

**THIRD PROTOCOL TO THE AGREEMENT
BETWEEN THE GOVERNMENT OF MALAYSIA AND
THE GOVERNMENT OF NEW ZEALAND FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

THE GOVERNMENT OF MALAYSIA

AND

THE GOVERNMENT OF NEW ZEALAND

Having regard to the Agreement between the Government of Malaysia and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Kuala Lumpur on 19 March 1976, as amended by the Second Protocol to that Agreement done at Kuala Lumpur on 14 July 1994 (hereinafter referred to as "the Agreement"),

Have agreed that the following provisions shall form an integral part of the Agreement:

Article 1

Article 22 of the Agreement shall be deleted and substituted by the following:

"Article 22

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 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 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 2

(1) The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Third Protocol have been complied with.

(2) The Third Protocol shall enter into force on the date of the later of the notifications referred to in paragraph 1 of this Article, and its provisions shall have effect for requests made on or after the date of the entry into force of this Protocol with regard to tax years beginning on or after 1 January following entry into force.