

S.I. 17 of 2012

BUSINESS TAX ACT

(Act 28 of 2009)

Business Tax (Double Taxation Agreement) (No.4) Regulations, 2012

In exercise of the powers conferred by section 79 of the Business Tax Act, the Minister of Finance, Trade and Investment, hereby makes the following Regulations—

1. These Regulations may be cited as the Business Tax (Double Taxation Agreement) (No.4) Regulations, 2012.

Citation

2. It is hereby declared that the Government of Malaysia and the Government of the Republic of Seychelles have entered into an Agreement for the purpose of avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and the Agreement shall have effect in relation to the tax imposed under the Act.

Declaration and effect of Agreement

SCHEDULE

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED AT PUTRAJAYA ON 3 DECEMBER 2003 THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES

Desiring to amend the Agreement between the two Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,

signed at Putrajaya on 3 December 2003 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

Article 1

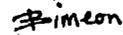
Article 26 of the Agreement shall be deleted and replaced by the following:

"Article 26

EXCHANGE OF INFORMATION

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 covered by this Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
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:


 THE GOVERNMENT OF
 MALAYSIA


 FOR THE GOVERNMENT OF
 THE REPUBLIC OF SEYCHELLES

MADE this 4th day of April, 2012.

PIERRE LAPORTE
MINISTER OF FINANCE, TRADE
AND INVESTMENT

taxpayer and a specific bank or financial institution, the competent authority of the requested State may decline to obtain any information that it does not already possess.

7. The competent authorities of the Contracting States shall agree upon the mode of application of this Article."

Article 2

1. Each of the Contracting States shall notify the other through diplomatic channels, the completion of the procedures required by its law for the bringing into force of this Protocol which shall form an integral part of the Agreement. This Protocol shall enter into force on the date of the later of these notifications, and its provisions shall have effect for taxable periods beginning on or after 1 January 2010.
2. This Protocol shall cease to be effective at such time as the Agreement ceases to be effective in accordance with Article 29 of the Agreement.

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

Done in duplicate at Victoria, Seychelles on this 22 day of December 2009 in the Malay and the English languages, all texts being equally authentic. In the event of any divergence of interpretation and the application of this Protocol, between any of the texts, the English text shall prevail.

- (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 (*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.
 6. Banking records will be exchanged only upon request. If the request does not identify both a specific