



Hong Kong Tax Update Newsletter Year in Review 2021



This newsletter recaps the key tax developments that took place in 2021. Details of most of these developments have been covered in our Tax Analysis and Tax Newsflash.

Ordinance enacted / Subsidiary legislations came into operation

Tax concession for insurance-related businesses

- Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2020 (Commencement) Notice
- Inland Revenue (Profits Tax Concessions for Insurance-related Businesses) (Threshold Requirements) Notice

- Give effect to the tax concession for insurance-related businesses on 19 March 2021
- Prescribe threshold requirements for determining whether the insurance-related business qualifies for the tax concession
- For details, see [Tax Newsflash Issue 111](#) and [Tax Newsflash Issue 134](#)

Abolishing doubled ad valorem stamp duty on non-residential property transactions

Stamp Duty (Amendment) Ordinance 2021

- Abolish doubled ad valorem stamp duty on non-residential property transactions
- Passed on 17 March 2021, with retroactive effect from 26 November 2020
- For details, see [Tax Newsflash Issue 132](#) and [Tax Newsflash Issue 139](#)

Tax concession for carried interest

Inland Revenue (Amendment) (Tax Concessions for Carried Interest) Ordinance 2021

- Provide profits tax and salaries tax exemptions for eligible carried interest
- Apply retrospectively to eligible carried interest received or accrued on or after 1 April 2020
- For details, see [Tax Newsflash Issue 135](#) and [Tax Newsflash Issue 139](#)

Tax reductions for 2020/21

Revenue (Tax Concessions) Ordinance 2021

- Provide one-off tax reductions of profits tax, salaries tax and tax under personal assessment by 100%, subject to a ceiling of HK\$10,000 for each case for the year of assessment 2020/21
- For details, see [Tax Analysis Issue H101/2021](#), [Tax Newsflash Issue 136](#), [Tax Newsflash Issue 137](#) and [Tax Newsflash Issue 139](#)

Increase in stamp duty rate on stock transfer

Revenue (Stamp Duty) Ordinance 2021

- Increase the rate of stamp duty payable on contract notes for sale or purchase of Hong Kong stock from 0.1% to 0.13% for the buyer and seller respectively with effect from 1 August 2021
- For details, see [Tax Analysis Issue H101/2021](#), [Tax Newsflash Issue 137](#) and [Tax Newsflash Issue 141](#)

Deduction of foreign tax, court-free amalgamation and electronic filing of tax return

Revenue (Stamp Duty) Ordinance 2021

- Extend the deduction of foreign tax to tax charged on gross income (e.g. withholding taxes) and non-Hong Kong resident persons who paid such tax in DTA territories effective from the year of assessment 2021/22 (see [Tax Analysis Issue H102/2021](#))
- Codify the tax treatment for court-free amalgamation (see [Tax Analysis Issue H103/2021](#))
- Provide the statutory framework for the filing of tax returns electronically (see [Tax Newsflash Issue 147](#))
- For details, see [Tax Newsflash Issue 138](#) and [Tax Newsflash Issue 141](#)

Court/Board of Review cases

Profits Tax - Board of Review case no. [D7/19](#)

- Intra-group royalties paid under sale and licence back arrangement were held not deductible by the Hong Kong payer
- Royalties received by the non-resident were fully taxable as it carried on business in Hong Kong and the royalties were sourced in Hong Kong

Profits Tax - Board of Review case no. [D5/20](#)

- BoR agreed the offshore claim for trading profits of a foreign company which carried on business in HK through a related company

Penalty - *Koo Ming Kown & Murakami Tadao V. CIR* [[2021 HKCA 1037](#)]

- Directors were not liable to section 82A penalty for signing incorrect tax returns of the company which was wound up
- The IRD filed an appeal to the Court of Final Appeal

Salaries Tax – *CIR V. Lo Wa Ming Patrick* [2021 HKCFI 916]

- Apportionment method for calculating exempted income for salaries tax purpose
- The Commissioner filed an appeal to the Court of Appeal
- For details, see [Tax Newsflash Issue 140](#)

Salaries Tax – *Dr. The Honourable Leung Ka-lau V. CIR* [2021 HKCFI 1177]

- Whether compensation for loss of rest days and statutory holidays is taxable
- The Commissioner filed an appeal to the Court of Appeal

Salaries Tax – *Health Brian Zarin V. CIR* [2021 HKCFI 1846]

- Whether certain payment received after termination of employment is chargeable to Salaries Tax
- The Commissioner filed an appeal to the Court of Appeal

Salaries Tax – *Mark Andrew Wilson V. CIR* [2021 HKCFI 1950]

- Certain sums received upon termination of employment were taxable
- The taxpayer filed an appeal to the Court of Appeal

Salaries Tax - *Richard Paul Mark Aiden Forlee V. CIR* [2021 HKCFI 2476]

- Certain share awards accrued to the taxpayer at the time of award despite any forfeiture provisions and the relevant dividends received from those shares were not chargeable to salaries tax
- The Commissioner filed an appeal to the Court of Appeal

Stamp Duty

Land Concept Limited V. Collector of Stamp Revenue

Ample Sun Limited V. Collector of Stamp Revenue

Genius Express Limited V. Collector of Stamp Revenue

Danix Limited V. Collector of Stamp Revenue

(Heard together) [2021 HKDC 659]

- Whether four property transactions effected by four conveyances on sale form part of a larger transaction or series of transactions; and whether valuation of the properties assessed by the Collector is excessive

Stamp Duty – *Nomura Funds Ireland Plc V. Collector of Stamp Revenue* [2021 HKCA 1040]

- Transfer of Hong Kong stock arising from a foreign merger was not subject to stamp duty as the vesting of shares was effected by operation of law
- For details, see [Tax Analysis Issue H104/2021](#)

Stamp Duty – *Wong Suet Foon Shirley V. Collector of Stamp Revenue* [2021 HKCA 1090]

- Distribution of property under an estate in excess of the beneficiaries' entitlements was not subject to stamp duty

IRD's guidance



New guidelines for ship operator
[IRD's announcement](#)



Guidance on tax issues arising from the COVID-19 pandemic
[Tax Newsflash Issue 144](#) | [IRD's announcement](#)



Tax guide for charitable institutions and trusts of a public character
[Tax guide \(updated\)](#)



New advance ruling case regarding waiver of loans
[Advance Ruling Case No. 67](#)

IRD's administrative measures



Profits tax return – fair value accounting
[IRD's announcement](#)



Profits tax returns filing deadline and samples for 2020/21
[IRD's announcement](#)



Interest on Tax Reserve Certificates
[IRD's announcement](#)



Certificate of Resident application forms updated
[IRD's website](#)



Extension of relief measure on payment of tax by instalments
[Tax Newsflash Issue 142](#)



Automatic exchange of financial account information - Self-certification form updated
[Self-Certification Form – Controlling Person](#) | [Meaning of the terms and expressions used in Self-Certification Forms](#)

International tax



Hong Kong-Serbia tax treaty in force
[CDTA](#) | [Tax Newsflash Issue 133](#)



Hong Kong-Georgia tax treaty in force
[CDTA](#) | [Tax Newsflash Issue 143](#)



Global endorsement on Pillar One and Pillar Two
[Tax Newsflash - 3 July 2021](#) | [Tax Newsflash - 7 July 2021](#) | [Tax Analysis Issue P343](#)



Update on OECD's peer review for BEPS harmful tax practices
[Peer review results](#)



Hong Kong in EU watchlist on tax cooperation due to territorial source regime
[Tax Newsflash Issue 145](#)



OECD inclusive framework updates political agreement on Pillar One and Pillar Two
[Tax Newsflash – 11 October 2021](#)



Hong Kong passed OECD's peer review on CbCR and MAP
[Peer review report on CbCR](#) | [Peer review report on MAP](#)



Hong Kong passed OECD's peer review for automatic exchange of financial account information 2021
[Peer review report](#)



HK passed OECD's peer review for spontaneous exchange of information on tax rulings 2020
[Peer review report](#)



OECD Inclusive Framework published global minimum tax (Pillar Two) model rules
[Tax Newsflash – 21 December 2021](#)

Others



The Hong Kong Monetary Authority released guideline on fund certification for carried interest tax concession
[Guideline](#) | [IRD's announcement](#)

If you have any questions, please contact our professionals:

Authors

Sarah Chan

Tax Partner

+852 2852 1628

sarahchan@deloitte.com.hk

Doris Chik

Tax Director

+852 2852 6608

dchik@deloitte.com.hk

Carmen Cheung

Tax Manager

+852 2740 8660

carmcheung@deloitte.com.hk

Global Business Tax Services

National Leader

Andrew Zhu

Tax Partner

+86 10 8520 7508

andzhu@deloitte.com.cn

Hong Kong

Raymond Tang

Tax Partner

+852 2852 6661

raytang@deloitte.com.hk

Get in touch



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the "Deloitte organization") serves four out of five Fortune Global 500® companies. Learn how Deloitte's approximately 345,000 people make an impact that matters at www.deloitte.com.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

The Deloitte brand entered the China market in 1917 with the opening of an office in Shanghai. Today, Deloitte China delivers a comprehensive range of audit & assurance, consulting, financial advisory, risk advisory and tax services to local, multinational and growth enterprise clients in China. Deloitte China has also made—and continues to make—substantial contributions to the development of China's accounting standards, taxation system and professional expertise. Deloitte China is a locally incorporated professional services organization, owned by its partners in China. To learn more about how Deloitte makes an Impact that Matters in China, please connect with our social media platforms at www2.deloitte.com/cn/en/social-media.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2021 Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, and Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland. All rights reserved.

To no longer receive emails about this topic please send a return email to the sender with the word “Unsubscribe” in the subject line.