

## 立法會參考資料摘要

《稅務條例》  
(第 112 章)

### 《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》

#### 引言

在二零一一年五月三日的會議上，行政會議**建議**，行政長官**指令**根據《稅務條例》(第 112 章)第 49(1A)條，制定《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》(命令)(載於附件A)。命令旨在實施香港特別行政區(香港特區)在二零一零年八月十二日與列支敦士登公國(列支敦士登)簽訂有關就收入及資本稅項避免雙重課稅及防止逃稅的協定(列支敦士登協定)。

#### 理據

##### 全面性避免雙重課稅協定的好處

2. 雙重課稅是指同一項收入在一個以上的稅收管轄區被徵收相類似的稅項。國際社會一般認同，雙重課稅對貨品和服務交流，以及資金、科技和人才的流動造成障礙，而且窒礙各經濟體系之間經貿關係的發展。作為一項方便營商措施，政府的政策是與貿易及投資伙伴簽訂全面性避免雙重課稅協定(全面性協定)，以盡量避免雙重課稅。

3. 香港採用地域來源原則徵稅，即只就源自香港的收入徵稅，所以香港居民從香港以外來源所得的收入不須在香港課稅，因而不會被雙重徵稅。然而，如外地政府向其居民就源自香港的收入徵稅，就可能出現雙重課稅的情況。雖然許多地區都會就已在香港繳稅的收入向其居民提供單方面的稅務寬免，但簽訂全面性協定，可在避免雙重課稅方面提供

更明確依據及更穩定的環境。此外，全面性協定提供的稅務寬免，可能較某些稅收管轄區單方面的寬免更為優厚。

### 列支敦士登協定的好處

4. 如沒有列支敦士登協定，香港的公司從設於列支敦士登的常設機構(例如銷售點)所得的利潤，如果源自香港，就可能須在兩地課稅。根據列支敦士登協定，這些公司在列支敦士登所繳的稅款，可以從香港所徵收的相關稅項中抵免，從而避免雙重徵稅。

5. 根據列支敦士登協定，香港居民受僱在列支敦士登工作，如果其入息並非由一系列支敦士登實體(或其代表)支付及承擔，而他在列支敦士登的總逗留時間在有關的 12 個月內不超過 183 日，則無須在列支敦士登繳稅。

6. 現時香港居民從國際航運賺取來自列支敦士登的利潤，須在該國課稅。根據列支敦士登協定，列支敦士登會豁免該等航運利潤的稅項。

7. 整體來說，列支敦士登協定明確劃分了兩地的徵稅權，並訂明各類收入的稅率寬免。這會有助兩地的投資者更有效地評估其跨境經濟活動的潛在稅務負擔，加強兩地的經濟貿易連繫，以及進一步鼓勵列支敦士登和香港企業在彼此的地方營商或投資。

### 列支敦士登協定內的資料交換條文

8. 自二零一零年三月起實施的《2010 年稅務(修訂)條例》，讓香港可以在全面性協定內，採用經濟合作與發展組織(經合組織)二零零四年版本的資料交換條文。在審議有關的條例草案期間，政府向法案委員會提交了資料交換條文的樣本(載於附件 B)，並承諾在我們把全面性協定提交立法會通過時，會特別指出所簽訂的全面性協定與該樣本的不同之處(如有的話)。

9. 列支敦士登協定載有以經合組織二零零四年版本為藍本的資料交換條文，並已採納資料交換條文樣本中的所有保障，尤其是 –

- (a) 該條文只訂明締約雙方在接獲具體要求後須交換資料的責任，即不會自動或自發交換資料；

- (b) 資料交換的範圍限於列支敦士登協定所涵蓋的稅項；
- (c) 所索取的資料應為可預見相關的資料，即不得作打探性質的資料交換請求；
- (d) 規定所交換資料須保密及限制其用途，一如在資料交換條文樣本中所列載者；
- (e) 資料只可向稅務當局披露，不得透露予其監督機關；
- (f) 所索取的資料不得向第三司法管轄區披露；以及
- (g) 在資料交換條文樣本中所載述的一些情況下，締約雙方沒有責任提供資料。

## 法理依據

10. 根據條例第 49(1A)條，行政長官會同行政會議可藉命令宣布，已與香港以外地區的政府訂立安排，旨在就該地區的法律所施加的入息稅及其他相類似性質的稅項給予雙重課稅寬免。在列支敦士登協定簽訂後，行政長官會同行政會議需要藉命令宣布已與列支敦士登訂立相關安排，以實施列支敦士登協定。

## 其他方案

11. 由行政長官會同行政會議根據條例第 49(1A)條作出命令，是實施列支敦士登協定的唯一方法。除此之外，沒有其他方案。

## 命令

12. 命令**第 2 條**宣布，已訂立第 3 條所指明，有關列支敦士登法律所施加的入息稅及其他相類似性質的稅項的雙重課稅寬免安排，而該等安排應該生效。**第 3 條**述明，有關安排是載於列支敦士登協定的第一至二十九條及列支敦士登協定議定書的第 1 及 2 段。上述各條和各段的條文，載於命令的**附表**。

## 立法程序時間表

13. 立法程序時間表如下 –

刊登憲報日期	二零一一年五月十三日
提交立法會日期	二零一一年五月十八日
命令生效日期	二零一一年七月七日

## 建議的影響

C 14. 建議對財政、經濟及公務員會有影響，詳情載於附件 C。建議符合《基本法》，包括有關人權的條文。建議不會影響條例及其附屬法例現行條文的約束力。建議對生產力、環境或可持續發展沒有影響。

## 公眾諮詢

15. 商界和專業界別一向都支持我們與貿易及投資伙伴訂立更多全面性協定這項政策。

## 宣傳

16. 在二零一零年八月十二日簽訂列支敦士登協定時，我們已作出宣傳。我們會安排發言人回答傳媒和公眾查詢。

## 背景

D 17. 列支敦士登協定是香港與另一稅收管轄區訂立的第十四份全面性協定。列支敦士登協定的主要條文摘要載於附件 D。

18. 我們先後在二零零三年十二月與比利時、二零零五年九月與泰國、二零零六年八月與中國內地、二零零七年十一月與盧森堡、二零零八年十二月與越南、二零一零年三月與文萊、荷蘭及印尼、二零一零年五月與匈牙利、科威特及奧地利、二零一零年六月與英國及愛爾蘭、二零一零年八月與列支敦士登、二零一零年十月與法國、二零一零年十一

月與日本、二零一零年十二月與新西蘭及瑞士、二零一一年三月與葡萄牙，以及二零一一年四月與西班牙訂立全面性協定。

## 查詢

19. 如對本摘要有任何查詢，請聯絡財經事務及庫務局首席助理秘書長(庫務)關如璧女士（電話：2810 2370）。

財經事務及庫務局  
二零一一年五月十一日

## 立法會參考資料摘要

《稅務條例》  
(第 112 章)

### 《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅) (列支敦士登公國)令》

#### 附件

- 附件 A 《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》
- 附件 B 資料交換樣本條文（譯本）
- 附件 C 建議對財政、經濟及公務員的影響
- 附件 D 香港與列支敦士登的全面性避免雙重課稅協定主要條文摘要

《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》

第 1 條

1

**《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》**

(由行政長官會同行政會議根據《稅務條例》(第 112 章)第 49(1A)條作出)

**1. 生效日期**

本命令自 2011 年 7 月 7 日起實施。

**2. 根據第 49(1A)條作出的宣布**

為施行本條例第 49(1A)條，現宣布 —

- (a) 已與列支敦士登公國政府訂立第 3(1)條所指明的安排，旨在就該國的法律所施加的入息稅及其他相類似性質的稅項給予雙重課稅寬免；而
- (b) 該等安排的生效是屬於有利的。

**3. 指明的安排**

(1) 為第 2(a)條的目的而指明的安排是載於 —

- (a) 在 2010 年 8 月 12 日在瓦杜茲以英文一式兩份簽訂的、名為“Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Principality of Liechtenstein for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital”的協定(在本命令中，該協定的中文譯名為“《中華人民共和國香港特別行政區政府與列支敦士登公國政府就收入及資本稅項避免雙重課稅和防止逃稅協定》”)的第一至二十九條的安排；及

《稅務(關於收入及資本稅項的雙重課稅寬免和防止逃稅)(列支敦士登公國)令》

第 3 條

2

- (b) 在 2010 年 8 月 12 日在瓦杜茲以英文一式兩份簽訂的、該協定的議定書的第 1 及 2 段的安排。
- (2) 上述協定的條文的英文本載錄於附表第 1 部；而其中文譯本亦於該部列明。
- (3) 上述議定書的條文的英文本載錄於附表第 2 部；而其中文譯本亦於該部列明。

附表

[第 3 條]

第 1 部

《中華人民共和國香港特別行政區政府與列支敦士登公  
國政府就收入及資本稅項避免雙重課稅和防止逃稅協  
定》第一至二十九條

Article 1

Persons Covered

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting Party or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are in particular:
  - (a) in the case of the Hong Kong Special Administrative Region,
    - (i) profits tax;
    - (ii) salaries tax; and
    - (iii) property tax;whether or not charged under personal assessment;
  - (b) in the case of the Principality of Liechtenstein,
    - (i) the personal income tax (Erwerbssteuer);
    - (ii) the corporate income tax (Ertragssteuer);
    - (iii) the corporation taxes (Gesellschaftssteuern);
    - (iv) the real estate capital gains tax (Grundstücksgewinnsteuer);
    - (v) the wealth tax (Vermögenssteuer); and
    - (vi) the coupon tax (Couponsteuer);whether or not charged under personal assessment.
4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes, as well



as any other taxes falling within paragraphs 1 and 2 of this Article which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of this Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Liechtenstein tax", as the context requires.

