

A BILL

*i n t i t u l e d*

An Act to amend the Petroleum (Income Tax) Act 1967.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Petroleum (Income Tax) (Amendment) Act 2011.

(2) This Act is deemed to have come into operation on 30 November 2010.

**New Chapter 6 of Part III**

2. The Petroleum (Income Tax) Act 1967 [*Act 543*], which is referred to as the “principal Act” in this Act, is amended by inserting after Chapter 5 in Part III the following Chapter:

*“Chapter 6 – Special treatment*

**Power to direct special treatment in the computation of income from petroleum operations in certain cases**

22A. (1) Notwithstanding any other provision in this Part, where the Director General is satisfied that there is a need for some treatment in computing the gross income, adjusted income, statutory income and assessable income from petroleum

operations, he may give directions and formulate regulations to be published in the *Gazette* for special treatment with respect to such petroleum operations:

Provided that no such directions and regulations shall have effect in relation to petroleum operations for any year of assessment with respect to which an assessment wholly or partly relating to income from that petroleum operations has become final and conclusive or is the subject of an appeal which has been sent forward to the Special Commissioners.

(2) Any direction given under subsection (1) with respect to the gross income, adjusted income, statutory income and assessable income from the petroleum operations may—

- (a) provide that the gross income to which it relates (or any part thereof) shall be taken to be gross income for such basis period or periods for such year or years of assessment with respect to that petroleum operations as may be specified in the direction; and
- (b) provide for special treatment with respect to the ascertainment of the adjusted income, statutory income and assessable income from that petroleum operations for the basis period or periods for any year or years of assessment.”.

### **New section 65c**

**3.** The principal Act is amended by inserting after section 65B the following section:

#### **“Exemption from tax: general**

**65c.** (1) The Minister may, by statutory order, exempt any chargeable person from all or any of the provisions of this Act, either generally or in respect of any income of a particular kind.

(2) Any order made under subsection (1) shall be laid before the Dewan Rakyat.

(3) Nothing in subsection (1) shall absolve or be deemed to have absolved the said chargeable person from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provisions of this Act in respect of the income exempted under this section.”.

**Amendment of First Schedule**

4. The First Schedule to the principal Act is amended by inserting after paragraph 3 the following paragraph:

“3A. (1) Where prior to the basis period for the first year of assessment for which a chargeable person under a petroleum agreement is chargeable to tax and that chargeable person incurs qualifying exploration expenditure, there may be deducted from the gross income of another chargeable person in another petroleum agreement in the basis period for a year of assessment of the second-mentioned chargeable person the qualifying exploration expenditure referred to in paragraph 3:

Provided that the original parties to the petroleum agreements are the same.

(2) The amount of qualifying exploration expenditure incurred by the first-mentioned chargeable person to be allowed as deduction against the gross income of the second-mentioned chargeable person shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

- where A is the gross income of the second-mentioned chargeable person from a petroleum operation;
- B is the total gross income of the second-mentioned chargeable person from petroleum operations; and
- C is the qualifying exploration expenditure; and

in the case where the qualifying exploration expenditure exceeds the amount of gross income of petroleum operations or the gross income in respect of a petroleum operation of the second-mentioned chargeable person, the excess of the expenditure—

- (a) shall be allowed to be deducted from the gross income of that petroleum operations for the subsequent years of assessment of the second-mentioned chargeable person; or

(b) may be deducted from the gross income of another chargeable person in another petroleum agreement in accordance with this subparagraph if the original parties to the petroleum agreements are the same.

(3) Subparagraph (1) shall not apply to chargeable persons carrying on petroleum operations—

(a) in the Joint Development Area; or

(b) in an area under any agreement or arrangement made by the Government with the government of any territory outside Malaysia for the joint exploration and exploitation of petroleum in overlapping areas referred to in subsection 65B(1).

(4) Any amount deducted under subparagraphs (1) and (2) shall be disregarded for the purpose of ascertaining the adjusted income—

(a) of the first-mentioned chargeable person; or

(b) where subsubparagraph (2)(b) applies, of the second-mentioned chargeable person.”.

---

#### EXPLANATORY STATEMENT

This Bill seeks to amend the Petroleum (Income Tax) Act 1967 (“Act 543”).

2. *Clause 2* seeks to introduce a new Chapter 6 in Part III which provides for section 22A to empower the Director General to give direction and formulate regulations for special treatment in respect of computing the gross income, adjusted income, statutory income and assessable income from petroleum operations.

3. *Clause 3* seeks to introduce a new section 65C into Act 543. This is to allow the Minister to exempt any chargeable person from all or any of the provisions of this Act, either generally or in respect of any income of a particular kind. The exemption shall be made by way of an order to be published in the *Gazette*.

4. *Clause 4* seeks to introduce a new paragraph 3A into the First Schedule to Act 543 to allow the qualifying exploration expenditure incurred by a chargeable person to be deducted against the gross income of another chargeable person in another petroleum agreement provided that the original parties of the petroleum agreements where the areas under the agreements are not contiguous are the same.

*Clause 4* further seeks to provide that the new paragraph 3A is not applicable to petroleum operations in the Joint Development Area or the area in respect of which agreement or arrangement is made with regard to overlapping areas as provided in section 65B of Act 543.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

[PN(U<sup>2</sup>)2807]