



B K R
INTERNATIONAL

East Asia Sentinel Limited
衛亞會計師事務所有限公司
Certified Public Accountants

Doing Business in Hong Kong

Our passion is
creating value for our clients.

創造價值

Preface

This information page has been prepared to provide an overview of the business environment, forms of business entities, finance, taxation, and audit and accounting practices in Hong Kong. It sets down a broad summary of the prominent features of the topics discussed. This information is general in nature and should not be used as a substitute for detailed advice. Persons conducting or planning to conduct business in Hong Kong are advised to obtain detailed information from experienced professionals.

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1. GENERAL INFORMATION

1.1 Geography

Hong Kong is located on the southeast coast of China. It consists of 236 islands and islets and a portion of the Chinese mainland covering a total area of approximately 1,046 square kilometers. Hong Kong Island (75.6 square kilometers) constitutes the principal business and commercial center. The Kowloon Peninsula, an area of 10.6 square kilometers on the mainland, also contains important commercial, industrial and residential areas. The New Territories (958 square kilometers), which adjoin Kowloon and the mainland, contain the principal areas of agriculture, although they are gradually being eroded by the encroachment of industry and suburbs. A large number of the islands and islets are waterless and consequently uninhabited.

1.2 History

Hong Kong Island was formally ceded to the British in 1842. The Kowloon Peninsula was ceded in 1860, while the New Territories were made over to Britain subject to a 99-year lease by a treaty signed in Beijing in 1898. This lease expired on June 30, 1997. On July 1, 1997, the sovereignty of Hong Kong was handed over to China. Today, Hong Kong is formally known as "Hong Kong Special Administrative Region of the People's Republic of China" ("Hong Kong SAR").

1.3 Basic Law

To maintain Hong Kong's prosperity, China has adopted the formula "one country, two systems" and guaranteed Hong Kong an autonomous administration for a period of 50 years from 1997. This concept is enshrined in the Basic Law, the mini-constitution of Hong Kong. The fundamental precepts of the Basic Law are that:

- Hong Kong's present legal system will be maintained.
- Hong Kong will remain a free economic and trading region, with its own freely convertible currency.
- All civil rights will be maintained.
- The right to travel will be maintained.
- The crucial elements of Hong Kong's past success – the free enterprise environment, free port status, freedom of movement and non-interference – are to remain undisturbed.

1.4 Government

Hong Kong SAR is administered by the Hong Kong Government, headed by its Chief Executive. The Chief Executive presides over the two main policymaking bodies, the Executive Council and the Legislative Council.

The Executive Council is composed of three ex-officio members: the Financial Secretary, the Attorney General and the Chief Secretary. In addition, other persons are permitted to sit on the Council by appointment. The additional members would usually be (a) community representatives nominated by the Chief Executive because of their particular knowledge of Hong Kong and its people, or (b) heads of government departments. All have equal voting rights. The Executive Council meets weekly, and its purpose is to advise the Chief Executive on financial matters and policies covering a wide range of areas.

The Legislative Council comprises 60 members. The current Legislature was voted in by an election held in May 1998. Of the 60 members, one-third was elected through an 800-member electoral college, one-third through functional representation, and one third through direct polls.

1.5 Population

The present population is approximately 7.2 million. Approximately 95% of the populations are Chinese.

1.6 Climate

Although Hong Kong is within the tropics, it experiences a variety of seasons. From December to April the weather is dry and cool, with February being the coldest month, when the temperature is approximately 10°C. From April to September the weather is wet, hot and humid, with temperatures rising to about 30°C and humidity often in excess of 80%. Typhoons occur from May to November, bringing heavy rains and gale-force winds. The most pleasant months are October and November, when it is dry, warm and sunny.

1.7 Language

English and Chinese are the official languages of Hong Kong, but English tends to be the language of commerce. However, Cantonese, a Chinese dialect and the mother tongue of the majority of the Hong Kong population, is the most widely spoken.

