Reprint
as at 13 August 2010

Double Taxation Relief (Singapore) Order 1973

(SR 1973/256)

Double Taxation Relief (Singapore) Order 1973: revoked, on 13 August 2010, by clause 6 of the Double Tax Agreements (Singapore) Order 2010 (SR 2010/115).

Denis Blundell, Governor-General

Order in Council

At the Government House at Wellington this 23rd day of October 1973

Present:
His Excellency the Governor-General in Council

Pursuant to section 172 of the Land and Income Tax Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This order is administered by the Inland Revenue Department.

Contents

Order

1

This order may be cited as the Double Taxation Relief (Singapore) Order 1973.

2 Giving effect to agreement and protocols

(1) It is declared that the arrangements specified in the agreement set out in Schedule 1 and the protocols set out in Schedules 2 and 3 are, in relation to income tax imposed under the law of New Zealand and despite anything in the Income Tax Act 2004, any other Inland Revenue Acts (as defined in section OB 1 of the Income Tax Act 2004), the Official Information Act 1982, or the Privacy Act 1993, to have effect according to the tenor of the agreement and of the protocols.

(2) Those arrangements have been made with the Government of the Republic of Singapore with a view to providing relief from

double taxation in relation to income tax imposed under the Income Tax Act 2004 and income tax imposed under the law of the Republic of Singapore.

Clause 2: replaced, on 30 June 2006, by clause 4 of the Double Taxation Relief (Singapore) Amendment Order 2006 (SR 2006/172).

Schedule 1
Agreement between the Government of New Zealand 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

Schedule 1 heading: amended, on 26 August 1993, by clause 2(2)(a) of the Double Taxation Relief (Singapore) Order 1973, Amendment No 1 (SR 1993/253).

The Government of New Zealand and the Government of the Republic of Singapore,

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
Taxes covered

(1) The taxes which are the subject of this Agreement are:

(a) in Singapore:

the income tax;

(b) in New Zealand:

the income tax and the excess retention tax.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Contracting State or which are imposed by the Government of any Territory to which this Agreement is extended under Article 22.

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(3) For the purposes of paragraph (1)(b) of this Article, the income tax does not include the bonus issue tax.

Article 2
General definitions

(1) In this Agreement, unless the context otherwise requires—

(a) the term "Singapore" means the Republic of Singapore;

(b) the term "New Zealand" includes the continental shelf of New Zealand as defined under the law of New Zealand concerning the continental shelf; it does not include the Cook Islands, Niue or the Tokelau Islands;

(c) the terms "a Contracting State" and "the other Contracting State" mean Singapore or New Zealand, as the context requires;

(d) the term "person" includes an individual, a company and an unincorporated body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the term "Singapore tax" means tax imposed by Singapore being tax to which this Agreement applies by virtue of Article 1; the term "New Zealand tax" means tax imposed by New Zealand being tax to which this Agreement applies by virtue of Article 1;

(g) the term "tax" means Singapore tax or New Zealand tax, as the context requires;

(h) the term "competent authority" means, in the case of Singapore, the Minister for Finance or his authorised representative, and, in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative;

(i) the term "natural resource royalties" means payments of any kind to the extent to which they are made as consideration for the operation of, or the right to operate, any mine or quarry, or as consideration for the extraction, removal or other exploitation of, or the right to ex-

Article 2—*continued*

tract, remove or otherwise exploit, standing timber or any natural resource;

(j) the term "industrial or commercial profits" means profits derived by an enterprise of a Contracting State from the carrying on of a trade or business, but does not include—

(i) dividends, interest, royalties (as defined in Article 10), or natural resource royalties; or

(ii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any copyright (other than copyright to which subparagraph (j)(i) applies) or any like property or right, or any property or right of a like nature to any property or right referred to in subparagraph (a)(i) of the definition of "royalties" in paragraph (2) of Article 10; or

(iii) payments of any kind to the extent to which they are made as consideration for the use of, or the right to use, any motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting; or

(iv) payments of any kind to the extent to which they are made as consideration for the supply of commercial knowledge, information, or assistance or other management services; or

(v) income from the sale or other disposition of land situated in the other Contracting State or of any estate or interest in land so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such land or any such estate or interest; or

