

Income Tax (Singapore — New Zealand) (Avoidance of Double Taxation Agreement) Order 1973

Table of Contents

Enacting Formula

THE SCHEDULE

Legislative History

**INCOME TAX ACT
(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — NEW ZEALAND) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) ORDER 1973**

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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 21st day of August 1973 between the Government of the Republic of Singapore and the Government of New Zealand, 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 New Zealand; 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 NEW ZEALAND 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 New Zealand,

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

TAXES COVERED

1. The taxes which are the subject of this Agreement are:

(a) in Singapore:

the income tax;

(b) in New Zealand:

the income tax and the excess retention tax.

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Contracting State or which are imposed by the Government of any Territory to which this Agreement is extended under Article 22.

3. For the purposes of paragraph 1(b) of this Article, the income tax does not include the bonus issue tax.

ARTICLE 2

GENERAL DEFINITIONS

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

- (a) the term “Singapore” means the Republic of Singapore;
- (b) the term “New Zealand” includes the continental shelf of New Zealand as defined under the law of New Zealand concerning the continental shelf; it does not include the Cook Islands, Niue or the Tokelau Islands;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or New Zealand, as the context requires;
- (d) the term “person” includes an individual, a company and an unincorporated body of persons;
- (e) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the term “Singapore tax” means tax imposed by Singapore being tax to which this Agreement applies by virtue of Article 1; the term “New Zealand tax” means tax imposed by New Zealand being tax to which this Agreement applies by virtue of Article 1;
- (g) the term “tax” means Singapore tax or New Zealand tax, as the context requires;
- (h) the term “competent authority” means, in the case of Singapore, the Minister for Finance or his authorised representative, and, in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative;
- (i) the term “natural resource royalties” means payments of any kind to the extent to which they are made as consideration for the operation of, or the right to operate, any mine or quarry, or as consideration for the extraction, removal or other exploitation of, or the right to extract, remove or otherwise exploit, standing timber or any natural resource;
- (j) the term “industrial or commercial profits” means profits derived by an enterprise of a Contracting State from the carrying on of a trade or business, but does not include —
 - (i) dividends, interest, royalties (as defined in Article 10), or natural resource royalties; or
 - (ii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any copyright (other than copyright to which sub-paragraph (j)(i) applies) or any like property or right, or any property or right of a like nature to any property or right referred to in sub-paragraph (a)(i) of the definition of “royalties” in paragraph (2) of Article 10; or
 - (iii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting; or
 - (iv) payments of any kind to the extent to which they are made as consideration for the supply of commercial knowledge, information, or assistance or of management services; or
 - (v) income from the sale or other disposition of land situated in the other

Contracting State or of any estate or interest in land so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such land or any such estate or interest; or

- (vi) income from the grant or renewal, or from the sale or other disposition, of any right relating to the operation of any mine or quarry situated in the other Contracting State or to the extraction, removal or other exploitation of any standing timber or of any natural resource so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such right; in this subparagraph (j)(vi), the term “right” means any right, licence, permit, authority, title, option, privilege or other concession and includes a share or interest in any right, licence, permit, authority, title, option, privilege or other concession; or
 - (vii) rent; or
 - (viii) charges for the bailment of livestock; or
 - (ix) profits from operating ships or aircraft; or
 - (x) remuneration or other income for personal (including professional) services; or
 - (xi) income from the furnishing of services of employees or others by any person in the course of the carrying on by that person of a profession or vocation;
- (k) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean an enterprise carried on by a Singapore resident or an enterprise carried on by a New Zealand resident, as the context requires;
- (l) words in the singular include the plural and words in the plural include the singular;
- (m) the term “Malaysian company” means a company which, for the purposes of income tax in Malaysia, is resident in Malaysia.

2. In determining, for the purposes of Article 8, 9 or 10, whether dividends, interest or royalties are beneficially owned by a resident of a Contracting State, dividends, interest or royalties in respect of which a trustee is subject to tax in that Contracting State shall be treated as being beneficially owned by that trustee.

3. In this Agreement, the terms “Singapore tax” and “New Zealand tax” do not include any amount which represents a penalty or interest imposed under the law of either Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

4. In the application of the provisions of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

ARTICLE 3

FISCAL DOMICILE

1. For the purposes of this Agreement —

- (a) the term “New Zealand resident” means a person who is resident in New Zealand for the purposes of New Zealand tax;
- (b) the term “Singapore resident” means a person who is resident in Singapore for the purposes of Singapore tax.

2. Where by reason of the provisions of paragraph (1) of this Article an individual is both a New Zealand resident and a Singapore resident then his status shall, for the purposes of this Agreement, be determined as follows —

- (a) he shall be treated solely as a New Zealand resident if he has a permanent home available to him in New Zealand and does not have a permanent home available to him in Singapore and solely as a Singapore resident if he has a permanent home available to him in Singapore and does not have a permanent home available to him in New Zealand; and
- (b) failing a resolution of the matter under sub-paragraph (a) of this paragraph, he shall be treated solely as a New Zealand resident if he has an habitual abode in New Zealand and does not have an habitual abode in Singapore and solely as a Singapore resident if he has an habitual abode in Singapore and does not have an habitual abode in New Zealand; and
- (c) failing a resolution of the matter under sub-paragraph (b) of this paragraph, he shall be treated solely as a New Zealand resident if the Contracting State with which his personal and economic relations are the closer is New Zealand and solely as a Singapore resident if the Contracting State with which his personal and economic relations are the closer is Singapore.

3. Where, by reason of the provisions of paragraph 1 of this Article, a person other than an individual is both a New Zealand resident and a Singapore resident it shall, for the purposes of this Agreement, be treated solely as a New Zealand resident if the centre of its administrative or practical management is situated in New Zealand and solely as a Singapore resident if the centre of its administrative or practical management is situated in Singapore whether or not any person outside New Zealand or Singapore, as the case may be, exercises or is capable of exercising any overriding control of it or of its policy or affairs in any way whatsoever.

4. For the purposes of this Agreement the terms “resident of a Contracting State” and “resident of the other Contracting State” mean a person who is a New Zealand resident or a person who is a Singapore resident, as the context requires.

ARTICLE 4

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement the term “permanent establishment”, in relation to an enterprise, means a fixed place of trade or business in which the trade or business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes —

- (a) a place of management;
- (b) a branch;