### Article 3

#### General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
- (a) (i) the term "Hong Kong Special Administrative Region" means any territory where the tax laws of the Hong Kong Special Administrative Region apply;
  - (ii) the term "Liechtenstein" means the Principality of Liechtenstein, and, when used in a geographical sense, the area in which the tax laws of the Principality of Liechtenstein apply;
  - (b) the term "business" includes the performance of professional services and of other activities of an independent character;
  - (c) the term "company" means any body corporate, as well as entities and special asset endowments that are treated as a body corporate for tax purposes;

- (d) the term "competent authority" means:
  - (i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative;
  - (ii) in the case of the Principality of Liechtenstein, the Government of the Principality of Liechtenstein or its authorised representative;
- (e) the terms "a Contracting Party" and "the other Contracting Party" mean the Hong Kong Special Administrative Region or the Principality of Liechtenstein, as the context requires;
- (f) the term "enterprise" applies to the carrying on of any business;
- (g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;
- (i) the term "national", in relation to Liechtenstein, means:
  - (i) any individual possessing the nationality or citizenship of Liechtenstein; and

- (ii) any person other than an individual deriving its status as such from the laws in force in Liechtenstein;
  - (j) the term “person” includes individuals, companies, trusts, partnerships, dormant inheritances and any other body of persons;
  - (k) the term “tax” means the Hong Kong Special Administrative Region tax or Liechtenstein tax, as the context requires.
2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

#### Article 4

##### Resident

1. For the purposes of this Agreement, the term “resident of a Contracting Party” means:
- (a) in the case of the Hong Kong Special Administrative Region,
    - (i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;
    - (ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two

- consecutive years of assessment one of which is the relevant year of assessment;
  - (iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being managed or controlled in the Hong Kong Special Administrative Region;
  - (iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being managed or controlled in the Hong Kong Special Administrative Region;
- (b) in the case of Liechtenstein,
- (i) any individual who, under the laws of Liechtenstein, is a resident in Liechtenstein;
  - (ii) a company incorporated in Liechtenstein or, if incorporated outside Liechtenstein, being managed or controlled in Liechtenstein;
  - (iii) any person other than an individual constituted under the laws of and established in Liechtenstein or, if constituted and established outside Liechtenstein, being managed or controlled in Liechtenstein;
- (c) in the case of either Contracting Party, the Government of that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
  - (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
  - (b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
  - (c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party in which he has the right of abode (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Liechtenstein);
  - (d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Liechtenstein, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Liechtenstein, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

## Article 5

### Permanent Establishment

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop; and
  - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term “permanent establishment” also encompasses:
  - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than twelve months;
  - (b) the furnishing of services, including consultancy services, by an enterprise directly or through employees or other personnel engaged by the enterprise for such purpose, but only in connection with a site, project or supervisory activities referred to in subparagraph (a), and only if activities of that

nature continued (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days within any twelve month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
6. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### Article 6

##### Income from Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party shall be taxable only in that other Party.
2. The term “immovable property” shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, quarries, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

#### Article 7

##### Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraphs 3 and 8, where an enterprise of a Contracting Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, or on the basis of such other method as may be prescribed by the laws of that Party, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such apportionment or other method as may be customary; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.
8. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.

**Article 8**

**Shipping and Air Transport**

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:
  - (a) revenues and gross receipts from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise in international traffic including:
    - (i) income derived from the lease of ships or aircraft on a bareboat charter basis where such lease is incidental to the operation of ships or aircraft in international traffic;
    - (ii) income derived from the sale of tickets and the provision of services connected with such transport whether for the enterprise itself or for any other enterprise, provided that in the case of provision of services, such provision is incidental to the operation of ships and aircraft in international traffic;
  - (b) interest on funds directly connected with the operation of ships or aircraft in international traffic;

- (c) profits from the lease of containers by the enterprise, when such lease is incidental to the operation of ships or aircraft in international traffic.

**Article 9**

**Associated Enterprises**

1. Where,
  - (a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or
  - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that

other Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

#### Article 10

##### Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party shall be taxable only in that other Party. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
2. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.
3. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company,

except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

#### Article 11

##### Interest

1. Interest arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in that other Party.
2. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term “interest” shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

## Article 12

### Royalties

1. Royalties arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.
2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 3 per cent of the gross amount of the royalties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Party in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

## Article 13

### Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and



situated in the other Contracting Party shall be taxable only in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.
3. Gains derived by an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Party.
4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:
  - (a) quoted on such stock exchange as may be agreed between the Parties; or
  - (b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation that do not attract tax liability; or
  - (c) in a company deriving more than 50 per cent of its asset value from immovable property in which it carries on its business.

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting Party of which the alienator is a resident.

#### Article 14

##### Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:
  - (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and
  - (c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard

a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

#### Article 15

##### Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

#### Article 16

##### Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

#### Article 17

##### Pensions

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Party.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) paid under:
  - (a) the social security legislation of a Contracting Party; or
  - (b) a scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in a Contracting Party;

shall be taxable only in that Contracting Party.

#### Article 18

##### Government Service

1.
  - (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party, a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party, subdivision or authority shall be taxable only in that Party.
  - (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the

services are rendered in that Party and the individual is a resident of that Party who:

- (i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Liechtenstein, is a national of Liechtenstein; or
  - (ii) did not become a resident of that Party solely for the purpose of rendering the services.
2. (a) Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party, subdivision or authority shall be taxable only in that Party.
- (b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph (b) of paragraph 1 of this Article, any corresponding pension (whether a payment in lump sum or by instalments) shall be taxable only in that other Contracting Party.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party, a political subdivision or a local authority thereof.

## Article 19

### Students

Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education receives for the purpose of his maintenance or education shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## Article 20

### Other Income

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

## Article 21

### Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, shall be taxable only in that other Party.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Party.
3. Capital of an enterprise of a Contracting Party represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting Party.
4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Party.

## Article 22

### Methods for Elimination of Double Taxation

1. Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region, which shall not affect the general principle of this Article, Liechtenstein tax paid under the laws of Liechtenstein and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the

Hong Kong Special Administrative Region from sources in Liechtenstein, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. Subject to the provisions of the laws of Liechtenstein regarding the elimination of double taxation, which shall not affect the general principle hereof, double taxation shall be eliminated as follows:
  - (a) Where a resident of Liechtenstein derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the Hong Kong Special Administrative Region, Liechtenstein shall, subject to the provisions of subparagraphs (b) and (c), exempt such income or capital from tax, but may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
  - (b) Where a resident of Liechtenstein derives income which, in accordance with Articles 12, 14, 15 and 16 of this Agreement, may be taxed in the Hong Kong Special Administrative Region, Liechtenstein shall credit against Liechtenstein tax on this income the tax paid in accordance with the law of the Hong Kong Special Administrative Region and with the provisions of this Agreement. The amount of tax to be credited must not, however, exceed the Liechtenstein tax due on the income derived from the Hong Kong Special Administrative Region.
  - (c) Income from dividends within the meaning of Article 10 paid by a company that is a resident of the Hong Kong Special Administrative Region to a company that is a resident of

Liechtenstein and that are not deductible in determining the profits of the payer, shall not be taxed in Liechtenstein.

### Article 23

#### Non-Discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Liechtenstein, are nationals, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or nationals of that other Party (where that other Party is Liechtenstein) in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.
2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode in the Party (where the Party is the Hong Kong Special Administrative Region) or nationals of the Party (where the Party is Liechtenstein) in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on

enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Party.
5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

## Article 24

### Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic laws of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party in which he has the right of abode or is incorporated or otherwise constituted (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Liechtenstein). The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting Parties.
3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement. To that regard, it is not necessary to present a case according to paragraph 1.

