

No. 51470

**United Kingdom of Great Britain and Northern Ireland
and
Hong Kong Special Administrative Region (under authorization
by the Government of the People's Republic of China)**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains (with protocol). London, 21 June 2010

Entry into force: *20 December 2010 by notification, in accordance with article 26*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *United Kingdom of Great Britain and Northern Ireland, 29 November 2013*

**Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
et
Région administrative spéciale de Hong Kong (par autorisation
du Gouvernement de la République populaire de Chine)**

Accord entre le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et le Gouvernement de la Région administrative spéciale de Hong Kong de la République populaire de Chine tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital (avec protocole). Londres, 21 juin 2010

Entrée en vigueur : *20 décembre 2010 par notification, conformément à l'article 26*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, 29 novembre 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON
CAPITAL GAINS, WITH PROTOCOL**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Hong Kong Special Administrative Region of the People's Republic of China;

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains;

Have agreed as follows:

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 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 all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are:

(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 United Kingdom:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax.

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 “United Kingdom 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 “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;
- (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 or any entity that is 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 United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;
- (e) the term "Contracting Party" or "Party" means the Hong Kong Special Administrative Region or the United Kingdom, 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 the United Kingdom means any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the laws in force in the United Kingdom;
- (j) the term "person" includes an individual, a partnership, a company and any other body of persons;
- (k) the term "tax" means the Hong Kong Special Administrative Region tax or United Kingdom tax, as the context requires.

2. In this Agreement, the terms "Hong Kong Special Administrative Region tax" and "United Kingdom 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 this Agreement applies by virtue of Article 2.

3. 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 centrally managed and 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 centrally managed and controlled in the Hong Kong Special Administrative Region;
- (b) in the case of the United Kingdom, any person who, under the laws of the United Kingdom, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in the United Kingdom in respect only of income from sources in the United Kingdom;
- (c) in the case of either Contracting Party, the Government of that Party and any political subdivision or local authority thereof.

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