

Weekly Alert

2018 ISSUE 21

RSM TAX ADVISORY (HONG KONG) LIMITED 羅申美稅務諮詢有限公司

Welcome to 2018 issue 21 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Inland Revenue (Amendment) (No. 4) Bill 2018 Gazetted

On 18 May 2018, the Government published the Inland Revenue (Amendment) (No. 4) Bill 2018 in the Gazette.

The Bill seeks to provide a tax deduction under salaries tax and personal assessment to people who purchase eligible health insurance products for themselves or their specified relatives under the Voluntary Health Insurance Scheme (“VHIS”). A taxpayer can claim deductions for VHIS premiums paid up to HK\$8,000 per insured person for insurance policies procured for the benefit of the taxpayer and all specified relatives. Specified relatives cover the taxpayer's spouse and children, and the taxpayer's or his/her spouse's grandparents, parents and siblings. There is no cap on the number of taxpayers who can make a claim for tax deduction for the same insured person.

To ensure that the tax incentive is provided for people who have a nexus to Hong Kong, an insured person or the parent of an insured person who is under 11 years old and does not hold a Hong Kong Identity Card, should be a Hong Kong Identity Card holder.

The Bill was introduced into the Legislative Council for scrutiny on 23 May 2018.

Inland Revenue (Amendment) (No. 4) Bill 2018 Gazetted

<https://www.ird.gov.hk/eng/ppr/archives/18051801.htm>

2. Fraudulent Email Purportedly Issued by Inland Revenue Department

On 24 May 2018, the Inland Revenue Department (“IRD”) alerted members of the public to a fraudulent email purportedly issued by the IRD from the email account "taxnfo@ird.gov.hk", inviting the recipient to update certain information. The email provides a hyperlink to a fake IRD website which seeks to obtain the address and password of the recipients' email account.

The IRD confirmed it had no connection with the fraudulent email and had already reported the case to the Police for further investigation. Members of the public are reminded not to open any suspicious emails.

Fraudulent Email Purportedly issued by IRD

<https://www.ird.gov.hk/eng/ppr/archives/18052402.htm>

3. Subsidiary Legislation for Open-ended Fund Companies Gazetted

On 18 May 2018, the Government and the Securities and Futures Commission (“SFC”) published in the Gazette three pieces of subsidiary legislation to enable the implementation of the open-ended fund company (“OFC”) regime. The three pieces of subsidiary legislation are:

- (a) the Securities and Futures (Amendment) Ordinance 2016 (Commencement) Notice (the “Commencement Notice”);
- (b) the Securities and Futures (Open-ended Fund Companies) Rules (the “OFC Rules”); and
- (c) the Securities and Futures (Open-ended Fund Companies) (Fees) Regulation (the “Fees Regulation”).

The Commencement Notice will bring into effect all provisions in the Securities and Futures (Amendment) Ordinance 2016 from 30 July 2018 onwards and therefore the OFC regime will commence on 30 July 2018. The detailed statutory operational requirements of the OFC regime, including matters related to an OFC's formation, incorporation and maintenance, appointment and cessation of appointment of the key operators, corporate filings, segregated liability of sub-funds (if any), winding-up and offences, have been set out in the OFC Rules. The fees to be collected by the SFC and the Registrar of Companies in respect of OFCs have been set out in the Fees Regulation.

The Inland Revenue (Amendment) (No. 2) Ordinance 2018, which extends profits tax exemption to onshore privately offered OFCs, will also take effect on 30 July 2018.

Subsidiary Legislation for Open-ended Fund Companies Gazetted

<https://www.ird.gov.hk/eng/ppr/archives/18051802.htm>

4. Hong Kong and Finland Enter Into Tax Pact

On 24 May 2018, the Secretary for Financial Services and the Treasury, Mr. James Lau, on behalf of the Government of the Hong Kong Special Administrative Region signed a comprehensive agreement for the avoidance of double taxation (“CDTA”) with the Consul-General of Finland in Hong Kong, Mr. Jari Sinkari. This is the 40th CDTA signed by Hong Kong.

Under the CDTA, Finland’s withholding tax rate for Hong Kong residents on dividends and royalties will be reduced from 20% for companies and 30% for individuals to 5%/10% on dividends (depending on the percentage of shareholdings) and 3% on royalties. Hong Kong airlines operating flights to Finland will be taxed at Hong Kong’s corporation tax rate and will not be taxed in Finland. Profits from international shipping transport earned by Hong Kong residents arising in Finland will also be exempt from tax in Finland.

