

DOING BUSINESS IN HONG KONG

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Introduction





Economy Overview

- "laissez-faire" economic system with minimal government interference in all sectors of the economy;
- No foreign exchange controls;
- maintains its own monetary system (HK\$);
- Welcomes foreign investment and there is no restriction on foreign ownership. (However, on the basis of public interest, there are restrictions on voting control by non-Hong Kong residents and corporations in the <u>broadcasting</u> <u>sector</u>)



Double Tax Agreements and Arrangement (As of February 28th, 2018)

- Austria
- Belgium
- Belarus
- Brunei
- Canada
- Czech Republic
- France
- Guernsey
- Hungary
- Indonesia
- Ireland
- Italy
- Japan

- Jersey
- Korea
- Kuwait
- Latvia
- Liechtenstein
- Luxembourg
- Mainland China
- Malaysia
- Malta
- Mexico
- Netherlands
- New Zealand
- Pakistan

- Portugal
- Qatar
- Romania
- Russia
- Saudi Arabia (not yet effective)
- South Africa
- Spain
- Switzerland
- Thailand
- United Arab Emirates
- United Kingdom
- Vietnam

Common Entity Types





Setting up a Company in HK (LLC)

Steps

- Step 1: Selecting <u>a company name;</u>
 - Either Chinese or English
 - □ Intellectual Property rights
- Step 2: Deciding the organizational structure, amount of capital, company secretary and registered office address;
 - □ No restrictions on the nationality of the director.
 - □ No restrictions on the minimum and maximum amounts of capital.
 - □ Hiring a professional firm as a nominee company secretary
 - □ If no plan to lease a physical office, investors can use a professional firm's address.
- Step 3: Preparing registration documents and registering with the Companies Registry;
 Article of Association (AA) & Company Registration Form
 <u>Receiving the Certificate of incorporation, which signifies that the company legally exists.</u>
- Step 4: Making company chop and printing of Articles of Association

Timeframe: within 1 month (not including opening the bank account)



A Sample of Certificate of Incorporation





Current Obstacle: Opening a bank Account

Under Hong Kong anti-money (HKMA) laundering legislation

A background check:

- To verify the identity of the primary shareholders;
- come to the bank office in person for a <u>Know</u> <u>Your Customer meeting</u>.
- at least two directors (including the managing director) and the authorized signatories;
- Requires to bring their original passports;
- Hong Kong work permit (if applicable) and a proof of address
- Examine the nature of the business
- Timeframe: 2-4 weeks





Revised February 2018

Main Taxes in Hong Kong



A Scheduler System of Income Tax

- The <u>Inland Revenue Ordinance</u> charges income from an office, an employment or a pension to salaries tax, profits from a trade or business to profits tax and income from real estate to property tax.
- Any income that is not within any one of these schedules or categories is not subject to tax. Hong Kong currently has:
 - No sales tax or value added tax;
 - > No withholding tax;
 - \succ No capital gain tax;
 - > No tax on dividends; and
 - No estate tax.



Generally income is taxed in Hong Kong only if it arises in or is derived from Hong Kong



The Scope of Taxation in Hong Kong





Profit Tax



Profit Tax: Scope

- Individuals and entities carrying on a trade, profession or business in Hong Kong are subject to
 profits tax if the source of profits arises in or is derived from Hong Kong from the carrying on of that
 trade, profession or business.
 - its central management is located in Hong Kong;
 - > its continuous commercial activities are in Hong Kong; or
 - its activities are conducted through an agent in Hong Kong where the agent has a general authority to negotiate



Profit Tax Regime

• Tax rates:

- Corporations 16.5%*
- Unincorporated businesses 15%*

* Under the Inland Revenue (Amendment) (No. 7) Bill 2017, commencing from the year of assessment 2018-19, the tax rates for the first <u>HK\$2 million of profits</u> of corporations and unincorporated businesses will be reduced by half, and the remainder of profits will continue to be taxed at the normal applicable rates as shown above.



Property Tax





- Definition
 - Charged at the standard rate of 15% on *80% of the rent receivable on noncorporate owners of real estate in Hong Kong;
- *a standard allowance of 20% for the repairs and outgoings.
- Which Tax Return to report rental income?
 - This part is for properties which you were the sole owner as registered in the Land Registry, and were let during the assessable year.