4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.
5. Where,
  - (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement; and
  - (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party;any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this paragraph.

## Article 25

### Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:
  - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;

- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## Article 26

### Members of Government Missions

Nothing in this Agreement shall affect the fiscal privileges of members of government missions, including consular posts, under the general rules of international law or under the provisions of special agreements.

## Article 27

### Protocol

The attached Protocol shall be an integral part of this Agreement.

## Article 28

### Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of this Agreement shall thereupon have effect:
  - (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1 April of the calendar year next following that in which this Agreement enters into force;
  - (b) in Liechtenstein, for any taxable year beginning on or after 1 January of the calendar year next following that in which this Agreement enters into force.

## Article 29

### Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate this Agreement by giving the

other Contracting Party written notice of termination at least six months before the end of any calendar year following the fifth year after the entry into force. In such event, this Agreement shall cease to have effect:

- (a) in the Hong Kong Special Administrative Region, for any year of assessment beginning on or after 1 April of the calendar year next following that in which the notice is given;
- (b) in Liechtenstein, for any taxable year beginning on or after 1 January of the calendar year next following that in which the notice is given.

### (中文譯本)

### 第一條

### 所涵蓋的人

本協定適用於屬締約一方的居民或同時屬締約雙方的居民的人。

### 第二條

### 所涵蓋的稅項

1. 本協定適用於代締約方或其政治分部或地區主管當局課徵的收入及資本稅項，不論該等稅項以何種方式徵收。
2. 對總收入、總資本或收入或資本的組成部分課徵的所有稅項，包括對自轉讓動產或不動產所得的收益、企業支付的工資或薪金總額以及資本增值所課徵的稅項，須視為收入及資本稅項。



3. 以下稅項尤其屬本協定所適用的現有稅項：

(a) 就香港特別行政區而言，

(i) 利得稅；

(ii) 薪俸稅；及

(iii) 物業稅；

不論是否按個人入息課稅徵收；

(b) 就列支敦士登公國而言，

(i) 個人所得稅 (Erwerbssteuer)；

(ii) 公司所得稅 (Ertragssteuer)；

(iii) 公司稅 (Gesellschaftssteuern)；

(iv) 房地產資本增值稅 (Grundstücksgewinnsteuer)；

(v) 財富稅 (Vermögenssteuer)；及

(vi) 息票稅 (Couponsteuer)；

不論是否按個人入息課稅徵收。

4. 本協定亦適用於在本協定的簽訂日期後，在現有稅項以外課徵或為取代現有稅項而課徵的任何與現有稅項相同或實質上類似的稅項，以及適用於締約方將來課徵而又屬本條第 1 及 2 款所指的任何其他稅項。締約双方的主管當局須將其稅務法律的任何重大改變，通知對方的主管當局。

5. 現有稅項連同在本協定簽訂後課徵的稅項，以下稱為“香港特別行政區稅項”或“列支敦士登稅項”，按文意所需而定。

第三條

一般定義

1. 就本協定而言，除文意另有所指外：

(a) (i) “香港特別行政區”一詞指香港特別行政區的稅務法律所適用的任何地區；

(ii) “列支敦士登”一詞指列支敦士登公國，而該詞用於地理概念時，則指列支敦士登公國稅務法律所適用的地區；

(b) “業務”一詞包括進行專業服務及其他具獨立性質的活動；

(c) “公司”一詞指任何法團，以及就稅收而言視作法團的實體和特殊資產捐贈的基金；

(d) “主管當局”一詞：

- (i) 就香港特別行政區而言，指稅務局局長或其獲授權代表；
- (ii) 就列支敦士登公國而言，指列支敦士登公國政府或其獲授權代表；
- (e) “締約方”及“另一締約方”兩詞指香港特別行政區或列支敦士登公國，按文意所需而定；
- (f) “企業”一詞適用於任何業務的經營；
- (g) “締約方的企業”及“另一締約方的企業”兩詞分別指締約方的居民所經營的企業和另一締約方的居民所經營的企業；
- (h) “國際運輸”一詞指由締約方的企業營運的船舶或航空器所進行的任何載運，但如該船舶或航空器只在另一締約方內的不同地點之間營運，則屬例外；
- (i) “國民”一詞，就列支敦士登而言，指：
  - (i) 擁有利支敦士登國籍或公民身分的任何個人；及
  - (ii) 藉列支敦士登的現行法律而取得國民身分的任何並非個人的人；
- (j) “人”一詞包括個人、公司、信託、合夥、不活動遺產及任何其他團體；

- (k) “稅項”一詞指香港特別行政區稅項或列支敦士登稅項，按文意所需而定。

- 2. 在締約方於任何時候施行本協定時，凡有任何詞語在本協定中並無界定，則除文意另有所指外，該詞語須具有它當其時根據該方就本協定適用的稅項而施行的法律所具有的涵義，而在根據該方適用的稅務法律給予該詞語的任何涵義與根據該方的其他法律給予該詞語的涵義兩者中，以前者為準。

#### 第四條

##### 居民

- 1. 就本協定而言，“締約方的居民”一詞：

- (a) 就香港特別行政區而言，指：
  - (i) 通常居住於香港特別行政區的任何個人；
  - (ii) 在某課稅年度內在香港特別行政區逗留超過 180 天或在連續兩個課稅年度(其中一個是有關的課稅年度)內在香  
港特別行政區逗留超過 300 天的任何個人；
  - (iii) 在香港特別行政區成立為法團的公司，或在香港特別行政區以外成立為法團而在香港特別行政區內受管理或控制的公司；

- (iv) 根據香港特別行政區的法律組成的任何其他人士，或在香港特別行政區以外組成而在香港特別行政區內受管理或控制的任何其他人士；
  - (b) 就列支敦士登而言，指，
    - (i) 根據列支敦士登法律屬列支敦士登居民的任何個人；
    - (ii) 在列支敦士登成立為法團的公司，或在列支敦士登以外成立為法團而在列支敦士登內受管理或控制的公司；
    - (iii) 根據列支敦士登的法律組成，並在列支敦士登成立的任何並非個人的人，或在列支敦士登以外組成和成立而在列支敦士登內受管理或控制的任何並非個人的人；
  - (c) 就任何締約方而言，指該方政府。
2. 如任何個人因第 1 款的規定而同時屬締約雙方的居民，則該人的身分須按照下述規定斷定：
- (a) 如該人在其中一方有可供他使用的永久性住所，則該人須當作只是該方的居民；如該人在雙方均有可供他使用的永久性住所，則該人須當作只是與其個人及經濟關係較為密切的一方(重要利益中心)的居民；
  - (b) 如無法斷定該人在哪一方有重要利益中心，或該人在任何一方均沒有可供他使用的永久性住所，則該人須當作只是他的慣常居所所在的一方的居民；

- (c) 如該人在雙方均有或均沒有慣常居所，則該人須當作只是他擁有居留權(就香港特別行政區而言)的一方或他屬其國民(就列支敦士登而言)的一方的居民；
  - (d) 如該人既擁有香港特別行政區的居留權亦屬列支敦士登的國民，或該人既沒有香港特別行政區的居留權亦不屬列支敦士登的國民，則締約雙方的主管當局須透過共同協商解決該問題。
3. 如並非個人的人因第 1 款的規定而同時屬締約雙方的居民，則該人須當作僅屬其實際管理工作地點所處的一方的居民。

## 第五條

### 常設機構

1. 就本協定而言，“常設機構”一詞在企業透過某固定營業場所經營全部或部分業務的情況下，指該固定營業場所。
2. “常設機構”一詞尤其包括：
- (a) 管理工作地點；
  - (b) 分支機構；
  - (c) 辦事處；
  - (d) 工廠；

- (e) 作業場所；及
- (f) 礦場、油井或氣井、石礦場或任何其他開採自然資源的場所。

3. “常設機構”一詞亦包括：

- (a) 建築工地或建築、裝配或安裝工程，或與之有關連的監督管理活動，但僅限於該工地、工程或活動持續十二個月以上的情況；
- (b) 企業在與(a)段所提述的工地、工程或監督管理活動有關連的情況下提供的服務(包括顧問服務)，該等服務可由該企業直接提供，或透過僱員或其他由該企業為提供該等服務而聘用的人員提供，但前提是屬該等性質的活動須於任何十二個月的期間內，在締約方(為同一個項目或相關連的項目)持續一段超過 183 天的時間或累計超過 183 天的多段時間。

