



# Hong Kong (SAR) Tax Profile

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# 1 Corporate Income Tax

## 1.1 General Information

### Tax Rate

Profits tax - 16.5% (15% for unincorporated bodies)

Hong Kong (SAR) of the People's Republic of China's ("Hong Kong") tax system is administered by the Hong Kong (SAR) Inland Revenue Department ("IRD") under the Inland Revenue Ordinance ("IRO") Chapter 112. The tax system is distinct from that applied in the People's Republic of China. Pursuant to the Inland Revenue (Amendment) (No.7) Bill 2017, a two-tiered profits tax regime will apply from the 2018/19 year of assessment for both corporations and unincorporated businesses. The tax rates apply to the first HK\$2m of assessable profits for a corporation is 8.25% and for an unincorporated business is 7.5%. The assessable profits exceeding this will be taxed at the standard tax rates. For corporate groups, only one member of the group will be able to apply the reduced rate.

### Residence

As Hong Kong's tax system is territorially based, tax is not levied based on a company's residence and therefore, there is no need for a statutory definition of the term. However, the concept of residency does have some importance in the application of some other provisions – such as transfer pricing, offshore fund exemptions, and double tax treaties. The common law concept of residency applies in the absence of specific provisions to the contrary

### Basis of Taxation

Hong Kong operates a territorial basis of taxation. Broadly speaking, non-capital profits sourced in Hong Kong should be subject to Hong Kong profits tax. Under the territorial basis of taxation, foreign sourced income is outside the scope of Hong Kong profits tax.

### Tax Losses

Tax losses can be carried forward indefinitely but cannot be carried back to prior years.

There is an anti-avoidance provision that limits the use of losses brought forward against subsequent profits. The provision applies if there is a change in shareholding in the loss company and, as a direct or indirect result, profits have arisen to the company and that change in shareholding was made for the sole or dominant purpose of utilizing the company's tax losses against those profits.

### Tax Consolidation/Group relief

There are no group relief provisions for losses or transfers of assets under Hong Kong tax legislation. Each company within a corporate group is taxed as a separate entity.

### Transfer of Shares

Hong Kong does not impose profits tax on the sale of capital assets. Foreign sellers of shares are also unlikely to be subject to profits tax. Stamp duty applies to the transfer of Hong Kong stock at a rate of 0.2% (0.1% for the vendor and 0.1% for the purchaser) on the higher of the consideration paid or the market value plus HKD 5 on the instrument of transfer.

### Transfer of Assets

Hong Kong does not impose profits tax on the sale of capital assets. However, on sale of depreciable assets, there is potentially a recapture of capital allowances.

Stamp Duty is imposed on the sale of immovable property in Hong Kong. We refer to Section 5 (Other Taxes) for a more detailed discussion on stamp duty.

## Capital Duty (non-tax planning)

Capital Duty has been abolished in Hong Kong with effect from 1 June 2012.

## CFC rules

There is no CFC regime in Hong Kong.

## Thin Capitalization

There are no thin capitalization rules in Hong Kong but there are specific interest deductibility rules that apply.

## Amalgamations of Companies

The Companies Ordinance allows the amalgamation of certain companies within wholly owned groups in Hong Kong; however, there is not yet a statutory framework to address the tax issues arising under an amalgamation.

## General Anti-avoidance

Hong Kong typically follows a substance over form approach to anti avoidance and has two general anti-avoidance provisions which allow the tax authority to disregard:

- A transaction that reduces or would reduce the amount of tax payable by any person if it is of the opinion that the transaction is artificial or fictitious
- Transactions that have the sole or dominant purpose of reducing a person's Hong Kong tax liability

## Anti-treaty Shopping

The dividend and the interest articles of the tax treaties concluded by Hong Kong often contain anti-treaty-shopping provisions. Many treaties also contain a general anti-avoidance article and Hong Kong is expected to apply the principal purpose test under the multilateral instrument. The Hong Kong competent authority (IRD) requires a certain level of substance to be present in both Hong Kong incorporated and non-Hong Kong incorporated companies before issuing a Tax Residency Certificate to enable them to claim benefits under treaties concluded by Hong Kong. Furthermore, the IRD will have to be satisfied that the recipient of the relevant income is the beneficial owner of such income before issuing the Tax Residency Certificate.

