

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2025

MODULE 2.04 – HONG KONG OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **One** question from **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made in Hong Kong dollars, unless otherwise stated. Any monetary calculations should be made to the nearest whole Hong Kong dollar. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

For your information this paper includes:

Hong Kong Tax Rates and Allowances

Agreement between Mainland China and Hong Kong for the Avoidance of Double Taxation (Extracts)

PART A**You are required to answer BOTH questions from this Part.**

1. Maryland Ltd (ML) was incorporated in Hong Kong and is engaged in the business of distributing medicines and health supplements in Hong Kong. ML has appointed a mainland-based company, Ruby Medicine Company (RMC), to produce products independently on a sub-contracting basis. ML sells its products in mainland China and in Hong Kong.

ML appointed another mainland-based company, Fantastic Trading Agency Ltd (FTAL), as its sole agent to solicit and accept orders on its behalf for the mainland China market. After sales orders are accepted by FTAL, ML's Hong Kong office emails the corresponding purchase orders to RMC, which then follows up on the production and delivery of goods. All strategic marketing decisions, and the financing function of ML's mainland China business, are carried out by ML in Hong Kong.

On 1 January 2024, ML rented a training room in Guangzhou, China, to provide training services. ML began accepting students in January 2024, and the training course commenced on 1 July 2024. ML's staff provided training services for 150 days for the year ending 31 December 2024, from the training room.

ML lent \$10 million to RMC during 2024, and received interest income of \$500,000 from RMC. The loan fund was derived from ML's Hong Kong trading business, remitted from ML's Hong Kong bank account, and received by RMC through its Guangzhou bank account.

In the context of the double tax agreement between mainland China and Hong Kong, you are required to comment on:

- 1) The Hong Kong tax position of ML in relation to its sale of products to the mainland China market. (11)
- 2) The Hong Kong tax position of ML in relation to its lending money to RMC. (3)
- 3) ML's Chinese income tax position in relation to its sale of products to the mainland China market. (4)
- 4) ML's Chinese income tax position in relation to the provision of training services in Guangzhou. (4)
- 5) ML's Chinese income tax position in relation to its lending money to RMC. (3)

Total (25)

2. Blueberry Ltd (BL) is a Hong Kong-based company that is engaged in the business of leasing scientific equipment and patents for medicine research and development.

During the year ending 31 March 2024, BL leased scientific equipment to Strawberry (China) Ltd (SCL), which is based in mainland China and is engaged in the business of developing, producing and trading medicines. BL charged SCL an annual rental fee of \$10 million. The rental agreement for the scientific equipment was negotiated and concluded with SCL in mainland China.

During the year ending 31 March 2024, BL obtained the right to use a patent from its holding company, Global Holding Ltd (GHL), which is based in Country A and did not conduct any business in Hong Kong. BL sub-licensed SCL the right to use the patent to develop medicines, charging an annual license fee of \$15 million. BL paid an annual license fee of \$5 million to GHL. There is no double tax agreement (DTA) between Hong Kong and Country A.

GHL held 100% shareholding in BL throughout the year ending 31 March 2024. The patent was developed in 2022 by BL, which then assigned the proprietary interest of the patent to GHL in 2023.

For the year ending 31 March 2024, BL paid interest expenses of \$900,000 in relation to a \$20 million loan borrowed from a bank in Country A. The loan was taken out on 1 April 2023 to purchase scientific equipment for use in BL's business. GHL provided all securities for the loan, including a bank deposit with a Hong Kong bank of \$20 million, and shares listed on the Hong Kong Stock Exchange valued at \$10 million throughout all relevant times. GHL received interest income of \$600,000 from the deposit and dividend income of \$400,000 from the shares for the year ending 31 March 2024.

You are required to:

- 1) **Explain the Hong Kong Profits Tax treatment, as well as the Chinese income tax treatment, of BL's rental fee and license fee from SCL, in the context of the DTA between mainland China and Hong Kong.** (9)
 - 2) **Explain the Hong Kong Profits Tax implications of:**
 - a) **The \$5 million license fee to GHL; and** (11)
 - b) **The \$900,000 interest expenses on the bank loan.** (5)
- Total (25)

PART B

You are required to answer ONE question from this Part.

