

Weekly Alert

2020 ISSUE 33

RSM TAX ADVISORY (HONG KONG) LIMITED

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Welcome to 2020 issue 33 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Inland Revenue Department to resume normal public services

On 11 September 2020, the Inland Revenue Department (“IRD”) announced that the department will resume normal public services from 15 September 2020. Details of the opening hours of its various offices can be found on IRD’s website at https://www.ird.gov.hk/eng/cu_ol.htm.

Inland Revenue Department will resume normal public services
<https://www.ird.gov.hk/eng/ppr/archives/20091101.htm>

2. Profits Tax Treatment of Leases Where HKFRS 16 Applies

On 17 September 2020, the IRD clarified the profits tax treatments of lease where the HKFRS 16 applies.

Assessing Practice Relating to Lease Expenditures

With the adoption of HKFRS 16 for accounting purposes, the Commissioner will adopt the following assessing practice:

For lessors, current profits tax treatment under the Inland Revenue Ordinance (IRO) remains unchanged.

Lessees will be allowed deduction of expenditures in respect of leased assets, which are recognised in accordance with the principles in HKFRS 16, subject to the following conditions:

- The lease is not a sale for tax purposes;
- The deduction relates to expenditures/losses that have been incurred/realised; and
- The legal characterisation of the expenditures is consideration for the right to use leased assets for a period of time.

Impairment and Revaluation Adjustment

If the ability to derive benefit from a leased asset is adversely affected, an impairment loss of the leased asset is required to be recognised in the profit and loss account, with a corresponding reduction in the carrying amount of the ROU asset. Depreciation in respect of the ROU asset would also be reduced in subsequent years.

If there is any indication that an impairment loss recognised in prior periods for the leased asset may no longer exist or may have decreased, the carrying amount of the ROU asset is required to be increased. However, the reversal of the impairment loss should not exceed the carrying amount that would have been determined had no impairment loss been recognised for the asset in prior years.

Sub-leased Asset Accounted for under Fair Value Model

Referring to *Nice Cheer Investment Ltd v Cir (2013) 15 HKCFAR 813*, unrealised profits or losses arising from accounting for the ROU asset under the fair value model in accordance with HKAS 40 would not be taxed or allowed as and when they are recognised in the profit and loss account. Instead, the aggregate of the fair value changes would be spread and deducted over the term of the lease on a straight-line basis.

Profits Tax Treatment of Leases Where HKFRS 16 Applies

https://www.ird.gov.hk/eng/tax/bus_lease16.htm

TAX – PRC

1. Public Comments Sought on the Decision of the State Taxation Administration on Amending the Measures for the Hearing of Major Tax Cases (Draft for Comment) 《國家稅務總局關於修改〈重大稅務案件審理辦法〉的決定（徵求意見稿）》公開徵求意見

On 10 September 2020, the State Taxation Administration released the draft revision to the Measures for Hearing of Major Tax Cases (issued under the Order of the State Taxation Administration No. 34) for public comment through the following channel and methods by 10 October 2020:

- i. Log onto the websites of the Ministry of Justice of the People's Republic of China and the China Government Law Information (<http://www.moj.gov.cn> and <http://www.chinalaw.gov.cn>), enter the column "Collection of Comments on Legislation" under the main menu on the homepage and put forward comments.
- ii. Log onto the website of the State Taxation Administration (<http://www.chinatax.gov.cn>), enter the system of "Interaction-Collection of Comments" under the main menu on the homepage and put forward comments.
- iii. Send comments by email to: shuiwuzqyj@163.com, with the words "Comments on the Decision of the State Taxation Administration on Amending the Measures for the Hearing of Major Tax Cases (Draft for Comment)" indicated in the subject of the email.
- iv. Send comments by letter to: Tax Policy and Legislation Department of the State Taxation Administration, No.5 Yangfangdian West Road, Haidian District, Beijing Municipality (Postal Code: 100038), with the words "Comments on the Decision of the State Taxation Administration on Amending the Measures for the Hearing of Major Tax Cases (Draft for Comment)" indicated on the envelope.

國家稅務總局關於修改〈重大稅務案件審理辦法〉的決定（徵求意見稿）》公開徵求意見

http://www.chinatax.gov.cn/chinatax/n810356/n810961/c5156440/content.html?wscckey=fba75d6bd2ab83df_1600401765

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- 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.
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- Advise on human resources and structuring employment arrangements in a tax-efficient manner.
- Advise on tax equalization schemes.
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