Tax; and
  - iv) Stamp Duties.

2. This Agreement also shall apply to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws or other laws that relate to the application of this Agreement.

### **ARTICLE 4**

#### **Definitions**

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

- a) the term “Party” means the United States or Singapore as the context requires;
- b) the term “competent authority” means
  - i) in the case of the United States, the Secretary of the Treasury or his delegate; and
  - ii) in the case of Singapore, the Minister for Finance or his delegate;
- c) the term “person” includes an individual, a company and any other body of persons;
- d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term “national” of a Party means any individual possessing the nationality or citizenship of that Party, and any legal person, partnership or association deriving its status as such from the laws in force in that Party;
- f) the term “publicly traded company” means any company whose principal class of shares is listed on a recognized stock exchange if the purchase or sale of its listed shares is not implicitly or explicitly restricted to a limited group of investors;

- g) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;
- h) the term “recognized stock exchange” means any stock exchange agreed upon by the competent authorities of the Parties;
- i) the term “public collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form, if the purchase, sale or redemption of the units, shares or other interests in the investment vehicle is not implicitly or explicitly restricted to a limited group of investors;
- j) the term “tax” means any tax to which this Agreement applies and does not include customs duties;
- k) the term “applicant Party” means the Party requesting information;
- l) the term “requested Party” means the Party requested to provide information;
- m) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Party to obtain and provide the requested information; and
- n) the term “information” means any fact, statement or record in any form whatever.

2. For purposes of determining the geographic area within which jurisdiction to compel production of information may be exercised:

- a) the term “United States” means the territory of the United States of America, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands and any other U.S. possession or territory; and
- b) 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 regard to the sea, the sea-bed, the subsoil and the natural resources.

3. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities of the Parties agree to a common meaning pursuant to the provisions of Article 11 (Mutual Agreement Procedure), have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

## **ARTICLE 5**

### **Exchange of Information Upon Request**

1. The competent authority of the requested Party shall provide information for the purposes referred to in Article 1 (Object and Scope of this Agreement) upon request by the competent authority of the applicant Party. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or whether the conduct being investigated would

constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes. Privileges under the laws and practices of the applicant Party shall not apply in the execution of a request by the requested Party and the resolution of such matters shall be solely the responsibility of the applicant Party.

3. If specifically requested by the competent authority of the applicant Party, the competent authority of the requested Party shall, to the extent allowable under its domestic laws:

- a) specify the time and place for the taking of testimony or the production of books, papers, records and other data;
- b) place the individual giving testimony or producing books, papers, records or other data under oath;
- c) permit the presence of individuals designated by the competent authority of the applicant Party as being involved in or affected by execution of the request, including an accused, counsel for the accused, individuals charged with the administration or enforcement of the domestic laws of the applicant Party covered by this Agreement or a commissioner or magistrate for the purpose of rendering evidentiary rulings or determining issues of privilege under the laws of the applicant Party;
- d) provide individuals permitted to be present with an opportunity to question, directly or through the executing authority, the individual giving testimony or producing books, papers, records and other data;
- e) secure original and unedited books, papers, records and other data;
- f) secure or produce true and correct copies of original and unedited books, papers, records and other data;
- g) determine the authenticity of books, papers, records and other data produced, and provide authenticated copies of original books, papers, records and other data;
- h) examine the individual producing books, papers, records and other data regarding the purpose for which and the manner in which the item produced is or was maintained;
- i) permit the competent authority of the applicant Party to provide written questions to which the individual producing books, papers, records and other data is to respond regarding the items produced;
- j) perform any other act not in violation of the laws or at variance with the administrative practice of the requested Party; and
- k) certify either that procedures requested by the competent authority of the applicant Party were followed or that the procedures requested could not be followed, with an