

Income Tax (Singapore — Hong Kong Special Administrative Region of the People's Republic of China) (Agreement for the Avoidance of Double Taxation on Income of an Enterprise Operating Ships or Aircraft in International Traffic) Order 2004

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Enacting Formula

THE SCHEDULE

No. S 784

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — HONG KONG SPECIAL ADMINISTRATIVE
REGION OF THE PEOPLE'S REPUBLIC OF CHINA)
(AGREEMENT FOR THE AVOIDANCE OF
DOUBLE TAXATION ON INCOME OF
AN ENTERPRISE OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL
TRAFFIC)
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 an Agreement dated the 28th day of November 2003, between the Government of the Republic of Singapore and the Government of the Hong Kong Special Administrative Region of the People's Republic of China, 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 Hong Kong Special Administrative Region of the People's Republic of China; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

AGREEMENT

BETWEEN

THE REPUBLIC OF SINGAPORE

AND

THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA

FOR

THE AVOIDANCE OF DOUBLE TAXATION ON INCOME
OF AN ENTERPRISE OPERATING SHIPS OR AIRCRAFT
IN INTERNATIONAL TRAFFIC

The Government of the Republic of Singapore ("Singapore") and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("the Hong Kong Special Administrative Region"),

Desiring to conclude an Agreement for the avoidance of double taxation on income of an enterprise operating ships or aircraft in international traffic;

Have agreed as follows:

ARTICLE 1

TAXES COVERED

The existing taxes to which this Agreement shall apply are:

- (a) in the case of the Hong Kong Special Administrative Region, profits tax and salaries tax;
- (b) in the case of Singapore, the income tax.

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed

by either Contracting Party after the signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph (1) of this Article. The competent authorities of the Contracting Parties shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 2

GENERAL DEFINITIONS

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

- (a) the term “a Contracting Party” means the Hong Kong Special Administrative Region or Singapore, as the context requires;
- (b) the term “Contracting Parties” means the Hong Kong Special Administrative Region and Singapore;
- (c) the term “person” includes an individual, a company and any other body of persons, whether incorporated or unincorporated;
- (d) the term “an enterprise of a Contracting Party” means an enterprise carried on by —
 - (i) a company or body of persons managed and controlled in the Hong Kong Special Administrative Region or Singapore, as the case may be; or
 - (ii) an individual who:
 - (aa) in the case of the Hong Kong Special Administrative Region is a permanent or temporary resident for the purpose of the Inland Revenue Ordinance;
 - (bb) in the case of Singapore is a resident for the purpose of Singapore income tax;
- (e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting Party except when the ship or aircraft is operated solely between places in the other Contracting Party;
- (f) the term “competent authority” means, in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative or any person or body authorised to perform any functions at present exercisable by the Commissioner, or similar functions and, in the case of Singapore, the Minister for Finance or his authorised representative;
- (g) the term “income” includes revenues, gross receipts and profits from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise including:
 - (i) profits from rental on a bareboat charter basis of ships or aircraft where the rental is incidental to the operation of ships or aircraft in international traffic;
 - (ii) income or profits from the sale of tickets or similar documents and the provision of services connected with such transport where such provision of services is incidental to the operation of ships or aircraft in international traffic, either for the enterprise itself or for any other enterprise;