

## **Analysis: Denmark – Singapore Income Treaty**

Type of treaty: Income

Based on the OECD Model Treaty

**Signed:** July 3, 2000

**Entry into force:** December 21, 2000

**Effective date:** In Denmark, from income year 2001; in Singapore, from assessment year 2002. See Article 28.

**Protocol signed:** August 25, 2009

**Entry into force of Protocol:** January 8, 2010

**Effective date of Protocol:** January 8, 2010. See Article II.

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### **Article 1 Persons Covered**

[See treaty text](#)

Persons who are residents of one or both States.

### **Article 2 Taxes Covered**

[See treaty text](#)

Income tax

#### **Denmark**

- The income tax to the State (indkomstskatten til staten);
- The income tax to the municipalities (den kommunale indkomstskat);
- The income tax to the county municipalities (den amtskommunale indkomstskat);
- Taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

#### **Singapore**

Income tax

#### **Expert Analysis:**

##### **Singapore:**

Singapore's treaties cover only income tax imposed primarily under the Income Tax Act, as amended. Thus, indirect taxes (such as customs and excise duties on imports, and taxes on consumption or property) are generally not covered by Singapore's treaties.

### **Article 3 General Definitions**

[See treaty text](#)

"Denmark": the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area. the term does not comprise the Faroe Islands and Greenland.

"Singapore": the territories of the Republic of Singapore, the territorial waters of Singapore and the seabed and subsoil of the territorial waters, and when used in a geographical sense includes any area extending beyond the limits of the territorial waters of Singapore, and the seabed and subsoil of any such area, which has been or may hereafter be designated under the laws of Singapore and in accordance with international law as an area over which Singapore has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living.

"A Contracting State" and "the other Contracting State": Denmark or Singapore, as the context requires;

"Person": includes an individual, a company and any other body of persons;

"National": any individual possessing the nationality of a Contracting State, and any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

"Company": any body corporate or any entity which is treated as a body corporate for tax purposes;

"Enterprise of a Contracting State" and "enterprise of the other Contracting State": respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

"International traffic": any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

"Competent authority": in Denmark: the Minister for Taxation or his authorized representative; in Singapore: the Minister for Finance or his authorised representative.

#### **Expert Analysis:**

The treaty generally follows the same definitions contained in the OECD Model, except in relation to the following.

The definition of the term "international traffic" refers not to the place of effective management of the enterprise, but rather the State of residence of the operator of the enterprise.

The treaty does not include definitions for the terms "enterprise" and "business".

In relation to the interpretation of any term not otherwise defined, the treaty explicitly follows the ambulatory approach.

**Singapore:**

The terms "enterprise" and "business" are not explicitly defined in Singapore's income tax law.

**Article 4 Resident**

[See treaty text](#)

Singapore's tax system is not based on residence but rather on territoriality and receipt of taxable income in the country. Residents are taxed on income derived from sources within Singapore, as well as income received in Singapore.

Resident individuals are, however, generally exempt from tax on foreign income, except where the income is received through a partnership.

**Expert Analysis:**

**Singapore:**

**INDIVIDUALS**

The determination of residence of an individual is made with reference to both formalistic and substantive tests. Accordingly, an individual is a resident of Singapore if that person:

- is physically present in Singapore for at least 183 days;
  - exercises an employment (other than as a director of a company) in Singapore for at least 183 days;
- or

- resides in Singapore, except for temporary absences from the country that are consistent with the person's claim to be a resident.

Each determination of residence is made with reference to the year preceding the year of assessment. For example, an individual who is physically present in Singapore for over 183 days in 2009 will be considered a resident for purposes of the 2010 year of assessment.

Note also, that under a two-year administrative concession, an individual who stays or works in Singapore for a continuous period of at least 183 days (including weekends and public holidays) covering two calendar years will be regarded as a tax resident for the each of those two years.

Furthermore, under a three-year administrative concession, an individual who stays or works in Singapore continuously for three consecutive years will be regarded as a tax resident for each of those three years even if the person's physical presence in Singapore in the first and third year each lasted less than 183 days.

**COMPANIES**

A company or other "body of persons" is considered to be resident in Singapore if the control and management of its business is exercised in Singapore.

