

## Hong Kong Tax Update Newsletter Year in Review 2022

### INspire HK 躍動香港

This newsletter recaps the key tax developments that took place in 2022. Details of most of these developments have been covered in our Tax Analysis and Tax Newsflash.

#### Ordinances enacted

##### Budget 2022-23

*Revenue (Tax Concessions) Ordinance 2022*

- 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 2021/22
- For details, see [Tax Analysis Issue H105/2022](#), [Tax Newsflash Issue 148](#), [Tax Newsflash Issue 149](#) and [Tax Newsflash Issue 151](#)

##### Abolition of the offsetting arrangement under the Mandatory Provident Fund System

*Employment & Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Ordinance 2022*

- The Inland Revenue Ordinance will be amended to stipulate that long service payment and severance payment paid in accordance with the Employment Ordinance are not chargeable to salaries tax
- Expected to come into operation in 2025

##### Tax deductions for domestic rents

*Inland Revenue (Amendment) (Tax Deductions for Domestic Rents) Ordinance 2022*

- Introduce tax deductions for domestic rents for salaries tax or tax under personal assessment, capped at HK\$100,000 each year
- Effective from the year of assessment 2022/23

- For details, see [Tax Newsflash Issue 157](#)

#### Tax concessions for shipping-related activities

*Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-Related Activities) Ordinance 2022*

- Provide profits tax concessions to certain ship agents, ship managers and ship brokers
- Apply to sums received or accrued on or after 1 April 2022
- For details, see [Tax Newsflash Issue 154](#), [Tax Newsflash Issue 158](#) and a summary placemat ([EN](#) | [CN](#))

#### Foreign-sourced income exemption regime

*Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Ordinance 2022*

- Specified foreign-sourced income are deemed taxable in Hong Kong unless certain conditions are met
- Effective from 1 January 2023
- For details, see [Tax Newsflash Issue 155](#), [Tax Newsflash Issue 160](#), [Tax Analysis Issue H110/2022](#), [Tax Newsflash Issue 163](#), [Tax Newsflash Issue 165](#), [Tax Newsflash Issue 168](#), summary placemat ([EN](#) | [CN](#) | [JP](#)) and [Inland Revenue Department \(IRD\)'s guidelines](#)

### Amendment Bills pending passage

#### Stamp duty exemption for market makers

*Stamp Duty (Amendment) Bill 2022*

- Exempt the stamp duty payable for certain transactions relating to dual-counter stock made by market makers

#### Tax concessions for family office

*Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022*

- Provide profits tax exemption for eligible family-owned investment holding vehicles managed by single family offices in Hong Kong
- Effective from the year of assessment 2022/23
- For details, see [Tax Newsflash Issue 150](#), [Tax Newsflash Issue 166](#) ([EN](#) | [CN](#)) and summary placemat ([EN](#) | [CN](#))

### Court cases

#### Profits Tax – *Ubiquiti Networks International Limited v. Commissioner of Inland Revenue (CIR)* [2022 HKCFI 170]

- Application for judicial review against the CIR's decision ordering that tax should be held over on the condition that tax reserve certificate be bought is dismissed

#### Profits Tax – *Besins Healthcare (Hong Kong) Limited v. CIR* [2022 HKCFI 2932]

- Judicial review on CIR's refusal to refund the excess amount of tax reserve certificate purchased with interest pending final disposal of an appeal
- Court of First Instance (CFI) granted a declaration that the refusal is unreasonable and/or irrational and ordered the CIR to refund the excess amount together with interest

#### Profits Tax – *Newfair Holdings Limited v. CIR* [2022 HKCFI 1133]

- CFI ruled interposed Hong Kong trading business not taxable
- For details, see [Tax Analysis Issue H106/2022](#)

#### Profits Tax – *China Mobile Hong Kong Company Limited v. CIR* [2022 HKCA 1637]

- Court of Appeal (CA) ruled amortization of upfront lump sum spectrum utilisation fees non-deductible
- Case not yet finalized
- For details, see [Tax Analysis Issue H111/2022](#)

#### Salaries Tax – *Heath Brian Zarin v. CIR* [2022 HKCA 412]

- Certain payment received after termination of employment were not taxable

#### Salaries Tax – *CIR v. Lo Wa Ming Patrick* [2022 HKCA 710]

- Apportionment method for calculating exempted income for salaries tax purpose
- CA partly allowed the CIR's appeal

#### Salaries Tax – *Richard Paul Mark Aiden Forlee v. CIR* [2022 HKCA 1098]

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

#### Stamp Duty – *John Wiley & Sons UK2 LLP & Wiley International LLC v. Collector of Stamp Revenue (Collector)* [2022 HKDC 716]

- Limited liability partnership in UK was entitled to stamp duty group relief
- The Collector has applied for leave to appeal
- For details, see [Tax Analysis Issue H108/2022](#)

