

No. S 84

**INCOME TAX ACT
(CHAPTER 35)**

**INCOME TAX (RELIEF FROM DOUBLE TAXATION)
(SINGAPORE) (AMENDMENT) ORDER, 2010**

WHEREAS it is provided by section 41(1) of the Income Tax Act (Chapter 35) that if His Majesty the Sultan and Yang Di-Pertuan in Council by order declares that arrangements specified in the order have been made with the Government of any territory outside Brunei Darussalam with a view to affording relief from double taxation in relation to tax under that Act and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to tax under that Act notwithstanding anything in any written law.

WHEREAS by an Agreement dated the 19th. day of August, 2005 between the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the Republic of Singapore, in this Order referred to as the Agreement, arrangements were made amongst other things for relief from double taxation.

AND WHEREAS by a Protocol dated the 13th. day of November, 2009 amending the Agreement, the text of Article 26 of the Agreement was deleted and replaced with the text as specified in the Schedule.

NOW THEREFORE it is hereby declared by His Majesty the Sultan and Yang Di-Pertuan in Council —

(a) that the arrangements specified in the Schedule have been made with the Government of the Republic of Singapore; and

(b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

SCHEDULE

ARTICLE I

The text of Article 26 of the Agreement is deleted and replaced by the following:

"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, or of their political subdivisions or local authorities, in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

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 the 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

With reference to paragraph 5 of Article 26 of the Agreement, it is understood that:

(a) the provisions of that paragraph shall not be construed as preventing a Contracting State from declining to supply information held by any institution referred to in paragraph 3 of Article 11 of the Agreement, as the supply of the information is contrary to public policy;

(b) a Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic law of that Contracting State.

ARTICLE III

This Protocol shall enter into force on the thirtieth day after the date of the receipt of the later of the two notifications through diplomatic channels by which either Contracting State notifies the other Contracting State that its internal legal requirements for the entry into force of this Protocol have been fulfilled.

ARTICLE IV

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.

Made this 29th. day of Rabiulakhir, 1431 Hijriah corresponding to the 14th. day of April, 2010 at Bandar Seri Begawan, Brunei Darussalam.

PEHIN ORANG KAYA PEKERMA JAYA
DATO PADUKA HAJI JUDIN BIN HAJI ASAR
Secretary to the Council of Ministers.