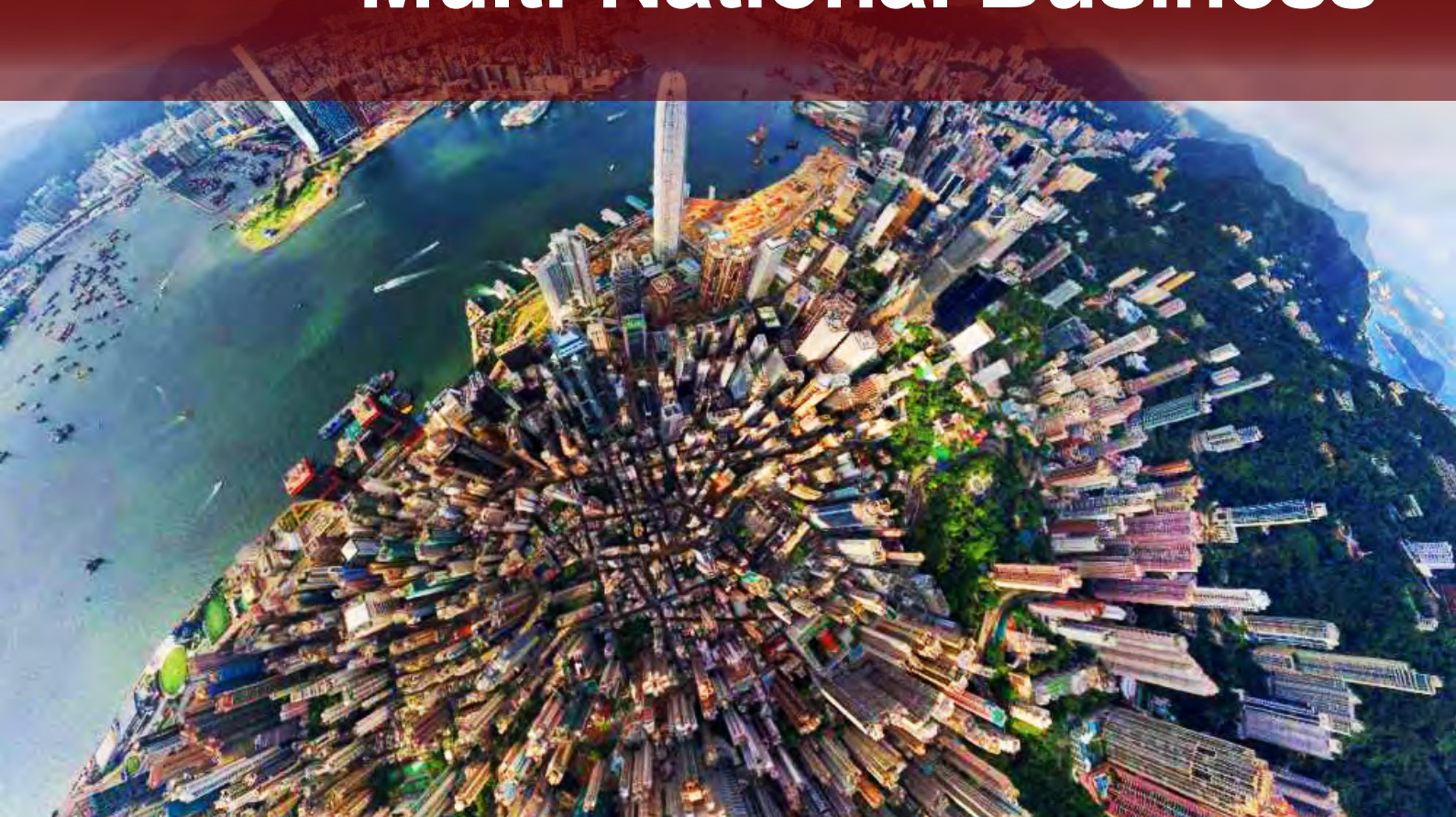




# **A Guide to Doing Business & Investing in Hong Kong**

**- Multi-National Business**





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## Preface

The purpose of this publication is to provide foreign investors with a general understanding of doing business and investing in Hong Kong(HKSAR). It is not written as a comprehensive guide, but rather it is designed to provide information on material issues that foreign investors should consider when doing business and investing in Hong Kong.

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice or legal opinion. The information contained in this publication should not form the basis of any decision as to a particular course of action. You should not act upon the information contained in this publication without obtaining specific professional advice.

Doing Business in the Hong Kong has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this guide may not be comprehensive and recipients should not act upon it without seeking professional advice. Facts and figures as presented are correct at the time of writing

By taking advantage of the Global CPA worldwide network and with our understanding of the Mainland China and Hong Kong culture and business environment, we are able to provide comprehensive services to our clients, helping them in setting up their business and exploring opportunities in Asia. We look forward to co-operating with any international business and assisting the said international business to grow globally and achieve shareholder success in the future.





