Doing business in Hong Kong

Contents

01

Introduction

While sovereignty was ceded to the People's Republic of China on 1 July 2007 (establishing the Hong Kong Special Administrative Region, 'HKSAR'), the adoption of the 'Basic Law' at the same time has ensured the protection of the HKSAR's pre-existing economic system until 2047.

The maintenance of the free trade policy, with minimal government interference, has been central to this.

In practice, this means:

– no customs tariffs on imports or exports

– no restrictions on foreign investment, or the repatriation of capital or profit

– a simple tax system (benefiting from tax treaties with more than 30 countries), guaranteeing:

- no taxes on capital gains or dividends
- no VAT or sales taxes
- no employers' social security obligations and only a low five per cent contribution by employers to the Mandatory Provident Fund (MPF) Scheme (pension fund)
- no estate duties or inheritance tax obligations
- a low income tax rate, applied only on income sourced or generated in Hong Kong.

The HKSAR's proximity to China, and the retention of English as one of the two official languages, has established this jurisdiction as a vital location for accessing the rapidly developing markets of the Chinese mainland, as well as the wider markets of South–East Asia. International firms incorporated in Hong Kong also enjoy the advantages of the Mainland–Hong Kong Closer Economic Partnership Arrangement, under which all goods of Hong Kong origin imported into the Chinese Mainland (with some limited exceptions) enjoy tariff-free treatment. Hong Kong service suppliers also enjoy preferential treatment in entering the Mainland market in those service areas that are open to foreign service providers, on a phased basis under the HKSAR's WTO agreement.

02

Business Environment

Foreign investors are free to choose from a range of business vehicles, most of which are easy to establish (with a few exceptions, including banking activities, securities, commodities trading and insurance) and generally not subject to ownership or other restrictions.

Commonly used business vehicles include:

– a limited liability company incorporated in Hong Kong

– a branch office of a foreign company

– a representative office in Hong Kong.

Light regulation, the jurisdiction's status as a free port, and the absence of social security obligations on employers (other than a low five per cent contribution to the MPF) also make this one of the most attractive jurisdictions in South–East Asia.

Labour market

While the local workforce is educated and highly skilled, particularly in banking and finance, professional services, and entrepreneurship, the secondment of expatriate workers remains common.

The HKSAR's minimum wage of HK$30 per hour (as of 1 May 2013) is highly competitive against those in force in Australia, the European Union, Japan and other major economies, but typical pay scales can vary considerably. While annual salary packages for junior and graduate executives typically start at HK$150,000, skilled and experienced executives can expect packages in excess of HK$1 million.

Personal income tax bands are low, with no distinction between local and foreign residents. Personal income tax ('salaries tax') is applied on a sliding scale ranging from two to 17 per cent after deduction of various allowances, subject to a maximum effective tax rate of 15 per cent.

Population trends

Hong Kong has seen rapid population growth over the past five years, rising by an average 0.7 per cent per year.

Current immigration policy is focused on attracting skilled talent and investment, and expatriates with specific skills, knowledge, or capital may apply for a work visa under the General Employment Policy.

The Capital Investment Migration Scheme is also available to individuals able to commit HK$10 million in Permissible Investment Assets.

Education

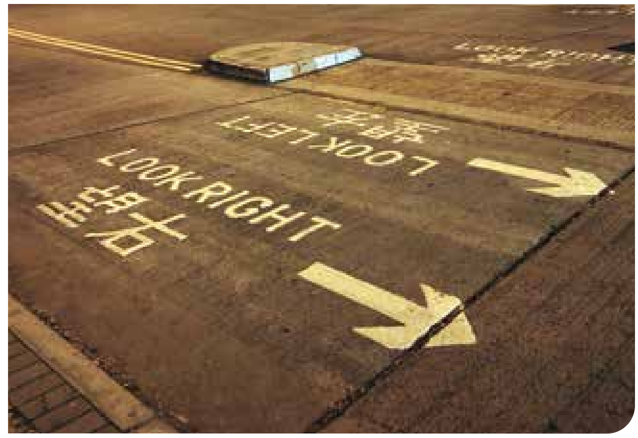
The majority of Hong Kong's youth continue their education beyond the statutory school-leaving age of 18, continuing into higher education until their early twenties: managers, professionals and other skilled workers make up close to 40 per cent of the population of Hong Kong. English is widely taught in schools, commencing as early as kindergarten.

Labour costs

Average salary increases for skilled employees and professionals have recently been running at less than five per cent per year. A shortage of manual workers, however, has resulted in considerable wage pressure, with employers having to offer in excess of Hong Kong's HK$30 minimum wage.

