Income Tax (Singapore — Sweden) (Avoidance of Double Taxation Agreement) (Supplementary) Order 1984

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INCOME TAX ACT
(CHAPTER 134, SECTION 49)

INCOME TAX (SINGAPORE — SWEDEN)
(AVOIDANCE OF DOUBLE TAXATION CONVENTION)
(SUPPLEMENTARY) ORDER 1984

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G.N. No. S 19/1984

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(25th March 1992)

[1st February 1984]

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 17th day of June 1968, between the Government of the Republic of Singapore and the Government of the Kingdom of

Sweden, arrangements were made amongst other things for the avoidance of Double Taxation:

AND WHEREAS by a Protocol dated the 28th day of September 1983, between the Government of the Republic of Singapore and the Government of the Kingdom of Sweden, the arrangements set out in the said Convention were modified as prescribed in the said Protocol:

NOW, THEREFORE, it is hereby declared by the Minister for Finance —

(*a*) that the arrangements as modified by the said Protocol specified in the Schedule to this Order have been made with the Government of the Kingdom of Sweden; and

(*b*) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL SIGNED IN SINGAPORE ON 17TH JUNE 1968

The Government of the Republic of Singapore and the Government of the Kingdom of Sweden;

Desiring to conclude a Protocol to amend the Convention between the Government of the Republic of Singapore and the Government of the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed at Singapore on 17th June 1968 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE 1

The following new sub-paragraph (*n*) shall be inserted immediately after sub-paragraph (*m*) of paragraph 1 of Article II of the Convention:

"(*n*) the term "international traffic" means carriage of passengers, mails, livestock or goods by a ship or aircraft which is operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State or solely between such places and one or more structures used for the exploration or exploitation of natural resources."

ARTICLE 2

Article V of the Convention shall be deleted and replaced by the following:

“ARTICLE V

1. Notwithstanding the provisions of Article III, profits of an enterprise of one of the Contracting States from the operation of ships in international traffic may be taxed in the other Contracting State only if such profits are derived from that other Contracting State.

Provided that —

(*a*) when a Singapore enterprise derives profits from Sweden by operating ships in international traffic the tax charged in Sweden in respect of such profits shall be reduced by an amount equal to 50 per cent thereof and the reduced amount of the Swedish tax payable on the profits shall be allowed as a credit against the Singapore tax charged in respect of these profits in accordance with the provisions of paragraph 2 of Article XIX;

(*b*) when a Swedish enterprise derives profits from Singapore by operating ships in international traffic the tax charged in Singapore in respect of such profits shall be reduced by an amount equal to 50 per cent thereof and the reduced amount of the Singapore tax payable on the profits shall be allowed as a credit against the Swedish tax charged in respect of these profits in accordance with the provisions of paragraph 3 of Article XIX.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

3. For the purposes of this Article profits derived from the other Contracting State shall mean profits from the carriage of passengers, mails, livestock or goods shipped in that State:

Provided that there shall be excluded the profits accruing from passengers, mails, livestock or goods which are brought to that other State solely for transhipment, or for the transfer from an aircraft to a ship.”

ARTICLE 3

The following new Article, VA, shall be inserted after Article V of the Convention:

“ARTICLE VA

1. Notwithstanding the provisions of Article III, profits of an enterprise of one of the Contracting States from the operation of aircraft in international traffic shall be taxable only in that State.

2. With respect to profits derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the shareholding in that consortium held by AB

Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

3. The provisions of paragraph 1 shall likewise apply to profits derived from the participation in a pool, a joint business or an international operating agency.”

ARTICLE 4

The present provisions of Article VI of the Convention shall form paragraph 1 of the said Article and the following new paragraph 2 shall be added:

“2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.”

ARTICLE 5

Paragraphs 1 to 5 of Article VII of the Convention shall be deleted and replaced by the following six paragraphs and the present paragraph 6 shall become paragraph 7:

“1. The rate of tax charged by Sweden in respect of dividends paid by a company which is a resident of Sweden to a resident of Singapore shall, if the recipient is the beneficial owner of the dividends, not exceed 15 per cent of the gross amount of such dividends.

Where the resident of Singapore is a parent company the rate of tax charged on such dividends shall, if the recipient is the beneficial owner of the dividends, not exceed 10 per cent of the gross amount of such dividends.

2. Dividends paid by a company which is a resident of Singapore to a resident of Sweden shall, if the recipient is the beneficial owner of the dividends, be exempt from any tax in Singapore which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of any company —

(*a*) provided that nothing in this paragraph shall affect the provisions of Singapore law under which the tax in respect of a dividend paid by a company which is a resident of Singapore from which Singapore tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the Singapore year of assessment immediately following that in which the dividend was paid;

(*b*) provided further that if Singapore, subsequent to the signing of this Convention, imposes a tax on dividends paid by a company resident in Singapore out of its profits or income, such tax may be charged but the rate of tax so charged shall, if the recipient is the beneficial owner of the dividends, not exceed 15 per cent of the gross amount of such dividends, and where the dividend is paid to a parent company which

is a resident of Sweden the rate of tax so charged shall, if the recipient is the beneficial owner of the dividends, not exceed 10 per cent of the gross amount of such dividends.

3. For the purposes of this Article the term "parent company" means a company resident in one of the Contracting States owning directly or indirectly not less than 25 per cent of the share capital of the company resident in the other Contracting State paying the dividends.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case Article III shall apply.

5. The Government of the Republic of Singapore, including the Monetary Authority of Singapore, the Board of Commissioners of Currency and the Government of Singapore Investment Corporation Pte. Ltd., shall be exempt from Swedish tax with respect to dividends on shares in Swedish joint stock companies; provided that the scope of this exemption has been agreed by the competent authorities of the Contracting States.

However, such exemption shall in no case be given with respect to shares held for other than public purposes and not if the holding constitutes a substantial participation.

6. Where a company which is a resident of one of the Contracting States derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State."

ARTICLE 6

Paragraphs 1, 2, 4, 7 and 8 of Article VIII of the Convention shall be deleted and be replaced by the following:

"1. Interest and other income from bonds, securities, notes, debentures or any other form of indebtedness, whether or not secured by mortgages, derived from sources within one of the Contracting States by a resident of the other Contracting State may, if the recipient is the beneficial owner of the income, not be taxed in the first-mentioned Contracting State at a rate exceeding 15 per cent of the gross amount of such income."

"2. Notwithstanding the provisions of paragraph 1, the tax on interest derived from sources within one of the Contracting States by any financial institution which is a resident of the other Contracting State shall in the first-mentioned State not exceed 10 per cent of the gross amount of the interest, if the recipient is the beneficial owner of the interest and if the enterprise paying the interest engages in an industrial