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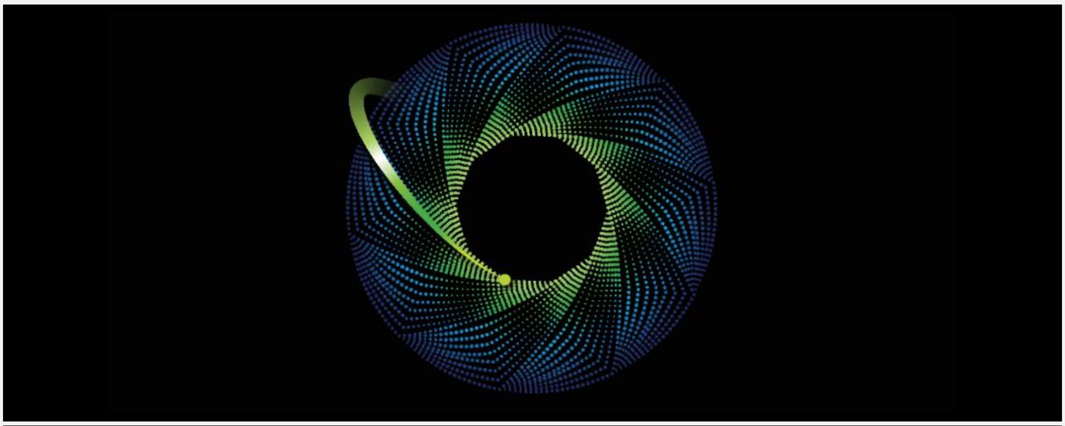

Hong Kong Tax Newsflash
Multilateral Instrument
- instrument of approval deposited for Hong Kong

Back in June 2017, as one of the 68 jurisdictions, China signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) with the OECD and extended its application to Hong Kong by way of territorial extension. On 25 May 2022, China deposited the instrument of approval for the MLI and submitted a list of final reservations and notifications on the MLI for Hong Kong.

There are no material changes to Hong Kong's MLI position since June 2017. As a recap, Hong Kong would implement the mandatory provisions of the MLI, including the preamble text stating the intention of the comprehensive double taxation agreements (CDTAs), the principal purpose test and the dispute resolution mechanism, while opting out the remaining articles so as to minimize the unintended impact to Hong Kong.

Hong Kong has added 3 more CDTAs (with Cambodia, India and Saudi Arabia) under the MLI since June 2017. As of May 2022, there are 45 CDTAs concluded, out of which 39 would be covered by the MLI. Nevertheless, it is worth noting that the remaining CDTAs (with Estonia, Finland, Georgia, Macau, China and Serbia), though not covered by the MLI, have already adopted the relevant provisions in the MLI.

As a next step, an order would be made by the Chief Executive in Council under section 49 of the Inland Revenue Ordinance to give effect to the MLI in Hong Kong. The order would be subject to negative vetting by the Legislative Council.

When the MLI enters into effect, the relevant CDTAs must be read and interpreted along with the MLI. Taxpayers are suggested to review their cross-border arrangements where tax treaties apply and examine if there is any impact brought by the MLI provisions. Please refer to our *Hong Kong Tax Analysis Issue H75/2017* published in August 2017 for the background of MLI and Hong Kong's MLI position.

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