

No. S 6

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

INCOME TAX (PETROLEUM) ACT (AMENDMENT) ORDER, 2012

ARRANGEMENT OF SECTIONS

Section

1. Citation.
 2. Amendment of section 2 of Chapter 119.
 3. Insertion of new section 6A.
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INCOME TAX (PETROLEUM) ACT (AMENDMENT) ORDER, 2012

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.

1. This Order may be cited as the Income Tax (Petroleum) Act (Amendment) Order, 2012.

Amendment of section 2 of Chapter 119.

2. Section 2 of the Income Tax (Petroleum) Act, in this Order referred to as the Act, is amended, in subsection (1) —

(a) by inserting the following new definition immediately after “Auditor” —

“ “authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;”;

(b) by inserting the following new definition immediately after “disposal” —

“ “electronic service” means the electronic service provided by the Collector under section 6A(1);”.

Insertion of new section 6A.

3. The Act is amended by inserting the following new section immediately after section 6 —

“Electronic service.

6A. (1) The Collector may provide an electronic service for —

(a) the filing or submission of any return, estimate, statement or document; or

(b) the service of any notice by the Collector.

(2) For the purposes of the electronic service, the Collector may assign to any person —

(a) an authentication code; and

(b) an account with the electronic service.

(3) Any person who is required to file or submit any return, estimate, statement or document may do so through the electronic service.

(4) Any agent who is authorised by his principal in the prescribed manner may file or submit any return, estimate, statement or document on behalf of his principal through the electronic service.

(5) Where any return, estimate, statement or document is filed or submitted on behalf of any person under subsection (4) —

(a) it shall be deemed to have been filed or submitted with the authority of that person; and

(b) that person shall be deemed to be cognisant of all matters therein.

(6) Where any return, estimate, statement or document is filed or submitted through the electronic service using the authentication code assigned to any person before that person has requested, in the prescribed manner, for the cancellation of the authentication code —

(a) the return, estimate or document shall, for the purposes of this Act, be presumed to have been filed or submitted by that person unless he adduces evidence to the contrary; and

(b) where that person alleges that he did not file or submit the return, estimate, statement or document, the burden shall be on him to adduce evidence of that fact.

(7) Where any person has given his consent for any notice to be served on him through the electronic service, the Collector may serve the notice on that person by transmitting an electronic record of the notice to that person's account with the electronic service.

(8) Notwithstanding any other written law, in any proceedings under this Act —

(a) an electronic record of any return, estimate, statement or document that was filed or submitted, or any notice that was served, through the electronic service; or

(b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

- (i) is certified by the Collector to contain all or any information filed, submitted or served through the electronic service in accordance with this section; and
- (ii) is duly authenticated in the manner specified in subsection (10) or is otherwise authenticated in the manner provided in the Evidence Act (Chapter 108) for the authentication of computer output.

(9) For the avoidance of doubt —

(a) an electronic record of any return, estimate, statement or document that was filed or submitted, or any notice that was served, through the electronic service; or

(b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the return, estimate, statement or document was filed or submitted, or the notice was served, without the delivery of any equivalent document or counterpart in paper form.

(10) For the purposes of this section, a certificate —

(a) giving the particulars of —

- (i) any person whose authentication code was used to file, submit or serve the return, estimate, statement, document or notice; and
- (ii) any person or device involved in the production or transmission of the electronic record of the return, estimate, statement, document or notice, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy thereof;
and

(c) purporting to be signed by the Collector or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court calls for further evidence on this issue.

(11) Where the electronic record of any return, estimate, statement, document or notice, or a copy or print-out of that electronic record, is admissible under subsection (8), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(12) The Collector may, for the purposes of the electronic service, approve the use of any symbol, code, abbreviation or notation to represent any particulars or information required under this Act.

(13) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing —

(a) the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service;

(b) the procedure for the correction of errors in, or the amendment of, any return, estimate, statement or document that is filed or submitted through the electronic service;

(c) the manner in which a person who has given his consent for a notice to be served on him through the electronic service shall be notified of the transmission of an electronic record of the notice to his account with the electronic service;

(d) the manner in which authentication codes are to be assigned;
and

(e) anything which may be prescribed under this section.”.

Made this 8th. day of Rabiulawal, 1433 Hijriah corresponding to the 1st. day of February, 2012 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM