

# Taxation and Investment in Hong Kong 2016

Reach, relevance and reliability



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# 1.0 Investment climate

## 1.1 Business environment

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China. A mini-constitution grants the territory its own legislature, legal and judicial systems and full economic autonomy. The Mainland China government has responsibility for defense and foreign affairs. The basic law is the constitutional law of the Hong Kong SAR, which sets out the policies of the Chinese government toward Hong Kong and how the SAR is to be administered. Under the basic law, Hong Kong exercises executive, legislative and independent judicial power.

The administration of Hong Kong is headed by the Chief Executive, who appoints members of the Executive Council to assist him/her in policy-making. The legislative body, the Legislative Council, is responsible for passing laws, controlling government expenditure and monitoring the work of the government.

Hong Kong participates independently in international trade and issues independent certificates of origin. It retains its border controls with China, its own customs procedures and the right to conduct international trade relations.

Hong Kong has long been considered the southern gateway of Mainland China and a trading and financial hub in the Asia Pacific region. It has no natural resources and is dependent on imports for raw materials, food and fuel. Hong Kong is a services center, in particular for companies (both foreign and those from Hong Kong) doing business in Mainland China.

As a major financial and trading center, Hong Kong's success primarily is attributable to its simple low-rate tax regime and free trade policy, the absence of restrictions on inbound/outbound investment and the absence of nationality restrictions on ownership.

Hong Kong is a member in its own right of the World Trade Organization (WTO) and the Asia-Pacific Economic Cooperation (APEC) forum.

Hong Kong has concluded a Closer Economic Partnership Arrangement (CEPA) with Mainland China to facilitate access to Chinese markets for Hong Kong manufacturers and service-based companies. Under the CEPA, the mainland is committed to simplifying procedures and strengthening cooperation with Hong Kong on customs clearance, quarantine and inspection, quality assurance and food safety, and to facilitate investment. Nearly all goods produced in Hong Kong are able to enter the mainland at zero import tariffs. Overseas companies can take advantage of the CEPA's concessions granted to Hong Kong products and Hong Kong service companies by outsourcing to, or partnering with, a CEPA-qualified manufacturer or service company in Hong Kong.

### Price controls

Hong Kong has no significant price controls, apart from those on charges for public transport and electricity.

### Intellectual property

The Hong Kong government is responsible for formulating its own intellectual property policies and enforcing intellectual property rights. Hong Kong conforms to the major intellectual property conventions, including the Trade-Related Aspects of Intellectual Property Agreements of the WTO. Hong Kong's intellectual property laws do not distinguish between residents of Hong Kong and foreign entities; a foreign corporation may arrange for coverage in Hong Kong and seek enforcement of its rights in the local courts.

The Copyright Ordinance Cap. 528 and subsequent amendments are the basis of Hong Kong copyright law, which is in line with prevailing international standards on copyright protection. It protects the following: computer software; drawings; literary, dramatic, musical and artistic works and performances; sound recordings, films and videos; and copyrighted works published on the internet and in other digital environments. It also protects copyright owners against derogatory treatment of their works. The Layout-design (Topography) of Integrated Circuits Ordinance Cap. 445 protects the layout design of integrated circuits.

The copyright law provides for both criminal and civil remedies. To complement civil action by owners of rights, Hong Kong imposes criminal sanctions on the manufacture, sale and distribution of pirated works and counterfeit goods. It also is considered an offense to be in possession of an infringing article for the purposes of trade or business in Hong Kong.

The Trade Marks Ordinance Cap. 559 (2003) protects trademarks, as well as certification marks, collective marks and well-known trademarks. The law also specifies the period of non-use prior to revocation (three years) and the procedures for the registration of assignments and “registrable transactions,” such as licenses. Trademarks must be registered to be protected in Hong Kong.

The Patents Ordinance Cap. 514 covers patents registered in Hong Kong. Standard patents have a term of 20 years. Short-term patents, with a term of protection of up to eight years, also are available. A right of priority arising as a result of the filing of a patent application may be assigned or transmitted, either together with the application or independently. This allows, for example, the owner of an invention who has filed a patent application in a Paris Convention country, but who does not wish to seek patent protection in Hong Kong, to assign his/her right of priority to another party to apply for a short-term patent in Hong Kong based on the same invention.

Enforcement of Hong Kong’s intellectual property laws is under the jurisdiction of the Intellectual Property Investigation Bureau, which is part of the Customs and Excise Department.

Detention orders are another tool for intellectual property holders. These allow rights owners to seek Customs and Excise Department assistance in detaining suspected imports of pirated or counterfeit goods. The Copyright Ordinance allows courts to accept an affidavit as a basis of proof. Customs officials may seize suspected pirated goods.

## **1.2 Currency**

The currency in Hong Kong is the Hong Kong dollar (HKD).

## **1.3 Banking and financing**

Hong Kong is a global banking center, hosting many of the world’s largest banks. The strength of the banking sector is due to Hong Kong’s expertise in trading currencies, foreign exchange and interest rate derivatives, interbank deposits and loans, private banking services and the arrangement of syndicated loans.

Hong Kong maintains a three-tiered system of deposit-taking institutions: licensed banks, restricted license banks and deposit-taking companies, collectively known as “authorized institutions.”

Only licensed banks may operate current and savings accounts and accept deposits of any size and maturity. Restricted license banks are allowed to accept only deposits of HKD 500,000 and above; deposit-taking companies are permitted to accept only deposits of a minimum of HKD 100,000, with original maturity of no less than three months.

Banks are independent of the government, and foreign banks are free to operate with only limited restrictions.

## **1.4 Foreign investment**

Hong Kong imposes almost no restrictions on foreign investment; foreigners can invest in any business and can own up to 100% of the equity (except for state-owned activities and broadcasting and cable, where foreign ownership may not exceed 49%).

There is no investment approval procedure directed specifically toward foreign investors, and Hong Kong’s basic law safeguards “free movement of goods, intangible assets and capital.” All businesses must comply with the registration requirements of the new Companies Ordinance (Cap. 622).

Hong Kong’s high levels of inward and outward direct investment reflect its importance as a regional headquarters, business hub and international financial center. Mainland China continues to feature prominently in Hong Kong’s external direct investment, both as a source and as a destination. This reflects Hong Kong’s unique position as a gateway to the vast mainland markets, as well as a platform for mainland enterprises to access the global markets. This important

strategic role has become more entrenched, along with the further expansion of economic cooperation and integration with the mainland, and with the Pearl River delta region in particular.

## **1.5 Tax incentives**

Hong Kong does not offer targeted incentive regimes to overseas investors or foreign-owned firms. However, its duty-free status, low tax rates, good infrastructure, freedom from government interference and substantial available capital make it attractive to potential investors, and thus competitive with other countries in the region. The simplicity of procedures for investing, expanding and establishing a local company is a major attraction for foreign investment in Hong Kong.

