Doing business in Hong Kong

mazars

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Editorial

Welcome to Hong Kong

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Besides the unexpected setbacks of the emerging covid variants at the end of 2021, the entire global economy has recovered rapidly from the epidemic, and the progress of economic reconstruction is overall optimistic.

Notwithstanding the affection from the macroeconomic environment, Hong Kong is still an ideal place for companies to set up or expand their business, regardless of the business scale, industry sector, and stage of business development. Businesses from different sectors are gradually adapting to the new normal, and even taking this crisis as an opportunity to explore business opportunities from the niche.

As a free economy, with a solidified legal system and a highly diversified and internationalized business environment, Hong Kong is capable of maintaining its core competitiveness and will continue to assist individuals, privately owned businesses, small and medium-sized enterprises, and listed companies to seize the enormous business opportunities brought by Mainland China, as well as its progressive integration with regional and global markets.

Hong Kong is the 5th largest stock market in the world and the 2nd largest in Asia in terms of market capitalisation at end-June 2021. According to the Global Transaction Forecast for 2020, Hong Kong's IPO and M&A attractiveness rank 1st in the world. Benefits from the emerging needs of biotech-related services and businesses, Hong Kong seizes the Biotech IPO Markets in the APAC region and become the regional and international Biotech funding center.

Possessed one of the most comprehensive and simplest taxation systems in the world, with no tariffs imposed on import or export except four types of goods particularly, Hong Kong once again ranked as the freest economy in the world according to Fraser Institute. As located at the heart of Asia-Pacific and shares an identical time zone with other pivotal financial markets in the region, Hong Kong can safeguard its significant economic presence through its inherent strategic advantage and enable to predominate the opportunities from west to east.

Looking ahead, 2022 will be a year when economic growth exceeds its potential. The resilience of companies when confront with disruption during the pandemic will become significantly important in the decade ahead. At the same time, companies that embrace sustainable value creation and benefit the wider society will be rewarded in the long run. There is no time like the present for the company to reshape its business and navigate the long-term sustainability and continuity throughout the crisis.

Our Doing business in Hong Kong 2022 guide has been prepared to assist those who are interested in starting a business in Hong Kong. It features various topics for companies to focus on shaping the path ahead, such as setting up business entities in Hong Kong, import issues, tax and financial systems, financial reporting and audit standards, and labour and employment.

By working through this guide, you will be able to identify which you should prioritize to create a clear business plan tailored to your business. Mazars in Hong Kong is always your trustworthy business partner alongside your journey despite any challenges.

Mazars in Hong Kong

1
Office

300+
Professionals

20
Partners

We are an international audit, tax and advisory firm committed to helping our clients confidently build and grow their businesses. We always seek to understand our clients and their environments, adjusting our recommendations and support accordingly.

Present in over 90+ countries and territories, we work together as one team across borders and functions to deliver exceptional and tailored services. We combine our skills and expertise with both a global perspective and local knowledge to provide clients with a broad array of professional services in audit and accounting, as well as tax, financial advisory, consulting and legal services*.

We empower our people to help clients make the most of opportunities, operate with conviction, and give confidence to their stakeholders.

Mazars is a multicultural and united partnership with shared goals, values and service standards across the world. We take pride in our technical expertise and the quality of our work. With over 300 highly skilled professionals at Mazars in Hong Kong, we operate as one integrated firm through 40+ cities in China with more than 5,000 staff. We have the skills and the scale to serve clients of all sizes, across all sectors, while remaining agile, personal and distinct in our approach.

We approach every piece of work with independence, accountability and a social conscience, and we take responsibility for shaping a sustainable industry as well as helping build the economic foundations of a fair and prosperous world.

*where permitted under applicable country laws.

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*where permitted under applicable country laws.

