



April 2012

Macao

AGREEMENT BETWEEN HONG KONG AND PORTUGAL TO AVOID DOUBLE TAXATION

Like Macao, which has had an agreement with the Portuguese Republic ("Portugal") since 1999, Portugal and the Honk Kong Special Administrative Region of the People's Republic of China ("Hong Kong") (the "Contracting Parties") signed the Agreement to avoid double taxation and prevent a tax evasion with respect to taxes on income (the "Convention") on 22 March 2011

The Convention came into force in Hong Kong on 12 January 2012, but it will only take effect in respect of income that is subject to assessment in the tax year beginning on 1 April. As to Portugal, the Convention was recently submitted for approval by the Parliament. After the ratification and entry into force of the Convention, it will take effect in respect of income earned in the tax year beginning on or after 1 January of the calendar year immediately following the entry into force of the Convention.

The Convention is a valuable tool for the development of trade and professional exchanges between professionals and investors resident in Portugal and Hong Kong ("Contracting Jurisdictions"), fostering the relationships that already exist between both and, like the convention made between Macao and Portugal, incentivising new investments in each of the Contracting Jurisdictions. The Contracting Parties guarantee the protection of personal information transferred in accordance with the Convention and their internal legislation.

The terms of both Conventions are similar, as can be seen from the comparative analysis set out in the annexed table, but the means of eliminating double taxation differs as we will explain below:

Hong Kong – Portugal Convention:

- Tax paid in Portugal – by way of a credit to a Hong Kong resident that does not exceed the amount of the tax calculated in Hong Kong;
- Tax paid in Hong Kong – Portugal will deduct from the income tax of the resident an amount that may not exceed the fraction of the income tax calculated before the deduction corresponding to the income that may be taxed in Hong Kong;
- When the income earned by a resident in a Contracting Jurisdiction is exempt from tax in this jurisdiction, the jurisdiction may take into account the exempt income in calculating the amount of the tax on the rest of the income of this resident.

Macao – Portugal Convention:

- Tax paid in Portugal – by way of an exemption from tax in Macao on income earned by a Macao resident which, in accordance with the provisions of the Convention, is taxed in Portugal;
- Tax paid in Macao – by way of an income tax deduction for the resident of an amount equal to the corresponding income tax paid in Macao. This deduction may not, however, exceed the fraction of the income tax calculated before the deduction corresponding to the income that may be taxed in Macao.

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	CONVENTION BETWEEN HONG KONG – PORTUGAL	CONVENTION BETWEEN MACAO – PORTUGAL
BUSINESS PROFITS	The profits of an enterprise of a Contracting Party with permanent establishment in the other Contracting Party are taxed there with the possibility of deduction of expenses incurred abroad that contribute to the earning of this income.	The profits of an enterprise of a Contracting Party with permanent establishment in the other Contracting Party are taxed there with the possibility of deduction of expenses incurred abroad that contribute to the earning of this income.
ROYALTIES AND DIVIDENDS¹	Royalties - May be taxed in the Contracting Party in which they arise at a <u>rate that does not exceed 5%</u> if the person that receives the royalties is the beneficial owner and is resident in the other Contracting Party; Dividends - May be taxed in the Contracting Party in which they arise at a <u>rate that does not exceed 5%</u> if the beneficial owner is a enterprise that holds, directly, at least 10% of the capital of the enterprise that pays these dividends; they may be taxed in the jurisdiction at source at a <u>rate that does not exceed 10%</u> if the beneficial owner of the interest is resident in the other Contracting Party.	Royalties and Dividends - May be taxed in the Contracting Party in which they arise at a <u>rate that does not exceed 10%</u> if the beneficial owner of the interest is resident in the other Contracting Party.
INTEREST³	May be taxed in the Contracting Party in which it arises at a rate that does not exceed 10% if the beneficial owner of the interest is resident in the other Contracting Party.	May be taxed in the Contracting Party in which it arises at a rate that does not exceed 10% if the beneficial owner of the interest is resident in the other Contracting Party.
INCOME FROM IMMOVABLE PROPERTY	May be taxed in the Contracting Party where it is situated. Among other types of income, this includes the income from agriculture or forestry and includes the rights to variable or fixed payments from the working or right to work mineral deposits, sources and other natural resources.	May be taxed in the Contracting Party where it is situated. Among other types of income, this includes the income from agriculture or forestry and includes the rights to variable or fixed payments from the working or right to work mineral deposits, sources and other natural resources.
CAPITAL GAINS⁴	Capital gains that do not relate to fixed assets of a permanent establishment that the enterprise from one of the Contracting Parties has in the other Contracting Party are only taxed in the Contracting Party in the alienator is resident.	Capital gains that do not relate to fixed assets of a permanent establishment that the enterprise from one of the Contracting Parties has in the other Contracting Party, are only taxed in the Contracting Party in the alienator is resident.
DIRECTORS' FEES⁵	The percentages, attendance fees and other similar fees earned by a resident of one of the Contracting Parties in their capacity as a member of the management of an enterprise resident in the other Contracting Party may be taxed in the other Contracting Party.	The percentages, attendance fees and other similar fees earned by a resident of one of the Contracting Parties in their capacity as a member of the management of an enterprise resident in the other Contracting Party may be taxed in the other Contracting Party.
ASSOCIATED COMPANIES	When a enterprise of a Contracting Party participates, directly or indirectly in the management, control or capital of a enterprise of the other Contracting Party, or the same persons participate, directly or indirectly, in the management, control or capital of enterprises of both Contracting Parties, the profits that would have accrued to one of the enterprises, but did not because of these conditions, may be included in the profits of this enterprise and taxed accordingly.	When a enterprise of a Contracting Party participates, directly or indirectly in the management, control or capital of a enterprise of the other Contracting Party, or the same persons participate, directly or indirectly, in the management, control or capital of enterprises of both Contracting Parties, the profits that would have accrued to one of the enterprises, but did not because of these conditions, may be included in the profits of this enterprise and taxed accordingly.



