HONG KONG

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CORPORATE INCOME TAX Resident company Offshore company	 8.25% on first HK$ 2 million and 16.5% on remaining Foreign income exempt
OTHER TAXES Property tax Stamp duty Government rent Motor vehicles tax	 15% on the value of taxable property in Hong Kong From 0.1% to 8.5% 5% on the annual value of the rent Applied to the taxable value of the vehicle
FISCAL YEAR	1st April – 31st March
FILING OF RETURN	4 months after the end of the fiscal year
REGISTRATION TIME	*Shelf* companies: 1 day Ordinary companies: 4 working days
REGISTRATION COSTS	US$ 198 electronic applications US$ 220 hard copy applications + US$ 3,000 professional fees
ADVANCE RULINGS	Applied
EXCHANGE CONTROLS	None
BANK SECRECY	Applied
LEGAL SYSTEM	Common Law
BILATERAL TAX AGREEMENTS	Signed with 45 countries

1- GENERAL INFORMATION

The total area of Hong Kong is 1,064 sq km; the main island covers 76 sq km and Kowloon and the New Territories the remainder. Hong Kong was a British Crown Colony until 30 June 1997. After that date, Hong Kong reverted to Chinese sovereignty, but was not fully integrated into the political, economic or social system of the People's Republic of China (PRC). Instead, under the Joint Declaration entered into by China and the United Kingdom, the social, legal and economic systems of Hong Kong will remain unchanged for 50 years after 1997.
In April 1990, the National People's Congress of the PRC passed the Basic Law, under which Hong Kong enjoys the status of a Special Administrative Region (SAR). The Basic Law was enacted so that the SAR will continue to enjoy a high degree of autonomy and be able to preserve its existing lifestyle.
While the PRC has assumed responsibility for defence and foreign affairs, most other matters fall under the competence of SAR institutions. Hong Kong retains its status as a free port and separate customs territory, and continues as an international financial centre. The physical and legal systems, which are different from those of the PRC, continue, as do Hong Kong's separate powers of revenue raising and expenditure.

I- Legal system
Hong Kong applies the *Common Law* principles and some acts of the British Parliament.

II- Language
The Hong Kong official languages are English and Chinese, but Cantonese is also used.

III- Currency
The currency is the Hong Kong Dollar (HK $), valued at the exchange rate of HK $ 7.8 to US $ 1. Hong Kong is one of the few states in the world whose currency is issued by three of the largest listed banks on the stock exchange, the Hong Kong & Shanghai Banking Corporation, Standard Chartered Bank and the Central Bank of China.

IV- Economic policy
Hong Kong has a very open economy and there are no restrictions on foreign investment or on the transfer of income and capital in foreign currencies. The main attraction of investing in Hong Kong lies in its establishment as a worldwide financial and market trading centre and a gateway for markets in the Asian Pacific region.
There are no restrictions on the ownership of Hong Kong real estate. Leases of land are from the Hong Kong SAR Government and may extend beyond the year 2047.

V- Secrecy and financial institutions
Most of the world's leading banks and corporations have major offices in Hong Kong. The secrecy provisions of the Hong Kong Inland Revenue Ordinance, together with a well developed banking system provide a high level of confidentiality.
In 2009, China launched a pilot scheme on cross-border renminbi (RMB) trade settlement with the objectives of promoting the RMB as a global currency, facilitating trade, reducing trade-related risks for Chinese enterprises and boosting trade between China and neighbouring countries and regions.
The fact that Hong Kong has been designated to perform offshore RMB clearing bank functions for RMB cross-border trade settlement is expected to further enhance the role of Hong Kong as an offshore RMB settlement centre and international financial centre serving as a bridge between the money flows of China and the rest of the world.

VI- Exchange controls

Hong Kong does not impose any exchange control restrictions and there are no restrictions on the exchange of foreign currency.