Thus, the test of residence for a company is not a formalistic one (e.g. place of incorporation) but one of substance. In making this determination, the most determinative factor is the location from which the company's board of directors discharges its official function of running the company's business.

This is normally the place where the board holds its meetings.

**Article 5 Permanent Establishment**

[See treaty text](#)

For a Permanent Establishment to exist, there must be a place of business, the place of business must be fixed, and the business must be conducted through such fixed place.

Building sites, construction, installation or assembly projects, and supervisory activities in connection therewith, constitute a permanent establishment if they last more than 6 months in any 12 month period.

The treaty adopts the UN Model Convention provision, by treating the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the enterprise for such purpose, as constituting a permanent establishment if such activities last more than 90 days months in any 12-month period.

The combination of preparatory or auxiliary activities will still not be considered to constitute a permanent establishment.

Expert Analysis:

Singapore:

The concept of a permanent establishment under Singapore's tax law closely follows that of the OECD Model, but with a number of notable deviations. Thus, the term "permanent establishment" is defined in section 2(1) of the Income Tax Act to mean "a fixed place where a business is wholly or partly carried on", including the following:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a warehouse;
- (f) a workshop;
- (g) a farm or plantation;
- (h) a mine, oil well, quarry or other place of extraction of natural resources; and
- (i) a building or work site or a construction, installation or assembly project. The law does not prescribe any specific minimum time threshold for such projects.

Furthermore, a person shall be deemed to have a permanent establishment in Singapore if that person fulfils any of the following conditions:

- (a) carries on supervisory activities in connection with a building or work site or a construction, installation or assembly project. Here again, no minimum time threshold is specified under the law; or
- (b) has another person acting on that person's behalf in Singapore who:
  - (i) has and habitually exercises an authority to conclude contracts;
  - (ii) maintains a stock of goods or merchandise for the purpose of delivery on that person's behalf; or
  - (iii) habitually secures orders wholly or almost wholly for that person or for other enterprises controlled by that person.

Because treaty provisions generally override domestic provisions to the extent of any inconsistency, the treaty has the effect of restricting the scope of application of the domestic provision, particularly by imposing a minimum time threshold below which construction, installation and assembly projects, as well as supervisory activities in connection with such projects, would not qualify as permanent establishments.

The treaty also limits the domestic provisions governing agency relationships, not only by excluding independent agents from the application of the domestic law, but also by narrowing the grounds upon which a dependent agent in Singapore may be deemed to be the permanent establishment of the person on whose behalf the agent acts.

## **Article 6 Income from Immovable Property**

[See treaty text](#)

### **Expert Analysis:**

The treaty follows the general rule of providing for the exercise of taxing rights in relation to such income by the state in which the property is situated.

The treaty goes beyond the OECD Model by extending the scope of application of the principles governing the taxation of immovable property by the State of situs to the income derived from immovable property used for the performance of independent personal services.

## **Article 7 Business Profits**

[See treaty text](#)

Distinct and separate enterprise approach.

Expenses deductible are those that are reasonably allocable to the PE.

No provision for the apportionment of total profits.

Same profit attribution method to be used each year.

### **Expert Analysis:**

#### **Singapore:**

The treaty follows the distinct and separate enterprise approach in relation to the taxation of the profits of a permanent establishment.

Although the distinct and separate approach applicable to the deductibility of expenses under the OECD Model is also followed in connection with the deduction of expenses, such deductibility is made subject to the qualification that the expenses are "reasonably allocable" to the permanent establishment.

Business income derived by a non-resident from Singapore is taxed if it is derived through a permanent establishment of the non-resident in Singapore. The same rules governing businesses operated by residents generally apply to the determination of the taxable business income of the permanent establishment. Singapore generally follows established international tax treaty norms

regarding the taxation of permanent establishments in relation to their treatment as distinct and separate entities. Although several of its treaties make provision for the use of an apportionment method in the taxation of permanent establishments, there is no established practice in the use of such a method domestically.

## **Article 8 Shipping and Air Transport**

[See treaty text](#)

Profits include those from the rental of ships and aircraft, and from the use, maintenance or rental of containers, if incidental to the shipping and aircraft operations.

