

**L.N. 173 of 2008****INLAND REVENUE (DOUBLE TAXATION RELIEF  
ON INCOME FROM AIRCRAFT OPERATIONS)  
(REPUBLIC OF FINLAND) ORDER**

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

**1. Commencement**

This Order shall come into operation on 26 November 2008.

**2. Declaration under section 49**

For the purposes of section 49 of the Ordinance, it is declared—

- (a) that the arrangements specified in section 3 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.

**3. Arrangements specified**

The arrangements specified for the purposes of section 2(a) are the arrangements in Articles 1 to 6 of the Agreement between the Hong Kong Special Administrative Region of the People's Republic of China and the Republic of Finland for the Avoidance of Double Taxation with respect to Taxes on Income from Aircraft Operation done in duplicate at Hong Kong on 19 November 2007 in the English language. The text of those Articles is reproduced in the Schedule.

## SCHEDULE

[s. 3]

ARTICLES 1 TO 6 OF THE AGREEMENT BETWEEN THE HONG  
KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S  
REPUBLIC OF CHINA AND THE REPUBLIC OF FINLAND  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH  
RESPECT TO TAXES ON INCOME FROM  
AIRCRAFT OPERATION

**Article 1****Taxes covered**

- (1) The existing taxes to which this Agreement shall apply are:
  - (a) in the case of the Hong Kong Special Administrative Region:  
profits tax (hereinafter referred to as “Hong Kong Special Administrative Region tax”);
  - (b) in the case of Finland:  
the corporate income tax, (hereinafter referred to as “Finnish tax”)
- (2) 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. The competent authorities of the Contracting Parties shall notify each other of any substantial changes which have been made in their taxation laws and which may affect the application of this Agreement.

**Article 2****General Definitions**

- (1) For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the terms “the Hong Kong Special Administrative Region” and “Finland” mean the Hong Kong Special Administrative Region of the People's Republic of China and the Republic of Finland respectively;
  - (b) the term “a Contracting Party” means the Hong Kong Special Administrative Region or Finland, as the context requires;

- (c) 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;
- (d) 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;
- (e) 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;
- (f) 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 Agreement.

(2) As regards the application of this Agreement at any time by a Contracting Party, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that

Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the terms under other laws of that Contracting Party.

### **Article 3**

#### **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.

### **Article 4**

#### **Mutual Agreement Procedure**

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 Agreement.

### **Article 5**

#### **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 Agreement into force. This Agreement shall enter into force on the date on which the last notification is received and shall thereupon have effect:

- (a) in the Hong Kong Special Administrative Region, in respect of Hong Kong Special Administrative Region tax, from the year of assessment beginning on or after 1 April 2002;
- (b) in Finland, in respect of Finnish tax, from the tax year beginning on or after 1 January 2002.

## **Article 6**

### **Termination**

This Agreement shall remain in force indefinitely but either Contracting Party may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year. In such event, this Agreement shall cease to have effect:

- (a) in the Hong Kong Special Administrative Region, in respect of Hong Kong Special Administrative Region tax, from the year of assessment beginning on or after 1 April in the calendar year next following that in which the notice is given;
- (b) in Finland, in respect of Finnish tax, from the tax year beginning on or after 1 January in the calendar year next following that in which the notice is given.

LAM Chik-ting, Tony  
Clerk to the Executive Council

COUNCIL CHAMBER  
10 June 2008

### **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 for the avoidance of double taxation with respect to taxes on income from aircraft operation on 19 November 2007 ("Agreement"). This Order specifies the arrangements in Articles 1 to 6 of the Agreement 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 the declaration is that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) notwithstanding anything in any enactment.