(vi) income from the grant or renewal, or from the sale or other disposition, of any right relating to the operation of any mine or quarry situated in the other Contracting State or to the extraction, removal or other exploitation of any stand-

Article 2—*continued*

ing timber or of any natural resource so situated, or from the sale or other disposition of any share or comparable interest in a company or association whose assets consist wholly or principally of any such right; in this subparagraph (j)(vi), the term "right" means any right, licence, permit, authority, title, option, privilege or other concession and includes a share or interest in any right, licence, permit, authority, title, option, privilege or other concession; or

(vii) rent; or

(viii) charges for the bailment of livestock; or

(ix) profits from operating ships or aircraft; or

(x) remuneration or other income for personal (including professional) services; or

(xi) income from the furnishing of services of employees or others by any person in the course of the carrying on by that person of a profession or vocation;

(k) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a Singapore resident or an enterprise carried on by a New Zealand resident, as the context requires;

(l) words in the singular include the plural and words in the plural include the singular;

(m) the term "Malaysian company" means a company which, for the purposes of income tax in Malaysia, is resident in Malaysia.

(2) In determining, for the purposes of Article 8, 9 or 10, whether dividends, interest or royalties are beneficially owned by a resident of a Contracting State, dividends, interest or royalties in respect of which a trustee is subject to tax in that Contracting State shall be treated as being beneficially owned by that trustee.

(3) In this Agreement, the terms "Singapore tax" and "New Zealand tax" do not include any amount which represents a

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penalty or interest imposed under the law of either Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

(4) In the application of the provisions of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

Article 3
Fiscal domicile

(1) For the purposes of this agreement—

(a) the term "New Zealand resident" means a person who is resident in New Zealand for the purposes of New Zealand tax;

(b) the term "Singapore resident" means a person who is resident in Singapore for the purposes of Singapore tax.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is both a New Zealand resident and a Singapore resident then his status shall, for the purposes of this Agreement, be determined as follows—

(a) he shall be treated solely as a New Zealand resident if he has a permanent home available to him in New Zealand and does not have a permanent home available to him in Singapore and solely as a Singapore resident if he has a permanent home available to him in Singapore and does not have a permanent home available to him in New Zealand; and

(b) failing a resolution of the matter under subparagraph (a) of this paragraph, he shall be treated solely as a New Zealand resident if he has an habitual abode in New Zealand and does not have an habitual abode in Singapore and solely as a Singapore resident if he has an habitual abode in Singapore and does not have an habitual abode in New Zealand; and

(c) failing a resolution of the matter under subparagraph (b) of this paragraph, he shall be treated solely as a New

Article 3—*continued*

Zealand resident if the Contracting State with which his personal and economic relations are the closer is New Zealand and solely as a Singapore resident if the Contracting State with which his personal and economic relations are the closer is Singapore.

(3) Where, by reason of the provisions of paragraph (1) of this Article, a person other than an individual is both a New Zealand resident and a Singapore resident it shall, for the purposes of this Agreement, be treated solely as a New Zealand resident if the centre of its administrative or practical management is situated in New Zealand and solely as a Singapore resident if the centre of its administrative or practical management is situated in Singapore whether or not any person outside New Zealand or Singapore, as the case may be, exercises or is capable of exercising any overriding control of it or of its policy or affairs in any way whatsoever.

(4) For the purposes of this Agreement the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a New Zealand resident or a person who is a Singapore resident, as the context requires.

Article 4
Permanent establishment

(1) For the purposes of this Agreement the term "permanent establishment", in relation to an enterprise, means a fixed place of trade or business in which the trade or business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes—

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, quarry or other place of extraction of natural resources;

(g) a farm or plantation, or an agricultural, pastoral or forestry property; and

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(h) a building site or a construction, installation or assembly project which exists for more than six months.

(3) The term "permanent establishment" shall not be deemed 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 fixed place of trade or business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise; or

(d) the maintenance of a fixed place of trade or business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if—

(a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that other Contracting State; or

(b) substantial equipment is in that other Contracting State being used or installed by, for or under contract with the enterprise.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of independent status to whom paragraph (6) of this Article applies) shall be deemed to be a permanent establishment of that enterprise in the first-mentioned Contracting State if—

(a) he has, and habitually exercises in that first-mentioned Contracting State, any authority to conclude contracts on behalf of the enterprise, unless his activities are

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limited to the purchase of goods or merchandise for the enterprise;

(b) there is maintained in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders on behalf of the enterprise; or

(c) in so acting he carries out in that first-mentioned Contracting State activities of any of the kinds referred to in subparagraph (a)(i) or subparagraph (a)(ii) or subparagraph (a)(iii) of paragraph (8) of this Article.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on trade or business in that other Contracting State through a broker, a general commission agent or any other agent of independent status, where such a person is acting in the ordinary course of his business as a broker, a general commission agent or other agent of independent status.

