



**COUNTRY
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Hong Kong PRIVATE CLIENT

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This country-specific Q&A provides an overview of private client laws and regulations applicable in Hong Kong.

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HONG KONG PRIVATE CLIENT



1. Which factors bring an individual within the scope of tax on income and capital gains?

Hong Kong adopts a territorial source principle of taxation.

An individual would only be brought within the scope of tax on income if such income arises in or is derived from Hong Kong. Factors such as residence, habitual residence, domicile, nationality and citizenship are irrelevant except for double tax treaty purposes.

In most double tax treaties, an individual is considered a Hong Kong resident if he / she (i) stays in Hong Kong for more than 180 days during a year of assessment, or (ii) stays in Hong Kong for more than 300 days in two consecutive years of assessment (one of which is the relevant year of assessment), or (iii) ordinarily resides in Hong Kong. Generally, an individual ordinarily resides where he / she or his / her family lives. The Inland Revenue Department (IRD) will also consider factors such as the number of days he / she spends in Hong Kong and whether he / she has a home available to him / her outside of Hong Kong.

There is no capital gains tax in Hong Kong.

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

There is no capital gains tax in Hong Kong.

Broadly speaking, an individual may be subject to profits tax, salaries tax and property tax.

The year of assessment commences on 1 April of each year and ends on 31 March of the following year.

Persons carrying on any trade, profession or business in Hong Kong are chargeable to profits tax on all profits (excluding profits arising from the sale of capital assets and dividend income unless the foreign-sourced income exemption regime applies to such income – more discussion below) arising in or derived from Hong Kong from such trade, profession or business. Two-tiered profits tax rates apply to corporations and unincorporated businesses. For corporations, the tax rate is 8.25% on the first HK\$2,000,000 of assessable profits and 16.5% on any part of assessable profits exceeding HK\$2,000,000. For unincorporated businesses, the tax rate is 7.5% on the first HK\$2,000,000 of assessable profits and 15% on any part of assessable profits exceeding HK\$2,000,000.

Salaries tax is charged on income arising in or is derived from Hong Kong from any office or employment of profit at progressive rates from 2% to 17% on the net chargeable income or at the standard rate of 15% on the net income without allowances, whichever is lower. In determining where the source of income or where the employment is located, the IRD will take into account all relevant factors, with particular emphasis on (i) where the contract of employment was negotiated, entered into and enforced (ii) where the employer is resident and (iii) where the taxpayer (ie the employee)'s remuneration is paid to him.

Property tax is charged to the owner of any land and / or buildings situated in Hong Kong, except those (i) owned by the Government, approved charitable institutions or trust of public character or (ii) used for consular purposes. It is computed at the standard rate of 15% on the net assessable value of such land or buildings. The net assessable value is the value (after deduction of rates paid by the owner and other payments) less 20% statutory allowance for repairs and outgoings. The assessable value is calculated by reference to the actual consideration payable to the owner in respect of the right of use of the property such as gross rent received or receivable and payment for the right of use of premises under license.

Taxpayers are required to complete and return the tax

return to the IRD within one month from the date of issue of the return. An extension of one month will be given automatically if the return is filed electronically.

The due dates for tax payment are stipulated in the notice of assessment issued by the IRD. Broadly speaking,

- i. for profits tax, between November of the year in which the tax return is issued and April of the following year;
- ii. for salaries tax, between January and April of the year following the year in which the tax return is issued; and
- iii. for property tax, in or after November of the year in which the tax return is issued.

3. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

There is no withholding tax on salaries, interests, dividends or rents, except on:

- i. royalties paid to a non-Hong Kong resident company or individual and deduction of such payment is claimed in Hong Kong; and
- ii. fees paid to a non-Hong Kong resident entertainer or sportsman for his or her performances in Hong Kong (Entertainers and Sportsmen Fees).

Withholding tax rates for royalties depends on (i) whether the non-Hong Kong resident company or the individual is associated or affiliated to a person subject to profits tax in Hong Kong; and (ii) whether there is a double tax treaty between Hong Kong and the home jurisdiction of the non-resident company or individual. Generally, the effective withholding tax rates are as follows:

- i. 16.5% for an associated non-Hong Kong resident company;
- ii. 4.95% for a non-associated non-Hong Kong resident company;
- iii. 15% for an affiliated non-Hong Kong resident individual; and
- iv. 4.5% for a non-affiliated non-Hong Kong resident individual.