No express requirement for profits from inland waterways transport to be taxed in Situs State.

No express requirement for taxation of profits relating to boats engaged in inland waterways transport only in the State in which the place of effective management is situated.

### **Expert Analysis:**

#### **Singapore:**

Consistent with the Commentary on the OECD Model, the concept of profits is defined to include profits from activities that are ancillary to the operation of shipping and air transportation.

Profits also include those derived from the rental of ships and aircraft on a bareboat basis, as well as from the use, maintenance or rental of containers, if the rental, use or maintenance is incidental to such shipping and aircraft operations.

As in most of Singapore's treaties, the treaty omits the provision dealing with cases in which the effective management of a shipping enterprise is aboard a ship or boat.

The treaty also follows the common approach in Singapore's treaties of omitting the provisions dealing with the tax treatment of profits from inland waterways transport.

## **Article 9 Associated Enterprises**

[See treaty text](#)

Usual OECD provision regarding transfer pricing

Arm's length principle applies in dealings

Secondary adjustment only where the State agrees with the initial adjustment

### **Expert Analysis:**

The treaty follows the standard OECD provision on transfer pricing in Article 9(1).

Thus, it endorses the application of the arm's length principle for purposes of determining the appropriate amount of profits taxable by the source State in the case of dealings between associated enterprises.

A secondary adjustment will be made by a State only where it agrees with the initial adjustment made by the other State.

## **Article 10 Dividends**

[See treaty text](#)

Treaty rate: 0% if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company where the holding has been held for an uninterrupted period of at least one year and the dividends are declared within that period

- 5% if the beneficial owner is a pension fund or other similar institution providing pension schemes in which individuals may participate in order to secure retirement benefits, where the pension fund or other similar institution is established, recognized for tax purposes and controlled in accordance with the laws of that State

- 10% - all other cases.

Domestic rates:

#### **Denmark**

0%/15%/27%

#### **Singapore**

Singapore imposes no tax on dividend payments by Singapore-resident companies.

### **Expert Analysis:**

#### **Singapore:**

In view of the full exemption of dividends from taxation under Singapore's domestic law, the treaty provisions governing the taxation of cross-border dividends are of little practical relevance for non-residents deriving dividend income from Singapore-resident companies. The provisions provide relief only for Singapore residents deriving income from the other State, if such income is taxed at a rate higher than the prescribed maximum treaty rate.

## **Article 11 Interest**

[See treaty text](#)

Treaty rates:

10% maximum

Domestic rates:

**Denmark**

25%

**Singapore**

Singapore imposes a final withholding tax at the rate of 15% on interest derived by non-residents. A number of exemptions apply.

**Expert Analysis:**

**Singapore:**

The treaty closely follows the OECD Model provision, but with a few notable deviations. It is standard treaty practice for Singapore to negotiate exemptions for income (mainly in the form of dividends and interest) received by the State or particular State agencies, where the treaty permits source State taxation of such income. This practice is believed to be attributable to the significant foreign reserves held by the government. Thus, this treaty incorporates a reciprocal tax exemption for interest income derived by the Government or certain Government agencies. As in the OECD Model, the treaty adopts the permanent establishment exception to the general treaty principle governing the taxation of interest income. However, it also refers to a fixed base used for the performance of independent personal services as a separate exception to the general principle.

## **Article 12 Royalties**

[See treaty text](#)

Treaty rate: 10% maximum

Domestic rates:

**Denmark**

25%

**Singapore**

Singapore imposes a final withholding tax at the standard rate of 10% on royalties derived by non-residents. A number of exemptions apply. The rate for certain types of royalties is computed differently. These include royalties derived by an inventor, author, proprietor, designer or creator of an approved intellectual property or approved innovation, or by any company in which he beneficially owns all the issued shares, for the assignment of or the rights in, the approved intellectual property or approved innovation.

**Expert Analysis**

In a marked departure from the OECD Model, which confers exclusive taxing rights upon the State of residence of the recipient, this treaty, as does most of Singapore's treaties, provides for shared taxation between the source and residence States.

In this connection, the standard domestic withholding rate of 10% is maintained under the treaty.

The scope of royalties under the treaty is also broader than under the OECD Model, in that it covers payments for the use of, or the right to use, films or tapes for radio or television broadcasting.