(7) 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 trade or business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute a place of business of either company a permanent establishment of the other.

(8) In any case where paragraph (5) of this Article does not apply, an enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if—

(a) for, or at or to the order of, that enterprise, another enterprise—

(i) manufactures, assembles, processes, packs or distributes in that other Contracting State any goods or merchandise; or

(ii) performs, in that other Contracting State, any mining or quarrying operations or any operations carried on in association with mining or quarrying operations, or performs, in that other Con-

Article 4—*continued*

tracting State, any operations for the extraction, removal or other exploitation of standing timber or of any natural resource; or

(iii) breeds, manages, agists or raises in that other Contracting State any livestock; and

(b) either enterprise participates directly or indirectly in the management, control or capital of the other enterprise, or the same persons participate directly or indirectly in the management, control or capital of both enterprises.

Article 5
Industrial or commercial profits

(1) Industrial or commercial profits of an enterprise of a Contracting State shall be subject to tax only in that Contracting State unless the enterprise carries on trade or business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on trade or business as aforesaid, tax may be imposed by that other Contracting State on the whole of the industrial or commercial profits of the enterprise from sources within that other Contracting State whether or not those profits are attributable to that permanent establishment.

(2) Where an enterprise of a Contracting State carries on trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to make if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment; and the profits so attributed shall be deemed to be income derived from sources in that other Contracting State and shall be taxed accordingly.

(3) In determining the industrial or commercial profits attributable to a permanent establishment in a Contracting State, there shall be allowed as deductions all expenses of the enterprise, including executive and general administrative expenses,

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which would be deductible if the permanent establishment were an independent enterprise and which are reasonably connected with the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) If the information available to the competent authority of the Contracting State concerned is inadequate to determine the industrial or commercial profits to be attributed to the permanent establishment, nothing in this Article shall affect the application of the law of that Contracting State in relation to the liability of the enterprise to pay tax in respect of the permanent establishment on an amount determined by the exercise of a discretion or the making of an estimate by the competent authority of that Contracting State. Provided that the discretion shall be exercised or the estimate shall be made, so far as the information available to the competent authority permits, in accordance with the principle stated in this Article.

(5) Industrial or commercial profits shall not be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) Nothing in this Article shall apply to either Contracting State to prevent the operation in the Contracting State of any provisions of its law at any time in force relating to the taxation of any income from the business of any form of insurance.

Article 6
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,

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and in either case conditions are operative between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing at arm's length, then any profits which, but for those conditions, might have been expected to accrue to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise.

(2) Profits included in the profits of an enterprise of a Contracting State under paragraph (1) of this Article shall be deemed to be income of that enterprise derived from sources in that Contracting State and shall be taxed accordingly.

(3) If the information available to the competent authority of a Contracting State is inadequate to determine, for the purposes of paragraph (1) of this Article, the profits which might have been expected to accrue to an enterprise, nothing in this Article shall affect the application of any law of that Contracting State in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the competent authority of that Contracting State. Provided that the discretion shall be exercised or the estimate shall be made, so far as the information available to the competent authority permits, in accordance with the principle stated in this Article.

Article 7
Shipping and air transport

(1) A resident of a Contracting State shall, subject to paragraphs (2), (3) and (4) of Article 5 and to Article 6, be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft other than operations confined solely to places in that other Contracting State.

(2) The exemption provided in paragraph (1) of this Article shall apply in relation to the share of the profits from the operation of ships or aircraft derived by a resident of a Contracting State through participation in a pool service, in a joint transport operating organisation or in an international operating agency but

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only to the extent to which the share of the profits is not attributable to profits from voyages, flights or operations confined solely to places in the other Contracting State.