Nevertheless, the government does make certain tax facilities available. While capital expenditure generally is not deductible for Hong Kong tax purposes, to promote and direct capital expenditure toward specific areas, the government grants accelerated depreciation allowances on plant and machinery, as well as special deductions for the following: expenditure on R&D (subject to specific deduction criteria); payments for technical education; purchases of patent rights, rights to know-how, copyrights, registered designs or registered trademarks; expenditure for building refurbishment; capital expenditure on the provision of prescribed fixed assets, including manufacturing machinery and computer hardware and software; and capital expenditure on environmentally friendly vehicles. These special deductions are not available to assets purchased under hire-purchase arrangements or assets leased to other persons.

Additionally, preferential profits tax treatment may be available, including a levy of only 50% of the profits tax rate or an exemption for certain qualifying debt instruments, qualifying reinsurance business, captive insurance business and profits of offshore funds derived from specified transactions carried out by a nonresident. In addition, there are proposals to provide certain tax incentives for qualifying corporate treasury centers and open-ended funds. The trading of exchange-traded funds is exempt from stamp duty.

## **1.6 Exchange controls**

In line with its free market policies, Hong Kong does not impose any controls on foreign exchange and there are no restrictions on foreign investment, i.e. there are no restrictions on the entry or repatriation of capital or on the conversion and remittance of profits and dividends derived from direct investments. Investors bring their capital into Hong Kong through the open exchange market and remit it in the same way.

Hong Kong has anti-money-laundering legislation allowing the tracing and confiscation of proceeds derived from drug-trafficking and organized crime. An anti-terrorism law allows the authorities to freeze funds and financial assets believed to belong to terrorists.

## 2.0 Setting up a business

### 2.1 Principal forms of business entity

The principal forms of business are the limited liability company (both private and public), branch or representative office, partnership and sole proprietorship. For an overseas company seeking to do business in association with a local firm, possibilities include a jointly owned company, a general or limited partnership or a contractual joint venture. Foreign investors in Hong Kong may use all available forms of business entity without having to obtain government approval. Private limited companies and branch offices of foreign companies are the most frequently used forms.

#### Formalities for setting up a company

A new Companies Ordinance (Cap. 622) (CO) has been in force since 3 March 2014.

Unlike a public company, a private limited company may not issue bearer share warrants or offer shares or debt instruments to the public, and share transfers are restricted. Most Hong Kong companies are private companies limited by shares. Foreign investors may prefer the private limited form because it is easier to establish and has fewer annual reporting requirements.

All businesses engaged in activities in Hong Kong, whether or not incorporated locally, must obtain a Business Registration Certificate from the Hong Kong tax authorities (the Inland Revenue Department (IRD)) within one month of commencing business. Application is made by submitting a business registration form, together with payment of a fee, to the Business Registration Office at the IRD. As from 1 April 2016, the registration fee and levy are HKD 250 for a one-year certificate and HKD 3,950 for a three-year certificate.

Additional licenses or consent are required for certain types of companies, such as banks or authorized institutions (regulated by the Banking Ordinance Cap. 155), insurance companies (regulated by the Insurance Companies Ordinance Cap. 41) and securities dealers (regulated by the Securities and Futures Ordinance Cap. 571).

To be incorporated in Hong Kong, a new company must obtain a certificate of incorporation from the Companies Registry. Applications should be made within one month of the date of registration with the Companies Registry. An overseas company that commences business in Hong Kong before registration with the registry has been finalized still may apply for business registration within one month of the commencement of business.

The Companies Registry and the IRD jointly offer a one-stop company and business registration service to investors. An applicant that submits an incorporation form for a local company or an application form for registration of a non-Hong Kong company at the Companies Registry will be deemed to make a business registration application at the same time. Companies, therefore, have to file only a single application for both company and business registration. The one-stop company and business registration regime is not available for business registration by other types of businesses, such as sole proprietorships, partnerships and branches. In these cases, registration must be made directly with the Business Registration Office.

#### Forms of entity

##### Requirements for a limited company

Most companies are limited companies. A limited company generally has share capital, and the shares carry a bundle of rights and obligations relating to the company. "Limited liability" means that the shareholder's personal liability to the company is limited to the share capital or to an amount guaranteed by the shareholder. If the company enters into a transaction with another party and incurs a debt to that party, the shareholders are not obligated to repay the debt, unless they specifically agree to do so.

Limited companies can be divided into private and public limited companies.

**Capital:** *Private company:* No minimum capital or legal reserves are required. Capital must be in cash, but cash may be used to procure franchises, plants, patents or know-how. There is no limit on the amount of issued share capital, and share capital may be in any currency.

*Public company:* The same rules apply, except that, in practice, companies with high paid-up capital must be listed on an exchange.

**Founders, shareholders:** *Private company:* One founder or shareholder may form a private or public company, but there may not be more than 50 shareholders. There are no nationality or residence requirements. *Public company:* There are no nationality or residence requirements.

**Board of directors/management:** *Both:* There are no nationality or residence requirements, except that the company secretary must ordinarily reside in Hong Kong (if an individual) or have a registered office in Hong Kong (if a corporation). One director may form a private company, but he/she is prohibited from also being the secretary of the firm. Under the CO, a private company must have at least one individual as a director.

**Taxes and fees:** For companies with share capital, the registration fee payable to the Companies Registry is HKD 1,720. Capital duty no longer is levied on local companies that file the relevant documents about incorporation, increase nominal share capital or issue shares at a premium with the Companies Registry. For companies without share capital, the registration fee is HKD 170-HKD 1,025, depending on the number of members stated in the articles.

As from 1 April 2016, the fee payable to the Business Registration Office of the IRD for an application for a Business Registration Certificate is HKD 250, including a levy for registration. Companies have the option of applying for a three-year Business Registration Certificate, at a cost of HKD 3,950.

**Types of shares:** *Private company:* All shares must be registered. Ordinary and preferred shares, with varying voting rights and dividend entitlements, are possible. *Public company:* Shares may be bearer or registered.

**Control/meetings:** *Private company:* Annual meetings must be held each calendar year, with audited financial statements presented. No more than 15 months may elapse between meetings. Under the CO, annual meetings generally must be held within nine months after the end of each financial year. However, a company may dispense with the holding of annual meetings by obtaining unanimous shareholders' consent, in the form of a written resolution. A majority of 51% suffices for most decisions, unless the corporate articles provide otherwise. *Public company:* Shareholders' meetings must be held once a year and details on the allotment of shares and receipts and payments on account of capital must be submitted.

### Representative office

Other than the limited company, there are two types of establishments that a foreign corporation can set up in Hong Kong: a representative office or a branch office.

