

No. S 29

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

INCOME TAX ACT (AMENDMENT) (NO. 3) ORDER, 2020

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INCOME TAX ACT (AMENDMENT) (NO. 3) ORDER, 2020

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and commencement

1. This Order may be cited as the Income Tax Act (Amendment) (No. 3) Order, 2020 and shall be deemed to have commenced on 1st January 2016.

Amendment of section 9 of Chapter 35

2. Section 9 of the Income Tax Act, in this Order referred to as the Act, is amended, in subsection (5) —

(a) by deleting paragraph (b) and by substituting the following new paragraph therefor —

“/b) any payment for the use of or the right to use scientific, technical, industrial or commercial knowledge or information;”.

(b) by inserting the following new paragraph immediately after paragraph (b) —

“/ba) any payment for the rendering of assistance or services in connection with the application or use of scientific, technical, industrial or commercial knowledge or information;”.

Amendment of section 16

3. Section 16 of the Act is amended, in subsection (2) —

(a) by deleting “rates to be prescribed” from the sixth line and by substituting “the rate of 25 *per cent*” therefor;

(b) by deleting the proviso and by substituting the following new proviso therefor —

“Provided that the Collector may, in his discretion, allow a higher rate than the rate of 25 *per cent*.”.

Amendment of section 35

4. Section 35 of the Act is amended —

(a) by repealing subsection (2) and by substituting the following new subsection therefor —

“(2) Notwithstanding anything in this Act, tax at the rate of 15 *per cent* shall be levied and paid on the gross amount of any income referred to in section 9(4), accruing in or derived from Brunei Darussalam by a person not resident in Brunei Darussalam which is not derived by that person from any trade, business, profession or vocation carried on or exercised by him in Brunei Darussalam and which is not effectively connected with any permanent establishment of the person in Brunei Darussalam.”;

(b) by repealing subsection (2A) and by substituting the following new subsection therefor —

“(2A) Notwithstanding anything in this Act, there shall be levied and paid on the gross amount of —

(a) any payment referred to in section 9(5)(a), (b), (ba) and (d), tax at the rate of 10 *per cent*; or

(b) any payment referred to in section 9(5)(c), tax at the rate of 15 *per cent*,

accruing in or derived from Brunei Darussalam by a person not resident in Brunei Darussalam which is not derived by that person from any trade, business, profession or vocation carried on or exercised by him in Brunei Darussalam and which is not effectively connected with any permanent establishment of the person in Brunei Darussalam.”;

(c) by inserting the following new subsection immediately after subsection (2A) —

(2B) Notwithstanding anything in this Act, tax at the rate of 10 *per cent* shall be levied and paid on the payment of any remuneration by a company to any director of the company who is not resident in Brunei Darussalam.”;

(d) by repealing subsection (3);

(e) by repealing subsection (6);

(f) in subsection (7), in the definition of “gross amount”, by deleting “subsections (2), (3) and (4)” and by substituting “subsections (2) and (2A)” therefor.

Amendment of section 37

5. Section 37 of the Act is amended, in subsection (1), by deleting “20” from the fourth line and by substituting “15” therefor.

Substitution of section 37A

6. Section 37A of the Act is repealed and the following new section substituted therefor —

“Application of section 37 to royalties, management fees etc.

37A. (1) Section 37 shall apply, in relation to the payment of any income referred to in section 9(4) or (5) by any person to another person not known to him to be resident in Brunei Darussalam, as those provisions apply to any interest paid by a person to another person not known to him to be resident in Brunei Darussalam.

(2) For the purposes of this section —

(a) any reference in those provisions to interest shall be construed as a reference to the income referred to in section 9(4) or (5); and

(b) the reference to 15 *per cent* in section 37(1) shall be construed as a reference to the respective rates of the taxes specified in section 35(2) or (2A), as the case may be.”.

Substitution of section 37B

7. Section 37B of the Act is repealed and the following new section substituted therefor —

“Application of section 37 to non-resident director’s remuneration

37B. (1) Section 37 shall apply, in relation to the payment of any remuneration referred to in section 35(2B) by a company to any director of the company who is not resident in Brunei Darussalam as those provisions apply to any interest paid by a person to another person not known to him to be resident in Brunei Darussalam.

(2) For the purposes of this section —

(a) any reference in those provisions to interest shall be construed as a reference to such remuneration; and

(b) the reference to 15 *per cent* in section 37(1) shall be construed as a reference to the rate of tax specified in section 35(2B).”.

Substitution of section 38

8. Section 38 of the Act is repealed and the following new section substituted therefor —

“Tax deducted from interest, royalties, management fees and remuneration etc.

38. Any tax which has been deducted from any payment under the provisions of section 37, 37A or 37B shall, when such payment is included in the chargeable income of any person, be set off for the purpose of collection against the tax charged on that chargeable income.”.

Made this 16th. day of Syawal, 1441 Hijriah corresponding to the 8th. day of June, 2020 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**