

DOING BUSINESS IN HONG KONG

2018



MAZARS IN HONG KONG

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THE GUIDE HAS BEEN PREPARED FOR THE ASSISTANCE OF THOSE INTERESTED IN DOING BUSINESS IN HONG KONG. IT DOES NOT COVER EXHAUSTIVELY THE SUBJECTS IT TREATS, BUT IT IS INTENDED TO ANSWER SOME OF THE IMPORTANT BROAD QUESTIONS THAT MAY ARISE. WHEN SPECIFIC ISSUES ARISE IN PRACTICE, IT WILL OFTEN BE NECESSARY TO CONSIDER THE RELEVANT LAWS AND REGULATIONS AND TO OBTAIN APPROPRIATE PROFESSIONAL ADVICE. THE PUBLISHERS AND AUTHORS ARE NOT RESPONSIBLE FOR THE CONSEQUENCES OF ANY ACTIONS WHICH ARE UNDERTAKEN ON THE BASIS OF THE INFORMATION WHICH IS CONTAINED WITHIN THIS PUBLICATION, NOR FOR ANY ERROR OR OMISSION THEREIN.

INTRODUCTION

Welcome to Hong Kong!

As a leading global finance center and a historically open economy, it's worth remembering that Hong Kong has been a Special Administrative Region (SAR) of the People's Republic of China (PRC) since 1997. But Hong Kong enjoys great autonomy from the mainland, and the city has retained its reputation for ease of doing business and free trade. It frequently attracts the attention of foreign investors looking for a foothold in the Asian market.

As an important banking and financial center in the Asia-Pacific region, the Hong Kong Stock Exchange ranks the third in Asia and the seventh in the world in terms of market capitalization, as at 30th September 2017, Hong Kong ranked third in global IPO fund raising.

Hong Kong was the fifth-ranked location in the world according to the World Bank Doing Business Survey conducted in June 2017 in terms of ease of doing business. Its simple, low cost tax structure has made Hong Kong a natural regional hub for multinational companies doing business in Asia. In addition, Hong Kong is a free port and generally does not levy customs duties except for a very limited number of goods. Because of its attractive business environment, Hong Kong receives the second largest amount of foreign investment in Asia and the fourth largest in the world.

Hong Kong is also the perfect gateway to access to the dynamic and emerging market of mainland China, attracting many leading international businesses to choose setting up their regional operations in Hong Kong.

This guide offers you an overview of the main features of Hong Kong as a potential location for your business. This guide is meant to be a practical resource and will be updated regularly. Of course, we will be more than happy to provide you with any further information that you need, so please feel free to contact us. You can find our contact details on the last page of this guide.

We are looking forward to welcoming you to Hong Kong. In the meantime, we hope you enjoy our Guide.

The Mazars Team



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GENERAL INFORMATION

GDP GROWTH:	3.9%*
INFLATION:	1.5%
POPULATION:	7.4M*
GDP PER HEAD:	USD43,681.1*
WORLD BANK EASE OF DOING BUSINESS RANK:	5[^]

** Data collected from HKSAR ; ^ Data collected from data.worldbank.org*



2

ESTABLISHING AN ENTITY

ESTABLISHING AN ENTITY

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

- Sole proprietorship or partnership
- Limited liability companies
- Branch office or representative office of a foreign company incorporated outside of the HKSAR

2.1 SOLE PROPRIETORSHIP

Other than ensuring that business registration requirements are complied with, there are no statutory 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.

2.2 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.

2.3 LIMITED COMPANIES

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 mainly 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 the three restrictions specified above is a public company.

2.4 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.



3

FOREIGN BUSINESS RESTRICTION



FOREIGN BUSINESS RESTRICTION

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.



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INVESTMENT INCENTIVES



INVESTMENT INCENTIVES

While Hong Kong only offers few special business incentives, its low tax rates, excellent financial infrastructure and freedom of information are enough to establish itself as a leading global business centre.

There are certain tax incentives provided to specific industries such as offshore funds, reinsurance companies and captive insurance companies, corporate treasury centres and aircraft leasing.

Expenditure on plant and machinery directly related to manufacturing and computers may be written off in the year of purchase. For other plant and machinery, depreciation allowance is in the form of initial allowance and annual allowance. Deduction of initial allowance of 60% of the capital expenditure incurred is allowed in the year of purchase. Annual allowance is calculated on the remaining balance at a certain rate (usually 20%) per annum.



5

WORK PERMITS AND VISAS



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.



6

FOREIGN CURRENCY CONTROL



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 $\text{HKD}7.80 = \text{USD}1.00$. Accordingly, the exchange rate of HKD to other currencies and Hong Kong interest rates typically follow US fluctuations.



7

TAXATION

TAXATION

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

7.1 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 production 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.

