Income Tax (Singapore — Czech Republic) (Avoidance of Double Taxation Agreement) Order 2014

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No. S 593

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — CZECH REPUBLIC)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2014

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 21st November 1997, between the Government of the Republic of Singapore and the Government of the Czech Republic, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 26th June 2013, between the Government of the Republic of Singapore and the Government of the Czech Republic, 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 modified by the said Protocol specified in the Schedule to this Order, have been made with the Government of the Czech Republic; and

(*b*) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

PROTOCOL

AMENDING

THE AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE CZECH REPUBLIC

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 the Czech Republic,

Desiring to conclude a Protocol amending the Agreement between the Government of the Republic of Singapore and the Government of the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Singapore on November 21, 1997 (in this Protocol referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

1. Sub-paragraph (*b*) of paragraph 1 of Article 3 of the Agreement shall be replaced by the following:

"(*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 regards to the sea, the sea-bed, the subsoil and the natural resources;".

2. Paragraph 3 that shall read as follows shall be added to Article 3 of the Agreement:

"3. For the purposes of Articles 10, 11 and 12, where a trustee of a trust is liable to tax in a Contracting State in respect of dividends, interest or royalties accruing to the trust from sources in the other Contracting State, such trustee shall be deemed to be the beneficial owner of the dividends, interest or royalties.".

ARTICLE 2

Sub-paragraph (*a*) of paragraph 2 of Article 5 of the Agreement shall be replaced by the following:

"(*a*) a local place of management;".

ARTICLE 3

Article 8 of the Agreement shall be replaced by the following:

"ARTICLE 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the effective place of management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. For the purposes of this Article and notwithstanding the provisions of Article 12, profits from the operation of ships or aircraft in international traffic also include:

(*a*) profits from the rental on a bare boat basis of ships or aircraft, and

(*b*) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

4. Interest arising in a Contracting State and derived from funds formed as an integral part of the carrying on of the business of operating the ships or aircraft in international traffic in that Contracting State, shall be regarded as profits from the operation of such ships or aircraft in international traffic, and the provisions of Article 11 shall not apply in relation to such interest.

5. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.".

ARTICLE 4

Article 9 of the Agreement shall be replaced by the following:

"ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where —

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the other Contracting State agrees that the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

3. The provisions of paragraph 2 shall not apply in the case of fraud, gross negligence or willful default.".

ARTICLE 5