4. 儘管有本條以上各款的規定，“常設機構”一詞須當作不包括：

- (a) 純粹為了貯存、陳列或交付屬於有關企業的貨物或商品的目的而使用設施；
- (b) 純粹為了貯存、陳列或交付的目的而維持屬於有關企業的貨物或商品的存貨；
- (c) 純粹為了由另一企業作加工的目的而維持屬於有關企業的貨物或商品的存貨；

- (d) 純粹為了為有關企業採購貨物或商品或收集資訊的目的而維持固定營業場所；
- (e) 純粹為了為有關企業進行任何其他屬準備性質或輔助性質的活動而維持固定營業場所；
- (f) 純粹為了(a)至(e)段所述的活動的任何組合而維持固定營業場所，但該固定營業場所因該項組合而產生的整體活動須屬準備性質或輔助性質。

- 5. 凡某企業透過經紀、一般佣金代理人或任何其他具獨立地位的代理人在某締約方經營業務，則只要該等人士是在其業務的通常運作中行事的，該企業不得僅因它如此經營業務而被當作在該方設有常設機構。
- 6. 如屬某締約方的居民的某公司，控制屬另一締約方的居民的其他公司或在該另一締約方(不論是透過常設機構或以其他方式)經營業務的其他公司，或受該其他公司所控制，此項事實本身並不會令上述其中一間公司成為另一間公司的常設機構。

## 第六條

### 來自不動產的收入

- 1. 某締約方的居民自位於另一締約方的不動產而取得的收入(包括自農業或林業取得的收入)，只可在該另一方徵稅。
- 2. “不動產”一詞具有該詞根據有關財產所處的締約方的法律而具有的涵義。該詞在任何情況下須包括：附屬於不動產的財產、用於

農業及林業的牲畜和設備、關於房地產的一般法律規定適用的權利、不動產的使用收益權以及作為開採或有權開採礦藏、石礦、源頭及其他自然資源的代價而取得不固定或固定收入的權利；船舶、船艇及航空器不得視為不動產。

3. 第 1 款的規定適用於自直接使用、出租或以任何其他形式使用不動產而取得的收入。
4. 第 1 及 3 款的規定亦適用於來自企業的不動產的收入。

### 第七條

#### 營業利潤

1. 某締約方的企業的利潤只可在該方徵稅，但如該企業透過位於另一締約方的常設機構在該另一方經營業務則除外。如該企業如前述般經營業務，其利潤可在該另一方徵稅，但以該等利潤中可歸因於該常設機構的利潤為限。
2. 在符合第 3 及 8 款的規定下，如某締約方的企業透過位於另一締約方的常設機構在該另一方經營業務，則須在每一締約方將該常設機構在某些情況下可預計獲得的利潤歸因於該機構，該等情況是指假設該常設機構是一間可區分且獨立的企業，在相同或類似的條件下從事相同或類似的活動，並在完全獨立的情況下，與前述企業進行交易。
3. 在斷定某常設機構的利潤時，為該常設機構的目的而招致的開支(包括如此招致的行政和一般管理開支)須容許扣除，不論該等開支是在該常設機構所處的一方或其他地方招致的。

4. 如某締約方習慣上是按照將某企業的總利潤分攤予其不同部分的基準、或按照該方的法律訂明的其他方法的基準，而斷定可歸因於有關常設機構的利潤，則第 2 款並不阻止該方按此習慣的分攤方法或其他方法斷定該等應課稅的利潤；但採用的方法，須令所得結果符合本條所載列的原則。
5. 不得僅因為某常設機構為有關企業採購貨物或商品，而將利潤歸因於該常設機構。
6. 就以上各款而言，除非有良好而充分的理由需要改變方法，否則每年須採用相同的方法斷定可歸因於有關常設機構的利潤。
7. 如利潤包括在本協定其他條文另有規定的收入項目，該等條文的規定不受本條的規定影響。
8. 凡某締約方按照第 2 款，將可歸因於其中一個締約方的企業的常設機構的利潤作出調整，並據此對該企業已在另一方課稅的利潤徵稅，則該另一方在消除對該等利潤雙重課稅所需的範圍內，須對就該等利潤徵收的稅額作出適當的調整。在斷定上述調整時，締約雙方的主管當局在有必要的情況下須共同磋商。

### 第八條

#### 航運和空運

1. 某締約方的企業自營運船舶或航空器從事國際運輸所得的利潤，只可在該方徵稅。

2. 第 1 款的規定亦適用於來自參與聯營、聯合業務或國際營運機構的利潤。
3. 就本條而言，來自營運船舶或航空器從事國際運輸的利潤尤其包括：
  - (a) 營運船舶或航空器從事國際運輸以載運乘客、牲畜、貨物、郵件或商品所得的收益及收入總額，包括：
    - (i) 自以包船或包機形式出租空船舶或空航空器而取得的收入，但該等出租須屬附帶於營運船舶或航空器從事國際運輸的；
    - (ii) 自出售與上述載運有關連的船票或機票及提供與上述載運有關連的服務(不論是為有關企業本身或為任何其他企業而出售或提供的)而取得的收入，但就提供服務而言，該等服務的提供須屬附帶於營運船舶及航空器從事國際運輸的；
  - (b) 與營運船舶或航空器從事國際運輸有直接關連的資金所孳生的利息；
  - (c) 來自有關企業出租貨櫃的利潤，但該等出租須屬附帶於營運船舶或航空器從事國際運輸的。

## 第九條

### 相聯企業

1. 凡，
  - (a) 某締約方的企業直接或間接參與另一締約方的企業的管理、控制或資本，或
  - (b) 相同的人直接或間接參與某締約方的企業的和另一締約方的企業的管理、控制或資本，

而在上述任何一種情況下，該兩間企業之間在商業或財務關係上訂立或施加的條件，是有別於互相獨立的企業之間所訂立的條件的，則若非因該等條件便本應會產生而歸於其中一間企業，但因該等條件而未有產生而歸於該企業的利潤，可計算在該企業的利潤之內，並據此徵稅。

2. 凡某締約方將某些利潤計算在該方的某企業的利潤之內，並據此徵稅，而另一締約方的某企業已在該另一方就該等被計算在內的利潤課稅，如假設上述兩間企業之間訂立的條件正如互相獨立的企業之間所訂立的條件一樣，該等被計算在內的利潤是會產生而歸於前述一方的該企業的，則該另一方須就其對該等利潤徵收的稅額，作出適當的調整。在斷定上述調整時，須充分顧及本協定的其他規定，而締約双方的主管當局在有必要的情況下須共同磋商。

## 第十條

### 股息

1. 由屬某締約方的居民的公司支付予另一締約方的居民的股息，只可在該另一方徵稅。如某公司從利潤中支付股息，本款並不影響就該等利潤對該公司徵稅。
2. “股息”一詞用於本條中時，指來自股份、分享利潤股份或分享利潤權利、礦務股份、創辦人股份或其他分享利潤的權利(但並非債權)的收入；如作出派發的公司屬某方的居民，而按該方的法律，有某項收入須與來自股份的收入受到相同的稅務待遇，則“股息”亦包括該項收入。
3. 凡就某股份支付的股息的實益擁有人是某締約方的居民，支付該股息的公司則是另一締約方的居民，如該擁有人在該另一締約方內透過位於該另一方的常設機構經營業務，且持有該股份是與該常設機構有實際關連的，則第 1 及 2 款的規定並不適用。在此情況下，第七條的規定適用。
4. 如某公司是某締約方的居民，並自另一締約方取得利潤或收入，則該另一方不得對該公司就某股份支付的股息徵稅(但在有關股息是支付予該另一方的居民的範圍內，或在持有該股份是與位於該另一方的常設機構有實際關連的範圍內，則屬例外)，而即使支付的股息或未派發利潤的全部或部分，是在該另一方產生的利潤或收入，該另一方亦不得對該公司的未派發利潤徵收未派發利潤的稅項。

## 第十一條

### 利息

1. 產生於某締約方而支付予另一締約方的居民的利息，只可在該另一方徵稅。
2. “利息”一詞用於本條中時，指來自任何類別的債權的收入，不論該債權是否以按揭作抵押，亦不論該債權是否附有分享債務人的利潤的權利，並尤其指來自政府證券和來自債券或債權證的收入，包括該等證券、債券或債權證所附帶的溢價及獎賞。然而，“利息”一詞不包括第十條提述的收入。就本條而言，逾期付款的罰款不被視作利息。
3. 凡就某項債權支付的利息的實益擁有人是某締約方的居民，並在該利息產生所在的另一締約方內，透過位於該另一方的常設機構經營業務，而該債權是與該常設機構有實際關連的，則第 1 款的規定並不適用。在此情況下，第七條的規定適用。
4. 凡因支付人與實益擁有人之間或他們兩人與某其他人之間的特殊關係，以致就有關債權所支付的利息的款額，在顧及該債權下，屬超出支付人與實益擁有人在沒有上述關係時會同意的款額，則本條的規定只適用於該會同意的款額。在此情況下，多付的部分仍須在充分顧及本協定的其他規定下，按照每一締約方的法律徵稅。

