



Hong Kong Tax Update Newsletter Year in Review 2023

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This newsletter recaps the key tax developments that took place in 2023. Details of most of these developments have been covered in our Tax Analysis and Tax Newsflash.

Ordinances enacted

Refinements to foreign-sourced income exemption (FSIE) regime

*Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains)
Ordinance 2023*

- Expand the scope of disposal gain under the FSIE regime to cover all types of assets
- Except disposal gains of traders and intra-group transfer
- Effective from 1 January 2024
- For details, see [Tax Newsflash Issue 174](#), [Issue 177](#), [Issue 192](#), [Issue 195](#), [Issue 200](#), summary placemat ([EN](#) | [CN](#) | [KR](#)) and [IRD's website](#)

Tax certainty enhancement scheme for onshore gains on disposal of equity interests

*Inland Revenue (Amendment) (Disposal Gain by Holder of Qualifying Equity Interests)
Ordinance 2023*

- Provide greater certainty of non-taxation of onshore gains on disposal of equity interests meeting specified criteria
- Onshore disposal gains on equity interests that have been held for at least 24 months and not less than 15% of total equity interest will be regarded as capital nature and non-taxable

- Except investee entities of certain property-related businesses
- Effective from 1 January 2024
- For details, see [Tax Newsflash Issue 176](#), [Issue 191](#), [Issue 196](#), [Issue 203](#), summary placemat ([EN](#) | [CN](#)) and [IRD's website](#)

Tax concessions for family office

Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Ordinance 2023

- 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 166](#) ([EN](#) | [CN](#)), [Issue 179](#) ([EN](#) | [CN](#)), [Issue 180](#) ([EN](#) | [CN](#)), [Tax Analysis H114/2023](#) ([EN](#) | [CN](#)), summary placemat ([EN](#) | [CN](#)) and [IRD's website](#)

Risk-based Capital (RBC) regime for insurance industry

Insurance (Amendment) Ordinance 2023

- Provide a legal framework for the implementation of RBC regime for the insurance industry
- Provide for a spreading over arrangement to assess the one-off increase in assessable profits arising from the implementation of the RBC regime over five years
- Re-define the insurance businesses into 3 categories for tax purpose – life, non-life long term and general insurance businesses and provide that the assessable profits of non-life long term insurance business be ascertained based on the adjusted surplus basis per Section 23 of the Inland Revenue Ordinance
- For details, see [Tax Newsflash Issue 181](#) and [Issue 190](#)

Stamp duty exemption for market makers

Stamp Duty (Amendment) Ordinance 2023

- Exempt the stamp duty payable for certain transactions relating to dual-counter stock made by market makers
- Effective from 27 January 2023
- For details, see [Tax Newsflash Issue 170](#)

Adjustment of stamp duty rates on property transactions

Stamp Duty (Amendment) (No. 2) Ordinance 2023

- Adjust value bands of ad valorem stamp duty payable (Scale 2 rates) for sale and purchase / transfer of residential and non-residential properties with effect from 22 February 2023
- For details, see [Tax Newsflash Issue 175](#) ([EN](#) | [CN](#)), [Tax Analysis Issue H112/2023](#) ([EN](#) | [CN](#)) and [Tax Newsflash Issue 183](#)

Stamp duty refunds for eligible incoming talent

Stamp Duty (Amendment) (No. 3) Ordinance 2023

- Introduce a refund mechanism for non-Hong Kong permanent residents who entered Hong Kong under designated talent admission schemes, purchased a residential property in Hong Kong, and subsequently become Hong Kong permanent residents
- Effective from 19 October 2022
- For details, see [Tax Newsflash Issue 162](#) and [Issue 187](#)

Reduction of stamp duty rate on stock transfer

Stamp Duty (Amendment) (Stock Transfers) Ordinance 2023

- Reduce the rate of stamp duty payable on contract notes for sale or purchase of Hong Kong stock from 0.13% to 0.1%
- Effective from 17 November 2023
- For details, see [Tax Newsflash Issue 197](#) and [Issue 198](#)

Increase in child allowance and one-off tax reductions

Inland Revenue (Amendment) (Child Allowance and Tax Concessions) Ordinance 2023

- Increase the basic child allowance and the additional child allowance for each child born during the year of assessment to HKD 130,000 starting from the year of assessment 2023/24
- Provide one-off reductions of profits tax, salaries tax and tax under personal assessment for the year of assessment 2022/23 by 100%, subject to a ceiling of HKD 6,000 for each case
- For details, see [Tax Newsflash Issue 175 \(EN | CN\)](#), [Tax Analysis Issue H112/2023 \(EN | CN\)](#) and [Tax Newsflash Issue 178](#)