# 1

## Doing Business and Investing in Asia through Hong Kong Company

# 1. Doing Business and Investing in Asia through Hong Kong Company

Hong Kong is within a four-hour radius by air to most other major Asian cities and more than a quarter of the entire global population, making it an ideal location for regional headquarters. With 7.84 million overnight visitor from Mainland China in the first half of 2013 alone, opening an office in Hong Kong provides the ideal “shop-front” for Chinese customers/clients.

Hong Kong is also the natural gateway for trade and investment to the vast market in Mainland China. Hong Kong's geographical advantage as a launching pad to markets in Asia can be seen from its position as the world's 11th largest trading economy. Hong Kong is recognized by business people worldwide to be the best service platform through which inward investors can reap the benefits of the manufacturing powerhouse of the world - the Greater Pearl River Delta. Indeed over 3, 800 overseas companies with businesses in the region including Mainland China have chosen Hong Kong as the place for their regional headquarters or offices.

Hong Kong is a major international financial centre, comprising an integrated network of institutions and markets which provide a wide range of products and services to local and international customers and investors. Hong Kong's financial markets are characterized by a high degree of liquidity and operate under effective and transparent regulations, which meet international standards. Its policy of low and simple taxation allows maximum room for business initiatives and innovation. There is a strong emphasis on the rule of law and fair market.

Many factors contribute towards Hong Kong's international reputation as both a leading manufacturing complex and a major commercial centre within Asia. These include an economic policy of free enterprise and free trade, the rule of law, a well educated and industrious workforce, a sophisticated commercial infrastructure, a port and an airport which are among the world's finest. The opening of the vast Mainland market following China's accession to the World Trade Organization (WTO) also provides impetus to bolster Hong Kong 's role as an international services and trading hub.





# 2

## Conducting Business in Hong Kong



## 2.1 Hong Kong Company Registration and Licensing

Hong Kong is renowned for being an easy place to set up a business. In under a week, and for few hundred Canadian dollars, your company can be up and running. Importantly, the same rules apply to local and overseas companies

Every business in Hong Kong is required by the Business Registration Ordinance to obtain a Business Registration Certificate within one month of commencing business for its principal office address. A Limited Company is the most commonly-used company type. This is a company which is incorporated in Hong Kong, which means that the owner can take advantage of all the tax benefits and concessions available to any fully incorporated business, including the Closer Economic Partnership Arrangement (CEPA), a free trade agreement with Mainland China.

There are two ways of establishing a private company in Hong Kong: incorporating a new company or buying a shelf (or existing) company. There are only 2 simple steps for setting up a company in Hong Kong,

- (1) incorporate your company at the Companies Registry.
- (2) register your company with the Inland Revenue Department.

Hong Kong's anti-money laundering guidelines, Know Your Customer, mean that banks may request identity and residence information for all beneficial owners of the company before they will open an account.

Licensing requirements may apply, depending on the industry and business concerned. For instance, financial institutions must be licensed by the Hong Kong Monetary Authority or firms intending to sell certain restricted goods will need appropriate licenses from the regulatory bodies responsible for the industry.

The Hong Kong companies are required to file an annual return within one month from the date of their Annual General Meeting (AGM).



## 2.2 Structure for a Hong Kong Limited Company

Hong Kong private limited company must have the minimum following:

1. One shareholder;
2. One director;
3. A company secretary;
4. A registered office address in Hong Kong;
5. An auditor; and
6. A business registration certificate.

### Director

A director must be at least 18 years of age, must not be an undischarged bankrupt, must not be subject to a disqualification order. A private company can have a director that is a corporation, but under the new CO, a private company must have at least one director who is a natural person.

The same person can be the secretary, director, and shareholder of a company, except that the sole director of a company cannot also be the secretary of the company.

### Company Secretary

A company secretary must be either an individual resident in Hong Kong or a company with a registered office or place of business in Hong Kong.

### Business Registration Certificate

A one-stop Company and Business Registration Service has been launched by the Companies Registry and the Inland Revenue Department. Applications for both incorporation and business registration may now be undertaken simultaneously.

### Registered office address in Hong Kong

A company's statutory records should be kept at its registered office. If they are kept at a different place, a notice must be filed with the Companies Registry.

### Share Capital

There is no prescribed minimum paid-up capital. The concept of nominal or authorized share capital and nominal or par value will be abolished. Instead, the articles of the company with a share capital must include a statement of capital containing some prescribed information and the initial shareholdings.



## 2.3 Hong Kong Company Directors

Every company shall have at least one director who is a Hong Kong resident or Non Hong Kong resident. The management and control of a company lies with its directors and the directors may exercise all powers of a company

Directors have various statutory duties and usually required to act honestly and use reasonable diligence in the discharge of the duties of their office and disclose potential conflict of interests. In addition, they shall ensure that there is proper accounting and record keeping to explain the transactions and financial position of the company and to enable true and fair profit and loss accounts and balance-sheets to be prepared and presented during the annual general meetings.

