

Income Tax (Singapore — Mauritius) (Avoidance of Double Taxation Agreement) Order 1996

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Enacting Formula

THE SCHEDULE

No. S 249

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — MAURITIUS) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) ORDER 1996**

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 the 19th day of August 1995, between the Government of the Republic of Singapore and the Government of the Republic of Mauritius, 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 Government of the Republic of Mauritius; 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 REPUBLIC OF MAURITIUS
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 Republic of Mauritius,
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 its political subdivisions, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income or on elements on income, including taxes on gains from the alienation of personal or real property.
3. The existing taxes to which this Agreement shall apply are in particular:
 - (a) in Mauritius, the income tax;
(hereinafter referred to as “Mauritius tax”);

(b) in Singapore, the income tax;

(hereinafter referred to as “Singapore tax”)

4. This Agreement shall also apply to any other taxes of a substantially similar character 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.

5. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this Agreement, without affecting general principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term “Mauritius” means the Republic of Mauritius and includes:

- (i) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;
- (ii) the territorial sea of Mauritius; and
- (iii) any area adjacent to the territorial sea of Mauritius which in accordance with the international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the natural resources of sea, the sea-bed and sub-soil may be exercised;

(b) the term “Singapore” means the Republic of Singapore;

(c) the terms “a Contracting State” and “the other Contracting State” mean Mauritius or Singapore as the context requires;

(d) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) the term “competent authority” means:

- (i) in Mauritius, the Minister of Finance or his authorised representative; and
- (ii) in Singapore, the Minister of Finance or his authorised representative;

(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 which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (h) the term “national” means any individual having the citizenship or nationality of a Contracting State and any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State;
- (i) the term “person” includes an individual, a company, a trust and any other body of persons which is treated as an entity for tax purposes; and
- (j) the term “tax” means Mauritius tax or Singapore tax as the context requires.

2. In the application of the provisions of this Agreement 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 State relating to the taxes which are subject of this Agreement.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State”:

- (a) in the case of Mauritius, means any person who, under the laws of Mauritius, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term does not include any person who is liable to tax in Mauritius in respect only of income from sources in Mauritius; and
- (b) in the case of Singapore, means any person who is a resident of Singapore in accordance with the taxation laws of Singapore.

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 in accordance with the following rules:

- (a) he shall be deemed to be a resident 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 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 does not have 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;
- (c) 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;
- (d) if he is a national of both States or of 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 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 the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include:

- (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; and
- (g) an installation or structure used for the exploration of natural resources but only if so used for a period of more than 9 months.

3. The term “permanent establishment” likewise encompasses a building site or a construction, installation or assembly project, or supervisory activities in connection therewith only if the site, project or activity lasts more than 9 months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, 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, 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; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of