## Other Specific Anti-avoidance Rules

Anti-avoidance measures are in place to counter the perceived abuse of the tax system by the use of service companies. Two types of arrangements have been identified:

- Type I: Referred to as “disguised employment” arrangements, which involve individuals providing services to their employers, through companies which the employees own and control, and with which they have entered into tax efficient employment contracts.
- Type II: Service companies are companies incorporated by the proprietors of unincorporated business (e.g. partnerships). These companies then provide the personal services of the proprietors to the unincorporated businesses in exchange for the payment of management fees.

There is also a range of other anti-avoidance rules embedded into specific tax regimes.

## Rulings

A taxpayer may apply to the tax authority, for a ruling on how any provision of the IRO applies to an arrangement. A ruling will only be given for a seriously contemplated transaction with full particulars set out. The ruling is binding on the Commissioner and can be relied upon for the subsequent tax assessment. The tax authority publishes selected rulings in any general interest for general reference only.

## Hybrid Instruments

There are no generally applicable special rules applicable to hybrid instruments. In analyzing a financial instrument, the tax authority takes the view that the starting point is to decide its nature according to its legal form rather than the accounting treatment or the underlying economic characteristics. There are rules applying to Regulatory Capital Securities issued by financial institutions that apply for Additional Tier 1 and Tier 2 instruments.

## Hybrid Entities

There are no special rules applicable to hybrid entities and no restrictions on what hybrid entities are established. As a general rule, partnerships and trusts are effectively taxed the same way as corporate entities.

## Related Business Factors

Not applicable.

## 1.2 Determination of taxable income and deductible expenses

### 1.2.1 *Income*

#### General

Hong Kong operates a territorial basis of taxation. Broadly, speaking, non-capital profits arising from a business conducted in Hong Kong which are sourced in Hong Kong should be subject to Hong Kong profits tax. Under the territorial basis of taxation, foreign sourced income is not subject to Hong Kong profits tax.

#### Branch Income

Refer above. Branches of foreign companies are effectively taxed in the same manner as Hong Kong incorporated companies.

#### Capital Gains

There is no capital gains tax in Hong Kong. Gains on the sale of capital assets are not subject to Hong Kong profits tax.

#### Dividend Income

Dividends from Hong Kong companies that are chargeable to Hong Kong profits tax are specifically exempt from tax in Hong Kong. Dividends from overseas companies are generally considered to be offshore sourced and not subject to Hong Kong. Tax credits attached to the overseas dividends are not allowable on the basis that the dividend is not subject to tax.

#### Interest Income

Interest income is subject to Hong Kong profits tax only where it is sourced in Hong Kong. For certain types of taxpayers, notably financial institutions, there are specific rules with respect to determining the source of interest income in Hong Kong. Interest income derived from financial institutions is specifically exempt from tax in Hong Kong. To the extent that the interest is chargeable to Hong Kong profits tax, withholding tax credits attached can be used to offset the tax charge (if interest is received from jurisdiction which has a double tax agreement with Hong Kong) or deductible (if interest is received from a jurisdiction which does not have a double tax agreement with Hong Kong).

### 1.2.2 *Expenses*

#### General

As a general proposition, expenses incurred in the derivation of income that is chargeable to Hong Kong profits tax should be deductible for tax purposes. However, for certain specific expenses, there are additional requirements that need to be satisfied (e.g. interest expenses).

#### Minimum Taxation Requirements for the Deductibility of Losses

There are no minimum taxation requirements to utilize tax losses.

There is an anti-avoidance provision that limits the use of losses brought forward against subsequent profits. The provision applies if there is a change in shareholding in the loss company and, as a direct or indirect result, profits have arisen to the company and that change in shareholding was made for the sole or dominant purpose of utilizing the company's tax losses against those profits.

#### Capital Losses

As Hong Kong does not impose profits tax on capital gains, capital losses are not deductible for tax purposes.

#### Carry Forward

Tax losses can be carried forward indefinitely until utilized.

## Carry Back

There are no loss carry back rules in Hong Kong.

