

Pada menyaksikan hal yang tersebut di atas, yang bertandatangan di bawah, yang diberi kuasa dengan sewajarnya oleh Kerajaan masing-masing, telah menandatangani Protokol ini.

Dibuat dalam dua salinan di Putrajaya pada 12 hari bulan November 2009, dalam bahasa Malaysia dan bahasa Perancis, kedua-dua teks sama sahnya.

Bagi Pihak Kerajaan
Malaysia

Bagi Pihak Kerajaan
Republik Perancis

Made 14 May 2010

[Perb: 0.6869/6 Vol. 4(Sk. 1); PN(PU²)80AIXIV]

DATa'SERI HAN AHMAD HusNI BIN MoHAMAD HANADZLAH
Second Minister of Finance

[To be laid before the Dewan Rakyat pursuant to subsection 132(6) of the Income Tax Act 1967 and subsection 65A(5) of the Petroleum (Income Tax) Act 1967]

P.U. (A) 165.

AKTA CUKAI PENDAPATAN 1967 DAN AKTA PETROLEUM (CUKAI PENDAPATAN) 1967

PERINTAH PELEPASAN CUKAI DUA DUA KALI (KERAJAAN JEPUN) (PINDAAN) 2010

PADA menjalankan kuasa yang diberikan oleh subseksyen 132(1) Akta Cukai Pendapatan 1967 [Akta 53] dan subseksyen 65A(1) Akta Petroleum (Cukai Pendapatan) 1967 [Akta 543], Menteri membuat perintah yang berikut:

Nama

1. Perintah ini bolehlah dinamakan **Perintah Pelepasan Cukai Dua Kali (Kerajaan Jepun) (Pindaan) 2010.**

Pelepasan cukai dua kali

2. Diisytiharkan bahawa perkiraan yang dinyatakan dalam Jadual telah dibuat oleh Kerajaan Malaysia dengan Kerajaan Jepun dengan tujuan meminda perkiraan yang terdahulu yang memberikan pelepasan cukai dua kali berhubung dengan cukai Malaysia dan cukai Jepun (sebagaimana yang ditakrifkan dalam setiap hal dalam perkiraan itu) dan adalah suai manfaat bahawa perkiraan itu dikuatkuasakan.

JADUAL

(Perenggan 2)

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE
GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF
JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME

The Government of Malaysia and The Government of Japan,

DESIRING to amend the Agreement between the Government of Malaysia and the Government of Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Kuala Lumpur on 19 February 1999 (hereinafter referred to as "the Agreement") and the Protocol signed at Kuala Lumpur on 19 February 1999 which forms an integral part of the Agreement (hereinafter referred to as "the Protocol of 1999"),

HAVE agreed as follows:

Article 1

Article 25 of the Agreement shall be deleted and replaced by the following:

"Article 25

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, insofar as the taxation thereunder is not contrary to this 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 Contracting 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 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.

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 Contracting 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 2

There shall be added a new paragraph 3A to the Protocol of 1999, written as follows;

"3A. With reference to paragraph 5 of Article 25 of the Agreement, 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 laws of that Contracting State."

Article 3

1. This Protocol shall be approved in accordance with the legal procedures of each of the Contracting States and shall enter into force on the thirtieth day after the date of exchange of diplomatic notes indicating such approval.

2. This Protocol shall be applicable on or after 1 January in the calendar year next following that in which the Protocol enters into force.

3. This Protocol shall remain in effect as long as the Agreement remains in force.

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

DONE in duplicate at Putrajaya on this tenth day of February, 2010, in the English language.

For the Government
of Malaysia

For the Government
of Japan

Dibuat 13 Mei 2010
[Perb: 0.6869/3 Vol. 8(Sk. 9); PN(PU²)80A/XIV]

DATO' SERI HAJI AHMAD HUSNI BIN MOHAMAD HANADZLAH
Menteri Kewangan Kedua

[Akan dibentangkan di Dewan Rakyat menurut subseksyen 132(6) Akta Cukai Pendapatan 1967 dan subseksyen 65A(5) Akta Petroleum (Cukai Pendapatan) 1967]

INCOME TAX ACT 1967
AND
PETROLEUM (INCOME TAX) ACT 1967

DOUBLE TAXATION RELIEF (THE GOVERNMENT OF JAPAN)
(AMENDMENT) ORDER 2010

IN exercise of the powers conferred by subsection 132(1) of the Income Tax Act 1967 [Act 53] and subsection 65A(1) of the Petroleum (Income Tax) Act 1967 [Act 543], the Minister makes the following order:

Citation

1. This order may be cited as the **Double Taxation Relief (The Government of Japan) (Amendment) Order 2010**.

Double taxation relief

2. It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia with the Government of Japan with a view of amending the previous arrangements affording relief from double taxation in relation to Malaysian tax and Japanese tax (as defined in each case in the arrangements) and that it is expedient that those arrangements shall have effect.

SCHEDULE

(Paragraph 2)

PROTOCOL AMENDING THE AGREEMENT
BETWEEN THE GOVERNMENT OF MALAYSIA AND
THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of Malaysia and the Government of Japan,

DESIRING to amend the Agreement between the Government of Malaysia and the Government of Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Kuala Lumpur on 19 February 1999 (hereinafter referred to as "the Agreement") and the Protocol signed at Kuala Lumpur on 19 February 1999 which forms an integral part of the Agreement (hereinafter referred to as "the Protocol of 1999"),

Have agreed as follows:

Article 1

Article 25 of the Agreement shall be deleted and replaced by the following:

"Article 25

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, insofar as the taxation thereunder is not contrary to this 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 Contracting 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 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.

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 Contracting 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 2

There shall be added a new paragraph 3A to the Protocol of 1999, written as follows;

"3A. With reference to paragraph 5 of Article 25 of the Agreement, 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 laws of that Contracting State."

Article 3

1. This Protocol shall be approved in accordance with the legal procedures of each of the Contracting States and shall enter into force on the thirtieth day after the date of exchange of diplomatic notes indicating such approval.

2. This Protocol shall be applicable on or after 1 January in the calendar year next following that in which the Protocol enters into force.

3. This Protocol shall remain in effect as long as the Agreement remains in force.

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

DONE in duplicate at Putrajaya on this tenth day of February, 2010, in the English language.

For the Government
of Malaysia

For the Government of
Japan

Made 13 May 2010

[Perb: 0.6869/3 Vol. 8(Sk. 9); PN(PU²)80A/XIV]

DATO' SERI HAJI AHMAD HUSNI BIN MOHAMAD HANADZLAH
Second Minister of Finance

[To be laid before the Dewan Rakyat pursuant to subsection 132(6) of the Income Tax Act 1967 and subsection 65t.(5) of the Petroleum (Income Tax) Act 1967]