## 第十二條

### 特許權使用費

1. 產生於某締約方而支付予另一締約方的居民的特許權使用費，可在該另一方徵稅。
2. 然而，在某締約方產生的上述特許權使用費亦可在該締約方按照該方的法律徵稅；但如該等特許權使用費的實益擁有人是另一締約方的居民，則如此徵收的稅款不得超過該等特許權使用費總額的百分之三。締約雙方的主管當局須透過共同協商確定實施該限制稅率的方式。
3. “特許權使用費”一詞用於本條中時，指作為使用或有權使用文學作品、藝術作品或科學作品(包括電影影片或電台或電視廣播使用的膠片或磁帶)的任何版權、任何專利、商標、設計或模型、圖則、秘密程式或程序的代價，或作為取得關於工業、商業或科學經驗的資料的代價，因而收取的各種付款。
4. 凡就某權利或財產支付的特許權使用費的實益擁有人是某締約方的居民，並在該特許權使用費產生所在的另一締約方內，透過位於該另一方的常設機構經營業務，而該權利或財產是與該常設機構有實際關連的，則第 1 及 2 款的規定並不適用。在此情況下，第七條的規定適用。
5. 如支付特許權使用費的人是某締約方的居民，則該特許權使用費須當作是在該方產生。但如支付特許權使用費的人(不論他是否某締約方的居民)在某締約方設有常設機構，而支付該特許權使用費的法律責任，是在與該機構有關連的情況下招致的，且該特許權

使用費是由該機構負擔的，則該特許權使用費須當作是在該機構所在的一方產生。

6. 凡因支付人與實益擁有人之間或他們兩人與某其他人之間的特殊關係，以致就有關使用、權利或資料所支付的特許權使用費的款額，在顧及該使用、權利或資料下，屬超出支付人與實益擁有人在沒有上述關係時會同意的款額，則本條的規定只適用於該會同意的款額。在此情況下，多付的部分仍須在充分顧及本協定的其他規定下，按照每一締約方的法律徵稅。

## 第十三條

### 資本收益

1. 某締約方的居民自轉讓位於另一締約方並屬第六條所提述的不動產而取得的收益，只可在該另一方徵稅。
2. 如某動產屬某常設機構的業務財產的一部分，而該常設機構是某締約方的企業在另一締約方設立的，則自轉讓該動產而取得的收益，包括自轉讓該機構(單獨轉讓或隨同整個企業轉讓)而取得的收益，可在該另一方徵稅。
3. 某締約方的企業自轉讓被營運從事國際運輸的船舶或航空器而取得的收益，或自轉讓與上述船舶或航空器的營運有關的動產而取得的收益，只可在該方徵稅。
4. 如某締約方的居民自轉讓某公司的股份而取得收益，而該公司超過百分之五十的資產值是直接或間接來自位於另一締約方的不動



產的，則該收益可在該另一締約方徵稅。然而，本款不適用於自轉讓以下股份而取得的收益：

- (a) 在雙方議定的證券交易所上市的股份；或
  - (b) 在一間公司重組、合併、分拆或類似行動的框架內轉讓或交換的股份，而該轉讓或交換是不會招致稅務責任的；或
  - (c) 符合以下說明的公司的股份：該公司有超過百分之五十的資產值，是來自其經營業務所在的不動產。
5. 凡有第 1、2、3 及 4 款所提述的財產以外的任何財產被轉讓，而有關轉讓人某締約方的居民，則自該項轉讓而取得的收益，只可在該方徵稅。

#### 第十四條

##### 來自受僱工作的入息

1. 除第十五、十七及十八條另有規定外，某締約方的居民自受僱工作而取得的薪金、工資及其他類似報酬，只可在該方徵稅，但如受僱工作是在另一締約方進行則除外。如受僱工作是在另一締約方進行，則自該受僱工作而取得的報酬可在該另一方徵稅。
2. 儘管有第 1 款的規定，某締約方的居民自於另一締約方進行的受僱工作而取得的報酬如符合以下條件，則只可在首述一方徵稅：

- (a) 收款人在於有關的財政年度內開始或結束的任何十二個月的期間中，在該另一方的逗留期間(如多於一段期間則可累計)不超過 183 天，及
  - (b) 該報酬由一名並非該另一方的居民的僱主支付，或由他人代該僱主支付，及
  - (c) 該報酬並非由該僱主在該另一方設有的常設機構所負擔。
3. 儘管有本條以上各款的規定，自於某締約方的企業所營運從事國際運輸的船舶或航空器上進行受僱工作而取得的報酬，只可在該方徵稅。

#### 第十五條

##### 董事酬金

某締約方的居民以其作為屬另一締約方的居民的公司的董事會的成員身分所取得的董事酬金及其他類似付款，可在該另一方徵稅。

#### 第十六條

##### 藝人及運動員

1. 儘管有第七及十四條的規定，某締約方的居民作為演藝人員(例如戲劇、電影、電台或電視藝人，或樂師)或作為運動員在另一締約方以上述身分進行其個人活動所取得的收入，可在該另一方徵稅。

2. 演藝人員或運動員以其演藝人員或運動員的身分在某締約方進行個人活動所取得的收入，如並非歸於該演藝人員或運動員本人，而是歸於另一人，則儘管有第七及十四條的規定，該收入可在該締約方徵稅。

### 第十七條

#### 退休金

1. 除第十八條第 2 款另有規定外，作為過往的受僱工作或過往的自僱工作的代價而支付予某締約方的居民的退休金及其他類似報酬(包括整筆付款)，只可在該方徵稅。
2. 儘管有第 1 款的規定：
- (a) 根據某締約方的社會保障法例而支付的退休金及其他類似報酬(包括整筆付款)；或
- (b) 根據一項可讓個人參與以確保取得退休福利、且在某締約方為稅務目的而獲認可的計劃而支付的退休金及其他類似報酬(包括整筆付款)；
- 只可在該締約方徵稅。

### 第十八條

#### 政府服務

1. (a) 某締約方的政府或其政治分部或地區主管當局就提供予該方、分部或主管當局的服務而向任何個人支付的薪金、工資及其他類似報酬(退休金除外)，只可在該方徵稅。
- (b) 然而，如該等服務是在另一締約方提供，而該個人屬該另一方的居民，並且：
- (i) 就香港特別行政區而言，擁有香港特別行政區的居留權；而就列支敦士登而言，屬列支敦士登的國民；或
- (ii) 不是純粹為提供該等服務而成為該另一方的居民，
- 則該等薪金、工資及其他類似報酬只可在該另一方徵稅。
2. (a) 某締約方的政府或其政治分部或地區主管當局就提供予該方、分部或主管當局的服務而向任何個人支付的任何退休金(包括整筆付款)，或就上述服務而從該方的政府、分部或主管當局所設立或供款的基金支付予任何個人的任何退休金(包括整筆付款)，只可在該方徵稅。
- (b) 然而，如提供服務的個人屬另一締約方的居民，且有關個案屬本條第 1 款(b)段所述者，則相應的退休金(不論是整筆付款或分期支付)只可在該另一締約方徵稅。
3. 第十四、十五、十六及十七條的規定，適用於就在與某締約方的政府、其政治分部或地區主管當局所經營的業務有關連的情況下提供的服務而取得的薪金、工資、退休金(包括整筆付款)及其他類似報酬。

## 第十九條

### 學生

如學生在緊接前往某締約方之前是或曾是另一締約方的居民，而他逗留在首述一方純粹是為了接受教育，則該學生為了維持其生活或教育的目的而收取的款項，如是在首述一方以外的來源產生，則不得在該方徵稅。

## 第二十條

### 其他收入

1. 某締約方的居民的各項收入無論在何處產生，如在本協定位於本條之前的各條中未有規定，均只可在該方徵稅。
2. 就某權利或財產支付的收入如非來自第六條第 2 款所界定的不動產的收入，而該收入的收款人是某締約方的居民，並在另一締約方內透過位於該另一方的常設機構經營業務，且該權利或財產是與該機構有實際關連的，則第 1 款的規定不適用於該收入。在此情況下，第七條的規定適用。

