Weekly Alert
2021 ISSUE 3

RSM TAX ADVISORY (HONG KONG) LIMITED
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Welcome to 2021 issue 3 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Property conveyancing procedures and related irregularities

On 20 January 2021, the Secretary for Justice, Ms Teresa Cheng, SC, replied to questions raised by Hon Paul Tse regarding the property conveyancing procedures and related irregularities arising from intervention into Messrs Wong, Fung & Co. Ms Teresa Cheng, SC replied to the tax related question as follows:

Question - Will the Government inform the Legislative Council of the measures in place to assist those victims who have been unable to complete property transactions due to the aforesaid case in recovering their monetary losses expeditiously?

The Stamp Office of the Inland Revenue Department ("IRD") has announced the following arrangements to assist the affected duty payers:

(a) if a duty payer concerned is unable to arrange stamping of a property transaction instrument before the time limit, the Stamp Office will consider remission of penalty for late stamping. The duty payer can make an application to the Stamp Office for remission of penalty directly or through the newly engaged solicitor;

(b) if the duty payer is unable to raise funds to settle the stamp duty payable within a short period of time due to the freezing of relevant bank accounts of the law firm, an application can be made to the Stamp Office for payment by instalment; and

(c) if a property transaction cannot be completed otherwise than by reason of re-sale or disposal of the property by the purchaser, the relevant agreement for sale is not chargeable with stamp duty. The duty payer can apply for refund of the stamp duty paid in respect of the relevant agreement within two years after the agreed date of completion of the transaction.

The IRD issued a press release on the above arrangement on 12 January 2021.

LCQ7: Property conveyancing procedures and related irregularities
https://www.ird.gov.hk/eng/ppr/archives/21012001.htm

2. Automatic Exchange of Financial Account Information

The Inland Revenue Ordinance (Amendment of Section 50A) Notice 2020 and the Inland Revenue Ordinance (Amendment of Schedule 17D) Notice 2020 take effect from 1 January 2021. In view of the amendment of the definition of a controlling person of a partnership made under the Inland Revenue Ordinance (Amendment of Section 50A) Notice 2020, a New "FAQ 34" has been uploaded onto the Department's website on 18 January 2021.

FAQ 34
https://www.ird.gov.hk/eng/faq/dta_aeoi.htm#Q34

3. Profits tax concessions for insurance-related businesses to commence operation on March 19

On 15 January 2021, the Government gazetted subsidiary legislation to implement the new profits tax concessions for insurance-related businesses on 19 March 2021.

Enacted in July 2020, the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2020 reduces the profits tax rate by 50 per cent (i.e. 8.25 per cent) for all general reinsurance business of direct insurers, selected general insurance business of direct insurers and selected insurance brokerage business.

The subsidiary legislation was tabled before the Legislative Council for negative vetting on 20 January 2021.

Profits tax concessions for insurance-related businesses to commence operation on March 19
https://www.ird.gov.hk/eng/ppr/archives/21011501.htm

4. Notification of Change of Address

The IRD will issue the "Tax Return – Individuals" (BIR60) on 3 May 2021. To ensure that the taxpayers' tax return can be sent to their new address, the taxpayers have to notify the IRD of the change of their postal address not later than 4 March 2021.

IRD Notice – Change of Postal Address of Taxpayer
https://www.ird.gov.hk/eng/pdf/2020/tp_change_address.pdf

TAX – International

1. Update guidance on tax treaties and the impact of the COVID-19 crisis

On 21 January 2021, OECD released the Updated guidance on tax treaties and the impact of the COVID-19 crisis. The guidance reflects the general approach of jurisdictions and illustrates how some jurisdictions have addressed the impact of COVID-19 on the tax situations of individuals and employers.

The guidance seeks to avoid double taxation but cannot be relied on to create instances of double non-taxation. Thus, it is relevant only to circumstances arising during the COVID-10 pandemic when public health measures (e.g. travel restrictions and curtailment of business operations) are in effect.

Update guidance on tax treaties and the impact of the COVID-19 crisis
https://read.oecd-ilibrary.org/view/?ref=1060_1060114-o54bvc1ga2&title=Updated-guidance-on-tax-treaties-and-the-impact-of-the-COVID-19-pandemic

2. Guidance on the transfer pricing implications of the COVID-19 pandemic

On 18 January 2021, OECD published the Guidance on the transfer pricing implications of the COVID-19 pandemic. The guidance provides clarification on the practical application of the arm's length principle in four priority issues:

(i) Comparability analysis;
(ii) Losses and the allocation of COVID-19 specific costs;
(iii) Government assistance programmes; and
(iv) Advance pricing arrangements.

Guidance on the transfer pricing implications of the COVID-19 pandemic
https://www.oecd.org/coronavirus/policy-responses/guidance-on-the-transfer-pricing-implications-of-the-covid-19-pandemic-731a59b0/

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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