

L.N. 97 of 2005**SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF
THE REPUBLIC OF FINLAND) (AVOIDANCE OF
DOUBLE TAXATION ON INCOME FROM
AIRCRAFT OPERATION) 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—

- (a) that the arrangements specified in section 2 have been made with the Government of the Republic of Finland with a view to affording relief from double taxation in relation to income tax and other taxes of a similar character imposed by the laws of the Republic; and
- (b) that it is expedient that those arrangements should have effect.

2. Arrangements specified

The arrangements specified for the purposes of section 1(a) are the arrangements in Article 8A of 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 Finland concerning Air Services done in duplicate at Hong Kong on 14 January 2000 in the English language. That Article 8A, the text of which is reproduced in the Schedule, was added to the Agreement by an exchange of letters between the two Governments on 9 September 2004 and 13 September 2004.

SCHEDULE

[s. 2]

ARTICLE 8A OF 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 FINLAND
CONCERNING
AIR SERVICES

Article 8A**Avoidance of Double Taxation**

- (1) Income and 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 exempt from income tax, profits tax and all other taxes on income and profits imposed in the area of the other Contracting Party.
- (2) Capital and assets of an airline of one Contracting Party relating to the operation of aircraft in international traffic shall be exempt from taxes on capital and assets imposed in the area of the other Contracting Party.
- (3) Gains from the alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft which are received by an airline of one Contracting Party, the income and profits of which according to paragraph (1) are exempt from income tax, profits tax and all other taxes on income and profits imposed in the area of the other Contracting Party, shall be exempt from any tax on gains imposed in the area of the other Contracting Party.
- (4) For the purposes of this Article:
 - (a) the term "income and profits" includes revenues and gross receipts from the operation of aircraft for the carriage of persons, livestock, goods, mail or merchandise in international traffic including:
 - (i) the charter or rental of aircraft if such charter or rental is incidental to the operation of aircraft in international traffic;

- (ii) the sale of tickets or similar documents, and the provision of services connected with such carriage, for the airline itself or for other airlines, but in the latter case only if such sale or provision of services are incidental to the operation of aircraft in international traffic; 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,
 - (i) 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
 - (ii) in the case of Finland, any airline which, under the laws of Finland, is liable to tax therein by reason of domicile, residence, place of management, place of incorporation (including registration required by internal law), or any other criterion of a similar nature;
- (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, or any person or body authorised to perform any functions at present exercisable by the Commissioner or similar functions; and
 - (ii) in the case of Finland, the Ministry of Finance, its authorised representative or the authority which by the Ministry of Finance, is designated as a competent authority for the purposes of this Article.

(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) Notwithstanding Article 20 (Entry into Force) each Contracting Party shall in writing notify the other of the completion of the relevant procedures required by its law to bring this Article into force. This Article shall enter into force on the first day of the second calendar month next following the later of such notifications and shall thereupon have effect in respect of income, profits and gains arising on or after the first day of January 2002 and on capital and assets held on or after that date.

(7) Notwithstanding Article 18 (Termination) where notice of termination of this Agreement is given under that Article, this Article shall cease to have effect, in relation to income, profits and gains arising as well as capital and assets held, on or after the first day of January in the calendar year next following the expiry of a period of six months after the date when such notice is given.

(8) This Article shall not have effect so long as an agreement for the avoidance of double taxation with respect to taxes on income, providing for similar exemptions to those in this Article has effect between the Contracting Parties.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
7 June 2005

Explanatory Note

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Finland signed an agreement concerning air services on 14 January 2000 ("Agreement"). The Agreement was amended by an exchange of letters on 9 September 2004 and 13 September 2004 to include a provision on double taxation relief. This Order specifies the arrangements in that provision as double taxation relief arrangements under section 49 of the Inland Revenue Ordinance (Cap. 112) and declares that it is expedient that those arrangements should have effect. The effect of such a declaration is that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) notwithstanding anything in any enactment.