

AGREEMENT BETWEEN THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND THE KYRGYZ REPUBLIC FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

The Hong Kong Special Administrative Region of the People's Republic of China and the Kyrgyz Republic;

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters;

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions);

Have agreed as follows:

Article 1
Persons Covered

1. This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.
2. For the purposes of the Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Party shall be considered to be income of a resident of a Contracting Party but only to the extent that the income is treated, for purposes of taxation by that Contracting Party, as the income of a resident of that Contracting Party.
3. The Agreement shall not affect the taxation, by a Contracting Party, of its residents except with respect to the benefits granted under paragraph 2 of Article 9, paragraph 2 of Article 17 and Articles 18, 19, 22, 23, 24 and 26.

Article 2
Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting Party, and in the case of Kyrgyzstan also its administrative-territorial subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are:
 - a) in the case of the Hong Kong Special Administrative Region:
 - (i) profits tax;
 - (ii) salaries tax; and
 - (iii) property tax;whether or not charged under personal assessment

(hereinafter referred to as “Hong Kong Special Administrative Region tax”);
 - b) in the case of Kyrgyzstan:
 - (i) corporate income tax;
 - (ii) personal income tax; and
 - (iii) property tax(hereinafter referred to as “Kyrgyzstan tax”).
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a)
 - (i) the term “Hong Kong Special Administrative Region” means any place where the tax laws of the Hong Kong Special Administrative Region of the People’s Republic of China apply;
 - (ii) the term “Kyrgyzstan” means the Kyrgyz Republic. When used in the geographical sense the term “Kyrgyzstan” means the territory on which the Kyrgyz Republic carries out sovereign rights and jurisdiction in accordance with international law and in which the taxation laws of the Kyrgyz Republic are in force;
 - b) the term “business” includes the performance of professional services and of other activities of an independent character;
 - c) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - d) the term “competent authority” means:
 - (i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative;
 - (ii) in the case of Kyrgyzstan, the Ministry of Economy and Commerce of the Kyrgyz Republic or its authorized representative;

- e) the terms “Contracting Party” and “other Contracting Party” mean the Hong Kong Special Administrative Region or Kyrgyzstan, as the context requires;
 - f) the term “enterprise” applies to the carrying on of any business;
 - g) the terms “enterprise of a Contracting Party” and “enterprise of the other Contracting Party” mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;
 - h) the term “international traffic” means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting Party and the enterprise that operates the ship or aircraft is not an enterprise of that Contracting Party;
 - i) the term “national”, in relation to Kyrgyzstan, means:
 - (i) any individual possessing the nationality of Kyrgyzstan;
and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in Kyrgyzstan;
 - j) the term “person” includes an individual, a company, a partnership and any other body of persons;
 - k) the term “tax” means the Hong Kong Special Administrative Region tax or Kyrgyzstan tax, as the context requires.
2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a

different meaning pursuant to the provisions of Article 24, have the meaning that it has at that time under the law of that Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4
Resident

1. For the purposes of this Agreement, the term “resident of a Contracting Party” means:
 - a) in the case of the Hong Kong Special Administrative Region:
 - (i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;
 - (ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;
 - (iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;
 - (iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region,

being normally managed or controlled in the Hong Kong Special Administrative Region;

(v) the Government of the Hong Kong Special Administrative Region;

b) in the case of Kyrgyzstan, any person who, under the laws of Kyrgyzstan, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes Kyrgyzstan and any administrative-territorial subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in Kyrgyzstan in respect only of income from sources in Kyrgyzstan or capital situated therein.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (“centre of vital interests”);

b) if the Contracting Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;

c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party in which he has the right of abode (in the

case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Kyrgyzstan);

- d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Kyrgyzstan, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Kyrgyzstan, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Contracting Party in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, 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:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;

- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
 - g) a place where pastoral activities are carried on.
3. The term “permanent establishment” also encompasses:
- a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve months;
 - b) the furnishing of services, including consultancy services, by an enterprise directly or through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue within a Contracting Party for a period or periods aggregating more than 183 days in any twelve-month period commencing or ending in the taxable period concerned.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), 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, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Contracting Party 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 this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Contracting Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other

Contracting Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Contracting Party.
2. The term “immovable property” shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, quarries, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7
Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Contracting Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting Party but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting Party in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall,

however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere 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 to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

International Traffic

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting Party.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
Associated Enterprises

1. Where:
 - a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party; or
 - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting Party includes in the profits of an enterprise of that Contracting Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Contracting Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent

authorities of the Contracting Parties shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Contracting Party.
2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Contracting Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed:
 - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 20 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganization, such as a merger or divisive reorganization, of the company that holds the shares or that pays the dividends);
 - b) 10 per cent of the gross amount of the dividends in all other cases.