## Bad Debts

Deductions are allowable for bad debts that have become bad during the basis period notwithstanding that the debts may have been due and payable in an earlier period. Deductions are only allowed to the extent that the bad debt has been recognized as income previously. Special rules apply to financial institutions.

## Depreciation/Capital allowance

Hong Kong has relatively generous capital allowance rules that include immovable and real assets (excluding land). Commercial buildings, which are not industrial buildings used for the purposes of trade, profession, or business; qualify for an annual allowance of 4%. For industrial buildings, an initial 20% allowance is granted with a 4% annual allowance. Plant and machinery are granted an initial allowance of 60% of the capital expenditure and annual allowance of 10%, 20%, and 30% are deductible depending on the type of plant and machinery. Certain prescribed assets are entitled to an immediate deduction of 100%. Please note that only certain intangible assets are depreciable.

## Double Deductions

There are no specific general provisions in the IRO regarding double deductions. However, broadly speaking, expenses are deductible where they are incurred in producing profits chargeable to Hong Kong profits tax. On this basis, it is a general principle that a double deduction cannot arise.

## Interest Expenses

For interest to be deductible, it must satisfy the general test of being incurred in the production of assessable profits. That is, the money borrowed is used to fund an asset or activity that produces taxable income. In addition, there are some relatively complex provisions that limit the available deduction where money is not borrowed from a financial institution or from a person who is taxable in Hong Kong on the interest received. However, there are certain circumstances where interest paid to offshore non-financial institutions will be allowed.

## Inventories

The IRO does not specify methods for valuation except for the valuation of trading stock at the cessation of the enterprise. However, based on IRD guidance, the acceptable methods for valuation of inventories include adjusted selling price, current selling price less normal gross profit, net realizable value and replacement cost.

## Other Significant Items

Not applicable.

## 1.3 Tax Compliance

### Compliance Requirements

An annual profits tax return is required to be filed by all taxpayers who earn assessable profits or have a profits tax return issued to them by the IRD.

### Mandatory Electronic Filing

Profits tax return filing process is, in almost all cases, paper based.

### Requirement to Prepare Tax Computation / Return in Functional Currency

Corporate taxpayers are required to attach audited financial statements and a tax computation when filing their profits tax returns. That said, where the corporate tax payer qualifies as a small corporation (amongst other conditions having a gross income of less than HK\$2,000,000) it is not required to attach such supporting documentation but still required to maintain these documents if requested by the IRD. There is no requirement for financial statements to be prepared in Hong Kong dollars. If an offshore functional currency is adopted the calculated taxable profit should be translated into Hong Kong dollars when completing the profits tax return.

### Documents to File with Tax Return

Audited Financial statements and tax computation (which reconciles the taxable income to profits per the financial statements) is required to be filed with the tax return.

### Language to File Return, Computation and Supporting Documentation(s)

English and Chinese are acceptable.

### Filing Extension Availability and Details

When lodging through a tax representative, there is a general extension available. Outside of this, the IRD will only grant extension requests where there are exceptional circumstances. The granting of extension request is at the discretion of the Hong Kong IRD.

A tax return is normally due within one month of its date of issue. When a company lodges its returns through a tax representative, tax returns are due on the following dates):

- 30 April the following year, for accounting year-ends between 1 April and 30 November
- 15 August the following year, for accounting year-ends between 1 December and 31 December
- 15 November the same year, for accounting year-ends between 1 January and 31 March

### Payment of Estimated Tax

Please refer to *Payment of Tax* below.

### Interim Tax Returns

Not applicable. Tax returns are filed annually.

### Payment of Tax

Tax is usually paid in two instalments. The due dates for payments are prescribed on the notice of assessment issued by the IRD upon filing of the profits tax return. The notice of assessment will also include a provisional tax payment for the payment of tax for the following year of assessment. This is determined by the IRD based on the previous year's profits tax liability. There is no requirement to pay more than the assessed provisional tax. Taxpayers can in certain circumstances request a reduction in the provisional tax payable.



### **Penalties for Non-Compliance**

The maximum fine of HK\$10,000 plus treble the tax undercharged could be imposed for non-compliance.