2- HONG KONG COMPANIES

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
Private companies	Upon registration, a certificate of incorporation is provided by the registrar under the Companies Ordinance. This is conclusive evidence of the company's separate legal person. Part of the incorporation procedure involves the reservation of the company name and if the company is limited by shares or guarantees, it must have the word limited as the last word in its name. A Hong Kong company must maintain a registered office in Hong Kong and keep a register of directors, shareholders, company secretaries and charges at the registered office, which must be open for inspections.	A private Hong Kong company may be incorporated by registration of the memorandum of association and the articles of association.	Hong Kong does not require shareholders to be residents or nationals. Similarly, directors do not need to be residents or nationals and may even be incorporated bodies; however, the secretary must be ordinarily resident in Hong Kong or, in the case of a company, have its registered office or a place of business in Hong Kong. Private companies must have at least one natural person acting as a director. The "statutory books" must be kept at the registered office unless otherwise specified by the directors. In addition, every company incorporated in Hong Kong must file an annual return with the Companies Registry.
Public companies	Public companies have the same characteristics as private companies	Public companies have the same characteristics ad private companies	Public companies have the same characteristics as private companies. Public companies must file an annual return which includes a copy of the balance sheets, reports of auditors and the reports of directors.

I – Introduction

Corporate structure is regulated under the Companies Ordinance..
The most commonly used forms of doing business in Hong Kong are:

- limited liability companies (both public and private)
- branches or representative offices
- partnerships, and
- sole proprietorships.

Limited liability companies

Most companies are limited liability companies, divided into:

- <u>Private limited liability company</u>: it has no minimum or maximum share capital or reserves requirements. Paid-in capital must be in cash. All shares must be registered, but may be divided into different classes with different rights; may have as few as one shareholder but may not have more than 50 shareholders. There are no shareholder nationality or residence requirements. A private limited liability company must have at least one director and one secretary. The director and the secretary may not be the same person. There are no nationality or residence requirements for directors or the secretary. There is no requirement for a private limited liability company to file an annual financial statement. A private limited liability company must maintain adequate financial books at its registered office.

- Public limited liability company: it has no minimum or maximum share capital or reserves requirements. There is no limit on authorised and issued shares and share capital may be stated in any currency. Paid-in capital must be in cash. Shares may be bearer or registered, and may be divided into different classes with different rights. Shares must be listed on a stock exchange. A public limited liability company may have as few as one shareholder but is not limited to a maximum number of shareholders. There are no shareholder nationality or residence requirements.
  A public limited liability company must have at least one director and one secretary. The director and the secretary may not be the same person. There are no nationality or residence requirements for directors or the secretary.
  A public limited liability company is required to file audited annual financial statements with the Registrar of Companies.

Branches and representative offices

A foreign company is allowed to form a Hong Kong branch or representative office.

A Hong Kong branch may conduct full business operations and is subject to profits tax on its Hong Kong source assessable profits.

Representative offices may only collect information on business opportunities and maintain contacts with customers: it is not subject to profits tax as it derives no income other than reimbursement of expenses from its overseas head office.

Partnerships

A partnership is a business entity between at least two persons jointly carrying on a common business for profit.

The rights and obligations of the partners in a partnership are controlled by the partnership agreement and the taxable profits of a trade, profession or business is computed as one sum and the resulting tax is charged to the partnership. The partners divide tax liability among themselves under the terms of the partnership agreement.

Sole proprietorships

A sole proprietorship is a business entity established by an individual investor, the sole proprietor, who is treated as the owner of the sole proprietorship's property and the sole proprietor is subject to unlimited liability for the debts and obligations of the sole proprietorship. This type of activity is not a legal entity.

II- Incorporation and registration

With effect from 21 February 2011, Hong Kong's Companies Registry and the IRD launched a regime of one-stop company and business registration, together with a one-stop notification of change of company particulars.

Any person who submits an incorporation form for a local company, or an application form for registration of a non-Hong Kong company, will be deemed to make a business registration application at the same time.

On the approval of the application, the Registry will issue a Certificate of Incorporation together with a Business Registration Certificate to the applicant.

