

Introduction of Two-Tier Profits Tax Rates System in Hong Kong

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Including the Hong Kong office, we operate 28 offices in China with around 3,500 staff. They are fully committed to serving the growing and diversified needs of both Chinese and international companies.

INTRODUCTION

After the Chief Executive presented in her maiden Policy Address in October 2017 that a two-tier profits tax rates system will be introduced in Hong Kong, the Inland Revenue (Amendment) (No. 7) Bill 2017 (the “Bill”) was gazette on 29 December 2017 in order to seek to implement the above system. Once enacted, the two-tier profits tax rates system will be effective from the year of assessment 2018/2019.

MAJOR PROVISIONS OF THE BILL

(1) Reduction of profits tax rate

All corporations and unincorporated businesses with assessable profits regardless of their size will be subject to reduced tax rate from the year of assessment 2018/2019 as below:

(a) The profits tax rate for an unincorporated business will be 7.5% on its assessable profits up to HK\$2,000,000 and 15% on the remaining amount of its assessable profits.

(b) The profits tax rate for a corporation will be 8.25% on its assessable profits up to HK\$2,000,000 and 16.5% on the remaining amount of its assessable profits.

(c) The profits tax rate for a corporation which is a partner in a partnership will be 8.25% on the corporation's net share of assessable profits of the partnership up to a threshold and 16.5% on any part of the corporation's net share of the assessable profits of the partnership over the threshold.

Threshold means \$2,000,000 multiplied by the ratio at which the corporation shares the profits or losses of the partnership during the basis period for the year of assessment concerned.

(d) In order to avoid double benefits of a taxpayer, if a corporation has made an election for applying concessionary tax rate at 8.25% for a portion of its assessable profits derived from a qualifying reinsurance business, qualifying captive insurance business, qualifying corporate treasury centre, qualifying aircraft leasing business

or qualifying aircraft leasing management business, the rest of its assessable profits will be subject to profits tax at the normal rate of 16.5%.

(2) One entity of a group's connected entities can enjoy the reduced profits tax rate

In order to prevent a group from splitting its business among many entities to enjoy the reduced profits tax rate, only one entity among the connected entities can elect in writing to enjoy the reduced profits tax rate for a year of assessment. The election once made is irrevocable.

An entity is a connected entity of another entity if

- (a) one of them has control over the other;
- (b) both of them are under the control of the same entity; or
- (c) in the case of the first entity being a natural person carrying on a sole proprietorship business, the other entity is the same person carrying on another sole proprietorship business.

An entity (entity A) has control over another entity (entity B) if entity A, whether directly or indirectly through one or more other entity:

- (a) owns or controls more than 50% in aggregate of the issued share capital of entity B;
- (b) is entitled to exercise or control the exercise of more than 50% in aggregate of the voting rights in entity B; or

(c) is entitled to more than 50% in aggregate of the capital or profits of entity B;

(d) in the case of entity B being a trust, entity A (other than acting as the trustee) is entitled to a vested interest in more than 50% of the capital of the property of the trust:

- (i) whether the interest is in possession or in remainder or reversion; and
- (ii) whether the interest is defeasible or not.

COMMENTS

Under the proposed two-tier tax rates system, the maximum annual tax savings for corporations and unincorporated businesses will be HK\$165,000 and HK\$150,000 respectively. This helps to reduce the tax burdens of the enterprises, especially SMEs and start-up businesses. In addition, as a number of countries are planning to reduce their corporate tax rates, we welcome the government's move to introduce the above reduced tax rates system in order to maintain Hong Kong's competitiveness.

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.



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