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2. BUSINESS ENVIRONMENT

2.1 Economy

Hong Kong has very few natural resources and imports virtually all its raw materials. It is, thus, extremely vulnerable to the external influences of its trading partners. Nonetheless, Hong Kong has achieved rapid economic growth.

Manufacturing, shipping, banking and tourism are the major traditional foreign currency earners. Textiles, clothing, toys, electronics and plastics employ a large percentage of the work force and contribute significantly to the GDP, accounting for some 70% of total domestic exports. With cheap labor and land costs across the border in China, however, the manufacturing base in Hong Kong has been eroding in the last ten years. As a gateway to China, and with China using Hong Kong as the window to the outside world, Hong Kong is increasingly becoming a service-oriented financial center, where its active banking sector and the stock market provide the financial and administrative support for investment ventures in China.

Hong Kong's economic recovery continues with solid and broad based growth marked by sustained consumer demand, rising investments and strong export performance. GDP contracted by 2.8% in 2009, expanded by 7.1% in 2010 and further expanded by 8.9% year-on-year in 2011.

The Closer Economic Partnership Arrangement (CEPA) implemented in 2004 between Hong Kong and Mainland China has strengthened co-operation between the two territories, along with measures to enhance tourism from Mainland have all been pivotal to the economic recovery and growth of Hong Kong.

2.2 Foreign Investment

Government policy encourages free enterprise and foreign investment. No distinction is made between local and foreign investment, and both are welcomed.

Although there are no incentives in the form of cash or grants, the freedom from government intervention, a highly productive labor force, excellent communications facilities, the lack of exchange controls and low taxation attract industry and commerce to Hong Kong.

2.3 Imports and Exports

Import and export licensing formalities are kept to a minimum, in line with Hong Kong's international obligations. The most complex licensing formalities are those resulting from

Hong Kong's obligations to restrain certain exports of textile products. There is a nominal charge for import and export licenses.

Hong Kong's export of textiles to most countries is regulated by restraint agreements negotiated under the Multi-Fiber Arrangement.

Generalized preference schemes are operated by most developed countries to promote the export of goods manufactured by developing countries, and Hong Kong is included. The schemes include provisions permitting low-tariff or duty-free entry for products from certain developing countries.

With Hong Kong's dependence on the export of manufactured goods – mostly from imported materials – and on the substantial re-export trade, a certificate of origin system to meet the requirements of overseas customs authorities is important. The Trade Industry and Customs Department issue certificates of origin and accepts responsibility for safeguarding the integrity of the entire Hong Kong certification system.

The Hong Kong Export Credit Insurance Corporation (ECIC) is a government-owned organization established in 1966 to facilitate Hong Kong's export trade by protecting exporters against otherwise uninsurable losses. The ECIC covers all forms of short term credits and payment methods up to a maximum credit period of 180 days after delivery. It also offers protection on medium to long term credit with payment terms of five years or longer. The other functions of the ECIC include checking the credit worthiness of overseas buyers and review of international economic developments for the benefit of the exporters of Hong Kong.

The Hong Kong Trade Facilitation Council has responsibility for the simplification of trade documents and procedures. The Council is partially subverted by the government and composed of representatives of government, trade and industrial organizations.

The Hong Kong Trade Development Council is a trade promotion body organizing overseas business group visits and participation in overseas trade fairs.

There are various chambers of commerce to promote and develop trade and industry.

2.4 Labor Relations and Conditions

Arguably Hong Kong's greatest asset is its resourceful and energetic work force. Industrial disputes are rare. The largest of the manufacturing work force is engaged in the textile and

clothing industries, with the electronics and plastics industries being the next two largest employers.

The Employment Ordinance provides the framework for a comprehensive code of employment into which major amendments have been progressively incorporated. It governs the payment of wages, the termination of employment contracts and the operation of employment agencies.