03

Establishing a legal presence



Laws on foreign investment

The legal framework in Hong Kong does not differentiate between foreign and local investors, and foreign-owned companies are common. The few exceptions restricting investment to local ownership include civil aviation and broadcasting.

Investment incentives

In view of the HKSAR's status as a Free Port, few other sector-specific incentives, or concessions for foreign investors, are deemed to be necessary. Current concessions, however, include the following:

– profits derived from the reinsurance and captive insurance of offshore risks are taxed at half the standard corporate tax rate

– interest and gains arising from Hong Kong-issued debt instruments are taxed at half the standard rate

– offshore funds (i.e., a fund administered by a non-resident entity and investment transactions conducted by an authorised institution) are exempt from tax in respect of profits derived from dealings in securities, futures contracts and leveraged foreign exchange trading in Hong Kong

– income derived from the international operations of shipping companies is exempt from tax unless such shipping operations are in Hong Kong waters.

Setting up a permanent establishment

Limited companies, partnerships, branches of foreign entities, and investment funds are all commonly used business structures in Hong Kong. Apart from certain differences in their incorporation processes, tax and regulatory requirements are broadly similar in each case.

Compliance requirements

Statutory audit

Any company incorporated in Hong Kong is required to have its accounts audited every year by an auditor registered under the Professional Accountants Ordinance (PAO). Private companies are not required to file audited accounts at the Companies Registry, and these are not, therefore, publicly available (audited accounts are required in order to support profits tax returns, however).

Partnerships and branches of overseas companies are not subject to mandatory audit requirements.

Business registration

Any individual or organisation establishing a business in Hong Kong (including a branch or representative office, sole proprietorship or partnership) must register such business with the Business Registration Office within one month of its establishment. Any company incorporated in Hong Kong is (under the terms of the Companies Ordinance) required to submit an annual return, signed by a director or the company secretary, to the Companies Registry. If the company is not a private company, a certified true copy of the balance sheet, auditors' report and directors' report are also required.

Tax registration and compliance

Any individual or organisation conducting business in Hong Kong (including a limited liability company or a branch office) is required to submit an annual profits tax return to the Hong Kong Inland Revenue Department (IRD). A representative office not engaged in revenue-generating activities is not subject to profits tax.

Joint-stock companies

Joint-stock companies in Hong Kong operate on essentially the same basis as limited liability companies.

03

Establishing a legal presence

(continued)

Limited liability companies

Limited liability companies (corporations) are the most commonly used business entity in Hong Kong.

Limited liability companies are subject to the same profits tax regime as branch offices and, on that basis, offer few advantages beyond the protection of limited liability per se. Branch offices are also exempt from the 0.1 per cent stamp duty applicable on any transfer of shares (see 'Stamp duty', below), and are not subject to the more complex deregistration and/or liquidation procedures that would apply on winding up a limited company (notification to the Companies Registry being sufficient to terminate the operations of a branch).

Limited liabilities companies are governed by the Companies Ordinance, which establishes statutory compliance requirements including the filing of the annual return and notification of any change in office holders.

One-stop shop registration

Establishment of a limited liability company is relatively simple, with a 'one-stop shop' facility allowing simultaneous registration with the Business Registration Office and the Companies Registry.

Registration of a local company requires the submission of:

– the Incorporation Form (Form NNC1 or NNC1G)

– a copy of the company's Articles of Association

– notice to the Business Registration Office (IRBR1) indicating whether three-year registration is being applied for

– business registration and other applicable fees.

Registration of a foreign-owned company requires submission of:

– an application for registration as a Registered Non-Hong Kong Company (Form NN1), together with supporting documents

– notice to the Business Registration Office (IRBR2), stating:

  (a) whether the company has already been registered under the Business Registration Ordinance and if so, citing the relevant business registration number

  (b) if not yet registered, whether a three-year certificate is applied for, and stating: the business name (if different from its corporate name); the nature of the business; and the date trading commenced

– business registration and other applicable fees.

It is also possible to purchase a shelf company and change the company name after acquisition. Any company registered in Hong Kong must have at least one natural person (who may be either a resident or non-resident) as a director, and must appoint a company secretary which may be either another company with its registered address or place of business in Hong Kong, or an individual ordinarily resident in Hong Kong. There is no requirement under the Companies Ordinance for a director to be a Hong Kong resident.

A private company may have a minimum of one shareholder and a maximum of 50 shareholders. Share capital may be classified as ordinary, preference, or deferred shares. No capital duty is payable on the registration and issuance of shares. Companies are not subject to any minimum share capital requirements.

Dividend payments arising from Hong Kong-registered companies are not subject to tax.

