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30 January 2014

To All Malaysia's Tax Treaty Partners,

**Policy Change to Allow for Exchange of Bank Information in the Absence of Article 26(5) 2005 OECD Model Tax Convention**

We refer to the above matter.

2. We agree with the interpretation that a jurisdiction can comply with the international standards on exchange of information based on the language in Article 26 of the pre 2005 OECD Model Tax Convention. Thus, treaty partners are able to exchange bank information without a provision equivalent to Article 26(5) in the treaty.

3. However, Malaysia had taken the policy decision not to exchange bank information in the absence of a provision equivalent to Article 26(5) in our tax treaties (Please refer to paragraph 318 of the Phase 1 Peer Review Report of Malaysia that was approved by the Global Forum in October 2011). Given this policy, it was necessary to update our existing bilateral agreements for purposes of extending exchange of information (EOI) assistance in accordance with the standard.

4. To further enhance cooperation in EOI, we are pleased to inform that we have recently made a policy change to allow for exchange of bank information regardless of whether a provision equivalent to Article 26(5) is present in our bilateral agreements. Thus, our previous approach of updating individual agreements is no longer necessary.

5. Accordingly, we confirm that we are now able to exchange bank information even if our bilateral agreement does not have the provision equivalent to Article 26(5). However, the extension of EOI assistance on bank information is subject to reciprocity from our EOI partner.

6. As this new approach is based on a change in policy decision, it does not necessitate legislative amendments in our domestic laws.

7. We would also like to take this opportunity to affirm our commitment and co-operation in providing effective EOI in accordance with the standard.

Thank you.

Yours sincerely,

**(Dato' Siti Halimah Ismail)**  
Malaysian Competent Authority  
Undersecretary of Tax Division  
Ministry of Finance Malaysia