For Entertainers and Sportsmen Fees, the relevant withholding tax rates are as follows:

i. 10%, if agreements are made directly with a non-Hong Kong resident entertainer or sportsman or through a non-Hong Kong resident agent who is an individual person or a partnership; or

ii. 11%, if agreements are made with a non-Hong Kong resident agent who is a corporate agent or a corporation.

4. How does the jurisdiction approach the elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

Hong Kong has concluded comprehensive double taxation agreements ("DTA") with 46 jurisdictions. The most recent DTA, concluded with Mauritius on 7 November 2022, will come into force after completion of ratification procedures by both jurisdictions in 2023. Relief from double taxation in respect of income derived by a person from services rendered in a DTA territory will be provided by way of tax credit. The amount of any relief granted must not exceed the amount of the relief that would be granted had all foreign tax minimisation steps been taken (such as claiming or securing the benefit of relief, deductions, reductions or allowances and making elections for tax purpose).

Further, as part of Hong Kong's commitment to counter base erosion and profit shifting initiated by the OECD, the Inland Revenue (Amendment) (No.6) Ordinance 2018 (the "Amendment Ordinance") was enacted on 13 July 2018 to formally put in place a transfer pricing regulatory regime and introduce legal requirements for transfer pricing documentation into Hong Kong legislation. Broadly, the Amendment Ordinance codifies the arm's-length principle into the Inland Revenue Ordinance and empowers the IRD to impose transfer-pricing adjustments on either income or expenses arising from non-arm's length transactions between associated persons that give rise to a Hong Kong tax advantage.

5. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

There is no wealth tax in Hong Kong.

6. Is tax charged on death or on gifts by

individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

No estate duty is payable in respect of the estates of persons who passed away on or after 11 February 2006. Certain exemptions (including but not limited to foreign assets, donations paid to recognised charities and mandatory provident funds) are available for estates of persons who died on or before 11 February 2006.

There is no gift tax in Hong Kong.

7. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

There is no gift tax in Hong Kong.

8. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

Donations to charitable institutions or trusts of a public character may qualify for a tax deduction up to 35% of the assessable income or profits of the donor for salaries tax, profits tax or personal assessment purposes, provided that the aggregate donation must be HK\$100 or above.

9. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

In Hong Kong, tax relating to Hong Kong real property is not charged on the real property itself, but on (i) the occupier of; (ii) owner of; and (iii) specific instruments dealing with the real property.

Rates refer to taxes on the occupation of property and are charged at a percentage of the rateable value of property. All real properties situated in Hong Kong are liable to the assessment of rates. In the absence of any agreement to the contrary, the liability of rates rests

with the occupier. For the financial year 2022-2023, the rates percentage charge is 5%. The designated valuation reference date is 1 October 2021 and the rateable values take effect from 1 April 2022.

Government rent is levied on property owners under their land leases from the Government and is chargeable regardless if the property is occupied.

Government rent charged on a property may either be a fixed amount or may vary with changes in the rateable value of the property depending on the type of land lease under which the property is held. The rateable value of a property is generally the estimate of its annual open market rental value at a designated valuation reference date made on the assumption that the property was then vacant and to let. Under the Government Rent (Assessment and Collection) Ordinance, the government rent percentage charge is 3% of the rateable value of the property and is adjusted according to any subsequent changes in the rateable value.

Stamp duty is chargeable on instruments specified in the First Schedule to the Stamp Duty Ordinance (SDO), which includes instruments relating to transaction in immovable property in Hong Kong, as well as its duplicates and counterparts (Chargeable Instruments). Stamp duties applicable to immovable property generally are as follows: -

i. Ad Valorem Stamp Duty (AVD)

AVD is chargeable based on the sale price or the market value of the property (whichever is higher), and payable at the rate under Part 1 of Scale 1 of the SDO (ie a flat rate of 15%, also known as the New Residential Stamp Duty rate, on an agreement for sale for the acquisition of any residential property or a conveyance on sale of such a property).

A general exception to AVD is where the purchaser or transferee is a Hong Kong permanent resident (HKPR) acting on his own behalf and he does not own any other residential property in Hong Kong at the time of acquisition of the subject property. In which case the lower rates under Scale 2 (ie 1.5% up to 4.25%) will apply to such agreement / conveyance.