The term "royalties" as defined also includes specifically payments for the use of, or the right to use, computer software.

Like most other treaties concluded by Singapore, this treaty deviates from the OECD Model by including within the scope of royalties payments for the use of, or the right to use, industrial, commercial or scientific equipment.

In line with the provision for taxation of royalties by both States, the treaty includes a source rule for royalties, which generally follows that contained in the UN Model. As in the case of interest income, the permanent establishment exception to the principle of shared taxation also applies to situations involving a fixed base used for the performance of independent personal services, in which case exclusive taxation is assigned to the source State, with a corresponding obligation of the State of residence to provide relief from double taxation.

## **Article 13 Capital Gains**

[See treaty text](#)

**Expert Analysis:**

The treaty generally follows the OECD provision on this issue, with a few notable deviations.

Firstly, the treaty provides additionally for gains on movable property pertaining to a fixed base used for the performance of independent personal services, which is subject to the same principle as gains on movable property that is part of the assets of a permanent establishment. This means taxation by the State in which the enterprise or fixed base is situated.

Secondly, gains from the alienation of ships and aircraft (the treaty omits reference to boats engaged in inland waterways transport) are to be taxed by the State of residence of the enterprise and not the State in which the effective management of the enterprise is situated.

Capital gains are not taxed in Singapore, thus making the provisions of the tax treaty on this issue of less practical relevance for non-residents realizing such gains in Singapore. As in the case of dividends, the treaty provisions are of greater importance to Singapore residents realizing taxable gains in the other State.

### **Article 14 Independent Personal Services**

[See treaty text](#)

#### **Expert Analysis:**

The treaty retains the separate article on the taxation of income of an individual who provides independent personal services (referred to as "professional services" in the treaty). It is based on the former OECD Model, which has since been modified to assimilate the tax treatment of such income with the treatment of business profits.

The tax treatment of such income is similar to that for business profits (i.e. the attribution of income to the fixed base from which the person performs his activities). Alternatively, the individual becomes taxable in the State if he is present in that State for a period or periods exceeding in the aggregate 90 days in any 12-month period commencing or ending in the calendar year concerned.

The type of services covered by the provision comprise those listed in the former OECD Model version, that is, including independent scientific, literary, artistic, educational or teaching activities and the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

### **Article 15 Dependent Personal Services**

[See treaty text](#)

The general rule applies, with some deviations.

#### **Expert Analysis:**

There are no significant differences between the treaty and the OECD Model.

The first main deviation relates to the reference to remuneration borne by a fixed place (i.e. apart from a permanent establishment) which an employer has in the State in which the employment is exercised.

The second main deviation from the Model is in relation to the taxation of remuneration for employment exercised aboard a ship or aircraft operated in international traffic. or aboard a boat engaged in inland waterways transport. Here, apart from omitting reference to boats engaged in inland waterways transport, the treaty provides for taxation by the State of residence and not, as in the case of the Model, the place of effective management of the enterprise. Furthermore, the remuneration may also be taxed by the State of residence of the person deriving the income.

### **Article 16 Directors' Fees**

[See treaty text](#)

The general treaty rule applies. Thus, directors' fees paid by a company resident in one State to a resident of the other State may be taxed in the State of which the company is a resident.

#### **Expert Analysis:**

The treaty follows the OECD provision on this issue, which accords the taxing right in relation to directors' fees and other similar payments to the State of which the company paying such fees is a resident. The treaty provision, which is followed in most of Singapore's treaties, is consistent with Singapore's domestic tax practice, which treats directors' fees as being from a Singapore source if the paying company is a resident of Singapore.

Under Singapore's current tax law, it may still be possible for fees paid to a non-resident director by a company that is not resident in Singapore to be considered to be from a Singapore source, where the director attends board meetings held in Singapore. This undesired effect of the tax law provisions has been removed with a clarification issued by the Inland Revenue Authority of Singapore (IRAS) on 9 March 2004. This states that fees paid to directors purely in their capacity as such by non-resident companies that are not established in Singapore will be considered to be from a source in the State of residence of the company and are therefore not taxable in Singapore.

