
First published in the *Government Gazette*, Electronic Edition, on 12 April 2019 at 5 pm.

No. S 313

**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (SINGAPORE — GHANA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2019**

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 despite anything in any written law:

AND WHEREAS by an Agreement dated 31 March 2017, between the Government of the Republic of Singapore and the Government of the Republic of Ghana, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 31 March 2017, between the Government of the Republic of Singapore and the Government of the Republic of Ghana, the arrangements set out in the said Agreement were modified as prescribed in the said Protocol:

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

- (a) that the arrangements specified in the Schedule to this Order have been made with the Government of the Republic of Ghana; and
- (b) that it is expedient that those arrangements should have effect despite anything in any written law.

THE SCHEDULE

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF GHANA

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 Ghana,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.

3. The existing taxes to which this Agreement shall apply are in particular:

(a) in Singapore:

— the income tax

THE SCHEDULE — *continued*

(hereinafter referred to as “Singapore tax”);

(b) in Ghana:

— the income tax

(hereinafter referred to as “Ghana tax”).

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- (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 regard to the sea, the sea-bed, the subsoil and the natural resources;
- (b) the term “Ghana” means the Republic of Ghana, including its air space, the territorial sea and any area outside the territorial sea within which, in accordance with international law, the Republic of Ghana exercises jurisdiction and has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the superjacent waters;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Singapore or Ghana, as the context requires;
- (d) the term “person” includes an individual, a company and any other body of persons;
- (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

THE SCHEDULE — *continued*

- (g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term “competent authority” means:
- (i) in Singapore, the Minister for Finance or his authorised representative;
 - (ii) in Ghana, the Commissioner General of the Ghana Revenue Authority or his authorised representative;
- (i) the term “national”, in relation to a Contracting State, means:
- (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

2. For the purposes of Articles 10, 11 and 12, a trustee liable to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

3. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only

THE SCHEDULE — *continued*

of the State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) in any other case, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a warehouse, in relation to a person providing storage facilities for others.

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities last more than 6 months.

THE SCHEDULE — *continued*

4. 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 12-month period.

5. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

THE SCHEDULE — *continued*

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

THE SCHEDULE — *continued*

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING, INLAND WATERWAYS TRANSPORT
AND AIR TRANSPORT

1. Profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home

THE SCHEDULE — *continued*

harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:

- (a) profits from the rental on a bareboat basis of ships or aircraft;
- (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise; and
- (c) interest on funds connected with the operations of ships or aircraft;

where such rental or such use, maintenance or rental, or such interest, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the

THE SCHEDULE — *continued*

first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other 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.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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 7 per cent of the gross amount of the dividends.

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

4. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

5. For the purpose of paragraph 4, the term “Government”:

(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.

(b) in the case of Ghana, means the Government of Ghana and shall include:

- (i) Bank of Ghana;
- (ii) Ghana Exim Bank;
- (iii) Ghana Infrastructure Investment Fund;
- (iv) Eximguaranty Company Ghana Limited; and
- (v) a statutory body.

THE SCHEDULE — *continued*

6. The term “dividends” as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

7. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

8. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

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 7 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

4. For the purpose of paragraph 3, the term “Government”:

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

(i) the Monetary Authority of Singapore;

THE SCHEDULE — *continued*

- (ii) GIC Private Limited; and
 - (iii) a statutory body.
- (b) in the case of Ghana, means the Government of Ghana and shall include:
- (i) Bank of Ghana;
 - (ii) Ghana Exim Bank;
 - (iii) Ghana Infrastructure Investment Fund;
 - (iv) Eximguaranty Company Ghana Limited; and
 - (v) a statutory body.

5. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

THE SCHEDULE — *continued*

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 7 per cent of the gross amount of the royalties.

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 or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use or right for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

THE SCHEDULE — *continued*

ARTICLE 13

SERVICES FEES

1. Services fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such services fees may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the services fees is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the services fees.

