

P.U. (A) 285/2006

Signed: 12 January 2006

Effective Date: 1 September 2010

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ITS PROTOCOL SIGNED AT KUALA LUMPUR ON 12 SEPTEMBER 1991

The Government of Malaysia and the Government of the Republic of Indonesia, desiring to conclude a Protocol to amend the Agreement between the Government of Malaysia and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Kuala Lumpur on 12 September 1991 (hereinafter referred to as “the Agreement” and “the Protocol” respectively), have agreed as follows:

Article 1

Paragraph 2 of Article 10 of the Agreement is amended by substituting for the words “15 per cent” the words “10 per cent”.

Article 2

Paragraph 2 of Article 11 of the Agreement is amended by substituting for the words “15 per cent” the words “10 per cent”.

Article 3

Paragraph 2 of Article 12 of the Agreement is amended by substituting for the words “15 per cent” the words “10 per cent”.

Article 4

Paragraph 5 of the Protocol is substituted by the following new paragraph:

“In connection with Article 10 “Dividends”, nothing in this Article shall affect the provisions contained in any production sharing contracts relating to oil and gas sector concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of Malaysia.”

Article 5

For the purposes of this Protocol, it is understood that :

1. the benefits of the Agreement shall not be available in respect of the carrying on of any offshore business activity under the Labuan Offshore Business Activity Tax Act 1990; and
2. the term "offshore business activity" means an offshore business activity as defined under section 2(1) of the Labuan Offshore Business Activity Tax Act 1990 in force at the date of signature of this Protocol and includes any substantially similar activity dealt with in any amendment to that Act thereafter.

Article 6

This Protocol shall be an integral part of the Agreement between the Government of Malaysia and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, and its Protocol signed at Kuala Lumpur on the 12th day of September 1991.

Article 7

This Protocol shall be subject to ratification and instruments of ratification shall be exchanged as soon as possible. It shall enter into force on the date of exchange of the instruments of ratification. The provisions of this Protocol shall for the first time have effect for amounts paid or credited on or after the first day of the second month next following the date on which the Protocol enters into force.

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

DONE in duplicate at Bukit Tinggi, Sumatera Barat, this Twelfth day of January 2006, each in Bahasa Malaysia, Bahasa Indonesia and in English, the three texts being equally authentic. In the event of there being a divergence in the interpretation and the application of this Protocol, the English text shall prevail.