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

3. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting Party are exempt from tax in that Contracting Party, if they are paid to:
 - a) in the case of the Hong Kong Special Administrative Region:
 - (i) the Government of the Hong Kong Special Administrative Region;
 - (ii) the Hong Kong Monetary Authority;
 - (iii) the Exchange Fund;
 - (iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties;
 - b) in the case of Kyrgyzstan:
 - (i) Kyrgyzstan or any administrative-territorial subdivision or local authority thereof;
 - (ii) the National Bank of the Kyrgyz Republic;
 - (iii) any entity wholly or mainly owned by Kyrgyzstan or any administrative-territorial subdivision or local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties.
4. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is

subjected to the same taxation treatment as income from shares by the laws of the Contracting Party of which the company making the distribution is a resident.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
6. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Contracting Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting Party.

Article 11

Interest

1. Interest arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Contracting Party.
2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Contracting Party, but if the beneficial owner of the interest is a resident of the other

Contracting Party, the tax so charged shall not exceed 8 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting Party is exempt from tax in that Contracting Party, if it is paid to:
 - a) in the case of the Hong Kong Special Administrative Region:
 - (i) the Government of the Hong Kong Special Administrative Region;
 - (ii) the Hong Kong Monetary Authority;
 - (iii) the Exchange Fund;
 - (iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties;
 - b) in the case of Kyrgyzstan:
 - (i) Kyrgyzstan or any administrative-territorial subdivision or local authority thereof;
 - (ii) the National Bank of the Kyrgyz Republic;
 - (iii) any entity wholly or mainly owned by Kyrgyzstan or any administrative-territorial subdivision or local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Contracting Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting Party in which the permanent establishment is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

1. Royalties arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Contracting Party.
2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Contracting Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 8 per cent of the gross amount of the royalties.
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 work including software, cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Contracting Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then

such royalties shall be deemed to arise in the Contracting Party in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Contracting Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting Party.
3. Gains that an enterprise of a Contracting Party that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Party if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other Contracting Party.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting Party of which the alienator is a resident.

Article 14

Income from Employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Contracting Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting Party.
2. Notwithstanding the provisions of paragraph 1, the remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Contracting Party if:
 - a) the recipient is present in the other Contracting Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned; and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting Party; and
 - c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting Party.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Contracting Party.

Article 15

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Contracting Party.

Article 16

Entertainers and Sportspersons

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting Party, may be taxed in that other Contracting Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may,

notwithstanding the provisions of Article 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income referred to in this Article shall be exempt from tax in the Contracting Party in which the activities of the entertainer or sportsperson are exercised, if such activities are exercised in that Contracting Party within the framework of a cultural or sports exchange programme approved by the Contracting Parties.

Article 17

Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including a lump sum payment) and annuities paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Contracting Party.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme which is:
 - a) a public scheme which is part of the social security system of a Contracting Party; or
 - b) a scheme in which individuals may participate to secure retirement benefits and which is recognized for tax purposes in a Contracting Party,

shall be taxable only in that Contracting Party.

3. The term “annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.
4. Any alimony and other similar payments arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in that other Contracting Party.

Article 18

Government Service

1.
 - a) Salaries, wages and other similar remuneration, other than a pension or annuity, paid by a Contracting Party, and in the case of Kyrgyzstan also an administrative-territorial subdivision or a local authority thereof, to an individual in respect of services rendered to that Contracting Party, subdivision or authority shall be taxable only in that Contracting Party.
 - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Contracting Party and the individual is a resident of that Contracting Party who:
 - (i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Kyrgyzstan, is a national thereof; or
 - (ii) did not become a resident of that Contracting Party solely for the purpose of rendering the services.
2.
 - a) Pensions and other similar remuneration (including a lump sum payment) paid by, or paid out of funds created or

contributed by, a Contracting Party, and in the case of Kyrgyzstan also an administrative-territorial subdivision or a local authority thereof, to an individual in respect of services rendered to that Contracting Party, subdivision or authority shall be taxable only in that Contracting Party.

- b) However, such pensions and other similar remuneration (including a lump sum payment) shall be taxable only in the other Contracting Party if the individual is a resident of that Contracting Party and:
 - (i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein; and
 - (ii) in the case of Kyrgyzstan, is a national thereof.

- 3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party, and in the case of Kyrgyzstan also an administrative-territorial subdivision or a local authority thereof.

Article 19

Students

Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Contracting Party solely for the purpose of his education receives for the purpose of his maintenance or education shall not be taxed in that Contracting Party, provided that such payments arise from sources outside that Contracting Party.

Article 20
Other Income

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting Party not dealt with in the foregoing Articles of the Agreement and arising in the other Contracting Party may also be taxed in that other Contracting Party.

Article 21
Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, may be taxed in that other Contracting Party.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Contracting Party.

3. Capital of an enterprise of a Contracting Party that operates ships or aircraft in international traffic represented by such ships or aircraft, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting Party.
4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Contracting Party.

Article 22

Methods for Elimination of Double Taxation

1. In the case of the Hong Kong Special Administrative Region, double taxation shall be eliminated as follows:

Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Kyrgyzstan tax paid under the laws of Kyrgyzstan and in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by Kyrgyzstan solely because the income is also income derived by a resident of Kyrgyzstan), whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Kyrgyzstan, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Kyrgyzstan, double taxation shall be eliminated as follows:

a) Where a resident of Kyrgyzstan derives income or owns capital which may be taxed in the Hong Kong Special Administrative Region in accordance with the provisions of the Agreement (except to the extent that these provisions allow taxation by the Hong Kong Special Administrative Region solely because the income is also income derived by a resident of the Hong Kong Special Administrative Region or because the capital is also capital owned by a resident of the Hong Kong Special Administrative Region), Kyrgyzstan shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Hong Kong Special Administrative Region;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the Hong Kong Special Administrative Region.