Holding companies

Capital gains and dividend income are not subject to tax in Hong Kong. Accordingly, a holding company registered in Hong Kong may receive dividend income free of tax and may make upstream dividend distributions without withholding tax.

A holding company registered in Hong Kong will also benefit from tax treaty protection of outbound investments in more than 30 treaty jurisdictions.

Representative/branch offices

Hong Kong makes a clear distinction between ‘branch’ and ‘representative’ offices, the latter of which are not permitted to engage in income-generating activities in Hong Kong, and whose functions are limited to business promotion and/or liaison on behalf of an overseas head office. A representative office is subject to the Business Registration Ordinance and must be registered at the Business Registration Office.

Branch offices are subject to registration under both the Business Registration Ordinance and the Companies Ordinance and, as such, are required to register with both the Business Registration Office and the Companies Registry on the same basis as a limited liability company (see ‘One-stop shop registration’, above). A local authorised representative must be appointed to accept service of proceedings and notices on behalf of a branch office in Hong Kong.

Under the Companies Ordinance a branch office is required to submit an annual return. Where the overseas head office of a branch office is a public company the audited financial statements of that head office must also be submitted to the Companies Registry every year.

Since branch offices are subject to the same profits tax rates as limited liability companies (currently 16.5 per cent) there is no financial advantage to this corporate structure. The compliance burden may be lighter, however, insofar as there is no requirement for the financial statements of a branch office to be audited. However, if the overseas head office of a branch is a public company then audited financial statements of that head office will need to be submitted to the Companies Registry every year. If the foreign head office of a branch is located in a jurisdiction subject to statutory audit requirements, the Inland Revenue Department can also request the audited financial statements of such head office, for information.

Cooperation agreements / joint ventures

Joint ventures and cooperation agreements not formally incorporated as any form of permanent establishment are not governed by specific legislation, and are typically treated on the same basis as partnerships (see below). Each of the parties in a cooperation agreement or joint venture will typically be jointly and severally liable for the acts and obligations of such cooperation or joint venture.

Cooperation agreements and joint-venture arrangements are utilised in bidding for major infrastructure, construction or other projects requiring diverse expertise and contributions from the participating parties. Since these will differ for each project, the sharing of risks and benefits is typically defined by specific agreements between the parties. Such arrangements can allow considerable flexibility in bidding for projects, without the need for formal incorporation, although a party entering into such an arrangement may be exposed to the risk of non-performance on the part of the joint venture parties.

When a joint venture is incorporated its status and compliance obligations are identical to those of a limited liability company.

03

Establishing a legal presence

(continued)

Partnerships

Partnerships are governed by the Partnership Ordinance and the Limited Partnership Ordinance.

Partnerships can be established quickly. Any agreement establishing the terms of a partnership does not need to be registered, but the partnership itself is subject to registration under the Business Registration Ordinance. A partnership is limited to a maximum of 20 members. Other than payment of the annual business registration fee, partnerships are not subject to any other compliance obligations and are not subject to the terms of the Companies Ordinance.

Partnerships are subject to the same profits tax rate as limited liability companies (i.e., 16.5 per cent) and subject to the same compliance requirements, except insofar as the financial statements of a partnership are not subject to statutory audit.

Unless established as a limited liability partnership, partners are jointly and severally liable for any claims and/or liabilities.

Investment funds

The Securities and Futures Ordinance (SFO) provides the regulatory framework governing the operation of investment funds in Hong Kong. An investment fund is deemed to be a collective investment scheme and may be established as a trust, a limited partnership, or a limited liability company.

Where a fund is authorised under the SFO, it may be offered to the general public; where it is not, it may be offered only to 'professional investors' as defined by the SFO.

Authorised offshore funds offer a tax advantage insofar as they are exempt from profits tax in respect of profits derived from certain transactions – including securities transactions, futures contracts, foreign exchange contracts, deposits, foreign currency trading and transactions in exchange-traded commodities – conducted or arranged by persons licensed under the SFO.

Business disposal

Businesses are generally freely transferrable.

Liabilities (other than tax liabilities) may be assigned to any new owner, subject to the consent of the company's creditors.

Employees must, on the transfer of a business, be offered employment on the same terms and with full recognition of all accrued benefits and years of service, or must otherwise be compensated with an appropriate severance payment (see 'Termination of Employment', below).

Bankruptcy

The Companies (Winding Up and Miscellaneous Provisions) Ordinance governs the winding up of a company by way of voluntary liquidation or compulsory liquidation under a court order.

Voluntary liquidation may occur either where a company is solvent ('members' voluntary winding up') or insolvent ('creditors' voluntary winding up').

