Hong Kong Tax Guide

2018/19

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Taxation in Hong Kong

Hong Kong imposes three direct taxes for a year of assessment which ends on 31 March. The taxes are on profits, salaries and property.

Hong Kong adopts a territorial concept of taxation, with taxes levied primarily on Hong Kong sourced profits and income on a current year basis, except for businesses which are assessed on profits of their accounting periods.

Companies are taxed as separate entities. No group tax loss relief is available.

Individuals carrying on business as sole proprietors or partners may elect for a Personal Assessment which will have the effect of amalgamating their varied income into a single assessment.

Double Taxation Relief

Hong Kong has signed the following international double tax agreements:

Agreements on taxation of international shipping profits:

Denmark	Singapore
Germany	Sri Lanka
The Netherlands	The United Kingdom
Norway	The United States of America

Agreements on taxation of international airline profits:

Bangladesh	Israel	Norway
Belgium	Jordan	People’s Public of China
Canada	Kenya	The Republic of Korea
Croatia	Kuwait	Russia
Denmark	Macao	Singapore
Ethiopia	Mauritius	Sri Lanka
Finland	Mexico	Sweden
Germany	The Netherlands	Switzerland
Iceland	New Zealand	The United Kingdom

Comprehensive double tax treaties:

Year of Assessment	Country	Effective Date
2004/05	Belgium	7 October 2004
2006/07	Thailand	7 December 2005
2007/08	People's Republic of China^	8 December 2006
2008/09	Luxembourg	20 January 2009
2010/11	Vietnam	12 August 2009
2011/12	Brunei	19 December 2010
	United Kingdom	20 December 2010
2012/13	Austria	1 January 2011
	Ireland	10 February 2011
	Hungry	23 February 2011
	Liechtenstein	8 July 2011
	Japan	14 August 2011
	The Netherlands	24 October 2011
	New Zealand	9 November 2011
	France	1 December 2011
2013/14	Czech Republic	24 January 2012
	Indonesia	28 March 2012
	Spain	13 April 2012
	Portugal	3 June 2012
	Malta	18 July 2012
	Switzerland	15 October 2012
	Malaysia	28 December 2012
	Austria (Second Protocol)	3 July 2013
2014/15	Mexico	7 March 2013
	Jersey	3 July 2013
	Kuwait	24 July 2013
	Canada	29 October 2013
	Guernsey	5 December 2013
	Qatar	5 December 2013
2016/17	Vietnam (Protocol)	8 January 2015
	Italy	10 August 2015
	South Africa	20 October 2015
	United Arab Emirates	10 December 2015
2017/18	Russia	29 July 2016
	Korea	27 September 2016
	Romania	21 November 2016
2018/19	Belarus	30 November 2017
	Latvia	24 November 2017
	Pakistan	24 November 2017

^ Revised double tax arrangement

Awaiting Notification	Country	Signed Date
Subject to completion of ratification procedures by both governments	India	19 March 2018
	Saudi Arabia	24 August 2017

Profits Tax

Scope of charge

Persons (including companies, individuals and partnerships) carrying on a business in Hong Kong are liable to profits tax only on profits derived from Hong Kong. Profits from sale of capital assets are specifically exempt from profits tax.

Source of profits

The territorial concept of taxation in Hong Kong recognises that a Hong Kong business may generate profits from different geographical sources. Only profits sourced in Hong Kong (i.e. “onshore profits”) may be subject to profits tax. Profits sourced outside Hong Kong (i.e. “offshore profits”) are generally not taxable even though they are part of the profits of a Hong Kong business.

However the distinction between onshore and offshore profits is often an issue disputable between taxpayers and the tax authority in Hong Kong, the Inland Revenue Department (“IRD”). As there are no comprehensive definitive legal rules in this area, courts in Hong Kong have given the following general case law guidelines over the years:

Kinds of Profits	Location of Source
Profits from trading in goods effected	Where sale and purchase contracts are affected
Manufacturing profits	Where manufacturing activities are conducted
Service fees	Where services are performed
Interest from deposits or other simple loan arrangements	Where the deposit or loan is first made available to the borrower
Profits from sale of (or rental income from) land and building	Where the land and building situate

Therefore, if a Hong Kong company derives trading profits from sale and purchase transactions effected outside Hong Kong, it should have a strong case to claim that those profits are not subject to profits tax.

