

**AGREEMENT BETWEEN
THE REPUBLIC OF SINGAPORE AND
THE UNITED STATES OF AMERICA
WITH RESPECT TO RECIPROCAL TAX EXEMPTION
OF SHIPPING AND AIRCRAFT INCOME**

Date of Conclusion: 28 July 1988.

Entry into Force: 28 July 1988.

Effective Date: 1 January 1987.

NOTE

An earlier Agreement between the Republic of Singapore and the United States of America with respect to mutual exemption from taxation of income of air transport was signed on 30 September 1985. This Agreement together with the Exchange of Notes signed on 30 September 1985 is shown in Annex B.

The above Agreement and Exchange of Notes were replaced by the Exchange of Notes signed on 11 February 1988/24 March 1988 as shown in Annex A.

EXCHANGE OF NOTES I (1988)

MFA 560/88

The Ministry of Foreign Affairs of the Republic of Singapore presents its compliments to the Embassy of the United States of America and has the honour to propose that the two Governments conclude an agreement to exempt from income tax, on a reciprocal basis, income derived by residents of the other country from the international operation of ships or aircraft. The terms of the agreement are as follows:

The Government of the Republic of Singapore agrees to exempt from tax gross income derived from the international operation of ships or aircraft by US citizens (who are not residents of the Republic of Singapore) and corporations organized in the United States (other than corporations which are subject to tax by the Republic of Singapore on the basis of residence). This exemption is granted on the basis of equivalent exemptions granted by the United States to individuals who are residents of the Republic of Singapore (other than US citizens) and corporations which are controlled and managed in the Republic of Singapore (other than corporations organized in the United States).

In the case of a corporation, the exemption shall apply only if the corporation meets either of the following conditions:

- (1) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are citizens of the United States or of another

country which grants a reciprocal exemption to residents (both individuals and corporations) of the Republic of Singapore; or

- (II) The corporation's stock is primarily and regularly traded on an established securities market in the United States, or is wholly-owned by a corporation whose stock is so traded and which is also organized in the United States. For the purposes of sub-paragraph (I), the Government of the United States of America will be treated as an individual resident of the United States of America.

Gross income includes all income derived from the operation of ships or aircraft, including:

- (I) Income from the rental of ships or aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (II) Income from the rental of containers and related equipment used in international transport which is incidental to income from the international operation of ships or aircraft;
- (III) Income from the participation in shipping or air transport pools which engage in international operation of ships or aircraft; and
- (IV) Gains from the alienation of ships or aircraft by a person whose predominant activity is the international operation of ships or aircraft.

The Ministry of Foreign Affairs considers that this note, together with the Embassy's reply note confirming that the Government of the United States of America agrees to these terms, constitute an agreement amending the agreement of 24 March 1988. This agreement shall enter into force on the date of the Embassy's reply note and shall have effect with respect to taxable years beginning on or after 1 January 1987.

If any difficulty or doubt as to the interpretation or application of this agreement should arise, the competent authorities of the two countries shall seek to resolve such difficulty or doubt by mutual agreement. For this purpose, the competent authorities are:

- (A) In the United States, the Secretary of the Treasury or his authorised representative; and
- (B) In Singapore, the Minister for Finance or his authorised representative.

Either government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Ministry of Foreign Affairs of the Republic of Singapore avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

SINGAPORE
5 July 1988

Embassy of the United States of America
Singapore

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Singapore and has the honor to acknowledge receipt of the Ministry's note no. 560/88 dated July 5, 1988, proposing the terms of an amended agreement to exempt from income tax, on a reciprocal basis, income derived by residents of the other country from the international operation of ships or aircraft. The terms of the agreement are as follows:

The government of the United States of America, in accordance with Sections 872(B) and 883(A) of the Internal Revenue Code, agrees to exempt from tax gross income derived from the international operation of ships or aircraft by individuals who are residents of the Republic of Singapore (other than U.S. citizens) and corporations which are controlled and managed in the Republic of Singapore (other than corporations organized in the United States). This exemption is granted on the basis of equivalent exemptions granted by the Republic of Singapore to citizens of the United States (who are not residents of the Republic of Singapore) and to corporations organized in the United States (which are not subject to tax by the Republic of Singapore on the basis of residence).