(3) For the purposes of this Article and Article 18, profits derived from the carriage of passengers, livestock, mails, goods or merchandise shipped in a Contracting State for discharge at another place in that Contracting State shall be treated as profits from the operation of a ship or aircraft confined solely to places in that Contracting State.

Article 8
Dividends

(1) The New Zealand tax on dividends, being dividends paid by a company which is resident in New Zealand for the purposes of New Zealand tax, derived and beneficially owned by a Singapore resident, shall not exceed 15 per centum of the gross amount of the dividends.

(2) Subject to the provisions of this Article, dividends paid by a company which is resident in Singapore for the purposes of Singapore tax, and dividends paid by a Malaysian company out of profits derived from sources in Singapore, being dividends derived and beneficially owned by a New Zealand resident, shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable in respect of the profits of the company.

(3) Nothing in the preceding paragraph shall affect the provisions of Singapore law under which the tax in respect of a dividend paid by a company which is resident in Singapore for the purposes of Singapore tax, or paid by a Malaysian company out of profits derived from sources in Singapore, from which Singapore tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the Singapore year of assessment immediately following that in which the dividend was paid.

(4) If Singapore, subsequent to the signing of this Agreement, imposes a tax on dividends paid by a company which is resident in Singapore for the purposes of Singapore tax or paid by

Article 8—*continued*

a Malaysian company out of profits derived from sources in Singapore, which is in addition to the tax chargeable in respect of the profits of the company, such tax may be charged but the tax so charged on such dividends derived and beneficially owned by a New Zealand resident shall not exceed 15 per centum of the gross amount of the dividends.

(5) Paragraphs (1), (2) and (4) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the holding giving rise to the dividends is effectively connected with that permanent establishment.

(6) Dividends paid by a company which is a resident of a Contracting State, being dividends which are derived and beneficially owned by a person who is not a resident of the other Contracting State, shall be exempt from tax in that other Contracting State. Provided that this paragraph shall not apply in relation to dividends paid by any company which is resident in Singapore for the purposes of Singapore tax and which is also resident in New Zealand for the purposes of New Zealand tax.

(7) Nothing in the foregoing paragraphs of this Article shall affect the taxation of the company in respect of the profits out of which the dividends are paid.

Article 9
Interest

(1) The tax of a Contracting State on interest derived from sources in that Contracting State and beneficially owned by a resident of the other Contracting State shall not exceed 15 per centum of the gross amount of the interest.

(2) Paragraph (1) of this Article shall not apply if the person who is the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the indebtedness giving rise to the interest is effectively connected with that permanent establishment.

(3) Paragraph (1) of this Article shall not apply where the person paying the interest and the person who is the beneficial owner of the interest are associated with each other. For the purposes

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of this paragraph a person is associated with another person if either person controls directly or indirectly the other or if any third person controls directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

(4) Where the application of paragraph (1) of this Article to any interest is not excluded by virtue of the foregoing provisions of this Article but owing to a special relationship between the person paying the interest and the person who is the beneficial owner of the interest, or between both of them and some other person, the amount of the interest paid exceeds the amount which might have been expected to have been agreed upon in the absence of such relationship paragraph (1) of this Article shall apply only to the last-mentioned amount.

Article 10
Royalties

(1) The tax of a Contracting State on royalties derived from sources in that Contracting State and beneficially owned by a resident of the other Contracting State shall not exceed 15 per centum of the gross amount of the royalties.

(2) In this Article, the term "royalties" means payments of any kind to the extent to which they are made as consideration for—

(a) the use of or the right to use any—

(i) copyright of scientific work for use in trade or industry, patent, design or model, plan, secret formula or process, or trade mark; or

(ii) industrial, commercial or scientific equipment; or

(b) the supply of—

(i) scientific, technical or industrial knowledge or information; or

(ii) any assistance which is given as a means of enabling the application or enjoyment of such knowledge or information;

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but does not include natural resource royalties or payments referred to in subparagraph (j)(ii), subparagraph (j)(iii) or subparagraph (j)(iv) of paragraph (1) of Article 2.

(3) Paragraph (1) of this Article shall not apply if the person who is the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the knowledge, information, assistance, right or property giving rise to the royalties is effectively connected with that permanent establishment.