Members' voluntary winding up

Where voluntary liquidation occurs through a members' voluntary winding up, this may be effected through the passing of a special resolution at a general meeting of the shareholders; no court orders are necessary under this procedure.

Creditors' voluntary winding up

A creditors' voluntary winding up is initiated through a shareholders' resolution to that effect, followed thereafter by a meeting of the company's creditors and the appointment of a liquidator. The company's creditors have the right to appoint a committee of inspection to liaise with such liquidator.

Alternatively, a company may be compulsorily wound up on the basis of a petition by the company's creditors, after which the Official Receiver is appointed as provisional liquidator upon a winding up order being granted. An alternative creditor may be appointed at the first meeting of the company's creditors. Once liquidation has commenced, the liquidator takes charge of the affairs of the company and will proceed to realise its assets, adjudicate claims and effect distributions to creditors.

The Bankruptcy Ordinance applies to individual bankruptcy as opposed to corporate insolvency. Individual bankruptcy commences through a petition to the court. Bankruptcy procedures are essentially the same as those for the compulsory winding-up of a company.

04

Taxation

Hong Kong offers one of the most attractive tax jurisdictions in the world.

- The tax system is simple, and the corporate (profits) tax rate low, at 16.5 per cent.
- No tax is imposed on profits arising in or derived offshore.
- No tax is imposed on capital gains.
- No tax is imposed on dividends.
- No estate duty or inheritance tax.
- No VAT, sales tax or other indirect taxes.

Profits tax is charged on any profit arising from any business, trade or profession conducted in Hong Kong, regardless of whether the entity in question is a local or foreign-owned company. Consistent with the taxation of local companies, foreign-owned businesses are not subject to VAT, sales tax, or taxes on dividends and/or interest; neither are foreign companies subject to withholding tax on these.

Non-residents without a permanent establishment in Hong Kong to which profits are attributed are not subject to any profits tax liabilities, except with regard to income arising from the use or rights of use of intellectual property in Hong Kong (see 'Double Taxation Treaties', below).

Profits tax

An incorporated business is subject to profits tax at 16.5 per cent in respect of its assessable profits arising in or derived from Hong Kong, whereas an unincorporated business (e.g., a sole proprietorship) is taxed at 15 per cent of its assessable profits. Hong Kong's taxation system is based on territoriality: this means that only income and profits derived in or arising from Hong Kong are subject to tax in Hong Kong.

Capital gains are not subject to profits tax.

A taxation loss may be carried forward indefinitely against future assessable profits.

Property tax

Property tax is applied to rental income arising from real estate assets in Hong Kong, calculated at a standard rate of 15 per cent of the net assessable value of a property: such net assessable value being the rent receivable less any irrecoverable rent, rates payments, and a fixed allowance of 20 per cent for repairs. Where the owner is a corporation, its rental income is deemed to form part of its business income and its assessable profit is subject to profits tax (rather than property tax).

Salaries tax

An individual is subject to salaries tax on any income arising from employment in Hong Kong, and on any fee income arising from a Hong Kong directorship.

Income derived from employment by a non-resident visiting Hong Kong for fewer than 60 days in any tax year is exempt from salaries tax. A non-resident employed outside of Hong Kong but engaged in the provision of services within Hong Kong for a period of more than 60 days within any single tax year will be liable for salaries tax on a pro-rata basis, with such chargeable income calculated on the basis of the number of days of physical presence in Hong Kong. The tax year begins on 1 April and ends on 31 March.

Table 1: Applicable tax bands 2014/15

Tax rates	2014/2015
First HK$40,000	2%
Next HK$40,000	7%
Next HK$40,000	12%
On the remainder	17%
Standard rate *(applicable on gross income where tax due would otherwise exceed 15% of an individual's gross income)*	15%

Personal allowances	2014/2015
Basic allowance	HK$120,000
Married person's allowance	HK$240,000

Additional allowances are available for children (at HK$70,000 per child, with an additional HK$70,000 allowance in the year of birth) and dependents, as well as deductions for self-education and professional development costs, interest on mortgages and home loans, contributions to recognised retirement schemes (Mandatory Provident Fund), and charitable donations.

Taxable income of individuals

Taxable income of an individual includes:

– salaries and allowances (subject to salaries tax)

– rental income received by an individual and derived from properties located in Hong Kong (subject to property tax at 15 per cent; however, an individual can elect for such income to be aggregated with other personal income and subject to tax at the rate shown in Table 1, above)

– any profit arising from activities as a sole proprietor or partner in a partnership, such proprietor or partnership business being subject to profits tax at 15 per cent. However, an individual who is a sole proprietor or partner can elect for his or her share of such income to be aggregated with other personal income and subject to tax at the rate shown in Table 1, above.