In the case of a corporation, the exemption shall apply only if the corporation meets either of the following conditions:

- (I) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are residents of the Republic of Singapore or of another country which grants a reciprocal exemption to U.S. citizens and corporations; or
- (II) The corporation's stock is primarily and regularly traded on an established securities market in the Republic of Singapore, or is wholly-owned by a corporation whose stock is so traded and which is also organized in the Republic of Singapore.

For the purpose of sub-paragraph (I), the Government of the Republic of Singapore will be treated as an individual resident of the Republic of Singapore. For purposes of the exemption from U.S. tax, sub-paragraph (I) will be considered to be satisfied if the corporation is a "controlled foreign corporation" under the Internal Revenue Code.

Gross income includes all income derived from the operation of ships or aircraft, including:

- (I) Income from the rental of ships or aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (II) Income from the rental of containers and related equipment used in international transport which is incidental to income from the international operation of ships or aircraft;
- (III) Income from the participation in shipping or air transport pools which engage in international operation of ships or aircraft; and
- (IV) Gains from the alienation of ships or aircraft by a person whose predominant activity is the international operation of ships or aircraft.

The Embassy of the United States of America is pleased to confirm that the Ministry's note and this reply note constitute an agreement amending the agreement of March 24, 1988. This agreement shall enter into force on today's date and shall have effect with respect to taxable years beginning on or after 1 January 1987.

If any difficulty or doubt as to the interpretation or application of this agreement should arise, the competent authorities of the two countries shall seek to resolve such difficulty or doubt by mutual agreement. For this purpose, the competent authorities are:

- (A) In the United States, the Secretary of the Treasury or his authorized representative; and
- (B) In Singapore, the Minister for Finance or his authorized representative.

Either Government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America

Singapore, July 28, 1988

ANNEX A

EXCHANGE OF NOTE II (1988)

No. 064/88

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Singapore and has the honor to inform the Ministry that the Embassy wishes to replace the text of its Note No. 425/87 dated December 24, 1987, with the revised language below. This Note, therefore, proposes that the two Governments conclude an agreement to exempt from income tax, on a reciprocal basis, income derived by residents of the other country from the international operation of aircraft. The terms of the agreement are as follows:

The Government of the United States of America, in accordance with sections 872(b) and 883(a) of the Internal Revenue Code, agrees to exempt from tax gross income derived from the international operation of aircraft by individuals who are residents of the Republic of Singapore (other than U.S. citizens) and corporations which are controlled and managed in the Republic of Singapore (other than corporations organized in the United States). This exemption is granted on the basis of equivalent exemptions granted by the Republic of Singapore to citizens of the United States (who are not residents of the Republic of Singapore) and to corporations organized in the United States (which are not subject to tax by the Republic of Singapore on the basis of residence).

In the case of a corporation, the exemption shall apply only if the corporation meets either of the following conditions:

- (I) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are residents of the Republic of Singapore or of another country which grants a reciprocal exemption to U.S. citizens and corporations; or
- (II) The corporation's stock is primarily and regularly traded on an established securities market in the Republic of Singapore, or is wholly-owned by a corporation whose stock is so traded and which is also organized in the Republic of Singapore.

For the purpose of sub-paragraph (I), the Government of the Republic of Singapore will be treated as an individual resident of the Republic of Singapore. For purposes of the exemption from U.S. tax, sub-paragraph (I) will be considered to be satisfied if the corporation is a "controlled foreign corporation" under the Internal Revenue Code.

