

立法會
Legislative Council

LC Paper No. LS11/04-05

**Paper for the House Committee Meeting
on 29 October 2004**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 October 2004**

Date of tabling in LegCo : 27 October 2004

Amendment to be made by : 24 November 2004 (or 15 December 2004 if extended by resolution)

Inland Revenue Ordinance (Cap. 112)

Specification of Arrangements (Government of the Macao Special Administrative Region) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 162)

By this Order made by the Chief Executive in Council under section 49 of the Inland Revenue Ordinance (Cap. 112) (the Ordinance), it is declared that arrangements have been made with the Government of the Macao Special Administrative Region (Macao) to provide relief from double taxation in relation to income tax and other taxes of a similar character imposed by the laws of Macao and that those arrangements should have effect.

2. The arrangements are specified in section 2 of the Order. They are the arrangements set out in section 10 of the Air Services Arrangement between the Hong Kong Special Administrative Region (HKSAR) and Macao done in Hong Kong on 13 October 2003 (the Arrangement) in the Chinese language. (The Arrangement has come into effect on 13 October 2003.) An English translation of the text of the Section is reproduced in the Schedule to the Order. The arrangements exempt airlines from all taxes on income or profits derived from the operation of aircraft in air services, including participation in a pool, a joint business or international agency; on capital and assets of an airline relating to the operation of aircraft in air services; and on gains received from the alienation of aircraft operated in air services and movable property pertaining to the operation of such aircraft.

3. Under section 49(1) of the Ordinance, section 10 of the Arrangement is required to be declared by Order to become effective. The section would apply in

HKSAR for any year of assessment beginning on or after 1 April in the calendar year next following the year in which the section comes into effect.

4. Members may wish to refer to the LegCo Brief (ref: FIN CR46/03) issued by the Financial Services and the Treasury Bureau on 21 October 2004 for further and background information.

Statute Law (Miscellaneous Provisions) Ordinance 2002 (23 of 2002)

**Statute Law (Miscellaneous Provisions) Ordinance 2002 (23 of 2002)
(Commencement) Notice 2004 (L. N. 163)**

5. By this Notice made under section 2(4) of the Statute Law (Miscellaneous Provisions) Ordinance 2002 (23 of 2002) (the Ordinance), the Secretary for Justice has appointed 1 November 2004 as the day on which sections 103(a), 104, 105 and 111 of the Ordinance shall come into effect.

6. The provisions inaugurated by the Notice all relate to the new power of the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel under the new section 9AB of the Legal Practitioners Ordinance (Cap. 159) added by section 104 of the Ordinance. The new section would allow the Tribunal Convenor to dispose of complaints upon admission of liability or consent of the persons being complained of by ordering payment of fixed penalties and fixed investigation costs prescribed by rules made by the Council of the Law Society of Hong Kong (the Council). Section 103(a) adds new subsections (1A) and (1B) to section 9 of Cap. 159 to enable the Council to refer a matter to be dealt with by the Tribunal Convenor under section 9AB.

7. The rules referred to in sections 9(1A) and 9AB of Cap. 159 had been made and were gazetted on 21 November 2003. They are known as the Summary Disposal of Complaints (Solicitors) Rules (Cap. 159 sub. leg. AD) (the Rules). The Rules had been studied by a subcommittee of the House Committee and amendments were moved on 26 November 2003. By virtue of section 1 of the Rules, the Rules will come into operation on the date appointed for the commencement of section 111 of the Ordinance. Hence, the Rules will be effective simultaneously with the sections commenced by the Notice.

**Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)
Merchant Shipping (Prevention and Control of Pollution) (Specification of
Substances) (Amendment) Order 2004 (L. N. 128 of 2004) (Commencement)
Notice 2004 (L. N. 164)**

8. By this Notice made under section 1 of the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substance) (Amendment) Order 2004 (L.N. 128 of 2004) (the Amendment Order), the Director of Marine has

appointed 1 November 2004 as the date on which the Amendment Order will come into effect.

9. The Amendment Order amends the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) Order (Cap. 413 sub. leg. F) to implement the recently revised list of substances other than oil annexed to the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil 1973. Members may wish to refer to the LegCo Brief (ref: MA90/19) on the Amendment Order issued by the Economic Development Branch of the Economic Development and Labour Bureau on 25 June 2004 for background and further information.

10. No Panel of the LegCo has been consulted on the subsidiary legislation reported. No difficulties in the legal and drafting aspects of the subsidiary legislation have been observed.

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