Instruments executed for the sale and purchase or transfer of more than a single residential property will be subject to AVD at the flat rate of 15%. Thus, a HKPR or non-HKPR who acquires more than a single residential property under a Chargeable Instrument will be liable to pay AVD at a flat rate of 15%, irrespective of whether or not he / she is a beneficial owner of any other residential property in Hong Kong on the date of acquisition of the

subject properties.

ii. Special Stamp Duty (SSD)

SSD applies to residential property disposed of within 36 months. SSD will be imposed on top of the AVD at regressive rates from 10% to 20% for different holding periods.

iii. Buyer's Stamp Duty (BSD)

BSD is payable at a flat rate of 15% on an agreement for sale or a conveyance on sale for the acquisition of any residential property by non-HKPR on top of the existing AVD and SSD (if applicable). An exception to that is where the purchaser / transferee is a HKPR acquiring the property on his / her own behalf.

iv. Stamp duty relating to leases or tenancy agreements

Lease, agreement for lease and any other document of similar nature (Tenancy Agreement) are chargeable with stamp duty. The Landlord, tenant and any other persons signing the Tenancy Agreement are liable for payment of stamp duty.

Stamp duty rates depends on the length of the term of the Tenancy Agreement. It ranges between 0.25% and 0.5% of the yearly or average yearly rent for Tenancy Agreements that do not exceed 3 years, and 1% of the yearly or average yearly rent for those that exceed 3 years.

Please refer to the answer to Question 2 above for a discussion on the property tax.

10. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

N/A

11. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

With a few exceptions, every person carrying on business in Hong Kong must register the business with the IRD and pay the required fee and levy. Business operators may select business registration certificates that are valid for one year or three years.

AVD is chargeable on contract notes for the sale and purchase of Hong Kong stock. With effect from 1 August 2021, AVD is chargeable on the contract notes at the

rate of 0.13% of the consideration (or the market value if it is higher) payable by each of the buyer and the seller. In the case of a voluntary disposition where contract notes are not required, the instrument of transfer is chargeable to HK\$5 each plus 0.26% of the payable on the value of shares.

12. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

This is not applicable.

13. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

There is no particular pre-entry tax planning in Hong Kong.

14. What are the main rules of succession, and what are the scope and effect of any rules of forced heirship?

In Hong Kong, the disposal of movable property by Will or intestacy is governed by the law of the deceased's domicile at death and, in the case of immovable property, by the law of the place where the immovable property is situated.

Hong Kong does not have forced heirship laws.

However, under the Inheritance (Provision for Family and Dependents) Ordinance, certain categories of persons (such as spouse, children, parents of the deceased who were being maintained by the deceased immediately before the death of the deceased) may apply to the court for an order, for example, to make periodic payments out of the net estate of the deceased to the applicant, on the ground that the disposition of the deceased's estate effected by their will or the law relating to intestacy, or the combination of such will and that law, is not such as to make reasonable financial provision for the applicant.

Further, if a person makes a gift or disposition for which the full valuable consideration was not given (eg, a contribution to a trust) within six years before their death and such gift or disposition was made with the intention of defeating an application for financial

provision against their estate, the court may on application order the recipient (eg, the trustees of a trust) to provide such sum of money or other property for the purpose of the making of that financial provision.

15. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

There is no matrimonial property regime in Hong Kong. Each spouse owns and administers the property they acquired whether before or during the marriage and they can freely transfer their property respectively, without the consent of the other spouse during the marriage.

In the event of a divorce, division of matrimonial property will be determined by common law principles of fairness and equality. When applying these principles, the courts will look at what is fair and reasonable under unique circumstances of each case.

In deciding how matrimonial assets are to be divided, Hong Kong courts will consider all the circumstances of a case, including the factors in Section 7(1) of the Matrimonial Proceedings and Property Ordinance, as follows:

- the income, earning capacity, property and other financial resources that each of the parties to the marriage has or is likely to have in the foreseeable future;
- the financial needs, obligations and responsibilities that each of the parties to the marriage has or is likely to have in the foreseeable future;
- the standard of living enjoyed by the family before the breakdown of the marriage;
- the age of each party to the marriage and the duration of the marriage;
- any physical or mental disability of either of the parties to the marriage;
- the contributions made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family; and
- in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.

