

No. S 83

**INCOME TAX ACT  
(CHAPTER 35)**

**INCOME TAX (AVOIDANCE OF DOUBLE TAXATION) (UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND) ORDER, 2013**

WHEREAS it is provided by section 41(1) of the Income Tax Act 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 country or territory outside Brunei Darussalam with a view to affording relief from double taxation under that Act and any tax of a similar character imposed by the laws of that country or territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to tax and other related matters under that Act notwithstanding anything in any written law.

AND WHEREAS by an agreement dated the 11th day of December 2012 between the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the United Kingdom of Great Britain and Northern Ireland, arrangements were made in respect of the relief from double taxation relating to tax matters.

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

(a) the agreement specified in the Schedule hereto have been made with the Government of the United Kingdom of Great Britain and Northern Ireland; and

(b) it is expedient that the arrangements in such agreement should have effect.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF HIS MAJESTY THE SULTAN  
AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM

AND

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND

TO AMEND

THE ARRANGEMENT BETWEEN THE GOVERNMENT OF BRUNEI AND HIS  
MAJESTY'S GOVERNMENT FOR THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME  
MADE IN 1950, AS AMENDED BY AN ARRANGEMENT IN 1968 AND A  
SUPPLEMENTARY ARRANGEMENT IN 1973

The Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude an Agreement amending the Arrangement between the Government of Brunei and His Majesty's Government for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income made in 1950, as amended by an Arrangement in 1968 and a Supplementary Arrangement in 1973, (hereinafter referred to as "the Arrangement");

Have agreed as follows:

Article I

1. Paragraph (a) and (b) of sub-paragraph (1) of paragraph 2 of the Arrangement shall be deleted and replaced by the following new paragraphs:

"(a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised."

“(b) The term “Brunei Darussalam” means the territory of Brunei Darussalam including its territorial sea, extending to the airspace above such territory, over which it exercises sovereignty, and the maritime area beyond its territorial sea, including sea-bed and subsoil, which has been or may hereafter be designated under the laws of Brunei Darussalam, as an area over which it exercises sovereign rights and jurisdiction in accordance with international law.”

#### Article II

2. The following shall be added to sub-paragraph (1) of paragraph 2 of the Arrangement:

“(1) the term “competent authority” means:

- (i) in the case of Brunei Darussalam, the Minister of Finance or his authorised representative;
- (ii) in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative.”

#### Article III

3. Paragraph 13 of the Arrangement shall be deleted and replaced by the following new paragraph:

“13. (1) The competent authorities of the territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Arrangement or to the administration or enforcement of the domestic laws of the territories concerning taxes of every kind and description imposed on behalf of the territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Arrangement, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by paragraph 1 of the Arrangement.

(2) Any information received under sub-paragraph (1) by a territory shall be treated as secret in the same manner as information obtained under the domestic laws of that territory 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 sub-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. Notwithstanding the foregoing, information received by a territory may be

used for other purposes when such information may be used for such other purposes under the laws of both territories and the competent authority of the supplying territory authorises such use.

(3) In no case shall the provisions of sub-paragraphs (1) and (2) be construed so as to impose on a territory the obligation:

*(a)* to carry out administrative measures at variance with the laws and administrative practice of that or of the other territory;

*(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 territory;

*(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;

*(d)* to obtain or provide information which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:

(i) produced for the purposes of seeking or providing legal advice or

(ii) produced for the purposes of use in existing or contemplated legal proceedings.

(4) If information is requested by a territory in accordance with this paragraph 13, the other territory shall use its information gathering measures to obtain the requested information, even though that other territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of sub-paragraph (3) but in no case shall such limitations be construed to permit a territory to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of sub-paragraph (3) be construed to permit a territory 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 IV**

4. A Protocol signed on the same date as this Agreement shall form an integral part of the Arrangement.

**Article V**

5. Each of the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the United Kingdom of Great Britain and Northern Ireland shall notify the other through diplomatic channels of the completion of the procedures required by its laws for the bringing into force of the Agreement. The Agreement shall enter into force on the date of the later of these notifications and shall have effect from that date.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at London on the 11 day of December 2012, in the Malay and English languages, both texts being equally authoritative. In case of any divergence in interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF  
HIS MAJESTY THE SULTAN AND  
YANG DI-PERTUAN OF  
BRUNEI DARUSSALAM

FOR THE GOVERNMENT OF  
THE UNITED KINGDOM OF  
GREAT BRITAIN AND  
NORTHERN IRELAND

PROTOCOL BETWEEN THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AMENDING THE ARRANGEMENT BETWEEN THE GOVERNMENT OF BRUNEI AND HIS MAJESTY'S GOVERNMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME MADE IN 1950, AS AMENDED BY AN ARRANGEMENT IN 1968 AND A SUPPLEMENTARY ARRANGEMENT IN 1973

At the signing of the Agreement amending the Arrangement between the Government of Brunei and His Majesty's Government for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income made in 1950, as amended by an Arrangement in 1968 and a Supplementary Arrangement in 1973, the authorised signatories hereto have agreed the following provision which shall form an integral part of the Arrangement.

In relation to paragraph 13 of the Arrangement, it is understood that subparagraph (5) of that paragraph does not require Brunei to supply information or

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documentation pertaining to investment policy and strategy decisions, operational decisions, internal appointments and resource allocations or details of the global investment holdings of:

- (i) The Autoriti Monetari Brunei Darussalam
- (ii) The Brunei Investment Agency
- (iii) The Employees Trust Fund Board
- (iv) The Supplemental Contributory Pension Board or
- (v) Any local or statutory authority or statutory body exempt from tax in Brunei Darussalam.

It is further understood that this list of institutions may be supplemented by agreement between the competent authorities.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London on the 11 day of December 2012, in the Malay and English languages, both texts being equally authoritative. In case of any divergence in interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF  
HIS MAJESTY THE SULTAN AND  
YANG DI-PERTUAN OF  
BRUNEI DARUSSALAM

FOR THE GOVERNMENT OF  
THE UNITED KINGDOM OF  
GREAT BRITAIN AND  
NORTHERN IRELAND

Made this 19 day of Muharram, 1435 Hijriah corresponding to the 23rd day of November, 2013 at Bandar Seri Begawan, Brunei Darussalam.

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