COUNTRY PROFILE – HONG KONG

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1. **ECONOMY AND FOREIGN INVESTMENTS**

Hong Kong encourages free enterprises and a free trade economy. The government makes no distinction between local and foreign companies and welcomes investment from both.

The Basic Law (which is the highest constitutional law of Hong Kong) provides that Hong Kong can enjoy a high degree of autonomy as a Special Administrative Region (SAR) of the People’s Republic of China. Hong Kong’s social and economic systems, as well as its lifestyle, would remain unchanged for 50 years after the handing over in 1997, and China’s socialist system and policies are not to be practised in the SAR.

1-1 **Ownership Restrictions**

**Land**

There is no discrimination between local residents and overseas investors in the area of holding title to land. Overseas investors wishing to buy leases of industrial land for the establishment of their plants may therefore do so.

In accordance with the Sino-British Joint Declaration signed on 19th December 1984, normal land grants throughout the territory are now made for terms expiring not later than June 30, 2047. An annual rent equivalent to 3% of the property’s rateable value will be charged by government.

**Television broadcasting companies**

Restrictions on the terms of TV broadcasting licences were announced in March 1988 and took effect in December 1988 when new 12-year licences were granted.

A television broadcasting company:

i. Shall have more than 51% of its issued shares held by persons who are permanent residents of, and ordinarily resident in, Hong Kong;

ii. Shall not have more than 10% of its issued shares owned or controlled by any single foreign shareholder;

iii. Is required to obtain the approval of the Broadcasting Authority where a foreign shareholder owns or has interest in 2% or more of its issued shares but no limit is imposed on the maximum percentage of shares an individual can hold if he is a permanent resident of, and ordinarily resident in, Hong Kong;

iv. A majority of its directors must be permanent residents of, and ordinarily resident in, Hong Kong.

1-2 **Repatriation or remittance restrictions**
None.

1-3 Employment restrictions

Except for those holders of a permanent identity card (i.e. permanent residents) of Hong Kong SAR, all persons are subject to immigration controls and require visas before entering into employment in Hong Kong, visas must be obtained from the Immigration Department before departure for Hong Kong. Such visas are usually issued for six months in the first instance and are renewable every six months thereafter.

There are no requirements for local, rather than foreign, personnel to be employed. However, the Immigration Department must be convinced of the need for the foreign employee before it will issue a work permit. In practice, work permits will be granted only to professionals and managerial-level employees. Under the Immigration Ordinance, all employees are required to carry their proof of identity, and employers are required to maintain an up-to-date employee record. Employers are prohibited from employing anyone who does not possess an acceptable document to prove identity and the right to work in Hong Kong.

1-4 Banking restrictions

Only licensed banks may operate checking and savings accounts.

Applications for a banking licence in Hong Kong by qualified institutions are generally favourably received.

International banks are required to show minimum assets of USD16,000 million (reviewed annually), and their countries of incorporation must apply adequate supervision and offer some acceptable form of reciprocity to Hong Kong banks. Overseas banks licensed before 1978 are free to open offices throughout the territory. Those licensed since that date are restricted to a single office. There are otherwise no restrictions on the operation of overseas banks.

Local companies must meet the following conditions:

i. They must have paid-up share capital of at least HKD150 million;

ii. They must have been in the business of taking deposits from and granting credit to the public for at least ten years;

iii. They must hold deposits from the public of at least HKD3,000 million and total assets of HKD4,000 million.

Deposit taking companies must have a minimum paid-up-capital of HKD25 million. A company is able to register as a deposit taking company only if it is more than 50% owned by a bank in Hong Kong or elsewhere.
1-5 Other restrictions

None

1-6 Subsidies and other incentives to foreign investment

None.

2. TAX RATES

2-1 Profits tax

Profits Tax is payable on profits arising in or derived from Hong Kong at the rates as follows:

Corporation  16% (as from year of assessment 1998/99 onwards)
Unincorporated business  15%

2-2 Branch income tax

The rates of tax on branch, or representative office operation, is the same as that for corporations. There are three methods of assessing the Hong Kong profits of a corporation with a permanent establishment in Hong Kong and a head office outside:

i. If accounts are maintained for the Hong Kong operation, the assessment will be based on the profits arising in, or derived from, Hong Kong as disclosed by these accounts, provided they reflect the true profits of the branch. Such profits would be taxable at the company rate;

ii. Where the Hong Kong operations accounts does not disclose the profits arising in, or derived from, Hong Kong as applicable to the Hong Kong operation, or where there are no accounts, the assessment to profits tax will be computed by reference to the total profits, wherever made. Such a computation is based on assessing a proportion of the total profits, determined by the ratio of turnover in Hong Kong to total turnover. This proportion of profits so calculated will be regarded as profits arising in, or derived from, Hong Kong and taxed as such. In the case of a bank, if the assessor does not accept the branch accounts, Hong Kong profit is computed according to the proportion of Hong Kong assets over total assets.