3. The term “services fees” as used in this Article means payment of any kind to any person, other than to an employee of the person making the payment, in consideration for any services of a managerial, technical or consultancy nature rendered in a Contracting State. However, the term services fees shall not include any payments in consideration of supervisory activities in connection with a building site or construction, assembly or installation project or for supervisory activities in connection with installation incidental to the sale of machinery or parts thereof.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the services fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the services fees arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the obligation in respect of which the services fees are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Services fees shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the services fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the services fees was incurred, and where such services fees are borne by such permanent establishment or fixed base, then such services fees shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or both of them and some other person, the amount of the services fees paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable

THE SCHEDULE — *continued*

according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 14

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 15

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:
 - (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
 - (b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.

THE SCHEDULE — *continued*

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20, 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic or aboard a boat engaged in inland waterways transport may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 17

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

THE SCHEDULE — *continued*

ARTICLE 18

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions, local authorities or statutory bodies thereof. In such a case, the income is taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

ARTICLE 19

PENSIONS

Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment shall be taxable only in the first-mentioned State.

ARTICLE 20

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

THE SCHEDULE — *continued*

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.

(b) However, such pension and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 16, 17, 18 and 19 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or a statutory body thereof.

ARTICLE 21

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 22

MISCELLANEOUS RULES APPLICABLE TO
CERTAIN OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Agreement where activities (in this Article called “relevant activities”) are carried on offshore in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in a Contracting State.

2. An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraph 3 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment situated therein.

3. Relevant activities which are carried on by an enterprise of a Contracting State in the other Contracting State for a period or periods not exceeding in the aggregate 90 days within any 12-month period shall not constitute the carrying on

THE SCHEDULE — *continued*

of business through a permanent establishment situated therein. For the purposes of this paragraph:

- (a) where an enterprise of a Contracting State carrying on relevant activities in the other Contracting State is associated with another enterprise carrying on substantially similar relevant activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;
- (b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the control of the other or if the same persons participate directly or indirectly in the control of both enterprises.

4. Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with relevant activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State, provided that the duties performed offshore in that other State are performed for a period or periods exceeding in the aggregate 90 days within any 12-month period.

5. Gains derived by a resident of a Contracting State from the alienation of:

- (a) exploration or exploitation rights; or
- (b) shares (or comparable instruments) deriving their value or the greater part of their value directly or indirectly from such rights,

may be taxed in that other State.

In this paragraph “exploration or exploitation rights” mean rights to assets to be produced by the exploration or exploitation of the seabed or subsoil or their natural resources in the other Contracting State, including rights to interests in the assets or rights to the benefits of those assets.

ARTICLE 23

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or

THE SCHEDULE — *continued*

performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 24

ELIMINATION OF DOUBLE TAXATION

1. In Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Ghana which, in accordance with the provisions of this Agreement, may be taxed in Ghana, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Ghana tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Ghana to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Ghana tax paid by that company on the portion of its profits out of which the dividend is paid.

2. In Ghana, double taxation shall be avoided as follows:

- (a) Singapore tax payable under the laws of Singapore and in accordance with the provisions of the Agreement, whether directly (by assessment) or by deduction (withholding), on profits, income or capital gains from sources within Singapore (excluding, in the case of dividends, tax payable in respect of the profits out of which the dividends are paid) shall be allowed as a credit against any Ghana tax computed by reference to the same profits, income or capital gains by reference to which Singapore tax is computed;
- (b) In the case of dividends paid by a company which is a resident of Singapore to a company which is resident in Ghana and which controls directly at least 10 per cent of the capital of the company paying the dividends, the credit shall take into account (in addition to any Singapore tax for which credit may be allowed under the provisions of

THE SCHEDULE — *continued*

subparagraph (a)) the Singapore tax payable by the company in respect of the profits out of which such dividends are paid;

provided that any credit allowed under subparagraphs (a) and (b) of this paragraph shall not exceed the proportion of the Ghana tax which such profits, income or capital gains bear to the entire profits, income or capital gains chargeable to Ghana tax.

