

**Income Tax (Singapore-Myanmar) (Avoidance of Double Taxation Agreement)
Order 2000**

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Enacting Formula

THE SCHEDULE

No. S 161

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE-MYANMAR) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) ORDER 2000**

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 an Agreement dated 23rd February 1999, between the Government of the Republic of Singapore and the Government of the Union of Myanmar, arrangements were made for, amongst other things, the avoidance of double taxation:

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

- (a) that the arrangements specified in the Schedule have been made with the Government of the Union of Myanmar; 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 UNION OF MYANMAR
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 Union of Myanmar,
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

PERSONAL SCOPE

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:
 - (a) in the Union of Myanmar:
the Income Tax imposed under the Income Tax Law 1974 (Law No. 7 of 1974);
(hereinafter referred to as “Myanmar tax”);

- (b) in Singapore:
the income tax;
(hereinafter referred to as “Singapore tax”).

4. This Agreement shall also apply to any identical or substantially similar taxes on income which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term “**Myanmar**” means the Union of Myanmar;
- (b) the term “**Singapore**” means the Republic of Singapore;
- (c) the terms “**a Contracting State**” and “**the other Contracting State**” mean Myanmar or Singapore as the context requires;
- (d) the term “**national**” means:
 - (i) any individual possessing the nationality or citizenship of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- (e) the term “**person**” includes an individual, a company, a body of persons or any other entity which is treated as a person 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 “**company**” means any body corporate or any other entity which is treated as a body corporate for tax purposes;
- (h) the term “**tax**” means Myanmar tax or Singapore tax as the context requires;
- (i) the term “**competent authority**” means:
 - (i) in the case of Myanmar, the Minister for Finance and Revenue or his authorised representative;
 - (ii) in the case of Singapore, the Minister for Finance or his authorised representative;
- (j) 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.

(k) the term “**fiscal year**” means:

- (i) in the case of Myanmar, the income year which starts on 1 April and ends on 31 March of the following year;
- (ii) in the case of Singapore, the calendar year.

2. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “**resident of the Contracting State**” means any person who is a resident in a Contracting State for tax purposes of that Contracting State.

2. Where by reason of the provisions of paragraph 1 of this Article 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 of the State in which he has a permanent home available to him;
- (b) if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (c) 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 of the State in which he has an habitual abode;
- (d) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (e) if the status of resident cannot be determined according to sub-paragraphs (a) to (d), 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, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If its place of effective management cannot be determined, 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;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) an installation, structure, drilling rig or ship used for the exploration or exploitation of natural resources but only if such exploration or exploitation is not preliminary or preparatory in nature.

3. The term “**permanent establishment**” likewise encompasses:

- (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
- (b) the furnishing of services, including consultancy services, by an enterprise 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 country for a period or periods aggregating more than six months within any 12-month period.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 of this Article, the term “**permanent establishment**” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage or display 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 or 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, supply of information, scientific research or similar activities which have a preparatory or auxiliary character, for the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 7 applies — is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to