General information

+7.0%[1]

GDP growth

+1.5%[1]

Inflation

7.4m[1]

Population

1st[2]

Economic freedom

[1] data collected from HKSAR as of September 2021

[2] data collected from Fraser Institute as of November 2021

Establishing an entity

There are three basic ways of establishing a business in the Hong Kong Special Administrative Region (HKSAR):

1. **Sole proprietorship or partnership**
2. **Limited liability company**
3. **Branch office or representative office of a foreign company incorporated outside the HKSAR**

Establishing an entity

Sole proprietorship

Other than ensuring that business registration requirements are complied with, there are little restrictions on the way in which an owner runs the business (provided it is legal). However, a sole proprietorship gives rise to unlimited liability for the owner, and therefore it is not normally recommended.

Partnership

General and unlimited partnerships are formed under the Partnership Ordinance. In a general partnership, all partners are jointly and individually liable without limit for the debts and obligations of the partnership. Each partner is also personally liable, without limitation, for all the debts and obligations of the partnership not satisfied by the partnership assets. It is possible to register, with the Registrar of Companies, a limited partnership, which is governed by the Limited Partnership Ordinance, under which the liability of at least one of the partners must remain unlimited.

Limited company

Limited companies may be either private or public companies limited by shares or a guarantee company without share capital and the operation of which is subject to the provisions of the Companies Ordinance. The liability of members of a company for the company's debts is limited to the issued share capital, or in the case of a company limited by guarantee, to the amount of the guarantee.

Most business operations in the HKSAR are private companies limited by shares, whose articles of association:

- Restrict the right to transfer the company's shares.
- Limit the number of members to 50.
- Prohibit any invitation to the public to subscribe for shares or debentures.

Any company whose articles of association do not contain these three restrictions is a public company and is subject to additional requirements beyond the scope of this guide.

Branch or representative office

Any overseas company that establishes a place of business in the HKSAR is required to register pursuant to the Companies Ordinance. A place of business includes a share transfer or share registration office, any place used for the manufacture or warehousing of goods, and/or a place used by the company to transact any business, which creates legal obligations. If the office in the HKSAR has a liaison function and no business is conducted in the HKSAR that creates legal obligations, then the only action that must be taken is for the company to register a representative office under the Business Registration Ordinance.

Foreign business restrictions

Essentially, there is no restriction on foreign business setting up in Hong Kong nor is there any foreign exchange control. There is also no Hong Kong residential requirement for shareholders and directors of an entity in the HKSAR.

Investment incentives

There are few incentives to promote business investments since its low tax rates, excellent financial infrastructure and favorable investment climate are considered as sufficient to attract investments in Hong Kong.

In recent years, Hong Kong introduced tax incentives to certain targeted industries/sectors such as the fund industry, insurance and insurance brokerage businesses, corporate treasury centres and aircraft and ship leasing.

Qualified R&D expenditure may enjoy up to

300%

tax deduction for the first

HK$2m

of such expenditure.

