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INCOME TAX ACT (CHAPTER 134)

INCOME TAX (SINGAPORE — INDONESIA) (AVOIDANCE OF DOUBLE TAXATION AGREEMENT) (MODIFICATIONS TO IMPLEMENT MULTILATERAL INSTRUMENT) ORDER 2020

ARRANGEMENT OF PARAGRAPHS

Paragraph

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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 — Indonesia) (Avoidance of Double Taxation Agreement) (Modifications to Implement Multilateral Instrument) Order 2020 and comes into operation on 26 December 2020.

Purpose

2.—(1) This Order amends the arrangements made between the Government of the Republic of Singapore and the Government of the Republic of Indonesia as specified in the Schedule to the Income Tax (Singapore — Indonesia) (Avoidance of Double Taxation Agreement) Order 1991 (O 14A) (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 2021; 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 26 June 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 the Republic of Indonesia,

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:”.

THE SCHEDULE — *continued*

Amendment of Article 9

2. The Agreement is amended by renumbering Article 9 (Associated Enterprises) as paragraph 1 of that Article, and by inserting immediately thereafter the following paragraph:

“2. Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.”.

New Article 27A

3. The Agreement is amended by inserting, immediately after Article 27 (Diplomatic Agents 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 12 December 2020.

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

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