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## Doing Business in Hong Kong

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**DOING BUSINESS IN  
HONG KONG**

**March, 2011**

Prepared by  
Hong Kong Member of MGI

MGI  
An International Association of Independent Accounting Firms

## **PREFACE**

This booklet has been prepared by Hong Kong member of MGI for the information of clients and fellow member firms in MGI.

Whilst every care has been taken in the preparation of this booklet, no responsibility can be accepted for inaccuracies. Clients are also advised that the law and practice may change from time to time.

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## **DISCLAIMER**

MGI is an international association of independent accounting firms. Each member firm undertakes no responsibility for the activities, work, opinions or service of the other member firms.

# DOING BUSINESS IN HONG KONG

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## **A. INTRODUCTION**

### **1. LOCATION**

Hong Kong is situated in 22° 18' North and 114° 10' East, just south of the Tropic of Cancer.

### **2. AREA AND POPULATION**

Hong Kong has an area of 404 square miles and a population of over 7 million.

### **3. CLIMATE**

The climate is sub-tropical and monsoonal. Winter is cool and dry; summer hot and humid. The mean daily temperature ranges from 15° C in February to 28° C in July. The average annual rainfall is 85 inches, three quarters falling between May and September.

### **4. TYPHOON SEASON**

Normal Typhoon Season is from July to October. (However, typhoon can occur in November/December).

### **5. LANGUAGES**

The Official Languages are Chinese and English.

### **6. LOCAL TIME**

Hong Kong is 8 hours ahead of Greenwich Mean Time.

### **7. CUSTOMS**

There are no import tariffs. Revenue duties are levied on tobacco, alcoholic liquors, methyl alcohol and hydrocarbon oils. Tax also is payable on first registration of motor vehicles, except franchised buses.

### **8. GOVERNMENT**

Hong Kong becomes The Hong Kong Special Administrative Region ("SAR") of the People's Republic of China ("PRC") as from 1st July, 1997 and operates under the terms of the Basic Law. The Basic Law specifies that "The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, .... subject to any amendment by the legislature of the Hong Kong Special Administrative Region".

In relation to the economy and the tax system, the Basic Law states that the Hong Kong SAR shall have independent finances and shall use its financial revenues exclusively for its own purposes. Further, the Basic Law provides that the PRC government shall not levy taxes in the Hong Kong SAR. The Hong Kong SAR "shall practise an independent taxation system" and "shall, taking into consideration the low tax policy previously pursued in Hong Kong as reference, enact laws of its own concerning types of taxes, tax rates, tax reductions, allowances and exemptions, and other matters of taxation".

On the authority of the articles contained in the Basic Law, Hong Kong's tax system should not change significantly after the change of sovereignty. Any amendments to the system should be the policy of the Hong Kong SAR government and not the PRC government.

The Hong Kong SAR government is administered by the Chief Executive assisted by the Executive Council and the Legislative Council.

## **B. BUSINESS AND INVESTMENT**

### **9. BUSINESS FORMS**

The most common business forms for corporate investments are limited liability companies incorporated in Hong Kong.

A foreign limited company can establish a place of business in Hong Kong by registering its Hong Kong branch under the Companies Ordinance. The other forms of business are proprietorship and partnership.

### **10. CORPORATE RESIDENCE**

The tax liabilities will be imposed on every person, firm or company carrying on a trade, profession or business in Hong Kong in respect of his or its assessable profits arising in or derived from Hong Kong.

There is no distinction made between residents and non-residents.

### **11. EXCHANGE CONTROL**

There is no exchange control in Hong Kong. A free market for all major currencies is maintained and there is no restriction in respect of remittance of funds either into or out of Hong Kong.

### **12. OTHER PERMISSIONS FOR INVESTMENT**

There are no other government permissions required for investment into Hong Kong.

### **13. RESTRICTIONS ON OVERSEAS OWNERSHIP**

There are no fundamental restrictions applied in relation to overseas ownership of Hong Kong companies, except radio and television broadcasting businesses.

## **C. TAXATION IN HONG KONG**

### **14. INLAND REVENUE ORDINANCE**

The Inland Revenue Ordinance provides for the levying of three separate direct taxes for a year of assessment which ends on 31st March.

The taxes levied under the Ordinance are:-

Profits Tax  
Salaries Tax  
Property Tax

Interest Tax is abolished as from the year of assessment 1989/90.