The remainder will be entitled to

200%

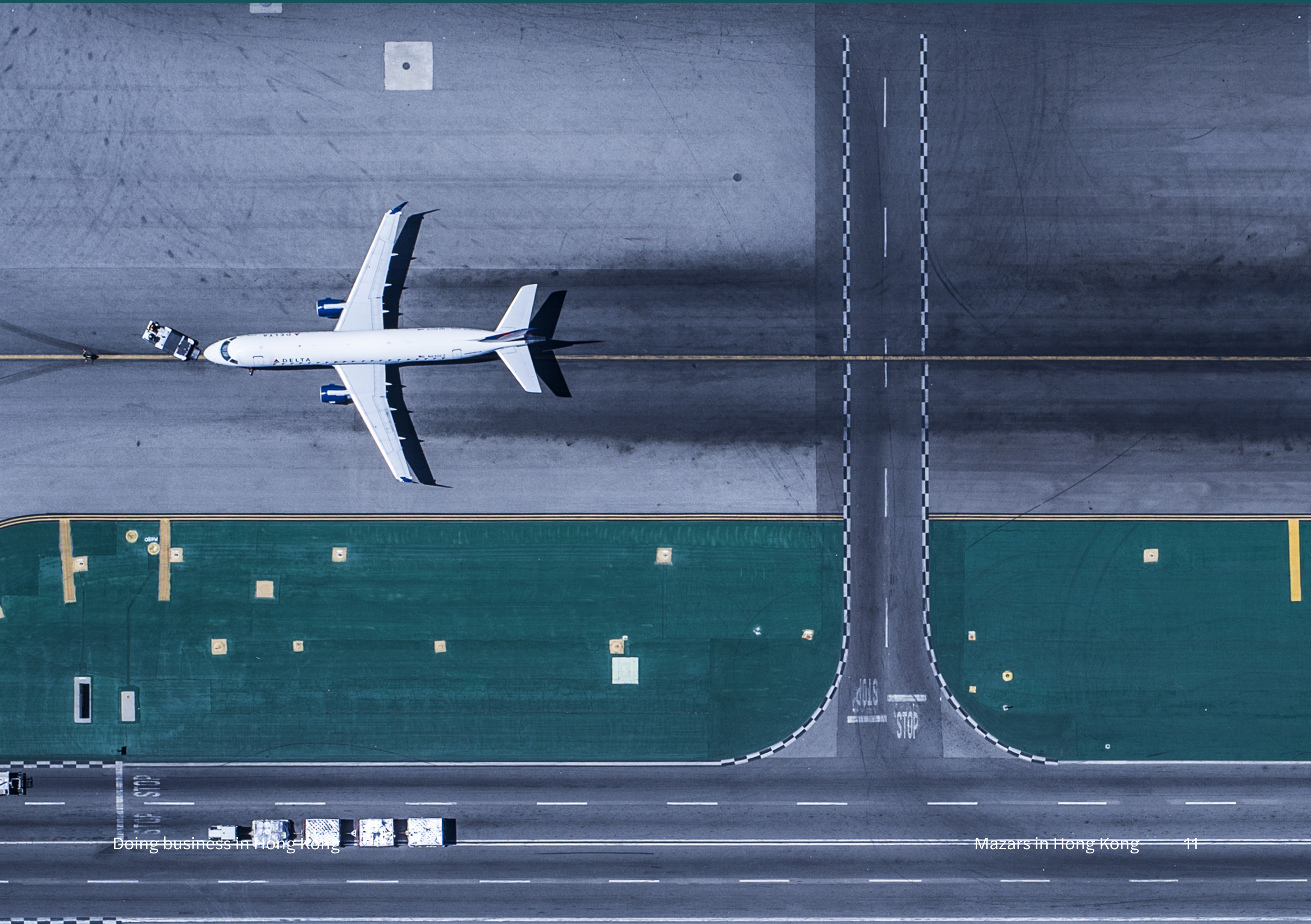
tax deduction without any cap.

Work permits and visas

Other than those who have the Right of Abode or Right to Land in the HKSAR, all foreigners require a visa to live and work in Hong Kong.

As a general rule, any person who wishes to study, enter into employment, invest in Hong Kong, settle in Hong Kong for permanent residence, or stay as a visitor longer than the allowed visa free period, must obtain a proper visa before coming to the HKSAR via a Chinese Consulate or Visa Office in his/her country of residence or citizenship.

People who take up residence in the HKSAR are required to register for an identity card by law. After living in the HKSAR for seven years, one can apply for a permanent identity card. If successful, there will be no subsequent requirement for a visa or a work permit.



Foreign currency control

There are no exchange controls or restrictions on capital flows in and out of Hong Kong. The local currency is the Hong Kong Dollar (HKD).

Since 1983, the HKD has been officially pegged at

HK$7.80
=
US$1.00

Accordingly, the exchange rate of HKD to other currencies and Hong Kong interest rates typically follow US fluctuations.

There is no value added tax, sales tax or capital gains tax in Hong Kong.

Profits tax

Profits tax is imposed for each tax year on Hong Kong-sourced profits derived from a trade, profession or business carried on in Hong Kong. There is no distinction between residents and non-residents. The source of profits is determined by an "operations test" (i.e. identifying the activities which directly produce the relevant profits and the place where these activities are carried out). Expenses are generally deductible to the extent that they are incurred in the generation of assessable profits.

A tax year covers a period of 12 months commencing on 1st April and concluding on 31st March of the following year. Profits earned by a business during an accounting year ending within a tax year will be deemed to be its profits for that tax year.