3. Salisbury Ltd (SL) was based in the United Kingdom and maintained a branch in Hong Kong. SL's UK head office's provisional income statement for the year ending 31 March 2024 shows a pre-tax profit of \$20 million (equivalent to UK£2 million). SL's Hong Kong branch carried on business in Hong Kong, and its provisional income statement for the year ending 31 March 2024 shows a net pre-tax profit of \$17 million, after crediting the following income and charging the following expenses:

<u>Income</u>	<u>Note</u>	<u>\$</u>
Profit on sale of trademark	1	300,000
 <u>Expenditure</u>		
Product research expenses	2	1,500,000
Repair expense	3	100,000
Bad debts	4	75,000

Explanatory notes

- 1) During the year ending 31 March 2019, SL bought a proprietary interest in a registered trademark for its own use at a price of \$1 million from its overseas holding company. During the year ending 31 March 2024, SL sold this interest in the trademark at a price of \$1,300,000, making a profit of \$300,000. SL also bought a registered product design during the year ending 31 March 2024 at a price of \$2 million, which was not reflected in the above income statement. The registered product design has a protection period of four years, starting from 2023/24.
- 2) The product research expenses of \$1,500,000 comprise the following items which for qualify as research activities conducted in Hong Kong:

	<u>\$</u>
Research equipment	1,000,000
Research staff salaries	400,000
<u>Consumables for research</u>	<u>100,000</u>
Total per accounts	<u>1,500,000</u>

- 3) The repair expense of \$100,000 was for initial repair for a second-hand environmental protection installation, which had been acquired during the year at a price of \$1 million. The expense was for the purpose of putting the installation back to operable condition for obtaining the relevant license from the government. The acquisition price of \$1 million was not recorded in the draft income statement, but was recorded as an asset in the statement of financial position.

- 4)
- | | |
|---|---------------|
| | <u>\$</u> |
| Write-off of a staff loan (5% interest and 95% principal) | 20,000 |
| Bad debts recovered (trade debts written off in the year 2022/23) | (8,000) |
| Provision: 5% on total trade debtors' balance | 10,000 |
| <u>on specified trade debtors</u> | <u>53,000</u> |
| Total per accounts | <u>75,000</u> |

The loan was provided to the staff member's bank account in Hong Kong.

You are required to:

- 1) **Calculate the assessable profits of SL for the year of assessment 2023/24, based on the above information. No calculation of Hong Kong Profits Tax payable is required.** (11)
- 2) **Explain how you would treat the following items for Hong Kong Profits Tax purposes:**
- a) **Product research expenses of \$1,500,000;** (3)
 - b) **The \$20,000 staff loan write-off; and** (3)
 - c) **The \$1 million acquisition cost and \$100,000 initial repair expense of the second-hand environmental protection installation.** (3)

Total (20)

4. Magic Production Ltd (MPL) was engaged in garment manufacturing. In December 2024, MPL acquired ten weaving machines for \$1 million each. MPL received the machines in early 2025.

Wonderful Holding Ltd (WHL) was based in the United States and was MPL's holding company. WHL engaged in investment holding and provided cross-border financial support to its subsidiary companies in various countries.

In January 2025, MPL's business suddenly failed. MPL urgently needed funds to finance its normal business operations, but could not obtain funds from external sources. Thus, MPL planned to sell all ten weaving machines to WHL at a price of \$1,100,000 each. WHL would then license back the right to use the machines to MPL for three years, for a fee 10% higher than the market leasing fee.

You are required to explain the tax implications of the proposed plan, in the context of:

- | | |
|---|-------------|
| 1) Anti-avoidance provisions specific to the proposed arrangement; and | (7) |
| 2) The general anti-avoidance and general deduction provisions. | (13) |

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. Samson Lau migrated to the United Kingdom several years ago, and was a UK tax resident. He owns a residential property in Hong Kong. Samson rented the property to Jenny for a two-year period, from 1 July 2021 to 30 June 2023, at a monthly rent of \$17,000.

Jenny moved out of the property at the end of the lease, leaving five months' rent unpaid. Samson held a two-month rental deposit from Jenny, which he could use to offset the outstanding rent according to the tenancy agreement. Since then, Samson has been unable to contact Jenny. The Inland Revenue Department has confirmed that the unpaid rent has become irrecoverable for the year of assessment 2023/24.

Samson immediately engaged a property agent to lease out the property to Tyson on the following terms:

- Lease term: two years from 1 August 2023.
- Rent: \$15,000 per month payable on the first day of each month.
- Rent-free period: one month from the start of the lease.
- Rental deposit: \$30,000 payable on signing the tenancy agreement.
- Lease premium: \$42,000 payable on signing the tenancy agreement.
- Rates and government rent: \$2,300 and \$1,380 per quarter respectively, payable by the owner.
- Management fee: \$1,100 per month payable by the owner to the building management office.

