

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2022

MODULE 2.04 – HONG KONG OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

This 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)
- **The** question in **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made to the nearest month and in Hong Kong Dollars, unless otherwise stated.
- As you are using the online method to complete your exam, 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 the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation (Extracts)

PART A

You are required to answer BOTH questions from this Part.

1. Dandelion Ltd (DL) is incorporated and operates in Country D, which does not have a double tax agreement with Hong Kong. DL is a major vendor and lessor of construction machines, and a provider of technical services to property developers in Hong Kong. DL has four separate and distinct business operations in the Hong Kong market:

- Provision of technical services;
- Sale of Machine-A units;
- Sale of Machine-B units; and
- Lease of Machine-C units

Sakura HK Ltd (SHK) is a wholly owned subsidiary of DL, incorporated in Hong Kong.

DL has an agreement with SHK to use its training rooms for the provision of technical services to Hong Kong clients, in exchange for a service fee. SHK shares 10% of the service fee with DL in this regard. Technical managers from DL travel to Hong Kong once per month to provide the services, each time for a period of around one week.

The sale of Machine-A units is carried out with the assistance of SHK. DL has provided standard trading terms to SHK, under which SHK solicits and negotiates with potential buyers. When the buyers agree to the terms, they place purchase orders directly with DL. SHK neither accepts nor processes the orders, which are accepted and processed by DL. Machine-A units are then delivered by DL from Country D.

The sale of Machine-B units is solely carried out by DL, without any assistance from SHK. Orders are accepted and processed by DL, which rents a warehouse in Hong Kong for the storage and delivery of Machine-B units as well as some spare parts. These spare parts are used in the maintenance and repair of Machine-B units sold to Hong Kong clients. The repair works are carried out at the warehouse by independent sub-contractors.

DL leases Machine-C units to various property developers for use in Hong Kong. The negotiation and conclusion of the lease contracts was carried out by DL, in Country D. During the year ending 31 March 2021, DL leased three Machine-C units to Hong Kong lessees for a total of \$10 million. All machines were acquired during the year ending 31 March 2019 at a total acquisition cost of \$20 million, and had been leased to lessees in mainland China before they were leased to the Hong Kong lessees. The annual allowance rate for Machine-C is 30%, if depreciation allowances are available.

You are required to comment on the Hong Kong Profits Tax position of DL, in relation to:

- | | | |
|----|---|-----|
| 1) | The provision of technical services in Hong Kong. | (9) |
| 2) | The sale of Machine-A units to buyers in Hong Kong. | (4) |
| 3) | The maintenance of the Machine-B warehouse in Hong Kong. | (4) |
| 4) | The leasing of Machine-C units in Hong Kong for the tax year ending 31 March 2021, with computation of Profits Tax payable, if any, based on the information provided. You should assume that SHK has been nominated by the company group for the two-tiered Profits Tax regime. | (8) |

Total (25)

2. Blueberry Ltd (BL) has conducted business in Hong Kong. Its provisional income statement for the year ending 31 March 2021 includes, among other things, the following income and expenses:

	<u>Note</u>	<u>\$</u>
Income		
Net trading profits (Country B)	1	50,000,000
Expenditure		
Interest expenses	2	900,000

- 1) Holding Ltd (HL), which is incorporated and operates in Country A, was the holding company of BL. HL has been selling goods to customers in Country B for many years. Effective from 1 January 2021, Country B imposed trade restrictions which prevented HL from directly selling goods to customers in Country B. As a result of the restrictions, from 2021 HL has sold goods to Country B customers via BL.

HL’s managers continued to negotiate and conclude all trading terms with Country B customers via email. Upon conclusion of each trading contract, the goods were delivered from Country A to the Country B customers directly. HL would then issue an invoice to BL. Under HL’s instruction, BL would include a mark-up on the purchase price, pre-determined by HL’s management, and issue the resulting invoice to the customers. The financing arrangement on the purchase of the goods was arranged by HL for and on behalf of BL in Country A. HL indemnified BL for any losses incurred from the trading transactions.

In its 2021 income year, BL derived net trading profits of \$50 million in this regard, after the deduction of a \$5 million royalty fee and the \$45 million cost of goods sold. BL paid the \$5 million royalty fee to HL in return for the right to sell goods bearing the trademark (TMH1), which is owned by HL. BL also paid a sales tax of \$500,000, which was charged based on the gross sales value, in Country B. The \$500,000 sales tax payment is not yet reflected in BL’s accounts. BL incurred no costs other than the \$5 million royalty fee, \$45 million cost of goods sold and \$500,000 sales tax. There is no double tax agreement between Hong Kong and Country B.

