



Hong Kong Tax Newsflash

Multilateral Instrument for tax treaty to be effective in Hong Kong

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The government has started the legislative process to give effect to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). Subject to the completion of legislative procedures, the MLI will become effective in Hong Kong on 1 April 2023 for withholding taxes and 1 April 2024 for other taxes at the earliest.

MLI is a standard template designed to facilitate the implementation of the tax treaty-related measures developed through the G20/OECD BEPS¹ project in a multilateral context. It modifies the relevant tax treaty provisions with the aim of preventing the abuse of tax treaties and improving the dispute resolution mechanism provided for in the tax treaties.

Back in June 2017, China signed the MLI with the OECD and extended its application to Hong Kong by way of territorial extension. In May 2022, China deposited the instrument of approval for the MLI and submitted a list of final reservations and notifications on the MLI for Hong Kong. Hong Kong would only implement the mandatory provisions of the MLI, including the preamble text stating the intention of the tax treaty, the principal purpose test and the dispute resolution mechanism. Please refer to our [Hong Kong Tax Analysis Issue H75/2017](#) and [Hong Kong Tax Newsflash \(Issue 153\)](#) for more details.

An Order² to give effect to the MLI in Hong Kong was gazetted on 30 September 2022 and is scheduled to be tabled at the Legislative Council for negative vetting on 19 October 2022. Upon completion of the legislative procedures, the provisions of the MLI will have effect in Hong Kong with respect to 39 tax treaties. The earliest effective dates of the MLI provisions for different types of tax are as follows:

Type of tax	Effective date (<i>the earliest</i>)
Taxes withheld at source	1 April 2023
Other taxes	1 April 2024

The exact effective dates are subject to the completion of the legislative and other relevant procedures of the MLI by Hong Kong's tax treaty partners. The Inland Revenue Department will publish on its website information on when and how the covered tax treaties would be modified under the MLI.

Taxpayers should pay attention to the effective dates of MLI provisions and the changes to the relevant tax treaties brought by the MLI when reviewing their cross-border transactions.

¹ BEPS refers to tax avoidance strategies of multinational enterprises in exploiting the gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity.

² The Inland Revenue (Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting) Order

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