

**Income Tax (Singapore — Libya) (Avoidance of Double Taxation Convention)
Order 2010**

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Enacting Formula

THE SCHEDULE

No. S 779

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — LIBYA) (AVOIDANCE OF DOUBLE TAXATION
CONVENTION) ORDER 2010**

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 the 8th day of April 2009, between the Government of the Republic of Singapore and the Great Socialist People's Libyan Arab Jamahiriya, arrangements were made for, amongst other things, 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 Great Socialist People's Libyan Arab Jamahiriya; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE
CONVENTION
BETWEEN
THE REPUBLIC OF SINGAPORE
AND
THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
FOR
THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Republic of Singapore and the Great Socialist People's Libyan Arab Jamahiriya,
Desiring to promote and develop the economic relations and co-operation between the two countries
have decided to conclude a Convention 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 Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2
TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are in particular:

(a) in the case of Singapore:

— the income tax

(hereinafter referred to as “Singapore tax”); and

(b) in the case of the Great Socialist People’s Libyan Arab Jamahiriya:

- (i) the income tax law No. (11) of 1372 P.D (2004) regarding income tax and the defence tax law No. (44) of 1970;
- (ii) the real estate tax on income according to law No. (2) of 1986 as amended by Law No. (28) of 2003.

(hereinafter referred to as “Libyan tax”).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term “Libya”, means the Great Socialist People’s Libyan Arab Jamahiriya; used in a geographical sense, it means the territory of the Great Socialist People’s Libyan Arab Jamahiriya, including the territorial sea, and any other area in the sea and in the air within which the Great Socialist People’s Libyan Arab Jamahiriya, in accordance with international law, exercises sovereign rights or its jurisdiction;
- (b) the term “Singapore” means the Republic of Singapore and when used in a geographical sense, the term “Singapore” includes the territorial waters of Singapore and 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;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Libya as the context requires;
- (d) the term “person” includes an individual, a company and any other body of persons;
- (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) 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;

- (g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term “competent authority” means:
 - (i) in the case of the Great Socialist People’s Libyan Arab Jamahiriya, the Secretary of the General People’s Committee of Finance and the Head of the Tax Department or their authorised representatives;
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative;
- (i) the term “national” means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State;
 - (ii) any legal person partnership or association deriving its status as such from the laws in force in that Contracting State.

2. For the purposes of Articles 11, 12 and 13 a trustee subject to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

3. As regards the application of the Convention 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 Convention 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

SOURCE STATE TAXATION

The source State of any income shall be the Contracting State in which the income arises in accordance with the domestic laws of that Contracting State.

ARTICLE 5

RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, 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 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident only of the State in which he has a permanent home

available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he 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 6

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than three months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, 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, 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;