

財 經 事 務 及 庫 務 局  
( 庫 務 科 )  
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中 區 政 府 合 署

**FINANCIAL SERVICES AND  
THE TREASURY BUREAU**  
(The Treasury Branch)  
Central Government Offices,  
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本函檔號 Our Ref. : FIN CR 42/10/2041/46  
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Clerks to Subcommittee  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong  
(Attn: Ms Anita Sit)

**CB(1)2890/09-10(01)**

21 September 2010

Dear Ms Sit,

**Subcommittee on the three Inland Revenue (Double Taxation Relief and  
Prevention of Fiscal Evasion with respect to Taxes on Income) Orders  
gazetted on 2 July 2010**

**Follow-up to meeting on 13 September 2010**

I refer to your letter dated 14 September 2010 and attach our  
response (at Annex) to the issues raised at the captioned meeting.

Yours sincerely,

( Ms Joan Hung )  
for Secretary for Financial Services  
and the Treasury

## Annex

### **Item (a) Rationale for Inclusion of the two Indonesian Entities in the Agreement with Indonesia**

Pusat Investasi Pemerintah (PIP), which is also known as the Government Investment Centre, is an Indonesian Government-owned fund engaged in equity, debt and infrastructure investment, etc. It is managed by the Ministry of Finance. Lembaga Pembiayaan Ekspor Indonesia (LPEI) (or the Indonesia Eximbank) is the export financing agency of the Indonesian Government. It is a statutory body to facilitate national export growth.

2. It is common international practice for parties to a Comprehensive Agreement for Avoidance of Double Taxation (CDTA) to provide exemption for specific entities of a contracting party from being taxed on interest income derived from the other contracting party on the basis that such entities and their activities are of governmental nature. Hong Kong would seek to restrict the list to government bodies, central banks, and statutory or public entities discharging government functions. We would seek to exclude state-owned enterprises that are engaged in purely commercial activities. The lists agreed and adopted in the signed CDTAs represent the negotiated outcome with respective treaty partners which took into account the overall package of the agreements and their benefits to Hong Kong.

### **Item (b) Suggestion for using the Chinese Term “協會” in the Agreement with Brunei Darussalam**

3. In our reply of 7 July 2010 to the Assistant Legal Adviser, we explained the reasons for using the term “協會” in Article 11(3)(b)(v) (i.e. for the case of Brunei Darussalam). Having considered Members’ views, we agree to amend the term “協會” in Article 11(3)(b)(v) to “基金會” for consistency with Article 11(3)(a)(iii) of the Agreement. Draft Resolution to that effect is attached at Enclosure for Members’ reference.

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**Interpretation and General Clauses Ordinance**

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**Resolution**

(Under section 34(2) of the Interpretation and General Clauses Ordinance  
(Cap. 1))

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

**Resolved** that the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order, published in the Gazette as Legal Notice No. 89 of 2010 and laid on the table of the Legislative Council on 7 July 2010, be amended as set out in the Schedule.

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**Schedule**

[para. 2]

**Amendment to Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order**

**1. Schedule amended**

The Schedule, Chinese text, Part 1, Article 11, paragraph 3(b)(v)—

**Repeal**

“協會”

**Substitute**

“基金會”.

## Interpretation and General Clauses Ordinance

### Resolution of the Legislative Council

#### Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order

Resolution made and passed by the Legislative Council under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) on 2010.

**Resolved** that the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order, published in the Gazette as Legal Notice No. 89 of 2010 and laid on the table of the Legislative Council on 7 July 2010, be amended as set out in the Schedule.

## Schedule

[para. 2]

### Amendment to Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order

1. **Schedule amended**

The Schedule, Chinese text, Part 1, Article 11, paragraph 3(b)(v)---

**Repeal**

“協會”

**Substitute**

“基金會”.

Clerk to the Legislative Council

2010