

Weekly Alert

2018 ISSUE 36

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

Welcome to 2018 issue 36 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Hong Kong, Saudi Arabia Tax Treaty in Force

The Comprehensive Avoidance of Double Taxation Agreement (“CDTA”) between Hong Kong and Saudi Arabia entered into force on 1 September 2018. This CDTA will have effect in respect of Hong Kong tax for any year of assessment beginning on or after 1 April 2019.

Hong Kong, Saudi Arabia Tax Treaty in Force

<https://www.ird.gov.hk/eng/ppr/archives/18083101.htm>

2. Newly Published Advance Ruling Case No. 64

On 3 September 2018, the Inland Revenue Department (“IRD”) published Advance Ruling Case No. 64 in its website. This case illustrates the tax treatment on amalgamation of subsidiaries of the same group.

In this case, Company A (as the surviving amalgamated company) and Company B are private limited companies incorporated in Hong Kong and they became wholly owned subsidiaries of the same group in early 2017. They are planning to integrate via court-free amalgamation. Before the amalgamation, Company A was principally engaged in the provision of services related to sourcing manufacturers to affiliates within the Group whereas Company B was a wholesale distributor of office products.

Both Company A and Company B recorded accumulated losses prior to the amalgamation. After the amalgamation, Company A will continue to carry out its own business of providing services relating to sourcing manufacturers to affiliates within the group and the wholesale distribution business carry out by Company B will be succeeded and carried out by Company A upon and after the amalgamation.

The ruling held that:

- (a) On the day before the amalgamation, Company B shall be deemed to have realised its trading stock at open market value and shall be recognised as the purchase cost for Company A. Any gain/loss arising from the deemed disposal of the trading stock at open market value will be taxable/deductible to Company B.

- (b) On or after the effective date of the amalgamation, Company A shall be treated as if it was the continuation of the same person in law as Company B for the purpose of Inland Revenue Ordinance (“IRO”). The succession of any asset (except trading stock), property or liabilities of Company B by Company A shall not constitute a sale transfer or disposal. No profit or loss would arise in the result of the amalgamation under Section 14 of the IRO.
- (c) Any unutilised losses previously sustained by Company A prior to the amalgamation will be available for set off against the assessable profits derived from Company A’s own business activities.
- (d) Any unutilised losses previously sustained by Company B prior to the amalgamation will be available for set off against the assessable profits of Company A derived from the same business of Company B succeeded and carried on by Company A.

Advance Ruling Case No. 64

<https://www.ird.gov.hk/eng/ppr/advance64.htm>

3. Suspension of eTAX Services

On 4 September 2018, the IRD announced that all eTAX services will be suspended from 4 pm on 8 September 2018 to 9 pm on 9 September 2018 for a system upgrade.

Suspension of eTAX Services

<https://www.ird.gov.hk/eng/ppr/archives/18090401.htm>

4. IRD Reminds Public about Bogus Phone Calls Purporting to be made by IRD

On 4 September 2018, the IRD reminded members of the public to stay vigilant regarding bogus voice message phone calls purporting to be made by the IRD. The scammers use pre-recorded voice messages and require the call recipient to provide personal particulars. The IRD affirmed that it would not make pre-recorded voice calls to the public, nor require call recipients to provide personal data by following instructions.

If members of the public have any doubt about the identity of a caller who claims to be an officer of the IRD, they may contact the IRD (Tel: 187 8088; email: taxinfo@ird.gov.hk) for verification.

IRD Reminds Public about Bogus Phone Calls Purporting to be made by IRD

<https://www.ird.gov.hk/eng/ppr/archives/18090402.htm>

TAX – PRC

1. The Standing Committee of the National People’s Congress Approved the Amendments on Individual Income Tax Law (全国人民代表大会常务委员会关于修改《中华人民共和国个人所得税法》的决定)

On 31 August 2018, the Fifth Session of the Standing Committee of the 13th National People’s Congress approved the amendments on Individual Income Tax Law. The amendments will take full effect from 1 January 2019 whereas the revised standard personal deduction and tax rates table will apply from 1 October 2018. Please refer to our Newsletter, Revised PRC Individual Tax Law (Discussion Draft) for the details of the main amendments.

全国人民代表大会常务委员会关于修改《中华人民共和国个人所得税法》的决定

http://www.npc.gov.cn/npc/xinwen/2018-08/31/content_2060151.htm

TAX – International

1. UK Updates the Guidance on Using a Venture Capital Scheme to Raise Money for UK Company

On 5 September 2018, the UK HM Revenue & Customs (“HMRC”) updated its guidance on qualifying conditions for venture capital schemes. There are four venture capital schemes designed to help small or medium sized companies and social enterprises grow by attracting investment. These four schemes are The Enterprise Investment Scheme, The Seed Enterprise Investment Scheme, Social Investment Tax Relief and Venture Capital Trust. The guidance lists out the conditions for applying these schemes and the limits on the fund that the qualified UK company can raise from such schemes.

Use a Venture Capital Scheme to Raise Money for your Company

<https://www.gov.uk/guidance/venture-capital-schemes-raise-money-by-offering-tax-reliefs-to-investors>

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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