

Hong Kong

Currency: Hong Kong Dollar (HK\$) Dial Code To: 852 Dial Code Out: 00

Member Firm

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A. Taxes payable

Federal taxes and levies

Profits tax

Profits tax shall be charged on every person (including corporations, partnerships and individuals) carrying on a trade, business or profession in Hong Kong. Income derived outside Hong Kong is generally exempt from tax. In the case of a financial institution carrying on business in Hong Kong, foreign sourced interest income is treated as taxable income in Hong Kong.

No distinction is made between residents and non-residents.

Tax year

The tax year covers a period of 12 months commencing on 1 April and ending on 31 March of the following year. Profits earned by a person during an accounting year ending within the tax year will be deemed to be his profits for that tax year.

Tax rates

The profits tax rates are as follows:

	2009/10 <i>(year ended 31 March 2010)</i>	2010/11 <i>(year ended 31 March 2011)</i>
Corporations	16.5%	16.5%
Persons other than corporations (subject to the progressive tax rates referred to in section C below)	15.0%	15.0%

Deemed trading receipts

The following income of a non-resident person is deemed to be receipts from a trade, profession or business carried on in Hong Kong:

- (1) Royalties receivable from the exhibition or use in Hong Kong of cinematograph or television film or tape, any sound recording or any advertising material connected with such film, tape or recording.
- (2) Royalties receivable for the use of or right to use in Hong Kong a patent, design, trademark, copyright, formula or other property of a similar nature.

- (3) Royalties receivable for the use of or right to use outside Hong Kong a patent design, trademark, copyright, formula or other property of a similar nature if the payee of such royalties has claimed a tax deduction in Hong Kong.
- (4) Sums received or accrued in respect of the hire, rental or similar charges for the use of movable property in Hong Kong.

The assessable profits for cases (1) to (3) above are equal to 30% of the sum receivable by the non-resident person if the Inland Revenue Department is satisfied that no person carrying on a trade, profession or business in Hong Kong has, at any time, wholly or partly-owned the relevant intellectual property. However, if the above condition is not satisfied, the assessable profits will be the full amount receivable by the non-resident person.

Branch profits tax

There is no distinction between branch profits tax and corporation profits tax. Branch profits of foreign corporations are also taxed at the flat rate of 16.5% on Hong Kong sourced profits.

Other taxes

Other important taxes imposed include the following:

Property tax

Property tax is charged at a standard rate of 15% on the net assessable value of any land or buildings in Hong Kong. The net assessable value is the rents payable to the owner of the land or building after deducting the following amounts:

- (a) unpaid rent
- (b) government rates paid by the owner
- (c) 20% of the assessable value after deduction of (a) and (b) above.

Any building occupied by the owner as residence is exempted from tax.

Estate duty

The Hong Kong Government has abolished the estate duty effective from 11 February 2006 pursuant to the Revenue (Abolition of Estate Duty) Ordinance 2005. No estate duty will be imposed on the value of an individual's Hong Kong property passing on death.

Stamp duty

Stamp duty applies only to the following categories of transactions:

- (a) contract notes on Hong Kong shares and marketable securities
- (b) assignment of immovable property
- (c) leases and assignment of leases of Hong Kong property
- (d) insurance of bearer instruments.

Transactions in Hong Kong shares or marketable securities during the year 2010/11 will attract an ad valorem duty of HK\$2 per HK\$1,000 payable equally by the buyer and the seller.

Stamp duty on the transfer of immovable property is levied at the following rates:

<i>Sales consideration (HK\$)</i>	<i>Stamp duty rates 2009/10</i>	<i>Stamp duty rates 2010/11</i>
1–2,000,000	HK\$100	HK\$100

<i>Sales consideration (HK\$)</i>	<i>Stamp duty rates 2009/10</i>	<i>Stamp duty rates 2010/11</i>
2,000,001–2,351,760	HK\$100 + 10% of excess over HK\$2M	HK\$100 + 10% of excess over HK\$2M
2,351,761–3,000,000	1.50%	1.50%
3,000,001–3,290,320	HK\$45,000 + 10% of excess over HK\$3M	HK\$45,000 + 10% of excess over HK\$3M
3,290,321–4,000,000	2.25%	2.25%
4,000,001–4,428,570	HK\$90,000 + 10% of excess over HK\$4M	HK\$90,000 + 10% of excess over HK\$4M
4,428,571–6,000,000	3.00%	3.00%
6,000,001–6,720,000	HK\$180,000 + 10% of excess over HK\$6M	HK\$180,000 + 10% of excess over HK\$6M
6,720,001–20,000,000	3.75%	3.75%
20,000,000– 21,739,120	3.75%	HK\$750,000 + 10% of excess over HK\$20M
21,739,121 or above	3.75%	4.25%

Special stamp duty

Subject to the enactment of the new legislation, the proposed special stamp duty applies to transactions of assignment of immovable residential property that was acquired by the seller on or after 20th November 2010 and was sold by the seller within 24 months from the date of acquisition.

Special stamp duty on the transfer of immovable residential property is levied at the following rates for different holding periods by the seller before the disposal:

- (1) 15% if the property has been held for six months or less;
- (2) 10% if the property has been held for more than six months but for 12 months or less;
- (3) 5% if the property has been held for more than 12 months but for 24 months or less.

Capital gains

There is no capital gains tax in Hong Kong and capital gains are not subject to corporate or personal income tax.

Sales tax/value added tax

There is neither sales tax nor value added tax in Hong Kong.

Fringe benefits tax

There is no fringe benefits tax in Hong Kong.

Local taxes

There are no local taxes in Hong Kong.

B. Determination of taxable income

Generally, in arriving at profits assessable to tax, deductions are allowed for revenue expenditure to the extent that they are incurred in the production of chargeable profits in the basis period. Special rules apply in respect of the following categories of expenditure.

Capital allowances

Capital allowances are available to a taxpayer who incurs qualifying capital expenditure on specified assets used in the production of chargeable profits.

The capital allowances can be classified into industrial building allowance, commercial building allowance, depreciation allowance for plant and machinery, and refurbishment allowance as summarised below.

Industrial building allowance

An initial allowance of 20% is granted in the year of purchase for capital expenditure incurred on the construction of an industrial building or structure occupied for the purposes of a qualifying trade, and an additional allowance of 4% of the capital expenditure (on a straight-line basis) is given annually.

Commercial building allowance

A building or structure used for the purposes of a trade, profession or business other than an industrial building or used as stock in trade can qualify for a commercial building allowance. An annual allowance of 4% of the capital expenditure incurred on the construction of the building is given.

Depreciation allowance on plant and machinery

Depreciation allowance on plant and machinery is in the form of an initial allowance and an annual allowance.

An initial allowance of 60% is granted in the year of purchase on capital expenditure incurred in acquiring the plant and machinery.

The annual allowance is based on the reducing value of each class of plant and machinery (the 'pool'). A pool is made up of all items of plant or machinery carrying the same rate of depreciation. It is only necessary for the assets to be or have been owned and used in the production of chargeable profits to qualify for the deduction. The annual allowance is equal to the reducing value of the pool multiplied by the appropriate depreciation rate, currently at 10%, 20% or 30% per annum.

Expenditure on prescribed fixed assets

Capital expenditure incurred on certain prescribed fixed asset in any year of assessment is allowed to be fully written-off in the year it is incurred. 'Prescribed fixed assets' include computer hardware and software, and certain defined plant and machinery that are used specifically and directly for any manufacturing process.

Expenditure on prescribed environmental protection facilities

With effect from the year of assessment 2008/09, capital expenditure incurred on certain prescribed environmental protection facilities is entitled to preferential tax deduction. Expenditure incurred on environmental protection machinery is allowed to be fully written-off in the year it is incurred whereas those on environmental protection installation is allowed to be deducted equally in five years of assessment.

Refurbishment allowance

With effect from 1 April 1998, a special allowance has been introduced to enable taxpayers to deduct 20% of the refurbishment expenditure annually over a five-year period.

Note that for industrial buildings and plant and machinery, both the initial allowance and the writing down allowance are available in a period in which the expenditure is incurred and the asset is brought into use (not just the initial allowance).

Inventory

All trading stock should be valued at the lower of cost or market value. Accepted valuation methods include FIFO and average cost but not LIFO, base stock method or replacement value. The term 'market value' would normally mean realisable value.

Capital gains and losses

Capital gains and losses are not taxable or deductible in arriving at the assessable profits.

Dividends

Dividend income, whether from Hong Kong or overseas, is not taxable. Dividends paid to either a resident or non-resident of Hong Kong are not subject to any withholding tax.

Interest deductions

Interest expenses which fall within one of the following categories are deductible if incurred for the production of chargeable profits:

- (a) Interest on money borrowed by a financial institution.
- (b) Interest subject to Hong Kong profits tax in the hands of the recipient.
- (c) Interest on money borrowed from a financial institution.
- (d) Interest on money borrowed other than from a related person or corporation, wholly and exclusively for the provision of (i) plant and machinery that qualifies for tax depreciation allowances, or (ii) trading stock used in the production of chargeable profits.
- (e) Interest paid on debentures.
- (f) Interest paid to the holder of any instrument issued:
 - (i) in the course of carrying on a business which is bona fide and marketable in either Hong Kong or major foreign financial centres approved by the Hong Kong tax authorities; or
 - (ii) pursuant to any agreement or arrangement authorised by the Securities Commission under the Protection of Investors Ordinance.
- (g) Interest on loans from a related corporation, where the creditor raised the borrowed amount entirely from the proceeds of an issue of debentures.

With effect from 25 June 2004, certain types of interest expense must satisfy the following two additional conditions to be tax deductible:

- (1) The loan must not be effectively or actually secured by the lender or an associate of the lender.
- (2) There is no arrangement in place that the interest payment will be ultimately paid back to the borrower or to a person connected with the borrower.

Both of conditions (1) and (2) apply to types (b), (c) and (d) interest expenses. For types (e), (f) and (g) interest expenses, they are required to satisfy condition (2) only.

Losses

Losses incurred can be carried forward indefinitely for set-off against any future assessable profits of the same entity. However, there are anti-avoidance provisions in the Inland Revenue Ordinance that restrict the use of tax losses where a change in shareholding was undertaken solely or predominantly for the purpose of utilising the losses to obtain a tax benefit. Losses cannot be carried back.

Offshore income

Generally, income derived from or arising outside Hong Kong is exempt from tax under the territorial taxation system.

Tax incentives

- (a) The low tax rates and territorial basis of taxation adopted by Hong Kong are in themselves major incentives to foreign investors.
- (b) Share trading profits derived by non-resident investors trading through share brokers in Hong Kong are exempt from profits tax.
- (c) Interest income derived from deposits placed in Hong Kong with authorised financial institutions by any person carrying on business in Hong Kong is exempt from profits tax.
- (d) Income derived from bona fide offshore funds managed in Hong Kong is exempt from profits tax.
- (e) Scientific research expenditure, including payments to an approved research institute and payments for technical education, qualify as allowable deductions.
- (f) Profits derived by a professional reinsurer from the business of reinsuring offshore risks will be entitled to a 50% reduction in the profits tax rate.
- (g) Profits derived from qualified debt instruments with a maturity period of at least three years will also be entitled to a 50% reduction in profits tax rate and full exemption will be granted to certain qualified debt instruments having a maturity period of seven years or more.

D. Corporate groups

Companies of the same group are assessed to profits tax separately. There is no group tax relief in Hong Kong.

E. Related party transactions

With the issuance of the Departmental Interpretation and Practice Notes 46 regarding “Transfer Pricing Guidelines – Methodologies and Related Issues”, transfer pricing becomes a hot tax topic in Hong Kong. Although transfer pricing documentation is not now mandatory in Hong Kong, it is believed taxpayers would be critically reviewed and assessed their historical, current and future transfer pricing risks in light of this guidance.