Taxation of non-residents

Hong Kong's tax system operates on the basis of the source of income rather than 'residency' status. Accordingly, there is no differentiation between the tax treatment of residents and non-residents.

The offshore income of both residents and non-residents is typically free of tax liabilities in Hong Kong. A non-resident may incur tax liabilities in Hong Kong if:

– such non-resident is in receipt of income arising from employment in Hong Kong during visits exceeding 60 days in any tax year

– such non-resident is in receipt of a director's fee from a Hong Kong company or an overseas incorporated company in which management and control is centrally located in Hong Kong

– such non-resident is in receipt of licensing fees and/or royalties arising from the use or right of use of intellectual property in Hong Kong

– such non-resident is an entertainer or sportsman and is in receipt of or deemed to be in receipt of income arising from performance in Hong Kong.

VAT and indirect taxes

No VAT or indirect taxes are imposed by the Government of Hong Kong.

CGT exemptions

Capital gains are not taxable in Hong Kong.

Thin-capitalization rules

Thin capitalization rules do not apply in Hong Kong. Concerns regarding excessive interest deductions rarely arise since any such deductions to which a company might be entitled are determined on the basis of whether such interest-bearing debt has been incurred in relation to the generation of chargeable income.

04

Taxation

(continued)

Double taxation treaties

Hong Kong is currently a party to double taxation treaties with more than 30 jurisdictions.

Hong Kong does not impose withholding tax on dividends or interest.

Withholding tax is only applied on royalties and/or licensing fees paid in respect of the use or right of use of intellectual properties in Hong Kong. A Hong Kong licensee is required to account for any tax liabilities arising, as the deemed tax agent of such non-resident licensor, calculated as follows:

> *gross licensing fee or royalty x deemed profits rate (30%) x profits tax rate (16.5%)*

On that basis, the effective tax rate is 4.95 per cent.

Under double taxation treaties currently in force, however, the effective tax rate on licensing fees and/or royalties in respect of intellectual property rights may be reduced to as little as three per cent.

Customs regulation

Hong Kong is a Free Port and, as such, imposes customs duties only on the import of hydrocarbons, tobacco, liquor with alcoholic content, and methyl alcohol.

Stamp duty

Stamp duty is chargeable on the transfer of Hong Kong shares and/or properties. Inter-group transfers may be eligible for exemption from stamp duty subject to satisfying certain conditions.

Stamp duty on share transfers

The transfer of shares in a Hong Kong-registered company is subject to Hong Kong stamp duty at the effective rate of 0.1 per cent, payable by both the transferor and transferee (i.e., 0.2 per cent in aggregate) on the higher of the consideration or the fair value of the shares.

Stamp duty on property transfers

The acquisition and/or transfer of real estate is subject to stamp duty. In an attempt to curb Hong Kong's buoyant property market, additional stamp duty charges have been introduced in recent years, including buyers' stamp duty (BSD), double stamp duty (DSD) and special stamp duty (SSD). The basic duty rate and applicable rates of BSD, DSD and SSD are set out in Table 2, below.

Basic duty rate

The basic duty rate ranges from HK$100 to 4.25 per cent and applies on the higher of the consideration or the fair market value of the property at the time of the acquisition. The general practice is that the buyer bears the duty.

Buyers' stamp duty

Buyers' stamp duty at a flat rate of 15 per cent is applied in addition to standard stamp duty (calculated at the basic duty rate) due on the acquisition of residential property. Exemption from BSD is granted where the buyer is a permanent resident of Hong Kong.

Double stamp duty

Double stamp duty replaces the basic duty rate and is applied on the acquisition of residential and non-residential property at rates ranging from 1.50 to 8.50 per cent in respect of acquisitions on or after 23 February 2013. Exemption from DSD is granted on the acquisition of residential property if the buyer is a Hong Kong permanent resident and if he or she does not own any residential property in Hong Kong at the time of acquisition. If the buyer holds another Hong Kong residential property at the time of such acquisition but disposes such other property within six months of the new acquisition, he or she may claim duty relief equivalent to the difference between the DSD and the duty based on the basic duty rate.

Special stamp duty

Special stamp duty is charged on the disposal of residential property held for less than three years and is charged at a rate of 10 to 20 per cent depending on the period of ownership and the value of the property at the time of disposal.