Whether you are an “active”, “in-active”, “shadow”, or a “sleeping” director, you are an agent of the company appointing you. This means you act for the company and in turn, the company is bound by your acts. It is important that you fulfill the key duties owed by Directors to a company as stipulated in the common law and the Hong Kong Companies Ordinance.

Directors shall not place himself in a circumstance where there is conflict between his interests and the company's. Directors should manage their companies with care, skill and diligence. Honesty and reasonable diligence are expected when directors carry out their duties.

As a Director, he/she is responsible to ensure the company complies with the requirements on time including Annual General Meeting (AGM) & Annual Return (AR), Keeping records of Statutory Registers and Reporting changes in Company Directors, Secretary, Auditors, and Managers.

In some cases, a foreign director and shareholder of a Singapore company may elect to appoint a nominee director to incorporate his entity, arrange account opening matters, or attend to board meetings.

Do note however that a Nominee Director has the same fiduciary duties as that of a regular director as mentioned in the Company's Act, including but not limited to duties to act honestly and in good faith, to avoid conflict of interest, to exercise care, skill and diligence and to not misuse powers and information.

## 2.4 Hong Kong Company Trust

A trust is the most generally used investment holding vehicles for privately to hold worldwide assets for the benefit of beneficiaries. A Hong Kong trust can provide a number of wealth planning benefits without giving rise to a Hong Kong taxation charge on offshore income or capital gains arising from the trust assets.

Hong Kong operates with a common law legal system. What's unique about such a system is the bifurcation of property rights. Property ownership can be separated into a legal interest and an equitable interest.

Having a legal interest, or legal title, means that a person owns the particular property in law. It usually also means that the legal owner's name(Agency) is registered on a Hong Kong company share certificate of ownership, or a register of that particular property. In contrast, an equitable interest entitles the equitable owner(Benefices) to a mere beneficiary interest in that particular property, in addition to other rights.

Where the property is held on trust, a trustee holds the legal title of the trust property, whereas the beneficiary has the equitable share certificate in the trust property. Using this structure, the trustee is responsible for managing the shareholder ship (for instance, exercising statutory compliance in shareholder capacity) for the benefit of the beneficiary.

The relatively simple trust law in Hong Kong is ideal for individuals and where appropriate, corporations, to establish trusts for the purpose of confidentiality, asset protection and tax structuring

In Hong Kong, unit trusts are one example of the use of trusts as investment vehicles. A unit trust is similar to a mutual fund, except that a trust vehicle is used to hold the investment portfolio. The beneficiaries of a unit trust are the unit holders.

In complex commercial transactions, trusts are often used to give security to a party in the form of the equitable interest of a property. Such property can include real assets or intangibles, like receivables. In some jurisdictions, a trust structure may confer tax savings.



## 2.5 Virtual office , Serviced office and Physical office in Hong Kong

Virtual offices or Serviced offices are a popular choice for newly arrived companies. Virtual offices provide a mailing address and a receptionist, who will answer the phone on behalf of your company. Serviced offices are available across the city, allow for short-term leases and often provide tenants with a range of secretarial services.

Leases of a Physical office are typically for two to three years with an option to renew. They should always come with a full tenancy agreement. Hong Kong's excellent public transport system means that companies can choose to locate in more affordable locations and remain easily accessible for clients and staff. Leases are typically for two to three years with an option to renew. They should always come with a full tenancy agreement.

Hong Kong's excellent public transport system means that companies can choose to locate in more affordable locations and remain easily accessible for clients and staff.







# 3

## Tax Regime and Tax Planning Opportunities in Hong Kong



## 3.1 Hong Kong Company income tax and Individual income tax

Hong Kong boasts one of the lowest tax rates in the world. Only income or sales sourced in Hong Kong is taxable. Then, the corporate income is not taxable if the said income earning activities are performed wholly outside Hong Kong. The principal direct taxes are profits tax, salaries tax and property tax. Hong Kong's taxation is also as simple as it is an incentive for enterprises to invest here.

There is no capital gains tax. Both the interest income received from bank deposits and dividends received from corporations are exempt from profits tax.

Tax type	Rate ( 2016/2017)
Profits Tax for corporation(Company income tax):	16.5% (flat rate)
Salary Tax (Individual income tax):	15% (progressive rate with maximum of 15%)

### Hong Kong Profit Tax (Company income tax)

Persons, including corporations, partnerships, trustees and bodies of persons carrying on any trade, profession or business in Hong Kong are chargeable to tax on all profits (excluding profits arising from the sale of capital assets) arising in or derived from Hong Kong from such trade, profession or business. There is therefore no distinction made between residents and non-residents. A resident may therefore derive profits from abroad without suffering tax; conversely, a non-resident may suffer tax on profits arising in Hong Kong.

