

L.N. 66 of 2013

Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) (Second Protocol) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 28 June 2013.

2. Declaration under section 49(1A)

For the purposes of section 49(1A) of the Ordinance, it is declared—

- (a) that the arrangements specified in section 3(1) have been made with the Government of the Republic of Austria with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of the Republic; and
- (b) that it is expedient that those arrangements should have effect.

3. Arrangements specified

- (1) The arrangements specified for the purposes of section 2(a) are the arrangements in Articles 1 to 3 of the Second Protocol modifying the Protocol to the Agreement.
- (2) The English text of the Articles referred to in subsection (1) is reproduced in the Schedule; a Chinese translation of the Articles is also set out in the Schedule.
- (3) In this section—

2010 Order (《2010年命令》) means the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) Order (Cap. 112 sub. leg. BO);

Agreement (協定) means the agreement titled “Agreement between the Government of the Hong Kong Special Administrative Region of the People’s Republic of China and the Government of the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital”, done at Hong Kong on 25 May 2010 (the title of which agreement is translated into Chinese as “《中華人民共和國香港特別行政區政府與奧地利共和國政府就收入及資本稅項避免雙重課稅和防止逃稅協定》” in the 2010 Order), where the English text of Articles 1 to 28 of the agreement is reproduced in, and a Chinese translation of those Articles is set out in, Part 1 of the Schedule to the 2010 Order;

Protocol to the Agreement (協定的議定書) means the protocol to the Agreement, done at Hong Kong on 25 May 2010, where the English text of Paragraphs I to IV of the protocol is reproduced in, and a Chinese translation of those Paragraphs is set out in, Part 2 of the Schedule to the 2010 Order;

Second Protocol (第二議定書) means the protocol titled “Second Protocol Modifying the Protocol to the Agreement between the Government of the Hong Kong Special Administrative Region of the People’s Republic of China and the Government of the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital”, done in duplicate at Hong Kong on 25 June 2012 in the English language (the title of which protocol is translated into Chinese as “《修改中華人民共和國香港特別行政區政府與奧地利共和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的第二議定書》” in this Order).

Schedule

[s. 3]

Articles 1 to 3 of the Second Protocol Modifying the Protocol to the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital

Article 1

Subparagraph 1(e) of paragraph III of the Protocol to the Agreement is deleted and replaced by the following:

“(e) to the extent known, the name and address of any person believed to be in possession of the requested information;”

Article 2

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 Protocol. This Protocol shall enter into force on the date of the later of these notifications.

Article 3

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable unless otherwise agreed by the Contracting Parties.

(Chinese Translation)

第一條

刪去本協定的議定書第 III 段第 1(e) 節，而代以：

“(e) 在所知的範圍內，相信管有被請求提供的資料的人的姓名或名稱及地址；”

第二條

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議定書生效的程序。本議定書自上述通知的較後一份的日期起生效。

第三條

本議定書構成本協定整體的一部分，除非締約雙方另有協議，否則本議定書在本協定有效期間有效，並在本協定適用期間適用。

Kinnie WONG
Clerk to the Executive Council

COUNCIL CHAMBER

23 April 2013

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the Republic of Austria signed an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (*Agreement*) together with a protocol to it (*Protocol to the Agreement*) on 25 May 2010. The arrangements in the Agreement and Protocol to the Agreement have effect by virtue of the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital) (Republic of Austria) Order (Cap. 112 sub. leg. BO).

2. On 25 June 2012, the two Governments signed another protocol (*Second Protocol*) to modify the Protocol to the Agreement. This Order specifies the arrangements in Articles 1 to 3 of the Second Protocol as double taxation relief arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112) and declares that it is expedient that those arrangements should have effect. The Second Protocol was signed in the English language. The Chinese text set out in the Schedule is a translation.
3. The effects of the declaration are—
 - (a) that the arrangements referred to in paragraph 2 have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and
 - (b) that the arrangements referred to in paragraph 2, for the purposes of any provision of those arrangements that requires disclosure of information concerning tax of the Republic of Austria, have effect in relation to any tax of the Republic that is the subject of that provision.