

Your Excellency,

I have the honour to refer to the Second Protocol, signed today, amending the Agreement between the Government of Australia and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Canberra on 20 August 1980 and amended by the Protocol signed at Sydney on 2 August 1999, and to propose on behalf of the Government of Australia that:

With reference to the provisions inserted by Article 7 of the Second Protocol, and irrespective of the position but for this Exchange of Letters, the benefits of this Agreement shall not be available to persons carrying on any offshore business activity under the Labuan Offshore Business Activity Tax Act 1990 (as amended).

The term "offshore business activity" means an offshore business activity as defined under Section 2(1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended) and includes any substantially similar activity dealt with in a modification to that Act.

If these proposals are acceptable to the Government of Malaysia, I have the honour to suggest that the present Letter and Your Excellency's reply accepting the proposals shall together constitute an Agreement between the two Governments in this matter, which shall enter into force at the same time as entry into force of the Second Protocol.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

Dated at Genting Highlands, this twenty-eighth day of July 2002

(signed Mark Vaile, Minister for Trade)

Your Excellency,

I have the honour to acknowledge receipt of your Letter of today's date which reads as follows:

"I have the honour to refer to the Second Protocol, signed today, amending the Agreement between the Government of Australia and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Canberra on 20 August 1980 and amended by the Protocol signed at Sydney on 2 August 1999, and to propose on behalf of the Government of Australia that:

With reference to the provisions inserted by Article 7 of the Second Protocol, and irrespective of the position but for this Exchange of Letters, the benefits of this Agreement shall not be available to persons carrying on any offshore business activity under the Labuan Offshore Business Activity Tax Act 1990 (as amended).

The term "offshore business activity" means an offshore business activity as defined under Section 2(1) of the Labuan Offshore Business Activity Tax Act 1990 (as amended) and includes any substantially similar activity dealt with in a modification to that Act.

If these proposals are acceptable to the Government of Malaysia, I have the honour to suggest that the present Letter and Your Excellency's reply accepting the proposals shall together constitute an Agreement between the two Governments in this matter, which shall enter into force at the same time as entry into force of the Second Protocol."

I have the honour to inform you that the foregoing proposals are acceptable to the Government of Malaysia and that your Excellency's Letter and this reply shall together constitute an Agreement between the Government of Malaysia and the Government of Australia which shall enter into force at the same time as entry into force of the Second Protocol.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

Dated at Genting Highlands, this twenty-eighth day of July 2002

(signed Rafidah Aziz, Minister for Trade)