The register of directors, shareholders, company secretaries and charges and the "statutory books" must be kept at the registered office unless otherwise specified by the directors or secretaries. In addition, every company incorporated in Hong Kong must file an annual return with the Companies Registry.

Companies may also be registered if they are incorporated outside Hong Kong but intend to carry on business within Hong Kong. The following must be lodged for registration:

1. a copy of the memorandum and articles
2. a list of directors and secretary
3. names and addresses of persons resident in Hong Kong authorised to accept notices, etc
4. the address of the principal place of business in Hong Kong
5. a copy of the certificate of incorporation, and
6. in some cases, a certified copy of the latest accounts.

III- Capital structures

Capitalisation

There are no debt/equity restrictions or thin capitalisation rules in Hong Kong.

Reduction of capital

Approval is required from the Court for the reduction of share capital; however, this approval does not extend to the repayment of redeemable preference shares. Any distributions on liquidation of a Hong Kong company will not attract Hong Kong tax.

IV- Management

A company in Hong Kong must have at least two shareholders.
All companies must have at least one director, one shareholder and a secretary, who may also be a director. The secretary is required to reside in Hong Kong and the company must have its registered office in Hong Kong. There is no requirement for directors' meetings to be held in Hong Kong.
The company must meet at least once every calendar year and not more than 15 months after the last general meeting.

V- Accounting and auditing

Both private and public companies must appoint an auditor. Public companies must file a return with the Companies Registry which includes copies of the annual balance sheet, audit reports and the reports of the directors. The accounts of public companies which are filed with the Registrar of Companies are available for public inspection.

VI- Other Hong Kong special entities

Captive insurance companies are captive insurance vehicles set up outside Hong Kong by large corporate groups to insure against a variety of business risks. Providing the premiums paid to the insurer, which is typically based in a low-tax jurisdiction, are commercially justifiable, they should be tax deductible in Hong Kong. There is no withholding tax on such payments.

3- TAXATION SYSTEM

I- General characteristics

Residence defined

Tax liability in Hong Kong is based on source and not on the concept of residence, with the exception of companies engaged in shipping or air transport. Therefore, for all other companies, only profits from Hong Kong are subject to tax.
Consequently, the distinction between resident and non-resident companies is irrelevant, unless otherwise provided for by tax agreements.

A company is resident in Hong Kong if it was registered there or if management and control functions are exercised there.

II – Individuals

Resident and non-resident individuals and unincorporated businesses are subject to Hong Kong profits tax on assessable profits from a trade or business that is carried on in Hong Kong and gives rise to Hong Kong source profits. For the 2022–23 tax year, the profits tax rate is 7.5% on the first HK$2 million of profits and 15% on the remaining profits.

III- Companies

Resident and non-resident corporations are subject to Hong Kong profits tax on assessable profits from a trade or business that is carried on in Hong Kong and gives rise to Hong Kong source profits. For the 2022–23 tax year, the corporate profits tax rate is 8.25% on the first HK$2 million of profits and 16.5% on the remaining profits.

IV – Concessionary rates

Hong Kong provides concessionary profits tax rates for qualifying debt investment profits and qualifying reinsurance business profits. The concession for qualifying reinsurance business profits only applies to corporations.

Qualifying debt investment profits are business profits (eg interest and gains) from qualifying debt instruments. The amount of the concession is a 50% rate reduction for short or medium-term qualifying debt instruments and a 100% rate reduction for long-term qualifying debt instruments.

A qualifying debt instrument is a debt instrument that is in respect of a debt lodged and cleared by the Monetary Authority, carries a credit rating from a recognised credit rating agency that is acceptable to the Monetary Authority, has a minimum denomination between HK$50,000 and HK$500,000 depending on the issuing year.

V- Other taxes

Property tax

Property tax is payable at a rate of 15%. The tax applies to 80% of the assessable value of taxable property and is levied on the owner of land and buildings situated in Hong Kong. Assessable value is generally the current annual rental income of the property. A corporation doing business in Hong Kong and occupying a building for its own use, or for producing rental income, is exempt from property tax, but subject to profits tax on the net income after allowing all relevant deductions.