A representative office normally is not liable for Hong Kong profits tax, since it usually is set up only to collect information or maintain contacts with customers. For a representative office, there normally are no registration requirements with the Companies Registry but business registration is required with the Business Registration Office of the IRD. When registering a representative office, a certified copy of the certificate of incorporation or its equivalent in the company's home country and a certified copy of the English or Chinese translation (if the original is not in English or Chinese) are needed. The documents must be submitted together with the application fee, including a levy for registration, of either HKD 250 (one-year business registration certificate) or HKD 3,950 (three-year business registration certificate).

### Branch of a foreign corporation

A branch may conduct full business operations and it is subject to profits tax if it derives income from Hong Kong. A branch office must register with both the Companies Registry and the Business Registration Office of the IRD. The following documents must be submitted to the Companies Registry when registering a branch: (1) a certified copy of the instrument defining the company's constitution (such as a memorandum and articles of association, charter and statutes); (2) particulars of the company's directors and secretary and of the company's authorized representative in Hong Kong, including the addresses of the principal place of business in Hong Kong and the home country, and the registered office in the country of incorporation; (3) a certified copy of the certificate of incorporation or its equivalent in the company's home country; and (4) a certified copy of the latest audited accounts of the company's head office. The documents must be submitted together with an application fee of HKD 1,720 for registration of the documents.

A branch must file an annual return certifying that there have been no changes to the documents filed with the original registration. It also must submit updated audited accounts (or have a solicitor or accountant file for an exemption from this requirement).

There may be advantages to choosing a branch over a local subsidiary, mainly under the tax law of the home country. Unlike a subsidiary, a branch does not incur Hong Kong stamp duty on a transfer of the business that may involve the transfer of shares of a Hong Kong company (except for land). A branch does not require separate audits (those of the head office are acceptable). Setting up a branch entails fewer formalities and usually is less expensive. A branch may be able to rely on the credit of the head office, whereas this is not possible for a subsidiary.

Nonetheless, subsidiaries have benefits unavailable to branches. A subsidiary must file information only about itself; branches must file information about the overseas head office (such as accounts and directors' names). It is easier for the Hong Kong tax authorities to challenge the profits of a branch than those of a subsidiary, and the presence of a branch makes it easier for the head office to be sued in Hong Kong.

## **2.2 Regulation of business**

### **Mergers and acquisitions**

The Hong Kong Code on Takeovers and Mergers governs mergers and acquisitions (M&A), and the CO and Transfer of Businesses (Protection of Creditors) Ordinance Cap. 49 contain relevant information about the sale or purchase of Hong Kong companies. The CO contains a court-free regime for amalgamations of wholly-owned group companies. Hong Kong does not have any general anti-competitive legislation or minimum domestic shareholding requirements. With the exception of restrictions specific to the banking, insurance and telecommunications sectors, M&A activity largely is unregulated.

Although Hong Kong does not tax capital gains or dividends, stamp duty is charged on the transfer of shares of Hong Kong companies and immovable property located in Hong Kong.

### **Monopolies and restraint of trade**

Legal monopolies exist in the state-owned sector, transport services and utilities, partly because of the absence of antitrust laws. Many companies operate under franchises awarded by the government. Hong Kong has opened the telecommunications market to free competition, ending its local and international telephone monopolies.

## **2.3 Accounting, filing and auditing requirements**

Every limited liability company in Hong Kong must appoint an auditor at its annual meeting. Only persons qualified under the Professional Accountants Ordinance (PAO) are recognized as company auditors. There are specific procedures for the appointment and resignation of auditors, and penalties for corporate officers who make false statements to auditors.

The CO requires Hong Kong-incorporated companies to prepare audited financial statements. Although there is no requirement that private companies file annual financial statements with the Companies Registry, proper books of account must be kept and maintained at the company's registered office. Companies must file annual returns specifying directors, members and the location of a registered office.

Public companies must file annual accounts with the Companies Registry. Substantial shareholders, directors and chief executives must disclose all share transactions that increase their holdings to above 10% of total equity in the company, decrease their holdings to below 10% or change their holdings if their original total was above 10%. Directors, chief executives and their families must disclose all transactions to the stock exchange. All of these requirements must be met within five business days of the transaction concerned.

The Hong Kong Institute of Certified Public Accountants (HKICPA) is empowered by the PAO to develop and issue Financial Reporting Standards (HKFRS) and Hong Kong Standards on Quality Control, Auditing, Assurance and Related Services (HKSA). These standards of accounting and auditing practices must be observed and applied by members of the HKICPA. The Small and Medium-Sized Entities (SMEs) Financial Reporting Framework and Financial Reporting Standard



issued by the HKICPA, which is effective for reporting periods starting on or after 1 January 2005, better meets the needs of users of SME financial statements.

The HKFRS and HKSA have been developed to achieve convergence with IFRS, issued by the International Accounting Standards Board, and the International Standards on Quality Control, Auditing, Assurance and Related Services, issued by the International Auditing and Assurance Standards Board, respectively.

## 3.0 Business taxation

### 3.1 Overview

The Hong Kong tax system is territorial in nature, with tax levied on income arising in or derived from Hong Kong. Hong Kong has one of the least cumbersome tax regimes among developed economies, and prides itself on its simple tax system and low rates. Profits from a Hong Kong trade or business are subject to profits tax; and income from property is subject to property tax. Foreign-source income is not taxable, even if remitted to Hong Kong.

Capital gains on transfers of capital assets are not taxed, and no withholding tax is imposed on dividends paid out of after-tax profits.

Hong Kong does not impose any direct payroll, turnover, value added, gift or capital gains taxes. Duties are charged on a few products, such as alcohol and tobacco.

As described above in 1.5, Hong Kong offers some tax facilities and preferential profits tax treatment.

The main tax legislation is found in the Inland Revenue Ordinance (IRO). The IRO is the main tax authority in Hong Kong.

Hong Kong Quick Facts for Companies	
Corporate income tax rate	16.5%
Branch tax rate	16.5%
Capital gains tax rate	0%
Basis	Territorial
Participation exemption	No
<b>Loss relief</b>	
– Carryforward	Indefinite
– Carryback	No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	No mandatory documentation requirements
Thin capitalization rules	No
Controlled foreign company rules	No
Tax year	1 April–31 March
Advance payment of tax	Provisional payment
Return due date	1 month from the date of notice
<b>Withholding tax</b>	
– Dividends	0%
– Interest	0%
– Royalties	4.95%/16.5%
– Branch remittance tax	0%
Capital tax	No
Social security contributions	5%
Real estate tax	15%

Ad valorem stamp duty	0.2% (value of shares), 0.25% to 1% (lease of immovable property), HKD 100 to 8.5% (sale and conveyance of property)
Special stamp duty	10%/15%/20%
Buyer's stamp duty	15%
VAT	No

### 3.2 Residence

A corporation (or other entity) generally is resident if it is incorporated in Hong Kong or managed and controlled in Hong Kong.