### **Penalties and/or Interest for Underpayment of Taxes**

Tax charged under the provision shall be deemed to be in default where it has not been paid before the date specified on the notice. Where any tax is in default, the IRD may impose an additional 5% of the amount in default as the penalty. Where this has not been paid for a period greater than 6 months, the IRD may impose an additional 5% as a penalty.

### **Statute of Limitation**

Generally, the statute of limitations is six years after the relevant year of assessment. This can be extended to 10 years in the case of fraud or willful evasion of taxes. There are no provisions that govern the time limit for tax collection.

## 1.4 Financial Statements/Accounting

### Details of Local Accountant Requirements

A company's directors must prepare financial statements, for each financial year, that comply with the Hong Kong Companies Ordinance giving a true and fair view of the financial position and financial performance of the company. These financial statements must be audited and comply with the accounting disclosure requirements contained in the Companies Ordinance and meet the applicable accounting standards issued or specified by the Hong Kong Institute of Certified Public Accountants.

Audited financial statements are required to be submitted with the tax returns unless specifically exempted (for example companies incorporated in jurisdictions that do not require financial statements to be audited or Hong Kong branches of foreign companies).

### Fiscal Year

Most companies in Hong Kong adopt a calendar year (i.e. 1 January to 31 December) as their fiscal year. However, this can be varied, if required. For companies that are members of a corporate group, it is generally acceptable to adopt the group's year-end balance date.

### Periodicity of Local Books to be Closed

Annually unless other for other regulatory reasons.

### Retention Period for Statutory Financial Statements / Working papers

The company must preserve the records, or the accounts and returns, for 7 years after the end of the financial year to which the last entry made or matter recorded in the records or the accounts returns.

### Requirements to Retain Physical Copies Locally/Electronically Stored Data to Reside on In-country Server

The record of information may be kept in any form that the Registrar thinks fit.

### Requirements to Prepare Financial Statements in Local Currency

Unless the entity is a regulated entity, there is no requirement to prepare financial statements in Hong Kong Dollars.

### What GAAP must the Financial Statements be Prepared Under?

Hong Kong International Financial Reporting Standards that are the same in almost all cases as the International Financial Reporting Standards.

### Prescribed Format and Details for Financial Statements

The financial statements for a Hong Kong incorporated company must be prepared in compliance with the Hong Kong International Financial Reporting Standards and any other requirements that the Companies Ordinance requires.

### Filing Due Date

Not applicable unless required by other regulatory reasons (e.g. financial institutions).

### Filing Format of Financial Statements

Signed original version of the financial statements is required to be filed with the IRD.

### Filing Extension Availability and Details

Not applicable unless required by other regulatory reasons (e.g. financial institutions).

## 1.5 Incentives

### Intellectual Property Incentives

There are no specific intellectual property tax incentives although deductions are allowed for the cost of acquiring intellectual property rights (see below).

### R&D Incentives

There are no specific R&D tax incentives in the form of super deductions or rebates (see below).

### Special Tax Regimes for Specific Industries or Sectors

On 2 May 2018, the Inland Revenue (Amendment) (No.3) Bill 2018 (“Bill No. 3”) was introduced into Hong Kong’s legislative council. This bill provides enhanced tax deductions for certain expenses incurred in relation to research and development (“R&D”) activities. If enacted, qualifying activities will be entitled to an enhanced 300% deduction (for the first HK\$2m) and 200% for the remaining amount. Expenditure which does not meet the qualifying conditions could still be eligible for the 100% deduction.

Concessions are available for offshore reinsurance companies and for qualifying debt instruments. Provided certain conditions are met, offshore funds that can be non-resident individuals, partnerships, trustees of trust estates or corporations administering a fund, are exempt from dealings in certain securities, futures contracts and leveraged foreign exchange trading in Hong Kong.

Common types of Islamic bonds have also been placed on a level playing field with conventional bonds, removing a perceived impediment to the development of a sukuk market in Hong Kong. Prior to the introduction of the relevant legislation, the prohibition on payment of interest and the transfer of assets involved in Islamic finance resulted in Islamic finance products being exposed to additional tax when compared with economically equivalent debt arrangements.

The legislation ensures that financial instruments of similar economic substance are afforded similar tax treatment. The legislation adopts a religion-neutral approach using the term ‘alternative bond scheme’ (ABS), rather than Sukuk, to denote the arrangements to which the tax treatment applies.

In order to attract multinational and Mainland corporations to establish Corporate Treasury Centres (“CTCs”) in Hong Kong, the Government introduced changes to the tax legislation to provide certain tax benefits to CTCs under specified conditions. The legislation introduced a concessionary profits tax rate of 8.25% (i.e. 50% of the prevailing rate for corporations) to foreign income earned by qualifying CTCs.

Tax concessions were introduced in 2017 to attract aircraft lessors and aircraft leasing management activities in Hong Kong. This concession allows qualifying aircraft lessors to a concessionary tax rate at 8.25%. Furthermore, this 8.25% tax rate is applied to 20% of the qualifying aircraft leasing profits. Effectively, the profits tax rate on the gross rent of 1.65% applies for qualifying aircraft lessors on their qualifying aircraft leasing activities. For qualifying aircraft leasing managers, a concessionary tax rate of 8.25% applies to their qualifying aircraft leasing management profits.

Special provisions are included in the IRO, which determine the profits that are sourced in Hong Kong for shipping and aircraft ownership industries.

For life insurance companies operating in Hong Kong, there are two ways in ascertaining the assessable profits. The first way is based on 5% of the premiums from the life insurance business in Hong Kong or based on the adjusted surplus of the insurer.

### Other Incentives

Not applicable.

## 1.6 International Taxation

### Double Taxation Relief

Relief from double taxation is available for Hong Kong taxpayers either through a credit to their Hong Kong profits tax liability or as a deduction against assessable profits.

### Foreign-Exchange Controls

Hong Kong does not have any foreign exchange controls.

### International Withholding Tax Rates

There are no withholding taxes on dividends, interest, or any other income, whether paid to residents or non-residents.

However, there is an effective withholding tax for certain royalty payments made to persons not carrying on a business in Hong Kong for the use in Hong Kong of intellectual property, or for the use of intellectual property outside Hong Kong, and where a deduction for the payment is claimed in Hong Kong. Where the recipient is not subject to Hong Kong profits tax, a deemed profit of 30% of the royalty is subject to profits tax. With the current profits tax rate at 16.5%, this results in an effective withholding tax rate of 4.95%. If the royalty is paid to an overseas associate, the whole amount of the royalty will be subject to tax, unless no person carrying on a business in Hong Kong has at any time wholly or partly owned the intellectual property-giving rise to the payment. The tax on royalties can be reduced under a double tax treaty.

### Withholding Tax Rates under the Income Tax Treaties

| Hong Kong – Treaty Withholding Rates Table |                           |                         |          |           |
|--|---------------------------|-------------------------|----------|-----------|
|  | Dividends                 |                         | Interest | Royalties |
|  | Individuals,<br>companies | Qualifying<br>companies |          |           |
|  | (%)                       | (%)                     | (%)      | (%)       |
| <b>Domestic Rates</b>                      |                           |                         |          |           |
| <b>Companies:</b>                          | 0                         | 0                       | 0        | 4.95      |
| <b>Individuals:</b>                        | 0                         | n/a                     | 0        | 4.95      |
| <b>Treaty Rates</b>                        |                           |                         |          |           |
| <b>Austria</b>                             | 10                        | 0                       | 0        | 3         |
| <b>Belarus</b>                             | 5                         | 5                       | 5        | 3 / 5     |
| <b>Belgium</b>                             | 15                        | 0 / 5                   | 10       | 5         |
| <b>Brunei</b>                              | 0                         | 0                       | 5 / 10   | 5         |
| <b>Canada</b>                              | 15                        | 5                       | 0 / 10   | 10        |
| <b>China (People's Rep.)</b>               | 10                        | 5                       | 7        | 5 / 7     |
| <b>Czech Rep.</b>                          | 5                         | 5                       | 0        | 10        |
| <b>France</b>                              | 10                        | 10                      | 10       | 10        |
| <b>Guernsey</b>                            | 0                         | 0                       | 0        | 4         |

| Treaty Rates         | Dividends | Dividends (Qualifying) | Interest | Royalties   |
|----------------------|-----------|------------------------|----------|-------------|
| Hungary              | 10        | 5                      | 5        | 5           |
| India                | 5         | 5                      | 10       | 10          |
| Indonesia            | 10        | 5                      | 10       | 5           |
| Ireland              | 0         | 0                      | 0 / 10   | 3           |
| Italy                | 10        | 10                     | 0 / 12.5 | 15          |
| Japan                | 10        | 5                      | 10       | 5           |
| Jersey               | 0         | 0                      | 0        | 4           |
| Korea (Rep.)         | 15        | 10                     | 10       | 10          |
| Kuwait               | 0 / 5     | 0 / 5                  | 5        | 5           |
| Latvia               | 0 / 10    | 0 / 10                 | 0 / 10   | 0 / 3       |
| Liechtenstein        | 0         | 0                      | 0        | 3           |
| Luxembourg           | 10        | 0                      | 0        | 3           |
| Malaysia             | 10        | 5                      | 10       | 8           |
| Malta                | 0         | 0                      | 0        | 3           |
| Mexico               | 0         | 0                      | 4.9 / 10 | 10          |
| Netherlands          | 0 / 10    | 0                      | 0        | 3           |
| New Zealand          | 15        | 0 / 5                  | 0 / 10   | 5           |
| Pakistan             | 10        | 10                     | 10       | 10          |
| Portugal             | 10        | 5                      | 10       | 5           |
| Qatar                | 0         | 0                      | 0        | 5           |
| Romania              | 5         | 3                      | 0 / 3    | 3           |
| Russia               | 10        | 5                      | 0        | 3           |
| South Africa         | 10        | 5                      | 10       | 5           |
| Spain                | 10        | 0                      | 0 / 5    | 5           |
| Switzerland          | 0 / 10    | 0                      | 0        | 3           |
| Thailand             | 10        | 10                     | 10 / 15  | 5 / 10 / 15 |
| United Arab Emirates | 0 / 5     | 0                      | 5        | 5           |
| United Kingdom       | 0 / 15    | 0 / 15                 | - / 0    | 3           |
| Vietnam              | 10        | 10                     | 10       | 7 / 10      |



Note:

Please note, the maximum rates of withholding under each treaty have been included in the table, however in certain cases an alternative rate, or nil rate, may apply depending on whether certain criteria are met. In this regard, the table should be used as a guide and not relied upon in isolation.

### **Other Agreements**

Not applicable.

### **Income Tax Treaties for the Avoidance of Double Taxation (Negotiated, not yet in force at time of publication)**

New treaties are currently being negotiated with Bahrain, Bangladesh, Cambodia, Cyprus, Finland, Germany, Israel, Macao SAR, Macedonia, Mauritius, Nigeria, and Turkey.

### **Agreements for the Exchange of Information**

Hong Kong has enabled the implementation of the latest international standard for the automatic exchange of financial account information from 1 January 2017 with the first exchanges of information taking place in 2018. Hong Kong has also concluded Tax Information Exchange Agreements with Denmark, Faroes, Greenland, Iceland, Norway Sweden, and the USA.

### **Indirect Offshore Disposal Rules**

Not applicable.

## 2 Transfer Pricing

### Requirements

On 4 July 2018, the Hong Kong government enacted the Inland Revenue (Amendment) No. 6 Ordinance 2018 (the “Ordinance”). The Ordinance introduces the fundamental transfer pricing rules, which empowers the IRD to adjust the profits or losses of an enterprise where the transaction between related parties departs from that of transactions between independent parties and a tax advantage is created. Broadly speaking, the mandatory documentation requirements will be based on the three-tiered approach of Country-by-Country Reporting, Master file, and Local file. The form of this documentation should be consistent with OECD standards. Advance Pricing Arrangements are also proposed in the Bill.

### Country-by-Country Reporting

The implementation framework for Country by Country reporting in Hong Kong is included in the Bill. It has not yet passed at the time of preparing this but is expected to pass in 2018.

### Master and Local Files Reporting

Please refer to the above.

### Common Reporting Standard

The tax legislation regarding the implementation of the Common Reporting Standard became effective on 30 June 2016. Hong Kong financial institutions are to collate information and report it to the IRD in 2018. This covers reporting in 75 jurisdictions.

# 3 Indirect Tax

## Indirect Tax

There is currently no sales tax/VAT/GST in Hong Kong.

## Standard Rate

Not applicable.



# 4 Personal Taxation

## Income Tax

Salaries tax, Property tax, Profits tax (consultants, self-employed individuals, etc.)

Hong Kong does not operate a pay as you earn (PAYE) system. Tax is generally paid by the taxpayer to the tax authority.

## Top Rate

17%, however, the maximum effective rate is 15%.

## Social Security

There is no social security tax in Hong Kong but there are mandatory provident fund requirements that require employers and employees to contribute up to HK\$1,800 per month each.

## International Social Security Agreements

Not applicable.

## Visa Requirements

Foreign nationals may enter Hong Kong with a visa or entry permit for:

- a “visit”
- employment as a professional
- training
- investment
- study
- residence as dependents

### *Visitors*

Individuals permitted to enter Hong Kong as a “visitor” may only engage in very limited business related activities and must not take up employment (whether paid or unpaid). Visitors may also attend an event to deliver speech(es)/presentation(s) without an employment visa or work permit if certain conditions are met.

### *Employment as professionals*

In general, unless a person has the right of abode or right to land in Hong Kong, a visa or entry permit to work in Hong Kong would be required. The applicant should have a good educational background and proven professional qualification. In addition, the local sponsoring company must demonstrate that there is a genuine job vacancy in Hong Kong, the job cannot be readily taken up by the local workforce, and it is a confirmed offer of employment with the applicant.

It generally takes 4 weeks for the Hong Kong Immigration Department to process an application upon receipt of complete information. Both the applicant and sponsoring company in Hong Kong are required to submit completed forms and supporting documents to apply for an employment visa.

Employment visas are non-sector specific and there is no applicable quota.



The above generally excludes Chinese residents of the Mainland and nationals of Afghanistan, Cuba, Laos, Korea (Democratic People's Republic of), Nepal and Vietnam.

Apart from the above, other entry arrangements such as, Admission Scheme for Mainland Talents and Professionals (ASMTTP), Quality Migrant Admission Scheme (QMAS), Immigration Arrangements for Non-local Graduates (IANG), Admission Scheme for the Second Generation of Chinese Hong Kong Permanent Residents (ASSG) would be other options to consider.

### **Further Information**

For more detailed personal taxation information, refer to:

[KPMG's Thinking Beyond Borders](#)

# 5 Other Taxes

## Stamp Duty

Stamp duty is a duty on instruments evidencing transactions (i.e. documents) and is levied at both a fixed and ad valorem rates on documents evidencing the following transactions:

- Assignments of commercial immovable property situated in Hong Kong (rates depend on amount or value of consideration but the maximum rate is 8.5%). Assignments of residential immovable property are subject to a flat rate of stamp duty at 15% of the consideration or market value of the property (whichever is higher). However, for a Hong Kong permanent resident individual whom does not own another Hong Kong residential property, the maximum stamp duty is 4.25%.
- Leases of immovable property situated in Hong Kong (rates depend on the lease term and whether the lease comprises of a premium and/or rent)
- Sales and purchase of Hong Kong stock (total rate of 0.2% plus HKD5 on the instrument of transfer)
- Hong Kong bearer instruments (rate of 3%)
- Duplicates and counterparts in relation to the above instruments (HKD5)

There are certain exemptions in respect of transfers of stock and immovable property within a group of companies. An exemption is also available in respect of stock borrowing and lending transactions that are undertaken for certain specified purposes and where specified conditions are satisfied.

Special stamp duty ('SSD') applies on transactions in residential property, purchased on or after 20 November 2010 and resold within 24 months. SSD is in addition to the ad valorem rates of stamp duty already imposed and is levied on the full value of sales proceeds at rates of 5%-15% (depending on the duration that the property was held). For residential property acquired on or after 27 October 2012, in addition to the ad valorem rates of stamp duty already imposed SSD between 10%-20% (depending on the duration that the property was held) on the full sales proceeds.

Buyer's Stamp Duty ('BSD') for residential properties acquired by any person (including companies) except a Hong Kong permanent resident individual. BSD will be imposed at a flat rate of 15%.