Alternatively, the assessor may estimate the profits of the Hong Kong branch;

iii. Where the assessor considers the adoption of methods (1) and (2) to be inequitable, he may then compute the profits arising in or derived from Hong Kong on a fair percentage of the turnover in Hong Kong.
2-3 Withholding tax

There is no withholding tax on interest or dividends paid to non-residents. However, for payments to non-residents for the use or right to use in Hong Kong certain intellectual properties, such payment is subject to an effective withholding tax of 1.6% (from 1998/99 onwards) in the case of unrelated non-residents and 16% (from 1998/99 onwards) in the case of “associated” non-residents where the relevant intellectual property was previously owned by a Hong Kong entity.

2-4 Others

Generally, a resident that sells goods in Hong Kong on behalf of a non-resident is required to pay 0.5% of the gross sales proceeds to the Inland Revenue Department as the profits tax liability of the non-resident for doing business in Hong Kong through an agent. An agent that makes regular sales from a stockpile held for the non-resident, or has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the principal may be considered a Hong Kong permanent establishment of the non-resident, in which case profits tax would be payable as though a branch existed in Hong Kong.

2-5 Individual

A person’s income from employment is charged at the lower of:
   i. Net assessable income, less charitable donations, at 15%; or
   ii. Net assessable income less charitable donations and personal allowances charged at progressive rates as follows:

<table>
<thead>
<tr>
<th>Tax rates (1998/99 onwards)</th>
<th>HKD</th>
</tr>
</thead>
<tbody>
<tr>
<td>First HKD35,000             @ 2%</td>
<td>700</td>
</tr>
<tr>
<td>Next HKD35,000              @ 7%</td>
<td>2,450</td>
</tr>
<tr>
<td>Next HKD35,000              @12%</td>
<td>4,200</td>
</tr>
<tr>
<td>Cumulative on first HKD105,000</td>
<td>-</td>
</tr>
<tr>
<td>Balance                     @17%</td>
<td>-</td>
</tr>
</tbody>
</table>

Personal Allowances
   - Single: 108,000
   - Married: 216,000

Child Allowances
   - 1st Child to 2nd child (each): 30,000
   - 3rd child to 9th child (each): 15,000

Dependent Parent/Grandparent Allowance
   - Residing with taxpayer: 60,000
   - Not residing with taxpayer: 30,000

Single Supporting Parent Allowance: 108,000
Dependent Brother/Sister Allowance (for whom no child allowance claimed): 30,000
Disabled Dependent Allowance: 60,000
3. **TAX TREATIES**

To date, Hong Kong has no comprehensive double tax treaties with most countries in the world. Tax relief arrangements have been made only in respect of international shipping and aircraft income. It has been announced, however, that comprehensive double tax treaties will be negotiated and concluded with selected countries in the near future.

Under an agreement with the United States, the governments of the United States and Hong Kong exempt from tax the gross income derived from the international operations of ships by individuals who are residents of the other territory and corporations that are incorporated or managed and controlled in the other territory.

The exemption granted to Hong Kong corporations by the United States applies only when either of the following conditions holds:

3-1 The corporation’s stock is primarily and regularly traded on an established stock market in Hong Kong, the United States or another country that grants an equivalent exemption to U.S. corporations; or

3-2 More than 50% of the value of the corporation’s stock is owned, directly or indirectly, by individuals who are residents of Hong Kong or of a country that grants an equivalent exemption to U.S. corporations or by a corporation organized in a country that grants an equivalent exemption to U.S. corporations and whose stock is primarily and regularly traded on an established stock market in that country, the United States or a country that grants an equivalent exemption to U.S. corporations.

| Special Deductions: | Expenses of a Dependent Parent/Grandparent in residential care | 60,000 |
| | Approved Self Education Expenses | 30,000 |
| | Contribution to Mandatory Provident Fund Scheme | 12,000 |
| | Mortgage interest of owner - occupied property (Limited to any 5 years) | 100,000 |
The exemption provided by Hong Kong to U.S. corporations follows identical criteria.