An amendment was introduced in 1985 to the Employment Ordinance to provide for long service payments at the rate of two thirds of a month's wages for each year of service to employees who have worked for a specified number of years with the same employer. Eligibility for the payment is based on age and the number of years of continuous service.

The law provides, among other benefits, statutory holidays with pay, sick leave and seven days annual leave with pay for most employees. All employees have statutory protection against anti-union discrimination. The law also provides for severance payment to workers made redundant.

The statutory minimum wage rate of HK\$30 (~US\$3.85) per hour in Hong Kong was enforced on 1 May 2013. Employees are covered by the statutory minimum wage, regardless of whether they are monthly-rated, daily-rated, casual or part-time, and whether or not they are employed under a continuous contract as defined in the Employment Ordinance.

Wage rates are usually calculated on a time basis such as hourly, daily or monthly or on an incentive basis depending on the volume of work performed. The pay period is normally 10 to 15 days for day-rate and piece-rate workers. Most semiskilled and unskilled workers in the manufacturing industries are paid on a piece-rate basis although daily rates of pay are also common. Industrial workers in the skilled trades or in technical and supervisory capacities are usually paid monthly. Men and women receive the same rate for piece-work, but women are generally paid less when working on a time-basis.

An annual bonus of between one and two months salary is paid to all employees before the Chinese New Year. Optional fringe benefits offered by local employers are good attendance bonuses, free medical insurance, free or subsidized canteens, free transportation to and from factories and paid leave.

If a public holiday falls on a Sunday, the following day is usually substituted. Hong Kong standard time applies the year round and is 8 hours ahead of Greenwich Mean Time (GMT).

Most offices are open from 9am to 5pm with a lunch break of one hour. While it is still usual for offices to open on Saturdays, a five-day government week has been adopted on 1st July 2007.

2.5 Land and Buildings

All land in Hong Kong is owned by the Government, which sells or grants leasehold interest. Government policy is to optimize the use of land, and most land available for commercial, industrial or residential development in the urban areas are sold by tender or public auction. Available land is at a premium and has proved to be a major source of Government revenue.

Because of the high cost of land and shortage of space, rents for high quality office space are expensive. Factory space is also expensive and is concentrated in the New Territories where rental are relatively lower than those prevailing in Hong Kong and urban Kowloon.

The terms of land leases after July 1, 1997 are as follow:

- All existing long-term leases that expire after 2047 will be recognized and protected under the law of the Hong Kong Special Administrative Region.
- All New Territories leases and 75-year non-renewable leases that expired on or before 1997 were renewable without premium up to 2047 at an annual rent of 3% of the property's ratable value.
- Leases granted by the Government prior to July 1, 1997, expired on June 30, 1997; in its place, an annual rent of 3% of the ratable value is payable.

2.6 Position vis-à-vis China

For the purpose of its foreign investment, taxation, and custom laws, the mainland China treats Hong Kong investors as foreigners or foreign enterprises, enjoying the full privileges, benefits or restrictions conferred upon all foreigners.

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3. BUSINESS ENTITIES

3.1 Forms of Business Entities

The following are the principal forms of business entities through which business is undertaken in Hong Kong:

- Company

- Branch of a foreign corporation
- Partnership
- Sole proprietorship
- Trust

3.2 Company

Companies incorporated in Hong Kong are governed by the Companies Ordinance. This also regulates the activities of companies incorporated outside Hong Kong but trading in the territory through a branch.

Companies may be either limited or unlimited. The most usual form of business entity is the limited liability company, in which the shareholders' liability is limited to the amount paid or unpaid, if any, on the shares held by them. Companies limited by guarantee may also be formed under the Ordinance.

A limited liability company may be either a private or a public company. A private company is one which:

- Restricts the right to transfer its shares or capital stock.
- Limits the number of shareholders to fifty (excluding employees and ex-employees).
- Prohibits any offer to the public of its shares or debentures.