Tax losses incurred cannot be carried back but can be carried forward indefinitely to offset against any future assessable profits. Anti-avoidance provisions restrict the use of tax losses where a change in shareholding was undertaken solely or dominantly for the purpose of utilising the losses to obtain a tax benefit.

Under the two-tiered profits tax rates regime, the profits tax rate for corporations is 8.25% on assessable profits up to $2 million and 16.5%on any part of assessable profits over $2 million. For unincorporated businesses, the profits tax rate is 7.5% on assessable profits up to $2 million and 15% on any part of assessable profits over $2 million.

However, for two or more connected entities, only one of them may elect for the two-tiered profits tax rates.

Salaries tax

Salaries tax is imposed for each tax year on an individual's income arising in or derived from Hong Kong from any office, employment or any pension. For Hong Kong employment, all income derived will normally be subject to salaries tax; even if some services are performed outside of Hong Kong. Income from non-Hong Kong employment is only taxed to the extent that is derived from services rendered in Hong Kong.

In determining whether an employment is a Hong Kong employment or a non-Hong Kong employment, the practice of the Inland Revenue Department is to take into account all of the relevant facts with particular emphasis on where the employment contract was negotiated, entered into and where it is enforceable; where the employer is resident; and where the employee's remuneration is paid to him/her. Income from services rendered during visits to Hong Kong by a person not exceeding 60 days in a tax year is exempted.

Salaries tax is charged at progressive rates from 2% to 17% on a taxpayer's net chargeable income (i.e. income after deduction of expenses and personal allowances), with the maximum of tax limited to the standard rate of 15% on the taxpayer's net assessable income (i.e. income after deduction of expenses but with no personal allowances granted).

Employment

The Employment Ordinance is the law governing employment practice and labour relations in Hong Kong.

Types of employment

All employees in Hong Kong (except seamen, apprentices, and family members living in the same dwelling) are entitled to wage protection and statutory holidays. After 4 weeks of employment with at least 18 hours of work per week, an employee automatically falls under a continuous contract and can receive other benefits.

An employment contract must stipulate the wage, wage period, notice requirements, and bonus calculations if applicable. If a contract is in writing, the employee must receive a copy; and if the contract is made verbally, the employee is entitled to a copy if he/she requests one.

Additionally, the employer must keep records of the employee’s name, identity card number, job title, wage, wage period, notice requirement, leave entitlement and record, as well as payments made during leave. If applicable, the employer must also keep a record of the number of hours in a wage period, bonus calculations, and date of termination.

Employment (Cont'd)

Working hours and compensation

Wages must be paid out within 7 days after the wage period. There is no statutory provision on regular working hours and overtime hours in Hong Kong, which must be specified in the employment contract.

Employers are only required to provide 1 rest day every week. The average full-time employee in Hong Kong works 49 hours a week and over half of employees receive no remuneration for overtime.

Wages and benefits

Minimum Hourly Wage

Since 2011, Hong Kong has enforced a statutory minimum wage. The current level of minimum wage is HKD 37.50 per hour.

Paid leave

Each full time employee is entitled to 13 days of statutory holidays. Moreover, an employee who has rendered 1 year of service is entitled to a minimum of 7 days of paid leave annually. After the third year of service, the minimum number of paid leave days **increases by 1 every year, up to a cap of 14 days.**

Mandatory provident fund

The Mandatory Provident Fund (MPF) is designed to provide a formal, compulsory system of retirement protection by way of a privately managed contribution scheme. Generally, all benefits derived from mandatory contributions must be preserved until the contributor reaches the prescribed retirement age of 65. Early withdrawal of benefits may be allowed when a person: (a) retires between ages 60 and 65;(b) has departed or will depart from Hong Kong permanently; (c) has become totally incapacitated; or (d) has died before the age of 65. The benefits accrued from mandatory contributions to MPF schemes are withdrawn in a lump sum upon retirement rather than as an annuity.

Certain categories of employees are not required to join an MPF scheme, including employees who are covered by overseas retirement schemes, and foreigners who enter Hong Kong for employment with a working visa for a validity period that does not exceed 13 months.