During the year ending 31 March 2024, apart from rates, government rent and management fee, Samson also paid commission of \$15,000 to a property agent for introducing the tenant, and interest of \$83,000 on a bank loan, borrowed to finance the acquisition of the property.

Samson started a trading business in Hong Kong in June 2024 and has recruited ten employees. He would like to know his obligations as an employer under the Inland Revenue Ordinance.

You are required to:

- 1) **Compute Samson's Hong Kong Property Tax liability for the year of assessment 2023/24. You may ignore provisional tax. You should show all of your workings, but you are not required to provide explanatory notes.** (10)
- 2) **Advise Samson on his obligations as an employer under s.52 of the Inland Revenue Ordinance, clearly stating the applicable time limit.** (5)

Total (15)

6.

- 1) During the year 2024, the construction of an office building has resulted in considerable damage to a food processing factory owned by Wong Ltd (WL)'s Hong Kong branch. WL was based in Country A, and carried on manufacturing business in Country A and Hong Kong (through a branch). As a result of the damage, the factory's production has been suspended for nine months, during which extensive repairs have been conducted. One production line has been permanently written off, while the other has resumed operations once the repairs were complete.

Upon completion of a legal proceeding, the property development company responsible for the office building has compensated WL's Hong Kong branch to the value of \$5 million for the damages, losses and repair expenses; this compensation reflects the impact of the construction activities on the Hong Kong branch's business. All of the Hong Kong branch's net taxable profits for the year ending 31 March 2024 are taxable in Country A. The branch incurred legal and professional fees of \$500,000 in relation to the compensation, and paid income tax of \$450,000 in Country A in relation to the net compensation received (i.e. \$5 million less related expenses of \$500,000). Country A and Hong Kong have not signed any tax arrangement for avoidance of double taxation.

You are required to discuss the Hong Kong Profits Tax treatment of the \$5 million compensation received by WL's Hong Kong branch, the legal and professional fees of \$500,000, and the income tax of \$450,000 paid in Country A. (7)

- 2) Chan & Co is a sole proprietorship business owned by Ms Chan. Chan & Co carries on a manufacturing and trading business in Hong Kong. It makes up its accounts annually to 31 December.

On 1 July 2023, Chan & Co acquired a production machine on hire purchase terms (at a cash price of \$400,000) for its own use. A downpayment of \$100,000 was paid on 1 July 2023, followed by 15 monthly instalments of \$24,000 (with the first instalment due on 1 July 2023). Installation costs of \$54,000 were also incurred.

For Hong Kong Profits Tax purposes, you are required to compute the depreciation allowances and identify any other deductions to which Chan & Co may be entitled for the year of assessment 2023/24. You should show all workings, but you are not required to provide explanatory notes. (8)

Total (15)

7. Green See Ltd (GSL) conducts a manufacturing business in Hong Kong and prepares accounts to 31 December. During the year ending 31 December 2022, GSL subcontracted a part of its production process to Blue Sky Ltd (BSL), based in Country B. As of 31 December 2022, GSL owned a factory building in Country B, which it purchased from the developer in October 2022 at a price of \$4 million (including both the land and building). BSL carried out the manufacturing process for GSL on the lower floor of the building. GSL leased the upper floor to a pharmaceuticals manufacturer, which used it as a research laboratory for new products.

Details of the costs incurred by the developer of the building are as follows:

Cost of land	\$1,500,000
Payment made to existing tenants	\$600,000
Construction costs	<u>\$900,000</u>
	<u><u>\$3,000,000</u></u>

In September 2023, the roof of the factory was damaged by a typhoon. GSL replaced the original tiled roof with a roof made of cement at a cost of \$450,000.

In October 2022 GSL spent \$300,000 to construct an extension to the factory.

In November 2023, GSL bought another factory building in Country B at a price of \$2,750,000 (including the land value of \$1,500,000). The building was originally constructed by the vendor for its own use at a cost of \$1,100,000 but, due to a change in the company's policy, it had not been put into use and was sold to GSL at a fair market price. The building was immediately put into use for conducting the manufacturing process by BSL for GSL.

