No. S 52

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

INCOME TAX ACT (AMENDMENT) (No. 2) ORDER, 2008

ARRANGEMENT OF SECTIONS

Section

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

INCOME TAX ACT (AMENDMENT) (No. 2) ORDER, 2008

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and commencement.

1. This Order may be cited as the Income Tax Act (Amendment) (No. 2) Order, 2008 and shall be deemed to have commenced on 1st. January, 2008.

Amendment of section 13 of Chapter 35.

2. Section 13 of the Income Tax Act, in this Order referred to as the Act, is amended —

(a) in subsection (1) —

(i) by deleting "one-tenth" from the seventh line and by substituting "one-fifth" therefor;

(ii) by deleting "1946" from the ninth line and by substituting "2008" therefor;

(b) in subsection (2), in paragraph *(a)*, by deleting "one-fiftieth" from the penultimate line and by substituting "one twenty-fifth" therefor.

Amendment of section 15.

3. Section 15 of the Act is amended —

(a) in subsection (1) —

(i) in paragraph *(g)*, by deleting the comma which appears for the second time and by substituting "; or" therefor;

(ii) by adding the following paragraph —

"*(h)* for the purposes of the trade of hotel-keeping,";

(b) in subsection (2), by deleting ", hotel" from the fourth and from the fifth lines";

(c) in subsection (3), by deleting "one-fiftieth" from the third last line and by substituting "one twenty-fifth" therefor.

Substitution of section 35.

4. Section 35 of the Act is repealed and the following new section substituted therefor —

"Rate of tax upon companies and others.

35. (1) There shall be levied and paid for —

(a) the year of assessment 2008 upon the chargeable income of every company, tax at the rate of 27.5%;

(b) the year of assessment 2009 and subsequent years of assessment upon the chargeable income of every company, tax at the rate of 25.5%,

on every dollar of the chargeable income thereof.

(2) Notwithstanding anything in this Act but subject to subsection (3), tax at the rate of 15% shall be levied and paid on the gross amount of —

(a) any income referred to in section 9(4); and

(b) any income referred to in sections 9(5)*(a)*, *(b)* and *(d)* but excluding the incomes specified in subsection (6),

accruing in or derived from Brunei Darussalam on or after 1st. January, 2008 by a person not resident in Brunei Darussalam which is not derived by that person from any trade, business, profession or vocation carried on or exercised by him in Brunei Darussalam and which is not effectively connected with any permanent establishment in Brunei Darussalam of the person.

(3) Notwithstanding anything in this Act, tax at the rate of 10% shall be levied and paid on the gross amount of any income referred to in sections 9(5)*(a)* and *(b)* but excluding the incomes specified in subsection (6), accruing in or derived from Brunei Darussalam on or after 1st. January, 2008 by a person not resident in Brunei Darussalam which is not derived by that person from any trade, business, profession or vocation carried on or exercised by him in Brunei Darussalam and which is not effectively connected with any permanent establishment in Brunei Darussalam of the person.

(4) Notwithstanding subsection (1) but subject to subsection (5), for the year of assessment 2008 and subsequent years of assessment, there shall be levied and paid for each year of assessment upon the chargeable income of every company tax at the rate prescribed in subsection (1) on every dollar of the chargeable income thereof except that —

(a) for every dollar of the first $50,000 of the chargeable income (excluding Brunei Darussalam dividends), only 25% shall be charged with tax; and

(b) for every dollar of the next $50,000 of the chargeable income (excluding Brunei Darussalam dividends), only 50% shall be charged with tax.

(5) Notwithstanding subsections (1) and (4), for each of the first 3 years of assessment falling within or after the year of assessment 2008, of a qualifying company there shall be levied and paid upon the chargeable income of the company tax at the rate prescribed in subsection (1) on every dollar of the chargeable income thereof except that every dollar of the first $100,000 of the chargeable income (excluding Brunei Darussalam dividends) shall be exempt from tax.

(6) The incomes excluded under subsections (2)*(b)* and (3) are any payment to a person not resident in Brunei Darussalam for the rendering of assistance or service in connection with the application or use of scientific, technical, industrial or commercial knowledge or information.

(7) In this section —

"Brunei Darussalam dividends" means any dividend accruing in or derived from Brunei Darussalam from which tax is deducted or deductible under section 36;

"first 3 years of assessment", in relation to a qualifying company, means the year of assessment relating to the basis period during which the company is incorporated or registered in Brunei Darussalam and the 2 consecutive years of assessment immediately following that year of assessment;

"gross amount", in relation to any income referred to in subsections (2), (3) and (4), means the full amount of the income without any deduction and relief being allowed against the income under the provisions of this Act;

"qualifying company" means a company incorporated and registered in Brunei Darussalam (other than a company limited by guarantee) which for each of the first 3 years of assessment is resident in Brunei Darussalam for that year of assessment.".

Made this 28th. day of Rabiulawal, 1429 Hijriah corresponding to the 5th. day of April, 2008 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM