



Hong Kong

Introduction

There is no general income tax in Hong Kong. For income to be subject to tax, it must fall under one of the specific taxation headings, namely, salaries tax, profits tax, or property tax. Hong Kong adopts a territorial basis of taxation. A person's residence status is not determinative.

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Key messages

Visitors¹ who do not exceed 60 days of presence in Hong Kong in a year of assessment will be exempt from salaries tax. Extended business travelers who exceed 60 days of presence in a year of assessment may be assessed on employment income derived from services rendered in Hong Kong plus the attributable leave only, provided that they hold non-Hong Kong-located employment.

Residence status is not determinative when considering a person's liability for salaries tax.

¹This exemption is applicable to employees only. It does not apply to individuals who hold an office in a Hong Kong-resident company.

Income tax

Liability for income tax

Taxation in Hong Kong is territorial. The residence status of an employee is not determinative when considering the individual's liability for salaries tax. Hong Kong salaries tax is charged on income arising in or derived from Hong Kong from any office or employment of profit. To determine the extent of salaries tax payable, it is first necessary to determine whether the income is derived from a Hong Kong-located employment or a non-Hong Kong-located employment. If an individual's employment is fundamentally located in Hong Kong, all income from the employment will fall within the scope of salaries tax. If an individual's employment is fundamentally located outside of Hong Kong, the liability for salaries tax will be limited to tax on income for services rendered in Hong Kong plus the attributable leave. The above does not apply to income derived from an office (such as fees paid to company directors).

Definition of source

The source of employment income is determined by the location of the employment. To determine the location of an employment, the Inland Revenue Department (IRD) will consider all the relevant facts, with particular emphasis on:

- Where the contract was negotiated, entered into, and is enforceable, whether in Hong Kong or outside Hong Kong
- Where the employer is resident, whether in Hong Kong or outside Hong Kong
- Where the employee's remuneration is paid to the employee, whether in Hong Kong or outside Hong Kong.

The IRD will look further than the external or superficial features of the employment to determine the location of the employment.

Tax trigger points

A full exemption from salaries tax can be claimed where an individual visits Hong Kong for not more than 60 days during the year of assessment (April 1 to March 31). This 60-day exemption is available only for income from employment² and does not apply to directors' fees.

Until recently, Hong Kong did not have an extensive network of comprehensive double taxation agreements. However, it is a stated government policy that agreements will be entered into, and the government has recently done so with several countries. If a double taxation agreement is in place, an employee may be able to claim full exemption from salaries tax or tax credit relief under the relevant agreement.

Types of taxable income

For salaries tax purposes, income from any office or employment includes any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite, or allowance,

whether derived from the employer or others. In addition, certain benefits (such as accommodation benefits, holiday journey benefits, and amounts paid in connection with the education of an employee's child) are specifically taxable under the legislation.

Tax rates

The maximum effective tax rate is currently 15 percent.

Social security

Liability for social security

Hong Kong does not have a social security tax system. However, all employees and self-employed persons over the age of 18 but below 65 normally residing and working in Hong Kong are required to join a Mandatory Provident Fund (MPF) scheme. Exemption from the MPF requirements can be claimed where an individual is in Hong Kong for a limited period (13 months or less) or is a member of an overseas retirement scheme.

Compliance obligations

Tax returns are generally due within one month of the date of issue.

Employee compliance obligations

Every taxpayer is required to notify the Commissioner of Inland Revenue that the taxpayer is chargeable for tax no later than four months after the end of the year of assessment in which the taxpayer is chargeable. In general, individual tax returns are issued on the first working day of May following the tax year-end, which is March 31. Extensions to the filing deadline are at the discretion of the IRD.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Hong Kong. The type of visa required will depend on the purpose of the individual's entry into Hong Kong.

Double taxation treaties

Hong Kong has entered into double taxation arrangements with Belgium, Luxembourg, the People's Republic of China, Thailand, and Vietnam. Since 2010, Hong Kong has signed double taxation agreements with Austria (May 25, 2010), Brunei (March 20, 2010), France (October 21, 2010), Hungary (May 12, 2010), Indonesia (March 23, 2010), Ireland (June 22, 2010), Japan (November 9, 2010), Kuwait (May 13, 2010), Liechtenstein (August 12, 2010), the Netherlands (March 22, 2010), New Zealand (December 1, 2010), Switzerland (December 6, 2010), and the United Kingdom (June 21, 2010). These agreements will come into effect following ratification by the relevant governments. Negotiations are being held with several other countries.

²For aircrews/shipping crews, the test is slightly modified to consider both the current year of assessment and two consecutive years of assessment (one of which is the current year of assessment).

Permanent establishment implications

The issue of whether a business is carried on in Hong Kong or whether profits are considered to be sourced in Hong Kong is a question of fact. Case law has established that very little actual activity needs to be performed in Hong Kong for an offshore entity to be regarded as carrying on business in Hong Kong. Depending on the nature of the particular income concerned, the source of profits is usually ascertained by looking at the operations that produce the profits in question and where those operations take place.

Indirect taxes

There is currently no value-added tax (VAT) or goods and services tax (GST) levied in Hong Kong.

Transfer pricing

In December 2009, the IRD released Departmental Interpretation and Practice Notes (DIPN) Number 46, which sets out its interpretation and practice regarding transfer pricing methodologies and related issues. DIPN 46 provides, for the first time, a comprehensive transfer pricing framework in Hong Kong.

DIPN 46 is generally consistent with the OECD Guidelines and international transfer pricing practices. DIPN 46 states that the IRD will apply the arm's-length principle to determine the appropriate price in the context of controlled transactions entered into by taxpayers and related parties located in other tax jurisdictions (whether or not Hong Kong has a double taxation agreement signed with those jurisdictions).

Local data privacy requirements

Hong Kong has data protection laws.

Exchange control

There are currently no foreign exchange controls on fund transfers.

Nondeductible costs for assignees

In general, a corporate deduction for expenses is allowed to the extent to which the expenses are incurred and related to profits assessable in Hong Kong. A deduction is only available for expenses that are related to revenue.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

The material contained within draws on the experience of KPMG tax personnel and their knowledge of local tax law in each of the countries covered. While every effort has been made to provide information current at the date of publication, tax laws around the world change constantly. Accordingly, the material should be viewed only as a general guide and not be relied on without consulting your local KPMG tax adviser for the specific application of a country's tax rules to your own situation.

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