Gross income includes all income derived from the operation of aircraft, including:

- (I) Income from the rental of aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (II) Income from the rental of containers and related equipment used in international transport which is incidental to income from the international operation of aircraft;

- (III) Income from the participation in air transport pools which engage in international operation of aircraft; and
- (IV) Gains from the alienation of aircraft by a person whose predominant activity is the international operation of aircraft.

The Embassy of the United States of America considers that this note, together with the Ministry's reply note confirming that the Government of the Republic of Singapore agrees to these terms, constitutes an agreement amending the agreement of 30 September 1985. This agreement shall enter into force on the date of the Ministry's reply note and shall have effect with respect to taxable years beginning on or after 1 January 1987.

If any difficulty or doubt as to the interpretation or application of this agreement should arise, the competent authorities of the two countries shall seek to resolve such difficulty or doubt by mutual agreement. For this purpose, the competent authorities are:

- (A) In the United States, the Secretary of the Treasury or his authorized representative; and
- (B) In Singapore, the Minister for Finance or his authorized representative.

Either government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Singapore the assurances of its highest consideration.

Embassy of the United States of America
Singapore, February 11, 1988

The Ministry of Foreign Affairs of the Republic of Singapore presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of the Embassy's note No 064/88, dated 11 February 1988, proposing the terms of the reciprocal exemption from income tax of income derived from the international operation of aircraft.

The Government of the Republic of Singapore agrees to exempt from tax gross income derived from the international operation of aircraft by U.S. citizens (who are not residents of the Republic of Singapore) and corporations organized in the United States (other than corporations which are subject to tax by the Republic of Singapore on the basis of residence). This exemption is granted on the basis of equivalent exemptions granted by the United States to individuals who are residents of the Republic of Singapore (other than U.S. citizens) and corporations which are controlled and managed in the Republic of Singapore (other than corporations organized in the United States).

In the case of a corporation, the exemption shall apply only if the corporation meets either of the following conditions:

- (I) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are citizens of the United States or of another country which grants a reciprocal exemption to residents (both individuals and corporations) of the Republic of Singapore; or
- (II) The corporation's stock is primarily and regularly traded on an established securities market in the United States, or is wholly-owned by a corporation whose stock is so traded and which is also organized in the United States. For the purposes of sub-paragraph (I), the Government of the United States of America will be treated as an individual resident of the United States of America.

Gross income includes all income derived from the operation of aircraft, including:

- (I) Income from the rental of aircraft used in international transport on a full (time or voyage) or bareboat basis;
- (II) Income from the rental of containers and related equipment used in international transport which is incidental to income from the international operation of aircraft;
- (III) Income from the participation in air transport pools which engage in international operation of aircraft; and
- (IV) Gains from the alienation of aircraft by a person whose predominant activity is the international operation of aircraft.

The Ministry of Foreign Affairs is pleased to confirm that the Embassy's note and this reply note constitute an agreement amending the agreement of 30 September 1985. This agreement shall enter into force on the date of the Ministry's reply note and shall have effect with respect to taxable years beginning on or after 1 January 1987.

If any difficulty or doubt as to the interpretation or application of this agreement should arise, the competent authorities of the two countries shall seek to resolve such difficulty or doubt by mutual agreement. For this purpose, the competent authorities are:

- (A) In the United States, the Secretary of the Treasury or his authorized representative; and
- (B) In Singapore, the Minister for Finance or his authorised representative.

Either government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Ministry of Foreign Affairs of the Republic of Singapore avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

SINGAPORE
24 March 1988

Embassy of the United States of America
Singapore

ANNEX B

AGREEMENT BETWEEN THE REPUBLIC OF SINGAPORE AND THE UNITED STATES OF AMERICA WITH RESPECT TO MUTUAL EXEMPTION FROM TAXATION OF INCOME OF AIR TRANSPORT

The Government of the Republic of Singapore and the Government of the United States of America have agreed on the following provisions with respect to the reciprocal exemption from taxation of air transport income:

