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INCOME TAX ACT
(CHAPTER 134)

INCOME TAX (SINGAPORE — RUSSIA)
(AVOIDANCE OF DOUBLE TAXATION AGREEMENT)
ORDER 2016

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 9 September 2002, between the Government of the Republic of Singapore and the Government of the Russian Federation, arrangements were made, amongst other things, for the avoidance of double taxation:

AND WHEREAS by a Protocol dated 17 November 2015, between the Government of the Republic of Singapore and the Government of the Russian Federation, 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, as modified by the said Protocol specified in the Schedule to this Order, have been made with the Government of the Russian Federation; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

PROTOCOL

TO AMEND THE AGREEMENT BETWEEN

THE GOVERNMENT OF THE RUSSIAN FEDERATION

AND

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Russian Federation and the Government of the Republic of Singapore, desiring to conclude a Protocol to amend the Agreement between the Government of the Russian Federation and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Moscow on 9th September 2002 (hereinafter referred to as “the Agreement”),

have agreed as follows:

ARTICLE I

With respect to Article 2 “Taxes Covered” of the Agreement, paragraph 3a) shall be deleted and replaced by the following:

“ a) in the case of the Russian Federation:

(i) the tax on profit of organisations;

(ii) the tax on income of individuals

(hereinafter referred to as “Russian tax”);

”

ARTICLE II

With respect to Article 3 “General Definitions” of the Agreement, paragraph 1c) shall be deleted and replaced by the following:

“c) 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

THE SCHEDULE — *continued*

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;”

ARTICLE III

With respect to Article 5 “Permanent Establishment” of the Agreement, paragraphs 2g) and 2h) shall be deleted and replaced by the following:

- “g) a building site, construction, installation or assembly project or supervisory activities in connection therewith, but only if such site, project or activities lasts more than 12 months;
- h) 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, but 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.”

ARTICLE IV

Article 10 “Dividends” of the Agreement shall be deleted and replaced by the following:

“ARTICLE 10 — DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State or distributions paid by a real estate investment fund established under the laws of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, dividends paid by a company which is a resident of a Contracting State or distributions paid by a real estate investment fund established under the laws of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends or distributions is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) in the case of dividends:
 - (i) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends is a company which holds directly at least 15 per cent of the capital of the company paying the dividends;

THE SCHEDULE — *continued*

(ii) 10 per cent of the gross amount of the dividends in all other cases;

b) in the case of distributions paid by the real estate investment fund:

10 per cent of the gross amount of the distributions.

3. Notwithstanding the provisions of paragraph 2, dividends or distributions 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” includes:

a) in the case of Singapore:

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

b) in the case of the Russian Federation:

- (i) the Central Bank of the Russian Federation and institutions wholly or mainly owned by the Central Bank of the Russian Federation; and
- (ii) any statutory body or any institution wholly or mainly owned by the Government of the Russian Federation as may be agreed from time to time between the competent authorities of the Contracting States.

5. 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 taxation laws of the Contracting State of which the company making the distribution is a resident. The term “shares” as used in this Article shall include depository receipts thereof. For the purposes of paragraphs 7, 8 and 9 of this Article, the term “dividends” also includes distributions within the meaning of subparagraph b) of paragraph 2 of this Article and reference to a company shall be read as including reference to a real estate investment fund as appropriate.

6. The term “real estate investment fund” as used in this Article means:

THE SCHEDULE — *continued*

- a) in the case of Singapore, a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Cap. 289) and listed on the Singapore Exchange, and that invests or proposes to invest in immovable property and immovable property-related assets;
- b) in the case of the Russian Federation, a mutual investment fund organised in the Russian Federation primarily for the purpose of investing in immovable property situated in the Russian Federation.

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 14 of this Agreement, 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 insofar as such dividends are paid to a resident of that other State or insofar 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

9. The provisions of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the shares, units or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment."

