

# Exchange of Information under Double Tax Agreements

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# Double Tax Treaties for Hong Kong

## The Score Card – Tax Treaties

Belgium	-	80
Canada	-	81
U.K.	-	109
U.S.	-	62
Hong Kong	-	5
PRC	-	80+



# Double Tax Treaties for Hong Kong

## 1998 Hong Kong Budget

Double tax treaties beneficial

But problems – Hong Kong profits tax

– Secrecy laws

2004 – Hong Kong – Belgium Treaty

2005 – Hong Kong – Thailand Treaty

2006 – Hong Kong – PRC Treaty

2008 – Hong Kong – Luxemburg Treaty

2009 – Hong Kong - Vietnam



# Double Tax Treaties for Hong Kong

- ✓ Status of other treaty negotiations
- ✓ Netherlands – draft in discussion
- ✓ Italy – in discussion
- ✓ UK – in discussion
- ✓ Australian TIEA agreement



# Double Tax Treaties for Hong Kong

- ✓ Exchange of Information Clause – Article 26
- ✓ 1995 OECD Model ?
- ✓ 2004 OECD Model ?
- ✓ Further amendments to OECD Model expected



# Double Tax Treaties for Hong Kong

## Purpose of International Tax Treaties

- ✓ Eliminate double taxation
- ✓ Prevent fiscal evasion through exchange of information



# Double Tax Treaties for Hong Kong

## Additional Purposes

- ✓ More certainty of tax treatment
- ✓ Tax planning opportunities



# Double Tax Treaties for Hong Kong

## What Treaties Do

- ✓ Business Profits
- ✓ Residency
- ✓ Interest, Dividend, Royalties
- ✓ Capital Gains
- ✓ Rental Income
- ✓ Pension Income
- ✓ Employment Income
- ✓ Independent Personal Services
- ✓ Other Income
- ✓ Double Taxation Relief





# Double Tax Treaties for Hong Kong

## Exchange of Information

- ✓ Communication between Tax Authority
- ✓ Exchange of Information for Tax Audit
- ✓ Tax Inquiry and Investigation



# Exchange of Information

## 2004 OECD MODEL

See handout Annex C



# Double Tax Treaties for Hong Kong

## Hong Kong – PRC Exchange of Information

- ✓ The Arrangement contains an Exchange of Information article based on the more restrictive 1995 OECD Model Treaty and allows the taxing authorities to exchange information that: -
  - is necessary in order to carry out the provisions of the Arrangement;
  - Is obtainable under the laws of each jurisdiction and in the normal course of administration;
  - Does not require the other taxing authorities to carry out administrative measures at variance with the laws and practice of their jurisdictions; and
  - Does not lead to the disclosure of any business secrets



# Safeguards Under New Regime

The safeguards should be included in the primary Hong Kong legislation. These safeguards should clearly establish:-

- that information will only be exchanged on case specific matters, and in controlled conditions (i.e. so that automatic exchange of information is not later possible);
- that only information on taxes covered by the CDTA will be exchanged;
- that the requesting party must satisfy the IRD that the information is necessary or foreseeably relevant for the administration or enforcement of the local tax laws (to avoid “fishing expeditions”);
- that the requesting party must use the information only for the purposes specified in the request; and
- that the information the requesting party is requesting must be legally obtainable under its own laws.



# Financial Implications to Hong Kong

See handout Annex E



# Double Tax Treaties for Hong Kong

*Any Questions?*