Profits on royalty and licence fee received by a related non-resident person from its Hong Kong associate may be deemed to be trading receipts in Hong Kong and therefore wholly chargeable to profits tax.

Furthermore, a non-resident person who does not carry on business in Hong Kong can be assessed to Hong Kong profits tax if he/she carries on his/her business with a closely connected resident person and the business is so arranged that the resident person earns either no profit or less than the ordinary profit which might be expected.

F. Withholding taxes

Royalties and licence fees paid to non-residents for the use of certain intellectual properties in Hong Kong and payments to non-resident entertainers or sportsmen for their performance on commercial occasions or events in Hong Kong are subject to withholding tax of 16.5% on their assessable profits. There are no withholding taxes levied on dividends and interest.

G. Exchange control

There are no exchange controls in Hong Kong.

H. Personal tax

Salaries Tax

Salaries tax is charged on individuals in respect of all income arising in or derived from Hong Kong in relation to any office, employment or pension or payments for services rendered in Hong Kong. The tax charge is calculated at the lower of:

- (a) 15% of chargeable income after deduction of charitable donations; or
- (b) the applicable progressive rates on net chargeable income after the deduction of charitable donations and personal allowances. The progressive salaries tax rates for the year 2010/11 are as follows:

Net chargeable income (NCI) (HK\$)	Progressive tax rate (%)
0–40,000	2
40,001–80,000	7
80,001–120,000	12
120,001 or above	17

Notes:

NCI = Taxable income – Allowable deductions – Personal allowances

Salaries tax payable = Net chargeable income x Progressive tax rates

	2009/10	2010/11
Personal Allowances:	<i>HK\$</i>	<i>HK\$</i>
1. Single person	108,000	108,000
2. Married person	216,000	216,000
3. Child (each):		
– first and ninth child	50,000	50,000
– year of birth (each)	50,000	50,000

	2009/10	2010/11
4. Dependent parent/grandparent:	<i>HK\$</i>	<i>HK\$</i>
(a) Aged 55 to 59:		
– basic	15,000	15,000

	– additional (for dependent living with taxpayer)	15,000	15,000
	(b) Aged 60 or above:		
	– Basic	30,000	30,000
	– Additional (for dependent living with taxpayer)	30,000	30,000
5.	Dependent brother/sister ^a	30,000	30,000
6.	Single parent	108,000	108,000
7.	Disabled dependent	60,000	60,000
	Maximum amount of additional deductions:		
1.	Self-education expenses ^b	60,000	60,000
2.	Home loan interest	100,000	100,000
3.	Elderly residential care expenses	60,000	60,000
4.	Contribution to retirement schemes	12,000	12,000
5.	Donations to charitable organization	35% of income	35% of income

Notes:

- a. For whom no child allowance is being claimed.
- b. The maximum amount that can be claimed as deductible expense for training courses attended at approved institutions.

Other income taxes

Under the Hong Kong tax system, various sources of income are taxed under separate categories (i.e. business income is subject to profits tax, rental income is subject to property tax and employment income is subject to salaries tax).

Sometimes, it may be advantageous for an individual to elect to pay tax under 'personal assessment' if he/she has expenses which may be non-deductible against a particular source of income (e.g. mortgage interest payments) or allowable tax losses which cannot be completely absorbed by his/her business profits. Under personal assessment, all his/her assessable sources of income are aggregated in a single assessment.

Applicants must be permanent or temporary residents of Hong Kong. An election for personal assessment must be made within a stipulated time limit.

I. Treaty withholding tax rates

As Hong Kong adopts the territorial tax system, income derived by a resident from overseas will not suffer double taxation in Hong Kong. Many countries which assess their residents on a worldwide basis will provide their residents with unilateral tax credit relief for any tax paid on income derived from their

businesses in Hong Kong. Hong Kong also allows deduction of foreign tax paid on a turnover basis in respect of the same income chargeable to tax in Hong Kong. Under such circumstances, businesses operating in Hong Kong generally do not have problems with double taxation of income.