A five-step process guides all Family Judges on how to approach the above factors in exercising their discretion:

- Step 1 – identify the parties' assets.
- Step 2 – assess the parties' financial needs.
- Step 3 – consider the sharing principle if assets exceed needs.
- Step 4 – consider whether there are good reasons to depart from equal division.
- Step 5 – decide the outcome.

The Court of Final Appeal further identified the following four principles to be followed when deciding on each case:

- objective of fairness;
- rejection of any gender or role discrimination;
- yardstick of equal division; and
- rejection of minute retrospective investigation.

16. What factors cause the succession law of the jurisdiction to apply on the death of an individual?

Please refer to the answer to Question 13 above.

17. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

Please refer to the answer to Question 13 above for details in relation to the treatment of movable and immovable assets with reference to Hong Kong and foreign succession laws.

18. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

Whether an individual should make a Will in Hong Kong depends on (i) the individual's domicile; and (ii) the nature and location of the assets belonging to such individual. An individual should make a Will in Hong Kong if such individual has:

- i. immovable assets in Hong Kong.
- ii. movable assets in Hong Kong and is domiciled in Hong Kong or outside Hong Kong.

If the deceased died intestate and domiciled in Hong

Kong, the estate of the deceased will be dealt with in accordance with the Intestates' Estates Ordinance. Please refer to the answer to Question 13 above for the treatment of the deceased's estate if the deceased died intestate and domiciled outside Hong Kong.

In Hong Kong, the requirements for making a valid Will is that it must be in writing (in English or Chinese), signed by the testator in the presence of at least two witnesses who are above the age of 18 and are not beneficiaries under the Will. That said, a Will may still be valid even if it fails to satisfy the formalities of a valid Will, provided that on application the Hong Kong courts are satisfied that there can be no reasonable doubt that the document embodies the testamentary intentions of the deceased.

19. How is the estate of a deceased individual administered and who is responsible for collecting assets, paying debts, and distributing to beneficiaries?

Generally, if the deceased domiciled in Hong Kong and died:

i. testate, the executor(s) appointed in the Will shall apply for a grant of probate in respect of the estate of the deceased. The appointed executor(s) are responsible for collecting assets, paying debts, and distributing assets in the deceased's estate to the beneficiaries.

ii. intestate, the administrator(s) shall apply for a grant of letters of administration in the estate of the deceased. The administrator(s) are responsible for collecting assets, paying debts, and distributing assets in the deceased's estate to the beneficiaries. The number of administrator(s) required to make such application depends on whether there is a minority or a life interest in the deceased's estate. The persons entitled to be appointed as administrators are determined by the order of priority provided in Rule 21 of the Non-Contentious Probate Rules.

20. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

The most commonly used structures for succession

planning in Hong Kong are trusts and companies.

Partnerships are rarely used for succession planning in Hong Kong.

There is no private foundation under Hong Kong law.

21. How are these structures constituted and what are the main rules that govern them?

In Hong Kong, a trust structure can generally be established by executing a trust deed during the lifetime of an individual. These trust structures are governed by the common law, the Trustee Ordinance, the Perpetuities and Accumulations Ordinance and the Recognition of Trusts Ordinance.

Any Hong Kong company held under a trust structure is required to be registered and will be governed by the Companies Ordinance ("CO") and the Inland Revenue Ordinance.

Trusts and companies in Hong Kong are also required to comply with the Anti-Money Laundering and Counter-Terrorist Financing Ordinance.

22. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

No registration or disclosure is required with any particular Hong Kong authority or regulator for trusts established in Hong Kong. There is no ultimate beneficial ownership register in Hong Kong.

If a company governed by the CO is part of the trust structure, the identities and information relating to:

i. the shareholder(s), director(s) and company secretary are accessible by the public; and

ii. the significant controllers (ie those who hold more than 25% of the issued shares in the company), which are documented in a register are accessible by certain authorities or regulators, but not by the public.

Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, a company that carries out the business of providing trust or company services in Hong Kong must apply for a trust or company service provider licence.

23. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Please refer to the answer to Question 2 above for information relating to salaries tax and profits tax. To reiterate, profits tax is only chargeable on profits derived from Hong Kong. Hence, the settlor, founder and the beneficiaries are not subject to tax in relation to gift, gains or income from the trust.