Table 2: Applicable stamp duty rates

Consideration or market value, whichever higher	Payable at time of acquisition unless exemption applies			Payable at time of disposal
	Basic duty rate	BSD on residential property (unless exemption applies)	DSD (unless exemption applies)	SSD
<HK$2m	HK$100	15%	1.50%	20% if held for <6 months; 15% if held for 6–12 months; 10% if held for 12–36 months
HK$2m to 3m	1.50%		3.00%	
HK$3m to 4m	2.25%		4.50%	
HK$4m to 6m	3.00%		6.00%	
HK$6m to 20m	3.75%		7.50%	
>HK$20m	4.25%		8.50%	

Mineral extraction and land-use taxes, royalties

No specific taxes apply to the extraction and/or use of natural resources. However, since all land is owned by the government, rent and rates apply to the use of land. Land use is determined by the Town Planning Board (e.g., residential, commercial, industrial, community) in each case.

Tax allowances on qualifying intellectual property

The purchase costs of patent or other intellectual property rights necessary to the generation of taxable profit are fully deductible.

Capital expenditure on the purchase of specific intellectual property rights (copyrights, registered designs or trademarks) necessary to the generation of taxable profit is deductible at 20 per cent per annum over a period of five years.

Research and development (R&D) concessions

Research and development costs are deductible for tax purposes, including capital expenditure on plant and machinery; capital expenditure on land or buildings is not deductible, however.

Scientific research

'Research and development' is deemed to include all aspects of scientific research. This includes new and original research intended to extend technical knowledge and understanding, and the application of research findings or knowledge to a plan or design for the production or introduction of new or substantially improved materials, devices, products, processes, systems or services prior to the commencement of their commercial production or use.

Energy-efficient equipment and facilities

Capital expenditure on equipment and machinery intended to promote energy efficiency or environmental protection, as well as capital expenditure on environmentally friendly vehicles, is fully deductible in the tax year in which such capital expenditure is incurred.

Capital expenditure for the acquisition or construction of environmentally friendly or energy-efficient facilities is allowed as a deduction in equal instalments over a period of five years.

05

Land and Property Ownership

All property in Hong Kong is leasehold and owned by the Government of the Hong Kong Special Administrative Region. Legal title to land and buildings is registered with the Land Registry.

Hong Kong does not impose any restrictions on the ownership of property or land by non-residents.

06

Banking

Hong Kong has one of the highest concentrations of banking institutions in the world: as at 31 December 2013 more than 200 authorised banking institutions (including both domestic and international banks) were registered in Hong Kong.

Regulation

The Banking Ordinance provides the regulatory framework for banking operations, including capital requirements, liquidity ratios, limitations on loans, and investment regulation.

Regulatory bodies

The Hong Kong Monetary Authority (HKMA) is responsible for the regulation and supervision of banking operations in Hong Kong, and the licensing of banks and deposit-taking institutions (collectively known as 'authorised institutions').

The HKMA operates a discount window providing overnight liquidity to banks against eligible collateral to facilitate interbank settlements. The HKMA has in place various facilities to provide liquidity assistance to banks where necessary to promote the smooth operation of the interbank market and to support and enhance the security of Hong Kong's banking system.

State support

No specific financial support is extended to either domestic or international investors.

07

Capital Markets

Regulation

The Securities and Futures Ordinance (SFO) provides the legal framework governing securities and futures market operations, investor protection and the promotion of Hong Kong as an international financial centre.

Regulatory bodies

Regulatory functions are carried out by the Securities and Futures Commission by authority of the SFO. These include:

– market regulation, including the investigation of misconduct and breaches of regulation, and enforcement of penalties and sanctions

– licensing and supervision, including the licensing and supervision of intermediaries conducting regulated activities (brokers, investment advisers and fund managers)

– the supervision of market operators (including exchanges, clearing houses and alternative trading platforms) and support for the enhancement of market infrastructure

– the authorisation and approval of investment products and/or offering documents prior to their distribution to retail investors

– oversight of regulation governing the merger and/or acquisition of public companies, and oversight of the regulation of listings on the Hong Kong Stock Exchange (HKEx)

– cooperation with local and international regulatory authorities

– public education on market operations, the risks of investing, and investors' rights and responsibilities.

Stock exchanges

The Stock Exchange of Hong Kong Limited (HKEx) is consistently ranked amongst the top 10 most significant international exchanges by market capitalisation and annual trading volumes.

Private equity

Private equity is a common form of investment in Hong Kong. However, private equity offerings are accessible to professional investors only and cannot be publicly marketed.

A SFC survey published in July 2014 suggests that the total volume of private equity funds under management in Hong Kong totalled HK$16 trillion in 2013, approximately 72 per cent of this investment being sourced from overseas investors – a clear indication of Hong Kong's status as a platform for investment in Asia.

It is an offence for collective investment schemes to be offered to the public without authorisation by the SFC. For that reason, crowdfunding has not yet become an established financing vehicle in Hong Kong.