The prevailing profits tax rate is 16.5% for corporations and 15% for unincorporated businesses. The Inland revenue (Amendment) (No.7) Bill 2017 has been gazetted on 29th December 2017. After the bill becomes law, a two-tier profits tax system of a concessionary rate at 50% of the normal profit tax rate will be applied to the first HK\$2 million annual taxable business profits of the taxpayer with effective from the year of 2018/2019.

7.2 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 amount 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).



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EMPLOYMENT

EMPLOYMENT

The Employment Ordinance serves as the law governing employment practice and labour relations in Hong Kong

8.1 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.

8.2 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.

8.3 WAGES AND BENEFITS

MINIMUM HOURLY WAGE

Since 2011, Hong Kong has enforced a statutory minimum wage. The current level of minimum wage is HKD34.50 per hour.

PAID LEAVE

Each full time employee is entitled to 12 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.

8.4 TERMINATION OF EMPLOYEMENT

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 HKD22,500, multiplied by the recognizable years of service. The payment is capped at HKD390,000.

The service of an employee can be terminated and the employer/the employee should be notified 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 ill-treatment by the employer, or certified permanently unfit for the work by a registered medical practitioner after 5 years of service.

Source: "A Concise Guide to the Employment Ordinance" published by the Labour Department of the HKSAR Government



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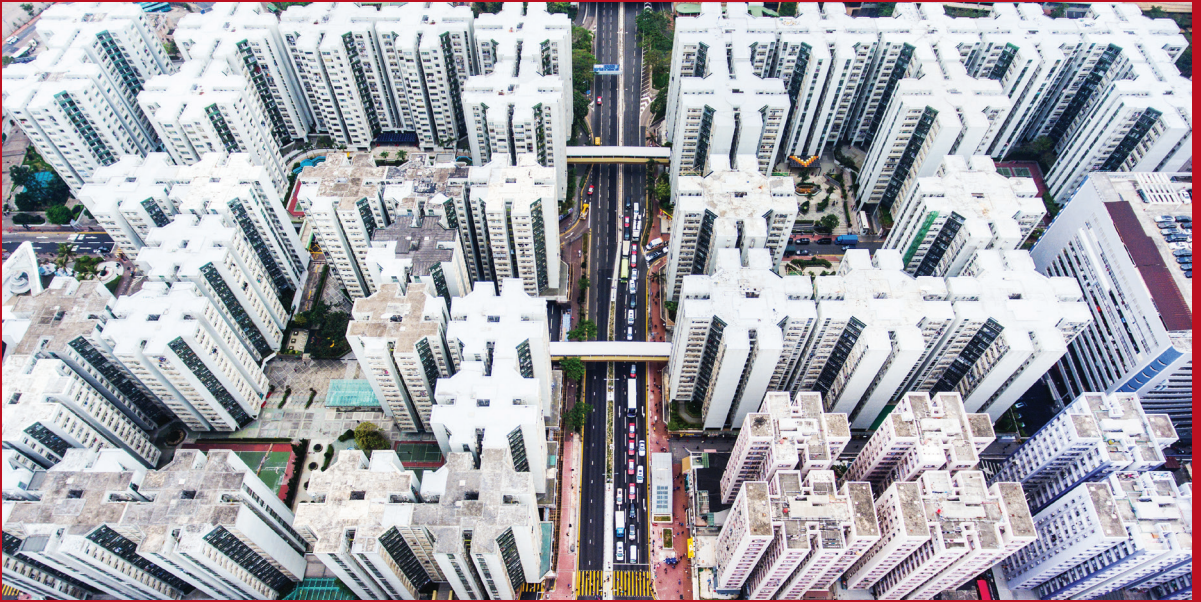
AUDIT & ACCOUNTING

AUDIT & ACCOUNTING

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

Hong Kong GAAP is commonly adopted for the preparation of financial statements though it is not mandatory by law. Hong Kong GAAP, also generally referred as Hong Kong Financial Reporting Standards (HKFRS) issued by the HKICPA, is almost fully converged with the International Financial Reporting Standards (IFRS).

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).



10 OTHER FACTS

OTHER FACTS

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 1984 at a fixed rate of HKD7.8 = USD1.

Official languages: English and Chinese.

CONTACT

Mazars CPA Limited

42/F

Central Plaza

18 Harbour Road

Wanchai

Hong Kong

Tel: (852) 2909 5555

Fax: (852) 2810 0032

Stephen Weatherseed

Managing Partner

stephen.weatherseed@mazars.hk

Jimmy Yip

Head of Audit

jimmy.yip@mazars.hk

Annie Chan

Head of Corporate Recovery,
Regulatory Compliance & Forensic Services

annie.chan@mazars.hk

Michael To

Head of Tax

michael.to@mazars.hk

John Poon

Head of Accounting & Outsourcing Services

john.poon@mazars.hk

James Ye

Head of Business Risk Consulting

james.ye@mazars.hk

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Detailed information available on
www.mazars.hk