

**PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF  
THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN OF BRUNEI DARUSSALAM**

**FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

NOTE

This Protocol was signed on 13 November 2009.  
However, the Protocol is not yet ratified and therefore **does not have the force of law.**

The Government of the Republic of Singapore and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam

Desiring to amend the Agreement between the Government of the Republic of Singapore and the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Singapore on 19 August 2005 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

**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, insofar 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**

1. 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.

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

Done in duplicate at Singapore on this 13<sup>th</sup> day of November, 2009 in the Malay and English languages, both texts being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF SINGAPORE**

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