Special football betting duty

Betting Duty (Amendment) Ordinance 2023

- Impose an annual special football betting duty of HKD 2.4 billion on the Hong Kong Jockey Club for five years
- Effective from 1 April 2023
- For details, see [Tax Analysis Issue H112/2023 \(EN | CN\)](#) and [Tax Newsflash Issue 187](#)

Amendment Bills pending passage

Stamp duty measures for residential property transactions

Stamp Duty (Amendment) (Residential Properties) Bill 2023

- Shorten the resale period during which the Special Stamp Duty can be charged from three years to two years
- Reduce the ad valorem stamp duty rate of Part 1 of Scale 1 from 15% to 7.5%
- Reduce the rate of Buyer's Stamp Duty from 15% to 7.5%
- Introduce a stamp duty suspension mechanism for eligible incoming talents purchasing residential property in Hong Kong
- Effective from 25 October 2023, subject to enactment of legislation
- For details, see [Tax Newsflash Issue 197](#)

Enhancements of the aircraft leasing preferential tax regime

Inland Revenue (Amendment) (Aircraft Leasing Tax Concessions) Bill 2023

- Provide a new deduction of acquisition cost of aircraft
- Expand the scope of lease and remove the one-year lease term restriction
- Expand the scope of leasing activities
- Provide a new deduction of interest expense to non-financial institution or associate for acquisition of aircraft
- Prescribe thresholds for substance requirement
- Effective from the year of assessment 2023/24, subject to enactment of legislation
- For details, see [Tax Newsflash Issue 199](#)

Tax deductions for spectrum utilization fees

Inland Revenue (Amendment) (Tax deductions for Spectrum Utilization Fees) Bill 2023

- Provide a new tax deduction for spectrum utilization fees to be paid by the future assignees of radio spectrum over the spectrum assignment term (generally 15 years)
- For details, see [Tax Newsflash Issue 201](#)

Proposed new tax regimes pending Bills introduction

Patent box tax incentive

- Provide tax concessions for onshore intellectual property income from qualifying patents and software generated through research and development activities
- Proposed concessionary tax rate of 5%
- For details, see [Tax Newsflash Issue 194](#) and [Issue 197](#)

Company re-domiciliation regime

- Introduce a legal regime to facilitate company re-domiciliation to Hong Kong
- For details, see [Tax Newsflash Issue 184](#)

Court / Board of Review cases

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

- Court of Appeal ruled amortization of upfront lump sum spectrum utilisation fees non-deductible
- Case finalized
- For details, see [Tax Analysis Issue H111/2022](#)

Profits Tax – *The Servicemen's Guides Association v. CIR* [2023 HKCFI 82]

- Court of First Instance held that the taxpayer was not a charitable institution under Section 88 of the Inland Revenue Ordinance

Profits Tax – *Patrick Cox Asia Limited v. CIR* [2023 HKCFI 2676]

- Court of First Instance held that the upfront payment and royalties were sourced from Hong Kong and the upfront payment was revenue in nature
- Case not yet finalized

Profits Tax – Board of Review case no. [D12/22](#)

- Sums derived by property developers from deposits placed in stakeholder accounts in respect of pre-sale of uncompleted residential units would not qualify for exemption under the Exemption from Profits Tax (Interest Income) Order

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

- Limited liability partnership in UK was entitled to stamp duty group relief
- Court of Appeal granted the leave to appeal and the hearing is scheduled on 14 March 2024
- For details, see [Tax Analysis Issue H108/2022](#)

Salaries Tax – *Dr. The Honourable Leung Ka-Lau v. CIR* [2023 HKCFA 36]

- Compensation for loss of rest days and statutory holidays was taxable
- Case finalized
- For details, see [GES Tax Newsflash – 16 November 2023](#)

Salaries Tax – *Randeep S Grewal v. CIR* [2023 HKCFI 3109]

- Court of First Instance held that the taxpayer's employment income was sourced in Hong Kong and therefore should not be assessed on a time-apportionment basis
- Case not yet finalized

