

Weekly Alert

2019 ISSUE 29

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

Welcome to 2019 issue 29 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Departmental Interpretation and Practice Note No. 28 (Revised)

On 19 July 2019, the Inland Revenue Department (“IRD”) issued the revised Departmental Interpretation and Practice Note No. 28 (“DIPN 28”) on Deduction of Foreign Taxes.

DIPN 28 has been updated to set out the IRD’s interpretation and practice on the provisions relating to foreign tax deduction after the enactment of the Inland Revenue (Amendment) (No. 6) Ordinance 2018.

With effect from the year of assessment 2018/19, Section 16(1)(c) of the Inland Revenue Ordinance (“IRO”) allows deduction of foreign tax of substantially the same nature as tax imposed under the IRO, provided to the satisfaction of the Commissioner to have been paid elsewhere other than in a territory outside Hong Kong with which double taxation arrangements (“DTA”) have been made (“DTA Territory”). If the foreign tax is paid in a DTA Territory, the relief from double taxation is provided by way of tax credit under Section 50 of the IRO.

DIPN 28 (Revised)

<https://www.ird.gov.hk/eng/pdf/dipn28.pdf>

2. DIPNs 58, 59 and 60

On 19 July 2019, the IRD issued the DIPN 58 on Transfer Pricing Documentation and Country-by-Country Reports, DIPN 59 on Transfer Pricing Between Associated Persons and DIPN 60 on Attribution of Profits to Permanent Establishments in Hong Kong.

These three new DIPNs have been issued to set out the IRD’s interpretation and practice on the relevant transfer pricing rules and documentation requirements in Hong Kong, and the latest international standards relating to transfer pricing.

DIPN 58

<https://www.ird.gov.hk/eng/pdf/dipn58.pdf>

DIPN 59

<https://www.ird.gov.hk/eng/pdf/dipn59.pdf>

DIPN 60

<https://www.ird.gov.hk/eng/pdf/dipn60.pdf>

3. Mainland and HKSAR sign Fifth Protocol to Arrangement for Avoidance of Double Taxation

On 19 July 2019, the Financial Secretary, Mr Paul Chan, signed the Fifth Protocol to the DTA between the Mainland of China and the Hong Kong Special Administrative Region (“HKSAR”) with the Commissioner of the State Taxation Administration, Mr Wang Jun, in Beijing.

The Fifth Protocol adds a new teachers and researchers article to the DTA. With this new article, a qualified teacher or researcher, who is employed in Hong Kong or the Mainland and engages in teaching and research activities on the other side, shall be exempt from taxation on that other side for a period of three years, provided that the relevant income has been subject to tax on the side where the person concerned is employed.

In addition, following the latest international standard, the Fifth Protocol incorporates measures to prevent tax treaty abuse. The Fifth Protocol will come into force after the completion of ratification procedures and notification by both sides.

Mainland and HKSAR sign Fifth Protocol to Arrangement for Avoidance of Double Taxation

<https://www.ird.gov.hk/eng/ppr/archives/19071901.htm>

TAX – PRC

1. Announcement on Continued Implementation of the Individual Income Tax Policy on Dividends of Listed Companies under the National SME Share Transfer System

(关于继续实施全国中小企业股份转让系统挂牌公司股息红利差别化个人所得税政策的公告)

On 12 July 2019, the State Taxation Administration issued the “*Announcement on Continued Implementation of the Individual Income Tax (“IIT”) Policy on Dividends of Listed Companies under the National Small and Medium Enterprises (“SME”) Share Transfer System*”.

According to the Announcement, the IIT treatment on the dividends received by the individuals will depend on their share holding period as follows:

<u>Holding period</u>	<u>Tax Treatment</u>
One month or below	Fully taxable under 20% tax rate
More than one month but not more than one year	50% taxable under 20% tax rate
More than one year	Temporality exempted from IIT

财政部 税务总局 证监会公告 2019 年第 78 号

http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201907/t20190719_3303676.html

TAX – International

1. **OECD Releases Latest Results on Preferential Regimes and New Results on No or Only Nominal Tax Jurisdictions**

On 19 July 2019, the Inclusive Framework on Base Erosion and Profit Shifting approved the latest results of reviews of jurisdictions' domestic laws conducted by the Organisation for Economic Co-operation and Development ("OECD") Forum on Harmful Tax Practices ("FHTP").

The FHTP has reviewed the new domestic laws on substantial activities standard for 12 no or only nominal tax jurisdiction. The FHTP concluded that the domestic legal frameworks for Bahamas, Bahrain, Barbados, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Turks and Caicos Islands are in line with standard and therefore "not harmful". For United Arab Emirates, the FHTP considered one technical point is outstanding and the United Arab Emirates committed to make further legislative changes.

From 2020, the FHTP will start an annual monitoring process for the effectiveness of jurisdictions' mechanisms to ensure compliance with the standard in practice.

OECD Releases Latest Results on Preferential Regimes and New Results on No or Only Nominal Tax Jurisdictions

<http://www.oecd.org/tax/oecd-releases-latest-results-on-preferential-regimes-and-new-results-on-no-or-only-nominal-tax-jurisdictions.htm>

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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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

Alan Chow

T: +852 2583 1378
E: alanchow@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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