A private company's main advantage compared with those of a public company are:

- Formation procedures are simpler.
- Annual financial statements do not have to be filed with the Companies Registry.
- Only one shareholder is required.

Any company which is not a private company is a public company.

3.3 Formation Procedures

There must be at least one person who subscribes to the Memorandum and Articles of Association of the proposed company.

An application is made to the Registrar of Companies enclosing a copy of the Company's Memorandum and Articles of Association together with a Statutory Declaration of Compliance with the Companies Ordinance.

A Certificate of Incorporation is issued normally three to four weeks after the clearance of the name and submission of the required documents, and from the date of the issue of company may commence business. There are additional procedures in the formation of a public company including the filing of a prospectus or a statement in lieu before business may be commenced.

"Shelf companies" may be acquired immediately.

The registration fee payable on incorporation of a private company is HK\$1,720.

Legal costs of incorporation vary according to the complexity of the company's organization and structure.

3.4 Statutory Requirements

Each company is required to maintain a register address in Hong Kong at which its name must be prominently displayed and at which the statutory records, i.e., of members, register of directors, register of mortgages, etc.; minute books of meetings of directors and shareholders and the company's seal may be kept. Every company must also keep a cash book, a journal and a ledger of these shall be kept at the registered office or such other place as the directors think fit.

Auditors must be appointed annually and Annual General Meetings (AGMs) are required every calendar year and not more than fifteen months after the previous meeting. There is no requirement that such meetings are held in Hong Kong though minutes of any such meeting must be kept at the registered office or at such other place as the directors think fit. An annual return must be filed with the Companies Registry within 42 days after the anniversary of the date of incorporation.

The directors are required, within eighteen months of incorporation and thereafter at least once on each calendar year to present audited accounts drawn up to a date not more than nine months previously or, in the case of a company having interests abroad twelve months previously, before an AGM.

A report by the directors covering the profit or loss company, the company's general financial position and its principal activities is required to be attached to each statement of financial position.

There is no residence requirement for directors of a Hong Kong company and meetings may

be held in any part of the world. However, it is usually desirable that meetings be held in Hong Kong for practical reasons.

Public companies may not have corporate directors nor can a private company which is part of a group of companies of which a listed company is also a member. The minimum number of directors for both public and private companies is two. Companies also must appoint a resident secretary who may be a natural person or corporate body, to attend to the statutory and administrative functions of the company.

3.5 Branch of Foreign Corporation

A foreign corporation establishing a place of business in Hong Kong is required within one month to file with the Registrar of Companies a copy of its constitution, a list of directors and names and addresses of persons authorized to receive and accept notices served on the company. An overseas public corporation is also required to file a copy of its annual balance sheet, profit and loss account, group accounts, directors' report and auditors' report. This requirement also extends to overseas private companies where there are statutory requirements to publish accounts in their country of incorporation.

3.6 Partnership and Sole Proprietorships

Ordinary partnerships may be formed whereby all the partners are jointly liable without limited for the debts and obligations of the partnership. Each partner is also personally liable for all the debts of the partnership not satisfied by the partnership assets.

Limited partnerships may also be formed. A limited partnership may not consist of more than twenty persons, one or more of whom must be nominated as a general partner whose liability for the debts of the firm is unlimited. The liability of a limited partner for the debts of the firm is limited to the amount of his initial capital contribution. Limited partners are not permitted to take part in the management of the firm or to bind the firm in any way. Limited partnerships must register as such with the Registrar of Companies in accordance with the Limited Partnership Ordinance and non-compliance with this requirement will result in the partnership being deemed to be a general partnership with unlimited liability on each and every partner. A formal partnership agreement is not a statutory requirement in Hong Kong.

3.7 Trusts

Hong Kong is a common law jurisdiction and the concept of trusts is recognized.

Fixed and discretionary trusts may be settled in Hong Kong. Trusts are frequently used in international tax and estate planning exercises to acquire beneficial ownership of an underlying company.

