



Hong Kong Tax Newsflash:

Passage of Legislation

- Tax treatment of financial instruments with accounting treatment under HKFRS 9 aligned
- Profits Tax exemption for funds extended
- Legislative framework of AEOI refined

Inland Revenue (Amendment) (No. 2) Ordinance 2019 which aligns tax treatment of financial instruments with their accounting treatment and Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019 which allows profits tax exemption for certain funds whether or not the central management and control is exercised in Hong Kong have been enacted.

Inland Revenue (Amendment) (No. 2) Ordinance 2019

Alignment of Tax Treatment of Financial Instruments with their Accounting Treatment

The option to elect for alignment of tax treatment of financial instruments with their accounting treatment, subject to certain exceptions, is available to a taxpayer if the taxpayer prepares financial statements in accordance with a specified financial reporting standard e.g. IFRS / HKFRS 9.

Generally, an election for aligning the tax treatment with their accounting treatment, once made, is irrevocable and has effect for the year of assessment for which the election is made and all subsequent years of assessment. Furthermore, all profits or losses of the prior years which would have been taxable or deductible had the provisions

been applied, will also be taxable or deductible in the year of assessment for which the election is made.

This new legislation applies to a year of assessment for which the basis period begins on or after 1 January 2018.

For details, please see our [Tax Newsflash \(Issue 81\)](#) published on 7 November 2018.

Refinements to the Legislative Framework of AEOI

Most of the refinements serve to better align the Automatic Exchange of Information (AEOI) framework in Hong Kong with the Organisation for Economic Co-operation and Development Common Reporting Standard (CRS) without making substantial changes to the requirements and obligations of reporting financial institutions and the refinements will come into effect from 1 January 2020.

Apart from the technical refinements to certain AEOI-related provisions of the Inland Revenue Ordinance (IRO), it requires Mandatory Provident Fund Schemes, Occupational Retirement Schemes registered under the Occupational Retirement Schemes Ordinance (Cap. 426), pooling agreements, approved pooled investment funds and credit unions to comply with the due diligence and reporting obligations relating to AEOI starting from 1 January 2020.

Further, the number of reportable jurisdictions with respect to Hong Kong reporting financial institutions under the IRO has been expanded from 75 to 126 and it will come into effect beginning from 2020 reporting year.

Having regard to the refinements, the IRD will revise its Guidance for Financial Institutions. The Hong Kong financial institutions should therefore closely monitor on Hong Kong CRS/AEOI developments.

Deduction of interest expense to overseas export credit agencies

The new legislation also seeks to allow tax deduction for interest expense payable to an overseas export credit agency that is owned, established and operated by an overseas government entity for providing financial support to exporters or investors for export or overseas investment activities. This provision applies to interest accrued on or after 1 March 2019.

For details, please see our [Tax Newsflash \(Issue 81\)](#) published on 7 November 2018 and [Tax Newsflash \(Issue 83\)](#) published on 15 November 2018.

Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019

The new legislation seeks to allow the profits tax exemption to apply to certain transactions of a fund, irrespective of whether the central management and control of the fund is exercised in Hong Kong or not. In particular, the profits tax exemption will be available to a fund's investments in Hong Kong and non-Hong Kong private companies, if certain tests

are satisfied. There is no tainting effect of the profits tax exemption under the new legislation. This new legislation comes into operation on 1 April 2019.

For details, please see our [Tax Newsflash \(Issue 82\)](#) published on 8 November 2018.

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