### **Article 17 Artists and Sportspersons**

[See treaty text](#)

General rule applies

If services performed are wholly or mainly supported by public funds, in residence State only.

#### **Expert Analysis:**

**Singapore**

Following the OECD Model provision on this issue, the treaty adopts the exception to the general provisions governing the exercise of taxing rights in relation to business and employment income, where such income is derived by visiting artistes and sportspersons from their activities in the host State. In such cases, it is accepted that the State from which the income is derived (i.e. the host State) is entitled to tax such income without limits.

Furthermore, the host State's taxing right in relation to the income derived by the artiste or sportsperson is not affected by the fact that the income accrues to another person and not directly to the artiste or sportsperson as such. Thus, the income would still be taxable by the host State regardless, for example, of the residence status of such other person. In all of the above cases, it is up to the host State to determine the manner in which to exercise its taxing right.

The government of Singapore uses its tax treaties as part of the tools for promoting international and cross-cultural exchanges. Thus, in common with most of the treaties it has concluded, this treaty includes an additional provision, which exempts the income derived by visiting artistes and sportsmen from tax in Singapore by conferring exclusive taxing jurisdiction in relation to such income on the State of residence of the artiste or sportsperson. To ensure that only income from activities of a public nature supported by either State receives the benefit of this concession, the rule applies only if the activities concerned are fully or substantially supported with public funds provided by either or both States or their political subdivisions, local authorities or statutory bodies.

This additional treaty provision is an extension of the position under the domestic tax law, which generally exempts from tax employment income where the employment is exercised in Singapore for not more than 60 days in Singapore by a non-resident, but excludes from the exemption the gains or profits of public entertainers, unless their visits are substantially supported from public funds of a foreign government. Otherwise, income derived by such persons from Singapore is subject to a special tax regime, which generally taxes the income at the rate of 15%. In this context, the term public entertainer is defined as a stage, radio or television artiste, a musician, an athlete or an individual exercising any profession, vocation or employment of a similar nature.

## **Article 18 Pensions, Social Security Payments and Similar Payments**

[See treaty text](#)

Exclusive taxation by the state of residence of the recipient, but source State taxation permitted under certain conditions.

### **Expert Analysis:**

The treaty follows the OECD Model provision governing the taxation of pensions and similar remuneration relating to past employment. This means that, in principle, exclusive taxing rights in respect of such income is exercisable by the State of which the recipient is a resident, subject to the treaty provision governing government pensions. However, source State taxation will be permitted if pension contributions paid by the beneficiary to the pension scheme were deducted from the beneficiary's taxable income in the source State under the law of that State, or the contributions paid by an employer were not taxable income for the beneficiary in the source State under the law of that State.

## **Article 19 Government Service**

[See treaty text](#)

The treaty follows the general OECD Model provision on this issue, but extends it to cover similar payments made by statutory bodies of the State.

### **Expert Analysis:**

In accordance with the OECD Model provision on this issue, remuneration for services rendered by an individual to a government, its political subdivision or local authority, is taxable only by the State making the payment.

Under the treaty, similar payments made by a statutory body of a State are subject to the same tax treatment.

Again, following the OECD Model provision, the treaty provides alternatively for the exclusive taxation of such payments by the other Contracting State if the services are rendered to that other State by an individual who is both a resident and national of that State. However, where, in the case of remuneration, the individual became a resident of that State solely for the purpose of rendering such services, this alternative rule will not apply.

Finally, payments made for services performed by the individual in connection with a business carried on by any of the above entities, will not be subject to the principles stated above but may instead be treated in accordance with the other ordinary treaty provisions, depending on the characterization of

the payments. These provisions include, in particular, those governing wages and salaries, directors' fees, income derived by artistes and sportsmen, and pensions.

Note that the principles governing the treatment of payments for services rendered to a government in a diplomatic or consular capacity supersede the above provisions. Thus, the above provisions generally cover cases which fall outside the rules governing the tax treatment of diplomats and consular agents.

### **Article 20 Students**

[See treaty text](#)

General rule applies.

#### **Expert Analysis:**

A student or business apprentice who is present solely for the purposes of his education or training is exempt from taxation on payments received for the purpose of his maintenance, education or training, provided the payments are from a foreign source.

