



Hong Kong Tax Newsflash

Multilateral Instrument – Synthesised texts of tax treaties published

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The synthesised/consolidated texts of various tax treaties as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and the protocol(s) are now available on the Inland Revenue Department's (IRD) [website](#).

Background

Back in June 2017, China signed the MLI with the OECD and extended its application to Hong Kong SAR by way of territorial extension. Further to the deposit of the instrument of approval and the notification confirming that Hong Kong has completed its internal procedures for the entry into effect of the MLI, the MLI provisions have become effective, subject to the completion of the legislative and other relevant procedures of the MLI by the tax treaty partners.

As a recap, Hong Kong only implements the mandatory provisions of the MLI, including the preamble text stating the intention of the tax treaty, the principal purpose test and the dispute resolution mechanism. Please refer to our [Hong Kong Tax Analysis Issue H75/2017](#), [Hong Kong Tax Newsflash \(Issue 153\)](#) and [Hong Kong Tax Newsflash \(Issue 161\)](#) for more details.

Effective dates of the MLI provisions

Out of the 39 tax treaties covered by the MLI, 30 of them have completed the procedures for entry into effect of the MLI. The links to synthesised text of the tax treaties, as well as the effective dates of the MLI provisions in Hong Kong and the treaty partners are set out below:

Treaty partner	Effective dates of MLI provisions			
	For withholding taxes ¹		For other taxes ³	
	Hong Kong	Treaty partner	Hong Kong	Treaty partner
1. Austria	1 Apr 2023	1 Jan 2024	1 Apr 2024	1 Jan 2024
2. Belgium	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
3. Canada	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
4. Czech	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
5. France	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
6. Guernsey	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
7. Hungary	1 Apr 2023	1 Jan 2024	1 Apr 2024	1 Jan 2024
8. India	1 Apr 2023	23 Mar 2023 ²	1 Apr 2024	23 Sep 2023
9. Indonesia	1 Apr 2023	1 Jan 2024	1 Apr 2024	1 Jan 2024
10. Ireland	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
11. Japan	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
12. Jersey	1 Apr 2023	1 Jan 2024	1 Apr 2024	1 Jan 2024
13. Korea	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
14. Latvia	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
15. Liechtenstein	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
16. Luxembourg	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
17. Malaysia	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
18. Malta	1 Apr 2023	1 Jan 2024	1 Apr 2024	1 Jan 2024
19. Netherlands	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
20. New Zealand	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
21. Pakistan	1 Apr 2023	23 Mar 2023 ²	1 Apr 2024	23 Sep 2023
22. Portugal	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
23. Qatar	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
24. Romania	1 Apr 2024	1 Jan 2024	1 Apr 2024	1 Jan 2024
25. Saudi Arabia	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
26. South Africa	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
27. Spain	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
28. Thailand	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
29. UAE	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023
30. UK	1 Apr 2023	1 Jan 2024	1 Apr 2024	23 Sep 2023

Application of MLI provisions to other tax treaties

Some jurisdictions (e.g. Italy, Kuwait, Mexico, Russia and Vietnam) have not yet completed the procedures for entry into effect of the MLI.

Some tax treaties (i.e., with Estonia, Finland, Georgia, Macao, China, Serbia and Mauritius), though not covered by the MLI, have already adopted the relevant MLI provisions. Therefore, there is no need to apply the MLI to modify their applications.

Our observation

The synthesised/consolidated texts would facilitate the understanding of the application of the tax treaties as modified by the MLI and the protocol(s). The texts in the tax treaties, the protocol(s) and the MLI should be referred to in case of conflict with the synthesised/consolidated texts. The modifications made by the MLI to a covered tax treaty and the timing of entry into effect of those modifications depend on the reservations and notifications applicable to

Hong Kong and the tax treaty partner under the MLI. Taxpayers should pay attention to the effective dates of MLI provisions when reviewing their cross-border transactions.

¹ with respect to the event giving rise to the withholding tax occurs on or after that date

² with respect to the event giving rise to the withholding tax occurs on or after the first day of the next taxable period that begins on or after that date

³ with respect to the years of assessment / taxable periods beginning on or after that date

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