

**Income Tax (Singapore — United Kingdom) (Avoidance of Double Taxation Agreement) Order 2012**

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**Enacting Formula**

**THE SCHEDULE**

**No. S 658**

**INCOME TAX ACT  
(CHAPTER 134)**

**INCOME TAX  
(SINGAPORE — UNITED KINGDOM)  
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)  
ORDER 2012**

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 it is provided by section 105C of the Income Tax Act that the Minister may by order declare an avoidance of double taxation arrangement as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by an Agreement dated 12th February 1997 between the Government of the Republic of Singapore and the Government of the United Kingdom of Great Britain and Northern Ireland, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 24th August 2009, between the Government of the Republic of Singapore and the Government of the United Kingdom of Great Britain and Northern Ireland, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

AND WHEREAS by a Second Protocol dated 15th February 2012, between the Government of the Republic of Singapore and the Government of the United Kingdom of Great Britain and Northern Ireland, the arrangements set out in the said Agreement were modified as prescribed in the said Second Protocol:

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

- (a) that the arrangements as modified by the said Second Protocol specified in the Schedule to this Order have been made with the Government of the United Kingdom of Great Britain and Northern Ireland; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

## THE SCHEDULE

### SECOND PROTOCOL

#### AMENDING THE AGREEMENT

#### BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

#### AND

THE GOVERNMENT OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND

#### FOR

THE AVOIDANCE OF DOUBLE TAXATION

#### AND

THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS  
SIGNED AT SINGAPORE ON 12 FEBRUARY 1997 AS AMENDED BY  
A PROTOCOL SIGNED AT SINGAPORE ON 24 AUGUST 2009

The Government of the Republic of Singapore and the Government of the United Kingdom of Great

Britain and Northern Ireland,

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains signed at Singapore on 12 February 1997 as amended by a Protocol signed at Singapore on 24 August 2009 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

## ARTICLE I

With respect to Article 3 (General Definitions) of the Agreement:

1. Paragraph 1(e) shall be deleted and replaced by the following:

“(e) the term “person” includes an individual, a company and any other body of persons;”

2. Paragraph 1(i)(i) shall be deleted and replaced by the following:

“(i) in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative;”

3. Paragraph 1(k) shall be deleted and replaced by the following:

“(k) the term “fiscal year” means,

(i) in the case of the United Kingdom:

- for the purposes of the income tax, a year of assessment beginning on 6 April in one year and ending on 5 April in the following year;
- for the purposes of the corporation tax, a year of assessment beginning on 1 April in one year and ending on 31 March in the following year; and,

(ii) in the case of Singapore, a calendar year.”

4. A new paragraph 2 shall be inserted after paragraph 1 as follows:

“2. For the purposes of Articles 10, 11 and 12 of this Agreement, 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.”

5. The existing paragraph 2 of the Article shall be renumbered as paragraph 3.

## ARTICLE II

With respect to Article 4 (Residence) of the Agreement:

1. Paragraph 1 shall be deleted and replaced by the following:

“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 management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.”

2. Paragraph 3 shall be deleted and replaced by the following:

“3. Where by reason of the provisions of paragraph 1 of this Article 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. In cases of doubt, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the State in which the person’s place of effective management is situated taking into consideration all relevant factors. In the absence of a mutual agreement by the competent authorities of the Contracting States, the person shall not be considered a resident of either Contracting State for the purposes of claiming any benefits provided by the Agreement, except those provided by Articles 23, 25 and 26.”

### ARTICLE III

With respect to Article 5 (Permanent Establishment) of the Agreement,

Paragraph 4(b) shall be deleted and replaced by the following:

“(b) it furnishes services, including consultancy services, through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days in the fiscal year concerned;  
provided that the provisions of subparagraph (b) shall cease to have effect for any fiscal year beginning after five years from the date on which the Second Protocol first had effect.”

### ARTICLE IV

With respect to Article 10 (Dividends) of the Agreement:

1. Paragraphs 1, 2 and 3 shall be deleted and replaced by the following:

“1. Subject to the provisions of paragraph 2 of this Article, dividends paid by a company which is a resident of a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. However,

- a) dividends paid by a real estate investment trust which is a resident of the United Kingdom may also be taxed, according to its laws, in the United Kingdom. However, if the beneficial owner of the dividends is a resident of Singapore, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends;
- b) distributions paid by a real estate investment trust which is organised in Singapore may also be taxed, according to its laws, in Singapore. However, if the beneficial owner of the distributions is a resident of the United Kingdom, the tax so charged shall not exceed 15 per cent of the gross amount of the distributions.

This paragraph and paragraph 1 shall not affect the taxation of the company or the real estate investment trust in respect of the profits out of which the dividends or distributions are paid.

3. For the purposes of paragraph 2 of this Article, a real estate investment trust means:

- a) in the case of the United Kingdom, a real estate investment trust within the meaning of Part 12 of Corporation Tax Act 2010 and a property authorised investment fund within the meaning of Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964);
- b) in the case of Singapore, a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Chapter 289) and listed on the Singapore Exchange, and that invests or proposes to invest in immovable property and immovable property-related assets.”

”

2. There shall be inserted at the end of paragraph 4 the following additional sentence:

“For the purposes of paragraphs 5, 6 and 7 of this Article, the term “dividends” also includes distributions within the meaning of subparagraph b) of paragraph 2 of this Article and reference to a company shall be read as including reference to a real estate investment trust as appropriate.”

## ARTICLE V

With respect to Article 11 (Interest) of the Agreement:

1. Paragraphs 2, 3 and 4 shall be deleted and replaced by the following:

“2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 5 per cent of the gross amount of interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of that interest and: