

Income Tax (Singapore — Sri Lanka) (Avoidance of Double Taxation Agreement) Order 2017

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Enacting Formula

THE SCHEDULE Agreement between the Government of the Republic of Singapore and the Government of the Democratic Socialist Republic of Sri Lanka for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

No. S 808

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — SRI LANKA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2017**

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 have effect in relation to tax under the Act notwithstanding anything in any written law:

AND WHEREAS by a Convention dated 29 May 1979, between the Government of the Republic of Singapore and the Government of the Democratic Socialist Republic of Sri Lanka, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by an Agreement dated 3 April 2014, between the Government of the Republic of Singapore and the Government of the Democratic Socialist Republic of Sri Lanka, arrangements were made, amongst other things, for the avoidance of double taxation, and for the Convention dated 29 May 1979 to terminate and cease to have effect when the provisions of the said Agreement come into force:

AND WHEREAS by a Protocol dated 3 April 2014, between the Government of the Republic of Singapore and the Government of the Democratic Socialist Republic of Sri Lanka, the arrangements set out in the Agreement dated 3 April 2014 were modified as prescribed in the said Protocol:

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 Democratic Socialist Republic of Sri Lanka; 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 DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

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 Democratic Socialist Republic of Sri Lanka,

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. This Agreement 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.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Singapore:
 - the income tax
 - (hereinafter referred to as “Singapore tax”);
 - (b) in Sri Lanka:
 - the income tax, including the income tax based on the turnover of enterprises entered into agreements with the Board of Investment;
 - (hereinafter referred to as “Sri Lanka tax”).
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 made in their taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) 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;
 - (b) the term “Sri Lanka” means the territory of the Democratic Socialist Republic of Sri Lanka as defined in the Constitution, including its land territory, internal waters and territorial sea,

air space above them as well as the exclusive economic zone and continental shelf where the Democratic Socialist Republic of Sri Lanka exercises or may hereafter exercise sovereign rights and jurisdiction in conformity with international law and its national legislation;

- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Sri Lanka 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 of 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 Singapore, the Minister for Finance or his authorised representative;
 - (ii) in the case of Sri Lanka, the Commissioner General of Inland Revenue or an authorised representative of the Commissioner General;
- (i) the term “national”, in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- (j) the term “tax” means Singapore tax or Sri Lanka tax, as the context requires, but shall not include any penalty or fine imposed in respect of any default or omission in relation to the taxes to which this Agreement applies.

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 laws 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 any person

who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, 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 the State in which its place of effective management is situated cannot be determined, then 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; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” also encompasses:

- (a) a building site, a construction, assembly or installation project, a drilling rig or ship used for exploration or development of natural resources, including supervisory activities in connection therewith, but only if such site, project or activities lasts for a period of more than 183 days within any 12-month period;