There is no statutory requirement in Hong Kong for a trust to make annual returns of any kind unless it is carrying on a business in Hong Kong. There is also no need for audited accounts to be prepared.

There is no tax, by withholding or otherwise, on distributions from a Hong Kong trust, and resident or non resident beneficiaries have no Hong Kong tax liability.

3.8 Business Registration

Every person who carries on a business in Hong Kong is required to register under the Business Registration Ordinance and pay a fee of HK\$450. All Hong Kong companies, whether carrying on a business or not, are required to register.

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4. FINANCE

4.1 Financial Services

Hong Kong's convenient location within the Asia Pacific region and its well-developed communication facilities have contributed to its development as an important center for offshore banking and financial services. The widespread use of English as the commercial language as well as Hong Kong's position within the time zone has enabled it to establish a link within 24-hour market place.

4.2 Currency

The units of currency is the Hong Kong Dollar (HK\$), divided into 100 cents. In October 1983 the Government introduced measures to peg the exchange rate so that it is maintained at a fixed rate of US\$1 to HK\$7.8. There is no exchange control in Hong Kong.

4.3 Banking System

Hong Kong has a well developed banking system. There is no central bank in Hong Kong, although a Commissioner of Banking is appointed under the Banking Ordinance and exercises general supervision and control over banks. The Ordinance provides that no institution may engage in banking without a license and further provides that each bank must have a minimum paid-up capital of HK\$100 million and total paid-up capital and reserve of at least HK\$200 million. The Banking and Deposit-taking Company Ordinance draw a

distinction between a licensed bank, a licensed deposit-taking company is one which can take deposits of not less than HK\$500,000 of any maturity. A registered deposit-taking company can take deposits of not less than HK\$100,000 and with an original term of maturity of not less than 91 days. A licensed bank, on the other hand, can engage in the full range of banking services.

4.4 Stock Exchange

The Hong Kong Exchanges and Clearing Ltd. (HKEx) is the stock exchange of Hong Kong. The HKEx is the holding company for The Stock Exchange of Hong Kong Ltd (SEHK), Hong Kong Futures Exchange Limited (HKFE) and Hong Kong Securities Clearing Company Limited.

Trading on the Exchange is monitored by the Commissioner under the Securities and Futures Ordinance. The Stock Exchange Compensation Fund exists to compensate investors who suffer losses as a result of defaults by stockbrokers.

4.5 Securities and Commodities Markets

The Chinese Gold and Silver Exchange Society operates a gold bullion market. Gold traded by the Society is of 99% fineness, measured in tael and quoted in HK dollars.

The "loco-London" gold market provides an alternative forum for gold trading. Gold is principally traded in U.S. dollars per troy of 99.95% fineness.

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5. AUDITING AND ACCOUNTING

5.1 Auditors

Every company must appoint auditors to report to the members on the accounts laid before the company at the AGM during their tenure in office. With the exception of the company's initial auditors, who may be appointed by the directors, auditors are appointed at the AGM to serve until the next AGM. Unincorporated bodies are not required to be audited.

5.2 Audit Requirements

Companies are required to keep proper books of accounts which give a true and fair view of the state of the company's affairs and explain its transactions.

The auditors' report must state whether the accounts have been properly prepared in accordance with the provisions of the Ordinance and whether they give a true and fair view.

A private company may dispense with many of the statutory disclosure requirements providing it complies with certain conditions, namely that:

- All its shareholders agree in writing to accepting summary accounts for that year.
- It has no subsidiaries and is not a subsidiary itself.
- It is not engaged in banking or deposit-taking, dealing in securities, insurance shipping or airline business.

5.3 Accounting Profession

The Hong Kong Institute of Certified Public Accountants is the official accounting body in Hong Kong. Administered by a full time secretariat, the Society is responsible for all matters concerning the accounting profession including the establishment of guidelines for professional procedures, practices, ethics, and administration of the examination for accountants and the maintenance of a register of qualified accountants.