## 15. PROFITS TAX

### (a) The Scope of the Charge

Persons, including corporations, partnerships and bodies of persons carrying on any trade, profession or business in Hong Kong are chargeable to profits tax at the profits tax rate on all profits arising in or derived from Hong Kong from such trade, profession or business excluding profits arising from the sale of capital assets.

The profits tax rate is as follows:-

	<u>2008/09</u>	<u>2009/10</u>	<u>2010/11</u>
For unincorporated businesses	15%	15%	15%
For corporations	16.5%	16.5%	16.5%

There is no distinction made between residents and non-residents. A resident may receive profits from abroad without suffering tax; conversely a non-resident may suffer tax on profits arising in Hong Kong. The question of whether a business is carried on in Hong Kong and whether profits are derived from Hong Kong is largely one of fact.

There are no special tax incentives for overseas investors.

On 11th February, 1998, there was a memorandum signed between PRC and Hong Kong SAR setting out the arrangements for the relief from double taxation.

### (b) Basis of Assessment

Tax charged on the assessable profits is calculated on the profits of the year of account ending in the year of assessment. In the year of assessment itself a provisional charge to tax is to be paid based on the profits assessed for the preceding year. The provisional payment is applied in the first instance against profits tax payable on assessable profits for that year of assessment when agreed in the following year, and excess is then applied against the provisional profits tax payable for that succeeding year.

### (c) Non-Residents and Agents dealing with Non-Residents

For the purposes of Profits Tax, a non-resident is assessable either directly or in the name of his agent in respect of all his profits arising in or deriving from Hong Kong. The agent is required to retain from the assets sufficient money to pay the tax.

Resident consignees are required to furnish quarterly returns to the Commissioner of Inland Revenue showing the gross proceeds from sales on behalf of their non-resident consignors and to pay to the Commissioner a sum equal to currently half of one per cent of such proceeds.

Where a resident carries on business with a non-resident and the business is so arranged that it produces to the resident either no profits or less than the ordinary profits that might be expected to arise to an independent concern, the business may be treated as carried on in Hong Kong by the non-resident through the resident as agent.

Where the true profits of a non-resident whose head office is outside Hong Kong do not disclose the true profits of a Hong Kong permanent establishment, the profit of the branch for tax purposes is taken to be the amount which bears to the taxpayer's total profits the same proportion as his turnover in Hong Kong bears to his total turnover.

(d) Exemptions and Deductions

Dividends received from a corporation are excluded from the assessable profits of the recipient.

Generally, all expenses, to the extent to which they have been incurred by the taxpayer in the production of chargeable profits, are allowed as deductions.

A transfer of certain allowable head office administrative expenses by means of a charge to a local branch or subsidiary in Hong Kong would be allowed as a deduction for Hong Kong tax purposes, to the extent to which they were incurred during the basis period for the year of assessment in the production of profits chargeable to tax.

(e) Losses

Losses made in an accounting year are to be carried forward and set off against future profits of that business but a corporation carrying on more than one trade may have losses in one trade offset against profits of the other.

(f) Depreciation Allowances

Industrial Buildings and Structures

Special allowances are given in respect of capital expenditure incurred in the construction of industrial buildings and structures. An initial allowance of 20% of such capital expenditure is given in the year of expenditure and an additional allowance of 4% of the expenditure is given annually until the total expenditure is written off.

Commercial Buildings and Structures

A Commercial Building or Structure can qualify for an Annual Allowance of 4% of the capital expenditure incurred on the construction of such Commercial Building or Structure.

Refurbishment and Redecoration Allowances

A specific allowance is granted to enable hotels and other businesses to deduct refurbishment and redecoration expenditure over a five-year period using an annual 20% write-off.

## Plant and Machinery

Allowances on capital expenditure incurred for the purpose of producing chargeable profits are deducted in arriving at assessable profits:-

- (i) an initial allowance of 60% on the cost of the item of plant and machinery.
- (ii) annual allowances at rates prescribed by the Board of Inland Revenue on the reducing value of the asset. The rates range from 10% to 30% according to the estimated working life of the particular category of plant or machinery.

## Specified Expenditure on Plant and Machinery

100% write-off is allowed on new expenditure on plant and machinery specifically related to manufacturing, and on computer hardware and software owned by end-users.

## Environment-friendly Facilities

With effect from 2008/09, a 100% profits tax deduction is allowed for capital expenditure on environment-friendly machinery and equipment in the first year of purchase. The depreciation period for environment-friendly installations ancillary to buildings is shorten from the usual 25 years to five years.