A corporation carrying on a trade, profession or business in Hong Kong is exempt from property tax because its rental income forms part of the assessable income of that corporation under profits tax. No property tax is levied when the property is for the corporation’s own use as no income is derived.

Tax on rented premises

A 5% rating tax is levied on the annual value of all premises, which is used to provide local services such as drainage. The rating is normally paid by the occupant of the premises.

Customs duties

They are levied at different rates on cars, buses, commercial vehicles, tobacco, liquors, toilet preparations and medecines.

Stamp duty

It is payable on contracts for the sale of shares or negotiable securities at a rate of 0.1%. In the case of the sale of real estate, the maximum rate is 4.25% for sales exceeding HK $ 21,739,120.

Consignment tax

Any person making sales on behalf of a non-resident must furnish the Commissioner with a quarterly return showing the gross proceeds of such sales and must remit 1% of the gross sales. The selling of goods on consignment is deemed to be the creation of a permanent establishment.

Motor vehicles tax

All motor vehicles used on the roads of Hong Kong are subject to a first registration tax, which applies to the taxable value of a vehicle. The taxable value of a motor vehicle is its published retail price plus the price of any additional items.

Electric vehicles are exempt from first registration tax until 31 March 2024.

Taxes on gambling

Betting duty is charged on the net stake receipts derived from the conduct of different activities by authorised companies.

The duty rates varies according to the different betting activities.

Securities and futures levies

Securities and futures levies are payable in respect of:

• trading in securities — 0.027%

• futures — HK$ 0.54 per transaction, and

• options contracts — HK$ 0.108 per transaction.

These levies apply to both buyers and sellers.

Withholding tax on dividends

There is generally no withholding tax on dividends paid to non-residents. Dividends paid may be subject to withholding tax under the terms of a tax treaty

Mandatory Provident Fund

All employers and employees, as well as self-employed persons, should withhold 5% of relevant income, up to a maximum contribution of HK$ 1,500 per month, for contribution to the Mandatory Provident Fund. Employees and self-employed persons are allowed a tax deduction of up to HK$ 60,000 per year from the 2019–20 year onwards on their contribution to a recognised retirement scheme.

VI – Taxation of foreign income

Generally, Hong Kong does not tax foreign source income, with the exception of interest income received by financial institutions operating in Hong Kong, which is considered Hong Kong sourced, regardless of the origin of the funds.

VII- Special incentives

While Hong Kong is active in welcoming foreign investment, it does not offer any special grants or incentives other than its position as one of the world's leading financial and trading centres and its comparatively low tax rate.

The Hong Kong Government is of the opinion that further incentives for operations in or through Hong Kong are not necessary, as Hong Kong tax liability is based on source and not residency. However, certain entities or expenditures are exempt from profits tax.

1. *Charitable institutions* are exempt from Hong Kong profits tax provided that, where they carry on a business, they apply any profits solely for charitable purposes in Hong Kong and the business is carried on in the course of the performance of their expressed charitable objectives or the work is mainly carried on by persons for whose benefit the charitable institution was established.
2. *Offshore funds* are exempt from Hong Kong profits tax on all their "specified transactions". Specified transactions are transactions conducted by an offshore fund in Hong Kong, and include transactions in securities, futures contracts, foreign exchange

contracts, foreign currencies, exchange-traded commodities and non-lending deposits. From 30 July 2018, profits from onshore privately offered funds are also exempt.