The society issues statements of auditing and standards describing principles to be applied to accounts to give a true and fair view. The statements are, in the main, in line with the statements issued by various international accounting bodies.

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6. TAXATION

6.1 Introduction to the Tax System

There are many advantages for companies operating in Hong Kong. The principal advantage is that Hong Kong only taxes income that derives from or arises in Hong Kong. Hong Kong does not have a comprehensive system of taxation. Instead, various classes of income are subject to tax under scheduler headings. These are:

- Profits Tax
- Salaries Tax
- Property Tax

Foreign source income is not taxed even if remitted to Hong Kong.

Whether or not profits arise in or derive from Hong Kong is a question of fact. The test applied to determine the location of a source of profits for Hong Kong tax purposes is 'where do the operations take place, from which the profits in substance exist?'

If income does not come under any one of the above categories or does not arise in or derive from Hong Kong it does not come within the scope of Hong Kong taxation.

Dividends are free from tax by withholding or otherwise.

There is no capital gains tax in Hong Kong.

Except in certain instances where a resident individual may elect to aggregate his various sources of income, there is no total income concept.

Except for an arrangement with the mainland, Hong Kong has no double tax treaties. No unilateral relief is granted in respect of any overseas tax suffered, with the exception of a measure of relief which is provided where income has been taxed in another Commonwealth country and that country provides for similar relief in its own legislation.

The Inland Revenue Department issues tax returns and assessments are issued based on information filed. The assessment shows the assessable amount, the tax payable, and the due date for payment. There are not prescribed dates for payment of tax beyond those notified to taxpayers in their own assessment.

The fiscal year end is 31 March but liability to profits tax is calculated by reference to results of the accounting period ending in that year of assessment rather than profits arising during the fiscal year.

A provisional assessment to tax is issued based on the profits of the preceding year. The amount so paid is applied against the agreed final liability of the current year and any excess is applied against provisional tax payable for the succeeding year.

In the initial year of assessment a provisional assessment is made based on the results of the first six months' trading activity. This figure is used as a base figure pending finalization of the financial accounts for the period, at which the suitable adjustments are made to finalize the current year assessment.

Provisional assessments apply in the case of both Profits Tax and Salaries Tax. In the case of Salaries Tax, the fiscal year end is always adopted for tax purposes.

6.2 Profits Tax

Sole proprietorship, partnerships and corporations carrying on a trade, profession or business in Hong Kong are subject to Profits Tax on income arising in or derived from Hong Kong.

Where a corporation derives both Hong Kong and non-Hong Kong source income and has incurred expenses that cannot be directly allocated to either the Hong Kong source, the expenses will be apportioned in order to arrive at the figure for Hong Kong income which is subject to tax.

In the case of commission it is necessary to look to the place where the services are rendered. The Inland Revenue could look to the place where any agreement was signed in order to determine the location of a source income, in the absence of the services rendered test. Special rules exist for life and other insurance businesses, shipping (including airlines), banks and financial institutions, and clubs/trade associations.

The rates of Profits Tax	<u>2008/09</u> <u>onwards</u>
Hong Kong and foreign corporations	16.5%
Sole proprietors/partnerships	15%

Deductions

All expenses wholly and exclusively incurred in the production of assessable profits are allowed for Profits Tax purposes.

Expenses such as the following are allowable:

- Rent and rates in respect of buildings occupied for the purpose of producing profits
- Employee remuneration and allowances
- Repairs and maintenance of equipment used in the production of profits
- Specific bad debts
- Interest and related expenses on funds borrowed for the purpose of producing taxable profit; subject to certain detailed conditions being satisfied

- Depreciation allowances calculated at statutory rates

Certain items are non-deductible for tax purposes. These include:

- Capital expenditure
- Depreciation other than at statutory Inland Revenue rates
- The cost of improvements
- General provisions of any nature
- Certain pension provisions

Depreciation

There are three categories of capital expenditure for which there are different rules for the computation of depreciation allowances.