Under the MPF system, the employee is required to contribute 5% of his/her monthly income (capped at HKD18,000 p.a) and the employer has to match this amount. Each employee and employer may make voluntary contributions in addition to the mandatory contributions.

Termination of employment

An employee may be eligible for severance payment or long service payment under certain conditions. An employee, who has been employed for not less than 24 months, is entitled to severance payment if the employee was laid off or dismissed by reason of redundancy. Certain employees who have been employed under a continuous contract for not less than 5 years are entitled to a long service payment. The amount payable is the lower of 2/3 of the previous month's salary or 2/3 of HKD 22,500, multiplied by the recognizable years of service. The payment is capped at HKD 390,000.

The service of an employee can be terminated and the employer/the employee should be given notice according to the employment contract. If it is not specified in the employment contract, at least 1 month notice should be given before the date of termination.

Summary dismissal is allowed only if the employee has committed serious misconduct or habitually neglects his/her duties and fails to improve after repeated warning. The employee may disagree and file a case with the Labour Tribunal. An employee can terminate the employment without notice if he/she is reasonably threatened by violence or disease, subjected to illtreatment by the employer, or certified permanently unfit for the work by a registered medical practitioner after 5 years of service.

Intellectual property

As a leader in the development and protection of intellectual property, Hong Kong aims to reach the highest international standards by establishing a strong framework of intellectual property law.

The framework is comprising of the Patents Ordinance, the Trademarks Ordinance, the Registered Designs Ordinance and the Copyright Ordinance. In addition, special departments within the Hong Kong Government including the Intellectual Property Department and Custom and Excise Department monitor the Intellectual Property regime and ensure the enforcement of the relevant laws and regulations. They are also responsible for investigating complaints alleging infringement of trademarks and copyright respectively.

Audit and accounting

All companies incorporated under the Companies Ordinance, regardless of size, must have their (annual) financial statements audited by a practising Certified Public Accountant registered with the Hong Kong Institute of Certified Public Accountants (HKICPA).

Hong Kong Financial Reporting Standards (HKFRS) issued by the HKICPA, which are almost fully converged with International Reporting Financial Standards (IFRS), are commonly adopted for the preparation of financial statements of companies incorporated under the Companies Ordinance.

Hong Kong also adopts the Hong Kong variation of IFRS for SMEs, which is known as HKFRS for Private Entities, for companies that do not have public accountability. SMEs that meet certain criteria, including a size test and shareholders' approval, can also choose to apply the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standards (SME-FRF & SME-FRS).

Doing business in China via Hong Kong

Hong Kong is a major business hub commonly known for its most tax-friendly system, free port, free economy and competent legal system. Its inherent competitive advantages and unique position as the gateway of the Mainland China have attributed the success of the city.

Today, China is the second largest economy in the world and is the fastest-growing major economy. Not only has China become one of the biggest manufacturers of the world, the country increasingly affluent population is becoming a significant consumer market itself. The economic open-up policy of the Mainland China brings great opportunities to Hong Kong, to attract foreign investors to set up headquarters or liaison offices in the territory for managing their investments in the Mainland China.

Doing business in China via Hong Kong (Cont'd)

Gateway to Mainland China

Hong Kong is known as a gateway to China as it offers easy access to Mainland China business opportunities commercially. Hong Kong's economy enjoys the benefits of unrivalled access to Mainland China, including free mobility of capital, talent, goods, information, and no foreign ownership restrictions. The city is also the most important source of investment for the Mainland China, which is ideally located to benefit from the different initiatives set to link Mainland China with countries across Asia, Europe, and all over the world.

Besides, the Pearl River Delta (PRD) region which is the largest and most productive manufacturing region in China, is immediately to the north of Hong Kong. It enhances air cargo and logistics capabilities and allows merchant to commute regularly and easily between the two. The PRD is home to tens of thousands of factories owned or managed by Hong Kong and overseas companies.

Greater Bay Area (GBA)

The Guangdong-Hong Kong-Macao Greater Bay Area (the Greater Bay Area) is a world-class cluster of nine municipalities in Guangdong Province, plus the Special Administrative Regions (SARs) of Hong Kong and Macao. A major national initiative of China, the Greater Bay Area offers tremendous opportunities to the global community, in particular business, investors and professionals. Hong Kong is proud to act as "facilitator" to help global businesses to tap on the opportunities.