3. *Recognised retirement schemes* are generally not subject to Hong Kong profits tax on their investment income. Recognised retirement schemes are statutory retirement schemes that are authorised to receive, hold and manage funds for the provision of employee benefits.
4. *Certain capital expenditure on environment-friendly machinery and equipment* is 100% deductible in the year of purchase.
5. *Corporate treasury centres* benefit from a reduced profits tax rate of 8.25% on qualifying profits derived from specified treasury activities.
6. *Qualified aircraft lessors and aircraft leasing managers* benefit from a reduced tax rate of 8.25% on their qualified profits derived from aircraft leasing to non-Hong Kong aircraft operators. Furthermore, only 20% of the net rentals or operating profits from offshore aircraft leasing are taxable, resulting in an effective tax rate of 1.65%.
7. *Qualified R&D expenditure* benefits from an enhanced R&D deduction rate of 300% for the first HK$2 million, and 200% for the remaining balance.

4- OFFSHORE COMPANIES

There is no special legislation in Hong Kong law recognising offshore companies.
The major advantage gained in using Hong Kong companies to accumulate worldwide profits is that Hong Kong will not tax foreign sourced income.
There are no dividend withholding taxes applied.

I- Offshore holding companies

Hong Kong is a popular IOFC for the use of holding companies which fund the offshore operations of a group. However, Hong Kong does not recognise the concept of consolidated entities for tax purposes. Thus any group losses cannot be offset against the Hong Kong sourced income.
One of the main advantages of the use of a Hong Kong holding company would be to avoid the imposition of any capital gains taxes on the sales of subsidiaries. The accumulation of worldwide profits by the Hong Kong company is facilitated by Hong Kong "source" only taxation rules. Profits accumulated in this manner will not be subject to Hong Kong tax.
There are no withholding taxes payable on branch profits. On the other hand the use of a subsidiary has the advantage that profits are taxed at the rates of 8.25% or 16.5%, which are comparatively low in worldwide terms.
If a branch structure was to be used there is a possibility that the branch profits would be taxable in the country of residence of the head office. As Hong Kong has a relatively small treaty network limiting double taxation, this can be a serious disadvantage in the use of a branch structure.
The sale of the Hong Kong subsidiary's shares will not attract any capital gains tax in Hong Kong. Thus, for example, the reorganisation of group activities is facilitated when a Hong Kong subsidiary is used.
Hong Kong has tax treaties in effect with more than 40 other countries at present. Any dividends paid from operating subsidiaries overseas that are not covered by a tax treaty may be subject to substantial withholding tax in the country of origin. Hong Kong offers little double tax relief since it does not tax foreign income. Thus any withholding tax credits cannot be utilised and may be wasted. The dividends may have to be paid via a third country back to the home country.

II- Offshore finance companies

An IOFC finance company located in Hong Kong may perform treasury management operations or engage in foreign currency borrowing and lending on behalf of related companies abroad.

Interest repatriated to Hong Kong from the worldwide operations of the group will not be liable for any tax in Hong Kong, except in the rare circumstances where the interest has a Hong Kong source.

The determinative test of whether interest received is sourced within or without Hong Kong (thus, accordingly, whether it is liable for taxation in Hong Kong) is determined by the application of the “provision of credit” test.

The “provision of credit” test determines the source of interest income as being the place where the funds (on which the relevant interest accrues) were made available to the borrower. Thus any Hong Kong source problems are overcome by making the funds available to the borrower outside Hong Kong.

The only consideration would be the withholding tax imposed by the country from which the interest is paid. “Treaty shopping” may provide the appropriate solution in the circumstances.

The above discussion is applicable to corporations other than financial institutions. A financial institution is one licensed as a bank under the Hong Kong Banking Ordinance or a deposit-taking company under the Deposit-Taking Companies Ordinance. The “provision of credit” test does not apply to such financial institutions and the law provides that interest accruing to a financial institution carrying on a business in Hong Kong has a Hong Kong source and is taxable therein, no matter in which jurisdiction the funds were made available.

In that way the profits can be effectively shifted to Hong Kong via interest subject only to any withholding taxes imposed in the home country. Profits so shifted will be effectively tax free in Hong Kong and can be “parked” or accumulated in Hong Kong without any further tax.

There are no debt/equity restrictions imposed in Hong Kong in relation to IOFC finance companies.