(4) Where, owing to a special relationship between the person paying the royalties and the person who is the beneficial owner of the royalties, or between both of them and some other person, the amount of the royalties paid exceeds the amount which might have been expected to have been agreed upon in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

Article 11
Personal services

(1) Subject to Articles 14 and 15, remuneration or income (other than pensions) derived by an individual who is a resident of a Contracting State in respect of personal (including professional) services may be taxed only in that Contracting State unless the services are performed in the other Contracting State. If the services are so performed, such remuneration or income as is derived in respect thereof shall be deemed to have a source in, and may be taxed in, that other Contracting State.

(2) Notwithstanding paragraph (1) of this Article, remuneration or income (other than pensions) derived by a resident of a Contracting State in respect of personal (including professional) services performed in the other Contracting State shall be exempt from tax in that other Contracting State if—

(a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the income year or the basis period for the year of assessment, as the case may be, of that other Contracting State, and

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(b) the remuneration is paid by or on behalf of a person who is a resident of the first-mentioned Contracting State, and

(c) the remuneration or income is not borne by a permanent establishment which that person has in that other Contracting State.

(3) Notwithstanding paragraphs (1) and (2) of this Article, remuneration derived by a resident of a Contracting State in respect of employment exercised aboard a ship or aircraft operating in international traffic shall be taxable only in that Contracting State.

Article 12
Director's fees

Notwithstanding anything contained in Article 11, director's fees and 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 shall be deemed to have a source in, and may be taxed in, that other Contracting State.

Article 13
Public entertainers and athletes

(1) Notwithstanding anything contained in Article 11, remuneration or income derived by public entertainers (such as theatrical, motion picture, radio or television artistes and musicians) and by athletes from their personal activities as such shall be deemed to have a source in, and may be taxed in, the Contracting State in which these activities are exercised.

(2) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on trade or business through that permanent establishment if it provides the services of a public entertainer or athlete referred to in paragraph (1) of this Article in that other Contracting State.

Article 14
Governmental functions

(1) Remuneration (other than pensions) paid by the Government of Singapore to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from New Zealand tax, except where the individual is resident in New Zealand for the purposes of New Zealand tax and is not a Singapore citizen.

(2) Remuneration (other than pensions) paid by the Government of New Zealand to an individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Singapore tax, except where the individual is resident in Singapore for the purposes of Singapore tax and is not a New Zealand citizen.

(3) This Article shall not apply to any remuneration in respect of services rendered in connection with any trade or business carried on by either Government for the purposes of profit.

Article 15
Students and trainees

A student or trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and is present in the first-mentioned Contracting State solely for the purpose of his education or training shall not be taxed in that first-mentioned Contracting State on payments (including salary or wages) to the extent to which he receives such payments for the purpose of his maintenance, education or training provided that such payments are made to him from outside that first-mentioned Contracting State.

Article 16
Dual residents receiving income

(1) This Article shall apply to a person who is resident in Singapore for the purposes of Singapore tax and is also resident in New Zealand for the purposes of New Zealand tax.

(2) Where such a person is treated for the purposes of this Agreement solely as a resident of a Contracting State he shall be exempt in the other Contracting State from tax on income other than income which, under the law of that other Contracting

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State or under this Agreement, is derived, or is deemed to be derived, from sources in that other Contracting State.

Article 17
Limitation of relief

Where this Agreement provides (with or without conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate, in that Contracting State and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State.

Article 18
Sources of income

(1) For the purposes of this Agreement—

(a) (i) dividends paid by a company which is resident in Singapore for the purposes of Singapore tax to a New Zealand resident shall be treated as income from sources in Singapore;

(ii) dividends paid by a Malaysian company out of profits derived from sources in Singapore to a New Zealand resident shall be treated as income from sources in Singapore;

(b) dividends paid by a company which is resident in New Zealand for the purposes of New Zealand tax to a Singapore resident shall be treated as income from sources in New Zealand;

(c) profits derived by a resident of a Contracting State from the operation of ships or aircraft, being profits from operations confined solely to places in the other Contracting State, shall be treated as having a source in that other Contracting State;

(d) interest shall be treated as having a source in a Contracting State where the person paying the interest is the Government

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of that Contracting State or 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 and the interest is borne by such permanent establishment, then such interest shall be treated as having a source in the Contracting State in which the permanent establishment is situated;