Note: Corporate lessors of real properties are subject to Profits Tax



Salaries Tax



Calculation Methods

Method 1: At a progressive rate on the "net chargeable income"

NET CHARGEABLE INCOME = TOTAL INCOME – DEDUCTIONS – ALLOWANCES

Method 2: At a standard rate on the "net income" (before deduction of the allowance)

NET INCOME = TOTAL INCOME – DEDUCTIONS





Progressive rates (2018/2019)				
Net Chargeable Income (HK\$)	Rates	Tax (HK\$)		
First \$50,000 at	2%	1,000		
Next \$50,000 at	6%	3,000		
Next \$50,000 at	10%	5,000		
Next \$50,000 at	14%	7,000		
On the remainder at	17%	8,500		
Standard Rate				
15%				

Note: Tax payable is calculated at progressive rates on your net chargeable income or at standard rate on your net income (before deduction of the allowances), whichever is <u>lower</u>.



Deductions

Maximum deduction for amount paid for	2018/2019 (HKD) – Maximum
Expenses of self-education	100,000
Elderly residential care expense	100,000
Home loan interest	100,000
Mandatory contribution to recognized retirement schemes*	18,000 annually
Approved charitable donations (income - allowable expenses - depreciation allowance) x percentage	35%

* the 2018/2019 Budget proposed a tax deduction for voluntary contributions made to the Mandatory Provident Fund. Details of the deduction have yet to be announced.



Personal Allowances (2018/2019)	HK\$
Basic allowance	132,000
Marriage allowance	264,000
Child allowance (for each dependent): the 1st to 9th child	
> Year of birth	240,000
> Other year	120,000
Dependent parent and dependent grandparent allowance (for each dependent)	
 Parent/grandparent aged 60 or above or is eligible to claim an allowance Not residing with taxpayer Residing with taxpayer throughout the year 	50,000 100,000
 aged 55 to 59 Not residing with taxpayer Residing with taxpayer throughout the year 	25,000 50,000
Dependent brother or sister allowance (for whom no child allowance is claimed)	37,500
Single parent allowance	132,000
Disabled dependent allowance	75,000

Re-Cap on Personal Allowances

- Family status.
- Spouse income status;
- Children or dependents;
- Residential status;
- Home loan interests (more for HK citizens);
- Loss from other personal business.



Special notes for Salaries Tax

- A Person's nationality or residence status is generally <u>irrelevant</u> in determining his salaries tax liability;
- Salaries tax is imposed on a person's chargeable income;
- All income arising in or derived from HK, from any office, employment or pension, including assessable fringe benefits and after deducting the total allowable deductions;
- Financial year: <u>April 1st to March 31st</u>. Tax is filed and paid on annual base, no pre-deduction required;
- Tax payable is calculated at progressive rates on your net chargeable income or at standard rate on your net income (before deduction of the allowance), whichever is lower. It is further reduced by the tax reduction, subject to a maximum;
- Threshold to further deduction: HKD 30,000; if less than HKD 30, 000, 75% of the salaries tax.



An Example

From 1st Oct 2016, Anna's monthly salary is \$40,000 and MPF contribution is \$1,500, how to calculate Anna's salary tax for financial year 2016/17?

Year 2016/17 financial year	\$
Income (\$40,000 x 6 months)	240,000
Deduct: MPF contribution (\$1,500 x 6months)	9,000
	231,000
Deduct: basic tax deductible	132,000
Chargeable tax amount	99,000
Tax payable - First \$80,000 (2-7% progressive)	3, <mark>600</mark>
Balance \$19,000 x 12%	2,280
Salary tax by progressive rate	5,880
Salary tax by standard rate (15% x \$231,000)	34,650
Payable Tax (use lower amount)	5,880
Deduct: 75% Tax exempt (Max \$ 20,000) Now it's Max \$30,000 (as of FY2018/2019)	4,410
	1,470



Salaries Tax: Source of Employment.

- Three factors to be considered:
 - > The place where the contract of employment was negotiated and enter into;
 - The employer's place of residence;
 - > The place of payment of the employee's remuneration

If all three factors take place outside HK, the employment is regarded as located outside HK, which will be treated as non-Hong Kong Employment. However, the IRD reserves the right to look beyond these factors in appropriate cases.