### **Article 21 Other Income**

[See treaty text](#)

Taxation by the State of source

#### **Expert Analysis:**

The treaty deviates from the OECD Model by providing for taxation of such income by the source State.

### **Article 22 Limitation of Relief**

[See treaty text](#)

Exemption or reduction of tax to be allowed in Denmark applies only to so much of the income as is remitted to or received in Singapore.

#### **Expert analysis:**

The treaty with Denmark is among the treaties concluded by Singapore, which provides specifically for a general limitation of treaty relief. In view of the remittance-based tax system applicable to foreign-source income derived by Singapore residents, the provision is designed to ensure that any relief provided under the treaty will only apply to the extent to which the foreign source income is subject to tax in Singapore by virtue of it having been remitted to or received in the country.

### **Article 23 Elimination of Double Taxation**

[See treaty text](#)

#### **Denmark**

Credit method; but

Exemption for dividends paid by a Singapore resident company to a Denmark resident company, which owns directly or indirectly at least 25% of the share capital of the paying company.

#### **Singapore:**

Ordinary credit method, but:

An underlying tax credit will be granted for dividends paid by a Denmark-resident company to a Singapore resident company with a direct or indirect ownership of at least 10% of the share capital of the Danish company.

#### **Expert Analysis:**

The standard double taxation relief mechanism available under Singapore's tax laws is an ordinary credit mechanism, which limits the credit for the foreign tax to the amount of Singapore tax that would have been paid on the foreign source income, or the actual amount paid if less.

In addition to the ordinary credit method, it is part of Singapore's policy to encourage direct investments by granting an underlying tax credit for foreign tax paid by the foreign company on the profits out of which the dividends are paid to Singapore shareholder. The credit may only be claimed if the Singapore shareholder holds at least 25% of the capital of the distributing company. The treaty with Denmark lowers this minimum shareholding threshold from 25% to 10%.

It should be noted that apart from the double taxation relief available under the treaty, tax exemptions are, subject to certain conditions, available to Singapore residents for certain types of foreign-source income that are received in Singapore. With effect from 1 January 2004, these exemptions are available to: (i) resident persons other than individuals, and (ii) resident individuals who receive the foreign income through a partnership in Singapore. The foreign income covered by the exemption comprises foreign-sourced dividends, foreign branch profits and foreign-source service income. The tax exemption is only available if the income in question (a) has been subject to tax of a similar character as the Singapore income tax, (b) the highest corporate tax rate of the foreign country in the year in which the foreign income is received in Singapore is at least 15% and (c) the

Comptroller of Income Tax is satisfied that the exemption would be beneficial to the specified resident taxpayer.

These provisions, which achieve the same result of removing the incidence of double taxation for Singapore residents in respect of their foreign income, reduce the impact the treaty provisions for double taxation relief would otherwise have had and render them attractive mainly to residents who do not qualify for these exemptions.

To ensure that the broad range of tax incentives granted to attract non-resident investors for the purposes of economic development inure to the benefit of the investors and not the treasuries of their home countries, it appears to be standard Singapore tax treaty practice to negotiate tax sparing provisions of a unilateral or reciprocal nature in its treaties with other countries, especially investor home countries. These provisions treat as paid in Singapore the tax that would have been paid in Singapore on the Singapore-source income derived by the foreign resident in the absence of the tax incentive. The tax sparing provision enables the foreign resident to claim a credit in the home country for such taxes even if they are not actually paid. It ensures that the investor is the direct beneficiary of the incentive as intended, and not the treasury of its home country, which, depending on the double taxation relief mechanism it applies, may otherwise realize an increased revenue collection from the taxes foregone in Singapore.

By not providing specifically for tax sparing, the treaty with Albania is one of the few exceptions to the practice of negotiating the inclusion of tax sparing provisions in Singapore's treaties. By not providing specifically for a unilateral or reciprocal tax sparing credit, the treaty with Denmark is one of the exceptions to the practice of negotiating the inclusion of tax sparing provisions in Singapore's treaties.

### **Article 24 Non-Discrimination**

[See treaty text](#)

The treaty makes no express provision for stateless persons.

Tax incentives granted by a State to its nationals to promote economic or social development will not be construed as discrimination.