(e) royalties (as defined in Article 10) and payments referred to in subparagraph (j)(ii), subparagraph (j)(iii) or subparagraph (j)(iv) of paragraph (1) of Article 2 shall be treated as having a source in a Contracting State where the person paying such royalties or making such payments is the Government of that Contracting State or a resident of that Contracting State. Where, however, the person paying such royalties or making such payments, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment and such royalties or payments are borne by such permanent establishment, then such royalties or payments shall be treated as having a source in the Contracting State in which the permanent establishment is situated;

(f) natural resource royalties and income referred to in subparagraph (j)(v), subparagraph (j)(vi) or subparagraph (j)(vii) of paragraph (1) of Article 2 derived by a resident of a Contracting State shall be treated as derived from sources in the other Contracting State if the land, mine, quarry, natural resource, standing timber or rent-producing property is situated in that other Contracting State.

(2) Notwithstanding anything contained in Article 16 where income of any of the kinds referred to in paragraph (1) of this Article is derived by a resident of a Contracting State and is not, under the provisions of that paragraph, treated as having a source in the other Contracting State, such income shall be exempt from tax in that other Contracting State.

Article 19
Elimination of double taxation

(1) Subject to any provisions of the laws of Singapore which may from time to time be in force and which relate to the allowance of a credit against Singapore tax of tax paid in a country outside Singapore (which shall not affect the general principles hereof), New Zealand tax paid under the law of New Zealand and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a Singapore resident from sources in New Zealand (excluding, in the case of a dividend, tax paid in respect of profits out of which the dividend is paid) shall be allowed as a credit against Singapore tax payable in respect of that income. However, where such income is a dividend paid by a company which is a New Zealand resident to a company which is a Singapore resident and which beneficially owns at least 10 per centum of the paid-up share capital in the first-mentioned company the credit shall take into account (in addition to any New Zealand tax on the dividends) the New Zealand tax paid by the first-mentioned company in respect of its profits.

(2) Subject to any provisions of the laws of New Zealand which may from time to time be in force and which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principles hereof), Singapore tax paid under the law of Singapore and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a New Zealand resident from sources in Singapore (excluding in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income. However, where a company which is a New Zealand resident beneficially owns at least 10 per centum of the paid-up share capital in a company which is a Singapore resident, any dividend derived by the first-mentioned company from the second-mentioned company (being dividends which, in accordance with the taxation law of New Zealand in existence at the date of signature of this Agreement, would be exempt from New Zealand tax) shall be exempt from New Zealand tax and shall not be taken

Article 19—*continued*

into account for the purpose of determining the rate of New Zealand tax payable in respect of any other income derived by that first-mentioned company.

(3) For the purposes of paragraph (2) of this Article, a New Zealand resident deriving income from sources in Singapore consisting of—

(a) profits, being profits in respect of which an exemption from Singapore tax has been granted under the provisions of the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135) of Singapore; or

(b) interest or royalties, being interest or royalties in respect of which an exemption from or reduction of Singapore tax has been granted under the provisions of the said Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135)—

shall be deemed to have paid Singapore tax in an amount or, as the case may be, the Singapore tax paid shall be deemed to have been increased by an amount, equal to the amount by which the Singapore tax that otherwise would have been payable under the law of Singapore and in accordance with this Agreement in respect of those profits or, as the case may be, that interest or those royalties is reduced by the exemption or reduction granted.

(4) Every reference in paragraph (3) of this Article to the Economic Expansion Incentives (Relief from Income Tax) Act, (Chapter 135) shall be deemed to include a reference to any other law which is imposed in Singapore after the date of signature of this Agreement in modification of, or in addition to, or in substitution for, that Act and which is agreed, in an Exchange of Letters between the Contracting States, to be of a substantially similar character to the provisions of that Act as in force at the date of signature of this Agreement.

Article 20
Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the action of the competent authority in a Contracting State has re-

Article 20—*continued*

sulted, or is likely to result, in double taxation contrary to the provisions of this Agreement, he shall be entitled to present the facts to the competent authority in the Contracting State of which he is a resident and, should his claim be deemed worthy of consideration, the competent authority in that Contracting State shall endeavour to come to an agreement with the competent authority in the other Contracting State with a view to the avoidance of the double taxation in question.

(2) The competent authority in a Contracting State may communicate directly with the competent authority in the other Contracting State for the purpose of giving effect to the provisions of this Agreement and in an endeavour to assure its consistent interpretation and application.

