

# Weekly Alert

## 2020 ISSUE 1

## RSM TAX ADVISORY (HONG KONG) LIMITED

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Welcome to 2020 issue 1 of Weekly Alert covering technical development in taxation around the globe.

### TAX – Hong Kong

#### 1. Hong Kong-Cambodia and Hong Kong-Estonia Tax Treaties in Force

The Comprehensive Avoidance of Double Taxation Agreements (“CDTAs”) with Cambodia and Estonia signed in June and September 2019 came into force on 27 and 18 December 2019 respectively, after the completion of the relevant ratification procedures. The CDTAs will have effect in respect of Hong Kong tax for any taxable periods beginning on or after 1 April 2020.

Cambodia and Estonia were the 38<sup>th</sup> and 75<sup>th</sup> largest trading partners of Hong Kong in 2018 respectively. The CDTAs will bring a greater degree of certainty on tax liabilities for those who engage in cross-border business activities and help promote bilateral trade and investment activities.

#### **Hong Kong-Cambodia and Hong Kong-Estonia tax treaties in force**

<https://www.ird.gov.hk/eng/ppr/archives/19122701.htm>

#### 2. Stock Borrowing Relief – Filing of Return of Stock Borrowing Transactions

The Stamp Office issued the “*Stamping Circular No. 01/2020 Stock Borrowing Relief – Filing of Return of Stock Borrowing Transactions*” on 2 January 2020.

The purpose of the Circular is to remind borrowers under stock borrowing and lending agreements with the Stamp Office their obligation of filing a return of stock borrowing transactions as required under Section 19(13) of the Stamp Duty Ordinance.

The due date for filing return of stock borrowing transactions for the period from 1 July 2019 to 31 December 2019 is **31 January 2020**. Penalty will be imposed on late filing.

#### **Stock Borrowing Relief – Filing of Return of Stock Borrowing Transactions**

[https://www.ird.gov.hk/eng/pdf/sdo/ext\\_cir/so\\_ext\\_cir\\_01\\_2020\\_e.pdf](https://www.ird.gov.hk/eng/pdf/sdo/ext_cir/so_ext_cir_01_2020_e.pdf)

## TAX – PRC

### 1. Implementation Rules of Foreign Investment Law (中华人民共和国外商投资法实施条例)

On 26 December 2019, Premier Li Keqiang signed a State Council Decree to publish the “Implementation Rules of Foreign Investment Law”, which took effect from 1 January 2020.

Pursuant to the Implementation Rules, foreign-invested enterprises would enjoy the same favourable policies as domestic companies and would be treated equally during the government procurement process. The Implementation Rules also clarify the application of the Negative List of Foreign Investment Access, the registration procedures and investment policies for Hong Kong, Macao and Taiwan investors.

中华人民共和国国务院令 第 723 号

[http://www.gov.cn/zhengce/content/2019-12/31/content\\_5465449.htm](http://www.gov.cn/zhengce/content/2019-12/31/content_5465449.htm)

### 2. China to Adjust Import Tariffs for Some Products Starting from 1 January 2020 (为推进贸易高质量发展 2020 年 1 月 1 日起我国调整部分商品进口关税)

China would adjust import tariffs for a range of products starting from 1 January 2020 to promote development of trade, the Customs Tariff Commission of the State Council said on 23 December 2019.

The adjustments include:

- implement provisional import tax rates that are lower than the most-favoured-nation (“MFN”) tariff rates for around 850 commodities;
- introduce or reduce the provisional import tax rates on products, including frozen pork, frozen avocados and non-frozen orange juice amid efforts;
- impose zero import tax on pharmaceutical products containing alkaloids for asthma treatment as well as raw materials for the production of new diabetes medicines;
- introduce or cut provisional import tax rates for commodities including ferroniobium and multi-component integrated circuit memories;
- introduce or lower the provisional import tax rates for some wood and paper products; and
- replace the provisional import duties on tungsten and niobium scrap and waste with MFN tariffs from 1 January 2020.

In addition, starting from 1 July 2020, China will implement the fifth MFN tariff concession on 176 information technology products and accordingly adjust the provisional import tariff rates of some information technology products.

Further tariff reduction will also be made according to the free trade agreements signed with New Zealand, Peru, Costa Rica, Switzerland, Iceland, Singapore, Australia, the Republic of Korea, Georgia, Chile and Pakistan.

为推进贸易高质量发展 2020 年 1 月 1 日起我国调整部分商品进口关税

[http://gss.mof.gov.cn/gzdt/zhengcejiedu/201912/t20191220\\_3447088.htm](http://gss.mof.gov.cn/gzdt/zhengcejiedu/201912/t20191220_3447088.htm)

### 1. OECD Releases Further guidance for tax administrations and MNE Groups on CbC Reporting

On 23 December 2019, the Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”) released additional interpretative guidance to give greater certainty to tax administrations and multinational enterprise (“MNE”) Groups on the implementation and operation of Country-by-Country (“CbC”) Reporting (BEPS Action 13). The new guidance makes clear that, under the BEPS Action 13 minimum standard, the automatic exchange of CbC reports filed under local filing rules is not intended.

In addition, a summary of CbC reporting notification requirements in Inclusive Framework member jurisdictions has been posted on the Organisation for Economic Co-operation and Development’s (“OECD”) website. This summary will help MNE Groups in complying with notification requirements in different jurisdictions where they have constituent entities.

#### **OECD Releases Further Guidance for Tax Administrations and MNE Groups on CbC reporting**

<http://www.oecd.org/tax/oecd-releases-further-guidance-for-tax-administrations-and-mne-groups-on-country-by-country-reporting-december-2019.htm>

### 2. BEPS Action 5 Minimum Standard: Transparency on Tax Rulings Continues to Increase

On 23 December 2019, the OECD released the “2018 Peer Review Reports on the Exchange of Information on Tax Rulings”, which shows that one key aim of the BEPS Project for increasing transparency on tax rulings is being achieved.

Having assessed implementation of the BEPS Action 5 standard on exchange of information on tax rulings to the end of 2018, 68 jurisdictions have now successfully implemented the standard and did not receive any recommendations for improvement. The report contains specific recommendations for other jurisdictions on issues such as improving the timeliness of the exchange of information and ensuring that exchanges of information are made with respect to preferential tax regimes that apply to income from intellectual property.

The Inclusive Framework will continue to pursue progress in this area, with the next annual peer review in 2020, to continue to track the progress of jurisdictions and the actions taken to respond to any remaining recommendations.

#### **BEPS Action 5 Minimum Standard: Transparency on Tax Rulings Continues to Increase**

<http://www.oecd.org/tax/beps-action-5-minimum-standard-transparency-on-tax-rulings-continues-to-increase.htm>

### 3. IRS: New Free File Agreement Signed to Strengthen Program, Help Taxpayers

On 30 December 2019, the US Inland Revenue Service (“IRS”) announced an agreement with Free File, Inc. (“FFI”) designed to bring more clarity for taxpayers choosing to use free online software during the 2020 filing season. This agreement will help make the Free File program more taxpayer-friendly while strengthening consumer protections in several key areas.

The Free File partners, acting through FFI, offer their tax filing software free to taxpayers earning US\$69,000 or less. The Free File program also offers Free File Fillable Forms, fillable version of IRS’ printed forms, for people completing their tax year 2019 returns in the 2020 filing season. The Fillable Forms program is available to anyone regardless of income.

#### **New Free File Agreement Signed to Strengthen Program, Help Taxpayers**

<https://www.irs.gov/newsroom/new-free-file-agreement-signed-to-strengthen-program-help-taxpayers>

## 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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