1. Income of a citizen or corporation of a Contracting State from the operation of aircraft registered in that Contracting State shall be exempt from tax by the other Contracting State.
2. The term "income from the operation of aircraft" means -
 - A. Income derived from the operation of aircraft in respect of carriage of passengers, mails, livestock or goods and the sale of tickets related to such operations, including income and profits from the rental of aircraft on a full basis; and
 - B. Income from the rental of aircraft on a bareboat basis and from the rental of containers and related equipment used in international transport if in each case such rental is incidental to the operation of aircraft.
3. Gains derived by a citizen or corporation of a Contracting State from the alienation of aircraft registered in that Contracting State shall be exempt from tax in the other Contracting State.
4. The provisions of paragraphs 1 and 3 shall likewise apply to the share of income or gain of a citizen or corporation of a Contracting State with respect to the participation of aircraft registered in that Contracting State in air transport pools.
5. Nothing in this Agreement prevents a Contracting State from taxing its residents and citizens.
6. The competent authorities of the Contracting States shall seek to resolve by mutual agreement any difficulties or doubts as to the interpretation or application of this Agreement. For this purpose the competent authority is:
 - A. In Singapore, the Minister for Finance or his authorized representative;
 - B. In the United States, the Secretary of the Treasury or his authorized representative.
7. This Agreement shall enter into force on January 1, 1986 and its provisions shall have effect with respect to income derived on or after that date.

8. This Agreement shall remain in force indefinitely unless terminated by either Contracting State. Either Contracting State may terminate the Agreement by giving the other Contracting State written notice, through diplomatic channels, on or before the thirtieth of June in any calendar year, and in such event the Agreement shall cease to have effect for income arising on or after the first of January of the calendar year immediately following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Singapore this 30th day of September, 1985, in the English Language.

For the Government of the
Republic of Singapore

HSU TSE-KWANG

For the Government of the
United States of America

H.E. J STAPLETON ROY

EXCHANGE OF NOTES III (1985)

30 Sep 85

HE Mr J Stapleton Roy
Ambassador
Embassy of the United States of America
Hill Street
Singapore 0617

Your Excellency

I have the honor to refer to the Agreement between the Government of the Republic of Singapore and Government of the United States of America with respect to the reciprocal exemption from taxation of air transport income, which was signed today, and to confirm, on behalf of the Government of Singapore, the following understanding regarding that Agreement.

2 It is the intention of both parties to seek in the future a broader reciprocal exemption of the earnings from international air transportation. In the interim it is recognized that U.S. law currently permits exemption, on a reciprocal basis, only of the earnings of aircraft registered in the other country. Nevertheless, it is recognized that under the operation of U.S. tax law, Singapore air transport enterprises have had no federal income tax liability in the United States. Today's Agreement exempts from Singapore income tax the earnings of U.S. air transport enterprises operated in Singapore. In the event that a Singapore air transport enterprise operating in the United States incurs a U.S. federal income tax liability as a result of a change in U.S. law, representatives of the two Governments will consult for the purpose of making appropriate revisions of the Agreement. If the two parties cannot agree on appropriate revision, Singapore will assess U.S. air transport enterprises on the same basis as it did prior to the 1983 amendments to Sections 27 and 28 of the Singapore Income Tax Act in respect of income earned in years in which a Singapore air transport enterprise incurs a U.S. federal income tax liability as a result of the change in U.S. law.

Yours Sincerely

HSU TSE-KWANG
COMMISSIONER OF INLAND REVENUE

September 30, 1985

Mr. Hsu Tse-Kwang
Commissioner of Inland Revenue
Fullerton Building
Singapore 0104

Dear Commissioner Hsu:

I am pleased to acknowledge receipt of your letter of September 30, 1985 concerning the Agreement between the Government of the United States of America and the Government of the Republic of Singapore with respect to the reciprocal exemption from taxation of air transport income, which was signed on that date.

Sincerely,

J. Stapleton Roy
Ambassador