You are required to compute the depreciation allowances for GSL for all relevant years of assessment, including explanations where necessary. (15)

8. Ace Ltd (Ace), a company based in Country A, employs Peter Alexander to oversee and supervise its affiliated businesses' operations in the Asia-Pacific region, including Hong Kong. The Inland Revenue Department has confirmed that Peter's employment is non-Hong Kong-sourced.

During the year ending 31 March 2024, Peter spent the following number of days in various places:

Hong Kong	175 days
Mainland China	92 days
Other countries	98 days (including 15 days' annual leave)

Peter had the following income and expenditures during the same period:

- 1) Annual salary of \$1,200,000.
- 2) A home-leave travelling allowance of \$50,000, of which 50% was expended for air tickets for home-leave purposes.
- 3) A non-accountable entertainment allowance of \$100,000. Peter incurred an expenditure of \$65,000 entertaining the company's customers.
- 4) Free use of a company car. The acquisition cost of the car was \$200,000 and its second-hand value was \$150,000. The petrol costs, totalling \$36,000 for the year, were charged to a fuel card registered under the company's name and settled by Ace. Peter used the car for both private and employment purposes, on a 50:50 basis.
- 5) Peter stayed in a hotel room during his stay in Hong Kong. Ace paid \$140,000 in hotel fees and deducted 5% of the hotel fees from his salary.
- 6) Ace operates a medical insurance scheme for all of its employees through an insurance company, Medicost, and pays an annual premium of \$3,000 per employee. During the year, Peter was hospitalised for two weeks. In order to continue carrying out his employment duties whilst in hospital, he paid an extra \$40,000 for a private room. Medicost reimbursed the basic hospital fees and semi-private ward fees of \$26,000, while Ace reimbursed half of the extra fees for the private room.
- 7) Peter joined a recreation club and paid an annual subscription fee of \$36,000. He obtained a reimbursement of \$18,000 from Ace. Peter often entertained customers at the club.

During the year, Ace has paid the following tax bills on Peter's behalf:

- Hong Kong Salaries Tax of \$101,000; and
- China Individual Income Tax of \$92,000, for services rendered in mainland China.

On 1 July 2023, Ace granted Peter the option to acquire 50,000 shares at a price of \$5 each. He paid \$5,000 for this option. On 1 August 2023, he sold the option for 20,000 shares for \$40,000. On 10 March 2024, he exercised the option on the remaining 30,000 shares and sold them the next day. The fair market values per share were as follows:

1 July 2023	\$7
1 August 2023	\$6
10 March 2024	\$8
11 March 2024	\$9

You are required to compute the total assessable income for Peter, for the year of assessment 2023/24. You should show all workings, but you are not required to provide explanatory notes. You may assume that there are 365 days in the year 2023/24.

(15)

2023/24

Tax Rates

Standard rate	15%
Corporate profits tax rate	
First \$2,000,000 (if two-tiered tax rates apply)	8.25%
Remainder	16.5%
Progressive rates	
First \$50,000	2%
Next \$50,000	6%
Next \$50,000	10%
Next \$50,000	14%
Remainder	17%

Tax Reduction (where applicable)

Percentage of reduction	100%
Maximum per case	\$3,000

Personal Allowances

	\$
Basic	132,000
Married person's	264,000
Child – 1 st to 9 th (each)	130,000
Additional (for year of birth, each)	130,000
Dependent parent / grandparent (each)	
Basic	50,000
(aged 55 or above but below 60: \$25,000)	
Additional	50,000
(aged 55 or above but below 60: \$25,000)	
Dependent brother / sister (each)	37,500
Single parent	132,000
Personal disability	75,000
Disabled dependant (each)	75,000

Deductions (maximum)

Self-education expenses	100,000
Home loan interest	100,000
Elderly residential care expenses	100,000
Contributions to recognised retirement schemes	18,000
VHIS policy premiums (for each insured person)	8,000
Annuity premiums and tax deductible MPF voluntary contributions	60,000
Domestic rents	100,000

Depreciation Allowance

Plant and machinery

Initial – 60%

Annual – Air-conditioning plant: 10%

Furniture and fixtures, office equipment, room air-conditioning units,
domestic appliances: 20%

Motor vehicles, electronic data processing equipment (computer),
electric cookers, production machine: 30%

Industrial building

Initial – 20%

Annual – 4% or formula

Commercial building

Annual – 4% or formula

Stamp Duty

Conveyance on sale of immovable property (from 28 February 2024 onwards)

