

Press Release

Mainland and HKSAR sign Fourth Protocol to Arrangement for Avoidance of Double Taxation (with photos)

Wednesday, April 1, 2015

The Secretary for Financial Services and the Treasury, Professor K C Chan, signed the Fourth Protocol to the Arrangement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income with the Mainland (the Fourth Protocol) with the Deputy Commissioner of the State Administration of Taxation, Mr Zhang Zhiyong, in Hong Kong today (April 1).

Professor Chan said, "We are very pleased to sign the Fourth Protocol with the Mainland to facilitate clear implementation of the relevant arrangement. The Fourth Protocol clarifies the conditions under which an investment fund would be qualified for Hong Kong resident status, thus giving certainty to investment funds' application of the tax avoidance arrangements. This will be conducive to the actively promoted asset management businesses in Hong Kong, and will in turn help strengthen Hong Kong's status as an international financial centre."

Regarding the gains derived from the sale and purchase of shares in listed companies, both sides agreed to add a new provision to clearly set out the tax liabilities of residents of both sides on the other side. According to the provision in the Fourth Protocol, the gains derived by a Hong Kong resident from the sales and purchase of shares in a Mainland listed company shall be taxable only in Hong Kong. This is also applicable to the gains derived by a Hong Kong resident from the sale and purchase, under the Shanghai-Hong Kong Stock Connect, of A shares listed on the Shanghai Stock Exchange. Meanwhile, the provision also states that the arrangement of such a tax liability will be applicable to those investment funds complying with the requirements as set out in the provision.

The Fourth Protocol also amends the tax liability of aircraft and ship leasing business receiving royalties. The Mainland withholding tax on royalties paid to aircraft and ship leasing business, currently at seven per cent, will be capped at five per cent.

Professor Chan added, "This will be conducive to the promotion of aerospace financing business in Hong Kong, and we will continue to explore other measures."

Furthermore, the Fourth Protocol also expands the coverage of tax types under the exchange of information arrangement of the avoidance of double taxation arrangement, so as to fulfil Hong Kong's international obligation to meet global standards for enhancing tax transparency.

The Fourth Protocol will come into force after the completion of ratification procedures and notification by both sides. In the case of Hong Kong, an order is required to be made by the Chief Executive in Council under the Inland Revenue Ordinance. The order is subject to negative vetting by the Legislative Council.

Details of the Fourth Protocol (only Chinese version) can be found on the Inland Revenue Department website at (www.ird.gov.hk/chi/pdf/Protocol_Mainland_HongKong.pdf).

The Arrangement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income between the Mainland and Hong Kong (including the protocol) (the Arrangement) was formally signed on August 21, 2006. The Arrangement entered into force on December 8, 2006. The Mainland and Hong Kong also signed the Second Protocol and the Third Protocol to the Arrangement on January 30, 2008 and on May 27, 2010 respectively, so as to clarify the details of the implementation of the Arrangement.

Ends

