

L.N. 184 of 2004

**SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF THE
REPUBLIC OF SINGAPORE) (AVOIDANCE OF DOUBLE
TAXATION ON INCOME FROM SHIPPING OR
AIRCRAFT OPERATIONS) 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—

- (a) that the arrangements specified in section 2 have been made with the Government of the Republic of Singapore with a view to affording relief from double taxation in relation to income tax and other taxes of a similar character imposed by the laws of the Republic; and
- (b) that it is expedient that those arrangements should have effect.

2. Arrangements specified

The arrangements specified for the purposes of section 1(a) are the arrangements in Articles 1 to 6 of the Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the Republic of Singapore for the Avoidance of Double Taxation on Income of an Enterprise Operating Ships or Aircraft in International Traffic done in duplicate at Singapore on 28 November 2003 in the English language, the text of which Articles is reproduced in the Schedule.

SCHEDULE

[s. 2]

ARTICLES 1 TO 6 OF THE AGREEMENT BETWEEN THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION ON INCOME OF AN ENTERPRISE OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL TRAFFIC

Article 1**TAXES COVERED**

1. The existing taxes to which this Agreement shall apply are:
 - (a) in the case of the Hong Kong Special Administrative Region, profits tax and salaries tax;
 - (b) in the case of Singapore, the income tax.
2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting Party after the signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph (1) of this Article. The competent authorities of the Contracting Parties shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 2**GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "a Contracting Party" means the Hong Kong Special Administrative Region or Singapore, as the context requires;
 - (b) the term "Contracting Parties" means the Hong Kong Special Administrative Region and Singapore;
 - (c) the term "person" includes an individual, a company and any other body of persons, whether incorporated or unincorporated;
 - (d) the term "an enterprise of a Contracting Party" means an enterprise carried on by—
 - (i) a company or body of persons managed and controlled in the Hong Kong Special Administrative Region or Singapore, as the case may be; or

- (ii) an individual who:
 - (aa) in the case of the Hong Kong Special Administrative Region is a permanent or temporary resident for the purpose of the Inland Revenue Ordinance;
 - (bb) in the case of Singapore is a resident for the purpose of Singapore income tax;
- (e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting Party except when the ship or aircraft is operated solely between places in the other Contracting Party;
- (f) the term “competent authority” means, in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative or any person or body authorised to perform any functions at present exercisable by the Commissioner, or similar functions and, in the case of Singapore, the Minister for Finance or his authorised representative;
- (g) the term “income” includes revenues, gross receipts and profits from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise including:
 - (i) profits from rental on a bareboat charter basis of ships or aircraft where the rental is incidental to the operation of ships or aircraft in international traffic;
 - (ii) income or profits from the sale of tickets or similar documents and the provision of services connected with such transport where such provision of services is incidental to the operation of ships or aircraft in international traffic, either for the enterprise itself or for any other enterprise;
 - (iii) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic;
 - (iv) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party concerning the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 3

SHIPPING AND AIR TRANSPORT

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Contracting Party shall be exempt from taxes imposed on income in the other Contracting Party.
2. Gains derived by an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft shall be exempt from taxes imposed in the other Contracting Party.
3. The provisions of paragraphs (1) and (2) of this Article shall also apply to income or gains from the participation in a pool, a joint business or an international operating agency.
4. Remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Contracting Party. However, if the remuneration is derived by a resident of the other Contracting Party, it may also be taxed in that other Contracting Party.

Article 4

MUTUAL AGREEMENT PROCEDURE

The competent authorities of the Contracting Parties shall endeavour to resolve by consultation any difficulties or doubts arising as to the interpretation or application of this Agreement.

Article 5

ENTRY INTO FORCE

Each Contracting Party shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1 April in the calendar year next following that in which this Agreement enters into force;

(b) in Singapore, in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year next following the year in which this Agreement enters into force.

Article 6

TERMINATION

This Agreement shall remain in force indefinitely but either Contracting Party may terminate this Agreement by giving written notice of termination at least six months before the end of any calendar year after the expiration of five years from the date of its entry into force. In such event, this Agreement shall cease to have effect:

- (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1 April in the calendar year next following that in which notice is given;
- (b) in Singapore, in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year next following the year in which notice is given.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
16 November 2004

Explanatory Note

An agreement dated 28 November 2003 has been made between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Singapore for the avoidance of double taxation on income from shipping or aircraft operations ("Agreement"). This Order specifies the arrangements in Articles 1 to 6 of the Agreement as double taxation relief arrangements under section 49 of the Inland Revenue Ordinance (Cap. 112) and declares that it is expedient that those arrangements should have effect. The effect of such a declaration is that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) notwithstanding anything in any enactment.