### 3.3 Taxable income and rates

As noted above, Hong Kong operates a territorial system of taxation, under which only Hong Kong-source income and profits are subject to tax; income/profits from a non-Hong Kong source generally are not subject to tax in Hong Kong.

Profits tax is levied on Hong Kong-source profits of businesses carried on in Hong Kong. Profits tax is levied at a rate of 16.5% (15% for unincorporated businesses) where the company is carrying on business in Hong Kong and the relevant income is earned in or derived from Hong Kong.

No distinction is made between public and private companies, or between distributed and undistributed profits.

Branches of foreign companies are taxed at the same rates as local subsidiaries.

#### Taxable income defined

Corporations, partnerships, trustees and bodies of persons carrying on a trade, profession or business in Hong Kong are subject to tax on all profits (excluding offshore profits and profits arising from the sale of capital assets). If property is sold as part of a profit-making scheme, tax is due on any profits made.

Assessable profit is the net profit for the basis period originating in Hong Kong, excluding offshore profits and profits arising from the sale of capital assets.

Income is considered sourced where the operation that generates it takes place. In determining the source of profits, Hong Kong generally follows the "operations test," which involves identifying the activities that are the most important in earning the profits and the place at which these activities are carried out. Thus, all profits arising in or derived from Hong Kong are taxable, except (1) offshore income from operations that are substantially conducted outside Hong Kong; (2) dividend receipts; and (3) capital gains. Interest—other than interest from bank deposits—accruing to a corporation conducting business in Hong Kong is subject to profits tax unless the credit is made available to a borrower outside Hong Kong.

Specified types of income from offshore funds managed outside Hong Kong are exempt from profits tax. A resident investor that holds an interest in the offshore fund may have its share of profits in the fund subjected to tax in Hong Kong under a deeming provision, if certain conditions are satisfied.

Special formulas apply in calculating taxable profits for airline, shipping and insurance businesses.

In addition to the above, income from the following is subject to profits tax:

- Fees from the exhibition or use in Hong Kong of cinema, television, film or tape, or a sound recording;
- Grants, subsidies or similar financial assistance connected with a business conducted in Hong Kong;
- Fees received for rental of movable property in Hong Kong;

- Royalties from the use of, or the right to use, certain types of intellectual property in Hong Kong; and
- Royalties from the use of, or the right to use, certain types of intellectual property outside Hong Kong; however, such royalties may be deductible as expenses of the payer in determining the payer's taxable profits.

Partnerships are treated as taxable entities in Hong Kong, and profits distributed to partners are not taxable. Profits or losses shared by individual partners in the partnership are taxable or deductible to the partner under personal assessment if he/she has so elected (and provided the partner is eligible for the election).

### Deductions

Expenses generally are deductible to the extent they are incurred in the production of profits that are chargeable to tax. Deductible items include interest on borrowed funds that meets certain criteria, rent for buildings or land occupied, bad and doubtful debts incurred, depreciation (subject to certain limits), repairs to plant and premises, costs of implements used to produce taxable profits, fees to register trademarks or patents, costs to purchase patent or trademark rights, R&D expenses, payments for technical education (subject to certain rules), contributions to employee retirement schemes (limited to 15% of an employee's compensation during the relevant tax period) and approved charitable donations (limited to 35% of assessable profits).

If a company's profits are derived from both Hong Kong sources and non-Hong Kong sources that are not assessable to profits tax, the expenses attributable to the non-Hong Kong-source profits are not deductible and are added back to increase assessable profits.

No deduction is allowed for interest paid to a nonfinancial institution if the recipient is not subject to tax in Hong Kong on the interest, nor is a deduction allowed for interest payments arising from a loan that is secured by another loan or bank deposit of the borrower or its associates, except when the interest from the other loan or bank deposit is subject to tax in Hong Kong. Finally, no deduction is permitted for interest where there is an arrangement under which the interest will be paid (directly or through an interposed person) back to the borrower or its associate, unless the recipient is subject to tax in Hong Kong on the interest.

### Depreciation

For capital expenditure incurred on the construction of industrial buildings and structures, the initial depreciation allowance is 20% of the capital expenditure, taken in the year of the expenditure. An additional 4% of the capital expenditure is allowed annually thereafter, until the total expenditure is written off. The annual depreciation allowance for commercial buildings that do not qualify as "industrial buildings" is 4% of the cost of construction.

If the building (either industrial or commercial) is disposed of, a balancing allowance or charge equal to the difference between the disposal price and the written-down value on the disposal may arise.

Capital expenditure on the renovation or refurbishment of business premises may be deducted over five years in equal installments, starting in the year the expenditure was incurred.

Expenditure on plant and machinery specifically related to manufacturing, and on computer hardware and software, may be written off in the year the expenditure is incurred, except for assets purchased under hire-purchase arrangements or assets leased to other persons.

For other plant and machinery, the initial depreciation allowance is 60% in the year the expenditure is incurred. Thereafter, IRD-prescribed rates of annual depreciation (of 10%, 20% or 30%) apply to the declining balance. Items qualifying for the same rates of annual allowance are grouped into "pools." For plant and machinery not specified by the IRD, the usual rate is 20%.

A balancing allowance is available only on the cessation of a business when the disposal proceeds of the assets are below the reducing value of the entire "pool" of assets. A balancing charge may arise, however, if the disposal proceeds of one or more assets exceed the reducing value of the whole "pool" of assets to which the disposed items belong.

Assets may be revalued upwards, but tax depreciation is based on cost.

## Losses

Losses attributable to carrying on a business that earns profits subject to profits tax may be carried forward indefinitely and set off against future taxable profits of the company. There is specific anti-avoidance legislation to prevent the purchase of a loss company for the sole or dominant purpose of obtaining a tax benefit. Losses cannot be carried back.

### 3.4 Capital gains taxation

Although there is no capital gains tax in Hong Kong, net gains on certain transactions deemed speculative may be liable for profits tax as trading income.

### 3.5 Double taxation relief

#### Unilateral relief

Businesses operating in Hong Kong rarely have issues with double taxation of income. Hong Kong's territorial-source basis of taxation means that income derived by a resident from outside Hong Kong generally will not face double taxation. The IRD allows a deduction for foreign tax paid on income subject to tax in Hong Kong if such foreign tax is paid on the gross amount of the income, regardless of whether a profit is derived.