## 16. SALARIES TAX

### (a) The Scope of the Charge

This tax is imposed on all income arising in or derived from Hong Kong from any office or employment or any pension. "Income arising in or derived from Hong Kong", without in any way limiting the meaning of the expression, includes all income derived from services rendered in Hong Kong. Special provisions apply to seamen, airmen and other persons who visit Hong Kong for short periods. The effect of these provisions is to exclude the income of these persons from charge to tax in the majority of cases. Income includes, inter alia, the value of quarters provided rent free by an employer or the excess of this value over the rent actually paid by the employee to his employer for the quarters. The value of quarters to be included in assessment is 10% on total income (after deducting outgoings, depreciation, etc.) from the employer or any person associated with the employer. Where an employer refunds all or part of the rent paid by an employee, the place of residence is deemed to have been provided by the employer either rent free or for an amount equal to the difference between the rent paid and the amount refunded.

Separate taxation for married couples shall apply to all assessments with effect from 1989/90 assessments. Salaries Tax on spouses shall be assessed and paid separately, unless they elect to be jointly assessed.

### (b) Deductions Allowed

In addition to the deduction of expenses wholly, exclusively and necessarily incurred in the production of income, not being expenses of a private or domestic nature, a deduction may be claimed up to 35% (w.e.f. 2008/09 onwards) (2007/08: 25%) of the income less allowable expenses for donations paid to approved charities if the donations total not less than \$100. From the net figure resulting, a further deduction is made for allowances to which the taxpayer is entitled. The allowances are as follows:-

<u>Allowances:</u>	<u>2008/09</u> HK\$	<u>2009/10</u> HK\$	<u>2010/11</u> HK\$
Basic Allowance (for Single Person or Married Person under separate taxation)	108,000	108,000	108,000
Married Person's Allowance	216,000	216,000	216,000
Single Parent Allowance	108,000	108,000	108,000
Child Allowance:			
1st to 9th child (each)	50,000	50,000	50,000
Extra Allowance for Child in Year of Birth	50,000	50,000	50,000
Allowance for Dependent Parent or Grandparent aged 60 or over(each)	30,000	30,000	30,000
Additional Allowance (if residing with taxpayer) for Dependent Parent or Grandparent aged 60 or over (each)	30,000	30,000	30,000
For Dependent parent/Grandparent aged 55 to 59(each)	15,000	15,000	15,000
Additional Allowance (if residing with taxpayer)for Dependent Parent or Grandparent aged 55 to 59 (each)	15,000	15,000	15,000
Disabled Dependant Allowance (each)	60,000	60,000	60,000
Dependent Brother/Sister Allowance (each)	30,000	30,000	30,000

Allowable Expenses:

Deduction: Self-education Expenses (Max.)	60,000	60,000	60,000
Deduction for Residential Care Expenses for Dependent Parent/ Grandparent (each) (Max.)	60,000	60,000	60,000
Home Loan Interest Deduction (can be claimed for 10 tax years) (Max. each year)	100,000	100,000	100,000
Contributions to MPF or recognised retirement schemes (Max.)	12,000	12,000	12,000

The tax rates on net income from employment (i.e. gross income, less deductions allowed) are as follows:-

<u>2008/09</u>		<u>2009/10</u>		<u>2010/11</u>	
<u>Tax Band</u>	<u>Rate</u>	<u>Tax Band</u>	<u>Rate</u>	<u>Tax Band</u>	<u>Rate</u>
First \$40,000	2%	First \$40,000	2%	First \$40,000	2%
Next \$40,000	7%	Next \$40,000	7%	Next \$40,000	7%
Next \$40,000	12%	Next \$40,000	12%	Next \$40,000	12%
Balance	17%	Balance	17%	Balance	17%

However, the total salaries tax payable by an individual is restricted to an amount not exceeding the standard rate on his/her total income from employment less allowable expenses and approved charitable donations (but without deduction of allowances).

The standard rate for Salaries Tax is as follows:-

2008/09	15%
2009/10	15%
2010/11	15%

## 17. PROPERTY TAX

Property Tax is charged on the owner of the property on the net assessable value of any land or building in Hong Kong, with the exception of certain land or buildings in the New Territories, and land or buildings wholly occupied by the owner as his residence. The tax is charged on the assessable value of the property less an allowance for repairs and outgoing of 20% of that assessable value (i.e. net assessable value) at the following standard rate:-

2008/09	15%
2009/10	15%
2010/11	15%

Provisional Property Tax for any year of assessment shall be payable in advance at the standard rate on the net assessable value of the property for the year preceding the year of assessment. Property Tax for that year of assessment shall be revised afterwards on the basis of the actual net assessable value for that year of assessment.

