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LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance

(Chapter 112)

SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND) (AVOIDANCE OF DOUBLE TAXATION ON SHIPPING INCOME) ORDER

SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS) (AVOIDANCE OF DOUBLE TAXATION ON SHIPPING INCOME) ORDER

INTRODUCTION

At the meeting of the Executive Council on 20 February 2001, the Council **ADVISED** and the Chief Executive **ORDERED** that -

(a) the Specification of Arrangements (Government of the United Kingdom of Great Britain and Northern Ireland) (Avoidance of Double Taxation on Shipping Income) Order, at Annex A; and

A

(b) the Specification of Arrangements (Government of the Kingdom of the Netherlands) (Avoidance of Double Taxation on Shipping Income) Order, at Annex B,

B

should be made under section 49 of the Inland Revenue Ordinance, to declare the coming into effect of the agreements with the United Kingdom and the Netherlands on double taxation relief in respect of shipping income.

BACKGROUND AND ARGUMENT

Double Taxation Relief for Shipping Income

2. Due to the international nature of shipping operations, shipping operators are more susceptible to double taxation than other taxpayers. It is therefore our objective to conclude avoidance of double taxation agreements for revenues arising from the operation of ships in international traffic with our shipping partners. We concluded a double taxation relief arrangement on shipping with the United States of America in 1989. In 1998, we amended our legislation to provide reciprocal tax exemption for shipping income so that Hong Kong ship operators can benefit from the tax relief offered by places with similar reciprocal tax exemption legislation. For other shipping partners who do not provide reciprocal tax exemption in their legislation, we negotiate with them double taxation relief agreements for shipping income, in order to alleviate the tax burden of our ship operators in those places.

3. In the year 2000, the HKSAR entered into two separate agreements for avoidance of double taxation on shipping revenues - one with the United Kingdom on 25 October, and another with the Netherlands on 2 November. The agreements provide in effect that -

- (a) income and profits derived from the operation of ships in international traffic by an enterprise of a Contracting Party, including participation in a pool, a joint business or an international operating agency, shall be taxable only in the area

of that Contracting Party;

- (b) capital and assets and movable property of an enterprise of a Contracting Party relating to the operation of ships in international traffic shall only be taxable in the area of that Contracting Party; and
- (c) gains from the alienation of ships operated in international traffic and movable property pertaining to the operation of such ships which are received by an enterprise of a Contracting Party shall only be taxable in the area of that Contracting Party.

4. The agreement with the Netherlands also provides that remuneration in respect of an employment exercised aboard a ship operated in international traffic by an enterprise of a Contracting Party shall be taxable only in the area of that Contracting Party when documentary evidence is produced that tax has been paid in the area of that Contracting Party.

5. 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 conclusion and signing of the agreements with the United Kingdom and the Netherlands, it is necessary to declare by order that arrangements with them on double taxation relief in respect of shipping income and profits have been made, so as to put the arrangements into effect. We therefore propose to make a separate order for each named country.

6. The agreements with the United Kingdom and the Netherlands will enter into force on the date of the later of the notifications (informing the other Contracting Party the completion of the procedures required by its law for bringing the agreement into force), and thereupon have effect in Hong Kong for any year of assessment beginning on or after 1 April in the calendar year following that in which the agreement enters into force. The Netherlands' agreement also provides that upon request by an enterprise of a Contracting Party, the agreement shall have effect in Hong Kong for any year of assessment beginning on or after 1 April 1998, and in the Netherlands for taxable years and periods beginning on or after 1 January 1998. This reflects the fact that both Hong Kong and the Netherlands have in place in their domestic laws provisions providing for the reciprocal exemption of shipping income and profits.

THE ORDERS

7. **Section 1** of the Orders declares that arrangements for double taxation relief in respect of shipping income and profits have been made with the government of the named country and should take effect. **Section 2** states that the arrangements are specified in the Schedule to the Orders. **The Schedules** to the Orders set out the details of the arrangements.

PUBLIC CONSULTATION

8. The Hong Kong Shipowners Association has been consulted. It welcomes the agreements.

HUMAN RIGHTS IMPLICATIONS

9. The Orders have no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

10. Based on the current levels of uplifts and profitability of the relevant shipowners, the financial implications of the double taxation relief arrangements are not considered significant. There are no staffing implications.

LEGISLATIVE TIMETABLE

11. The legislative timetable is -

Publication in the Gazette 2 March 2001

Tabling in the Legislative Council 7 March 2001

PUBLICITY

12. We will issue a press release on 28 February 2001.

ENQUIRIES

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

Finance Bureau