Salaries Tax: 60 Days Rule



Salaries Tax: 60 Days Rule

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Filing System: BIR60

- BIR60 is issued to an individual taxpayer:
 - > To report his/her salaries from the employment;
 - To report rental income from solely owned properties;
 - > To report profits from sole-proprietorship business, and to elect personal assessment.
- BIR60 should be completed by Individual Tax payer. if taxpayer is married for all or part of year and has home loan interest deduction, elected joint assessment/ personal assessment or has been nominated by his or her spouse to claim then his/her BIR60 should also be signed by his her spouse.
- BIR60 Should be filed <u>within 1 month from the date of issue of the tax Return if the tax payer did not solely own</u> any unincorporated business during the year of assessment (For example, ITR 2017/18 issued on 2 May 2018, the due date to file the return is 1 Jun 2018).
- BIR60 Should be filed <u>within 3 months</u> from the date of issue of tax Return if the tax payer solely own any unincorporated business during the year of assessment (For example, ITR 2017/18 issued on 2 May 2018, the due date to file the return is 1 Aug 2018)
- An automatic extension of 1 month will be given for filing the tax Return for the year of assessment 2017/2018 electronically



Mandatory Provident Fund (MPF)



Mandatory Provident Fund (MPF) Schemes

- Under the MPF Schemes, employees are required to contribute 5% of their monthly income and employers have to match this amount;
- <u>The maximum mandatory contribution</u> for each of the employer and employee is HK\$1,500 per month;
- An employee whose income is less than HK\$ 7,100 per month is not required to make mandatory contribution, but the employer of such employee is required to contribute an amount that is equal to 5% of the employee's monthly salary;
- An employee and an employer may make voluntary contributions in addition to the mandatory contribution.
- **Relevant Income**: All monetary payment (including wages, salary, leave pay, fees, commissions, bonuses, allowance or other benefits)
- Contribution shall be paid on or before 10th of the month (for previous month). Shall inform / provide payment evidence to the employees within 7 days after making the MPF payment.
- Employees under a new employment will enjoy a contribution holiday, e.g. <u>the first 30 days</u> of employment and the following incomplete wage period, if the salary is paid on monthly basis. However, Contribution holiday does not apply to employers.



Eligibility to the MPF Scheme

- Employees who serve the employer over 4 weeks and minimum 18 hours per week;
- People from overseas who enter HK for employment for a period that does not exceed 13 months, or who are covered by overseas retirement scheme, can be exempted;
- For expatiates who stay in HK over 13 months, from the 14th month, the MPF shall be made;
- Any incomplete payroll period that immediately follows the 30-day period is not required to make contribution;
- Employer has to contribute the MPF from the first day of the employment.





Mandatory Provident Fund (MPF) Contribution Table

Monthly Relevant Income	Mandatory Contribution		
(HKD)	Employer's percentage	Employee's percentage	
Less than 7,100	5%	N.A.	
7,100 to 30,000	5%	5%	
More than 30,000	\$1,500	\$1,500	

Note:

- A self-employed person is required to enroll in and contribute to and MPF scheme;
- Employee's mandatory contributions are deductible in computing their income subject to salaries tax;
- All benefits derived from mandatory contributions under an MPF scheme must generally be preserved until the employee reaches the retirement age of 65.



An Example on 1st Contribution on MPF







2018 MPF Contribution Days

SCHINES AUTHORITY

	E February IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP IMP <th>EA March MH MAH TUE MED 300 FH SAT 1 + 2 + 3 + 2 1 + 2 + 3 + 2 4 5 6 7 8 9 10 13 14 15 16 17 14 19 20 21 22 23 24 11 19 20 21 22 28 85 11 19 20 21 22 28 85 25 27 25 28 29 30 25 27 25 28 29 30</th> <th>四月 April Hoh KK MD THU HI WY A A A A A A A A A A A A A A A A A</th>	EA March MH MAH TUE MED 300 FH SAT 1 + 2 + 3 + 2 1 + 2 + 3 + 2 4 5 6 7 8 9 10 13 14 15 16 17 14 19 20 21 22 23 24 11 19 20 21 22 28 85 11 19 20 21 22 28 85 25 27 25 28 29 30 25 27 25 28 29 30	四月 April Hoh KK MD THU HI WY A A A A A A A A A A A A A A A A A
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Employers must pay the MPF contributions for all their monthly-paid employees to their trustee, on or before the 10^ewww.ldezshira.com the contribution day (). If a contribution day fails on a Saturday, a Sunday, a public holiday, a gale warning day

die Tropical Cyclone Warning Signals No. 8 or higher) or a black rainsform warning day
Immigration – HK Employment Visa



