No. S 85

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

INCOME TAX ACT (AMENDMENT) (NO. 2) ORDER, 2012

ARRANGEMENT OF SECTIONS

Section

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

INCOME TAX ACT (AMENDMENT) (NO. 2) 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 Act (Amendment) (No. 2) Order, 2012.

Amendment of section 41 of Chapter 35.

2. Section 41 of the Income Tax Act, in this Order referred to as the Act, is amended —

(a) in the section heading, by inserting "avoidance and exchange of information" immediately after "taxation";

(b) by repealing subsection (1) and by substituting the following new subsection therefor —

"(1) If His Majesty the Sultan and Yang Di-Pertuan in Council by order declares that —

(a) arrangements specified in the order have been made with the Government of any country or territory outside Brunei Darussalam with a view to affording all or any of the following —

(i) relief from double taxation;

(ii) exchange of information,

in relation to tax under this Act and any tax of a similar character imposed by the laws of that country or territory; and

(b) it is expedient that those arrangements should have effect,

the arrangements shall have effect in relation to tax and other related matters under this Act notwithstanding anything in any written law.";

(c) by adding the following new subsection —

"(7) In this section, "arrangements" means the arrangements specified in the order declared by His Majesty the Sultan and Yang Di-Pertuan in Council under subsection (1).".

Amendment of Part XIVA.

3. Part XIVA of the Act is amended, in the heading, by inserting ", AND EXCHANGE OF INFORMATION," immediately after "TAXATION".

Amendment of section 86A.

4. Section 86A of the Act is amended —

(a) in subsection (1) —

(i) by inserting the following two new definitions in the appropriate alphabetical order —

" "arrangement" means an avoidance of double taxation convention or tax information exchange agreement having effect under section 41;

"tax information exchange agreement" means an arrangement to exchange information on tax matters having effect under section 41;";

(ii) in the definition of "competent authority", by deleting "a prescribed" and by substituting "an" therefor;

(iii) by deleting the definition of "double taxation arrangement" and by substituting the following new definition therefor —

" "double taxation convention" means an arrangement to afford relief from double taxation having effect under section 41;";

(iv) in the definition of "exchange of information provision", by deleting "arrangement" where it appears for the first time in the second line and substituting "convention or a tax information exchange agreement having effect under section 41" therefor;

(v) by deleting the definition of "prescribed arrangement";

(vi) in the definition of "tax position", in paragraph *(a)*, by inserting ", or exchange of information," immediately after "taxation";

(b) in subsection (3), by deleting "prescribed" from the last line.

Amendment of section 86B.

5. Section 86B of the Act is amended by deleting "a double taxation agreement prescribed under section 86C" from the second and third lines and by substituting "an exchange of information agreement or a double taxation agreement having effect under section 41" therefor.

Repeal of section 86C.

6. Section 86C of the Act is repealed.

Amendment of section 86D.

7. Section 86D of the Act is amended —

(a) in subsection (1), by deleting "a prescribed" from the first line and by substituting "an" therefor;

(b) in subsection (3), by deleting "prescribed".

Amendment of section 86E.

8. Section 86E of the Act is amended in subsection (4)*(a)* —

(a) in sub-paragraph (ii), by deleting "prescribed" from the third line;

(b) in sub-paragraph (iii), by deleting "prescribed" from the third last line.

Amendment of Fourth Schedule.

9. The Fourth Schedule to the Act is amended —

(a) in item 6, by deleting "The" and by substituting "To the extent known, the" therefor;

(b) in item 7 —

(i) by deleting "and that the" from the third line and by substituting "and that if the requested information was within the jurisdiction of the competent authority then the" therefor;

(ii) by inserting "or" immediately after "territory" in the second last line;

(c) in item 8, by inserting "(except those that would give rise to disproportionate difficulties)" immediately after "information" in the second line;

(d) in item 10, by deleting "prescribed".

Made this 22nd. day of Muharram, 1434 Hijriah corresponding to the 6th. day of December, 2012 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM