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Hong Kong Tax Update Newsletter Year in Review 2019

Over the last few years, there have been evolving changes in Hong Kong tax legislation. This newsletter recaps the key tax developments that took place in 2019. Details of these developments have been covered in our Tax Analysis and Tax Newsflash.

Ordinances enacted

Debt instruments

Inland Revenue (Amendment) Ordinance 2019

- Treat certain loss-absorbing capacity (LAC) debt instruments as debt securities for profits tax purposes
- Allow deduction of interest on money borrowed by LAC banking entities in respect of regulatory capital securities (RCS)
- Deem certain sums received by LAC banking entities in respect RCS as trading receipts
- For details, see Tax Newsflash Issue 79 and Tax Newsflash Issue 88

Taxation of Financial Instruments
Common Reporting Standard (CRS) / AEOI
Visiting teachers & researchers

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

- Allow computation of assessable profits arising from financial instruments recognized under HKFRS 9 on a fair value basis
- For details, see Tax Newsflash Issue 81 and Tax Newsflash Issue 91
- Allow deduction of interest expense to overseas export credit agencies
- Align relevant provisions of IRO with CRS for AEOI
- Avoid potential double non-taxation of income of visiting teachers and researchers
- Amend definition of "siblings" for dependent brother / sister allowance
- For details, see Tax Newsflash Issue 83

Tax Exemption for Funds

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

- Remove ring-fencing features identified by EU in respect of the Offshore Fund Regime and Offshore PE Fund Regime
- Expand the tax exemption to cover funds managed in Hong Kong
- For details, see Tax Newsflash Issue 82 and Tax Newsflash Issue 91

Annuity Premiums

Inland Revenue and MPF Schemes Legislation (Tax Deduction for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Ordinance 2019

- Allow new concessionary deductions for annuity premiums paid under certain deferred annuity policies and for certain MPF voluntary contributions for Salaries Tax and personal assessment purposes
- For details, see DIPN 57

Budget 2019-20

Inland Revenue (Amendment) (Tax Concessions) Ordinance 2019

- Provide 100% one-off tax reduction for profits tax, salaries tax and tax under personal assessment with a ceiling of HK$20,000
- For details, see Tax Analysis Issue H87/2019, Tax Newsflash Issue 95, Tax Newsflash Issue 99 and Tax Newsflash Issue 104

Amendment bill pending passage

Vacant Property Rates

Rating (Amendment) Bill 2019

- Introduce special rates if a private residential unit remains unsold/not rented for 12 months after the issuance of occupation permit
- Special rates would be imposed on first-hand owner, mainly property developer, at 200% of the rateable value
- For details, see Tax Newsflash Issue 101

Concessionary Measures for Hong Kong Insurers

Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Bill 2019

- Introduce concessionary profits tax rate (i.e. 8.25%) for direct insurers of selected general insurance business
- Extend the concessionary tax rate currently applicable to professional reinsurers to general reinsurers of a specified insurer
- Introduce the concessionary tax rate to selected insurance brokerage business
- For details, see Tax Newsflash Issue 111

Court case

Perfekta Enterprises Limited v CIR [FACV 11/2018]

- Lump sum receipt arising from redevelopment arrangement non-taxable
- For details, see Tax Analysis Issue H89/2019

CIR v. Poon Cho Ming, John [FACV 1/2019]

- Termination payment not subject to salaries tax
- For details, see Tax Newsflash Issue 106

Dairyfarm Establishment and The Dairy Farm Company, Limited v CIR [CACV 544/2018]

- Tax reserve certificate for tax in dispute
- Case not yet finalized
- For details, see Tax Newsflash Issue 78

IRD's update

Deduction for research and development expenditures
DIPN 55 | Tax Analysis Issue H88/2019

Deductions for expenditure on technical education; building refurbishment; prescribed fixed assets; and environmental protection facilities
DIPN 5 (Revised)

Concessionary deductions on health insurance premiums
DIPN 56

Concessionary deductions on annuity premiums and MPF voluntary contributions
DIPN 57

New version of profits tax return
Major changes in 2018/19 profits tax return |
New tax returns and supplement forms |
Tax Newsflash Issue 89

Application for Certificate of Resident Status relating to the Circular of the State Taxation Administration on Matters Concerning "Beneficial Owners" in Tax Treaties
IRD's announcement | Tax Newsflash Issue 94

Recognized retirement schemes
DIPN 23 (Revised)

New guidance on transfer pricing and documentation rules
DIPN 58 | DIPN 59 | DIPN 60 |
Tax Analysis Issue H90/2019 |
Tax Analysis Issue H91/2019 |
Tax Newsflash Issue 97

Deduction of foreign taxes
DIPN 28 (Revised) |
Tax Newsflash Issue 98 | Tax Newsflash Issue 100

Charitable institutions and trusts of a public character
Tax guide

Penalty policy
Field audit & investigation cases |
Profits tax cases |
Salaries tax and property tax cases |
Personal assessment cases |
Transfer pricing cases

Country-by-Country Reporting – Q&A session added
Frequently asked questions

Interest rate increase for Tax Reserve Certificates
IRD's announcement

Conditional waiver of surcharges for instalment settlement of demand notes for the Year of Assessment 2018/19
IRD's announcement | Tax Newsflash Issue 107

Country-by-Country Reporting – Deadline for Local Filing
IRD's announcement | Tax Newsflash Issue 110

International tax

Hong Kong-Finland tax treaty in force
CDTA | Tax Newsflash Issue 75 | Tax Newsflash Issue 86

Hong Kong-Cambodia tax treaty in force
CDTA | Tax Newsflash Issue 96

Hong Kong removed from EU's watchlist on tax cooperation
Tax Newsflash Issue 92

AEOI reportable jurisdictions increased from 75 to 126
Reportable jurisdictions

Hong Kong-Estonia tax treaty in force
CDTA | Tax Newsflash Issue 102

Hong Kong-Macao tax treaty signed
CDTA (Chinese only) | Tax Newsflash Issue 105 | Tax Newsflash Issue 108

Fifth protocol to Hong Kong-Mainland double taxation arrangement in force
CDTA | Tax Analysis Issue P297/2019 | Tax Newsflash Issue 109

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