08

Labour Regulation

Statutory legislation

The Employment Ordinance governs employees' statutory protection and benefits, including payment of wages, restrictions on wage deductions, entitlement to statutory holidays, sick leave, and so on.

An employee who has worked for the same employer for a period of more than four weeks (at a minimum 18 hours per week) is deemed to be engaged under a 'continuous' employment contract. An employee under a continuous employment contract is entitled to benefits including:

– a minimum wage of HK$30 per hour

– annual leave of between seven and 14 days for each completed 12 months of employment

– employers' contributions to the Mandatory Provident Fund (pension fund)

– insurance cover against work-related injuries

– maternity leave

– sick leave

– severance pay and long service payments (subject to certain conditions).

Employment contracts – standard terms

There is no requirement for a contract of employment to be provided in writing. However, upon written request prior to commencement of employment, an employer is required to confirm, in writing, key conditions of employment including remuneration (wages, year-end bonuses or proportional entitlements thereof) and the notice period required to terminate such employment.

Fixed or discretionary year-end bonuses are common. Medical cover is frequently offered to employees, and it is common for senior employees to be reimbursed for housing costs and provided with a company car.

Minimum wage regulation

The statutory minimum wage in Hong Kong (as of May 2013) is HK$30 per hour.

Maternity entitlements

Female employees in continuous employment are entitled, having given due notice of pregnancy, to 10 weeks' maternity leave.

Sick leave

An employee under a continuous employment contract is entitled to sick leave, compensated at a rate of four fifths of his or her average daily salary. Entitlement to sick leave is accrued at a rate of two days for each month of employment during the first year of employment, and four days for each month of employment thereafter, up to a maximum of 120 days.

Work permits and visas

Work permits and visas are issued by the Immigration Department of the Government of the Hong Kong Special Administrative Region.

All expatriate workers require an employment visa in order to engage in any employment in Hong Kong, which must be obtained prior to arrival. A local sponsor (normally the employing company) is required.

Applicants who are or were non-local students in Hong Kong and who have obtained an undergraduate degree or higher qualification under a full-time and locally accredited programme in Hong Kong may apply to stay or return to Hong Kong under the Immigration Arrangements for Non-local Graduates (IANG).

Applicants who are not non-local graduates but possess special skills, knowledge or experience of value to and not readily available in Hong Kong may apply for a work visa under the General Employment Policy (GEP).

08

Labour Regulation

(continued)

The IANG and GEP are both quota-free and non-sector-specific, and apply to professionals in the commercial and financial fields, as well as those working in the arts, culinary, culture and sports sectors.

Visa applications may be submitted to the Embassy of the People's Republic of China in the applicant's country of residence or may be submitted to the Immigration Department in Hong Kong by the applicant's local sponsor.

Termination of employment

An employment contract may be terminated by an employer or employee giving due notice – or, in the case of the employer, offering payment of salary in lieu – as follows:

- during the first month of an employee's probation period – no notice required
- after the first month of an employee's probation period – as detailed in the employment contract, subject to a minimum of seven days
- after completion of the probation period or where no probation period is in force – as defined in the employment contract, subject to a minimum of one month.

Interest becomes chargeable on wages outstanding more than seven days after termination of employment.

An employer found to be in breach of statutory employment conditions may, if convicted, face a maximum fine of HK$350,000 and imprisonment for up to three years.

Any employee who has been employed for not less than 24 months is entitled to severance pay if he or she is dismissed as a result of redundancy.

Such severance payment is calculated on the basis of the following formula:

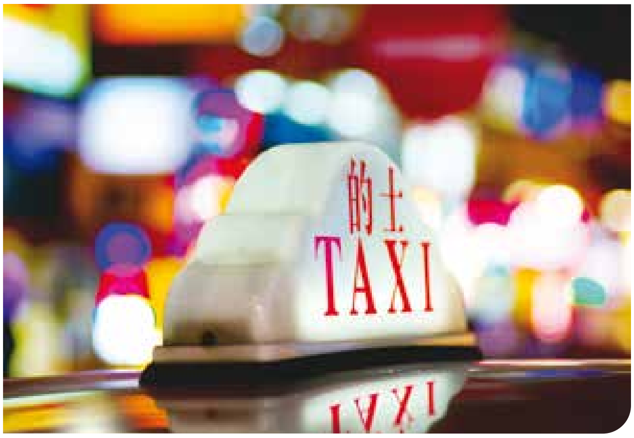
> *(final month's salary x 2/3) x total reckonable years of service.*

The final month's salary is capped at HK$22,500. An employee may, alternatively, elect to base this calculation on his or her average wages over the past 12 months (subject to a maximum of HK$22,500). Any severance payment made to a former employee is capped at HK$390,000 and will be offset by the accrued benefit attributable to employer's contributions being held for the employee under the Mandatory Provident Fund Scheme (pension fund).

