

No. S 28

**INCOME TAX ACT
(CHAPTER 35)**

**INCOME TAX (EXCHANGE OF INFORMATION)
(KINGDOM OF NORWAY) ORDER, 2014**

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 exchange of information in relation to tax 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 27th day of June 2012 between the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the Kingdom of Norway, arrangements were made in respect of the exchange of information 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 Kingdom of Norway; 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 KINGDOM OF NORWAY

CONCERNING THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

The Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and the Government of the Kingdom of Norway, desiring to conclude an Agreement concerning exchange of information on tax matters, have agreed as follows:

Article 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2

Jurisdiction

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3

Taxes Covered

1. The taxes which are the subject of this Agreement are taxes of every kind and description imposed in the Contracting Parties.
2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Contracting Parties so agree. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:

(a) the term “Contracting Party” means Brunei Darussalam or Norway as the context requires;

(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;

(c) the term “Norway” means the Kingdom of Norway, and includes the land territory and internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies (“biland”);

(d) the term “competent authority” means:

- (i)* in Brunei Darussalam, the Minister of Finance or his authorised representative;
- (ii)* in Norway, the Minister of Finance or the Minister’s authorised representative;

(e) the term “person” includes an individual, a company and any other body of persons;

(f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

(g) the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

(h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;

(i) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

(j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

(k) the term “tax” means any tax to which the Agreement applies;

(l) the term “applicant Party” means the Contracting Party requesting information;

(m) the term “requested Party” means the Contracting Party requested to provide information;

(n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;

(o) the term “information” means any fact, statement or record in any form whatever;

(p) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;

(q) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of an applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

(a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;

(b) information regarding the ownership of companies, partnerships, trusts, foundations, “Anstalten” and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes

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

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

4. The requested Party may decline a request for information if the disclosure of the information would be contrary to public policy (ordre public).

5. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

6. The requested Party may decline a request for information if the information is requested by the applicant Party to administer or enforce a provision of the tax law of the applicant Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the applicant Party in the same circumstances.

Article 8

Confidentiality

Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested Party.

Article 9

Costs

Incidence of costs incurred in providing assistance shall be agreed by the competent authorities of the Contracting Parties.

Article 10

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall endeavour to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5 and 6.

3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.

Article 11

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Agreement.

2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect —

(a) for criminal tax matters, on that date; and

(b) for all other matters covered in Article 1, for taxable periods beginning on or after the first day of January of the year next following the date on which the Agreement enters into force, or where there is no taxable period, for all charges to tax arising on or after that date.

Article 12

Termination

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination to the other Contracting Party. In such case, the Agreement shall cease to have effect on the first day of the month following the end of the period of six months after the date of receipt of notice of termination by the other Contracting Party.

2. In the event of termination, both Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under the Agreement.

In witness whereof the undersigned being duly authorised thereto have signed the Agreement.

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Done at Paris this 27 day of June 2012, in duplicate in the Malay, Norwegian and English languages, all texts being equally authentic. In case of divergence between the texts, the English version shall prevail.

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

THE GOVERNMENT OF
THE KINGDOM OF NORWAY

Made this 5th. day of Jamadilakhir, 1436 Hijriah corresponding to the 26th. day of March, 2015 at Bandar Seri Begawan, Brunei Darussalam.

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