Consideration	Scale 1 Part 1	Scale 2
Not exceeding \$3,000,000	\$100	\$100
\$3,000,001 – \$4,500,000	1.5%	1.5%
\$4,500,001 – \$6,000,000	2.25%	2.25%
\$6,000,001 – \$9,000,000	3%	3%
\$9,000,001 – \$20,000,000	3.75%	3.75%
Over \$20,000,000	4.25%	4.25%

Lease of immovable property

Term of lease	Rate
Not defined or uncertain	0.25% of yearly or average yearly rent
Not exceeding 1 year	0.25% on total rent payable over lease term
> 1 year but not exceeding 3 years	0.5% on yearly or average yearly rent
> 3 years	1% on yearly or average yearly rent

Transfer of Hong Kong stock (from 17 November 2023 onwards)

Contract note: 0.1%
Instrument of transfer: \$5

Agreement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation (Extracts) [for the years of assessment up to and including 2023/24]

ARTICLE 5
PERMANENT ESTABLISHMENT

1. In this Arrangement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
 - (1) a place of management;
 - (2) a branch;
 - (3) an office;
 - (4) a factory;
 - (5) a workshop;
 - (6) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term “permanent establishment” also encompasses:
 - (1) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 6 months;
 - (2) the furnishing of services, including consultancy services, by an enterprise of One Side in the Other Side, directly or through employees or other personnel engaged by the enterprise, but only if such activities continue (for the same or a connected project) for a period or periods aggregating more than 183 days within any 12-month period.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
 - (1) facilities used solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (2) a stock of goods or merchandise belonging to the enterprise kept solely for the purpose of storage, display or delivery;
 - (3) a stock of goods or merchandise belonging to the enterprise kept solely for the purpose of processing by another enterprise;
 - (4) a fixed place of business established solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
 - (5) a fixed place of business established solely for the purpose of carrying on any other activity of a preparatory or auxiliary character for the enterprise;
 - (6) a fixed place of business established solely for any combination of the activities mentioned in subparagraphs (1) to (5) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 6, where a person is acting in One Side on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:
 - (1) in the name of the enterprise; or
 - (2) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or
 - (3) for the provision of services by that enterprise,that enterprise shall be deemed to have a permanent establishment in that One Side in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make the fixed place of business a permanent establishment under the provisions of that paragraph.
6. Paragraph 5 shall not apply where the person carries on business in One Side as an independent agent and acts in that One Side on behalf of an enterprise of the Other Side in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which that person is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.”

7. The fact that a company which is a resident of One Side controls or is controlled by a company which is a resident of the Other Side, or which carries on business in that Other Side (whether through a permanent establishment or otherwise), shall not of itself constitute any company of any One Side a permanent establishment of a company of the Other Side.
8. For the purposes of this Article, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50% of the beneficial interest in the other (or, in the case of a company, more than 50% of the voting rights and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50% of the beneficial interest (or, in the case of a company, more than 50% of the voting rights and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise."

ARTICLE 7 TAXATION OF BUSINESS PROFITS

1. The profits of an enterprise of One Side shall be taxable only in that Side unless the enterprise carries on business in the Other Side through a permanent establishment situated therein. If the enterprise carries on business in the Other Side through a permanent establishment situated therein, its profits may be taxed in the Other Side, but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of One Side carries on business in the Other Side through a permanent establishment situated therein, there shall in each Side be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the Side in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts (other than reimbursement of actual expenses) paid by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, remuneration, fees or any other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in determining the profits of a permanent establishment, for amounts (other than reimbursement of actual expenses) charged by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, remuneration, fees or any other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.
4. Insofar as it has been customary in One Side to determine the profits to be attributed to a permanent establishment by apportioning the total profits of the enterprise to its various units or by any other methods provided for in the laws, nothing in paragraph 2 shall preclude that Side from determining the profits to be taxed by such method. However, the result of adopting such method shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason only of the purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason for a deviation.
7. Where profits include items of income which are dealt with separately in other Articles of this Arrangement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 SHIPPING, AIR AND LAND TRANSPORT

1. Income and profits derived by an enterprise of One Side from the operation of ships, aircraft or land transport vehicles in shipping, air and land transport shall be exempt from tax (including value added tax in the Mainland of China) in the Other Side (except where the ships, aircrafts or land transport vehicles are solely operated between places of the Other Side).

