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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — MALAYSIA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
(MODIFICATIONS TO IMPLEMENT MULTILATERAL
INSTRUMENT) ORDER 2021

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement
 2. Purpose
 3. Amendment of Agreement
 4. Entry into effect
The Schedule
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In exercise of the powers conferred by section 49(7) of the Income Tax Act, the Minister for Finance makes the following Order:

Citation and commencement

1. This Order is the Income Tax (Singapore — Malaysia) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2021 and comes into operation on 1 June 2021.

Purpose

2.—(1) This Order amends the arrangements made between the Government of the Republic of Singapore and the Government of Malaysia as specified in the Schedule to the Income Tax (Singapore-Malaysia) (Avoidance of Double Taxation Agreement) Order 2006 (G.N. No. S 77/2006) (called in this Order the Agreement).

(2) The purpose of this Order is to amend the Agreement to give effect to Singapore's obligations under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on 24 November 2016 (as amended from time to time).

Amendment of Agreement

3. The provisions of the Agreement are amended in the manner set out in the Schedule.

Entry into effect

4. The amendments mentioned in paragraph 3 have effect —
- (a) with respect to taxes withheld at source — in respect of amounts paid, deemed paid or liable to be paid (whichever is the earliest), on or after 1 January 2022; and
 - (b) with respect to taxes other than those withheld at source — where the income is derived or received in a basis period beginning on or after 1 December 2021.

THE SCHEDULE

Paragraph 3

Deletion and replacement of Preamble

1. The Preamble of the Agreement is deleted and replaced by the following Preamble:

“The Government of the Republic of Singapore and the Government of Malaysia,

Intending to eliminate double taxation with respect to the taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:”.

Amendment of Article 25

2. Article 25 (Mutual Agreement Procedure) of the Agreement is amended by inserting, immediately after the words “not in accordance with the Agreement.” in

THE SCHEDULE — *continued*

paragraph 2, the words “Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.”.

New Article 27A

3. The Agreement is amended by inserting, immediately after Article 27 (Diplomatic and Consular Officers), the following Article:

“ARTICLE 27A

PREVENTION OF TREATY ABUSE

Notwithstanding any provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.”.

Made on 25 May 2021.

TAN CHING YEE
Permanent Secretary,
Ministry of Finance,
Singapore.

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