

財經事務及庫務局
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香港下亞厘畢道
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FINANCIAL SERVICES AND
THE TREASURY BUREAU
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7 July 2010

Mr Timothy TSO
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Mr TSO,

**Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion
with respect to Taxes on Income) (Brunei Darussalam) Order
(L.N. 89 of 2010)**

I refer to your letter dated 6 July 2010 on the terms “基金會” and “協會” in the Chinese text of the captioned Order.

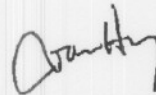
Article 11(3) provides that if interest is paid to the institutions set out in the Article, the interest is exempted from tax from the relevant jurisdiction. Subparagraph (a) of that Article lists out the institutions for the case of Hong Kong while subparagraph (b) lists out those for Brunei Darussalam.

“基金會” is used as the Chinese rendition of “foundation” in Article 11(3)(a)(iii) (i.e. for the case of Hong Kong), which rendition is in accordance with our local legislation. On the other hand, the word “foundation” in Article 11(3)(b)(v) (i.e. for the case of Brunei Darussalam) is rendered as “協會”. It is because while the term “基金會” has an established meaning equivalent to “foundation” in the context of Hong Kong, it is not certain whether “基金會” has been so used to convey the same meaning in the context of Brunei Darussalam,

thus “協會”, which is a more general term, is used.

Moreover, the difference has no bearing on the legal effect of the Article because in both provisions, “foundation” is given as an example of the institutions intended to be covered only (see the words “such as” before “foundation”); the determinant for both provisions is “set up by the Government of Hong Kong/Brunei Darussalam under statutory law”, which meaning is not restricted in any sense by the examples which follow.

Yours sincerely,



(Ms Joan Hung)

for Secretary for Financial Services
and the Treasury

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