



THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2016

PAPER 2.04 – HONG KONG OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

You should answer **FIVE** out of the seven questions: **BOTH** questions from Part A; the **ONE** question in Part B; and **TWO** questions from Part C.

Part A questions are worth 25 marks each. The Part B question is worth 20 marks. Part C questions are worth 15 marks each.

You should aim to spend approximately half of your exam time answering Part A, and the remaining half answering Parts B and C. The amount of time you spend answering each question should correspond broadly to the number of marks available for that question.

Start each answer on a new page. If you are using the on-screen 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.

All workings should be made to the nearest month and Hong Kong Dollar, unless the question requires otherwise.

Marks are specifically allocated for presentation.

For your information this paper includes:

Appendix: Avoidance of Double Taxation Arrangement between Mainland China and the Hong Kong Special Administrative Region (Extracts).

Tax Rates and Allowances

Tax Rates (2015/16)

Standard rate	15%
Corporation profits tax rate	16.5%
Progressive rates:	
First \$40,000	2%
Next \$40,000	7%
Next \$40,000	12%
Remainder	17%

Tax Reduction (where applicable)

Percentage of reduction	75%
Maximum per case	\$20,000

Personal Allowances

Basic	\$120,000
Married person's	\$240,000
Child (For each dependent) the 1 st and 9 th child	\$100,000
Additional child allowance in the year of birth	\$100,000
Dependent parent/grandparent (each):	
Basic (aged 60 or above)	\$40,000
Additional (aged 60 or above)	\$40,000
Basic (aged 55 to 59)	\$20,000
Additional (aged 55 to 59)	\$20,000
Dependent brother/sister (each)	\$33,000
Single parent	\$120,000
Disabled dependent (each)	\$66,000

Concessionary Deductions (maximum)

Self-education expenses	\$80,000
Home loan interest	\$100,000
Elderly residential care expenses	\$80,000
Contributions to Mandatory Provident Fund/recommended retirement schemes	\$18,000

Stamp Duty rates (effective 23 February 2013)

Head 1(1) and Head 1(1A) – Scale 1:

<u>Consideration (round up to nearest \$1)</u>	<u>Rate</u>
Up to \$2,000,000	1.5%
\$2,000,001 – \$2,176,470	\$30,000 + 20% of excess over \$2,000,000
\$2,176,471 – \$3,000,000	3%
\$3,000,001 – \$3,290,330	\$90,000 + 20% of excess over \$3,000,000
\$3,290,331 – \$4,000,000	4.5%
\$4,000,001 – \$4,428,580	\$180,000 + 20% of excess over \$4,000,000
\$4,428,581 – \$6,000,000	6%
\$6,000,001 – \$6,720,000	\$360,000 + 20% of excess over \$6,000,000
\$6,720,001 – \$20,000,000	7.5%
\$20,000,001 – \$21,739,130	\$1,500,000 + 20% of excess over \$20,000,000
Over \$21,739,130	8.5%

Head 1(1) and Head 1(1A) – Scale 2:

<u>Consideration (round up to nearest \$1)</u>	<u>Rate</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	1.5%
\$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
\$6,720,001 – \$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)

Head 1(1AA) and Head 1(1B) (from 20 November 2010 until 26 October 2012):

<u>Holding periods of properties</u>	<u>Rate</u>
Not exceeding 6 months	15%
Between 6 and 12 months	10%
Between 12 and 24 months	5%

Head 1(1AA) and Head 1(1B) (from 27 October 2012):

<u>Holding periods of properties</u>	<u>Rate</u>
Not exceeding 6 months	20%
Between 6 and 12 months	15%
Between 12 and 36 months	10%

Head 1(2):

<u>Term of lease</u>	<u>Rate</u>
Not defined or uncertain	0.25% on annual or average annual rent
Not exceeding 1 year	0.25% on total rent payable over lease term
Between 1 and 3 years	0.5% on annual or average annual rent
Exceeding 3 years	1% on annual or average annual rent

Head 2:

<u>Nature of document</u>	<u>Rate</u>
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 sold
Transfer of any other kind	\$5

PART A

You are required to answer BOTH questions from this Part.