The trustee, on the other hand, is taxable on its trustee fees for acting as a trustee, so as the directors on its directors' remuneration (if any) for providing directorship services to the underlying companies.

If the trust conducts any trade, profession or business in Hong Kong and engages in any property transactions through underlying companies, then the companies are, like any other standalone companies, subject to profits tax and property tax. For example, if a trust or any of its underlying company acquires a Hong Kong residential property, it will be subject to the same tax treatment set out in question 9 above regardless of the residence status of its director(s) and shareholder(s).

24. Are foreign trusts, private foundations, etc recognised?

Trusts governed by foreign law are recognised in Hong Kong under the Recognition of Trusts Ordinance which incorporates the Hague Convention on the Law Applicable to Trusts into Hong Kong law. There is however no equivalent legislation in Hong Kong with respect to the recognition of foreign private foundations.

25. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Please refer to the answer to Question 22.

26. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

Assets settled in a properly constituted trust are generally sheltered from claims of creditors of a settlor, as the assets are regarded as the assets of the trust.

That said, Hong Kong courts may set aside such settlement if it is satisfied that the settlement of the

property into the trust was made with the intent to defraud the creditors. Extensive power reserved by the settlor in the trust deed may also cause the trust to be vulnerable to creditors' attack.

In the case where a beneficiary has fixed interests in a trust, Hong Kong Courts have the power to make an order for payment of the income (if any) from the trust to a creditor of the beneficiary.

There is no private foundation under Hong Kong law.

27. What provision can be made to hold and manage assets for minor children and grandchildren?

Assets can be held in a trust (eg bare trust, an interest-in-possession trust and a discretionary trust) by a trustee for the benefit of minor children or grandchildren. Trusts could be created (i) during the lifetime of the settlor or (ii) upon the death of the testator or testatrix through a Will (with appropriate provisions creating a 'will trust').

There is no special tax treatment in Hong Kong for trusts set up for minor children and grandchildren.

In relation to minor children with special needs (ie. those with intellectual disability, mental disorder or autism who can claim for rehabilitation services subsidised by the Social Welfare Department or admission to special schools under the Education Bureau), parents and relatives can set up a special needs trust at an affordable fee by appointing the Director of Social Welfare Incorporated as the trustee to manage their assets in the form of a trust for their children or family members who have special needs or lack self-care capability.

28. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

Individuals are advised to consider creating an Enduring Power of Attorney (EPOA) to appoint attorney(s) to act in relation to their property and financial affairs in Hong Kong in the unfortunate event that they become mentally incapacitated. The EPOA does not currently cover matters relating to the personal care of the donor (see question 30). Unlike a power of attorney, EPOA survives the onset of the donor's mental incapacity.

The donor may appoint one or more attorney(s) to act either jointly or jointly and severally in dealing with his or her property and financial affairs in Hong Kong. He or she may stipulate the effective date of the EPOA on the date it is signed before the solicitor; on a later specified date; or upon the occurrence of a later event, so long as the following formality requirements are complied with:

- i. executed in the form prescribed in the Schedule to the Enduring Powers of Attorney (Prescribed Form) Regulation; and
- ii. signed in the presence of a Hong Kong qualified solicitor and a Hong Kong registered medical practitioner.

Broadly speaking, the appointed attorney has the power to apply the person's assets to pay for the donor's medical and living expenses, and if no restriction is specified in the EPOA in relation to the scope of the attorney's authority, he or she can pay for the donor's family's living expenses and make gifts etc.

29. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

In Hong Kong, a charity can be established through one of the following structures:

- a company incorporated under the CO. It could be a company limited by shares or by guarantee or a company incorporated overseas and registered under CO. General compliance requirements include holding annual general meetings, filing annual returns to the Companies Registry, preparing audited financial statements.
- an unincorporated association (also known as a society) which may or may not be required to be registered under the Societies Ordinance. A society has no legal status and members are personally liable if assets are not sufficient to meet the liabilities. It is not subject to the same general compliance requirements as a company incorporated under the CO;
- a trust. Trustees can be personally liable, although it is possible to limit their liabilities subject to the restrictions set out in the Trustee Ordinance; or
- a statutory body established under a specific Hong Kong Ordinance.