Industrial Building Allowance

Where a qualifying trade, defined to include trade carried on in mills, factories and similar premises, is carried on, an allowance is given on the construction cost (excluding land cost) of the industrial building. An initial allowance of 20% is granted together with an annual allowance of 4% for the construction cost. Provision is made for re-capture of excess depreciation allowances or for granting a balancing allowance in the year of assessment in which the industrial building is disposed of.

Commercial Rebuilding Allowance

A commercial rebuilding allowance of 4% of capital expenditure (excluding land cost) is granted on a building used for the purpose of a trade other than a qualifying trade as defined in (a) above.

Plant and Equipment

An initial allowance of 60% of the capital expenditure is given in the year of purchase and an annual allowance at rates from 10% to 30% calculated on the reducing value is given in subsequent years.

Losses

Unrelieved losses may be carried forward and applied against future assessable profits without time limit. Losses cannot be carried back. There is no group relief. Where there is any change in the share ownership of a company, there is anti-avoidance legislation to prevent the carry forward of tax losses in certain circumstances.

Foreign Corporation

Foreign corporations are taxed to the extent that they have Hong Kong source profits from a trade or carried in Hong Kong.

Where a foreign corporation carries on business in Hong Kong through a branch it is the company which is taxable since a branch is not recognized as a separate legal entity. The tax liability, if any, is therefore that of the corporation as a whole and the governing factor is the extent to which the corporation has profits arising in or derived from Hong Kong. This liability will generally be determined by reference to the profits as reflected on the local establishment's financial accounts.

In the event that the assessor does not accept these as reflecting the true profits of the establishment, he has recourse to two alternative methods for determining the profits.

(a) On Hong Kong Turnover x World profits as adjusted for Hong Kong tax purposes World Turnover

OR

(b) On a percentage of the Hong Kong turnover of the company.

If a foreign corporation forms a subsidiary selling on its own account in Hong Kong, the subsidiary itself is taxable on profits arising in Hong Kong. If the local subsidiary conducts transactions with its parent, such transactions would have to be commercially realistic. Because there are provisions enabling the Inland Revenue Department to adjust the profits where transactions are conducted between closely connected companies.

Where a foreign corporation establishes a representative office carrying out administrative or liaison functions and his office limits its activities to these functions, the foreign corporation is not taxable in Hong Kong on the grounds that it is not possible to make a profit from oneself.

In the situation where a foreign corporation makes direct sales to Hong Kong it is necessary to consider whether the foreign corporation is trading with or trading in Hong Kong. If the foreign corporation is trading in Hong Kong and has a source of profits arising in Hong Kong, then it is liable to Hong Kong taxation.

6.3 Salaries Tax

Income subject to salaries tax includes basic salary, leave pay, fee commission, bonus, gratuities, foreign service allowances, tax reimbursements, child allowances, and housing allowance.

The rental value of a place of residence provided rent free or partly free by the employer, or where an employer reimburses all or part of the rent paid by the employee is subject to tax on the notional value which is deemed to be 10% of total income excluding the cost of housing. The rental value may be abated by any rent paid by the employee not reimbursed by the employer. This contract with the tax treatment of housing allowances which are taxable in full, and generally represents a significant saving in tax in view of the high level of residential rents.

All other benefits in kind apart from the gain on the exercise of share options and education benefits are free of tax to the extent that they cannot be converted into money's worth.

The value of any holiday warrant or passage is specifically exempted in so far as it is expended for travel.

Reimbursement of private expenditure is a taxable item.

Expenses wholly, exclusively and necessarily incurred the production of income are allowable as a deduction from income chargeable to Salaries Tax. Private expenditure is not allowable.

Salaries Tax is calculated on a sliding scale from 2% to 17% on net chargeable income after deduction on expenses and personal allowances, subject however to the overriding proviso that total tax cannot exceed 15% of assessable income before deduction of allowances. At high levels of salary, income is effectively taxed at the rate of 15% without any allowance.

