

# Weekly Alert

2019 ISSUE 7

## RSM TAX ADVISORY (HONG KONG) LIMITED 羅 申 美 稅 務 諮 詢 有 限 公 司

Welcome to 2019 issue 7 of Weekly Alert covering technical development in taxation around the globe.

### TAX – Hong Kong

#### 1. Taxpayer Fined for Omitting Rental Income and Incorrectly Claiming Deductions of Home Loan Interest

On 20 February 2019, a taxpayer was convicted at Kwun Tong Magistrates' Courts on three charges in relation to omitting rental income and incorrectly claiming deductions of home loan interest when filing returns for property tax and salaries tax for the years of assessment 2011/12 to 2013/14. The total amount of tax undercharged for the three years of assessment is HK\$85,369. The taxpayer was fined HK\$3,000 (HK\$1,000 for each charge) plus a further fine of HK\$8,537 (i.e. 10% of the tax undercharged).

The Inland Revenue Department ("IRD") reminds taxpayers that tax evasion is a criminal offence under the Inland Revenue Ordinance ("IRO"). Upon conviction, the maximum penalty for each charge is three years' imprisonment and a fine of HK\$50,000 plus a further fine of three times the amount of tax evaded.

#### Taxpayer Fined for Omitting Rental income and Incorrectly Claiming Deductions of Home Loan Interest

<https://www.ird.gov.hk/eng/ppr/archives/19022003.htm>

#### 2. Government Welcomes Passage of Five Amendments to IRO

The Government welcomed the passage of the Inland Revenue (Amendment) (No. 7) Bill 2018 by the Legislative Council on 20 February 2019.

The new amendments made in the IRO include (a) aligning the tax treatment of financial instruments with their accounting treatment; (b) allowing taxpayers the deduction of interest expenses payable to overseas export credit agencies; (c) refining the provisions that implement the arrangement for automatic exchange of financial account information in tax matters; (d) avoiding double non-taxation of income of visiting teachers and researchers; and (e) revising the meaning of the sibling relationship.

The IRD will update the Departmental Interpretation and Practice Notes as appropriate to provide information about the relevant amendments.

#### Government Welcomes Passage of Five Amendments to IRO

<https://www.ird.gov.hk/eng/ppr/archives/19022007.htm>

### 3. **Government Welcomes Passage of Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Bill 2018**

The Government welcomed the passage of the Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Bill 2018 by the Legislative Council on 20 February 2019.

Under the Bill, all privately offered onshore and offshore funds operating in Hong Kong, regardless of their structure, their size or the purpose that they serve, can enjoy profits tax exemption for their transactions in specified assets subject to meeting certain conditions. An eligible fund can also enjoy profits tax exemption from its investment in both overseas and local private companies.

The Bill seeks to address the concerns of the Council of the European Union over the ring-fencing features of Hong Kong's tax regimes for privately offered offshore funds and enhance the competitiveness of Hong Kong's tax regimes by creating a level playing field for all funds operating in Hong Kong. The new tax regime will come into operation on 1 April 2019.

#### **Government Welcomes Passage of Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Bill 2018**

<https://www.ird.gov.hk/eng/ppr/archives/19022008.htm>

## TAX – PRC

### 1. **Notice on Tax Policy to Supporting and Enhancing Entrepreneurship and Employment of Key Persons** (关于进一步支持和促进重点群体创业就业有关税收政策的通知)

The State Administration of Taxation, Ministry of Human Resources and Social Security and the Leading Office of Poverty Alleviation of State Council have jointly issued the “*Notice on Tax Policy to Supporting and Enhancing Entrepreneurship and Employment of Key Persons*” which is effective from 1 January 2019 to 31 December 2021.

The Notice clarifies the definition of “key persons” under different tax preferential treatments and summarises the tax benefits that can be enjoyed by themselves or the employers that recruit them.

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<http://www.chinatax.gov.cn/n810341/n810755/c4050550/content.html>

## 1. Australia Changes the Tax Disclosure Requirements for Large Companies

The Australian Taxation Office (“ATO”) has issued a new practice on filing of a Reportable Tax Position (“RTP”) schedule. The RTP schedule is a schedule attached to the company income tax return. It requires large businesses to disclose their most contestable and material tax positions (e.g. tax uncertainty position or transfer pricing position).

The ATO uses RTP schedule disclosures to better understand tax risks for taxpayers, industries and the large market; and identify areas where it needs to provide further clarification and certainty on the correct treatment of transactions and complex high risk arrangements.

In the past, the ATO would issue notifications to every taxpayer who has to lodge an RTP schedule. ATO will no longer issue notifications and taxpayers match all the following criteria will need to lodge the RTP schedule for years ending on or after 30 June 2019:

- a public company or a foreign owned company;
- total business income is AUD25 million or more in the current tax return;
- part of a public or foreign owned economic group with total business income of AUD250 million or more in the current or immediately prior year.

### **Reportable Tax Position – Change to Lodgement Requirements**

<https://www.ato.gov.au/Business/Large-business/In-detail/Business-bulletins/Articles/Reportable-tax-position---change-to-lodgment-requirements/>

## 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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