If the income from property chargeable to Property Tax is included in the Taxpayer's profits for Profits Tax purposes, or if the property is occupied by the Taxpayer for business purposes, the amount of Property Tax paid may be deducted from the amount of Profits Tax assessed. Corporations carrying on a trade, profession or business in Hong Kong are exempted from paying the Property Tax which would otherwise be set off against the Profits Tax payable.

## 18. PERSONAL ASSESSMENT

Any individual, who is resident of Hong Kong and above the age of 18, may obtain relief from the standard rate of tax on his or her profits and income by electing to be assessed under Personal Assessment. If the individual is married, he or she may not make such an election unless his or her spouse does so too. Such election must be made by notice in writing to the Commissioner of Inland Revenue. An individual who elects for Personal Assessment is required to make a return of his or her Hong Kong income, including that of his or her spouse, which is subject to Profits Tax, Salaries Tax and Property Tax. Under Personal Assessment, the total income is aggregated, allowable business losses, interest payments and approved charitable donations deducted, and the appropriate personal and family allowances granted, and tax is calculated on the balance in the same manner as Salaries Tax. The tax payable, however, is not to exceed tax at the standard rate on total income less allowable deductions. Any tax which has been paid on income or profits thus aggregated can be offset against the tax charged under Personal Assessment, and any excess refunded.

## 19. MISCELLANEOUS LEVIES

### (a) Betting Duty

The Betting Duty (Amendment) Ordinance 2006 was enacted, and came into operation on 1 September 2006. The betting duty on horse races will be charged on gross profits (previously on turnover) at a set of progressive rates from 72.5 % to 75%, after deducting dividends and rebates on bets (to bettors making losing bets at or over \$10,000). [First \$1 billion at 72.5%, next \$1 billion at 73%, next \$1 billion at 73.5%, next \$1 billion at 74%, next \$1 billion at 74.5%, 75% for the amount exceeding \$15 billion.] The discount rate for specified places (e.g. Macau) is 40% whereas the discount rate for a place outside Hong Kong (other than specified places) is 50%. Duty is also charged, at 30% on contributions or subscriptions to authorized cash sweeps and at 25% on bets made on lotteries (Mark-six) conducted by the authorized company. With effect from 18 July 2003, duty is charged at 50% on the net stake receipts from the conduct of authorized betting on football matches by an authorized company.

(b) Business Registration

With the exception of business carried on by charitable institutions and certain others, all people operating business in the territory are required to register and pay an annual fee (including a levy for Protection of Wages on Insolvency Fund) as follows:-

	<u>2008/09</u>	<u>2009/10</u>	<u>2010/11</u>
	HK\$	HK\$	HK\$
Business Registration Fee	-	-	-
Levy for Protection of Wages on Insolvency Fund	<u>450</u>	<u>450</u>	<u>450</u>
	<u>450</u>	<u>450</u>	<u>450</u>

Limited liability companies are under a similar obligation whether or not they carry on a business. Exemption from payment of the fee is granted when an unincorporated business is very small.

(c) Entertainments Tax

Entertainments Tax on admissions to race meetings and cinemas has been abolished.

(d) Estate Duty

Estate Duty is imposed on that part a deceased's estate which is situated in Hong Kong.

The exemption level and the width of the tax bands are as follows:-

Rates of Estate Duty	Principal Value of Estate (m = million)
	<u>2004/05 to 14/7/05</u> HK\$
0%	0 - 7.5m
5%	7.5m - 9m
10%	9m - 10.5m
15%	10.5m or above

Estate Duty is abolished as from 15/7/2005.

(e) Hotel Accommodation Tax

Up to 30/6/2008, this tax is levied on hotel and guest house accommodation at the rate of 3% of the accommodation charges paid by guests.

With effect from 1/7/2008, this tax is waived.

(f) Stamp Duty

Stamp duty is chargeable on certain documents specified in the First Schedule to the Stamp Duty Ordinance which imposes fixed duty on some documents and an ad valorem duty on others. Fixed duties vary from \$3 to \$100 whereas ad valorem duties range from 0.1% to 4.25%.