International tax

Pillar Two – Global Anti-Base Erosion (GloBE) Rules

- Hong Kong will implement the global minimum tax and domestic minimum top-up tax starting from 2025
For details, see Tax Analysis Issues H112/2023 ([EN](#) | [CN](#)) and [H113/2023](#)
- Consultation on implementation in Hong Kong launched on 21 Dec 2023
For details, see [Tax Newsflash Issue 204](#)
- OECD published the following documents during 2023:
 - Administrative Guidance on the GloBE Rules ([Feb 2023](#), [Jul 2023](#) and [Dec 2023](#))
 - [GloBE Information Return](#)
 - [Subject to Tax Rule](#)For details, see [Tax Newsflash Issue 171](#), [Tax Newsflash – 18 Jul 2023](#) and [Tax Newsflash – 21 Dec 2023](#)

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

- Notification of confirmation of completion of internal procedures for the entry into effect of the MLI provisions deposited for Hong Kong on 21 February 2023
- Effective in Hong Kong on 1 April 2023 for withholding taxes and 1 April 2024 for other taxes at the earliest, subject to the completion of the legislative and other relevant procedures of the MLI by Hong Kong's tax treaty partners
- Synthesised/consolidated texts of tax treaties as modified by the MLI and the protocol(s) are available on the IRD's website
- For details, see the [Tax Newsflash Issue 161](#), [Issue 182](#), [Notification](#) and [IRD's website](#)

Hong Kong-Mauritius tax treaty in force

- Hong Kong-Mauritius tax treaty came into force on 23 June 2023
- [CDTA](#) | [Tax Newsflash Issue 164](#) and [Issue 188](#)

Hong Kong-Bangladesh tax treaty signed

- Hong Kong-Bangladesh tax treaty signed on 30 August 2023
- [CDTA](#) | [Tax Newsflash Issue 193](#)

Passage of peer reviews

Hong Kong passed the following OECD's peer reviews during 2023:

- BEPS harmful tax practices ([Peer review results](#))
- Treaty shopping under BEPS Action 6 ([Peer review report](#))
- CbCR ([Peer review reports](#))
- Exchange of Information on Tax Rulings ([Peer review reports](#))

Mutual Agreement Procedures (MAP) statistics and report

- OECD released the 2022 MAP Statistics and a new report consolidating information on MAP for all Inclusive Framework members including Hong Kong on 14 November 2023
- [Statistics](#) | [Consolidated information](#)

IRD's administrative measures

-  Revised application forms for Certificate of Resident Status Tax Newsflash Issue 185 ([EN](#) | [CN](#))
-  2022/23 Profits tax returns filing [IRD's announcement](#)
-  Extension of filing deadline
 - N-code ([IRD's announcement](#))
 - D-code ([IRD's announcement](#))
 - M-code ([IRD's announcement](#))
-  List of qualifying debt instruments [IRD's announcement](#)
-  Interest on tax reserve certificates [IRD's announcement](#)

IRD's guidance

-  FSIE regime:
 - Updated guidance on the refined FSIE regime, information on advance ruling, more FAQs and illustrative examples uploaded [IRD's webpage](#)
 - New advance ruling cases on economic substance requirement [Case No. 68](#) | [Case No. 69](#) | [Case No. 70](#)
 - New advance ruling case on “received in Hong Kong”, participation requirement and subject to tax condition [Case No. 72](#)
-  Guidance on tax certainty enhancement scheme for onshore gain on disposal of equity interests [IRD's webpage](#)
-  Guidance on tax concessions for family-owned investment holding vehicles [IRD's webpage](#)
-  Guide to electronic filing of profits tax return [IRD's webpage](#)
-  Guide to iXBRL filing [IRD's webpage](#)
-  Revised guidance on aircraft leasing activities

[DIPN 54 \(Revised\)](#) | [Tax Newsflash Issue 199](#)



New guidance on court-free amalgamation and transfer of assets without sale
[DIPN 63](#) | [Tax Newsflash Issue 202](#)



Revised guidance on relief for stock borrowing and lending transactions
[SOIPN 2 \(Revised\)](#)



New procedures on application for tax exemption status as charitable bodies
[Tax Newsflash Issue 189](#)



New advance ruling case on loan securitisation
[Case No. 71](#)

Others



Annual meeting between HKICPA and the IRD 2022
[Meeting minutes](#) | [Tax Newsflash Issue 186](#)



2023 Policy Address – Tax-related measures
[Tax Newsflash Issue 197](#) | [GES Tax Newsflash – 30 Oct 2023](#)

If you have any questions, please contact our professionals:

Authors

Doris Chik

Tax Partner
+852 2852 6608
dchik@deloitte.com.hk

Carmen Cheung

Senior Tax Manager
+852 2740 8660
carmcheung@deloitte.com.hk

Kiwi Fung

Tax Manager
+852 2258 6162
kifung@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



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