Article 21
Exchange of information

(1) The competent authorities shall exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against avoidance of the taxes to which this Agreement applies by virtue of Article 1.

(2) Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a Court or reviewing authority) concerned with the assessment or collection of the taxes to which this Agreement applies by virtue of Article 1, or the determination of appeals in relation thereto.

(3) No information shall be exchanged which would disclose any trade secret or trade process, or which would be contrary to public policy.

Article 22
Territorial extension

(1) This Agreement may be extended, either in its entirety or with modifications, to any Territory for whose international rela-

Article 22—*continued*

tions either Contracting State is responsible, and which imposes taxes substantially similar in character to those which are the subject of this Agreement and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in Letters to be exchanged for this purpose.

(2) The termination by Singapore or New Zealand of this Agreement under Article 24 shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Agreement to any Territory to which it has been extended under this Article.

Article 23
Entry into force

This Agreement shall enter into force on a date to be agreed by Exchange of Letters between the Contracting States and shall thereupon have effect—

(a) in Singapore—

for any year of assessment beginning on or after 1 January 1974;

(b) in New Zealand—

in respect of income derived during any income year beginning on or after 1 April 1973.

Article 24
Termination

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before 30 June in any calendar year after the year 1976 give to the other Contracting State written notice of termination and, in that event, this Agreement shall cease to be effective—

(a) in Singapore—

Article 24—*continued*

for any year of assessment beginning on or after 1st January in the second calendar year immediately following that in which the notice is given;

(b) in New Zealand—

in respect of income derived during any income year beginning on or after 1st April in the calendar year immediately following that in which the notice is given.

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

DONE at Singapore in duplicate this 21st day of August one thousand nine hundred and seventy-three in the English language.

H H Francis

For the Government of New Zealand.

Hon Sui Sen

For the Government of the Republic of Singapore.

Protocol to the Agreement between the Government of New Zealand 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 New Zealand and the Government of the Republic of Singapore, have agreed that the following provision shall form an integral part of the Agreement:

On or before 30 June in any calendar year after the year 1976 the Government of New Zealand may give to the Government of the Republic of Singapore written notice to the effect that the provisions of paragraphs (3) and (4) of Article 19 shall cease to have force or effect, and, in that event, the provisions of those paragraphs shall cease to have any force or effect in New Zealand in respect of income derived during any income year beginning on or after 1 April in the calendar year immediately following that in which the notice is given.

This protocol shall enter into force on the same date as the Agreement.

DONE at Singapore in duplicate this 21st day of August one thousand nine hundred and seventy-three in the English language.

H H Francis
For the Government of New Zealand.

Hon Sui Sen
For the Government of the Republic of Singapore.

Schedule 2
Second protocol to the Agreement between the Government of New Zealand 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

Schedule 2: inserted, on 26 August 1993, by clause 2(2)(b) of the Double Taxation Relief (Singapore) Order 1973, Amendment No 1 (SR 1993/253).

The Government of New Zealand and the Government of the Republic of Singapore,

Having regard to the Agreement between the Government of New Zealand 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 done at Singapore on 21 August 1973 (hereinafter referred to as "the Agreement"),

Have agreed that the following provisions shall form an integral part of the Agreement:

Article I

Notwithstanding paragraph (3) of Article 19 of the Agreement, a New Zealand resident deriving income from Singapore, being income referred to in that paragraph, shall not be deemed to have paid Singapore tax in respect of such income where the competent authority of New Zealand considers, after consultation with the competent authority of Singapore, that it is inappropriate to do so having regard to:

(a) whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraph (3) of Article 19 for the benefit of that person or any other person;

(b) whether any benefit accrues or may accrue to a person who is neither a New Zealand resident nor a Singapore resident;

(c) the prevention of fraud or the avoidance of the taxes to which the Agreement applies;

(d) any other matter which the competent authorities consider relevant in the particular circumstances of the case including any submissions from the New Zealand resident concerned.

Article II

Article 1 of this Second Protocol shall apply to income derived on or after 1 July 1993.

Article III

(1) The Contracting States shall notify each other through diplomatic channels 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 notification referred to in paragraph 1 of this Article.

DONE at Singapore in duplicate this 1st day of July 1993 in the English language.