#### Penalty – *Koo Ming Kown & Murakami Tadao v. CIR* [2022 HKCFA 18]

- Directors were not liable to section 82A penalty for signing incorrect returns of the company which was wound up
- For details, see [Tax Analysis Issue H109/2022](#)

### International tax

#### Pillar Two - Global Anti-Base Erosion (GloBE) Model Rules

- OECD released commentary on Pillar Two GloBE rules  
For details, see [Commentary, Examples](#) and [Tax Newsflash – 15 March 2022](#)
- The impact of Pillar Two on Hong Kong's real estate sector  
For details, see [Tax Analysis Issue H107/2022](#)
- Hong Kong defers the implementation of Pillar Two  
For details, see [Tax Newsflash - 18 August 2022](#)
- Information return and safe harbours published  
For details, see [Tax Newsflash – 21 December 2022](#)

#### Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS)

- Instrument of approval deposited for Hong Kong on 25 May 2022
- Effective in Hong Kong on 1 April 2023 for withholding taxes and 1 April 2024 for other taxes at the earliest
- For details, see [Tax Newsflash Issue 153](#) and [Tax Newsflash Issue 161](#)

#### Hong Kong-Mauritius tax treaty signed







- Hong Kong signed a tax treaty with Mauritius on 7 November 2022
- Mauritian Cabinet approves the tax treaty on 25 November 2022
- Pending ratification procedures by Hong Kong
- For details, see [Tax Newsflash Issue 164](#)

#### Passage of peer reviews




Hong Kong passed the following peer reviews during the year:

- BEPS harmful tax practices ([Peer review results](#))
- Treaty shopping under BEPS Action 6 ([Peer review report](#))
- Country-by-Country Reporting ([Peer review report](#))
- Automatic exchange of financial account information 2022 ([Peer review report](#))
- Exchange of information on tax rulings for 2021 ([Peer review report](#))

#### IRD's administrative measures

-  Continuation of relief measure on payment of tax by instalments  
[Tax Newsflash Issue 156](#)
-  Interest on Tax Reserve Certificates  
[IRD's announcement](#)
-  Preliminary edition of the IRD Taxonomy Package  
[IRD's announcement](#)
-  Tax concession for carried interest – Hong Kong Monetary Authority released guidelines on auditor's report for fund certification  
[Tax Newsflash Issue 159](#)
-  List of qualifying debt instruments  
[IRD's announcement](#)
-  IRD to relocate offices to Kai Tak  
[IRD's announcement](#)

#### Others

-  Annual meeting between HKICPA and the IRD 2021  
[Tax Newsflash Issue 152](#)
-  2022 Policy Address - New initiatives to attract business and talents  
[Tax Newsflash Issue 162](#)
-  Trade consultation on enhancing aircraft leasing preferential tax regime  
[IRD's announcement](#)



Extend facilitation measure to accept applications for extension of stay  
[Tax Newsflash Issue 167](#)



Top Talent Pass Scheme  
[Tax Newsflash Issue 169](#)

If you have any questions, please contact our professionals:

---

### Authors

#### Doris Chik

Tax Partner

+852 2852 6608

[dchik@deloitte.com.hk](mailto:dchik@deloitte.com.hk)

#### Carmen Cheung

Tax Manager

+852 2740 8660

[carmcheung@deloitte.com.hk](mailto:carmcheung@deloitte.com.hk)

#### Kiwi Fung

Tax Manager

+852 2258 6162

[kifung@deloitte.com.hk](mailto:kifung@deloitte.com.hk)

---

### Global Business Tax Services

#### National Leader

##### Andrew Zhu

Tax Partner

+86 10 8520 7508

[andzhu@deloitte.com.cn](mailto:andzhu@deloitte.com.cn)

#### Hong Kong

##### Raymond Tang

Tax Partner

+852 2852 6661

[raytang@deloitte.com.hk](mailto:raytang@deloitte.com.hk)

---

**Get in touch**



Deloitte China provides integrated professional services, with our long-term commitment to be a leading contributor to China's reform, opening-up and economic development. We are a globally connected firm with deep roots locally, owned by our partners in China. With over 20,000 professionals across 30 Chinese cities, we provide our clients with a one-stop shop offering world-leading audit & assurance, consulting, financial advisory, risk advisory, tax and business advisory services.

We serve with integrity, uphold quality and strive to innovate. With our professional excellence, insight across industries, and intelligent technology solutions, we help clients and partners from many sectors seize opportunities, tackle challenges and attain world-class, high-quality development goals.

The Deloitte brand originated in 1845, and its name in Chinese (德勤) denotes integrity, diligence and excellence. Deloitte's professional network of member firms now spans more than 150 countries and territories. Through our mission to make an impact that matters, we help reinforce public trust in capital markets, enable clients to transform and thrive, empower talents to be future-ready, and lead the way toward a stronger economy, a more equitable society and a sustainable world.

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.

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.

Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

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 DCTL, 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. DCTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2023 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.