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No. S 486

INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (SINGAPORE — LATVIA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2018

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 have effect in relation to tax under the Act notwithstanding anything in any written law:

AND WHEREAS by an Agreement dated 6 October 1999 as amended by a Protocol dated 6 October 1999, between the Government of the Republic of Singapore and the Government of the Republic of Latvia, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Second Protocol dated 20 April 2017, between the Government of the Republic of Singapore and the Government of the Republic of Latvia, the arrangements set out in the said Agreement were modified as prescribed in the said Second Protocol:

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

- (a) that the arrangements, as modified by the said Second Protocol and specified in the Schedule to this Order, have been made with the Government of the Republic of Latvia; and

- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

SECOND PROTOCOL

AMENDING THE AGREEMENT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF LATVIA

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 Latvia,

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Singapore on 6th October 1999 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

ARTICLE I

With reference to Article 3 (General Definitions) of the Agreement, paragraph 1(b) shall be deleted and replaced by the following:

- “(b) 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;”

THE SCHEDULE — *continued*

ARTICLE II

With reference to Article 5 (Permanent Establishment) of the Agreement, paragraph 3 shall be deleted and replaced by the following:

“3.

- (a) A building site, a construction, assembly or installation project or supervisory activities connected therewith constitute a permanent establishment only if such site, project or activities last for a period of more than twelve months.
- (b) The furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose constitutes a permanent establishment only if activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days in any twelve month period.”

ARTICLE III

With reference to Article 10 (Dividends) of the Agreement:

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

“2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership);
- (b) 10 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.”

THE SCHEDULE — *continued*

2. Paragraph 4(a) shall be deleted and replaced by the following:

“(a) in the case of Singapore means the Government of Singapore, and shall include:

- (i) the Monetary Authority of Singapore;
- (ii) GIC Private Limited; and
- (iii) a statutory body or any institution wholly owned by the Government of Singapore, and in either case as may be agreed from time to time between the competent authorities of the Contracting States;

ARTICLE IV

With reference to Article 11 (Interest) of the Agreement:

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

“2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 0 per cent of the gross amount of the interest, if the interest is paid to:
 - (i) the Government of the other Contracting State who is the beneficial owner of the interest;
 - (ii) a financial institution of the other Contracting State who is the beneficial owner of the interest;
 - (iii) a company (other than a partnership) that is a resident of the other Contracting State who is the beneficial owner of the interest, where the interest is paid by a company that is a resident of the first-mentioned Contracting State; or
 - (iv) a resident of the other Contracting State who is the beneficial owner of the interest, where the interest is paid in respect of a loan, debt-claim or credit that is guaranteed or insured by the Government of either Contracting State;

THE SCHEDULE — *continued*

(b) 10 per cent of the gross amount of the interest in all other cases.”

2. Paragraph 3 shall be deleted and the remaining paragraphs shall not be renumbered.

3. In respect of paragraph 4, the term “paragraph 3” shall be deleted and replaced with the term “paragraph 2”.

ARTICLE V

With reference to Article 12 (Royalties) of the Agreement:

1. In respect of paragraph 2, the term “7.5 per cent” shall be deleted and replaced by the term “5 per cent”.

2. Paragraph 3 shall be deleted and replaced by the following:

“3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.”

ARTICLE VI

With reference to Article 22 (Limitation of Benefit) of the Agreement, paragraphs 1 and 2 shall be deleted and the remaining paragraphs shall not be renumbered.

ARTICLE VII

With reference to Article 24 (Non-Discrimination) of the Agreement, in respect of paragraph 1, the sentence “This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.” shall be deleted.

ARTICLE VIII

Article 26 (Exchange of Information) of the Agreement shall be deleted and replaced by the following:

THE SCHEDULE — *continued***“ARTICLE 26 - EXCHANGE OF INFORMATION**

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

THE SCHEDULE — *continued*

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 IX

Article 29 (Termination) of the Agreement shall be deleted and replaced by the following:

“ARTICLE 29 - Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

(a) in Latvia:

- (i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;
- (ii) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given.
- (iii) in respect of Article 26 (Exchange of Information), on requests made after the end of that calendar year in which the notice is given.

(b) in Singapore:

- (i) in respect of taxes withheld at source, on amounts liable to be paid, deemed paid or paid (whichever is the earliest) after the end of that calendar year in which the notice is given;

THE SCHEDULE — *continued*

- (ii) in respect of tax chargeable (other than taxes withheld at source) for any year of assessment beginning on or after the first day of January in the second calendar year following that calendar year in which the notice is given; and
- (iii) in all other cases, including requests made under Article 26 (Exchange of Information) after the end of that calendar year in which the notice is given.”

ARTICLE X

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Second Protocol have been complied with.

2. This Second Protocol shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(a) in Latvia:

- (i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Second Protocol enters into force;
- (ii) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Second Protocol enters into force;
- (iii) in respect of Article 26 (Exchange of Information), on requests made on or after the date of entry into force.”

(b) in Singapore:

- (i) in respect of taxes withheld at source, on amounts liable to be paid, deemed paid or paid (whichever is the earliest) on or after the first day of January of the calendar year next following the year in which the Second Protocol enters into force;
- (ii) in respect of tax chargeable (other than taxes withheld at source) for any year of assessment beginning on or after the first day of January in the second calendar year following the year in which the Second Protocol enters into force; and

THE SCHEDULE — *continued*

(iii) in respect of Article 26 (Exchange of Information), for requests made on or after the date of entry into force.

ARTICLE XI

This Second 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, have signed this Second Protocol.

DONE in duplicate at Washington this 20th day of April 2017 in the Latvian and English languages, both texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE REPUBLIC OF SINGAPORE

Ms Indranee Rajah
Senior Minister of State,
Ministry of Finance and
Ministry of Law

FOR THE GOVERNMENT OF
THE REPUBLIC OF LATVIA

Ms Dana-Reizniece Ozola
Minister of Finance,
Ministry of Finance

Made on 28 March 2018.

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

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