III- Offshore licensing companies

As Hong Kong intellectual property laws are modelled strongly on those of the United Kingdom, the holder of the intellectual property can utilise the protection afforded by these laws in Hong Kong whilst at the same time reducing the tax payable on, for example, the licence fees received from royalties.

The utilisation of a Hong Kong licensing company would be effective in shifting some profits from the high tax rate country to a comparatively low tax rate jurisdiction whilst at the same time not compromising the legal protection afforded to the industrial and intellectual property.

IV- Offshore trading companies

There are no special rules relating to offshore trading companies. A Hong Kong trading company can be used to reduce the taxable profits from a high tax jurisdiction by buying and selling the goods via the Hong Kong company.

V- Offshore administration/headquarter companies

This type of company is particularly used because it is extremely interesting from a tax point of view, since the Hong Kong tax will be paid only on a nominal part of the profits.

VI- Offshore shipping/air transport companies

There are no special rules relating to this kind of companies.

The worldwide profits of non-resident shipping or aircraft companies are taxable in Hong Kong on the basis of a complex formula apportioning the Hong Kong sourced income against the worldwide income. In absence of the formula, the Inland Revenue Department will tax 10% of such income in Hong Kong as that percentage is deemed to represent a fair allocation of Hong Kong sourced income.

VII- Offshore real estate companies
There are no special rules relating to offshore real estate companies

5 – BILATERAL TAX AGREEMENTS
Hong Kong has concluded tax treaties with a number of countries which specify the withholding tax rates that apply. Non-treaty withholding tax rates apply where they are lower than the rate specified in the treaty.
There is no withholding tax on income from dividends or interest arising in Hong Kong and paid to non-residents.
The following rates of Hong Kong withholding tax apply to non-resident entities:

	Dividends	*Interest*	*Royalties*
	%	*%*	*%*
Non-treaty countries	0	0	4.95/16.5
Treaty countries			
Austria	0	0	3
Belarus	0	0	3 /4.95
Belgium	0	0	4.95
Brunei	0	0	4.95
Cambodia	0	0	4.95
Canada	0	0	4.95
China	0	0	4.95
Czech Republic	0	0	4.95
Estonia	0	0	4.95
Finland	0	0	3
France	0	0	4.95
Georgia	0	0	4.95
Guernsey	0	0	4
Hungary	0	0	4.95
India	0	0	4.95
Indonesia	0	0	4.95
Ireland	0	0	3
Italy	0	0	4.95
Japan	0	0	4.95
Jersey	0	0	4
Korea	0	0	4.95
Kuwait	0	0	4.95
Latvia	0	0	0/3
Liechtenstein	0	0	3
Luxembourg	0	0	3
Macau	0	0	3
Malaysia	0	0	4.95
Malta	0	0	3

Mexico	0	0	4.95
Netherlands	0	0	3
New Zealand	0	0	4.95
Pakistan	0	0	4.95
Portugal	0	0	4.95
Qatar	0	0	4.95
Romania	0	0	3
Russia	0	0	3
Saudi Arabia	0	0	4.95
Serbia	0	0	4.95
South Africa	0	0	4.95
Spain	0	0	4.95
Switzerland	0	0	3
Thailand	0	0	4.95
United Arab Emirates	0	0	4.95
United Kingdom	0	0	3
Vietnam	0	0	4.95

As an international financial centre and a fast developing economy, Hong Kong supports international standards of transparency in tax administration. Practices and procedures for the processing and exchange of tax information on request are in place, together with taxpayer privacy and confidentiality safeguards. From 1 February 2018, Hong Kong's Inland Revenue Ordinance (IRO) has been amended so that it complies with the Common Reporting Standard and allows Hong Kong to implement the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Hong Kong has signed TIEAs with 7 countries based on the OECD model convention.

In 2006 Hong Kong and the People's Republic of China concluded arrangements for the avoidance of double taxation. The agreement gives Hong Kong the lowest withholding tax rates on dividends, royalties and interest compared with rates China offers to other treaty countries. Hong Kong resident companies have a competitive edge over other foreign companies doing business in China.