#### Tax treaties

Hong Kong has been expanding its tax treaty network. Treaties generally provide for relief from double taxation on income; limit the taxation by one jurisdiction of companies resident in the other; and protect companies resident in one jurisdiction from discriminatory taxation in the other. Most of Hong Kong's treaties are based on the OECD model treaty, and Hong Kong has adopted the exchange of information standards set by the OECD. In particular, Hong Kong amended its law in July 2013 to allow it to conclude standalone tax information exchange agreements. Where there is a double tax agreement, foreign tax paid may be credited against profits tax on the same profits, but the credit is limited to the amount of Hong Kong tax payable on the same income.

Hong Kong Tax Treaty Network			
Austria	Hungary	Luxembourg	South Africa
Belgium	Indonesia	Malaysia	Spain
Brunei	Ireland	Malta	Switzerland
Canada	Italy	Mexico	Thailand
China	Japan	Netherlands	United Arab Emirates
Czech Republic	Jersey	New Zealand	United Kingdom
France	Kuwait	Portugal	Vietnam
Guernsey	Liechtenstein	Qatar	

### 3.6 Anti-avoidance rules

#### Transfer pricing

There is no specific transfer pricing provision governing transactions between two resident companies that are associated with one another. However, a general anti-avoidance rule can be used by the IRD to challenge any unreasonable non-arm's length transaction. The Hong Kong IRD issued a practice note on transfer pricing in 2009, specifying that, in general, Hong Kong follows OECD methodologies. According to a rule governing transactions between a resident and a closely connected nonresident, when transactions between such parties result in no profits or less-than-normal profits to the resident, the nonresident will be deemed to be carrying on business in Hong Kong and its profits may be subject to tax in Hong Kong.

Accepted methodologies include the comparable uncontrolled price method, resale price method, cost plus method, profit split method and transactional net margin method. The most appropriate method is required, with transaction-based methods being preferred over profit-based methods.

Hong Kong does not have a contemporaneous documentation requirement, but the tax authorities may ask a taxpayer to submit documentation to justify its transfer pricing.

Hong Kong rolled out an advance pricing agreement (APA) program in 2012. The authority and administrative power of the Hong Kong tax authorities to conclude an APA with the tax authorities of another jurisdiction are provided under the mutual agreement procedure (MAP) article in the double tax agreements/arrangements concluded between Hong Kong and those countries. Hence, while the APA program is available to Hong Kong taxpayers, which include Hong Kong resident and nonresident corporations with a permanent establishment (e.g. a branch) in Hong Kong subject to profits tax, the related party with whom the Hong Kong taxpayer transacts must be located in a country that has concluded a tax arrangement with Hong Kong incorporating a MAP article.

The APA program primarily covers bilateral (with one other foreign tax authority) and multilateral APAs (with two or more foreign tax authorities), although the IRD may consider a unilateral APA in certain cases, such as where it was not possible to secure a mutual agreement for a bilateral APA.

### **Thin capitalization**

There are no thin capitalization rules in Hong Kong. However, the deduction of interest expenses may be affected by anti-avoidance provisions.

### **Controlled foreign companies**

Hong Kong does not have CFC legislation.

### **General anti-avoidance rule**

General anti-avoidance provisions are found in the IRO. The rules may be invoked for any deliberate attempt to implement tax avoidance schemes through the use of artificial and fictitious transactions; the implementation of transactions with the sole or dominant purpose of producing a tax benefit; or the use of tax loss companies. There also are provisions to target other tax avoidance schemes with regard to transfer pricing arrangements and the use of service companies.

Since the IRO contains general anti-avoidance provisions, the application of case law principles on anti-avoidance is very limited. In the context of stamp duty, however, the IRD may apply these common law anti-avoidance principles to tax avoidance schemes aimed at minimizing stamp duty.

## **3.7 Administration**

### **Tax year**

The tax year starts on 1 April of each year and ends on 31 March of the following year. For businesses, the basis period of tax computation is the accounting year ended in the tax year.

### **Filing and payment**

Tax returns generally are issued annually on the first working day of April for companies to report their profits for the accounting year ended in the previous tax year. The return should be filed within the prescribed period, usually within one month from the date of issue. Upon receipt of the tax return, assessments are raised.

At the same time, companies are required to pay a provisional profits tax for the current tax year at a rate of 16.5% of the previous fiscal year's profits. This payment is used to offset against the final profits tax, which is payable in the following fiscal year on final assessment. Any excess payment is applied to the provisional profits tax payable for the following year.

If the provisional tax charged is considered excessive, an application may be made no later than 28 days before the due date or 14 days after the date of the issue of the assessment, whichever is later, to have all or part of the provisional tax collection held over.

### **Consolidated returns**

Hong Kong does not allow groups of companies to file consolidated returns, nor are there provisions allowing group loss relief for members of a group of companies.

## Statute of limitations

The general statute of limitations is six years, which may be extended to 10 years in the case of fraud or willful evasion. An assessment or additional assessment (as a result of any adjustments) may be made only within six years (where no fraud or evasion applies) after the relevant year of assessment. There are no provisions governing the time limit for the collection of tax.

## Tax authorities

The IRD is the main tax authority in Hong Kong. It is headed by the Commissioner of Inland Revenue (CIR), who also holds the office of Collector of Stamp Revenue. The IRD is one of nine departments under the administration of the Financial Services and the Treasury Bureau. The IRD is responsible for the administration of various ordinances, as well as the rules and regulations issued under these ordinances.

Relevant ordinances include the Betting Duty Ordinance Cap. 108; Inland Revenue Ordinance Cap. 112; Stamp Duty Ordinance Cap. 117; Tax Reserve Certificates Ordinance Cap. 289; Business Registration Ordinance Cap. 310; and the Hotel Accommodation Tax Ordinance Cap. 348.

The Commissioner's Office comprises the CIR and two Deputy CIRs that are responsible for the overall administration and operations of the IRD. The duties are divided among six different units, namely, the Commissioner's Unit; Headquarters Unit; and Units 1-4. Apart from the Commissioner's Unit, each unit is headed by an Assistant CIR. The Commissioner's Unit is responsible for appeals, technical research, tax treaties, etc. The Headquarters Unit mainly is responsible for training, inquiry services and tax records. Unit 3 primarily is responsible for tax collection, stamp duty and business registration, while Unit 4 specializes in field audits and investigations. Tax processing and review of property tax, salaries and profits tax are spread across the Headquarters Unit, Unit 1 and Unit 2.

## Rulings

The IRD formalized its advance ruling service in 1998 to provide taxpayers with a degree of certainty; promote consistency in the application of the tax laws, rules and regulations; and minimize disputes with taxpayers. (See above under 3.6 for APAs.)

Any person may apply to the CIR for a ruling on how one or more provisions of the IRO apply to the taxpayer or the arrangement specified in the application. The scope of a ruling covers the application of the territorial-source principle for profits tax purposes, service companies, stock borrowing and lending transactions, royalty payments, the general anti-avoidance provision and sales of loss companies. A fee must be paid for a ruling request and certain formalities must be observed.