The shipping income to which the Order applies is the gross income arising from the international operation of ships, including the following:

a. Income from the rental of ships;

b. Income from the rental of containers;

c. Income from participation in marine transport pools; and

d. Gains from the sale of ships by a person primarily engaged in the international operation, lease or rental of ships.

International aircraft operations are specifically excluded from the scope of the agreement.

4. TAX CREDITS

The Commonwealth income tax relief is no longer available since 1st April 1998.

4-1 Section 50 of the Inland Revenue Ordinance will apply if a double tax treaty is entered into providing for tax payable overseas to be allowed as a credit against tax payable on the same income in Hong Kong.

Under the tax credit system provided under Section 50, the amount of Hong Kong tax payable on income is reduced by the amount of the credit, provided that the person entitled to the income was resident in Hong Kong in the relevant year. The total credit allowed to a taxpayer in an assessment year for foreign tax is restricted to the total amount of tax which is payable by the taxpayer in that year.

If a credit for foreign tax is allowed, no further deduction for the foreign tax is permitted in computing the taxpayer’s income, and if the amount of tax chargeable depends upon the amount actually received in Hong Kong, the amount will be increased by the amount of any foreign tax paid.

A claim must be made within two years of the end of the year of assessment in which the income arises.

4-2 HK/China taxation arrangement

In order to minimize double taxation of cross-border activities between Mainland China and the Hong Kong Special Administrative Region, an arrangement was entered into by China and Hong Kong in February 1998.
(i) **Effective dates**

The arrangement applies:

1. in Mainland China, in respect of income derived on or after 1 July 1998; and

2. in Hong Kong, in respect of income derived in any year of assessment commencing after 1 April 1998.

(ii) **Scope of the arrangement**

The taxes to which the arrangement applies are:

a. in Mainland China, individual income tax, foreign investment enterprises income tax and foreign enterprise income tax; and

b. in Hong Kong, profits tax, salaries tax and tax charged under personal assessment.

(iii) **Method of tax relief**

The China/HK Arrangement provides for tax relief to be given in the form of tax credits. Where qualifying income is subject to tax in China and the same income is subject to tax in Hong Kong, the China tax paid will be credited against the Hong Kong tax payable (and vice versa). The amount of credit, however, in both cases will not exceed the tax computed in respect of that income under each side’s respective taxation laws and regulations.

(iv) **Treatment of permanent establishments**

The profits of a Hong Kong enterprise are taxable only in Hong Kong unless the enterprise carries on business in China through a permanent establishment situated there (and vice versa). Where a Hong Kong enterprise carries on business through a permanent establishment in China the enterprise may taxed in China but only to the extent that its income is attributable to the permanent establishment.

“Permanent establishment” includes a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. It does not include the use of facilities or the maintenance of a fixed place of business solely for the storage, display or delivery of goods, the purchase of goods, advertising, collecting information or other preparatory or ancillary activities.
However, if a person in China, other than an agent of independent status, habitually exercises an authority to conclude contracts on behalf of an enterprise in Hong Kong, then the enterprise will be regarded as having a “permanent establishment” in China.

The provision of consultancy or supervisory services by a Hong Kong enterprise to a project in China will not constitute the existence of a permanent establishment if the relevant project, activities or services do not continue for more than six months in any 12-month period. In such cases the income derived would not be subject to income tax in China, although there may be exposure to business tax, depending upon the circumstances.

(v) Treatment on dependent personal services

Employment income derived by a Hong Kong resident providing services in China is exempt from individual income tax in China provided that:

a. the taxpayer stays in China for a period or periods not exceeding 183 days in the calendar year concerned;

b. the remuneration is paid by or on behalf of an employer who is not a resident of China; and

c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in China.

The relief does not apply to directors’ fees or income derived by artistes or athletes.

5. PROPERTY TAX

The property tax is charged at the standard rate of 15% on 80% of the actual rental income on non-corporate owners of land and buildings in Hong Kong. Corporate owners are subject to Profits Tax on their rental income less expenses.