ARTICLE V

Article 11 "Interest" of the Agreement shall be deleted and replaced by the following:

"ARTICLE 11 — INTEREST

- 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

THE SCHEDULE — *continued*

2. The term “interest” as used in this Article means income from debt-claims of every kind, and in particular, income from government securities, 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.

3. The provisions of paragraph 1 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 or performs 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 14, as the case may be, shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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 Contracting State in which the permanent establishment or fixed base is situated.

5. 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.

6. The provisions of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.”

ARTICLE VI

With respect to Article 12 “Royalties” of the Agreement:

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

THE SCHEDULE — *continued*

“ 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 5 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 information concerning industrial, commercial or scientific experience.

”

2. A new paragraph 7 shall be added as follows:

“7. The provisions of this Article shall not apply if it was the main purpose of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.”

ARTICLE VII

With respect to Article 14 “Independent Personal Services” of the Agreement, paragraph 1b) shall be deleted and replaced by the following:

“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.”

ARTICLE VIII

Article 18 “Pensions” of the Agreement shall be deleted and replaced by the following:

“ARTICLE 18 — PENSIONS

Subject to the provisions of paragraph 2 of Article 19, 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 IX

Article 22 “Limitation of Benefits” of the Agreement shall be deleted and replaced by the following:

THE SCHEDULE — *continued*

“ARTICLE 22 — LIMITATION OF BENEFITS

This Agreement shall not apply to any person who became a person covered by the Agreement if the principal goal of such a person is to enjoy the benefits of any reduction in or exemption from tax provided by this Agreement. In no case shall this exclusion apply to any person engaged in real business activity. The competent authorities of the Contracting States shall consult each other on the application of this provision.”

ARTICLE X

With respect to Article 24 “Non-discrimination” of the Agreement, paragraph 4 shall be deleted and replaced by the following:

“4. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties 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.”

ARTICLE XI

Article 26 “Exchange of Information” of the Agreement shall be deleted and replaced by the following:

“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.

THE SCHEDULE — *continued*

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 XII

With respect to the existing Protocol (2002) to the Agreement:

1. Paragraphs 1, 2 and 3 shall be deleted and replaced by the following:

“In general:

1. The term “statutory body” means a body constituted by any statute of a Contracting State and performing functions which would otherwise be performed by the Government of that Contracting State.

2. The term “political subdivisions” in this Agreement means, in the case of the Russian Federation, subjects (субъекты) of the Russian Federation, defined as such according to its legislation.

THE SCHEDULE — *continued*

3. For the purposes of this Agreement, any information provided, or a certificate of residence or any other document issued by the competent authority of a Contracting State or its authorised representative shall not require a legalisation or an apostille for the purposes of application in the other Contracting State, including its use in the courts and administrative bodies.

3.1. The term “fixed base” in this Agreement means a fixed place for the purpose of the performance of independent personal services by the individual.”

2. Paragraph 6 shall be deleted and replaced by the following:

“6. ad Article 22:

Article 22 does not apply to income derived by the Government of either Contracting State or any person approved by the competent authority of either Contracting State for the purpose of this paragraph.”

ARTICLE XIII

Each of the Contracting States shall notify to the other in writing, through the diplomatic channels, the completion of the procedures required by its domestic law for the entry into force of this Protocol. This Protocol shall enter into force on the date of receipt of the latter of these notifications and its provisions shall have effect:

a) 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 1st January of the calendar year next following the year in which this 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 1st January in the second calendar year following the year in which this Protocol enters into force; and
- (iii) in respect of Article 26 (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 1st January of the calendar year next following the year in which this Protocol enters into force; or where there is no taxable period, for all charges to tax arising on or after 1st January of the calendar year next following the year in which this Protocol enters into force.

THE SCHEDULE — *continued*

- b) in the Russian Federation, for taxable periods beginning on or after 1st January in the calendar year next following that in which this Protocol enters into force.

Done in duplicate at Moscow this 17th day of November 2015 in the Russian and English languages, both texts being equally authentic.

For the Government of the
Republic of Singapore

For the Government of the
Russian Federation

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Made on 25 November 2016.

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

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