The standard rates of tax	<u>2013/14</u>
Standard:	15%
Graduated:	
<i>First \$40,000</i>	2%
<i>Next \$40,000</i>	7%
<i>Next \$40,000</i>	12%
<i>Balance</i>	17%

Personal allowances (HK\$)	
Single Person	120,000
Married Person-additional	120,000
Single Parent	120,000
1 st to 9 th Child	70,000
Dependent Brother/Sister for each dependant	33,000
Dependent Parent/Grandparent (aged 60 or above) for each dependant	38,000
Dependent Parent/Grandparent (aged 55 or above but below 60) for each dependant	19,000
Additional dependent Parent/Grandparent (aged 60 or above)	38,000
Dependent Parent/Grandparent in residential care	Up to 76,000
Disabled Dependent	66,000

Where services are rendered in Hong Kong during visits not exceeding a total of sixty days in a year of assessment (ending 31 March), exemption from Salaries Tax applies to income from that employment. Where more than sixty days are spent in Hong Kong and the employment is with a Hong Kong employer the total income is subject to tax. This sixty day rule does not apply where the person is regarded as residing in Hong Kong.

Where a person has a contract of employment entered into outside Hong Kong with an overseas company which bears his remuneration and the services performed under the contract are performed outside Hong Kong; this salary will not be subject to Hong Kong tax. Where, however, the person performs some service under that contract in Hong Kong, he may be assessed on the proportion of income attributed to services rendered in Hong Kong usually calculated by reference to the number of days spent in Hong Kong.

Directors' fees received from a company managed and controlled in Hong Kong are subject to Hong Kong taxation notwithstanding that the services may be rendered outside Hong Kong. Payment for services - than those as director, i.e., for executive services, is treated as income from employment as opposed to income from an office of a director, and the sixty day exemption could apply to income from that source.

Personal Assessment.

An individual temporarily or permanently resident in Hong Kong may elect for personal assessment of total income. This basis provides for all amounts taxable under the separate scheduler headings of Profits Tax, Salaries Tax, and Property Tax to be aggregated and personal allowances granted. The balance is taxable at graduated rates which apply for

Salaries Tax purposes subject again to the proviso that maximum tax charged cannot exceed 15% of income without allowances, in practice, personal assessment is appropriate only to individuals with low income from various sources or where losses are available for offset against other income.

6.4 Property Tax

Property Tax is payable by the owners of land or buildings situated in Hong Kong at 15% of the actual rental income from such land or buildings, less and allowance of 20% for repairs and maintenance. Deduction is also permitted in respect of rates paid by the owner. Where the rent is included in the owner's business profits and subject to Profits Tax, the Property Tax paid during any year of assessment represents tax paid on account of the final Property Tax liability of the year.

6.5 Other Taxes

Estate Duty is no longer chargeable in Hong Kong in respect of estates passing on the death of an Individual.

Ad Valorem Stamp Duty is levied on assignments of immovable property on a sliding scale from 1.5% to 8.5%. Purchases of any Hong Kong stock and shares are levied at 0.1% or \$5 plus 0.2% of the stock value should be transferred as a voluntary disposition involves.

Excise Duty is levied on certain categories of goods including alcoholic beverages, tobacco, hydrocarbons and various types of industrial alcohol.

Motor Vehicle Registration Tax is applied to the first registration of a motor vehicle in Hong Kong which applies on a sliding scale up to a maximum of 115% on private cars.

Entertainment Tax is imposed at varying rates on the admission price to places of public entertainment.

Hotel Accommodation Tax is no longer chargeable in Hong Kong in respect of proprietors of hotels for accommodation.

Gambling Tax applies to the proceeds from betting, which are subject to duty charged at a scale determined from time to time by the Legislative Council, ranging from 25% to 75%.

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7. **BKR International**

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