- 2)

Interest expense on a bank loan secured by debentures and shares listed in Singapore	<u>\$</u> 900,000
--	----------------------

A \$20 million bank loan was taken out on 1 April 2020 to purchase a manufacturing machine for use in BL’s Hong Kong manufacturing business; all profits generated from the business are derived from Hong Kong and taxable.

HL provided all securities for the loan, including debentures listed on the Singapore Stock Exchange (valued at \$20 million) and shares also listed on the Singapore Stock Exchange (valued at \$10 million) throughout all relevant times. HL received interest income of \$600,000 from the debentures and a dividend of \$400,000 from the shares.

You are required to explain the Hong Kong Profits Tax treatment, in relation to the information regarding the following items, assuming that BL’s assessable profits exceed \$2 million for the year ending 31 March 21:

- | | |
|--|------|
| 1) The net trading profits in Country B of \$50 million. | (11) |
| 2) The \$5 million royalty fee to HL and \$500,000 sales tax in Country B. | (10) |
| 3) The \$900,000 interest expense on the bank loan. | (4) |

Total (25)

PART B

You are required to answer THIS question.

3. Ace Ltd (AL) was incorporated in Country A, where it is a tax resident. The corporate income tax rate in Country A is 40%.

AL has established a wholly owned company in Hong Kong, Better HK Ltd (BHK). BHK maintains an office in Hong Kong. Customers around the world place orders and pay via BHK's website. Upon receipt of the customers' orders, BHK places onward orders to AL and the goods are delivered to the customers by AL. BHK's Hong Kong office is responsible for the related administration work, preparation and maintenance of accounting records, and financing arrangements. BHK reports all its profits as taxable in Hong Kong. Under the existing pricing arrangement between AL and BHK, the profits are split equally between the two companies.

At the request of AL's management, a tax consultant has proposed a new business arrangement. The arrangement will involve a Country X company (X-Co), which will act as a re-invoicing vehicle. X-Co will maintain a bank account in Country X for the payment and receipt of sales proceeds. Two partners from an accountancy firm in Country X will be appointed as the nominee directors of X-Co. They will act according to instructions received from AL's management. BHK will purchase the goods from X-Co, which in turn purchase the goods from AL. Under the proposed arrangement, AL and BHK will each receive 10% of the overall profit from the transaction, while X-Co will receive the remaining 80%. The corporate income tax rate in Country X is 5%.

You are required to discuss the Hong Kong Profits Tax implications of the proposed arrangement. (20)

PART C

You are required to answer TWO questions from this Part.

4. Ashwood Ltd (AL) is incorporated in Hong Kong and wholly owned by Mr Wong, who holds a Hong Kong permanent identity card. AL conducts a trading business in Hong Kong and has two subsidiaries, Bee Ltd (BL) and Ceci Ltd (CL), both of which are also incorporated and operate in Hong Kong.

The shareholding structures of BL and CL are as follows:

	Ordinary shares (par value) (held by AL)	Preference shares (par value) (held by Mr Wong)
BL	\$36 million	\$4 million
CL	\$34 million	\$6 million

The following transactions were carried out between AL, BL and CL:

- 1) On 1 November 2021, AL signed a deed of assignment with BL to assign a residential property in Hong Kong (Property-1) to BL in return for a cash payment of \$5 million and the waiver of loan due from BL; the outstanding amount on 1 November 2021 was \$15 million. No sale or purchase agreement was signed between AL and BL.

Property-1 has been used as staff quarters since its acquisition by AL, which signed the sale and purchase agreement for the acquisition of Property-1 on 1 November 2018 from an independent third party; the deed of assignment was signed on 1 December 2018.

AL used the cash proceeds from the sale to repay the outstanding amount of a loan borrowed from Mr Wong. The market value of Property-1 on 1 November 2021 was \$16 million.

- 2) On 30 April 2022, BL and CL signed a sale agreement to sell Property-1 to CL, with a completion and deed of assignment signature date of 30 May 2022. The sale price of \$22 million was paid in cash. The market value of the property on 30 April 2022 was \$25 million.

