

Income Tax (Singapore — United Kingdom) (Avoidance of Double Taxation Agreement) (Supplementary) Order 1978

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**INCOME TAX ACT
(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — UNITED KINGDOM) (AVOIDANCE OF DOUBLE
TAXATION AGREEMENT) (SUPPLEMENTARY) ORDER 1978**

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G.N. No. S 176/1978

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[4th August 1978]

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 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 first day of December 1966, 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 the 21st day of July 1975 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:

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 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

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, SIGNED AT SINGAPORE
ON 1ST DECEMBER 1966

The Government of the Republic of Singapore and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a Protocol to amend the Agreement between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Singapore on 1st December 1966 (hereinafter referred to as “the Agreement”);

Have agreed as follows:

ARTICLE I

Article 6 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 6

1. Profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft in international traffic in respect of carriage of passengers, mails, livestock or goods shall be exempt from tax in the other Contracting State.
2. The term “international traffic” means all movements by a ship or aircraft operated by an enterprise of one of the Contracting States, other than movements solely between places in the

other Contracting State or solely between such places and one or more structures used for the exploration or extraction of natural resources situated in waters adjacent to the territorial waters of that other Contracting State.

3. This Article shall likewise apply to the share in respect of participation in shipping or aircraft pools of any kind by such enterprise engaged in shipping or air transport.”

ARTICLE II

Article 7 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 7

1. Dividends paid by a company which is a resident of the United Kingdom to a resident of Singapore may be taxed in Singapore. If the recipient of the dividends is subject to Singapore tax in respect thereof they shall be exempt from any tax in the United Kingdom which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

2. However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph 1 of this Article:

- (a)
 - (i) Where dividends are paid by a company which is a resident of the United Kingdom to a resident of Singapore, tax may be charged in Singapore on the aggregate of the amount or value of the dividends and the amount of the tax credit (if any) to which the recipient is entitled under sub-paragraph (b) of this paragraph.
 - (ii) Where a resident of Singapore is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit, but, if he is subject to tax in Singapore on that aggregate, the United Kingdom tax shall be charged at a rate not exceeding 15 per cent.
 - (iii) Except as aforesaid dividends paid by a Company which is a resident of the United Kingdom to a resident of Singapore who is subject to tax in Singapore in respect thereof shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (b) A resident of Singapore who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is subject to tax in Singapore on the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purpose of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

3. Dividends paid by a company which is a resident of Singapore to a resident of the United Kingdom may be taxed in the United Kingdom. If the recipient of the dividends is subject to United Kingdom tax in respect thereof they shall 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 the company.

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 resident in 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.

4. Where a company which is a resident of one of the Contracting States derives income or profits from the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

5. The provisions of paragraphs 1, 2, and 3 of this Article shall not apply where a resident of one of the Contracting States has in the other Contracting State a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment. In such a case the dividends shall be treated as if they were profits to which the provisions of Article 4 are applicable.

6. For the purposes of this Agreement the term “dividends” in the case of the United Kingdom includes any item which under the law of the United Kingdom is treated as a distribution of a company.

7. If the recipient of the dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraphs 1, 2 and 3 of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term “relevant date” means the date on which the recipient of the dividend became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the recipient of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.”

ARTICLE III

The following new Article shall be inserted immediately after Article 7 of the Agreement.

“ARTICLE 7A

1. Subject to the provisions of paragraph 2 of this Article, interest derived from sources within one of the Contracting States by a resident of the other Contracting State who is subject to tax in respect thereof in that other Contracting State may be taxed in the first-mentioned Contracting State at a rate not exceeding 15 per cent of the gross amount thereof.

2. Approved interest derived from sources within Singapore by a resident of the United Kingdom who is subject to United Kingdom tax in respect thereof shall be exempt from Singapore tax.

3. The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. The term “approved interest” as used in this Article means interest as defined in this paragraph which is payable on an approved foreign loan within the meaning of Part V of The Economic Expansion Incentives (Relief from Income Tax) Act (1970 Edition) of Singapore and which is certified by the competent authorities of Singapore as payable for the purposes of promoting industrial development in Singapore.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has in the other Contracting State from which the interest is derived a permanent establishment with which the indebtedness from which the interest arises is effectively connected. In such a case the interest shall be treated as if it were profits to which the provisions of Article 4 are applicable.

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

6. The provisions of this Article shall not apply if the loan or other indebtedness in respect of which the interest paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.”

ARTICLE IV

Article 8 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 8