## 第二十一條

### 資本

1. 第六條所提述的不動產所代表的資本如由某締約方的居民擁有並處於另一締約方，則只可在該另一方徵稅。

2. 如任何動產構成某常設機構的業務財產的一部分，而該常設機構是某締約方的企業在另一締約方設立的，則該動產所代表的資本，可在該另一方徵稅。
3. 某締約方的企業由營運從事國際運輸的船舶和航空器所代表的資本，以及由關乎該等船舶和航空器的營運的動產所代表的資本，均只可在該締約方徵稅。
4. 某締約方的居民的所有其他資本組成部分，只可在該方徵稅。

## 第二十二條

### 消除雙重課稅的方法

1. 在不抵觸香港特別行政區的法律中關乎容許在香港特別行政區以外的管轄區繳付的稅項用作抵免香港特別行政區稅項的規定(該等規定並不影響本條的一般性原則)的情況下，如已根據列支敦士登法律和按照本協定，就屬香港特別行政區居民的人自列支敦士登的來源而取得的收入繳付列支敦士登稅項，則不論是直接繳付或以扣除的方式繳付，所繳付的列支敦士登稅項須容許用作抵免就該收入而須繳付的香港特別行政區稅項，但如此獲容許抵免的款額，不得超過按照香港特別行政區的稅務法律就該收入計算所得的香港特別行政區稅項的款額。
2. 在不抵觸列支敦士登有關消除雙重課稅的法律規定(該等規定並不影響本條的一般性原則)的情況下，雙重課稅須按以下方式消除：
  - (a) 凡按照本協定的規定，某列支敦士登的居民取得的收入或擁有的資本是可在香港特別行政區徵稅的，則除(b)及(c)段另有

規定外，列支敦士登須豁免對該收入或資本徵稅。然而，列支敦士登在計算該居民其餘收入或資本的稅項的款額時，仍可將獲豁免的收入或資本計算在內。

- (b) 如某列支敦士登的居民取得的收入按照本協定第十二、十四、十五及十六條是可在香港特別行政區徵稅的，列支敦士登須將按照香港特別行政區法律和本協定的規定繳付的稅項，用於抵免就該收入徵收的列支敦士登稅項。然而，被抵免的稅項的款額，不得超過須就該筆得自香港特別行政區的收入繳付的列支敦士登稅項。
- (c) 來自第十條涵義之內的股息收入，如由屬香港特別行政區居民的公司支付予屬列支敦士登居民的公司，並且在斷定支付者的利潤時是不可扣除的，則不得在列支敦士登徵稅。

## 第二十三條

### 反歧視條文

1. 任何人如就香港特別行政區而言享有該處的居留權或在該處成立為法團或以其他方式組成，而就列支敦士登而言屬該國國民，則該人在另一締約方不得受符合以下說明的任何課稅或與之有關連的任何規定所規限：有別於在該另一方(如該另一方是香港特別行政區)享有該處的居留權或在該處成立為法團或以其他方式組成的人，或有別於屬該另一方(如該另一方是列支敦士登)的國民，在相同情況下(尤其是在居住方面)須接受或可接受的課稅及與之有關連的規定，或較之為嚴苛。儘管有第一條的規定，本規定亦適用於並非締約一方或雙方的居民的人。

2. 無國籍的人如屬某締約方的居民，則該等人士在任何締約方不得受符合以下說明的任何課稅或與之有關連的任何規定所規限：有別於在該方(如該方是香港特別行政區)享有該處的居留權的人，或有別於該方(如該方是列支敦士登)的國民，在相同情況下(尤其是在居住方面)須接受或可接受的課稅及與之有關連的規定，或較之為嚴苛。
3. 某締約方的企業設於另一締約方的常設機構在該另一方的課稅待遇，不得遜於進行相同活動的該另一方的企業的課稅待遇。凡某締約方以公民身分或家庭責任的理由，而為課稅的目的授予其本身的居民任何個人免稅額、稅務寬免及扣減，本條的規定不得解釋為使該締約方有責任將該免稅額、稅務寬免及扣減授予另一締約方的居民。
4. 除第九條第 1 款、第十一條第 4 款或第十二條第 6 款的規定適用的情況外，某締約方的企業支付予另一締約方的居民的利息、特許權使用費及其他支出，為斷定該企業的須課稅利潤的目的，須根據相同的條件而可予扣除，猶如該等款項是支付予首述一方的居民一樣。同樣地，由某締約方的企業欠另一締約方的居民的債務，為斷定該企業的須課稅資本的目的，須根據相同的條件而可予扣除，猶如該等債務是欠首述一方的居民一樣。
5. 如某締約方的企業的資本的全部或部分，是由另一締約方的一名或多於一名居民直接或間接擁有或控制，則該企業在首述一方不得受符合以下說明的任何課稅或與之有關連的任何規定所規限：有別於首述一方的其他類似企業須接受或可接受的課稅及與之有關連的規定，或較之為嚴苛。
6. 儘管有第二條的規定，本條的規定適用於所有種類和名目的稅項。

## 第二十四條

### 雙方協商程序

1. 如任何人認為任何締約方或締約雙方的行動導致或將導致對他作出不符合本協定規定的課稅時，則無論該等締約方的當地法律的補救辦法如何，該人如屬某締約方的居民，可將其案件呈交該締約方的主管當局；如其案件屬第二十三條第 1 款的情況，而他享有某締約方的居留權或在某締約方成立為法團或以其他方式組成(就香港特別行政區而言)，或他屬某締約方的國民(就列支敦士登而言)，則他可將其案件呈交該締約方的主管當局。該案件必須於就導致不符合本協定規定課稅的行動發出首次通知之時起計的三年內呈交。
2. 如有關主管當局覺得所提反對屬有理可據，而它不能獨力達致令人滿意的解決方案，它須致力與另一締約方的主管當局透過共同協商解決該個案，以避免不符合本協定的課稅。任何達成的協議均須予以執行，不論締約雙方的當地法律所設的時限為何。
3. 締約雙方的主管當局須致力透過共同協商，解決就本協定的詮釋或適用而產生的任何困難或疑問。締約雙方的主管當局亦可共同磋商，以消除在本協定沒有訂明的情況下的雙重課稅。在此情況下，無須按照第 1 款將案件呈交。
4. 締約雙方的主管當局可為達成以上各款所述的協議而直接(包括透過由雙方的主管當局或其代表組成的聯合委員會)與對方聯絡。
5. 凡，

- (a) 任何人根據第 1 款，以某締約方或締約雙方的行動導致了對該人作出不符合本協定規定的課稅為理由，將案件呈交某締約方的主管當局；而
- (b) 締約雙方的主管當局於案件呈交予另一締約方的主管當局的兩年之內，未能依據第 2 款達成協議解決該個案；

則如該人要求，因該個案而產生的任何尚未解決的爭議點須提交仲裁。但如已有任何締約方的法院或行政審裁處就此等尚未解決的爭議點作出裁定，該等爭議點不得提交仲裁。除非某名直接受該個案影響的人不接受實施有關仲裁裁定的共同協議，否則該裁定對締約雙方均具約束力，並儘管在締約雙方的當地法律中有任何時限，該裁定須予以實施。締約雙方的主管當局須透過共同協商確定施行本款的方式。

## 第二十五條

### 資料交換

1. 凡資料屬可預見攸關實施本協定的規定的資料，或可預見攸關施行或強制執行締約雙方關於本協定所涵蓋的稅項的當地法律(但以根據該等法律作出的課稅不違反本協定者為限)的資料，締約雙方的主管當局須交換該等資料。該等資料交換不受第一條的規定所限制。
2. 某締約方根據第 1 款收到的任何資料均須保密處理，其方式須等同於處理根據該方的當地法律而取得的資料，該資料只可向以下人員或當局披露：與第 1 款所提述的稅項的評估或徵收、執行或檢控有關，或與關乎該等稅項的上訴的裁決有關的人員或當局(包

括法院及行政機關)。該等人員或當局只可為該等目的使用該資料。他們可在公眾法庭的法律程序中或在司法裁定中披露該資料。

3. 在任何情況下，第 1 及 2 款的規定均不得解釋為向某締約方施加作出以下作為的責任：
  - (a) 實施有異於該締約方或另一締約方的法律及行政慣例的行政措施；
  - (b) 提供根據該締約方或另一締約方的法律或在該締約方或另一締約方的正常行政運作過程中不能獲取的資料；
  - (c) 提供會披露任何貿易、業務、工業、商業或專業秘密或貿易程序的資料，或提供若遭披露即屬違反公共政策的資料。
4. 如某締約方按照本條請求提供資料，則另一締約方即使未必為其本身的稅務目的而需要該資料，仍須以其收集資料措施取得所請求的資料。前述句子所載的責任，受第 3 款的限制所規限，但在任何情況下，該等限制不得解釋為容許某締約方純粹因資料無關其本土利益而拒絕提供該資料。
5. 在任何情況下，第 3 款的規定均不得解釋為容許某締約方純粹因以下理由而拒絕提供該資料：該資料是由某銀行、其他金融機構、代名人或以代理人或受僱人身分行事的人所持有，或該資料關乎某人的擁有權權益。