Any employee engaged under a continuous contract for not less than five years is entitled to a long-service payment on retirement. Long-service payments are calculated on the same basis as severance payments. The right to a long-service payment and to a severance payment are mutually exclusive.

09

Business Schemes Leading to Residency



Hong Kong offers various opportunities for obtaining permanent residency, notably the Quality Migrant Admission Scheme (QMAS) and the Capital Investment Entrant Scheme (CIES).

Whereas the QMAS is intended to attract skilled workers to support the HKSAR's many development projects, the CIES is targeted specifically at entrepreneurs able to invest a minimum of HK$10 million in 'permissible investment assets'. The scheme is open to nationals of most countries, who are free to invest in any permissible investment assets without any specific requirements to establish an independent business or engage in any other business activities in Hong Kong. Subject to appropriate compliance in respect of maintaining such investment(s) and/or investment portfolio, and after seven years' continuous ordinary residence in Hong Kong, entrants under the CIES may, together with their dependents, apply to become permanent residents of Hong Kong.

10

Intellectual Property

Key regulation

In addition to a comprehensive legal framework derived from local legislation and case law, Hong Kong is a party to all major international treaties, including the Berne Convention for the Protection of Literary and Artistic Works (the 'Berne Convention'), the Universal Copyright Convention, and the Paris Convention for the Protection of Intellectual Property (the 'Paris Convention').

Trademark protection

While the Hong Kong Trade Marks Ordinance is predicated on the 'first-to-file' principle, it does recognise the rights of established trademarks under the Paris Convention. Unregistered trademarks, names and branding are also protected under common-law provisions pertaining to the 'passing-off' of established trademark and other intellectual property rights.

Remedies for the infringement of intellectual property rights include injunctions, delivery up for destruction or forfeiture, and damages and/or compensation for loss of profit and legal costs. The Customs and Excise Department have wide-ranging powers of search, seizure and arrest in criminal cases.

Copyright

The Hong Kong Copyright Ordinance provides protection to works that are original, recorded, published and connected to Hong Kong. Copyright generally lasts for the lifetime of the author plus 50 years.

Ownership of copyright first is vested in the author or publisher unless such content is produced by an employee in the course of his or her employment, in which case the employer is deemed to be the first owner of the work.

Copyright infringement may lead to criminal prosecution resulting in a fine and/or imprisonment.

Patents

The Hong Kong Patents Ordinance provides a re-registration system under which patents originally filed in China, the UK or the European Community (UK designated) may be protected in Hong Kong provided that such patents are re-registered through the filing of a request to record and a request for registration and grant. The resulting Hong Kong patent is completely independent and may be amended or revoked independently.

In addition, a short-term patent is obtainable by direct application to the Patents Registry of the Intellectual Property Patents Department (IPD) of the Government of the Hong Kong Special Administrative Region without requiring prior application elsewhere.

11

Dispute Resolution

Key regulation

The legal system of the Hong Kong Special Administrative Region is separate to that of the People's Republic of China and is based, predominantly, on that of the English courts and the common law system.

Litigation

Disputes involving small sums of money (i.e., HK$50,000 or below) may be heard at the Small Claims Tribunal without legal representation.

Civil cases involving claims of between HK$50,000 and HK$1 million are heard at the District Court, and those involving claims in excess of HK$1 million at the Court of First Instance. Mechanisms exist for appeals to the Court of Appeal and, subsequently, to the Court of Final Appeal.

Where a defendant does not acknowledge a service or a summary judgment, and where there is no bona fide defence to a claim, a default judgment may be obtained without trial.

Enforcement of Hong Kong judgments aboard is largely based on reciprocity of enforcement in Hong Kong. Payment of an award made under a foreign judgment may be enforced by having the judgment registered under the Foreign Judgments (Reciprocal Enforcement) Ordinance (FJREO). Alternatively, such foreign judgment may be enforced under common law by commencement of a new action in Hong Kong.

In lieu of litigation, disputes may be resolved through alternative dispute resolution (ADR) methods such as arbitration or mediation. While the courts can only encourage, but cannot compel, the use of ADR, a party's refusal to adopt ADR procedures will be taken into account in awarding costs.

Arbitration

The Hong Kong International Arbitration Centre (HKIAC) has established itself as the leading dispute resolution centre in Asia, and a preferred location for the resolution of complex cases involving parties throughout the world. Arbitration in Hong Kong is governed by the Arbitration Ordinance, itself based on the UNCITRAL Model Law.

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