

Income Tax (Singapore — Switzerland) (Avoidance of Double Taxation Convention) Order 1976

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(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — SWITZERLAND)
(AVOIDANCE OF DOUBLE TAXATION CONVENTION)
ORDER 1976**

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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 25th day of November 1975, between the Government of the Republic of Singapore and the Swiss Confederation,

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 Swiss Confederation; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of Singapore and the Swiss Federal Council,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,

Have agreed as follows:

ARTICLE 1

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each 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 and on capital all ordinary and extraordinary taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are, in particular:

(a) in the Republic of Singapore:

the income tax (hereinafter referred to as “Singapore tax”);

(b) in Switzerland:

the federal, cantonal and communal taxes

- (i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other items of income); and
- (ii) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves and other items of capital)

(hereinafter referred to as “Swiss tax”).

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

5. The Convention shall not apply to Federal anticipatory tax withheld at the source on prizes in a lottery.

6. If taxes on capital or on capital gains are introduced in Singapore at some future date the Convention shall apply to such taxes.

ARTICLE 3

1. In this Convention, unless the context otherwise requires:

- (a) the term “Singapore” means the Republic of Singapore;
- (b) the term “Switzerland” means the Swiss Confederation;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Switzerland, as the context requires;
- (d) the term “tax” means Singapore tax or Swiss tax, as the context requires;
- (e) the term “person” includes an individual, a company and any other body of persons, corporate or not corporate;
- (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of a Contracting State and an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of the other Contracting State;
- (h) 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;
- (i) the term “competent authority” means:
 - (i) in the case of Singapore:
the Minister for Finance or his authorised representative;
 - (ii) in the case of Switzerland:

the Director of the Federal Tax Administration or his authorised representative.

2. As regards the application of the Convention 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 which are the subject of the Convention.

ARTICLE 4

1. For the purposes of this Convention, the terms “resident of a Contracting State” and “resident of the other Contracting State” mean a resident of Singapore or a resident of Switzerland, as the context requires; and the term “resident of Singapore” means any person who is resident in Singapore for the purposes of Singapore tax; and the term “resident of Switzerland” means any person who is resident in Switzerland for the purposes of Swiss tax.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his residence shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer;
- (b) If the Contracting State, with which his personal and economic relations are closer, cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, 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 of the Contracting State in which its business is managed and controlled.

ARTICLE 5

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

2. The term “permanent establishment” shall include especially:

- (a) a place of management,
- (b) a branch,
- (c) an office,
- (d) a factory,
- (e) a workshop,
- (f) a farm or plantation,

- (g) a mine, quarry or other place of extraction of natural resources,
- (h) a building site or construction or installation or assembly project which exists for more than six months.

3. The term “permanent establishment” shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, displaying 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,
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise,
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than six months in connection with a building site or construction or installation or assembly project which is being undertaken in that other State.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 6 applies — shall be deemed to be a permanent establishment in the first-mentioned State if:

- (a) he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he has, and habitually exercises in that State, an authority to fill orders on behalf of the enterprise from a stock of goods or merchandise which he maintains in that State and which belongs to the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.