6. EXCISE TAXES

Excise taxes are only levied on hydrocarbons, tobacco and alcohol.
7. **STAMP DUTY**

Stamp duty are levied on the following transactions:

**Share Transfers:** 0.25%

**Share Transfers – Intra Group (90% common shareholdings): Exempt**

<table>
<thead>
<tr>
<th>HKD(million)</th>
<th>Property Transfers:</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 1.00</td>
<td>$100</td>
</tr>
<tr>
<td>1.00 to 2.00</td>
<td>0.75%</td>
</tr>
<tr>
<td>2.00 to 3.00</td>
<td>1.50%</td>
</tr>
<tr>
<td>3.00 to 4.00</td>
<td>2.25%</td>
</tr>
<tr>
<td>4.00 to 6.00</td>
<td>3.00%</td>
</tr>
<tr>
<td>over 6.00</td>
<td>3.75%</td>
</tr>
</tbody>
</table>

Marginal relief available where consideration slightly exceeds one of the points on the scale.

**Property Transfers – Intra Group (90% common shareholdings): Exempt**

8. **CAPITAL DUTY**

**Authorised Capital:** 0.1%

(Capped at HKD30,000 per case)

9. **ESTATE DUTY**

Estate duty is charged on the principal value of estate situated in Hong Kong passing on the death of an individual. The rates of duty are:

<table>
<thead>
<tr>
<th>Where the Principal Value of the Estate</th>
<th>Rate of Estate Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does not exceed HKD7.5m</td>
<td>Nil</td>
</tr>
<tr>
<td>Exceeds of HKD7.5m but does not exceed HKD9.0m</td>
<td>5%</td>
</tr>
<tr>
<td>Exceeds HKD9.0M but does not exceed HKD10.5M</td>
<td>10%</td>
</tr>
<tr>
<td>Exceeds HKD10.5m</td>
<td>15%</td>
</tr>
</tbody>
</table>

The above rates are not progressive. Marginal relief is available where an estate is only slightly in excess of one of the limits below which a lower rate of duty would apply. Life insurance proceeds are exempt.
10. **OTHER DUTIES, FEES AND CHARGES**

Hotel Accommodation Tax  :  3%
Betting Duty    :  12% - 19% on Tote
                          25% on Lotteries
Rates     :  5% on rateable value
              (Rebate of 50% in 3rd quarter rates in 1999)
Business Registration Fees : HKD2,250 per annum
Re-export declaration charges: 0.025%
Air Passenger Departure Tax : HKD50
Social Security Tax      :  None
Wealth Tax              :  None
Gift Tax               :  None
Inheritance Tax        :  None
Local Tax              :  None
Group Tax              :  None
Taxes on Capital Gain,  
    Dividends and interest on
    Bank deposits        :  None

11. **CORPORATE RESIDENCE RULE**

Corporate residence is determined by reference to the place of central management and control.

12. **INDIVIDUAL RESIDENCY RULE**

Residence, domicile and citizenship are not relevant to tax liability. All individuals, resident or non-resident, are subject to tax on Hong Kong-source employment income, Hong Kong income from an office and Hong Kong pensions, as shown below:

12-1 Employment income – The determination of the situs of employment income depends on various factors, such as the place where the employment contract was negotiated, concluded and is enforceable; residence of the employer; and the territory where the remuneration was paid. If the source of employment income is in Hong Kong, it is all taxable unless all of the services were rendered outside Hong Kong. However, to provide unilateral relief for Hong Kong-source employments, income referable to services rendered outside Hong Kong will not be taxed in Hong Kong if the employee is chargeable to, and has paid, foreign tax of a similar nature to Hong Kong salaries tax in the territory where the services are rendered. Anti-avoidance legislation dealing with the use of service companies to disguise employer/employee relationships was issued in August 1995;
12-2 Non-Hong Kong employment income is apportioned so that only the part attributable to services rendered in Hong Kong is taxable. When deciding whether or not all employment services are rendered outside Hong Kong, no account is taken of services rendered in Hong Kong during visits not exceeding a total of 60 days in a tax year ending March 31. Income from an office and pensions do not rank for the apportionment basis and exclusion of income under the 60-day rule;

12-3 Income from an office (such as directors’ fees) – the source of such fees is determined by reference to the place where the company is managed and controlled;

12-4 Pensions are taxable if the funds out of which the payment is made are situated in Hong Kong.