You are required to discuss the Hong Kong Stamp Duty implications of the following transactions, ignoring any penalties:

- 1) **Transaction 1, between AL and BL.** (10)
- 2) **Transaction 2, between BL and CL.** (5)
- Total (15)

5. Ready Ltd (RL) is resident in Country R for tax purposes and principally engaged in the manufacture and sale of household appliances. Sandy Ltd (SL) is a resident of Hong Kong for tax purposes and a wholly owned subsidiary of RL. SL owns a store in Hong Kong where it sells the appliances that it purchases from RL. SL reports in its tax returns all profits from the sale of the appliances as chargeable to Hong Kong Profits Tax.

RL owns a small warehouse in Hong Kong, where it stores a few large appliances that are identical to some of those displayed in the store owned by SL.

When SL sells a large appliance to a customer, SL employees visit RL's warehouse where they take possession of the item before delivering it to the customer. Ownership of the item is obtained by SL from RL only when the item leaves the warehouse.

SL, using its own internal funds, has provided an interest-free loan to RL for the financing of RL's warehouse operating expenses. SL has not provided any loans to other related parties.

There is no double tax agreement between Hong Kong and Country R.

You are required to discuss the Hong Kong Profits Tax implications for RL and SL, relating to the activities described. (15)

6. Ms So is the sales manager of Pacific Foods Ltd (Pacific). She has provided the following information relating to the tax year ending 31 March 2021:
- Ms So has rented her own property to Pacific at a monthly rate of \$10,000; the relevant tenancy agreement has been stamped. Pursuant to the employment contract, Pacific provides accommodation benefit to Ms So, allowing her and her family to live in the property. Ms So pays a monthly management fee of \$1,000. She also paid mortgage interest of \$100,000 for the tax year ending 31 March 2021, in relation to the property.
 - Ms So incurred monthly travel expenses of \$2,000, and annual entertainment expenses of \$26,000. She obtained a full refund of both expenses from Pacific. The Inland Revenue Department agreed that 60% of the travelling and entertainment was for business purposes.
 - Ms So was enrolled on the company's medical insurance scheme, for which Pacific has paid an insurance premium of \$2,500 to the insurance company in relation to her cover. Ms So incurred medical expenses of \$5,600 during the year, and obtained a refund of \$4,500 from the insurance company.
 - Ms So enrolled in a master's degree offered by the Chinese University of Hong Kong (a specified institution for self-education expense purposes), paying tuition fees of \$40,000 in April 2020. She attended all scheduled classes during the 2020/21 year, obtaining a refund of \$10,000 from Pacific.

You are required to explain to Ms So the Hong Kong Salaries Tax treatment of the following items:

- | | | |
|--------------|---|-------------|
| 1) | Her mortgage interest payments. | (3) |
| 2) | Her travelling and entertainment expenses, and the refund of these expenses. | (4) |
| 3) | Her medical insurance premium, expenses and refund. | (4) |
| 4) | Her tuition fee and refund. | (4) |
| Total | | (15) |

7. Mr Ling resided in Hong Kong for the full 2020/21 tax year. He owns a property in Hong Kong, which was rented out to Ms Jude on the following terms in 2020:
- Rental period: 24 months, from 1 June 2020
 - Rent: \$40,000 per month
 - Rental deposit: \$80,000, payable on 1 May 2020
 - Lease premium: \$96,000, payable on 1 May 2020
 - Rates and government rent: All rates and government rent are payable by the landlord
 - Property management fee: \$4,000 per month, payable by the landlord
 - All repairs on normal wear and tear on the interior part of the unit are the responsibility of the landlord.

Mr Ling paid rates (net of concession) of \$6,000 per quarter, and government rent of \$4,000 per quarter, for the year ending 31 March 2021. He also paid mortgage interest expenses of \$200,000, Stamp Duty relating to the 2020 lease of \$6,480, and an agency fee of \$6,000 in relation to the property.

In March 2021 Ms Jude paid \$4,000 to repair the bathroom, but did not claim any reimbursement from Mr Ling.

In 2019, Mr Ling had rented out the property to Miss Chan. The lease was terminated on 30 April 2020, with six months' outstanding rent totalling \$180,000. Mr Ling had a two-month rental deposit on hand to help offset the unpaid rent. The Inland Revenue Department agreed that the six-month rent outstanding was uncollectible in April 2020. According to the terms of the 2019 lease, the rates were payable by the landlord, Mr Ling.