## 第二十六條

### 政府代表團成員

本協定並不影響政府代表團(包括領館)成員根據國際法的一般規則或特別協定的規定享有的財政特權。

## 第二十七條

### 議定書

隨附的議定書是本協定整體的一部分。

## 第二十八條

### 協定的生效

1. 每一締約方均須以書面通知另一締約方已完成其法律規定的使本協定生效的程序。本協定自上述通知的較後一份的日期起生效。
2. 本協定的條文一旦生效，隨即：
  - (a) 在香港特別行政區，對在本協定生效的公曆年的翌年 4 月 1 日或之後開始的任何課稅年度具有效力；
  - (b) 在列支敦士登，對在本協定生效的公曆年的翌年 1 月 1 日或之後開始的任何稅務年度具有效力。

## 第二十九條

### 終止協定

本協定維持有效，直至被任何締約方終止為止。任何締約方均可在本協定生效後第五年之後的任何公曆年完結的最少六個月之前，向另一締約方發出書面終止通知，終止本協定。在該情況下，本協定：

- (a) 在香港特別行政區，不再對在有關通知發出的公曆年的翌年 4 月 1 日或之後開始的任何課稅年度具有效力；
- (b) 在列支敦士登，不再對在有關通知發出的公曆年的翌年 1 月 1 日或之後開始的任何稅務年度具有效力。

## 第 2 部

### 《中華人民共和國香港特別行政區政府與列支敦士登公國政府就收入及資本稅項避免雙重課稅和防止逃稅協定》的議定書第 1 及 2 段

1. With respect to Article 3, it is understood that the terms “Hong Kong Special Administrative Region tax” and “Liechtenstein tax” do not include any penalty or interest (including, in the case of the Hong Kong Special Administrative Region, any sum added to the Hong Kong Special Administrative Region tax by reason of default and recovered therewith and “additional tax” under section 82A of the Inland Revenue Ordinance) imposed under the laws of either Contracting Party relating to the taxes to which the Agreement applies by virtue of Article 2.

2. With respect to Article 25, it is understood that:

- (a) this Article only obliges the Contracting Parties to exchange information upon request, and only in respect of taxable periods for which the provisions of the Agreement have effect;
- (b) exchange of information according to paragraph 1 of this Article refers to information that is foreseeably relevant to the determination, assessment and collection of such taxes with respect to persons subject to such taxes, or the investigation in or prosecution of criminal tax matters in relation to such persons;
- (c) the information exchanged:
  - (i) may not be used for any purpose other than the purposes stated in paragraph 1 of this Article; and
  - (ii) shall not be disclosed to any third jurisdiction for any purpose;
- (d) personal data may only be transmitted to the extent necessary for the exchange of information according to this Article and subject to the provisions of the law of the supplying Contracting Party;
- (e) information received by the requested Contracting Party in conjunction with a request for assistance under this Article shall likewise be treated as confidential in the requested Contracting Party;
- (f) in addition to the circumstances described in paragraph 3 of this Article, a request for exchange of information can be

declined, if the request for information is not in conformity with the Agreement, does not meet the requirements laid out in subparagraph (g) hereof, or if:

- (i) the requesting Contracting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
- (ii) the information is requested by the requesting Contracting Party to administer or enforce a provision of the tax law of the requesting Contracting Party, or any requirement connected therewith, which discriminates against a person who, in the case of the Hong Kong Special Administrative Region, has the right of abode or is incorporated or otherwise constituted therein, and, in the case of Liechtenstein, is its national, as compared with a person who, in the case of the Hong Kong Special Administrative Region, has the right of abode or is incorporated or otherwise constituted therein, and, in the case of Liechtenstein, is its national in the same circumstances; or
- (iii) the information requested is subject to legal privilege;
- (g) any request for information shall in all cases specify, in particular, in writing:
  - (i) the identity of the taxpayer under examination or investigation;
  - (ii) the taxable period for which the information is sought;

- (iii) a statement of the information sought including its nature and the form in which the requesting Contracting Party wishes to receive the information from the requested Contracting Party;
- (iv) the matter under the requesting Contracting Party's tax law with respect to which the information is sought;
- (v) grounds for believing that the information requested is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting Contracting Party with regard to the person specified in subparagraph (b);
- (vi) grounds for believing that the information requested is held in the requested Contracting Party or is in the possession or control of a person within the jurisdiction of the requested Contracting Party;
- (vii) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (viii) a statement that the request is in conformity with the law and administrative practices of the requesting Contracting Party, that if the requested information was within the jurisdiction of the requesting Contracting Party then the competent authority of the requesting Contracting Party would be able to obtain the information under the laws or in the normal course of administrative practice of the requesting Contracting Party and that it is in conformity with the Agreement; and



- (ix) a statement that the requesting Contracting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulty.

(中文譯本)

1. 就第三條而言，按締約雙方理解“香港特別行政區稅項”及“列支敦士登稅項”兩詞不包括根據任何締約方有關法律所徵收的任何罰款或利息；而就香港特別行政區而言，有關罰款或利息包括因拖欠香港特別行政區稅項而加收並連同欠款一併追討的款項及《稅務條例》第 82A 條所指的“補加稅”。有關法律，是指關乎本協定適用(屬憑藉第二條而適用)的稅項的法律。
2. 就第二十五條而言，按締約雙方理解：
  - (a) 本條只規定締約雙方在收到請求的情況下，方須交換資料，並只須交換就關乎本協定的規定對之有效的課稅期的資料；
  - (b) 按照本條第 1 款交換的資料，是指可預見攸關須繳付該等稅項的人士的該等稅項的斷定、評估和徵收的資料，或可預見攸關對關乎該等人士的刑事稅務事宜進行調查或檢控的資料；
  - (c) 所交換的資料：
    - (i) 除本條第 1 款述明的目的外，不可用於任何目的；及
    - (ii) 不論目的為何，不得向任何第三司法管轄區披露；

- (d) 可傳送個人資料，但僅限於傳送為按照本條交換資料而屬必要的資料，並須符合提供資料的締約方的法律規定；
- (e) 被請求提供資料的締約方，在該方內對根據本條提出的協助請求，以及連同該請求一起收到的資料，均須同樣地保密處理；
- (f) 除本條第 3 款描述的情況外，在以下情況下，交換資料的請求可予拒絕：如該提供資料的請求並不符合本協定，或不符合本款(g)段所列規定，或如：
  - (i) 請求提供資料的締約方未用盡在其地區內可用的方法以取得該等資料(採用引致超乎比例的難處的方法除外)；或
  - (ii) 請求提供資料的締約方請求提供有關資料的目的，是藉該資料施行或強制執行該方稅務法律的規定或任何與之有關連的規定，而該稅務法律的規定或有關連的規定是使某人(就香港特別行政區而言，指享有該處的居留權或在該處成立為法團或以其他方式組成的人，而就列支敦士登而言，則指其國民)在相同情況下，相比另一人而言(就香港特別行政區而言，指享有該處的居留權或在該處成立為法團或以其他方式組成的人，而就列支敦士登而言，則指其國民)受到歧視；或
  - (iii) 所請求提供的資料享有法律特權；
- (g) 在任何情況下，提供資料的請求尤其須以書面指明；

- (i) 被審查或調查的納稅人的身分；
- (ii) 尋求的資料所涉及的課稅期；
- (iii) 一份述明所尋求的資料的陳述書，包括該等資料的性質及請求提供資料的締約方欲以何形式收取被請求提供資料的締約方提供的該等資料；
- (iv) 尋求的資料所涉及的在請求提供資料的締約方的稅務法律下的事宜；
- (v) 相信請求的資料是可預見攸關請求提供資料的締約方就(b)段指明的人施行和強制執行當地稅務法律的理由；
- (vi) 相信被請求提供資料的締約方持有所請求的資料的理由，或相信該等資料是由被請求提供資料的締約方的管轄區內的某人管有或控制的理由；
- (vii) 在所知的範圍內，相信管有所請求的資料的人的姓名或名稱及地址；
- (viii) 一份述明以下事宜的陳述：該請求符合請求提供資料的締約方的法律及行政慣例，如所請求的資料是在請求提供資料的締約方的管轄區內，則請求提供資料的締約方的主管當局能根據該方的法律或在該方的行政慣例的正常過程中取得該資料，以及該項請求符合本協定；及