2. The provisions of paragraph 1 of this Article shall also apply to income and profits derived from participation in partnership business, joint venture business or international business agency, to the extent of the income and profits that is proportional to the shareholding of such business.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of One Side to a resident of the Other Side, may be taxed in that Other Side.
2. However, such dividends may also be taxed in the Side of which the company paying the dividends is a resident, and according to the laws of that Side, but if the beneficial owner of the dividends is a resident of the Other Side, the tax so charged shall not exceed:
 - (1) where the beneficial owner is a company directly owning at least 25% of the capital of the company which pays the dividends, 5% of the gross amount of the dividends;
 - (2) in any other case, 10% of the gross amount of the dividends.

The competent authorities of both Sides shall by mutual agreement settle the mode of application of these limitations.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

ARTICLE 11
INTEREST

1. Interest arising in One Side and paid to a resident of the Other Side may be taxed in that Other Side.
2. However, such interest may also be taxed in the Side in which it arises and according to the laws of that Side, but if the beneficial owner of the interest is a resident of the Other Side the tax so charged shall not exceed 7% of the gross amount of the interest.

The competent authorities of both Sides shall by mutual agreement settle the mode of application of this limitation.

ARTICLE 12
ROYALTIES

1. Royalties arising in One Side and paid to a resident of the Other Side may be taxed in that Other Side.
2. However, such royalties may also be taxed in the Side in which they arise and according to the laws of that Side, but if the beneficial owner of the royalties is a resident of the Other Side the tax so charged shall not exceed 7% of the gross amount of the royalties. The competent authorities of both Sides shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific works including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience.

ARTICLE 13
CAPITAL GAINS

1. Gains derived by a resident of One Side from the alienation of immovable property referred to in Article 6 and situated in the Other Side may be taxed in that Other Side.
2. Gains derived from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of One Side has in the Other Side, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that Other Side.
3. Gains derived by an enterprise of One Side from the alienation of ships or aircraft or land transport vehicles operated in shipping, air and land transport or movable property pertaining to the operation of such ships, aircraft or land transport vehicles, shall be taxable only in that Side.

4. Gains derived by a resident of One Side from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the Other Side if, at any time during the three years preceding the alienation, these shares or comparable interests derived more than 50% of their value directly or indirectly from immovable property, as defined in Article 6, situated in that Other Side.
5. Gains derived by a resident of One Side from the alienation of shares, other than the shares referred to in paragraph 4, or other rights in the capital of a company which is a resident of the Other Side may be taxed in that Other Side if, at any time within the 12 months before the alienation, the recipient of the gains had a participation, directly or indirectly, of not less than 25% of the capital of the company.”.
6. Gains derived from the alienation of any property, other than that referred to in paragraphs 1 to 5, shall be taxable only in the Side of which the alienator is a resident.

ARTICLE 14 INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17, 18, 18A, 19 and 20, salaries, wages and other similar remuneration derived by a resident of One Side in respect of an employment shall be taxable only in that One Side unless the employment is exercised in the Other Side. If the employment is exercised in the Other Side, such remuneration as is derived therefrom may be taxed in that Other Side.
2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of One Side in respect of an employment exercised in the Other Side shall be taxable only in that One Side if all the following 3 conditions are satisfied:
 - (1) the recipient is present in the Other Side for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the taxable period concerned;
 - (2) the remuneration is paid by, or on behalf of, an employer who is not a resident of the Other Side;
 - (3) the remuneration is not borne by a permanent establishment which the employer has in the Other Side.

ARTICLE 18A TEACHERS AND RESEARCHERS

1. Where an individual is employed by a university, college, school in One Side or by an educational institution or scientific research institution recognized by the Government of One Side and is, or was immediately before visiting the Other Side, a resident of that One Side and is present in that Other Side for the primary purpose of teaching or research at a university, college, school in that Other Side or at an educational institution or scientific research institution recognized by the Government of that Other Side, the remuneration derived by the individual in respect of such teaching or research, to the extent it is paid by, or on behalf of, the employer of that One Side, shall not be taxed in that Other Side for a period of three years, provided that such remuneration is subject to tax in that One Side.
2. The period of “three years” provided in paragraph 1 of this Article shall begin on the date of the individual's first arrival in the Other Side for the above purpose or the date from which the provisions begin to apply under paragraph 2 of Article 7 of this Protocol, whichever is the later.
3. Paragraph 1 of this Article shall not apply to income derived from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.”

ARTICLE 24A ENTITLEMENT TO BENEFITS UNDER THE ARRANGEMENT

Notwithstanding the other provisions of this Arrangement, a benefit under this Arrangement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Arrangement.