Koh Yong Guan
For the Government of the Republic of Singapore

Colin V Bell
For the Government of New Zealand

Schedule 3

cl 2(1)

Third protocol to the Agreement between the Government of New Zealand 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

Schedule 3: inserted, on 30 June 2006, by clause 5 of the Double Taxation Relief (Singapore) Amendment Order 2006 (SR 2006/172).

The Government of New Zealand and the Government of the Republic of Singapore,

Having regard to the Agreement between the Government of New Zealand 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 done at Singapore on 21 August 1973 (hereinafter referred to as "the Agreement"),

Have agreed that the following provisions shall form an integral part of the Agreement:

Article I

Subparagraph (j)(iv) of paragraph 1 of Article 2 of the Agreement shall be deleted and replaced by the following:

"((j)(iv) payments of any kind to the extent to which they are made as consideration for the supply of commercial knowledge, information, or assistance which is given as a means of enabling the application or enjoyment of such knowledge or information; or"

Article II

Subparagraph (j)(x) and subparagraph (j)(xi) of paragraph 1 of Article 2 of the Agreement shall be deleted and replaced by the following subparagraph (j)(x):

"(j)(x) income from the performance of services as defined in Article 11;"

Article III

Subparagraphs (a) and (b) of paragraph 4 of Article 4 of the Agreement shall be deleted and replaced by the following subparagraphs (a), (b) and (c):

"(a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that other Contracting State; or

(b) substantial equipment is in that other Contracting State being used or installed by, for or under contract with the enterprise; or

(c) it furnishes services, including consultancy services, through employees or other personnel engaged by the enterprise for such purpose, within the other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period commencing or ending in the year of income concerned or the basis period for the year of assessment, as the case may be."

Article IV

Article 11 of the Agreement shall be deleted and replaced by the new Article 11 and 11A as follows:

"Article 11
Independent personal services

1. Income derived by an individual who is a resident of a Contracting State from the performance 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 the individual has a fixed base regularly available in the other State for the purpose of performing such services or activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or

   (b) if the individual's stay in the other State is for a period or periods exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the

"Article 11—*continued*

year of income concerned or the basis period for the year of assessment, as the case may be; in that case, only so much of the income as is derived from such services or activities performed in that other State may be taxed in that other State.

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 11A
Income from employment

1. Subject to the provisions of Articles 12 and 14, salaries, wages and other similar remuneration (other than pensions) 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 (other than pensions) 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 within any twelve-month period commencing or ending in the year of income concerned or the basis period for the year of assessment, as the case may be; and
   (b) the remuneration is paid by, or on behalf of, an employer who is not resident of the other State; and
   (c) the remuneration is not borne by or deductible in determining the taxable profits of a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding paragraphs 1 and 2 of this Article, remuneration (other than pensions) derived by a resident of a contracting state in respect of an employment exercised aboard a ship

Article 11A—*continued*

or aircraft operating in international traffic shall be taxable only in that State."

Article V

Article 12 of the Agreement shall be deleted and replaced by the following:

"Article 12
Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in that resident's capacity as a member of the board of directors of a company which is a resident of the other Contracting State shall be deemed to have a source in, and may be taxed in, that other State."

Article VI

The words "Article 11" in paragraph 1 of Article 13 of the Agreement shall be deleted and replaced by "Articles 5, 11 and 11A".

Article VII

Article I to VI of this Third Protocol shall apply to income derived on or after 1st January 2006.

Article VIII

1. The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Third Protocol have been complied with.
2. This Third Protocol shall enter into force on the date of the later of the notification referred to in paragraph 1 of this Article.

Done at Singapore in duplicate this 5th day of September 2005 in the English language.

For the Government of New Zealand
Richard Grant
High Commissioner of New Zealand to Singapore

For the Government of the Republic of Singapore
Moses Lee
Commissioner of Inland Revenue

P G Millen,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 25 October 1973.

Contents

Notes

1 General

This is a reprint of the Double Taxation Relief (Singapore) Order 1973. The reprint incorporates all the amendments to the order as at 13 August 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Double Tax Agreements (Singapore) Order 2010 (SR 2010/115): clause 6

Double Taxation Relief (Singapore) Amendment Order 2006 (SR 2006/172)

Double Taxation Relief (Singapore) Order 1973, Amendment No 1 (SR 1993/253)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2010