



Double Taxation Relief (Singapore) Amendment Order 2006

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 26th day of June 2006

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section BH 1 of the Income Tax Act 2004, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following order.

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Order

1 Title

This order is the Double Taxation Relief (Singapore) Amendment Order 2006.

2 Principal order amended

This order amends the Double Taxation Relief (Singapore) Order 1973.

3 Application

This order applies according to the tenor of the protocol set out in the Schedule.

4 New clause 2 substituted

Clause 2 is revoked and the following clause substituted:

“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.”

5 New Schedule 3 added

The Schedule 3 set out in the Schedule is added.

Schedule
New Schedule 3 added

cl 5

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**

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;”

Schedule 3—*continued***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

Schedule 3—*continued*

- (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 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

Schedule 3—*continued*

- (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 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.

Schedule 3—*continued*

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For the Government of New Zealand	For the Government of the Republic of Singapore
Richard Grant High Commissioner of New Zealand to Singapore	Moses Lee Commissioner of Inland Revenue

Rebecca Kitteridge,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order adds a Protocol to the 1973 New Zealand–Singapore Double Tax Agreement. The Protocol makes a number of amendments to the Agreement.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 June 2006.
This order is administered by the Inland Revenue Department.