Taxpayers intending to make a claim of offshore profits should anticipate the need to submit documentary evidence (such as trade documents) to the IRD. Despite the recent landmark decision of the Court of Final Appeal in the ING Baring case, the IRD is expected to continue their practice to emphasize the totality of a taxpayer’s business. If the IRD considers that important business activities have been done in Hong Kong, the IRD will not be easily convinced by a taxpayer’s claim of offshore profits. In ING Baring however, the highest court of Hong Kong clearly rejected such a “totality of facts” approach in preference to a narrower approach that focuses on the specific “profit-producing operations” of a taxpayer.

Taxpayers should consult their tax advisers when planning for any offshore claim.

Capital gains or profits

Profits from sale of capital assets (as opposed to trading assets) are specifically exempt from profits tax. However, there are no definitive legal rules that draw the distinction between capital and trading assets. Reference is usually made to the following “Six Badges of Trades” established by the English court in Leeming v Jones (1930) 15 TC 333:

1. The subject matter of the transaction;
2. The length of ownership;
3. Whether there have been successive or frequent transactions of a similar nature;
4. Whether supplementary activities have been performed to make the asset marketable or to attract purchasers;
5. The reason for the disposal of the asset;
6. The taxpayer’s motive.

In practice, while a taxpayer’s motive is important, a short period of ownership would tend to indicate that an asset is a trading asset.

Basis of assessment

Tax is charged on the assessable profits for a year of assessment. The assessable profits for a business are calculated on the profits of the accounting year ending in the year of assessment.

Profits tax rates

	2018 / 19
Corporations	16.5%
Unincorporated business	15%

A two-tiered profits tax rate regime will be effective from year of assessment 2018/19. For corporations, the profits tax rate for the first HKD2 million of profits will be lowered to 8.25% and the remaining profits will continue to be subject to the tax rate of 16.5%. For unincorporated businesses (i.e. partnerships and sole proprietorships), the two-tiered tax rates will correspondingly be set at 7.5% and 15%. The two-tier profits tax rates regime contains a restrictive provision that the application of the two-tiered profits tax rates will be restricted to only one entity nominated among connected entities.

Profits tax deductions

Expenses incurred in the production of chargeable profits in any period are deductible from profits tax.

Capital expenditure incurred in the purchase of rights to patent, industrial know-how, registered trademarks, copyrights and registered designs from unrelated parties, for use in Hong Kong, are fully tax deductible.

	2018 / 19
Charitable donations	Up to 35% of assessable profits

Losses

Tax losses may be carried forward indefinitely to be offset against future profits of the company. A change in shareholding may affect the utilisation of the losses if the sole and dominant purpose of the change is to utilise the tax losses.

No group tax loss relief and tax loss carry-back arrangements are available.

Royalties to non-residents

The following gains are specifically deemed to be Hong Kong-sourced trading receipts:

(a) Fees from the exhibition or use in Hong Kong of cinema or TV film or tape, or any sound recording;
(b) Royalties for the use of, or for the right to use, most intellectual property in Hong Kong;
(c) Royalties for the use of, or for the right to use, most intellectual property outside Hong Kong if they are deductible in ascertaining the assessable profits of a person for Hong Kong profits tax purposes.

The assessable profits deemed to arise are usually taken to be 30% of the sums in question, generating an effective tax liability of 4.95% thereon. However, where such royalties are received or accrued from an associated corporation, 100% of the sum is deemed to be taxable at the rate of 16.5% unless the Commissioner is satisfied that no person carrying on business in Hong Kong has at any time owned the property in respect of which the sum is paid.

	Effective withholding Tax Rates	
Payment for use of intellectual properties in Hong Kong to non-residents who are:	**Corporations**	**Others**
Non-associates	4.95%	4.5%
Associates in certain circumstances*	16.5%	15%

* Where the relevant intellectual properties were previously owned by an entity carrying on a business in Hong Kong.

Exemptions

The following types of income are exempt from profits tax:

Nature	Exemption
Dividends	All. No withholding tax on payment.
Interests on Tax Reserve Certificates	All.
Profits arising from sale of capital assets	All.
Interest income paid or accrued to a person (including a corporation) carrying on a business in Hong Kong, and derived from any deposit placed in Hong Kong with a financial institution, is exempt from profits tax, unless the deposit is used to secure borrowings on which the interest expense is deductible	All, effective from 22 June 1998.

Debt instruments

To promote the development of the bond market, profits from qualifying debt instruments with a maturity period of 7 years or more are exempt from profits tax. Those with maturity periods of less than 7 years are entitled to a 50% tax concession.

Offshore funds

In order to reinforce the status of Hong Kong as an international financial centre and enhance its competitiveness, legislation was made in 2006 to exempt offshore funds from profits tax. For the purposes of the exemption, the term “offshore funds” refers to non-resident persons including individuals, corporations, partnerships and trustees of trust funds.

