

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

At the signing of the Agreement between the Government of the People’s Republic of China and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income (hereinafter referred to as “the Agreement”), both sides have agreed upon the following provisions which form an integral part of the Agreement:

1. This Agreement shall not restrict in any manner any tax benefit which is or may hereafter be accorded in a Contracting State by the laws of that Contracting State or by any Agreement between the governments of the Contracting States.
2. Notwithstanding any provision of the Agreement, the United States may tax its citizens. Except as provided in paragraph 2 of Article 8, paragraph 2 of Article 17, and Articles 18, 19, 20, 22, 23, 24 and 26 of this Agreement, the United States may tax its residents (as determined under Article 4) .
3. The United States may impose its social security tax, its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Agreement. However, a Chinese company shall be exempt from the personal holding company tax or the accumulated earnings tax in the United States during a taxable year if during that taxable year the company is wholly-owned, directly or indirectly, either by one or more individuals who are residents of China (and who are not citizens of the United States) or by the Government of China or any wholly-owned agency thereof.
4. The term “person” as defined in Article 3 of the Agreement shall include an estate or a trust.
5. In applying paragraph 2 of Article 4 of this Agreement, the competent authorities of both Contracting States shall be guided by the rules contained in paragraph 2 of

Article 4 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

6. For purposes of paragraph 3 of Article 11 of this Agreement, it is agreed by both sides that, in the case of royalties paid for the rental of industrial, commercial or scientific equipment, the tax shall be imposed on 70 percent of the gross amount of such royalties.

7. It is agreed by both sides that the competent authorities of the Contracting States may through consultation deny the benefits of Articles 9, 10 and 11 to a company of a third country if the company becomes a resident of a Contracting State for the principal purpose of enjoying benefits under this Agreement.

8. This Agreement shall not affect the application of the agreement between the two governments with respect to mutual exemption from taxation of transportation income of shipping and air transport enterprises, signed at Beijing on March 5, 1982.

DONE at Beijing on the 30th day of April, 1984, in duplicate, in the Chinese and English languages, the two texts having equal authenticity.

For the Government

For the Government

of the People's Republic of China of the United States of America