You are required to:

- | | | |
|--------------|---|-------------|
| 1) | Compute Mr Ling's Hong Kong Property Tax liability for the 2020/21 tax year, ignoring provisional tax and including all of your workings. An explanatory note is not required. | (10) |
| 2) | Advise Mr Ling on a tax-efficient reporting strategy, based on the information provided and assuming that he did not derive any other income in Hong Kong during the 2020/21 tax year. | (5) |
| Total | | (15) |

Tax Rates and Allowances

Year of Assessment	<u>2020/21</u>
<u>Tax Rates</u>	
Standard rate	15%
Corporate profits tax rate (First \$2 million in profits)*	8.25%
(Profits exceeding \$2 million)*	16.5%
*subject to satisfying necessary conditions. Otherwise, 16.5% applies	
<u>Progressive rates</u>	
First \$50,000	2%
Next \$50,000	6%
Next \$50,000	10%
Next \$50,000	14%
Remainder	17%
 <u>Tax Reduction (where applicable)</u>	
Percentage of reduction	100%
Maximum per case	\$10,000
 <u>Personal Allowances</u>	
	<u>\$</u>
Basic	132,000
Married person's	264,000
Child – 1 st to 9 th (each)	120,000
Additional (for year of birth, each)	120,000
Dependent parent / grandparent (each)	
Basic	50,000
(aged 55 or above but below 60: \$23,000)	
Additional	50,000
(aged 55 or above but below 60: \$23,000)	
Dependent brother / sister (each)	37,500
Single parent	132,000
Personal disability allowance	75,000
Disabled dependant (each)	75,000
 <u>Deductions (maximum limits)</u>	
Self-education expenses	100,000
Elderly residential care expenses	100,000
Home loan interest	100,000
Mandatory contributions to recognised retirement schemes	18,000
Qualifying premium paid under voluntary health insurance scheme policy (for each insured person)	8,000
Qualifying annuity premiums and tax deductible MPF voluntary contributions	60,000
Approved charitable donations	35%

Depreciation Allowance

Plant and machinery

Initial – 60%

Annual:

Air-conditioning plant: 10%

Furniture and fixtures, office equipment, room air-conditioning unit, domestic appliance, packaging machine: 20%

Motor vehicle, electronic data processing equipment (computer), manufacturing machine, production mould: 30%

Industrial building

Initial – 20%

Annual – 4% or formula

Commercial building

Annual – 4% or formula

Stamp Duty rates

Sale or transfer of immovable property Ad valorem Stamp Duty (AVD)

Scale 1:15%

<u>Scale 2</u>	
<u>Consideration (round up to nearest \$1)</u>	<u>Rates of Scale 2</u>
Up to \$2,000,000	\$100
\$2,000,001 - \$2,351,760	\$100+ 10% of excess over \$2,000,000
\$2,351,761 - \$3,000,000	1.50%
\$3,000,001 – 3,290,320	\$45,000 + 10% of excess over \$3,000,000
\$3,290,321 - \$4,000,000	2.25%
\$4,000,001 - \$4,428,570	\$90,000 + 10% of excess over \$4,000,000
\$4,428,571 – \$6,000,000	3%
\$6,000,001 - \$6,720,000	\$180,000 + 10% of excess over \$6,000,000
\$6,720,000 - \$20,000,000	3.75%
\$20,000,001 - \$21,739,120	\$750,000 + 10% of excess over \$20,000,000
Over \$21,739,120	4.25%

Special Stamp Duty (SSD)

<i>Property which has been held for</i>	<i>Acquired on or after 27 October 2012</i>
6 months or less	20%
> 6 months but 12 months or less	15%
> 12 months but 36 months or less	10%

Buyer's Stamp Duty (BSD): 15%

Lease

<u>Term of lease</u>	<u>Rate</u>
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
Between 1 to 3 years	0.5% on yearly or average yearly rent
Exceeding 3 years	1% on yearly or average yearly rent
Key money, construction fee etc. mentioned in the lease	4.25% of the consideration if rent is also payable under the lease. Otherwise, same duty as for a sale of immovable property

Transfer of Hong Kong Stock

Nature of Document	Rate
Contract Note for sale or purchase of any Hong Kong stock	0.1% of the amount of the consideration or of its value on every sold note and every bought note
Transfer operating as a voluntary disposition inter vivos	\$5 + 0.2% of the value of the stock to be transferred
Transfer of any other kind	\$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 2020/21]

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 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 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.