The 2006 legislation applies to exempt non-resident persons from tax in respect profits derived from “specified transactions” arranged by “specified persons”. It also covers profits derived from incidental transactions provided that the trading receipts from those transactions do not exceed 5% of the total trading receipts of the non-resident. To qualify for these exemptions, a non-resident must not carry out any business other than the specified transactions (carried out through specified persons) or transactions incidental to the carrying out of the specified transactions.

“Specified transactions” are widely defined to include transactions in securities, futures, foreign exchange contracts, foreign currencies, and exchange-traded commodities, and transactions consisting in the making of deposits (other than by way of a money-lending business).

A “specified person” is normally a corporation licensed or an authorized financial institution registered under the Securities and Futures Ordinance (“SFO”) for carrying on a business in any regulated activity within the meaning of the SFO.

There are anti-avoidance provisions included as part of the 2006 legislation to prevent the possible abuse by resident persons disguised as non-resident persons.

Subsequently, Inland Revenue (Amendment) (No. 2) Ordinance 2015 was enacted to extend the profits tax exemption to cover offshore private equity funds subject to meeting certain prescribed conditions.

In addition to the 2006 legislation, there are pre-existing tax exemptions available to mutual funds, unit trusts and similar investment schemes authorized under the SFO as well as "bona fide widely held" investment schemes that comply with the regulatory requirements of an acceptable supervisory authority outside Hong Kong.

Corporate Treasury Centres

In order to promote Hong Kong as a location for setting up corporate treasury centre, effective from 1 April 2016, qualifying corporate treasury centres (other than financial institutions) can enjoy a concessionary profits tax rate of 8.25% (i.e. 50% of the normal profits tax rate) for certain profits derived from specified corporate treasury activities in Hong Kong if certain prescribed conditions are met.

Tax depreciation allowances

Asset	Initial Allowance	Annual Allowance
Plant and machinery for manufacturing	100%	-
Computer hardware and software	100%	-
Other plant and machinery	60%	10-30% (on reducing balance)
Industrial buildings	20%	4% (on construction costs)
Commercial buildings	-	4% (on construction costs)
Building refurbishment	Refurbishment expenditure to be allowed over 5 years at 20% per annum	
Environmental protection machinery	100%	-
Environment-friendly vehicles	100%	-
Environmental protection installation	Environmental protection installation is allowed over 5 years at 20% per annum	

Salaries Tax

Scope of charge

Salaries tax is charged on all income arising in or derived from Hong Kong from any office or employment or any pension.

Employees who have their workbase during the year outside Hong Kong and who do not spend more than 60 days physically in Hong Kong will be exempt from Hong Kong salaries tax.

Employees having a foreign employment as prescribed by the relevant law and who perform their services both within and outside Hong Kong may apply to have a portion of their remuneration excluded from Hong Kong salaries tax on a time apportionment basis.

Employees who perform their services both within and outside Hong Kong and have paid overseas tax on a certain portion of their salary can have that portion of salary exempted from Hong Kong salaries tax.

Under the Hong Kong / P.R.C. revised Double Tax Arrangement (2007), employment income derived by a Hong Kong resident providing services in the P.R.C. is exempt from individual income tax in the P.R.C. provided that:

1. The taxpayer physically stays in the P.R.C. for a period or periods not exceeding 183 days in any 12-month period;
2. The remuneration is paid by, or on behalf of, an employer who is not a resident of the P.R.C.; and
3. The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the P.R.C.

In practice, a Hong Kong individual should not have, or be deemed to have, a fixed position such as director or chief representative of entities within the P.R.C. to be eligible for the above exemption.

Foreigners who do not hold a valid Hong Kong permanent Identity Card will nevertheless qualify as a Hong Kong resident under the above Hong Kong / P.R.C. revised Double Tax Arrangement if he resides in Hong Kong for 183 days in a tax year.

Married couples are normally assessed separately on their employment income. If they wish to be jointly assessed they must make an election to that effect.

Benefits-in-kind

Benefits-in-kind are tax free except:

- Payments provided in cash form or capable of being converted into cash.
- Payments to discharge an employee's personal liability.
- Payment in respect of education of an employee's children.
- Assets gifted or sold to an employee at less than market value.

The taxable value of housing benefits is generally computed as 10% of an employee's taxable remuneration. To qualify for this concession, control must be exercised by the employer over the provision of such housing benefits.