## Property Taxes

Property tax is levied on the owner of land and buildings situated in Hong Kong. The charge is levied for a year of assessment on the rental income (net of any irrecoverable rent) in the year of assessment and the only deductions permitted are, rates (where these are paid by the owner) and an allowance for repairs and outgoings equal to 20% of the rental income, after deducting rates paid by the owner. If a company elects to be subject to profits tax on this income, only it will not be subject to Property tax.

Property tax is charged at 15%.

## Betting Duty

Betting duty is imposed on the net stake receipts from betting on horse races and football matches and on the proceeds of Mark Six lotteries all of which are administered by the Hong Kong Jockey Club. The rate of duty varies between 25% and 75%.

## Business Registration Tax

Every person carrying on a business in Hong Kong must be registered under the Business Registration Ordinance and must pay an annual fee and levy. The applicable annual registration fee and levy is HKD 2,250 (or HKD 5,950 for a three-year certificate).

## Gift Duty

There is no gift duty in Hong Kong.



### **Estate Duty**

Estate duty was abolished in Hong Kong in 2006.

### **Capital Duty**

Capital duty was abolished with effect from 1 June 2012.

### **Other Taxes**

Not applicable.

# 6 Trade & Customs

## 6.1 Customs

### Customs Duty

Hong Kong does not levy any import or export duties.

### Excise Duty

Excise duty is levied on hydrocarbon oils, spirits, tobacco, cigarettes, and methyl alcohol.

## 6.2 Free Trade Agreements (FTA)

### In Force

Members States of the European Free Trade Association, namely Iceland, Liechtenstein, Norway and Switzerland.

Mainland and Hong Kong Closer Economic Partnership Arrangement

Hong Kong, China – New Zealand Closer Economic Partnership Agreement

Hong Kong, China and Chile

Hong Kong and Macao Closer Economic Partnership Arrangement

### Concluded/Signed (pending domestic ratification)

Hong Kong, China – ASEAN FTA

### In Negotiation

Hong Kong, China – Georgia FTA

Hong Kong, China – Maldives FTA

Hong Kong, China – Australia FTA

# 7 Tax Authority

## Tax Authority

Inland Revenue Department

Link to [Inland Revenue Department](#)

## Tax Audit Activity

The tax authority adopts an “assess first, audit later” (“AFAL”) approach under which assessments or statements of loss are issued to taxpayers based on the return submitted.

The tax authority predominantly adopts a risk-based approach to the selection of returns for audit. A tax audit may be opened into any tax return filed. In our experience, the majority of companies can expect to be audited by the tax authority every 5-6 years.

Under the AFAL system, the tax authority employs a computer-assisted case selection program. Depending on the facts of each case, cases selected will be allotted to assessing officers to conduct a “desk audit”, to field auditors to conduct a “field audit” or to the investigators to conduct an in-depth “investigation”. A typical tax audit commences with a site visit / questionnaire / letter requesting provision of supplementary analysis or information. Taxpayers are advised to contact their tax advisor immediately when a tax audit commences or any correspondence is received from the tax authority. Audits into any given return generally last from 3 to 12 months but can take longer to reach a resolution in more complex cases.

## Appeals

A taxpayer who is dissatisfied with an assessment may lodge a notice of objection within one month after the date of the notice of assessment. Failing agreement, an objection is determined unilaterally by the tax authority. A taxpayer dissatisfied with the determination, can lodge an appeal. Appeals, in the first instance, are to the Board of Review, an informal hearing by an independent panel. Either the taxpayer or the tax authority may appeal on a point of law from the Board of Review’s decision to the Court of First Instance or, with leave, to the Court of Appeal and then to the Court of Final Appeal.

## Tax Governance

The tax authority seeks to encourage voluntary compliance by educating taxpayers on their obligations. Taxpayers should implement appropriate tax strategies that can be supported to manage their tax risk.

## Current Topics for Focus by Tax Authorities

Key focus areas for the tax authority in tax audits conducted in recent years have included:

- Transfer pricing
- Interest deductions
- Source of profits

Nature of the transaction (e.g. capital vs. revenue)



# Contact us

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