

A BILL

*intituled*

An Act to amend the Income Tax Act 1967.

[ ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Income Tax (Amendment) Act 1990 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title and commencement.

(2) This Act shall have effect for the year of assessment 1991 and subsequent years of assessment.

2. Section 2 of the Income Tax Act 1967, which in this Act is referred to as the "principal Act", is amended by inserting, immediately after the definition of "market value", the following new definitions:

Amendment of section 2. Act 53.

"offshore business activity" has the meaning assigned thereto by the Labuan Offshore Business Activity Tax Act 1990;

"offshore company" has the meaning assigned thereto by the Labuan Offshore Business Activity Tax Act 1990;

New  
section SB.

3. The principal Act is amended by inserting, immediately after section 3A, the following new section 3B:

"Non-chargeability to tax in respect of offshore business activity. 3B. Notwithstanding section 3 tax shall not be charged under this Act on income in respect of an offshore business activity carried on by an offshore company."

Amendment  
of  
section 108.

4. Section 108 of the principal Act is amended by substituting for subsection (11) the following:

"(11) This section shall not apply to—

- (a) a co-operative society; or
- (b) an offshore company in respect of a dividend paid, credited or distributed out of—
  - (i) income derived from an offshore business activity; or
  - (ii) income exempt from tax."

New  
section 110A.

5. The principal Act is amended by inserting, immediately after section 110, the following new section 110A:

"Non-entitlement of an offshore company for set-off. 110A. Notwithstanding subsection (1) of section 110, where an offshore company receives any dividend from which tax has been deducted under section 108, the tax so deducted shall not be set off against the tax charged on the chargeable income of the offshore company."

New  
section 111A.

6. The principal Act is amended by inserting, immediately after section 111, the following new section 111A:

"Non-entitlement of an offshore company to refund. 111A. Notwithstanding section 111, where tax has been deducted under section 108 from any dividend received by an offshore company, that offshore company shall not be entitled to have the tax so deducted refunded by the Government."

## EXPLANATORY STATEMENT

This Bill seeks to amend the Income Tax Act 1967. These amendments are consequential to the introduction of the Labuan Offshore Business Activity Tax Bill 1990.

2. *Clause 1* contains the preliminary provisions. The Bill will be effective from the year of assessment 1991.
3. *Clause 2* seeks to introduce new definitions of "offshore business activity" and "offshore company" in section 2 of the Act.
4. *Clause 3* provides that tax shall not be charged on the income of an offshore company in respect of income from its offshore business activity.
5. *Clause 4* provides that the provisions of section 108 of the Act relating to deduction of tax from dividends shall not apply to an offshore company in respect of dividends distributed out of income derived from an offshore business activity or income exempt from income tax.
6. Under the existing legislation, where a company receives Malaysian dividend from which tax has been deducted, the tax so deducted can be set off against the tax charged on the income of the company. *Clause 5* seeks to introduce a new section 110A to the Act so that an offshore company receiving Malaysian dividend from which tax has been deducted is not entitled to claim any set-off in respect of the tax so deducted against the tax charged on its income.
7. *Clause 6* proposes a new section 111 A to the Act so that an offshore company receiving Malaysian dividend from which tax has been deducted is not entitled to any refund of the tax so deducted.

## FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U<sup>2</sup>) 1618.]

