

L.N. 123 of 1999

SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF
THE RUSSIAN FEDERATION 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 Russian Federation with a view to affording relief from double taxation in relation to income tax and tax of a similar character imposed by the laws of that Federation, and that it is expedient that those arrangements should have effect.

2. Arrangements specified

The arrangements mentioned in section 1 are in Article 12 of the Air Services Agreement between the Government of Hong Kong and the Government of the Russian Federation done in duplicate at Hong Kong on 22 January 1999 in the English and Russian languages as specified in the Schedule and having effect according to the tenor of that Agreement.

SCHEDULE [s. 2]

ARTICLE 12

of the

AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA AND THE
GOVERNMENT OF THE RUSSIAN FEDERATION

"ARTICLE 12

Avoidance of Double Taxation

(1) Income or 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 taxable only in the area of that Contracting Party.

(2) Capital and assets of an airline of one Contracting Party relating to the operation of aircraft in international traffic shall be taxable only in the area of that Contracting Party.

(3) Gains from the alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft derived by an airline of one Contracting Party shall be taxable only in the area of that Contracting Party.

(4) For the purposes of this Article:

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

(i) the charter or rental of aircraft;

(ii) the sale of tickets or similar documents, and the provision of services connected with such carriage, either for the airline itself or for any other airline; 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, 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, in the case of the Russian Federation, an airline the substantial ownership and effective control of which are vested in the Government of the Russian Federation or nationals of the Russian Federation;

(d) 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 the Russian Federation, the Ministry of Finance of the Russian Federation or its 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 16 (Settlement of Disputes) shall not apply to any such dispute.

(6) This Article shall enter into force on the date of the last written notification confirming that the Contracting Parties have fulfilled all the internal procedures for the entry into force of this Article and the Article shall be applied:

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

(b) in the Russian Federation, for any tax year or period beginning on or after 1st January in the calendar year next following that in which the Article enters into force.

(7) Where either Contracting Party notifies to the other Contracting Party the

termination of this Agreement under Article 18, this Article shall cease to have effect:

(a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1st April in the calendar year next following that in which the notice of termination is given;

(b) in the Russian Federation, for any tax year or period beginning on or after 1st January in the calendar year next following that in which the notice of termination is given.

(8) The provisions of Article 18 (Termination) and Article 20 (Entry into Force) shall not be applicable to this Article.

(9) 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."

Mable CHAN

Clerk to the Executive Council

Council Chamber

11 May 1999

Explanatory Note

This Order specifies the arrangements contained in Article 12 of the Air Services Agreement between the Government of Hong Kong and the Government of the Russian Federation done at Hong Kong on 22 January 1999, as set out in the Schedule, as a double taxation relief arrangement under section 49 of the Inland Revenue Ordinance (Cap. 112).