In the case of conveyances of immovable property, the following duties are chargeable:-

- (1) \$100 where sale price does not exceed \$2,000,000;
- (2) 1.5 per cent where the sale price exceeds \$2,000,000 but does not exceed \$3,000,000;
- (3) 2.25 per cent where the sale price exceeds \$3,000,000 but does not exceed \$4,000,000;

- (4) 3 per cent where the sale price exceeds \$4,000,000 but does not exceed \$6,000,000;
- (5) 3.75 per cent where the sale price exceeds \$6,000,000 but does not exceed \$20,000,000; or
- (6) 4.25 per cent where the sale price exceeds \$20,000,000.

There is provision for marginal relief at the commencement of the higher rates. With effect from 31 January 1992, stamp duty at the same rates as conveyances of immovable property is chargeable on agreements for the sale and the purchase of residential property. After the agreement has been so stamped, the related conveyance will be chargeable with a fixed stamp duty of \$100 only.

With effect from 1 April 1999, there are provisions for a dutypayer to apply for deferring payment of stamp duty on residential properties and certain uncompleted agreements are exempt from payment of stamp duty. However, with effect from 1 April 2010, the deferral of stamp duty does not apply to residential properties the consideration for which exceeds \$20 million.

Leases granted in consideration of premium only attract the same duties as for conveyances of land. For leases granted in consideration of both premium and rent, the premium attracts an ad valorem duty of 4.25% while the rate of duty on rents varies with the period of the lease (from 0.25% to 1% of the annual rent).

Transactions in Hong Kong Stock require the preparation of contract notes on which buyers and sellers have each to pay ad valorem duty at the rate of 0.1% of the consideration.

In all cases, the Collector of Stamp Revenue is empowered to charge duty based on the market value of the property conveyed or shares transferred if he is of the opinion that the consideration is inadequate.

(g) Capital Duty

Capital Duty is charged on registration and increase of authorised capital at 0.1% and capped at \$30,000 per case.

## **D. ACCOUNTING AND AUDITING**

### **20. AUDITING REQUIREMENTS AND STANDARDS**

Under Companies Ordinance of Hong Kong, financial statements of limited companies, both public and private, are required to be audited.

Accounts of unincorporated firms carrying on businesses as commodities traders, share brokers or legal practitioners are also required to be audited under Commodities Trading Ordinance, Securities Ordinance or Legal Practitioners Ordinance. In other cases, accounts of proprietorship or partnership are not required to be audited.

The auditing standards shall be in accordance with those approved for issue by the Hong Kong Institute of Certified Public Accountants.

**21. COMPLIANCE WITH COMPANIES ORDINANCE**

The financial statements of the limited companies shall comply with the provisions of the Companies Ordinance of Hong Kong as to contents and form of Accounts.

**22. ACCOUNTING STANDARDS AND PRINCIPLES**

The Hong Kong Institute of Certified Public Accountants is the governing body of the accounting profession in Hong Kong. Accounting Standards are issued by the Hong Kong Institute of Certified Public Accountants and describe methods of accounting approved by the Institute for application to all financial statements intended to give a true and fair view of financial position and profit or loss.

## Appendix 1

### OTHER MGI PUBLICATIONS

Member firms of MGI publish a number of other booklets on matters of financial and commercial interest. If you would like to receive copies of other available publications, please let us know.

An International Directory of the associated firms within MGI is published each year and gives details of the offices and partners in each of the firms.

## Appendix 2

### LIST OF COUNTRIES IN WHICH THE MGI ASSOCIATION IS REPRESENTED:

Argentina	Guatemala	Nigeria
Australia	Honduras	Norway
Austria	Hong Kong	Pakistan
Belgium	Hungary	Palestine
Bermuda	India	Panama
Bolivia	Indonesia	Peru
Brazil	Ireland	Poland
Canada	Israel	Portugal
Chile	Italy	Puerto Rico
China	Japan	Romania
Colombia	Jordan	Russia
Congo, Democratic Republic	Kazakhstan	Saudi Arabia
Costa Rica	Kenya	Singapore
Cyprus	Korea	Slovakia
Czech Republic	Kuwait	South Africa
Denmark	Lebanon	Spain
Dominican Republic	Liberia	Sweden
Ecuador	Libya	Switzerland
Egypt	Liechtenstein	Taiwan
El Salvador	Lithuania	Thailand
Federated States of Micronesia	Luxembourg	Tunisia
Finland	Malaysia	Turkey
France	Malta	Turks & Caicos Islands
Georgia	Mauritius	Ukraine
Germany	Mexico	United Arab Emirates
Ghana	Morocco	United Kingdom
Greece	Netherlands	United States of America
	New Zealand	Uruguay
	Nicaragua	Venezuela