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No. S 327

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (SINGAPORE — MALTA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2013

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 or an exchange of information arrangement as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by an Agreement dated 21st March 2006, between the Government of the Republic of Singapore and the Government of Malta, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 20th November 2009, between the Government of the Republic of Singapore and the Government of Malta, 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 —

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- (a) that the arrangements as modified by the said Protocol specified in the Schedule to this Order have been made with the Government of Malta;
 - (b) that it is expedient that those arrangements should have effect from 28th June 2013 notwithstanding anything in any written law; and
 - (c) that those arrangements as modified by the said Protocol specified in the Schedule to this Order are a prescribed arrangement for the purposes of Part XXA of the Act.

THE SCHEDULE

PROTOCOL AMENDING THE AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF MALTA

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME, WITH PROTOCOL,

SIGNED AT SINGAPORE ON 21 MARCH 2006

The Government of the Republic of Singapore and the Government of Malta,

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of Malta for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Singapore on 21 March 2006 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

THE SCHEDULE — *continued*

ARTICLE I

The text of Article 25 (Exchange of Information) of the Agreement is deleted and replaced by the following:

“1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information

THE SCHEDULE — *continued*

is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

ARTICLE II

Each of the Contracting States shall notify the other, through diplomatic channels, of the completion of the procedures required by their respective laws for the bringing into force of this Protocol. The Protocol shall enter into force 30 days after the date of the later of such notification.

ARTICLE III

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at London on this 20th day of November 2009, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

FOR THE GOVERNMENT OF
MALTA

Made this 23rd day of May 2013.

LIM SOO HOON
Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.