### Hong Kong Salary Tax (Individual income tax)

The Hong Kong tax system is based on the territorial concept. Salaries tax is imposed on all income arising in or derived from Hong Kong from an office or employment or any pension irrespective of whether tax on that income has been paid in other jurisdictions.

#### In determining the source of employment, the following three factors are relevant:

- the place where the contract of employment was negotiated and entered into, and is enforceable;
- the employer's place of residence; and
- the place of payment of the employee's remuneration.

In general, if all three factors take place outside Hong Kong, the employment is regarded as located outside Hong Kong.

Most individual taxpayers in Hong Kong who receive income from an office, employment or pension from a Hong Kong company are charged salaries tax.

## 3.2 Hong Kong Company Income Tax Planning Opportunities

### Hong Kong Offshore Profit Tax Exemption

Only profits which have a source in Hong Kong are taxable here. Profits sourced elsewhere are not subject to Hong Kong Profits Tax. The principle itself is very clear but its application in particular cases can be, at times, contentious. To clarify the operation of the principle, we have prepared this simple guide on the territorial source principle of taxation. It gives a brief explanation of how the principle operates and provides simple examples for illustrative purposes of the tests applied to different types of businesses. If you wish to explore the subject in greater depth, we recommend that you consult Global CPA.

### Hong Kong Companies Income sourced outside Hong Kong are not taxable

The Courts have over the years considered the subject of the source of profits. The following principles have emerged from authoritative court decisions.

#### *Matter of fact*

The question of locality of profits is a hard, practical matter of fact. No universal rule can apply to every scenario. Whether profits arise in or are derived from Hong Kong depends on the nature of the profits and of the transactions which give rise to such profits.

#### *The operations test*

The broad guiding principle is that one looks to see what the taxpayer has done to earn the profits in question and where he has done it. In other words, the proper approach is to identify the operations which produced the relevant profits and ascertain where those operations took place. The source of profits must be attributed to the operations of the taxpayer which produce them and not to the operations of other members of the taxpayer's group.

#### *Antecedent or incidental activities*

The relevant operations do not comprise the whole of the taxpayer's activities. The focus is on establishing the geographical location of the taxpayer's profit-producing transactions as distinct from activities antecedent or incidental to those transactions.



### *Place where decision is made*

The place where the day-to-day investment/business decisions take place is only one factor which has to be taken into account in determining the source of profits. It is not usually the deciding factor.

### *Gross profits from transactions*

The distinction between Hong Kong profits and offshore profits is made by reference to the gross profits arising from individual transactions.

### *Business presence overseas*

A business may maintain a presence overseas which earns profits outside Hong Kong but the absence of a business presence overseas does not, of itself, mean that all the profits of a Hong Kong business invariably arise in or are derived from Hong Kong. However, in the vast majority of cases where the principal place of business is located in Hong Kong and there is no business presence overseas, profits earned by that business are likely to be chargeable to Profits Tax in Hong Kong.



## 3.3 Hong Kong Individual Income Tax Planning Opportunities

### Hong Kong Salary Tax Exemption

Whether or not individual taxpayers can apply for an exemption of some or all of your income from salaries tax depends on the source of your employment.

The charging of salaries tax in Hong Kong is based on the territorial concept. This means that all income arising in or derived from Hong Kong from an office, employment or any pension is assessable irrespective of whether tax on that income has been paid in other jurisdictions. The following sections describe how these conditions relate to most taxpayers.

### Working physically outside Hong Kong - Tax Exemption

If the source of individual taxpayers employment is outside Hong Kong, e.g. individual taxpayers assigned to work in Hong Kong for a few years by your overseas employer and you have to perform part of your duties in other countries, the individual taxpayers is only assessed on the income attributable to the services you rendered in Hong Kong, including leave pay attributable to such services, and generally according to the number of days you were in Hong Kong (day-in-day-out basis) in a year of assessment.

### Hong Kong Salary Tax full or Partial Exemption or Relief

The individual taxpayers can apply for full or partial exemption of income or relief from tax if you satisfy one of the following conditions:

1. Only Part of Your Employment Income were sourced in Hong Kong- This exemption only applies to individual taxpayers whose source of employment is outside Hong Kong. As salaries tax in this case is only levied on income derived from services rendered in Hong Kong, income attributable to services rendered outside Hong Kong is exempt from tax. The amount of income exempted is generally computed by time-basis apportionment with reference to the number of days spent outside Hong Kong.