The tax exemption for holiday warrants and passage benefits in kind provided to employees has been removed.

Share option benefits

Share option benefits are taxable if granted by virtue of a Hong Kong employment or if attributable to employment income taxable in Hong Kong.

Share option benefits to directors are taxable if the directors' fees or emoluments are sourced in Hong Kong.

The source of employment income or directors' fees, in the year that share options are granted determines the source of the share option benefits.

The difference between the market value of such shares on the date of exercise of the option and the total cost of acquiring and exercising the relevant share option rights is taxable.

Termination payments

A termination payment would generally be taxable if it is made pursuant to a Hong Kong employment or for services rendered in Hong Kong.

A severance payment or long service payment made pursuant to the Employment Ordinance may be treated as non-taxable, provided that it does not exceed the amount required under that Ordinance.

A payment made as compensation for the loss of employment or for damages for breach of employment contract, may be treated as non-taxable in certain circumstances.

Mandatory Provident Fund

The Mandatory Provident Fund ("MPF") system commenced on 1 December 2000. Under the MPF system, the employee is required to contribute 5% of his/her monthly income and the employer has to match this amount. The maximum level of income for contribution purposes is HKD30,000 per month so the maximum mandatory contribution for each employer and employee is HKD1,500 per month. An employee whose income is less than HK7,100 per month is not required to make mandatory contributions, but the employer is required to contribute an amount equal to 5% of the income. An employee and employer may make voluntary contributions in addition to the mandatory contributions required.

Employees' mandatory contributions are tax deductible, up to a limit of HKD18,000 per annum for the year of assessment 2018/19. Employers' mandatory and voluntary contributions are tax deductible to the extent that they do not exceed 15% of each employee's yearly emoluments.

Salaries tax rates

The tax charged is the lower of:
(a) Net assessable income less approved charitable donations at 15%; or
(b) Net assessable income less approved charitable donations and personal allowances charged at progressive rates as follows:

	2018 / 19	
Standard tax rate	15%	
Progressive tax rate	Tax rate	HKD
First HKD50,000	@ 2%	1,000
Next HKD50,000	@ 6%	3,000
Next HKD50,000	@ 10%	5,000
Next HKD50,000	@ 14%	7,000
Cumulative on first HKD200,000		16,000
Balance	@ 17%	

Allowances	2018 / 19
Personal allowances	
Single taxpayer	HKD132,000
Married couple	HKD264,000
Child allowances	
1st child to 9th child (each)	
In year of birth	HKD240,000
Other years	HKD120,000
Dependent parent / grandparent allowances	
For age 60 or above	
Residing with tax payer	HKD100,000
Not residing with taxpayer	HKD50,000
For age between 55 and 59	
Residing with tax payer	HKD50,000
Not residing with taxpayer	HKD25,000
Single supporting parent allowance	HKD132,000
Dependent brother / sister allowance (for whom no child allowance claimed)	HKD37,500
Disabled dependent allowance	HKD75,000
Personal disability allowance	HKD75,000

Special deductions	2018 / 19
Expenses of a dependent parent / grandparent in residential care	Up to HKD100,000
Approved self-education expenses	Up to HKD100,000
Contribution to Mandatory Provident Fund Scheme	Up to HKD18,000
Mortgage interest of owner-occupied property incurred since 2003/04 (extended from 15 to 20 years of relief in total)	Up to HKD100,000 per year
Charitable donations	Ceiling for tax exempted donations is 35% of assessable income

Property Tax

Charged at the standard rate of 15% on 80% of the actual rental income on non-corporate owners of land and buildings in Hong Kong. Corporate owners are subject to profits tax on their rental income less expenses.

	2018 / 19
Property tax rate	15%

Filing Deadline

Profits tax return

Accounts Closing Date	Filing Due Date (by extension)
1 April to 30 November (Code “N” accounts)	2 May of the following year
1 December to 31 December (Code “D” accounts)	15 August of the following year
1 January to 31 March (Code “M” accounts)	15 November of the same year

Composite tax return (Individual salaries tax)

Year End Date	Represented / Unrepresented	Filing Due Date (by extension)
31 March	**Represented taxpayer** No sole proprietorship business With sole proprietorship business	 2 July of same year 2 October of same year
31 March	**Unrepresented taxpayer** No sole proprietorship business With sole proprietorship business	 2 June of same year 2 August of same year

Property tax return

Year End Date	Filing Due Date
31 March	2 May of the same year

Employer’s return

Year End Date	Filing Due Date
31 March	2 May of the same year

Time Limits

Circumstances	Time limits for notifying the Hong Kong Inland Revenue Department
Chargeability to tax	Within four months after end of the basis period of relevant assessment year
Cessation of business	Within one month of cessation
Departure of taxpayer from Hong Kong for more than one month, other than on business	Not later than one month before departure
Employer commencing to employ an employee	Within three months of commencement
Employer ceasing to employ an employee	No later than one month before cessation

Capital Duty

	2018/ 19
Authorised capital (Capped at HKD30,000 per case)	0.1%*

*Abolished capital duty on Hong Kong companies with effect from year of assessment 2012/13.