1. Berry China Ltd (BCL) is a company incorporated in mainland China and principally engaged in the business of production and distribution of films in mainland China. In addition, BCL engages in the sale of fiction books based on its films, as well as DVDs and blu-ray discs of classic films. BCL owns part of a company in Hong Kong, Gold-Apple Ltd (GAL), which is jointly owned by BCL and an unrelated Hong Kong company, Gold Film Productions Ltd (GFPL). GAL's business activities are similar to BCL, and it began its business in Hong Kong one year ago. GAL required assistance from BCL in establishing its business. BCL has carried out the following activities in Hong Kong.

Secondment

BCL and GAL entered into a secondment agreement, under which BCL seconded four staff members to train GAL's production team during a period of eighteen months, from 1 July 2014 until 31 December 2015. GAL reimbursed BCL each staff members' salary for the working period, in addition to a 10% mark-up. The staff members remained under the supervision of BCL's Chinese management. They did not sign any employment contract with GAL. BCL was responsible for the calculation and payment of income tax on the seconded staff members' salaries, in both Hong Kong and mainland China. The respective working periods in Hong Kong of BCL's staff members were as follows:

Staff member 1	1 July 2014 to 30 September 2014
Staff member 2	1 October 2014 to 30 November 2014
Staff member 3	1 May 2015 to 30 June 2015
Staff member 4	1 December 2015 to 31 December 2015

Hong Kong showroom and e-trading of DVDs, blu-ray discs and books

BCL has sold DVDs and blu-ray discs of classic films, and books based on its films, to Hong Kong customers. BCL rented and operated a showroom in Hong Kong, in which it displayed copies of the DVDs, blu-ray discs and books. However, the showroom did not sell any products. Potential customers were instead directed to BCL's website, from which orders could be placed. Books and discs were delivered directly to each customer by BCL. Occasionally, GAL stored production equipment at the showroom.

Training services

BCL has provided training to various corporate clients in Hong Kong during the year ending 31 December 2015, for 104 days (every Saturday and Sunday). BCL does not rent or own any training centres in Hong Kong. BCL signed an agreement with an executive training company in Hong Kong, under which the executive training company provided a training centre free of charge to BCL for delivery of the training services. The executive training company promoted BCL's services and attract clients for BCL. In return for the administrative and marketing support provided to BCL, the executive training company received 50% of each client's tuition fees.

- 1) **You are required to analyse the Hong Kong Profits Tax implications of BCL's activities, with reference to the China-Hong Kong double taxation arrangement.** (20)

In addition to its GAL holding, GFPL has provided services relating to 3D animation film production to various Chinese companies. In early 2014, BCL engaged GFPL to provide assistance in producing a film, in return for a service fee. GFPL provided the services, which were conducted partly in Hong Kong and partly in mainland China at BCL's Shenzhen studio.

Continued

1. Continuation

For tax reporting in Hong Kong and mainland China, GFPL has attributed 80% of the service fee to Hong Kong services and 20% to mainland Chinese services. In 2015, GFPL had already paid Profits Tax in Hong Kong and Income Tax in China, based on this 80:20 split.

The 20% services fee has been accepted as offshore and non-taxable by the Hong Kong Inland Revenue Department (IRD). However, after one year and having conducted a tax audit of BCL and GFPL, the Chinese tax authority regards the portion of the service fee allocated by GFPL to mainland China as too low and has made a transfer pricing adjustment.

2) Discuss the measures GFPL could take in Hong Kong, in response to this adjustment. (5)

Total (25)

2. Toby Ltd (TL) is a company based in the United Kingdom, and the ultimate holding company of the Toby department store chain. TL has established subsidiary companies in various countries and jurisdictions, to run department stores using the 'Toby' brand name. Sometimes, instead of running the department stores by itself, TL or its subsidiary company would license the right to use the 'Toby' name to an unrelated party in return for royalty income.