## **4.0 Withholding taxes**

### **4.1 Dividends**

Hong Kong does not levy withholding tax on dividends.

### **4.2 Interest**

Hong Kong does not levy withholding tax on interest.

### **4.3 Royalties**

Royalty payments made to a nonresident for the use of, or the right to use, intangibles in Hong Kong, or where the royalty payments are deductible for the payer, are deemed to be taxable in Hong Kong. The amount deemed taxable is 30% of the gross amount of the royalties paid, resulting in an effective rate of 4.95% (4.5% for a noncorporate person). If a royalty is paid to an affiliated nonresident and the intangibles were owned by a person carrying on business in Hong Kong, 100% of the royalty is deemed to be taxable, resulting in an effective rate of 16.5% (15% for a noncorporate person).

The payer of royalties to a nonresident is required to withhold the appropriate tax and remit that amount to the Hong Kong IRD.

### **4.4 Branch remittance tax**

Hong Kong does not levy a branch remittance tax.

### **4.5 Wage tax/social security contributions**

There is no payroll tax in Hong Kong.

For employees whose monthly income is HKD 7,100 or more, the employer is required to deduct 5% as the employee's contribution to the Mandatory Provident Fund (MPF) scheme and to pay an additional 5% as its own contribution.



## 5.0 Indirect taxes

### 5.1 Value added tax

Hong Kong does not levy a VAT or a goods and services tax.

### 5.2 Capital tax

Capital duty no longer applies to local companies that file relevant documents about incorporation, increase nominal share capital or issue shares at a premium with the Companies Registry on or after 1 June 2012.

### 5.3 Real estate tax

Property owners are taxed on rental income from property in Hong Kong. The property tax is charged at a standard rate of 15% of the net assessable value of the property, as determined by rent, service charges and fees paid to the owner, less a statutory allowance of 20% on the net assessable value for repairs and maintenance. If a company includes income from property in its income subject to profits tax, it may deduct the amount of property tax paid from the amount of profits tax due or apply for an exemption from property tax.

### 5.4 Transfer tax

See under "Stamp duty."

### 5.5 Stamp duty

Ad valorem stamp duty is charged on documents connected with the lease, sale or transfer of immovable property in Hong Kong, and on the sale of shares. If such documents or shares are transferred at less than market value, stamp duty may be imposed based on the market value at the date of transfer.

The rate on the lease of immovable property is 0.25% of the total rent payable for a short-term lease (one year or less), 0.5% of the annual or average annual rent for a one- to three-year lease and 1% of the annual or average annual rent for a lease exceeding three years.

The stamp duty on the transfer of Hong Kong shares is 0.2% of the value of the shares transferred, which is shared equally between the buyer and seller. The trading of exchange-traded funds is exempt from stamp duty, as a tax incentive. An exemption may be available for an intragroup transaction if certain conditions are satisfied.

The ad valorem stamp duty on the sale and conveyance of property ranges from 1.5% to 8.5% (Scale 1) of the value of property with effect from 23 February 2013. Under certain circumstances, ad valorem stamp duty rates ranging from HKD 100 to 4.25% (Scale 2) will apply. In addition, for residential property acquired on or after 27 October 2012, a Special Stamp Duty (SSD) at a 20% rate applies if the property is resold within six months; a 15% rate applies if resold within 12 months; and a 10% rate applies if resold within 36 months. The SSD applies on top of the ad valorem stamp duty.

Additionally, a Buyer's Stamp Duty (BSD) applies to residential property acquired by any person (including a limited company), except a Hong Kong permanent resident. BSD is charged at a flat rate of 15% on all residential property, in addition to the existing ad valorem stamp duty and the SSD, if applicable.

### 5.6 Customs and excise duties

Hong Kong is known as a duty-free port and, therefore, does not levy customs duties. The only excise taxes are levied on alcoholic beverages, tobacco, methyl alcohol and hydrocarbon oil.

### 5.7 Environmental taxes

None

## **5.8 Other taxes**

Other levies include a duty on bets (25%-75%) and the Air Passenger Departure Tax, levied on all air passengers (12 years and above) departing Hong Kong, at HKD 120 per person.

## 6.0 Taxes on individuals

Personal income tax in Hong Kong remains low compared with rates in other Asian countries. Tax rates are progressive, but a ceiling applies to the overall tax liability. There is no capital gains tax, dividend tax or inheritance tax in Hong Kong.

Hong Kong Quick Facts for Individuals	
Income tax rates	2%-17%
Capital gains tax rates	0%
Basis	Territorial
Double taxation relief	Yes
Tax year	1 April–31 March
Return due date	Within 1 month from the date of issue
<b>Withholding tax</b>	
– Dividends	0%
– Interest	0%
– Royalties	4.95%/16.5%
Net wealth tax	No
Social security	5%
Inheritance tax	No
Real estate tax	15%
Ad valorem stamp duty	0.2% (value of shares), 0.25% to 1% (lease of immovable property), HKD 100 to 8.5% (sale and conveyance of property)
Special stamp duty	10%/15%/20%
Buyer's stamp duty	15%
VAT	No

### 6.1 Residence

The IRO does not provide a definition of residence, but a specific reference is made to a residence requirement for the purpose of personal assessment for individual taxpayers.

### 6.2 Taxable income and rates

Hong Kong uses the territorial-source principle of taxation. Hong Kong taxes only business profits, employment income and property rental income arising in or derived from Hong Kong. The personal income tax (salaries tax) covers all income arising in or derived from Hong Kong from an office, employment or pension. Interest income earned by an individual, other than from carrying on a business in Hong Kong, is exempt from tax in Hong Kong. Hong Kong does not levy tax on capital gains.

Any person, including locally employed individuals and expatriates who derive Hong Kong-source employment income, is subject to salaries tax. A person who visits Hong Kong for no more than 60 days in a tax year (from 1 April to 31 March of the following year) is not liable to salaries tax on his/her employment income. However, a stay exceeding 60 days in a tax year may result in salaries tax being assessed on the employment income derived from services rendered in Hong Kong.

An employee who was employed locally and who already has paid tax of substantially the same nature as Hong Kong salaries tax in any territory outside Hong Kong is exempt in respect of income derived from services rendered in that territory outside Hong Kong.

### **Taxable income**

Individuals are taxed on their total Hong Kong income from employment, less deductible expenses (e.g. charitable donations) and personal allowances.

