

L.N. 162 of 2004**SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF
THE MACAO SPECIAL ADMINISTRATIVE REGION)
(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 Macao Special Administrative Region 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 that territory; 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 Section 10 of the Air Services Arrangement between the Hong Kong Special Administrative Region and the Macao Special Administrative Region done in duplicate at Hong Kong on 13 October 2003 in the Chinese language, the English translation of the text of which Section is reproduced in the Schedule.

SCHEDULE

[s. 2]

**SECTION 10 OF THE AIR SERVICES ARRANGEMENT BETWEEN THE
HONG KONG SPECIAL ADMINISTRATIVE REGION AND THE
MACAO SPECIAL ADMINISTRATIVE REGION****SECTION 10****Avoidance of Double Taxation**

- (1) For the purposes of this Section, unless the context otherwise requires:

- (a) the term “an airline of a Party” means an airline incorporated and having its principal place of business in the area* of that Party;
 - (b) the term “income or profits” means revenues and gross receipts derived from the operation of aircraft in air services for the transport of persons, livestock, goods, mail or merchandise including:
 - (i) the charter or rental of aircraft;
 - (ii) the sale of tickets or similar documents and the provision of services connected with such transport either for the airline itself or for any other airline;
 - (iii) interest on funds directly connected with the operation of aircraft in air services;
 - (c) the term “competent authority” means, in the case of Hong Kong, the Commissioner of Inland Revenue or his authorized representative or any person or body authorized to perform any functions at present exercisable by the Commissioner, or similar functions and, in the case of Macao, the Director of Finance Bureau (*Direcção dos Serviços de Finanças*) or his authorized representative.
- (2) Income or profits derived from the operation of aircraft in air services by an airline of a Party, including any income or profits attributable to its participation in a pool, a joint business or international operating agency, will be exempt from income tax, profits tax and all other taxes imposed in the area of the other Party.
 - (3) On the basis of reciprocity, capital and assets of an airline of a Party relating to the operation of aircraft in air services will be exempt from all taxes on capital and assets imposed in the area of the other Party.
 - (4) Gains from the alienation of aircraft operated in air services and movable property pertaining to the operation of such aircraft which are received by an airline of a Party will be exempt from any tax on gains imposed in the area of the other Party.
 - (5) The competent authorities of the Parties will endeavour to resolve by consultation any difficulties or doubts arising as to the interpretation or application of this Section.
 - (6) Notwithstanding Section 21 (Commencement) each Party will notify the other the completion of the procedures required by its law for the bringing into effect of this Section. This Section will come into effect on the date of the last written notification and thereupon have effect:

- (a) in Hong Kong, for any year of assessment beginning on or after 1 April in the calendar year next following that in which this Arrangement* or this Section comes into effect, whichever is the later;
 - (b) in Macao, for any tax year beginning on or after 1 January in the calendar year next following that in which this Arrangement or this Section comes into effect, whichever is the later.
- (7) Where this Arrangement is terminated under Section 20 (Duration), this Section will cease to have effect:
- (a) in Hong Kong, for any year of assessment beginning on or after 1 April in the calendar year next following that in which this Arrangement is terminated;
 - (b) in Macao, for any tax year beginning on or after 1 January in the calendar year next following that in which this Arrangement is terminated.
- (8) This Section will not have effect so long as an arrangement for the avoidance of double taxation with respect to taxes on income, profits, capital and gains providing for similar exemptions to those in this Section has effect between the Parties.

* Note: Section 1 of the Air Services Arrangement reads in part as follows:

“For the purpose of this Arrangement, unless the context otherwise requires:

...

- (b) the term “area”, in relation to Hong Kong, means the land and waters more particularly delineated in the map of the administrative division of the Hong Kong Special Administrative Region as promulgated in Order No. 221 of the State Council, and in relation to Macao, means the land and waters more particularly delineated in the map of the administrative division of the Macao Special Administrative Region as promulgated in Order No. 275 of the State Council;

...

- (d) the term “this Arrangement” includes the Annex hereto and any amendments to it or to this Arrangement.”.

CHENG Mei-sze, Maisie
Clerk to the Executive Council

COUNCIL CHAMBER
12 October 2004

Explanatory Note

An air services arrangement dated 13 October 2003 has been made between the Government of the Hong Kong Special Administrative Region and the Government of the Macao Special Administrative Region (“Arrangement”). This Order specifies the arrangements in Section 10 of the Arrangement 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.