3. For the purposes of allowance as a credit in a Contracting State, the tax payable in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other State but has been reduced or exempted by that other State in order to promote its economic development.

ARTICLE 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. Where a Contracting State grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.

5. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

THE SCHEDULE — *continued*

6. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 13 apply, interest, royalties, services fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

ARTICLE 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of the Agreement and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, the tax reductions or exemptions and other advantages provided for by the Convention.

5. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

THE SCHEDULE — *continued*

ARTICLE 27

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 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

THE SCHEDULE — *continued*

agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 28

MEMBERS OF DIPLOMATIC MISSIONS
AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 29

ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other through diplomatic channels the completion of the procedures required by its law for the entering into force of this Agreement.

2. The Agreement shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in Singapore:

- (i) with regard to taxes withheld at source, in respect of amounts paid, deemed to be paid or liable to be paid (whichever is the earliest) on or after 1 January of the calendar year next following the year in which this Agreement enters into force;
- (ii) with regard to taxes chargeable (other than taxes withheld at source), in respect of income for any year of assessment beginning on or after 1 January of the second calendar year following the year in which this Agreement enters into force; and
- (iii) in respect of Article 27 (Exchange of Information), for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January of the calendar year next following the year in which this Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January of the calendar year next following the year in which this Agreement enters into force.

THE SCHEDULE — *continued*

(b) in Ghana:

- (i) on income for any income year beginning on or after 1 January following the year in which this Agreement enters into force; and
- (ii) in respect of Article 27 (Exchange of Information), for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January following the year in which this Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January following the year in which this Agreement enters into force.

ARTICLE 30

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force. In such event, the Agreement shall cease to have effect:

(a) in Singapore:

- (i) with regard to taxes withheld at source, in respect of amounts paid, deemed to be paid or liable to be paid (whichever is the earliest) after the end of that calendar year in which the notice is given;
- (ii) with regard to taxes chargeable (other than taxes withheld at source), in respect of income for any year of assessment beginning on or after 1 January of 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 27 (Exchange of Information) after the end of that calendar year in which the notice is given.

(b) in Ghana:

- (i) on income for any income year beginning on or after 1 January following the year in which such notice is given; and

THE SCHEDULE — *continued*

- (ii) in all other cases, including requests made under Article 27 (Exchange of Information) after the end of that calendar year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Ghana on this 31st day of March of the year two thousand and seventeen (2017) in the English language.

For the Government of
the Republic of Singapore

For the Government of
the Republic of Ghana

Dr Koh Poh Koon

Mr Ken Ofori-Atta

Minister of State

Minister for Finance

Ministry of Trade & Industry

Ministry of Finance

Ministry of National Development

PROTOCOL

The Government of the Republic of Singapore and the Government of the Republic of Ghana have agreed at the signing of the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, that the following provisions shall form an integral part of the said Agreement:

1. With reference to Article 15 (Independent Personal Services), for the avoidance of doubt, it is understood that the article shall apply only to the income derived by an individual.
2. With reference to Article 25 (Non-Discrimination), it is understood that notwithstanding paragraph 6 of that Article, for the purposes of allowing deduction of an interest payment to a non-resident, nothing in the said paragraph shall prevent a Contracting State from disallowing a deduction of such interest payment if tax is not withheld on the payment.

THE SCHEDULE — *continued*

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Ghana on this 31st day of March of the year two thousand and seventeen (2017) in the English language.

For the Government of
the Republic of Singapore

For the Government of
the Republic of Ghana

Dr Koh Poh Koon

Mr Ken Ofori-Atta

Minister of State

Minister for Finance

Ministry of Trade & Industry

Ministry of Finance

Ministry of National Development

Made on 9 April 2019.

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

[R032.002.2905.V1; AG/LEGIS/SL/134/2015/3 Vol. 8]