

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

The Government of the Republic of Estonia and the Government of the People’s Republic of China,

Desiring to conclude a Protocol to amend the Agreement between the Government of the Republic of Estonia and the Government of the People’s Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (hereinafter referred to as “the Agreement”), signed at Beijing on 12<sup>th</sup> of May 1998,

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 Republic of Estonia: the income tax;  
(hereinafter referred to as “Estonian tax”);
- b) in the People’s Republic of China:
  - (i) the individual income tax;
  - (ii) the enterprise income tax;(hereinafter referred to as “Chinese tax”).”

## **Article 2**

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.”

## **Article 3**

With reference to Article 6 (Income from Immovable Property):

Subject to the provisions of Article 13 (Capital Gains), where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

## **Article 4**

With reference to paragraph 2 of Article 6 (Income from Immovable Property):

It is understood that the term “immovable property” as defined in paragraph 2 of Article 6 includes also any rights of claim in respect of immovable property.

## **Article 5**

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 6**

Paragraph 8 of Article 7 (Business Profits) shall be deleted.

## **Article 7**

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 8**

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

“4. Gains derived by a resident of a Contracting State from the alienation of shares 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**

Subparagraph (b) of Paragraph 2 of Article 23 (Methods for Elimination of Double Taxation) shall be deleted and replaced by the following:

“(b) Where the income derived from Estonia is a dividend paid by a company which is a resident of Estonia 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 Estonia by the company paying the dividend in respect of its income.”

## **Article 10**

Article 26 (Exchange of Information) shall be deleted and replaced by the following:

### **“Article 26**

#### **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 11

1. 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.

2. The Protocol signed at Beijing on 12<sup>th</sup> of May 1998 shall cease to be effective from the date of the application of this Protocol.

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

DONE at Tallinn on the 9th day of December 2014, in duplicate in the Estonian, Chinese and English languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

Veiko Tali

For the Government of  
the Republic of Estonia

Xie Xuezhi

For the Government of  
the People's Republic of China