Larry Ltd (LL) is incorporated in Hong Kong and wholly owned by TL. LL obtained the right to use the 'Toby' name, including sub-licensing rights, in Hong Kong and mainland China. LL negotiated and concluded a sub-license with a mainland Chinese company, Generation R Ltd (GRL), in Hong Kong. During the year ending 31 December 2015, the following income and expenses were derived and incurred by LL in relation to the 'Toby' brand name.

	\$
Trading income from Hong Kong department stores	100,000,000
Royalty income from sublicensing 'Toby' to GRL	5,000,000
Royalty expenses to TL for using 'Toby' in Hong Kong department stores	16,000,000
Royalty expenses to TL for sublicensing 'Toby' to GRL	4,000,000
China withholding income tax on royalty income received from GRL (7% on gross receipts of \$5 million)	350,000
China withholding business tax on royalty income received from GRL (5% on gross receipts of \$5 million)	250,000
Promotion expenses for 'Toby' (Hong Kong market)	400,000
Promotion expenses for 'Toby' (mainland China market)	100,000

You are required to assess and compute LL's tax position in relation to its royalty income and expenses. You should analyse the taxability of the trading income and royalty income, the deductibility of royalty and related promotion expenses, and any other related issues. (25)

PART B

You are required to answer THIS question.

3. Mercy, Inc. (MI) is incorporated in the United States and has no direct business presence in Hong Kong. However, MI's wholly owned subsidiary company, Friendship Ltd (FL), has made substantial investments in Hong Kong properties and shares.

As part of a business expansion scheme, the management of MI is considering the acquisition of a 50% shareholding in a Hong Kong company, Wonderful Manufacturing Ltd (WML). Based on a preliminary review of WML's books and records, the following information has been obtained:

Principal business of WML:	Manufacture and distribution of electric cars
Supplier:	Beautiful Manufacturing Ltd (Subco)
Contractual relationship with BML:	Processing agreement
Major assets:	Computerised production system, and patents 60% ownership of Subco

The computerised production system and patents are used by Subco at its factory in Shenzhen. In addition, WML provides product designs and technical support to Subco by sending five production technicians and three quality assurance officers who are stationed at Subco's factory in Shenzhen. Subco is currently subject to a 15% income tax rate in China.

MI's management have appointed you as the company's tax adviser, in order to perform a due diligence review regarding the proposed acquisition.

You are required to discuss any Hong Kong Profits Tax issues which the management of MI should consider in the proposed acquisition of WML. (20)

PART C

You are required to answer TWO questions from this Part.

4. Mr Smart has established four companies in Hong Kong: Hedy Ltd (HL), Aoki Ltd (AL), Billy Ltd (BL) and Terry Ltd (TL). Mr Smart owns all issued share capital in HL. The shareholding structures of AL, BL and TL are shown in the following table:

<u>Company</u>	<u>Shareholding</u>
AL	90% by HL 10% by Mr Smart
BL	80% by HL 20% by AL
TL	100% by AL

HL has entered into a joint development agreement with an unrelated party, David Ltd (DL). Under this development agreement, the HL group and DL would redevelop an old office building owned by TL into a new commercial building, with offices, shop units and a cinema, for long term investment purposes. TL acquired the building on 30 November 2013 with a mortgage loan from HS Bank, and has been leasing out the offices since acquisition. In mid-2014, TL obtained permission from the relevant authority for the redevelopment project.

