

**Income Tax (Singapore — Fiji) (Avoidance of Double Taxation Agreement)  
Order 2006**

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**Enacting Formula**

**THE SCHEDULE**

**No. S 639**

**INCOME TAX ACT  
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — FIJI) (AVOIDANCE OF DOUBLE TAXATION  
AGREEMENT) ORDER 2006**

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 20th December 2005, between the Government of the Republic of Singapore and the Government of the Republic of the Fiji Islands, 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 to this Order have been made with the Government of the Republic of the Fiji Islands; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE  
AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE  
AND  
THE GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS  
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 Republic of the Fiji Islands,

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

HAVE agreed as follows:

ARTICLE 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. The taxes to which this Agreement shall apply are —

(a) in Singapore:

the income tax

(hereinafter referred to as “Singapore tax”);

(b) in Fiji:

(i) the income tax including normal tax, the non-resident dividend, royalty and interest withholding tax; and

(ii) the land sales tax

(hereinafter referred to as “Fiji tax”).

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph (1). The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

## ARTICLE 3

### GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires —

- (a) the term “Singapore” means the territories of the Republic of Singapore, the territorial waters of Singapore and the sea-bed and subsoil of the territorial waters, and when used in a geographical sense includes any area extending beyond the limits of the territorial waters of Singapore, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- (b) the term “Fiji” means the territory and territorial sea of the Republic of Fiji Islands and its dependencies, including the airspace above them, and all adjacent areas which consistently with international law have been or may hereafter be designated under the laws of Fiji as areas over which Fiji may exercise sovereign rights or jurisdiction.
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Fiji as the context requires;
- (d) the term “tax” means Singapore tax or Fiji tax as the context requires;
- (e) the term “person” includes an individual, a company and any other body of persons which is treated as a person for tax purposes;
- (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (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 authority” means:
  - (i) in the case of Singapore, the Minister for Finance or his authorised representative;

- (ii) in the case of Fiji, the Commissioner of Inland Revenue or his authorised representative;
- (i) the term “national” means any individual possessing the nationality of a Contracting State and any legal person, partnership or association deriving its status as such from the laws in force in the Contracting State;
- (j) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

## ARTICLE 4

### RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State” means:

- (a) in the case of Singapore, a person who is resident in Singapore for the purposes of Singapore tax; and
- (b) in the case of Fiji, a person who is resident in Fiji for the purposes of Fiji tax;

and also includes that State and any political subdivision, local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph (1) a person, being an individual, is a resident of both Contracting States, then the status of that person shall be determined as follows —

- (a) the person shall be deemed to be a resident only of the State in which the person has a permanent home; if the person has a permanent home available in both States, the person shall be deemed to be a resident only of the State with which the person’s personal and economic relations are closer (centre of vital interests);
- (b) if the State in which the person’s centre of vital interests cannot be determined, or if the person has no permanent home in either State, the person shall be deemed to be a resident only of the State in which the person has an habitual abode;
- (c) if the person has an habitual abode in both States or in neither of them, the person shall be deemed to be a resident only of the State of which the person is a national;
- (d) in any other case, 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 only of the State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

## ARTICLE 5

### PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially —
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
  - (g) a farm, plantation or other place where agricultural, forestry, plantation or other related activities are carried on; and
  - (h) a building site or construction, installation or assembly project which exists for a period or periods aggregating 183 days or more in any 12-month period.
3. An enterprise shall not be deemed to have a permanent establishment merely by the reason of —
  - (a) the use of facilities solely for the purpose of storage or 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 or 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 of collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of preparatory or auxiliary character; or
  - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on business through that permanent establishment if —
  - (a) it carries on supervisory activities in that other Contracting State for a period or periods aggregating 183 days or more in any 12-month period in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that other Contracting State;
  - (b) it furnishes services, including consultancy services, through employees or other personnel