#### **Expert Analysis:**

It appears to be standard treaty policy for Singapore not to permit the extension of the benefits of its tax treaties to stateless persons.

The provisions on non-discrimination are of particular significance, to the extent that they compel Singapore to accord to foreigners the same favourable tax treatment available to its nationals. However, because of the central role the tax system plays as a tool for advancing Singapore's broad economic and social objectives. Consequently, as in this treaty, it is common for Singapore to include specifically in its treaties the right of both Contracting States to exclude non-nationals from the preferential tax treatment under their tax systems, not only on grounds of residence but also on grounds of nationality, without being considered to be in breach of the non-discrimination provision. It should be noted that the interest in restricting the benefits of preferential tax treatment to nationals generally relates to individuals and not to companies or other legal entities, which continue to receive a broad range of attractive incentives to do business in Singapore.

As an additional restriction upon the scope of application of the non-discrimination provision under this treaty, the taxes to which it applies is confined to those covered by the treaty, a position that is also commonly followed in most of the treaties concluded by Singapore.

### **Article 25 Mutual Agreement Procedure**

[See treaty text](#)

General rules apply.

No provision is made for the settlement of unresolved issues through arbitration.

#### **Expert Analysis:**

The treaty generally follows the OECD Model provision on this issue, except in relation to the settlement of unresolved issues through arbitration, regarding which the treaty omits the Model provision.

Although there is no explicit official statement to this effect, it appears that Singapore is generally not prepared to negotiate the inclusion of arbitration provisions in its tax treaties. Consequently, in virtually none of its existing treaties in its broad treaty network includes this provision, with the only exception being the treaty with Mexico.

### **Article 26 Exchange of Information**

[See treaty text](#)

The treaty follows the current OECD standards governing information exchange between Contracting States.

**Expert Analysis:****Singapore:**

The treaty follows the current standards governing information exchange between Contracting States, including, in particular:

- the application of the exchange of information provision to, and the use of the information exchanged for the purposes of administering, all taxes imposed on behalf of both States, or of their political subdivisions or local authorities;
- the treatment of the information exchanged under the treaty, particularly the circumstances in which the received information may be shared with other persons or authorities in either State;
- limitations on the information exchange. These include, in particular, the absence of an obligation upon the State parties to go beyond what their internal laws and administrative practice permit; or to disregard the principle of reciprocity by providing information which is not obtainable under the laws or in the normal course of the administration of the requesting State; or to exchange information that would disclose a trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy;
- the supply of information by a requested State even where it does not need such information for its own domestic tax purposes; and
- the obligation of a requested State to supply information held by banks, financial institutions, nominees, agents or fiduciaries.

**Article 27 Members of Diplomatic Missions and Consular Posts**

[See treaty text](#)

The standard OECD approach toward the treatment of diplomatic and consular staff is followed in the treaty.

**Expert Analysis:****Singapore:**

Singapore has signed and ratified the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, both of which exempt diplomatic agents, as well as consular officers and consular employees and members of their families, from all taxes in the receiving state, subject to certain limited exceptions. These provisions have been given effect in Singapore under the Diplomatic and Consular Relations Act (Cap 84). Specifically, even in the absence of a double tax treaty, the Singapore law exempts diplomatic agents and consular staff of other signatory States from all dues and taxes, personal or real, national, regional or municipal except:

- indirect taxes of a kind which are normally incorporated in the price of goods or services;
- dues and taxes on private immovable property situated in the territory of the receiving State, unless the person holds it on behalf of the sending State for the purposes of the mission;
- subject to certain conditions, any estate, succession or inheritance duties levied by Singapore;
- dues and taxes on private income having its source in Singapore and capital taxes on investments made in commercial undertakings in Singapore;
- charges levied for specific services rendered; and
- subject to certain conditions, registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property.

**Article 28 Entry into Force**

[See treaty text](#)

This Article contains the rules for bringing the treaty into force and giving effect to its provisions.

**Article 29 Termination**

[See treaty text](#)

The treaty remains in force until terminated by one of the States, but only after it has been in force for at least 5 years. The termination procedure requires the State initiating the process to give the other State advance notification through diplomatic channels at least six months before the end of any calendar year.