The amount of the tax deducted in accordance with the aforementioned provisions shall not exceed the tax, which would have been charged to this income or capital by the rates effective in Kyrgyzstan.

b) Where a resident of Kyrgyzstan derives income or owns capital which in accordance with the provisions of the Agreement shall be taxable only in the Hong Kong Special Administrative Region, Kyrgyzstan may include this income or capital in the tax base, but only for the purpose of establishing the tax rate for such income or capital being applicable for taxation in Kyrgyzstan.

Article 23
Non-Discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Kyrgyzstan, are Kyrgyz nationals, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Contracting Party (where that other Contracting Party is the Hong Kong Special Administrative Region) or nationals of that other Contracting Party (where that other Contracting Party is Kyrgyzstan) in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.
2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode in the Contracting Party (where the Contracting Party is the Hong Kong Special Administrative Region) or nationals of the Contracting Party (where the Contracting Party is Kyrgyzstan) in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Contracting Party than the taxation levied on enterprises of that other Contracting Party carrying on the same activities. This provision shall not be construed as obliging a

Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Contracting Party.
5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Contracting Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting Party are or may be subjected.

Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the internal laws of those

Contracting Parties, present his case to the competent authority of either Contracting Party. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the internal laws of the Contracting Parties.
3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not

contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Contracting Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Information received shall not be disclosed to any third jurisdiction for any purpose without the consent of the Contracting Party originally furnishing the information.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though

that other Contracting Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because there is no tax interest in such information to that Contracting Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

Members of Government Missions

Nothing in this Agreement shall affect the fiscal privileges of members of government missions, including consular posts, under the general rules of international law or under the provisions of special agreements.

Article 27

Entitlement to Benefits

1. Notwithstanding the other provisions of this Agreement, a benefit under the Agreement shall not be granted in respect of an item of income or capital 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 the Agreement.

2. Nothing in the Agreement shall prejudice the right of each Contracting Party to apply its internal laws and measures concerning tax evasion or avoidance, whether or not described as such.

Article 28

Amendments

Any amendments to this Agreement agreed by the Contracting Parties in writing shall be in the form of Protocols, which shall constitute an integral part of the Agreement. Such amendments shall enter into force subject to the provisions of Article 29 of the Agreement.

Article 29

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing, through official channels, of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications.
2. The provisions of the Agreement shall thereupon have effect:
 - a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following that in which the Agreement enters into force;

- b) in Kyrgyzstan:
 - (i) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January in the calendar year next following that in which the Agreement enters into force;
 - (ii) in respect of other taxes, on income derived or capital owned in any taxable year beginning on or after the first day of January in the calendar year next following that in which the Agreement enters into force.

Article 30
Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, through official channels, by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- a) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following that in which the notice of termination is given;
- b) in Kyrgyzstan:
 - (i) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January in the

calendar year next following that in which the notice of termination is given;

- (ii) in respect of other taxes, on income derived or capital owned in any taxable year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE in duplicate at Bishkek and at Hong Kong this 2nd day of March 2026, in the Chinese, Kyrgyz, Russian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

For the Hong Kong
Special Administrative Region of
the People's Republic of China

For the Kyrgyz Republic

Christopher Hui
Secretary for Financial Services
and the Treasury

Sydykov Bakyt Tolomushevich
Minister of Economy
and Commerce

**PROTOCOL
TO
THE AGREEMENT BETWEEN THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF THE PEOPLE’S REPUBLIC OF
CHINA AND THE KYRGYZ REPUBLIC FOR THE ELIMINATION
OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL AND THE PREVENTION OF TAX
EVASION AND AVOIDANCE**

At the time of signing the Agreement between the Hong Kong Special Administrative Region of the People’s Republic of China and the Kyrgyz Republic for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the “Agreement”), the Contracting Parties have agreed upon the following provisions which shall form an integral part of the Agreement.

With reference to Article 25 (Exchange of Information) of the Agreement

It is understood that:

- a) in addition to the taxes covered by the Agreement, the provisions of Article 25 of the Agreement also apply to value added tax that is administrated and enforced in Kyrgyzstan, for any taxable year beginning on or after the first day of January in the calendar year next following that in which the Agreement enters into force;
- b) in case of termination under Article 30 of the Agreement, the provisions of Article 25 of the Agreement shall cease to apply to the above mentioned tax for any taxable year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Protocol.

DONE in duplicate at Bishkek and at Hong Kong this 2nd day of March 2026, in the Chinese, Kyrgyz, Russian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

For the Hong Kong
Special Administrative Region of
the People's Republic of China

For the Kyrgyz Republic

Christopher Hui
Secretary for Financial Services
and the Treasury

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