The source of employment income is determined by where the contract was negotiated and concluded, and where it is enforceable; the residence of the employer; and where the salary is paid. Income from non-Hong Kong employment is deemed to be sourced in Hong Kong if it is attributable to services rendered in Hong Kong. Directors' fees paid to directors of a company, the control and management of which is exercised in Hong Kong, are chargeable to salaries tax irrespective of where the director resides. Pensions are taxable if the funds are managed and controlled in Hong Kong and if the pension (other than government pensions) relates to services rendered in Hong Kong.

Taxable income includes commissions, bonuses, awards, gratuities, allowances (including those for education) and other perquisites derived from employment. The taxable (or rateable, if lower) value of a rent-free residence provided by an employer or its associates is presumed to be 10% of the employee's salary (4% or 8% for hotel and hostel accommodations, depending on the number of rooms). This beneficial treatment also applies to reimbursement of the rent paid for accommodation of the employee, subject to proper control exercised by the employer. Dividend income is not taxed, but gains from exercising share options are taxable. Education benefits for the children of employees are taxable.

Unemployment compensation is not taxable. Severance payments and long-term service payments that must be paid under the Employment Ordinance are not subject to salaries tax. Any payment exceeding the amount calculated under the Employment Ordinance may be subject to salaries tax.

### **Deductions and reliefs**

Donations exceeding HKD 100 to approved charities may be deducted, up to a maximum of 35% of assessable income minus other deductions. Business deductions, including expenses incurred for travel and entertainment, are allowable if they are wholly, exclusively and necessarily incurred to produce income subject to salaries tax. Self-education expenses of up to HKD 80,000 may be deducted. Other deductions include home loan interest up to HKD 100,000 and elderly residential care expenses of up to HKD 80,000 (an increase is proposed for 2016/17). Contributions to the MPF or Recognized Occupational Retirement Scheme are deductible, up to HKD 18,000 per annum.

Major personal income tax allowances are as follows: HKD 120,000 for a single person; HKD 240,000 for a married couple; HKD 120,000 for single parents; and HKD 100,000 for each child. Certain increases to these allowances are proposed for 2016/17.

### **Rates**

Individuals are taxed at progressive rates on their net chargeable income. The marginal tax rates range from 2% to 17% (on chargeable income less personal allowances), with a cap at the standard rate of 15% (on assessable income, i.e. chargeable income without the deduction of personal allowances).

## **6.3 Inheritance and gift tax**

The estate tax has been abolished.

## **6.4 Net wealth tax**

Hong Kong does not levy a net wealth tax.

## **6.5 Real property tax**

Property owners are taxed on rental income derived from property in Hong Kong. The tax is charged at the standard rate of 15% of the net assessable value of the property, as determined by the rent, service charges and fees paid to the owner, less a statutory allowance of 20% on the assessable value for repairs and maintenance. (See 5.5 for stamp duty.)

## **6.6 Social security contributions**

For employees whose monthly income is less than HKD 7,100, the employer is required to pay an additional 5% as a contribution to the MPF scheme. For employees whose monthly income is HKD 7,100 or more, the employer is required to deduct 5% as the employee's contribution to the MPF scheme and pay an additional 5% as its own contribution. Self-employed persons contribute 5% of their relevant income and may choose to contribute on a monthly or annual basis. The maximum deduction/contribution is HKD 1,500 per month. All benefits derived from mandatory contributions must be preserved until the scheme member attains the retirement age of 65, when the member may withdraw the benefits in a lump sum.

## **6.7 Other taxes**

None

## **6.8 Compliance**

The tax year is 1 April–31 March. The IRD issues tax returns to individual taxpayers on the first working day of May each year. If both spouses have employment income and live together, they may choose to file a joint or separate assessment. Tax is not withheld from salaries, but employees may have to pay provisional payments during the year of assessment, based on their estimated chargeable income or the amount of their chargeable income in the preceding year.

# 7.0 Labor environment

## 7.1 Employee rights and remuneration

Conditions of employment in Hong Kong are governed by the Employment Ordinance Cap. 57. The terms of the ordinance apply to employees under a “continuous contract” (i.e. employees who have worked for an employer for four weeks or more, for at least 18 hours each week). Unless explicitly agreed to the contrary, a continuous contract is deemed to be a contract of one month’s duration, renewable monthly.

Full-time employment of individuals younger than age 15 is prohibited, and persons aged 15–18 may not work more than eight hours per day. The Occupational Safety and Health Ordinance Cap. 509 provides for the safety and health protection of employees in both industrial and nonindustrial workplaces. The commissioner for labor is empowered to issue improvement and suspension notices against workplace activities that might create hazards to the employee. Failure to comply with improvement or suspension notices constitutes an offense punishable by fine and imprisonment.

The Employees’ Compensation Ordinance Cap. 282 establishes a no fault, noncontributory employee compensation system for work injuries. The Factories and Industrial Undertakings Ordinance provides safety and health protection to workers in the industrial sector.

### Working hours

The statutory minimum wage is HKD 32.50 per hour. There are no statutory restrictions on overtime hours in industry for men or women over the age of 18. Overtime is not allowed for employees younger than 18. Children below 15 are prohibited from full-time industrial employment, and young persons are not permitted to work in industry at night or below ground level or to work more than 10 hours a day.

## 7.2 Wages and benefits

Under the Employment Ordinance Cap. 57, employers must pay wages in a timely manner; failure to comply may result in fines and imprisonment for three years.

Mandatory fringe benefits for all factory workers include one rest day per calendar week and 12 paid statutory holidays per year. Annual leave entitlement depends on the length of employment. Paid annual leave ranges from seven days for employees with a minimum of one year of service to 14 days for employees with more than nine years of service. Other mandatory fringe benefits include 24 days of paid sick leave for the first year and 48 days for each additional year, with no more than an accumulated 120 consecutive days total; severance pay for lower-paid employees; and long-service payments.

### Pensions and social insurance

The MPF provides a formal and compulsory system of retirement protection. With certain exceptions, members of the workforce aged between 18 and 65, as well as self-employed persons aged 65 or younger, are required to participate and make regular contributions. Members of the scheme include full- and part-time employees who have been employed for 60 days or more under an employment contract, and self-employed persons.

There are three types of MPF schemes: a “master trust scheme” (open to employees of more than one employer, self-employed individuals and those with accrued benefits transferred from another scheme); an “employer-sponsored scheme” (open only to employees of a single employer and its affiliates); and an “industry scheme” (for employees in industries with high labor mobility, such as catering and construction).

For employees whose monthly income is less than HKD 7,100, the employer is required to make a contribution of 5% to the MPF scheme. For employees whose monthly income is HKD 7,100 or more, the employer must deduct 5% as the employee’s contribution to the MPF scheme, as well as paying an additional 5% as its own contribution. Self-employed persons contribute 5% of their income and may choose to contribute on a monthly or annual basis. The maximum deduction/contribution is HKD 1,500 per month as from 1 June 2014. All benefits derived from

mandatory contributions must be preserved until the member reaches the retirement age of 65 or upon the fulfilment of certain conditions, when he/she can withdraw the benefits in a lump sum.