In its latest move to further open the country's financial market and turn the Greater Bay Area into an economic powerhouse, the cross-boundary Wealth Management Connect ("WMC") pilot scheme was officially launched. It is China's first cross-border wealth management scheme focused on the GBA, allowing eligible Mainland, Hong Kong and Macao individual retail investors to open and operate cross-boundary investment accounts directly, through a formal and convenient channel, and is expected to provide investors with a diversified range of investment opportunities.

Comprising 9 Mainland cities in Guangdong province and 2 special administrative regions of Hong Kong and Macau, the GBA is home to 20% of China's ultra-high-net-worth and high net-worth households according to a market survey. The scheme facilitates cross-boundary investment, thereby further promoting the cross-boundary circulation and use of renminbi.

The National 14th Five-Year Plan is also taking forward the development of the Greater Bay Area and supporting Hong Kong in integrating to the overall development of the Mainland China. It strengthens the coordinated development of industry, education and research as well as facilitates the cross-boundary exchange of innovative elements by establishing the "four emerging centres", particularly an international aviation hub, an international innovation and technology (I&T) centre, a regional intellectual property trading hub and a hub for arts and cultural exchanges between China and the rest of the world. As the mutual access between the financial markets of Hong Kong and the Mainland China are deepened, Hong Kong's status as a global offshore Renminbi business hub will be enhanced continuously.

Moreover, the Central Government's plans for Comprehensive Deepening Reform and Opening Up of the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (Qianhai Plan) and the Plan for the Development of the Guangdong-Macao Intensive Cooperation Zone in Hengqin (Hengqin Plan) are creating favourable conditions for the diversified development of the Greater Bay Area. The policy measures utilize Hong Kong's connectivity with the Mainland China and international markets, which take advantages of the enormous opportunities presented by the GBA development and the Belt and Road initiative to contribute to the economic development and opening up of the country.

Doing business in China via Hong Kong (Cont'd)

Closer Economic Partnership Arrangement (CEPA)

The Mainland China and Hong Kong Closer Economic Partnership Arrangement (CEPA) is the first free trade agreement between Mainland China and Hong Kong. It opens huge markets for Hong Kong goods and services, greatly enhancing the existing close economic and technical cooperation and integration.

In addition, the Mainland China agrees to apply zero import tariffs for exports from Hong Kong satisfying the rules of origin requirement for goods and preferential market access for Hong Kong companies in 47 service sectors, including banking, legal, audio-visual, transport and logistics, etc.

For investors in Hong Kong, they can enjoy preferential treatment in accessing to non-services sectors in the Mainland China. CEPA also provides liberalization to Hong Kong-based companies in market access to various service sectors in the Mainland China.

The CEPA provides a window of opportunity for Hong Kong businesses to gain greater access to the Mainland China market. Overseas companies may leverage on its benefits to tap the vast opportunities as those CEPA benefits are exclusive to Hong Kong, which has been opening the door for Hong Kong companies and foreign investors to explore the market.

Country quirks

Legal system:

Originated and based on English common law, unlike that of mainland China.

There is no restriction on foreign business nor is there any foreign exchange control.

The HKD has been pegged to the USD since 1983 at a fixed rate of

HK$7.80
=
US$1.00

Offical languages :

English & Chinese

Appendix

Resources	Reference website
Home Page	www.gov.hk
Census and Statistics Department	www.censtatd.gov.hk
InvestHK Department	www.investhk.gov.hk
Inland Revenue Department	www.ird.gov.hk
Fraser Institute	www.fraserinstitute.org
Labour Department	www.labour.gov.hk
Mandatory Provident Fund Schemes Authority	www.mpfa.org.hk
Intellectual Property Department	www.ipd.gov.hk
Trade and Industry Department	www.tid.gov.hk
Securities and Futures Commission	www.sfc.hk
Hong Kong Institute of Certified Public Accountants	www.hkicpa.org.hk

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