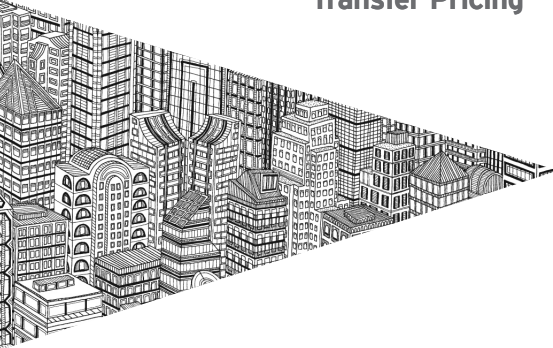


International Tax Alert

News and views from
Transfer Pricing



Hong Kong IRD to start accepting BAPA requests

Background

In 2009, the Hong Kong Inland Revenue Department (the HKIRD) released two transfer pricing related Departmental Interpretation and Practice Notes (DIPN). While DIPN No. 46 and DIPN No. 45 described the HKIRD's general view with respect to transfer pricing and Mutual Agreement Procedures, they were largely silent on the availability of an Advance Pricing Arrangement (APA) under the various Comprehensive Double Taxation Agreements (CDTAs) signed by Hong Kong. However, when the HKIRD created a new directorate to intensify its efforts in expanding Hong Kong's CDTA network in April 2011, it noted the additional resources will also be directed towards the following areas:¹

- ▶ To continue active participation in international exchanges on taxation matters
- ▶ To prepare for peer review by the OECD Global Forum
- ▶ To cope with the increasing efforts and complexity of CDTAs including Competent Authority program under MAP articles
- ▶ To implement an APA program

With respect to the last point of developing an APA program, the HKIRD has now indicated that it plans to roll out its program in April 2012 according to a recent seminar organized by the HKIRD.

Latest development in Hong Kong's APA program

- ▶ The HKIRD has indicated that it plans to start accepting APA applications from April 2012.
- ▶ A new set of DIPN will likely be issued shortly before the roll out of the APA program. Prior to the official issuance of the new DIPN, there will be a consultation process.

Get the world to go!

You can access corporate income tax rates of over 65 countries for multiple years using your mobile device:

- ▶ Type into your web browser:
www.ey.mobi/ITS/rates

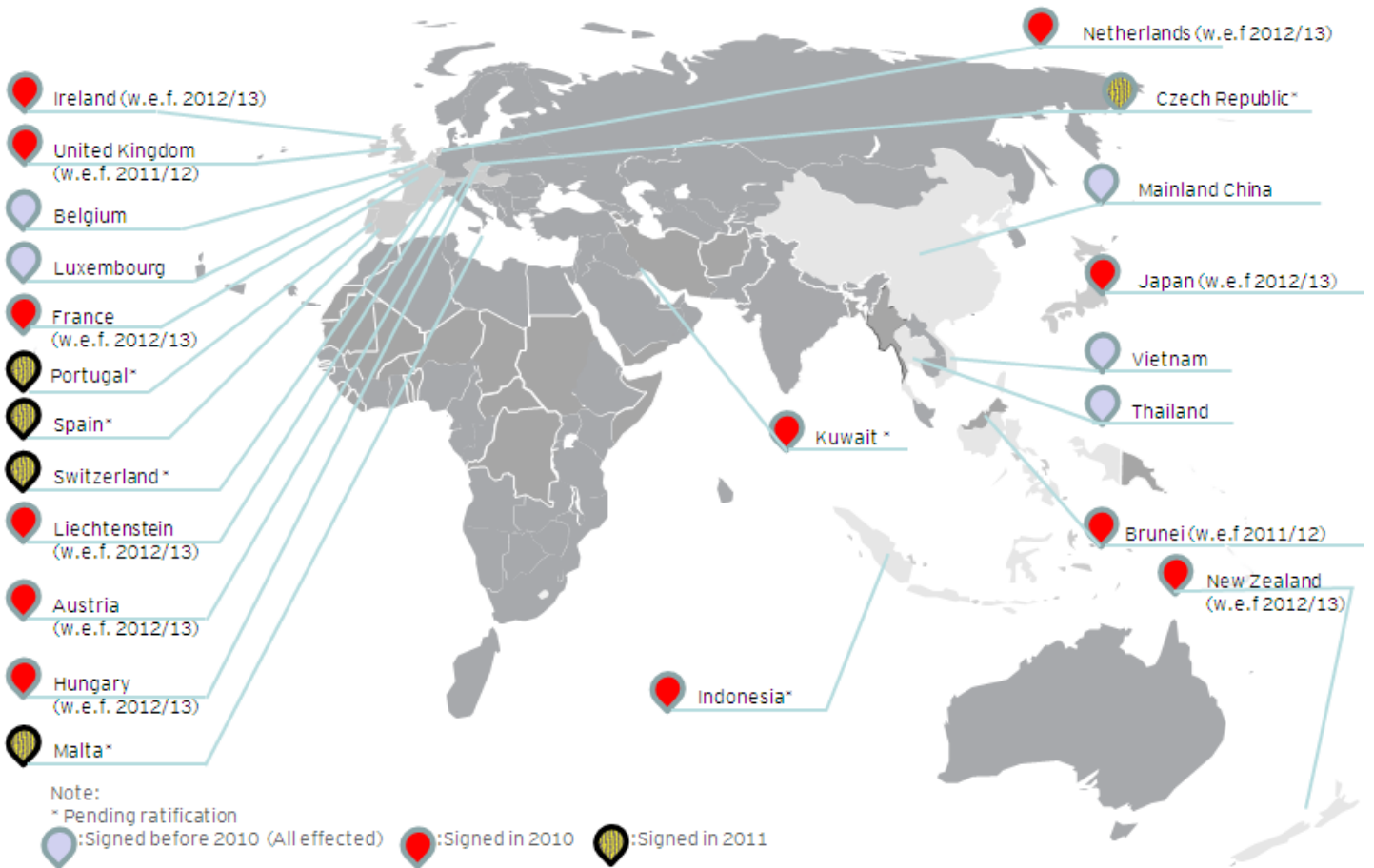
¹ <http://www.legco.gov.hk/yr10-11/english/fc/esc/papers/e10-15e.pdf>.

- ▶ It is understood that in order to deploy its resources strategically and efficiently, the HKIRD may only entertain bilateral APA (BAPA) applications initially.
- ▶ However, during a BAPA process, if an agreement is not reached with the CDTA partner, the HKIRD may alternatively agree to proceed with a unilateral APA.