The CDTA will come into force after the completion of ratification procedures on both sides.

Hong Kong and Finland Enter into Tax Pact

<https://www.ird.gov.hk/eng/ppr/archives/18052401.htm>

TAX – PRC

1. Notice on Continuing the Land Appreciation Tax Policy for Corporate Restructuring and Reorganization

(关于继续实施企业改制重组有关土地增值税政策的通知)

On 16 May 2018, Ministry of Finance and the State Administration of Taxation jointly released the “*Notice on Continuing the Land Appreciation Tax Policy for Corporate Restructuring and Reorganization*”.

According to the Notice, during the period from 1 January 2018 to 31 December 2020, transfer of real properties under group restructuring and reorganization through merger, spin-off or injecting real properties as capital, will be temporarily exempt from land appreciation tax. However, this policy does not apply to any cases which involve a real property developer.

财税〔2018〕57号

http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201805/t20180518_2900807.html

2. Interim Administrative Measures for the Individual Tax-deferred Commercial Pension Insurance Business

(个人税收递延型商业养老保险业务管理暂行办法)

On 16 May 2018, the China Banking and Insurance Regulatory Commission issued the “*Interim Administrative Measures for the Individual Tax-deferred Commercial Pension Insurance Business*” which took effect from the date of promulgation.

The Measures set out a list of requirements for pension insurance business including operation requirements, products, sales, investment and financial management requirements. The Measures list out 12 operation requirements for conducting the individual tax-deferred commercial pension insurance business including maintain registered capital and net asset not less than RMB1.5 billion, at least three years experience on pension insurance etc.

银保监发〔2018〕23号

<http://www.cbrc.gov.cn/chinese/newShouDoc/62968A93BE7E4AD88595DDF3EFB931A6.html>

TAX – International

1. Ireland Releases Guidance on the Tax Treatment of Cryptocurrency Transactions

On 15 May 2018, the Irish Revenue released Tax and Duty Manual on Taxation of Cryptocurrency Transactions. According to this Manual, Bitcoin and similar cryptocurrencies are regarded for Value-added tax purposes (“VAT”) as “negotiable instruments” and exempt from VAT. Income received from cryptocurrency mining activities will generally be outside the scope of VAT on the basis that the activity does not constitute an economic activity for VAT purposes.

Revenue eBrief No. 88/18

<https://www.revenue.ie/en/tax-professionals/ebrief/2018/no-0882018.aspx>

RSM Tax Advisory (Hong Kong) Limited

RSM Hong Kong's dedicated and experienced tax specialists can:

- Advise on tax efficient holding and operational structures for new cross-border investment, including the formation of Hong Kong and Chinese business entities.
- Review existing cross-border investment structures, advise on identified deficiencies, quantify any potential exposure from such deficiencies, and further advise on restructuring approach and procedures.
- Assist clients to discuss and clarify matters with tax officials, including transfer pricing and advance rulings.
- Act as client representative in tax audits and tax investigations.
- Provide transaction support services on mergers and acquisitions, including tax due diligence, deal structure advice, tax health checks, related human resources arrangements and other tax compliance and consultation services.
- Advise on human resources and structuring employment arrangements in a tax-efficient manner.
- Advise on tax equalization schemes.
- Provide tax compliance services for individual and corporate clients in Hong Kong and China.

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Dicky To

T: +852 2508 2863
E: dickyto@rsmhk.com

Eric Chen

T: +852 2583 1259
E: ericchen@rsmhk.com

Lilian Poon

T: +852 2583 1241
E: lilianpoon@rsmhk.com

Samuel Chan

T: +852 2583 1242
E: samuelchan@rsmhk.com

Patrick Ho

T: +852 2583 1258
E: patrickho@rsmhk.com

Caesar Wong

T: +852 2508 2851
E: caesarwong@rsmhk.com

Catherine Tsang

T: +852 2583 1256
E: catherinetsang@rsmhk.com

Chan Ka Ho

T: +852 2583 1249
E: khchan@rsmhk.com

Joanna Lee

T: +852 2583 1317
E: joannalee@rsmhk.com

RSM Tax Advisory (Hong Kong) Limited

29th Floor, Lee Garden Two
28 Yun Ping Road
Causeway Bay, Hong Kong

T: +852 2598 5123
F: +852 2598 7230
E: solutions@rsmhk.com

rsm.global/hongkong

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