

Income Tax (Exchange of Information Arrangement) Order 2016

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THE SCHEDULE

No. S 34

INCOME TAX ACT (CHAPTER 134)

INCOME TAX (EXCHANGE OF INFORMATION ARRANGEMENT) ORDER 2016

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) Order 2016 and comes into operation on 1 May 2016.

Definition

2. In this Order, “Convention” —

(a) means the Convention on Mutual Administrative Assistance in Tax

Matters done at Strasbourg on 25 January 1988, as amended by the Protocol amending the Convention done at Paris on 27 May 2010, together with the declarations, set out in Part 1 of the Schedule; and

(b) includes the reservations set out in Part 2 of the Schedule.

Declaration of Exchange of Information Arrangement

3. It is declared that —

- (a) Singapore is a party to the Convention, being a multilateral 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 referred to in section 105BA(1) of the Act; and
- (b) it is expedient that the arrangement should have effect.

THE SCHEDULE

Paragraph 2

PART 1

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX
MATTERS DONE AT STRASBOURG ON 25 JANUARY 1988, AS
AMENDED BY THE PROTOCOL AMENDING THE CONVENTION ON
MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS DONE
AT PARIS ON 27 MAY 2010

Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services - although highly beneficial in itself - has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

CHAPTER I — SCOPE OF THE CONVENTION

Article 1

Object of the Convention and persons covered

1. The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.
2. Such administrative assistance shall comprise:
 - a. exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;
 - b. assistance in recovery, including measures of conservancy; and
 - c. service of documents.
3. A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2

Taxes covered

1. This Convention shall apply:
 - a. to the following taxes:
 - i. taxes on income or profits,
 - ii. taxes on capital gains which are imposed separately from the tax on income or profits,
 - iii. taxes on net wealth,imposed on behalf of a Party; and
 - b. to the following taxes:

- i. taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,
- ii. compulsory social security contributions payable to general government or to social security institutions established under public law, and
- iii. taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
 - A. estate, inheritance or gift taxes,
 - B. taxes on immovable property,
 - C. general consumption taxes, such as value added or sales taxes,
 - D. specific taxes on goods and services such as excise taxes,
 - E. taxes on the use or ownership of motor vehicles,
 - F. taxes on the use or ownership of movable property other than motor vehicles,
 - G. any other taxes;
- iv. taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.

2. The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3. The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the “Depositaries”) of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4. The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

CHAPTER II — GENERAL DEFINITIONS

Article 3

Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a. the terms “applicant State” and “requested State” mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such

assistance;

- b. the term “tax” means any tax or social security contribution to which the Convention applies pursuant to Article 2;
- c. the term “tax claim” means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
- d. the term “competent authority” means the persons and authorities listed in Annex B;
- e. the term “nationals” in relation to a Party means:
 - i. all individuals possessing the nationality of that Party, and
 - ii. all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2. As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3. The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

CHAPTER III — FORMS OF ASSISTANCE

SECTION I — EXCHANGE OF INFORMATION

Article 4

General provision

1. The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.

2. Deleted.

3. Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

Article 5

Exchange of information on request

1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.