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No. S 416

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX
(SINGAPORE — ITALY)
(AVOIDANCE OF DOUBLE TAXATION CONVENTION)
ORDER 2012

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 as a prescribed arrangement for the purposes of Part XXA of the Act:

AND WHEREAS by a Convention dated 29th January 1977, between the Government of the Republic of Singapore and the Government of the Italian Republic, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by an Additional Protocol dated 24th May 2011, between the Government of the Republic of Singapore and the Government of the Italian Republic, the arrangements set out in the said Agreement were modified as prescribed in the said Additional Protocol:

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

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

THE SCHEDULE

ADDITIONAL PROTOCOL TO THE CONVENTION

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE ITALIAN REPUBLIC

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME, WITH PROTOCOL,
SIGNED AT SINGAPORE ON 29 JANUARY 1977

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

Desiring to amend the Convention between the Government of the Republic of Singapore and the Government of the Italian Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, with Protocol, signed at Singapore on 29th January 1977 (hereinafter referred to as “the Convention”),

Have agreed as follows:

THE SCHEDULE — *continued*

ARTICLE I

With respect to Article 2 (Taxes Covered) of the Convention:

Paragraph 3(b) shall be deleted and replaced by the following:

“(b) In the case of Italy:

1. the personal income tax;
2. the corporate income tax; and
3. the regional tax on productive activities,

whether or not they are collected by withholding taxes at the source.

(hereinafter referred to as “Italian tax”).”.

ARTICLE II

With respect to Article 3 (General Definitions) of the Convention:

1. Paragraph 1(a) shall be deleted and replaced by the following:

“(a) the term “Singapore” means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;”

2. Paragraph 1(b) shall be deleted and replaced by the following:

“(b) the term “Italy” means the Italian Republic, and includes any area beyond the territorial waters which is designated as an area within which Italy, in compliance with its legislation and in conformity with the International Law, may exercise sovereign rights in respect of the exploration and exploitation of the natural resources of the seabed, the subsoil and the superjacent waters;”

3. Paragraph 1(i)(2) shall be deleted and replaced by the following:

“2. In the case of Italy, the Ministry of Economy and Finance.”

ARTICLE III

With respect to Article 5 (Permanent Establishment) of the Convention:

1. In respect of paragraph 2(g), the term “six months” shall be replaced by “twelve months”.

THE SCHEDULE — *continued*

2. In respect of paragraph 4, the term “six months” shall be replaced by “twelve months”.

ARTICLE IV

With respect to Article 22 (Method for Elimination of Double Taxation) of the Convention:

1. Paragraph 2 shall be deleted and replaced by the following:

“2. If a resident of Italy owns items of income which are taxable in Singapore, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such case, Italy shall deduct from the taxes so calculated the income tax paid in Singapore but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income.

The Singapore tax paid for which deduction is granted is only the pro rata amount corresponding to the foreign income which is included in the aggregate income.

However, no deduction shall be granted if the item of income is subjected in Italy to a substitute tax or to a final withholding tax, or to substitute taxation at the same rate as the final withholding tax, also by request of the recipient, in accordance with Italian law.”

2. A new paragraph 5 shall be inserted immediately after paragraph 4 as follows:

“5. The provisions of paragraph 4 shall cease to have effect for any taxable year beginning after one year from the date of entry into force of this Protocol.”

ARTICLE V

The text of Article 25 (Exchange of Information) shall be 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 Convention 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 or administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

THE SCHEDULE — *continued*

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 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 VI

Each of the Contracting States shall notify to the other, through diplomatic channels, of the completion of the procedures required by its respective law for entry into force of this Protocol. This Protocol shall enter into force on the date of the receipt of the later of these notifications.

THE SCHEDULE — *continued*

ARTICLE VII

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

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

DONE in duplicate at Singapore on this 24th day of May 2011, in the English and Italian languages, both texts being equally authoritative.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE

CHAN LAI FUNG
PERMANENT SECRETARY
(FINANCE) (PERFORMANCE)

FOR THE GOVERNMENT OF THE
ITALIAN REPUBLIC

ANACLETO FELICANI
AMBASSADOR OF ITALY IN
SINGAPORE

Made this 28th day of August 2012.

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

[MF(R) R32.2.034 Vol. 4; AG/LLRD/SL/134/2010/7 Vol. 2]