2. All Services Were Rendered Outside Hong Kong During the Year-This exemption is generally available to individual taxpayers irrespective of the locality of their employment. Attending trainings, meetings, or reporting in Hong Kong is regarded as services rendered in Hong Kong for the purpose of the exemption. The individual taxpayers are exempt from salaries tax for a year of assessment only if individual taxpayers rendered all services outside Hong Kong in that year of assessment, unless individual taxpayers is a civil servant or a crew member of a ship or an aircraft. Income from services rendered in Hong Kong during visits not exceeding a total of 60 days in the year is also excluded from tax.

3. Part of Your Income Has Already Been Charged to Tax in Any Other Territory During the Year-This exemption is generally only applicable to employees whose source of employment is in Hong Kong. If individual taxpayers have paid tax of substantially the same nature as Hong Kong salaries tax to a territory outside Hong Kong for income relating to services you rendered in that territory, that part of the income will be exempt from salaries tax. Evidence of foreign tax payment is required.





## 3.4 Hong Kong Stamp duties, Property tax and Transfer pricing

### Other Hong Kong taxes

#### Hong Kong Stamp duties

Stamp duties are chargeable on instruments that effect transactions in immovable property situated in Singapore, as well as stocks and shares of Hong Kong companies.

#### Hong Kong Property Tax

Property tax is a tax on the income of immovable properties, including houses, buildings and land. The tax payable is calculated based on the annual income (Rental income) of the property.

#### Hong Kong Transfer Pricing

The Courts The Inland Revenue department of Hong Kong assumed all related party transactions to be carried out at arm's length. It has issued guidance on how the arm's length principle is to be applied in practice and the documentation taxpayers need to maintain to comply with this principle.

Under the anti-avoidance ordinance, the Inland Revenue department is empowered to make pricing adjustments to transactions that are not in compliance with the arm's length standard.

The Inland Revenue department has also issued a interpretation note on transfer pricing consultation. The interpretation note outlines how the Inland Revenue department intends to review taxpayers' compliance with the arm's length standard for their related-party transactions.







# 4

## Accountancy and Statutory Auditing in Hong Kong

## 4.1 Hong Kong Accountancy

Every company registered in Hong Kong must maintain proper accounting records and these records can be kept outside Hong Kong. However, records sufficient to enable a profit and loss account and balance sheet to be prepared should be sent and kept in Hong Kong. The accounting records with all supporting vouches and supporting document must be kept for at least seven years from the end of the financial year in which the transactions or operations to which they relate are completed.

All Hong Kong companies incorporated under the Companies Act must keep books of accounts that sufficiently explain the transactions and financial position of the company. The records must also enable true and fair financial statements to be prepared from time to time. Companies can choose their financial year end.

The books may be kept either at the company's registered office or at another place that is considered by the directors to be appropriate. If the books are kept outside Hong Kong, sufficient records must be maintained in Hong Kong to facilitate the preparation and/or audit of financial statements that accurately reflect the company's financial position.

Applying to all local companies, Accounting Standards and Interpretations are developed and issued in the public interest by the Hong Kong Society of Accountants (HKSA) as being authoritative statements on accounting practice. Interpretations are authoritative guidance on the application of Accounting Standards and have the same status as the background material and implementation guidance contained in Accounting Standards. Their primary aim is to narrow the areas of difference and variety in the accounting treatment of the matters with which they deal. financial position.

The Hong Kong company may apply the Hong Kong Financial Reporting Standards which are closely modeled on International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board if subject to specific criteria. Alternative, International Financial Reporting Standards (IFRS) will be employ for financial reporting purpose. financial position.



## 4.2 Hong Kong Statutory Audit

The Hong Kong limited companies, including private and public companies and branches of foreign companies, are required to perform statutory audited by independent certified public accountants of Hong Kong.

Public-listed companies are subject to financial statement and disclosure requirements as prescribed by the Hong Kong Stock Exchange (HKSE).

### **Hong Kong Auditor**

The Companies Act requires every company, including branches of foreign companies, to appoint one or more auditors qualified for appointment under the Accountants Act to report on the company's financial statements. This requirement does not apply to those exempted in accordance with the provisions in the Companies Act (see Audit Exemption below)

The auditor(s) has to be appointed within three months of the company's incorporation and is responsible for ascertaining whether proper books of accounts have been kept and whether the financial statements agree with the company's records. Following this, the auditor(s) will report to shareholders at the AGM on the trueness and fairness of the financial statements.







# 5

## Legal Framework of Hong Kong



## 5. Legal Framework of Hong Kong

The legal system of the Hong Kong Special Administrative Region (HKSAR) is based on the rule of law and the independence of the judiciary. The constitutional framework for the legal system is provided by the Basic Law sanctioned by the National People's Congress of the PRC. Under the principle of 'one country, two systems', the HKSAR legal system, which is different from that of Mainland China, is based on the common law, supplemented by written law.

