

Weekly Alert

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RSM TAX ADVISORY (HONG KONG) LIMITED

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Welcome to 2021 issue 28 of Weekly Alert covering technical development in taxation around the globe.

TAX – Hong Kong

1. Latest developments in international tax landscape

On 14 July 2021, the Secretary for Financial Services and the Treasury, Mr Christopher Hui, replied to questions raised by the Hon Holden Chow concerning the impact of base erosion and profit shifting (“BEPS”) 2.0 to the Hong Kong tax and business environment.

In particular, the Secretary explained that the global minimum tax applies only to large multinational enterprises with global turnover above 750 million euros. Since the revenue of small and medium enterprises (“SMEs”) would normally not exceed the threshold of 750 million euros, there would be minimal effect to SMEs who have elected to apply the two-tiered tax rates (i.e. applicable tax rates lower than 15 percent).

LCQ14: Latest developments in international tax landscape
<https://www.ird.gov.hk/eng/ppr/archives/21071401.htm>

2. Tax-exempt charities

On 14 July 2021, the Secretary for Financial Services and the Treasury, Mr Christopher Hui, replied to questions raised by the Hon Chan Hak-kan concerning issue of a tax-exempt charity made, through a trust that is not a tax-exempt charity, large donations to a number of overseas organisations, and the respective actions to be taken by the Inland Revenue Department (“IRD”) in cope with the issue.

The Secretary replied that the IRD would take relevant approaches to ensure that the charities comply with the tax exemption conditions. In general, the IRD conducts the first review on newly recognised tax-exempt charities two years after their recognition and review for existing tax-exempt charities at least once every three year. If there are available information indicates a charity has carried out suspected non-charitable activities, the IRD may withdraw the recognition of its tax exemption status on the case concerned after considering the relevant facts and circumstances.

LCQ15: Tax-exempt charities
<https://www.ird.gov.hk/eng/ppr/archives/21071402.htm>

3. Stamp Duty Statistics (June 2021)

On 12 July 2021, the IRD released the statistics on Special Stamp Duty (“SSD”), Buyer’s Stamp Duty (“BSD”) and Doubled Ad Valorem Stamp Duty (“DSD”) / New Residential Stamp Duty (“NRSD”) collected in May 2021. During the month, the IRD collected SSD of HK\$14.9 million, BSD of HK\$182.5 million and DSD/NRSD of HK\$905.8 million.

Stamp Duty Statistics (June 2021)

<https://www.ird.gov.hk/eng/pdf/2021/3d062021.pdf>

TAX – International

1. Updated guidance on residency for foreign-incorporated companies by Australian Taxation Office

The Australian Tax Office (“ATO”) has recently updated guidance on corporate residency in light of the continuing impacts of the COVID-19 pandemic, and the government’s announced but unenacted legislative amendments to the corporate residency test. Its updated web guidance [working out your residency](#) provides its approach to corporate residency for foreign-incorporated companies and reflects the extension of the transitional compliance approach.

COVID-19 web guidance for corporate residency

If the only reason for holding board meetings in Australia or directors attending board meetings from Australia is because of the effects of COVID-19, the ATO will not apply compliance resources to determine the foreign-incorporated company’s central management and control is in Australia. This alone will not (in the absence of other changes in the company’s circumstances) alter the company’s residency status for Australia tax purposes.

This approach will continue to apply until the earlier of:

- 30 June 2022 for a taxpayer with an income year ending 30 June, or
- 31 December 2021 for an early balancer taxpayer with an income year ending 31 December
- the date on which legislation amending the corporate residency test receives royal assent.

Updated guidance on residency for foreign-incorporated companies

<https://www.ato.gov.au/Business/Business-bulletins-newsroom/International/Updated-guidance-on-residency-for-foreign-incorporated-companies/>

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.
- Provide tax expert witness services at Courts.
- Act as tax advisor on transfer pricing and tax compliance reviews for IPO applications.
- 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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