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<p>DEPENDENT AND INDEPENDENT PERSONAL SERVICES</p>	<p>The income from dependent and independent personal services is taxed in the Contracting Party of residence. This income may be taxed in the Contracting Party where the activity is carried on, as long as: <u>Dependent personal services</u> (i) the remuneration is paid by or on behalf of an employer resident in this Contracting Party and born by a permanent establishment that the employer has in this Contracting Party; <u>Independent personal services</u> (i) the person receiving the income has a fixed base to which this income is attributable; or (ii) the person receiving the income remains there for a period amounting to or exceeding an aggregate of 183 days in any 12-month period beginning or ending in the tax year in question.</p>	<p>The income from dependent and independent personal services is taxed in the Contracting Party of residence. This income may be taxed in the Contracting Party where the activity is carried on, as long as: <u>Dependent personal services</u> (i) the remuneration is paid by or on behalf of an employer resident in this Contracting Party and born by a permanent establishment that the employer has in this Contracting Party; <u>Independent personal services</u> (i) the person receiving the income has a fixed base to which this income is attributable; or (ii) the person receiving the income remains there for a period amounting to or exceeding an aggregate of 183 days in any 12-month period beginning or ending in the tax year in question.</p>
<p>STUDENTS</p>	<p>Any amounts received to pay the expenses of maintenance, studies or training by a student or trainee resident in a Contracting Party who has moved to the other Contracting Party with the sole objective of carrying on their studies or training there will be exempt from taxes in this other Contracting Party as long as the amounts arise from sources located outside this Contracting Party.</p>	<p>Any amounts received to pay the expenses of maintenance, studies or training by a student or trainee resident in a Contracting Party who has moved to the other Contracting Party with the sole objective of carrying on their studies or training there will be exempt from taxes in this other Contracting Party as long as the amounts arise from sources located outside this Contracting Party.</p>

¹ It is understood that these provisions do not apply if the main objective or one of the main objectives of any person is - in respect of the creation or attribution of shares or other rights in relation to which the dividends are paid, the creation or attribution of credits in relation to which the interest is paid, the creation or attribution of rights in relation to which the royalties are paid, the disposal of assets in relation to which capital gains are generated or the creation or attribution of rights in relation to which the income is paid - to use such provisions to their benefit by means of this creation or attribution.

² The term "dividends" also includes, in the case of Portugal, profit attributed under a profit sharing agreement ("*Associação em participação*").

³ See footnote 1.

⁴ See footnote 1.

⁵ In the case of companies resident in Portugal, this regime also applies to members of a supervisory board, audit committee or single auditor.

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