It is fundamental to Hong Kong's legal system that members of the judiciary are independent of the executive and legislative branches of government. The courts of justice in Hong Kong comprise the Court of Final Appeal, the High Court (which includes the Court of Appeal and the Court of First Instance), the District Court (which includes the Family Court), the Lands Tribunal, the Magistrates' Courts (which include the Juvenile Court), the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal.

Under the Basic Law the HKSAR has a high degree of autonomy in external affairs. With the authority of the Central People's Government where necessary, it has concluded more than 230 bilateral agreements with other jurisdictions. In addition, over 250 multilateral international conventions are applicable to the HKSAR.

Using the name "Hong Kong, China", the HKSAR also participates on its own as a full member in international organisations and conferences not limited to states, e.g. the World Trade Organization, the World Customs Organization, the Asia-Pacific Economic Co-operation, etc.

As part of the delegation of the People's Republic of China, representatives of the HKSAR Government participate in activities of the The Hague Conference on Private International Law, as well as of other international organizations and conferences limited to states, such as the International Monetary Fund, the World Intellectual Property Organization and the International Civil Aviation Organization.



# 6

## Employment Law and Human Resources



## 6.1 Employment Law

The Employment Ordinance applies to every employee engaged under a contract of employment in Hong Kong with only a few minor exceptions; for example, in relation to family members employed in family businesses, and to merchant seamen. The Employment Ordinance applies equally to locals and foreign nationals working in Hong Kong.

The Employment Ordinance covers a range of statutory provisions that may be reflected in your Hong Kong employment contract. Even if not specifically referred to, all the provisions apply to an employment contract under the jurisdiction of the laws of Hong Kong.

- Wage Protection
- Rest Days
- Holidays with Pay
- Paid Annual Leave
- Sickness Allowance
- Maternity Protection
- Severance Payment
- Long Service Payment
- Employment Protection
- Termination of Employment Contract
- Protection Against Anti-Union Discrimination



## 6.2 Mandatory Provident Fund

The Mandatory Provident Fund, often abbreviated as MPF, is a compulsory saving scheme (pension fund) for the retirement of residents in Hong Kong. Most of employees and their employers are required to contribute monthly to mandatory provident fund schemes provided by approved private organizations, according to their salaries and the period of employment.

Under the MPF System, employers are required to enroll their relevant employees in an MPF scheme, and the final decision on choosing which MPF scheme rests with employer.

Employer are encouraged, however, to consult your employees when selecting an MPF scheme for them. Employer may also join more than one MPF scheme so that their employees can choose the scheme and funds that best suit their needs.

If the overseas employee are given permission by the Government of the HKSAR to remain in Hong Kong for employment purposes and either (i) they are members of an overseas retirement scheme or (ii) the period during which they are given permission to remain in Hong Kong is 13 months or less, they are exempt from joining an MPF scheme. There is no requirement for an overseas scheme to be approved by, recognized by, or registered with MPFA. As long as the scheme is a scheme registered or domiciled outside Hong Kong, the overseas employee who is a member of the scheme is automatically exempt from joining any MPF scheme.





## 6.3 Working Visa and Immigration

All foreigners are subject to immigration controls and require employment visas before entering into employment in Hong Kong.

Visitors from over 170 countries/territories enjoy visa-free entry into Hong Kong, with limits ranging between seven and 180 days.

Foreign nationals normally need a visa before living or working in Hong Kong. But Hong Kong's light-touch visa policies mean that short-term visitors are permitted to conduct business negotiations and sign contracts while on a visitor's visa or entry permit.

Hong Kong maintains an open door policy to foreigners as it recognizes the economic importance of attracting foreign talent (such as professionals employment, investment and entrepreneurs to Hong Kong). As such, the migration processes have been made simple and straightforward to enable such global talent to come to Singapore to work and settle down.

Foreigners who want to work and live in Singapore can choose one of the following alternatives:

### Hong Kong Visa Types

#### *Employment visa*

To employ people from overseas, you need to demonstrate that a prospective employee has special skills, knowledge or experience not readily available in Hong Kong. The proposed employee must be sponsored by an employer in Hong Kong.

#### *Investment Visa*

This requires you to be a shareholder of a Hong Kong registered company. You can do this by Investing in a Hong Kong business and operate -based company

You will also need to produce details of the viability of your proposed business – or your financial position if you are investing in an existing company.

#### *Entrepreneur Visa*

The applicant should be the proprietor or partner of the start-up company or a key researcher of the relevant project. The start-up business concerned should be supported by a government-backed programmer with a rigorous vetting and selection process.



# 7

## Corporate Finance in Hong Kong



## 7.1 Company Listing in Hong Kong

Once a company has decided to pursue a listing, it must also consider a suitable market on which to list its shares. Hong Kong is the market of choice in Asia for companies seeking to go Asia or worldwide and raise funds. These include Hong Kong and Mainland Chinese companies as well as overseas companies that want to raise capital and list in a liquid and world-class market. Hong Kong's respected legal system, adherence to international standards and practices, and deep capital pool with active participation of both institutional and retail investors are just some of the attributes that contribute to our accomplishment as a global fund-raising centre.