### **Employee compensation**

The Employees' Compensation Ordinance Cap. 282 establishes compulsory employer-paid insurance for employee death or injury at work, including injuries suffered while commuting in employer-provided transport. The policy must cover full liabilities for compensation under the ordinance and common law damages.

### **Other benefits**

A female employee is eligible for maternity leave pay if she has worked under a continuous contract for no fewer than 40 weeks before the leave, has properly given notice and has produced a medical certificate specifying the expected date of confinement, if so required by the employer. Paid maternity leave should be at least 10 weeks, at four-fifths of normal salary. A male employee is entitled to three days' paternity leave for each confinement of his spouse/partner if he has been employed under a continuous contract and notified the employer in accordance with the law. If the individual has been employed under a continuous contract for no less than 40 weeks immediately before the day of paternity leave and has provided the birth certificate of his child to his employer, the employer must pay paternity leave pay in respect of the paternity leave taken at the rate of four-fifths of the individual's average daily wages.

Many employees receive additional benefits, such as free medical treatment, subsidized meals, attendance bonuses and subsidized transport to/from work. Some companies provide free or subsidized accommodation for their employees. Fringe benefits may add 15%-20% to the base pay.

Many firms voluntarily grant more generous benefits than those described above. In addition to Sundays, there are about 17 general holidays per year, which are granted with full pay to employees of banks and commercial organizations. Larger industrial undertakings offer 12-18 holidays per year during traditional Chinese festivals. An "end-of-year payment" or "13th-month bonus" often is included as a term of the employment contract for permanent and monthly rated workers.

## **7.3 Termination of employment**

Under the Employment Ordinance Cap. 57, notice is required from either party unless there is just cause for dismissal. Wages may be paid in lieu of notice. The amount of notice ranges from seven to 14 days for unskilled and skilled labor, to one month or more for professional and managerial staff.

The ordinance imposes limits on termination. If a female employee is employed under a continuous contract and has served a notice of pregnancy to the employer, termination is not allowed during the period from the date on which she gives notice of her intention to take maternity leave until the date on which she is due to return to work. Termination is not allowed during the period an employee is on paid sick leave. An employer may not dismiss an employee on the grounds that he/she has given evidence or information to the appropriate authorities in connection with an accident arising out of and in the course of employment, the enforcement of the Employment Ordinance or a breach of work-safety regulations. Employment cannot be terminated for trade union membership and activities, and employees injured at work may not be dismissed until a compensation agreement has been reached.

The ordinance requires an employer to grant severance pay to an individual who has been employed continuously for 24 months and is dismissed because of redundancy or is laid off. An employee is considered to have been laid off if the employer has not provided work for more than one-half the total number of normal working days in any period of four consecutive weeks or if the nonprovision of work exceeds one-third of the total number of normal working days in any period of 26 consecutive weeks. The severance payment, which must be made before dismissal, is 18 days' wages (for daily-rated/piece-rated employees) or two-thirds of the worker's pay during the previous month (for monthly-paid employees), subject to a maximum of HKD 15,000 for every year of service.

The Employment Ordinance Cap. 57 also requires employers to make long-service payments to employees who have worked continuously for the same employer for five years and who are being

dismissed for reasons other than summary dismissal or redundancy. Payment also should be made to employees who resign because of ill health or old age (usually age 65 or older) and to families of eligible employees who die in service. The payments vary by years of service and are calculated in the same way as those for severance payments.

An employer may summarily dismiss an employee without notice, or make payment in lieu of notice, if the employee (1) willfully disobeys a lawful and reasonable order, (2) is guilty of misconduct, (3) is guilty of fraud or dishonesty or (4) is habitually neglectful in his/her duties.

## **7.4 Labor-management relations**

Hong Kong enjoys smooth labor relations. Although trade unions command respect in management circles, strikes are rare and usually are resolved quickly. The government's commissioner for labor is advised by the Labor Advisory Board (LAB), which comprises six employer representatives and six employee representatives.

Employees in Hong Kong are free to join trade unions. Trade unions are registered under the Trade Unions Ordinance Cap. 332, administered by the Registrar of Trade Unions (part of the Labor Department). Registered trade unions are corporate bodies and enjoy immunity from certain civil suits. The vast majority of Hong Kong's workforce is not unionized.

Employers must inform new employees of the conditions of employment. There is neither national nor industry-by-industry collective bargaining.

The Labor Relations Ordinance Cap. 55 provides extra means for settling disputes that cannot be resolved through ordinary conciliation. These means include special negotiation, voluntary arbitration and boards of enquiry.

The Minor Employment Claims Adjudication Board (MECAB) resolves minor employment claims quickly, simply and inexpensively. A claim that cannot be resolved amicably through conciliation may be referred to the MECAB, which is empowered to adjudicate employment claims involving no more than ten claimants for up to HKD 8,000 per claimant. The Labor Tribunal within the judiciary hears employment claims falling outside the jurisdiction of the MECAB. Hearings of minor employment claims are conducted in public and no legal representation is allowed. However, the MECAB's award or order is legally binding.

Hong Kong's Labor Tribunal, which is part of the judiciary, provides a quick way to adjudicate employer-employee disputes; it usually handles individual monetary claims arising from employment contracts.

## **7.5 Employment of foreigners**

Hong Kong requires that local employees be given priority in filling job vacancies available in the job market. Employers must register the relevant job vacancies at the Labor Department for a specified period. Imported employees are to be paid at least the median monthly wages of comparable local employees under standard contracts governed by all labor laws in Hong Kong. On completing their employment contracts, they must return to their places of origin. Employers found to have violated the labor laws in Hong Kong are liable for prosecution.

An employment visa will be granted, provided an applicant takes up employment only in the business or activity applied for. However, the applicant's dependents are allowed to accept employment and are entitled to receive education in Hong Kong.

To attract Mainland Chinese talent, the Hong Kong government has implemented the Admission Scheme for Mainland Talents and Professionals. Under the scheme, employers that are registered companies in Hong Kong may apply to bring in talent and professionals from Mainland China. The employing company must demonstrate that the purpose of the application is to meet the firm's operational or research needs. There must be a confirmed offer of employment with a reasonable remuneration package, including income, accommodation, medical and other fringe benefits broadly commensurate with the prevailing market level for professionals in the relevant field in Hong Kong. The candidate should be employed in a job relevant to that person's academic qualifications, professional abilities and working experience, and one that cannot be readily taken up by the local workforce. This is a quota-free and non-sector-specific scheme.



## 8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

### Connect to the source and discover:

**A database that allows users to view and compare tax information for 65 jurisdictions that includes –**

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- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
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