On 30 November 2015, the following restructuring was completed in connection with the establishment of the joint venture between the HL group and DL:

- 1) AL transferred all its shares in TL to BL for a cash consideration of \$900 million. At the request of HS Bank, BL signed an undertaking agreement with HS Bank whereby BL would replace AL as the guarantor of TL's existing mortgage loan. The amount outstanding at the date of the undertaking was \$100 million.
- 2) BL enlarged its share capital by way of a new issue of shares to DL. 500,000 shares were issued to DL, at a price of \$100 each. The new shares represented 5% of new overall capital. After this new issue of shares, HL's and AL's shareholdings in BL were changed to 76% and 19% respectively.

You are required to discuss the Stamp Duty implications, excluding any penalty, of the actions described above. (15)

5.

- 1) Lion Ltd (Lion) is a company based in Hong Kong, which is principally engaged in the trading of garments. Lion's draft income statement for the year ending 31 December 2015 shows the following items:
- a) A year-end revaluation gain of \$200,000 and revaluation loss of \$300,000 on listed securities held for trading purposes.
 - b) Compensation of \$200,000 received for early termination of the tenancy agreement for a retail shop.
 - c) A bad debt of \$200,000, representing a write-off of a Hong Kong bank account in which Lion had deposited trade receipts.
 - d) An exchange loss on year end conversion of a Japanese yen-denominated bank deposit representing trading receipts from customers in Japan.
 - e) Building decoration expenses of \$1 million for refurbishment of an office, and \$200,000 for refurbishment of a director's residential quarters.

You are required to comment on the deductibility or taxability of each of the above items, in relation to the application of Hong Kong Profits Tax. You may make reasonable assumptions if necessary, and should identify any additional information which you regard as being required. (10)

- 2) On 1 January 2015, Lion obtained two loans from an American bank in New York. The loans, denominated in US dollars, were for \$5 million and \$15 million respectively, and were taken out in order to finance the purchase of machinery and the construction of a research centre, respectively. The \$5 million loan was secured by the transfer of a \$4 million loan asset (Security 1) to the bank's holding company, based outside Hong Kong, and shares in Lion worth \$1 million. The \$15 million loan was secured by a deposit of \$2 million (Deposit 1) with the bank and shares of Lion worth \$13 million.

In the course of 2015, Lion earned interest income of \$300,000 from Security 1 and \$150,000 from Deposit 1. Meanwhile, Lion's interest expenses amounted to \$500,000 and \$1,500,000 on the \$5 million loan and \$15 million loan respectively, during the same period.

You are required to comment on the deductibility of Lion's interest expenses on the two loans, in relation to the application of Hong Kong Profits Tax, for the year ending 31 December 2015. (5)

Total (15)

6. Mr Bee is a United States citizen. He is employed by a US company, Orange Corp (OC), and was recently seconded to OC's Hong Kong subsidiary, Butterfly Ltd (BL). Mr Bee did not sign an employment contract with BL. While stationed in Hong Kong, Mr Bee was required to travel to Vietnam, India and mainland China to oversee the financial aspects of BL's operations in those territories.

During the twelve months ending 31 March 2016, Mr Bee worked in Hong Kong for 200 days; the following items were received or paid by Mr Bee during this period:

- (a) A monthly salary of \$100,000 paid by OC.
- (b) A monthly sum of \$20,000 as partial reimbursement by OC of the rent of \$25,000 per month for his Hong Kong residence.
- (c) A share award from OC worth \$100,000 at the market share price on the date of award, which Mr Bee received in January 2016. Mr Bee sold the shares at \$150,000 in February 2016.
- (d) An option granted by OC to Mr Bee in March 2016 to purchase 10,000 shares in OC at \$10 per share. Mr Bee exercised the option in part by purchasing 5,000 shares in April 2016. The market value at the date of exercise was \$20 per share.
- (e) A contribution of \$48,000 by Mr Bee to his employer's mandatory provident fund.
- (f) Fees of \$85,000 paid by Mr Bee in March 2015 for a part-time master's degree course in financial management, which commenced in June 2015. After some negotiation BL finally agreed, in December 2015, to reimburse Mr Bee \$30,000 in respect of his course fees.
- (g) A package tour in Europe for Mr Bee and his wife in May 2015, paid for by BL. The package tour was purchased by BL from a travel agent at a discounted price of \$50,000. The full market price of the package tour was \$80,000.

