

**PROTOCOL AMENDING THE AGREEMENT BETWEEN  
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF LATVIA  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND CAPITAL**

The Government of the People's Republic of China and the Government of the Republic of Latvia,

Desiring to conclude a Protocol to amend the Agreement between the Government of the People's Republic of China and the Government of the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital (hereinafter referred to as "the Agreement"), signed at Riga on 7<sup>th</sup> of June 1996,

Have agreed as follows:

**Article 1**

Paragraph 3 of Article 2 (Taxes Covered) shall be deleted and replaced by the following:

"3. The existing taxes to which the Agreement shall apply are in particular:

a) in the People's Republic of China:

- (i) the individual income tax;
- (ii) the enterprise income tax;

(hereinafter referred to as "Chinese tax");

b) in the Republic of Latvia:

- (i) the enterprise income tax (uznemumu ienakuma nodoklis);
  - (ii) the personal income tax (iedzivotaju ienakuma nodoklis);
  - (iii) the immovable property tax (nekustama ipasuma nodoklis);
- (hereinafter referred to as "Latvian tax")."

**Article 2**

Subparagraph i) of paragraph 1 of Article 3 (General Definitions) shall be deleted and replaced by the following:

"i) the term "international traffic" means any transport by a ship, aircraft, or railway vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or railway vehicle is operated solely between places in the other Contracting State;"

**Article 3**

Paragraph 1 of Article 4 (Resident) shall be deleted and replaced by the following:

“1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation or place of effective management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.”

#### **Article 4**

Paragraph 3 of Article 7 (Business Profits) shall be deleted and replaced by the following:

“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 State in which the permanent establishment is situated or elsewhere.”

#### **Article 5**

The title and paragraph 1 of Article 8 (Shipping and Air Transport) shall be deleted and replaced by the following:

#### **“Article 8 INTERNATIONAL TRAFFIC**

1. Profits of an enterprise of a Contracting State from the operation of ships, aircraft or railway vehicles in international traffic shall be taxable only in that State.”

#### **Article 6**

Paragraph 3 of Article 11 (Interest) shall be deleted and replaced by the following:

“3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived and beneficially owned by the Government of the other Contracting State, including its local authorities, the Central Bank or any financial institution wholly owned by that Government, or interest derived on loans guaranteed or insured by that Government, including its local authorities, the Central Bank or any financial institution wholly owned by that Government, shall be exempted from tax in the first-mentioned Contracting State.”

#### **Article 7**

Paragraph 2 of Article 12 (Royalties) shall be deleted and replaced by the following:

“2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 7 per cent of the gross amount of the royalties.”

#### **Article 8**

Paragraphs 3 and 4 of Article 13 (Capital Gains) shall be deleted and replaced by the following:

“3. Gains derived by an enterprise of a Contracting State operating ships or aircraft, or railway vehicles in international traffic from the alienation of such ships, aircraft or railway vehicles or movable property pertaining to the operation of such ships or aircraft or railway vehicles shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests of any kind in a company or other entity deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.”

#### **Article 9**

Paragraph 3 of Article 15 (Dependent Personal Services) shall be deleted and replaced by the following:

“3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or railway vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that State.”

#### **Article 10**

Paragraph 3 of Article 24 (Capital) shall be deleted and replaced by the following:

“3. Capital represented by ships, aircraft and railway vehicles operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships, aircraft and railway vehicles, shall be taxable only in that State.”

#### **Article 11**

Subparagraph b) of paragraph 1 of Article 25 (Methods for Elimination of Double Taxation) shall be deleted and replaced by the following:

“b) Where the income derived from Latvia is a dividend paid by a company which is a resident of Latvia to a company which is a resident of China and which owns not less than 20 per cent of the shares of the company paying the dividend, the credit shall take into account the tax paid to Latvia by the company paying the dividend in respect of its income.”

#### **Article 12**

Article 28 (Exchange of Information) shall be deleted and replaced by the following:

#### **“Article 28 Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

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 State;

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 (order public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State 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 State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State 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 13**

Both Contracting States shall notify each other through diplomatic channels that they have completed the internal legal procedures necessary for the entry into force of this Protocol. This Protocol, which shall form an integral part of the Agreement, shall enter into force on the thirtieth day upon the receipt of the latter notification and shall be applicable in respect of income derived during the taxable years beginning on or after the first day of January next following that in which this Protocol enters into force.

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

DONE at \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_, \_\_\_\_\_, in duplicate in the Chinese, Latvian and English languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

**For the Government of  
the People's Republic of China**

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**For the Government of  
the Republic of Latvia**

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