For an institution or a trust to be considered "a charity", it must be established for purposes which are exclusively charitable under the Inland Revenue Ordinance. The purpose of which must be one or more of the following:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; and
- other purposes of a charitable nature beneficial to the community not falling under any of the preceding heads.

Charities would need to separately make an application to the Commissioner of Inland Revenue pursuant to Section 88 of the Inland Revenue Ordinance to obtain tax exemption status. In practice, the IRD will look in favour to activities conducted in Hong Kong or activities that benefit the people of Hong Kong. Other than answering to enquiries from the IRD from time to time, tax exempt charities are subject to the same general compliance requirements as companies incorporated under the CO.

30. What is the jurisdiction's approach to information sharing with other jurisdictions?

Hong Kong has implemented automatic exchange of financial account information ("AEOI") and common reporting standards.

Under the AEOI standard, financial institutions are required to identify financial accounts held by tax residents of reportable jurisdictions or held by passive non-financial entities whose controlling persons are tax residents of reportable jurisdictions in accordance with due diligence procedures and to provide the required information of such accounts to the Inland Revenue Department. To assist financial institutions to identify such accounts, account holders may be required to provide self-certifications on their personal information including tax residence.

Hong Kong signed an intergovernmental agreement with the United States in 2014 to implement the Foreign Account Tax Compliance Act in Hong Kong. It requires participating financial institutions to identify and report account information of specified US persons to the Inland Revenue Service of the United States. Accordingly, banks may need to obtain additional information or documentation from their customers to achieve this.

Hong Kong has entered into Tax Information Exchanges Agreements with seven jurisdictions, namely, Denmark, Faroes, Greenland, Iceland, Norway, Sweden and the United States.

31. What important legislative changes do you anticipate so far as they affect your advice to private clients?

It is expected that the Continuing Powers of Attorney Bill will at some point in the future be introduced to the Legislative Council. This is intended to replace the existing Enduring Powers of Attorney Ordinance, extending the scope of EPOA to include matters relating to the personal care of the donor.

There have been a number of significant changes in relation to civil partnerships and same-sex marriages. Case law has shown how benefits that once came with traditional heterosexual marriages are now becoming more accessible for non-traditional families. This includes eligibility for dependent visa / entry permits for Hong Kong, joint assessment election on salaries tax, and access to public rental housing. Further, the exclusion of parties to same-sex marriages from legal entitlements and benefits under the Intestates' Estates Ordinance and the Inheritance (Provision for Family and Dependents) Ordinance has been held to constitute unlawful discrimination on the ground of sexual orientation. In a recent case involving a non-biological mother of children born by her former same-sex partner, the court ruled that both parents should be granted guardianship rights, joint custody and shared care and control over their children.

There is no tax for offshore passive income in Hong Kong. The EU considered that this tax exemption may give rise to double non-taxation and has included Hong Kong in its watchlist of non-cooperative jurisdictions for tax purposes as a result. In response to this, Hong Kong has introduced a refined foreign-sourced income

taxation regime, which is expected to take effect on 1 January 2023.

Under the new regime, qualifying foreign-sourced income (ie. interest, dividend, disposal gain from the sale of equity interests, and intellectual property income) can only be exempt from Hong Kong profits tax if the multinational enterprise entity meets the economic substance requirement (if the income is foreign-sourced interest, dividend or disposal gain), the nexus requirement (if the income is foreign-sourced intellectual property income), or the participation requirement (if the income is foreign-sourced dividend or disposal gain).

Changes have been made to the immigration policies in Hong Kong to attract offshore talents. This includes the launch of the Top Talent Pass Scheme, which will allow qualifying talents to enter Hong Kong for an initial period of maximum 2 years for the purpose of exploring professional opportunities and extension of the limit of stay of employment visas. From 19 October 2022, eligible talents under designated talents admission schemes who purchase a residential property in Hong Kong, and subsequently become a permanent resident in Hong Kong, may apply for a refund of the Buyer's Stamp Duty and the New Residential Stamp Duty paid for their first residential property.

Profits tax exemptions are also expected to be provided to family-owned investment holding vehicles managed by single family offices in Hong Kong for profits derived from certain qualifying transactions in specified assets and transactions incidental thereto (subject to a 5% cap of the trading receipts from the qualifying transactions). The exemptions are expected to apply from the year of assessment 2022-2023.

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