Stamp Duty

	2018 / 19
Share transfers	0.2%

	2018 / 19		
Property transfers	First time property owners*	Other persons# (effective from 23 February 2013)	Other persons^ (effective form 5 November 2016)
Property consideration			
Up to HKD2,000,000	HKD100	1.50%	15%
HKD2,000,001 – HKD3,000,000	1.50%	3.00%	15%
HKD3,000,001 – HKD4,000,000	2.25%	4.50%	15%
HKD4,000,001 – HKD6,000,000	3.00%	6.00%	15%
HKD6,000,001 – HKD20,000,000	3.75%	7.50%	15%
HKD20,000,000 and above	4.25%	8.50%	15%

(Marginal relief is available upon entry into each higher rate band)

* Only applicable to residential property acquired by a Hong Kong permanent resident who does not own any other residential property in Hong Kong at the time of acquisition.

Applicable to the agreement for sale for the acquisition of residential and non-residential property executed on or after 23 February 2013

^ Applicable to the agreement for sale for the acquisition of residential property executed on or after 5 November 2016

Special Stamp Duty (SSD) is levied on disposal of residential properties acquired on or after 27 October 2012 and resold within 36 months after acquisition.

The SSD is calculated based on the property consideration at the following rates for different holding periods:

Property held for 6 months or less	20%
Property held for more than 6 months but less than 12 months	15%
Property held for more than 12 months by less than 36 months	10%

On top of existing stamp duty and SSD, Buyer's Stamp Duty (BSD) is levied on purchase of residential properties acquired on or after 27 October 2012 at a flat rate of 15% of the price of the property, except for Hong Kong permanent residents.

Share and property transfers Intra group (at least 90% common shareholding, the consideration for the transfer must not come from a third party and the transferee must stay within the group for 2 years after the transfer)	Exempt
Exchange traded funds	Waived

Estate Duty

Estate duty was abolished effective from 11 February 2006. A nominal duty of HKD100 is charged on the estate of a deceased person who died between 15 July 2005 and 10 February 2006 where the dutiable value of the estate exceeds HKD7,500,000.

Other Duties, Fees and Charges

Air passenger departure tax	HKD120 (passenger under age 12 exempt)
Betting duty	
Horse racing	72.5 – 75% (on the net stake receipts)
Lotteries (Mark Six)	25% (on the amount of proceeds)
Football	50% (on the net stake receipts)
Business registration fee	
1 year certificate plus levy	HKD2,250
3 year certificate plus levy	HKD5,950
Branch business registration fee	
1 year certificate plus levy	HKD323
3 year certificate plus levy	HKD939
Hotel accommodation tax	0% *
Rates	5% on ratable value of landed properties (rates for the four quarters of 2018/19 is waived, subject to a ceiling of HKD2,500 per quarter for each ratable tenement).
Re-export declaration charge	HKD0.20 for the first HKD46,000 and HKD0.125 for each additional HKD1,000 of the value of the goods.
Motor vehicle first registration tax	The cost of air conditioners, audio equipment, anti-theft devices and distributors' warranties is no longer excluded from taxable value. A marginal tax system has been adopted for private cars and van-type light goods vehicles not exceeding 1.9 tones. Higher marginal rates apply for more expensive vehicles. First Registration Tax of electric commercial, motor cycles and motor tricycles until 31 March 2021 is waived.

* Effective from 1 July 2008, the charge of hotel accommodation tax is waived.

Investment into China

Hong Kong companies are often used as intermediate holding vehicles for investments in the P.R.C. Starting from 1 January 2008, there is a P.R.C. withholding tax of 10% on dividends repatriated by a Foreign Investment Enterprise to a foreign shareholder, this rate is reduced to 5% in the case of a Hong Kong intermediate holding. The P.R.C. withholding tax on interest and royalties paid by a P.R.C. entity to a Hong Kong entity is 7% under the Revised Hong Kong / P.R.C. Double Tax Arrangement. This is among the lowest in any double tax treaty the P.R.C. has signed with any other country.