Nevertheless, the Hong Kong Government recognises that there are merits in concluding double taxation agreements with its trading partners, particularly in aviation and shipping industries. Hong Kong therefore has reached different double taxation relief arrangements with Bangladesh, Belgium, Canada, Croatia, Denmark, Estonia, Ethiopia, Fiji, Finland, Germany, Iceland, Israel, Jordan, Kenya, the Republic of Korea, Kuwait, the Lao People's Democratic Republic, Macao Special Administrative Region, Mainland China, Maldives, Mauritius, the Netherlands, New Zealand, Norway, the Russian Federation, Singapore, Sri Lanka, Sweden, Switzerland, the United Kingdom, the United Mexican States and the United States of America, etc. in order to avoid double taxation of airline and/ or shipping income.

The Hong Kong Government has also signed comprehensive tax arrangements applicable to income other than airline and shipping income. The following table summarises the withholding tax rates in Hong Kong that are applicable to dividends, interest and royalties as provided by the double taxation agreements:

	Date of signing	Effective date	Dividend (%)	Interest (%)	Royalty (%)
<i>Non-treaty countries:</i>			–	–	4.95
<i>Treaty countries:</i>					
Austria	25.05.2010	Awaiting notification	–	–	3
Belgium	10.12.2003	Year of Assessment 2004/05	–	–	5
Brunei	20.03.2010	Awaiting notification	–	–	5
France	21.10.2010	Awaiting notification	–	–	10
Hungary	12.05.2010	Awaiting notification	–	–	5
Indonesia	23.03.2010	Awaiting notification	–	–	5
Ireland	22.06.2010	Awaiting notification	–	–	3
Japan	09.11.2010	Awaiting notification	–	–	5
Kuwait	13.05.2010	Awaiting notification	–	–	5
Liechtenstein	12.08.2010	Awaiting notification	–	–	3

	Date of signing	Effective date	Dividend (%)	Interest (%)	Royalty (%)
Luxembourg ²	02.11.2007	Year of Assessment 2008/09	–	–	3
Mainland China ³	21.08.2006	Year of Assessment 2007/08	–	–	7
Netherlands	22.03.2010	Awaiting notification	–	–	3
New Zealand	01.12.2010	Awaiting notification	–	–	5
Thailand	07.09.2005	Year of Assessment 2006/07	–	–	5/10/15 ⁴
Vietnam	16.12.2008	Year of Assessment 2010/11	–	–	7/10 ⁵
United Kingdom	21.06.2010	Awaiting notification	–	–	3

1. If the royalty income is derived from an associate of the non-resident person, the withholding tax rate will be 16.5% on the whole amount of royalty payable to the non-resident person. But the Hong Kong Inland Revenue Department will still apply the reduced withholding tax rate if it is satisfied that no person carrying on a trade, profession or business in Hong Kong has at any time wholly or partly-owned the relevant intellectual property.
2. On 2 November 2007, the Hong Kong Government signed an agreement with Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income and capital. Both governments have entered into the First Protocol to the Arrangement to clarify the different views on the interpretation of the Agreement on 11 November 2010, which is awaiting for notification.
3. On 21 August 2006, the Hong Kong and the Mainland China central governments signed the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income. This comprehensive double taxation arrangement replaces the previous one signed with the central government on 11 February 1998. Both governments have entered into the Second Protocol to the Arrangement to clarify the different views on the interpretation of the Agreement on 30 January 2008, which becomes effective on 11 June 2008. Both governments have entered into the Third Protocol to the Arrangement to clarify the different views on the interpretation of the Agreement on 27 May 2010, which is awaiting for notification.
4. 5% tax rate applies to royalty made as a consideration for the use of, or the rights to use, any copyright of literary, artistic or scientific work;
10% tax rate applies to royalty made as a consideration for the use of, or the rights to use, any patent, trademark, design or model, plan, secret formula or process; and
15% for royalty in all other cases.

5. 7% tax rate applies to royalty made as a consideration for the use of, or the rights to use, any patent, trademark, design or model, plan, secret formula or process; and
10% for royalty in all other cases.