

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

**SPECIFICATION OF ARRANGEMENTS
(GOVERNMENT OF THE KINGDOM OF DENMARK
CONCERNING AIR SERVICES)
(DOUBLE TAXATION) ORDER**

**SPECIFICATION OF ARRANGEMENTS
(GOVERNMENT OF THE KINGDOM OF SWEDEN
CONCERNING AIR SERVICES)
(DOUBLE TAXATION) ORDER**

**SPECIFICATION OF ARRANGEMENTS
(GOVERNMENT OF THE KINGDOM OF NORWAY
CONCERNING AIR SERVICES)
(DOUBLE TAXATION) ORDER**

INTRODUCTION

At the meeting of the Executive Council on 31 October 2000, the Council **ADVISED** and the Acting Chief Executive **ORDERED** that -

- A
- (a) the Specification of Arrangements (Government of the Kingdom of Denmark Concerning Air Services) (Double Taxation) Order at Annex A;
- B
- (b) the Specification of Arrangements (Government of the Kingdom of Sweden Concerning Air Services) (Double Taxation) Order at Annex B; and
- C
- (c) the Specification of Arrangements (Government of the Kingdom of Norway Concerning Air Services) (Double Taxation) Order at Annex C,

should be made under section 49 of the Inland Revenue Ordinance to implement the provisions on double taxation relief in respect of airline income.

BACKGROUND AND ARGUMENT

Double Taxation Relief for Airline Income

2. It is our policy to include provisions on double taxation relief for airline income in bilateral air services agreements negotiated between the HKSAR and our aviation partners. We have concluded and implemented such relief arrangements on

airline income with the Republic of Korea, New Zealand, Canada, the Netherlands, Germany, the United Kingdom, Belgium, Israel, Mauritius and Russia.

3. The HKSAR entered into separate Air Services Agreements with Denmark and Sweden on 14 March 2000, and with Norway on 2 June 2000. Each of these Agreements contains, under Article 10, a provision on double taxation relief in respect of airline income and profits. The provision provides that -

- (a) income and profits derived from the operation of aircraft in international traffic by an airline of one Contracting Party, including participation in a pool service, a joint air transport operation or an international operating agency, which are subject to tax in the area of that Contracting Party shall be exempt from income tax, profits tax and all other taxes on income and profits imposed in the area of the other Contracting Party;
- (b) capital and assets of an airline of one Contracting Party relating to the operation of aircraft in international traffic shall be exempt from taxes on capital and assets imposed in the area of the other Contracting Party; and
- (c) gains from the alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft which are received by an airline of one Contracting Party, the income and profits of which according to (a) above are taxable only in the area of that Contracting Party, shall be exempt from any tax on gains imposed in the area of the other Contracting Party.

4. Under section 49 of the Inland Revenue Ordinance, the Chief Executive in Council may, by order, declare that arrangements have been made with the government of any territory outside Hong Kong, with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory. Following the signature of the Air Services Agreements with Denmark, Sweden and Norway, it is necessary to declare by order that arrangements with these countries on double taxation relief in respect of airline income and profits have been made, so as to put the arrangements into effect. We propose to make a separate order for each named country. These orders have an identical structure and stipulate that the arrangements made will apply in respect of income, profits and gains arising on or after 1 January 1997 and on capital and assets held on or after that date.

THE ORDERS

5. **Section 1** of the Orders declares that arrangements for double taxation relief in respect of airline income and profits have been made with the government of the named country and should take effect. **Section 2** states that the arrangements, which are included in Article 10 of each of the Air Services Agreement, are specified in the Schedule to the Orders, and that the Article should be construed in accordance with the terms of the relevant Agreement. **The Schedule** to the Orders sets out the details of the arrangements.

PUBLIC CONSULTATION

6. The Hong Kong airline designated under the Air Services Agreements with the three named countries has been consulted during the discussion of the double taxation relief articles. It has expressed support for the relief arrangement.

HUMAN RIGHTS IMPLICATIONS

7. The proposed legislation has no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

8. At present, only one joint Danish, Swedish and Norwegian airline is operating air services between Hong Kong and Sweden. Based on the current levels of uplifts and profitability of this airline, the financial implications of the double taxation relief arrangements are insignificant. There are no staffing implications.

LEGISLATIVE TIMETABLE

9. The legislative timetable is -

Publication in the Gazette	10 November 2000
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Tabling in the Legislative Council	15 November 2000
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PUBLICITY

10. We will issue a press release on 8 November.

ENQUIRIES

11. In case of enquiries about this Brief, please contact Ms. Esther Leung, Principal Assistant Secretary for the Treasury (Revenue), at 2810 2370.