

LN298-E

L. N. 298 of 2000

Specification of Arrangements (Government of The
Kingdom of Denmark Concerning Air Services)

(Double Taxation) Order

(Made by the Chief Executive in Council under section 49
of the Inland Revenue Ordinance (Cap. 112))

1. Declaration under section 49

For the purposes of section 49 of the Ordinance, it is declared that the arrangements referred to in section 2 have been made with the Government of the Kingdom of Denmark 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 the Kingdom, and that it is expedient that those arrangements should have effect.

2. Arrangements specified

The arrangements mentioned in section 1 are in Article 10 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Denmark concerning Scheduled Air Services done in duplicate at Hong Kong on 14 March 2000 in the English language as specified in the Schedule and having effect according to the tenor of that Agreement.

Schedule [s. 2]

Article 10

of the

Agreement Between The Government of The Hong Kong Special
Administrative Region of The People's Republic of China
And The Government of The Kingdom of Denmark
Concerning Scheduled Air Services

"Article 10

Avoidance of Double Taxation

(1) 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.

(2) 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.

(3) 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 paragraph (1) 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) For the purposes of this Article:

(a) the term "income and profits" includes revenues and gross receipts from the operation of aircraft for the carriage of persons, livestock, goods, mail or merchandise in international traffic including:

(i) the charter or rental of aircraft if such charter or rental is incidental to the operation of aircraft in international traffic;

(ii) the sale of tickets or similar documents, and the provision of services connected with such carriage, for the airline itself or for other airlines, but in the latter case only if such sales or provisions of services are incidental to the operation of aircraft in international traffic; and

(iii) interest on funds directly connected with the operation of aircraft in international traffic;

(b) the term "international traffic" means any carriage by an aircraft except when such carriage is solely between places in the area of the other Contracting Party;

(c) the term "airline of one Contracting Party" means,

(i) in the case of the Hong Kong Special Administrative Region, an airline incorporated and having its principal place of business in the Hong Kong Special Administrative Region; and

(ii) in the case of Denmark, any airline which, under the laws of Denmark, is liable to tax therein by reason of domicile, residence, place of management or any other criterion of a similar nature, and includes the joint Danish, Norwegian and Swedish air transport consortium Scandinavian Airlines System (SAS), but only insofar as profits derived by SAS Danmark A/S, the Danish partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that consortium;

(d) the term "competent authority" means,

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative, or any person or body authorised to perform any functions at present exercisable by the Commissioner or similar functions; and

(ii) in the case of Denmark, the Minister for Taxation or his authorised representative.

(5) The competent authorities of the Contracting Parties shall, through consultation, endeavour to resolve by mutual agreement any disputes regarding the interpretation

or application of this Article. Article 17 (Settlement of Disputes) shall not apply to any such dispute.

(6) Notwithstanding Article 21 (Entry into Force) each Contracting Party shall in writing notify the other of the completion of the relevant procedures required by its law to bring this Article into force. The Article shall enter into force on the date of the receipt of the latter of these notifications and shall thereupon have effect in respect of income, profits and gains arising on or after the first day of January 1997 and on capital and assets held on or after that date.

(7) Notwithstanding Article 19 (Termination) where notice of termination of this Agreement is given under that Article, this Article shall cease to have effect, in relation to income, profits and gains received as well as capital and assets held on or after the first day of January in the calendar year next following the expiry of a period of six months after the date when such notice is given.

(8) This Article shall cease to have effect in the event that an agreement for the avoidance of double taxation with respect to taxes on income, providing for similar exemptions to those in this Article, enters into force between the Contracting Parties. "

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

31 October 2000

Explanatory Note

This Order declares under section 49 of the Inland Revenue Ordinance (Cap. 112) that it is expedient for the purpose of affording relief from double taxation that the arrangements specified in Article 10 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Denmark concerning Scheduled Air Services done at Hong Kong on 14 March 2000 should have effect in relation to tax under that Ordinance.