Market capitalization of a new applicant of at least HK\$200 million (US\$26 million) at the time of listing (Main Board Rule 8.09(2)). Market capitalization at the time of listing is determined by multiplying the number of issued shares by the expected issue price. In the case of depositary receipts, the depositary receipts and the underlying shares will be taken into account when calculating the market capitalization, provided that such depositary receipts and the underlying shares are fungible.

At least 25% of the issuer's total issued share capital subject to a minimum of HK\$50 million (US\$6.4 million) must at all times be held by the public.

In the case of depositary receipts, where the depositary receipts are fungible with the underlying shares, the total shares and shares represented by depositary receipts held by the public on both the Exchange and any overseas market(s) will count towards the 25%.



## Basic Listing Requirements

The following shows some of the basic requirements for listing equity securities on the Exchange.

### Financial Requirements:

#### Main Board

A Main Board new applicant must have a trading record of not less than three financial years and meet one of the following three financial criteria:

	1. Profit Test	2. Market Cap / Revenue Test	3. Market Cap / Revenue / Cash flow Test
Profit Attributable to Shareholders	At least HK\$50 million in the last 3 financial years (with profits of at least HK\$20 million recorded in the most recent year, and aggregate profits of at least HK\$30 million recorded in the 2 years before that)		
Market Cap	At least HK\$200 million at the time of listing	At least HK\$4 billion at the time of listing	At least HK\$2 billion at the time of listing
Revenue		At least HK\$500 million for the most recent audited financial year	At least HK\$500 million for the most recent audited financial year
Cash flow			Positive cash flow from operating activities of at least HK\$100 million in aggregate for the three preceding financial years

New applicants must have a trading record of at least three financial years with:

1. management continuity for at least the three preceding financial years; and
2. ownership continuity and control for at least the most recent audited financial year.



## 7.2 Hong Kong Corporate Treasury Centre

The growing importance of the Asian business market is encouraging multinational corporations to set up corporate treasury centres in the region. A corporate treasury centre is generally regarded as an in-house bank of a multinational corporation, providing treasury services for its group companies.

To attract multinational and Mainland corporations to establish corporate treasury centres in Hong Kong, certain tax benefits are granted to Hong Kong corporate treasury centre companies under specified conditions. Hong Kong has all along been offering tax incentives to attract multinational corporations to centralize and manage their regional treasury activities in Hong Kong. An approved Hong Kong corporate treasury centre company is able to enjoy a concessionary corporate tax rate of 8.75% as opposed to the ordinary rate of 16.5%, and exemption of withholding tax.

The main activities of corporate treasury centres usually involve:

- (a) intra-group borrowing and lending;
- (b) cash and liquidity management;
- (c) processing of payments to vendors;
- (d) supporting capital raising; and
- (e) risk management.

In addition, corporate treasury centres may also hold the control function on behalf of headquarters, and help monitor changes in local regulations and market conditions.

From the perspective of multinational corporations, centralizing the treasury operations and management can help achieve the economies of scale, higher efficiency, and standardization of procedure and process.





## Hong Kong as a Regional Hub of Corporate Treasury Centre

Hong Kong has traditionally had deeper capital markets than its rival and has been preferred by companies focused on Mainland China. The advantage of Hong Kong is in RMB liquidity and the proximity to Mainland Chinese companies. For most Mainland Chinese companies on the path of internationalization, Hong Kong will be their first choice.”

Hong Kong is already a premier CTC in Asia. Hong Kong’s advantage lies in its well -developed financial infrastructure including but not limited to its deep and liquid foreign exchange and money market s, absence of capital restrictions, stable and free exchange rates, and concentration of the world’s leading banks . Furthermore, Hong Kong possesses a simple and competitive tax regime, a common law system, an excellent pool of well-educated labor force and business professionals, as well as world class transport and telecommunication infrastructure. More importantly, its proximity to Mainland China and its position as a premier offshore Renminbi centre makes Hong Kong a n ideal and preferred location for fulfilling Belt-and-Road projects. For all the reasons as mentioned in the foregoing, Hong Kong is the first choice by far in Asia for corporations , especially Chinese firms, to raise funds.





## 7.3 Hong Kong Merger and Acquisition

The most common methods of Merger and Acquisition in Hong Kong are

- (a) Share Acquisition-making an offer to all the shareholders of the target company to acquire their shares in return for cash or other consideration (such as shares in the offeror).
- (b) Asset acquisition-Asset acquisitions are used in the same manner as in other common law jurisdictions. The acquirer will either acquire the target assets directly or through a newly-incorporated acquisition subsidiary.

