Income Tax (Singapore — Belgium) (Avoidance of Double Taxation Convention) (Supplementary) Order 2004

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Enacting Formula

THE SCHEDULE

No. S 257

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (SINGAPORE-BELGIUM) (AVOIDANCE OF DOUBLE TAXATION CONVENTION) (SUPPLEMENTARY) ORDER 2004

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 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:

AND WHEREAS by a Supplementary Agreement dated 10th December 1996, between the Government of the Republic of Singapore and the Government of the Kingdom of Belgium, the arrangements set out in the said Convention were modified as prescribed in the said Supplementary Agreement:

NOW, THEREFORE, it is hereby declared by the Minister for Finance —

(*a*) that the arrangements as modified by the said Supplementary Agreement

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

SUPPLEMENTARY AGREEMENT AMENDING THE 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
SIGNED AT SINGAPORE ON FEBRUARY 8, 1972

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

Desiring to amend the Convention for the avoidance of double taxation with respect to taxes on income signed at Singapore on February 8, 1972 (hereinafter referred to as "the Convention"),

Have agreed as follows:

ARTICLE I

The text of paragraph 2 of Article 5 of the Convention is deleted and replaced by the following:

"2. The term "permanent establishment" shall include especially:

(*a*) a place for 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;

(*i*) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue within the country for a period or periods aggregating more than 90 days within a twelve-month period.”

ARTICLE II

The text of paragraph 2 of Article 11 of the Convention is deleted and replaced by the following:

“2. However, such interest may be taxed in the Contracting State in which it arises and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.”

ARTICLE III

The text of Article 12 of the Convention is deleted and replaced by the following:

“1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties may be taxed in the Contracting State in which they arise and according to the law of that Contracting State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or radio broadcasting, any patent, design or model, plan, secret formula or process or trade mark or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties may be taxed according to the law of that other Contracting State.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are directly borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both