

立法會
Legislative Council

LC Paper No. LS100/07-08

**Paper for the House Committee Meeting
on 27 June 2008**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 20 June 2008**

Date of tabling in LegCo : 25 June 2008

Amendment to be made by : 15 October 2008 (or 5 November 2008
if extended by resolution)

Inland Revenue Ordinance (Cap. 112)

**Inland Revenue (Double Taxation Relief on Income from Aircraft Operations)
(United Mexican States) Order (L.N. 172)**

**Inland Revenue (Double Taxation Relief on Income from Aircraft Operations)
(Republic of Finland) Order (L.N. 173)**

**Specification of Arrangements (Government of the Republic of Finland)
(Avoidance of Double Taxation on Income from Aircraft Operation) (Revocation)
Order (L.N. 174)**

On 20 November 2006, the Government of the Hong Kong Special Administrative Region of the People's Republic of China (the HKSAR Government) and the Government of the United Mexican States signed an agreement concerning air services (the Mexican Agreement), which contains a provision on avoidance of double taxation relating to income or profits derived from aircraft operations.

2. L.N. 172 specifies the arrangements in Article 11 of the Mexican Agreement as double taxation relief arrangements under section 49 of the Inland Revenue Ordinance (Cap. 112) (IRO) and declares that it is expedient that those arrangements should have effect. The effect of the declaration is that the arrangements have effect in relation to tax under IRO notwithstanding anything in any enactment.

3. The double taxation relief arrangements for income or profits derived from aircraft operations agreed between the HKSAR Government and the Government of the Republic of Finland (the Finland Government) were originally covered in a double taxation avoidance (DTA) article to be included in the agreement

between the two Governments concerning air services (the Air Services Agreement). The Specification of Arrangements (Government of the Republic of Finland) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (Cap. 112 sub. leg. AR) (the original Order) was made in 2005 to specify the arrangements in the DTA article as double taxation relief arrangements under section 49 of IRO and to declare that the arrangements should have effect.

4. After the making of the original Order, the HKSAR Government received a notification from the Finland Government that it would not be able to approve the insertion of the DTA article in the Air Services Agreement. Subsequently, on 19 November 2007, the two Governments signed an agreement for the avoidance of double taxation with respect to taxes on income from aircraft operation (the Finland Agreement), which is a stand-alone air services DTA agreement modelled on the DTA article.

5. L.N. 173 specifies the arrangements in Articles 1 to 6 of the Finland Agreement as double taxation relief arrangements under section 49 of IRO and declares that it is expedient that those arrangements should have effect. The effect of the declaration is that the arrangements have effect in relation to tax under IRO notwithstanding anything in any enactment.

6. L.N. 174 is made under section 49(4) of IRO to revoke the original Order. According to paragraph 6 of the LegCo Brief (File Ref: THB CR 17/936/89(04)) issued by the Transport and Housing Bureau on 18 June 2008, the revocation is necessary following the signing of the Finland Agreement.

7. According to paragraph 14 of the LegCo Brief, the Hong Kong aircraft operator holding the relevant licence to operate services to Mexico and Finland has been consulted on the double taxation relief arrangements and it supports the arrangements.

8. The Panel on Economic Development has not been consulted on the above Orders.

9. L.N. 172 to L.N. 174 will come into operation on 26 November 2008.

10. No difficulties in relation to the legal and drafting aspects of the above items of subsidiary legislation have been identified.

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