The Share Acquisition in a Hong Kong company involves the purchaser acquiring the company's share with all of its assets and liabilities at the time of purchase. The 'buyer beware' principle applies to a Share Acquisition and therefore the purchaser usually seeks to minimize its risk by conducting a due diligence exercise in relation to the target company and by seeking appropriate warranty and indemnity protection in the sale and purchase documentation. However, structuring a business purchase as an Asset acquisition, rather than a Share Acquisition, is usually more complicated because it may involve obtaining third-party consents and transferring employees.

Private merger and acquisition (M&A) transactions are common place in an economy like Hong Kong. By acquiring part or all of the share capital of a target company, the investor can exercise control over the company as well as its businesses and assets. Many parties tend to opt for sale of shares over sale of assets because they are simpler and more straightforward. However, as the subject of the transaction involves shares in the target company, parties should carefully consider certain common financial, tax and legal issues when structuring a share acquisition.





The principal rules regulating M&A involving public companies in Hong Kong are:

- a. the Codes on Takeovers and Mergers and Share Repurchases (the Code);
- b. the listing rules (the Listing Rules) issued by The Stock Exchange of Hong Kong Limited (the Stock Exchange);
- c. the Companies Ordinance (Chapter 32) (the CO);
- d. the Securities and Futures Ordinance (SFO).

In addition, M&A involving certain heavily regulated industries (including banking, insurance and telecoms) will also be regulated by specific ordinances.

There are no general minimum local ownership requirements, but some special rules do apply depending on the industry in which the target company operates

As mainland companies scramble for mergers and acquisitions (M&As) overseas, Hong Kong is playing an increasingly vital role as a reliable adviser and partner in these deals. Hong Kong continues to be a platform for PRC companies looking to expand beyond China and, although PRC entities (especially state-owned enterprises, SOEs) have slowed down from the buying frenzy of a couple of years ago, these activities continue to keep M&A practitioners busy.





# 8

## Hong Kong Useful Links

## 8. Hong Kong Useful Links

The links below include websites of the Hong Kong SAR Government and external websites. We are not responsible for the contents of these websites.

### Trade and Investment Links

- **Commerce & Economic Development Bureau** <http://www.cedb.gov.hk/>
- **Trade and Industry Department** <http://www.tid.gov.hk/>
- **InvestHK** <http://www.investhk.gov.hk/index.html>
- **Trade Development Council** <http://www.hktdc.com/tc-buyer/>
- **Other Economic and Trade Offices** <http://www.gov.hk/en/about/govdirectory/oohk.htm>
- **Hong Kong Monetary Authority** <http://www.hkma.gov.hk/eng/index.shtml>
- **HK Stock Exchanges & Clearing Ltd** <http://www.hkex.com.hk/eng/index.htm>
- **Tradelink** <http://www.tradelink.com.hk/eng/index.html>
- **CEPA** <http://www.tid.gov.hk/english/cepa/>

### General Information on HK Government Department

- **HKSAR Government Information Centre** <http://www.gov.hk/tc/residents/>
- **Chief Executive's Office** <http://www.ceo.gov.hk/>
- **Legislative Council** <http://www.legco.gov.hk/>
- **Basic Law** <http://www.basiclaw.gov.hk/tc/index/index.html>
- **Laws of Hong Kong** <http://www.legislation.gov.hk/index.htm>

### Discovering Hong Kong

- **Hong Kong Tourism Board** <http://www.discoverhongkong.com/us/index.jsp>





# 9

## Global CPA Contact

*A beautiful view of Global CPA HK office*



## 9. Global CPA Contact

Chapter No.	Services	Name	E-mail
1	Doing business and investing in Asia through Hong Kong company	May Ho	may@cpachina.com.hk
2	Conducting business in Hong Kong	Aries Mak	aries@cpachina.com.hk
3	Tax regime and tax planning opportunities in Hong Kong	Fiona Tsui	fiona@cpachina.com.hk
4	Accountancy and Statutory Auditing in Hong Kong	Calvin Chow	calvin@cpachina.com.hk
5	Legal Framework of Hong Kong	Simon Cheung	simon@cpachina.com.hk
6	Employment Law and Human Resources	Kiki Lam	kiki@cpachina.com.hk
7	Corporate Finance in Hong Kong	Simon Cheung	simon@cpachina.com.hk





**Eastern China Office**

**Hong Kong Office**

**Southern China Office**

**T : 021 63311978**  
**A : Room C309, Tomorrow Square,**  
**Nanjing West Road No. 389, Shang Hai, China**

**T : 852 28689888**  
**A : Level 31, Office Tower, Convention Plaza,**  
**1 Harbour Road, Wai Chai, Hong Kong, China**

**T : 020 38800116**  
**A : Level 24, Guangdong Foreign Economic & Trade Building,**  
**No.351 Tianhe Road, Guang Zhou, China**