In 2015, Mrs Bee joined her husband in Hong Kong, and was employed by another Hong Kong company. Mrs Bee has been working in Hong Kong for the whole year ending 31 March 2016. She received a total salary of \$96,000 and a travel allowance of \$12,000 for the year of assessment 2015/2016. Out of her salary and allowance, a total sum of \$5,400 was deducted by Mrs Bee's employer for contribution to its mandatory provident fund.

You are required to:

- 1) Compute, with necessary explanations, the Salaries Tax liabilities of Mr and Mrs Bee for the year of assessment 2015/2016. (11)**
- 2) Advise Mr and Mrs Bee on whether they should opt for joint assessment under Section 10 of the Inland Revenue Ordinance. (4)**

Total (15)

7. Dee Ltd (DL) carried on a retail business in Hong Kong. During the year ended 31 March 2015, the following transactions were carried out by DL:
- (a) DL purchased the 'Amigo' trademark from its Chinese subsidiary company, Missile Ltd (ML), at a price of \$2 million. ML was a Hong Kong based company, which purchased the 'Amigo' trademark in 2015 at a price of \$2 million but had not used the trademark at any point since its acquisition. 'Amigo' was registered in China only before DL purchased it. After acquisition, DL registered 'Amigo' in Hong Kong.
 - (b) DL sold the Hong Kong registered trademark 'Bold' to its overseas holding company, Banana Ltd (BL), at a price of \$2 million. DL purchased 'Bold' from an independent third party company in 2011 at a price of \$1.5 million and had been using it since acquisition. BL licensed the right to use 'Bold' back to DL, in exchange for an annual royalty of \$100,000. BL does not have a business presence in Hong Kong.
 - (c) DL purchased the Hong Kong registered trademark 'Grow' for \$1 million in 2014, but had never used it. In 2015, DL sold 'Grow' to an unrelated company, Lola Ltd (LL), at a price of \$1.1 million. LL licensed the right to use 'Grow' for ten years back to DL, for an annual fee of \$110,000.

You are required to:

- 1) **Outline the rules regarding the deductibility of acquisition costs relating to trademarks, and the taxation of royalties received by an overseas company.** (5)
- 2) **Discuss the Hong Kong Profits Tax implications of the three transactions above.** (10)

Total (15)

Appendix

Avoidance of Double Taxation Arrangement between the Mainland of China and the Hong Kong Special Administrative Region (Extracts)

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 of this Article, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting in One Side on behalf of an enterprise of the Other Side, and the person has, and habitually exercises, an authority to conclude contracts in the name of the 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 that enterprise, unless the activities of such person exercised through a fixed place of business are limited to those provided for in paragraph 4 and under the provision of that paragraph such fixed place of business shall not be deemed to be a permanent establishment.
6. An enterprise of One Side shall not be deemed to have a permanent establishment in the Other Side only because it carries on business in that Other Side through a broker, general commission agent or any other agent of an independent status who are acting in the ordinary course of their business. However, when the activities of such an agent are wholly or almost wholly performed on behalf of that enterprise, he shall not be deemed to be an agent of an independent status within the meaning of this paragraph.
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.

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 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 from the alienation of shares in a company the assets of which are comprised, directly or indirectly, mainly of immovable property situated in One Side may be taxed in that Side.

Article 4 (Second Protocol) for Article 13

The provision in paragraph 4 of Article 13 of the Arrangement which refers to a company the assets of which comprise not less than 50% immovable property situated in One Side, shall be implemented in accordance with the following provision:

Not less than 50% of the assets of the company must consist of immovable property at any time within the 3 years before the alienation of the shares of the company by the holder of the shares.

5. Gains derived by a resident of One Side from the alienation of shares, other 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, 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 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.