- (ix) 一份述明以下事宜的陳述：請求提供資料的締約方已用盡在其地區內可用的方法以取得該等資料(引致超乎比例的難處的方法除外)。

行政會議秘書

行政會議廳

2011 年      月      日

註釋

中華人民共和國香港特別行政區政府與列支敦士登公國政府於 2010 年 8 月 12 日簽訂就收入及資本稅項避免雙重課稅和防止逃稅的協定以及該協定的議定書。本命令指明該協定第一至二十九條中和該議定書第 1 及 2 段中的安排為《稅務條例》(第 112 章)第 49(1A)條所指的雙重課稅寬免安排，並宣布該等安排的生效是屬於有利的。該協定及議定書是以英文簽訂的。列於附表的中文本為譯本。

2. 該宣布的效力是 —

- (a) 即使任何成文法則另有規定，該等安排對根據《稅務條例》(第 112 章)徵收的稅項仍屬有效；及
- (b) 就該等安排中規定須披露關乎列支敦士登公國的稅項資料的條文而言，該等安排對作為該條文標的之該國的稅項有效。

(譯本)

香港的全面性避免雙重課稅協定的範本條文摘錄

第二十五條

資料交換

1. 締約雙方的主管當局須交換可預見與實施本協定的規定或與施行或強制執行關乎代締約雙方或其政治分部或地區或領地主管當局徵收的任何類別及說明的稅項的當地法律的規定(但以根據該等法律作出的課稅不違反本協定者為限)有關的資料。資料交換不受第一條的規定所限制<sup>1</sup>。
2. 某締約方根據第 1 款收到的任何資料須保密處理，其方式須與處理根據該締約方的當地法律而取得的資料相同。該資料只可向與第 1 款所提述的稅項的評估或徵收、執行或檢控有關，或與關乎該等稅項的上訴的裁決有關的人員或當局(包括法院及行政機關)披露。該等人員或當局只可為該等目的使用該資料。他們可在公眾法庭的法律程序中或在司法裁定中披露該資料。
3. 在任何情況下，第 1 及 2 款的規定均不得解釋為向某締約方施加採取以下行動的責任：
  - (a) 實施有異於該締約方或另一締約方的法律及行政慣例的行政措施；
  - (b) 提供根據該締約方或另一締約方的法律或在該締約方或另一締約方的正常行政運作過程中不能獲取的資料；
  - (c) 提供會將任何貿易、業務、工業、商業或專業秘密或貿易程序披露的資料，或提供若遭披露即屬違反公共政策的資料。

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<sup>1</sup> 第一條：“所涵蓋的人：本協定適用於屬締約一方的居民或同時屬締約雙方的居民的人。”

4. 如某締約方按照本條請求提供資料，則即使另一締約方為其本身的稅務目的或不需要該等資料，該另一締約方仍須以其收集資料措施取得所請求的資料。前述句子所載的責任須受第 3 款的限制所規限，但在任何情況下，該等限制不得解釋為容許某締約方純粹因該等資料對其本土利益無關而拒絕提供資料。
5. 在任何情況下，第 3 款的規定不得解釋為容許某締約方純粹因有關資料是由某銀行、其他金融機構、代名人或以代理人或受信人身分行事的人所持有，或純粹因該等資料關乎某人的所有權權益而拒絕提供資料。

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## 議定書

在 A 國政府與中華人民共和國香港特別行政區政府簽訂有關就收入稅項避免雙重課稅及防止逃稅的協定時，雙方政府已就下列條文達成共識，而這些條文將成為協定的主體部分。

1-9. ....

10. 第二十五條並無訂立締約雙方自動或自發交換資料的責任。該條又訂明，所請求的資料不得向第三司法管轄區披露。就香港特別行政區而言，可在其中披露資料的司法裁決，包括稅務上訴委員會的裁定。

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## 建議對財政、經濟及公務員的影響

### 對財政的影響

政府將須放棄目前徵收的部分稅收，當中涉及列支敦士登駐港公司並非從香港的常設機構所得的利潤和列支敦士登航運及空運營運者的利潤。不過，總的來說，有關協定對財政影響不大。

### 對經濟的影響

2. 列支敦士登協定可促進香港與列支敦士登的商業活動，而且有助香港的經濟發展。該協定為投資者的稅務負擔提供更明確的依據和更穩定的環境，從而加強香港與列支敦士登的經濟聯繫。

### 對公務員的影響

3. 在處理列支敦士登根據列支敦士登協定提出的資料交換要求方面，稅務局會有新增的工作。稅務局已獲得立法會財務委員會批准，由二零一一年四月一日起開設一個編制以外的首長級職位，為期三年，以支援實施與全面性協定相關的措施。

**香港與列支敦士登的  
全面性避免雙重課稅協定(全面性協定)**

**主要條文摘要**

香港與列支敦士登訂立的全面性協定(列支敦士登協定)涵蓋以下稅項：

- |                |  |
|----------------|--|
| (a) 就香港而言 —    | (i) 薪俸稅；<br>(ii) 利得稅；以及<br>(iii) 物業稅；  |
| (b) 就列支敦士登而言 — | (i) 個人所得稅；<br>(ii) 公司所得稅；<br>(iii) 公司稅；<br>(iv) 房地產資本增值稅；<br>(v) 財富稅；以及<br>(vi) 息票稅。 |

2. 列支敦士登協定處理居住在締約一方(居住地)的居民從締約另一方(來源地)所取得的收入的徵稅事宜。

**獨有徵稅權**

3. 如列支敦士登協定只把收入的徵稅權分配予締約的某一方(居住地或來源地)，就不會出現雙重課稅情況。列支敦士登協定訂明，以下各類收入僅可在居住地徵稅：

- (a) 企業所得利潤，但企業通過設於來源地的常設機構(即企業進行全部或部分業務的固定營業場所)進行業務所得利潤則除外；
- (b) 自營運船舶和航空器從事國際運輸業務所得的利潤及自轉讓用於營運從事國際運輸的船舶和航空器所得的收益；從事國際運輸業務的船舶和航空器所代表的資本，以及與上述該等船舶和航空器的營運有關的動產所代表的資本；
- (c) 源自來源地的股息收入；

- (d) 源自來源地的利息收入；
- (e) 受僱工作的收入，但在來源地從事的受僱工作所得收入則除外；
- (f) 在居住地的企業所營運從事國際運輸的船舶或航空器上受僱於非政府機構所得的報酬；
- (g) 非政府機構的退休金，但根據社會保障法例或退休福利計劃支付的退休金則除外；
- (h) 並未在列支敦士登協定內明文處理的資本收益；以及
- (i) 並未在列支敦士登協定內明文處理的其他收入。

4. 締約一方的政府所支付的受僱收入和退休金，通常只須在該方(來源地)課稅。根據社會保障法例或一項可讓個人參與以確保取得退休福利、且為稅務目的而獲認可的計劃支付的非政府機構的退休金，只須在來源地課稅。

### **共有徵稅權**

5. 倘若兩個徵稅地區就同一項收入具有徵稅權，則按列支敦士登協定的規定，居住地必須就其居民任何被雙重徵稅的收入提供雙重課稅寬免(即來源地擁有首先徵稅權，而居住地則只有第二徵稅權)。列支敦士登協定訂明，以下各類收入在兩地均可被徵稅：

- (a) 來自位於來源地的不動產的收入及來自轉讓該等財產的收益；
- (b) 企業透過常設機構在來源地進行業務所得的利潤，但以可歸屬該常設機構的利潤為限，以及自轉讓該常設機構的業務財產的收益；
- (c) 得自來源地居民的特許權使用費，來源地的徵稅權的稅率上限為3%；



- (d) 來自轉讓一間公司的動產，而有關動產為來源地常設機構的業務財產的一部分，或來自轉讓股份的收益(除了上市股份)，而該公司超過 50%的資產值是直接或間接來自位於來源地的不動產；
- (e) 在來源地受僱於非政府機構所得的報酬；
- (f) 自來源地居民公司收取的董事費；
- (g) 演藝人員及運動員在來源地進行專業活動所得的收入；以及
- (h) 自任何構成在來源地的某常設機構的業務財產的一部分的動產，該動產所代表的資本。

6. 一般而言，如兩地都擁有徵稅權，納稅人可藉以下其中一種方式獲得雙重課稅寬免：豁免方式，即來源地的應課稅收入在居住地可獲豁免課稅；或抵免方式，即來源地的應課稅收入在居住地須予課稅，但在來源地所徵收的稅款，可在居住地就該等收入徵收的稅款中獲得抵免。香港會以抵免方式為其居民提供雙重課稅寬免，而列支敦士登則會以豁免及抵免方式為其居民提供雙重課稅寬免。