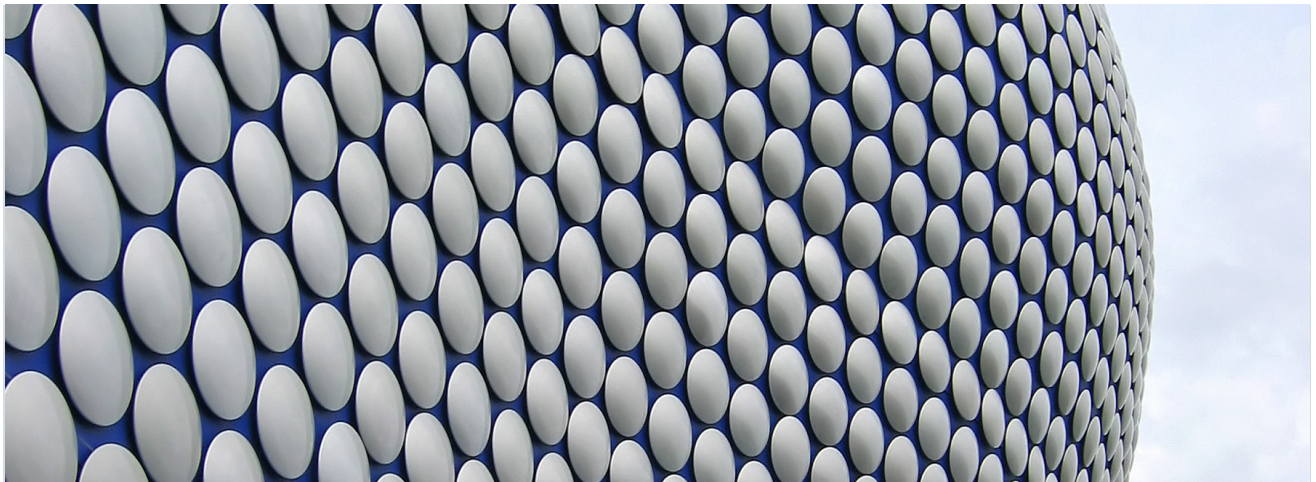


FIRST TIEA SIGNED BY HONG KONG

Hong Kong tax news - March 2014



ABOUT MAZARS

Mazars is an international, integrated and independent organisation, specialising in audit, accounting, tax and advisory services. We rely on the skills of more than 13,800 professionals in the 72 countries which make up our integrated partnership.

In China, Mazars has 600 highly-qualified professionals based in Beijing, Guangzhou, Hong Kong and Shanghai. They are fully committed to serving the growing and diversified needs of both Chinese companies and international firms.

BACKGROUND

Hong Kong ("HK") has just signed an agreement for Exchange of Information ("EoI") with the United States of America ("US") on 25 March 2014.

In order to demonstrate Hong Kong is committed to fulfil its international obligations in promoting tax transparency, the government changed its law in July 2013 to provide the legal framework enabling Hong Kong to enter into standalone Tax Information Exchange Agreements ("TIEA") with other jurisdictions.

This is the first TIEA signed by Hong Kong.

Pursuant to the HK-US TIEA, HK and the US shall provide assistance to each other through EoI that is foreseeably relevant to the administration and enforcement of internal laws concerning taxes covered by the agreement.

TAXES COVERED

For the US, taxes covered are federal taxes on income, federal taxes related to employment and self-employment, federal estate and gift taxes and federal excise taxes but does not include customs duties.

For Hong Kong, taxes covered are the 3 types of direct taxes, i.e. profits tax, salaries tax and property tax, whether or not charged under personal assessment.

EoI UPON REQUEST

The HK-US TIEA requires the contracting party (e.g. Hong Kong), upon receipt of a request from the other contracting party (the US), to provide information that is foreseeably relevant to:

- the determination, assessment and collection of such taxes,
- the recovery and enforcement of tax claims, or
- the investigation or prosecution of tax matters.

Hong Kong is required to provide the information even if such information are not needed for its own tax purposes. However, Hong Kong shall not be obligated to provide information that is neither held by its authorities nor in the possession or control of persons who are within its geographic area of jurisdiction.

Furthermore, Hong Kong is not obliged to provide the information if:

- a. Hong Kong is not able to obtain such information under its own laws for the purposes of the administration or enforcement of tax laws;
- b. the US has not pursued all means available in its geographic area of jurisdiction to obtain the information; and
- c. the supply of information would disclose any trade, business, industrial, commercial or professional secret or trade process, etc.

CONFIDENTIALITY

The TIEA requires both parties to treat the information exchanged as confidential and can only be disclosed to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution of, the determination of the appeals in relation to the taxes covered by the TIEA.

FATCA

The TIEA provides the necessary basis for Hong Kong to provide for EoI upon request made in relation to the information reported by financial institutions in Hong Kong to the US under the US Foreign Account Tax Compliance Act (FATCA). FATCA requires US persons, including those who live outside the US, to report to the US Inland Revenue Services their financial accounts held in other jurisdictions, and requires foreign financial institutions including those in Hong Kong to report the financial information in respect of their US clients.

Going forward, the Secretary for Financial Services and the Treasury indicated that Hong Kong intends to enter into an intergovernmental agreement with the US to lay down arrangements to help financial institutions in Hong Kong to comply.

The TIEA will become effective after Hong Kong has completed the necessary legislative procedures to bring the agreement into force.

The content of this newsletter is only for general guidance on matters of interest and is not meant to be comprehensive. The application and impact of laws can vary widely based on the specific facts involved. Readers are advised to consult their tax advisors before making any business decisions.

Mazars is present on 5 continents.

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