



International Tax Agreements Amendment Act (No. 2) 2010

No. 115, 2010

An Act to amend the *International Tax Agreements Act 1953*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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International Tax Agreements Amendment Act (No. 2) 2010

No. 115, 2010

An Act to amend the *International Tax Agreements Act 1953*, and for related purposes

[Assented to 9 November 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *International Tax Agreements Amendment Act (No. 2) 2010*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—International Tax Agreements Act 1953

1 Subsection 3(1)

Insert:

the first Singapore protocol means the Protocol amending the Agreement between the Government of the Commonwealth of Australia 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, being the protocol a copy of which is set out in Schedule 5A.

2 Subsection 3(1)

Insert:

the second Singapore protocol means the Protocol, signed 8 September 2009, amending the Agreement between the Government of the Commonwealth of Australia 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, being the protocol a copy of which is set out in Schedule 5B.

3 Subsection 3(1) (definition of *the Singapore agreement*)

Omit “the Singapore protocol”, substitute “the first Singapore protocol and the second Singapore protocol”.

4 Subsection 3(1) (definition of *the Singapore protocol*)

Repeal the definition.

5 Section 7A

Omit “the Singapore protocol”, substitute “the first Singapore protocol”.

Note: The heading to section 7A is altered by omitting “**Protocol**” and substituting “**First protocol**”.

6 After section 7A

Insert:

7B Second protocol with Singapore

Subject to this Act, on and after the date of entry into force of the second Singapore protocol, the provisions of the protocol have the force of law according to their tenor.

7 After Schedule 5A

Insert:

Schedule 5B—The Second Singapore protocol

Note: See section 3.

Second Protocol amending the Agreement between the Government of the Commonwealth of Australia 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 as amended by the Protocol of 16 October 1989.

The Government of Australia and the Government of the Republic of Singapore

Desiring to amend the Agreement between the Government of the Commonwealth of Australia 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 signed at Canberra on 11 February 1969 as amended by the Protocol signed at Canberra on 16 October 1989 (hereinafter referred to as “the Agreement”)

Have agreed as follows:

ARTICLE I

Article 19 of the Agreement is omitted and the following Article is substituted:

“ARTICLE 19

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1A and 1.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person

acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

ARTICLE II

The Government of Australia and the Government of the Republic of Singapore shall notify each other through the diplomatic channel of the completion of their respective internal procedures required for the bringing into force of this Protocol which shall form an integral part of the Agreement. The Protocol shall enter into force on the thirtieth day after the date of the last notification, and thereupon the Protocol shall have effect.

ARTICLE III

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

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

DONE in duplicate at Canberra, on this eighth day of September 2009.

**For the Government of
Australia:**

**For the Government of the Republic
of Singapore:**

Schedule 1 International Tax Agreements Act 1953

.....
Senator the Hon Nicholas Sherry
Assistant Treasurer

.....
HE Albert Chua
High Commissioner

*[Minister's second reading speech made in—
House of Representatives on 29 September 2010
Senate on 25 October 2010]*

(163/10)
