

## Tax Newsflash



### Hong Kong Tax News

## Revised Application Forms for Tax Resident Certificate

The Inland Revenue Department (IRD) revised the application forms for certificate of resident status under comprehensive arrangement / agreements for the avoidance of double taxation (“DTA”). Applications must be made with the revised forms with effect from 1 February 2015.

In the Annual Meeting between the IRD and the Hong Kong Institute of Certified Public Accountants (HKICPA) held in February 2014, the IRD mentioned that when determining whether to issue a tax resident certificate to a company (no matter incorporated in Hong Kong or overseas), the IRD would consider whether the person would prima facie be entitled to those treaty benefits, in addition to meeting the definition of tax resident. If the IRD has reason to believe that a person would not be entitled to the treaty benefits, the IRD may request further information or exchange information with the other treaty partner before deciding whether a tax resident certificate could be issued. The IRD would consider the beneficial ownership, whether there is an abuse of the DTA and whether it is a conduit company. The IRD would refuse to issue a tax resident certificate to a paper company which was incorporated in Hong Kong merely to obtain treaty benefits.

The changes in the application forms are in line with the IRD's change of practice in determining whether to issue a tax resident certificate or not. More information are requested in the revised application forms so as to allow the IRD to consider the additional factors as mentioned above. On the other hand, there were different forms for companies incorporated in Hong Kong and those incorporated outside Hong Kong for the DTA with Mainland China before the revision. With effective from 1 February 2015, the same form [IR1313A (1/2015)] applies no matter whether the applicant was incorporated in or outside Hong Kong. In other words, Hong Kong incorporated companies need to provide more detailed information in the application form. These revised forms can be downloaded [here](#).

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