Employment visa

- Non-Hong Kong residents who are not non-local graduates but possess special skills, knowledge or experience of value to and not readily available in Hong Kong may apply to come to work under the <u>General Employment Policy ('GEP')</u>.
- The Hong Kong Immigration Department will consider the following in approving an employment visa:
 - whether the business being, undertaken is beneficial to the economy industry and trade of Hong Kong;
 - > whether the employment of the applicant is essential to the business; and
 - \succ whether the position can easily be filled by a local individual.
- Visa Validity: the first time would be 2 years or the service period/term of the employment, whichever is shorter. 2 or 3 years for renewal;
- Visa application would be 4-6 weeks after submission of the documents to the Immigration



Eligibility Criteria for HK Employment Visa

- No any criminal records nor poses security objections;
- Good education background or technical qualification, proven professional abilities or experience, backed by documentary evidence;
- The applicant has <u>a confirmed offer of employment and is employed in a job relevant to his</u> academic qualifications or work experience that cannot be readily taken up by the local work force;
- Remuneration package is broadly commensurate with the prevailing market lever of professionals in Hong Kong;
- There is a genuine job vacancy.

In addition, good financial standing of the employing company, a physical office in Hong Kong are some strong factors for the application.

Note: only those non- HK citizen "**working in**" HK is required to apply visa, meaning do <u>NOT</u> need a visa for foreigners who employed by a HK company and <u>work outside</u> HK.



The following documents need to be submitted *(exclude application form)*

From Employer requirements	From Employee requirements
 The company's employment contract or letter of appointment to the applicant containing information about post, salary, other fringe benefits and employment periods; 	Passport;
 Photocopy of the Business Registration Certificate; 	 Copy of academic qualifications and relevant work experience; and,
 Photocopy of proof of financial standing, such as an audited financial report; 	Recent photo.
 Documents with details of company background such as business activities 	
Detailed business plan.	

Timeframe: The processing of the work visa application takes about two to three months.



Sample of an Employment Visa

With the label affixed onto the passport, the applicant can enter and work in Hong Kong.





Entrepreneurs Visa

- Hong Kong has a special migration visa scheme called <u>Entry for Investment for foreign</u> entrepreneurs who wish to relocate to operate their own business in Hong Kong. This entrepreneur visa scheme is essentially a type of work permit that is issued to the owner of a business as an employee of his/her Hong Kong company.
- There is <u>no minimum investment</u> requirement specified by the authorities when applying for the entrepreneur visa. However at the time of processing your application, the authorities will closely examine your proposed business plan to assess if your proposed investment is sufficient for the business you plan to set up.
- Entrepreneur visa application must be sponsored by a local sponsor a company or an individual;
- As mentioned above, you must submit a <u>2-year business plan</u> as part of your entrepreneur visa application;
- Similar requirements to the Employment Visa application;
- Application process time would be <u>6-8 weeks</u> after submission of the documents to the Immigration.



Termination



Types of Termination

Termination by Notice

Immediate Termination



Immediate Termination

• <u>The employer may terminate the contract without notice in case of:</u>

- Willful disobedience of a lawful and reasonable order;
- Misconduct;
- Fraud or dishonesty; or,
- Habitual neglect of duties.

Note: no notice is required during the first month of a probation period – if one is agreed upon.

- <u>The employee</u> may terminate the contract without notice for:
 - Reasonable fear of physical danger by violence or disease;
 - Ill-treatment by the employer; or,
 - > Becoming permanently unfit for the type of work engaged in, as judged by a medical
 - > practitioner.



Termination with Notice

- An employment contract may be terminated by either side by giving the other party notice,
- or paying one month's wages instead of notice;
- The default time within which to give notice is one month;
- Parties may contractually agree upon shorter notice, but no less than seven days;
- The one month's pay is calculated by taking the employee's daily salary as earned over the past 12 months, and multiplying this by the number of days the wages would actually have been payable.



Severance Payment

- Employees who have worked for over 24 months with a company are entitled to severance payment.
- Two formula to calculate severance payment:

For monthly-paid employee

SEVERANCE PAYMENT = 2/3 OF THE LAST MONTH WAGES* × RECKONABLE YEARS OF SERVICE

For daily-rated/piece-rated employee

SEVERANCE PAYMENT = ANY 18 DAYS' WAGES CHOSEN BY THE EMPLOYEE OUT OF THEIR LAST 30 NORMAL WORKING DAYS* × RECKONABLE YEARS OF SERVICE

Note: The total entitlement is subject to a maximum payment of HK\$390,000.





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