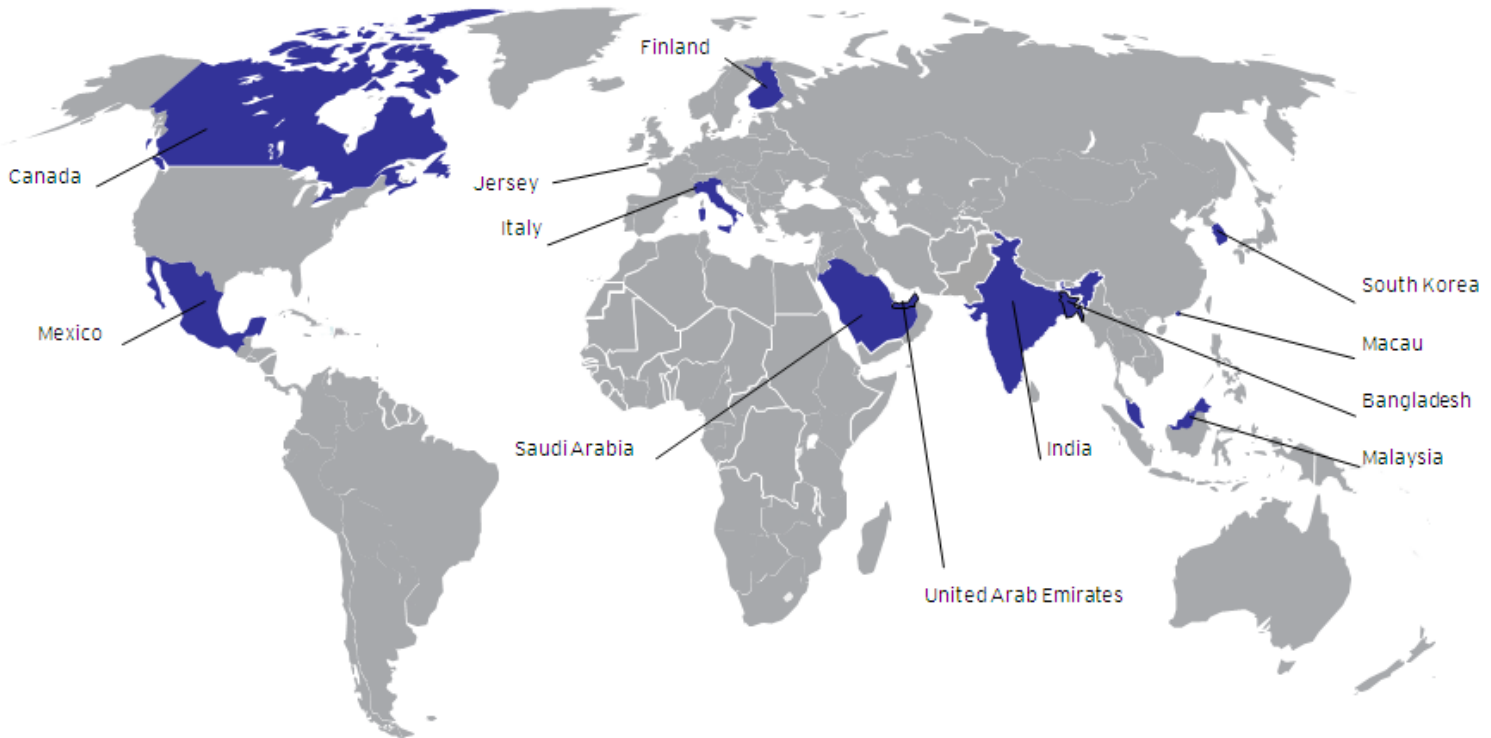
Hong Kong's current double taxation agreement network

The APA program will generally be applicable to jurisdictions/trading partners with which Hong Kong has concluded a CDTA. As of the date of preparation of this Alert, Hong Kong has concluded 22 CDTAs, and 12 other CDTAs are under negotiation.

22 CDTAs concluded by Hong Kong



12 CDTAs under negotiation by Hong Kong



Ernst & Young commentary

When the APA measures are finalized, it will mark the first time Hong Kong recognizes APA. As typical financial services intercompany transactions are relatively large and complex, it may be time to evaluate whether a BAPA is an appropriate tool to improve certainty with respect to tax treatment. As the BAPA application and negotiation process can often involve

substantial information being collected and analyzed both by the taxpayer and the relevant tax authorities, you may wish to begin evaluating your options prior to the roll out of the Hong Kong APA program.

Additionally, if there are any comments or feedback on the APA program for the HKIRD, please feel free to contact us and we will ensure they are reflected to the HKIRD.

For additional information with respect to this Alert, please contact the following:

Ernst & Young (China) Advisory Limited, Financial Services - Transfer Pricing, Hong Kong

▶ Patrick Cheung, <i>Asia-Pacific FSTP Leader</i>	+852 2846 9905	patrick.cheung@hk.ey.com
▶ Justin Kyte	+852 2629 3880	justin.kyte@hk.ey.com
▶ Jonathan Thompson	+852 2629 3879	jonathan.thompson@hk.ey.com
▶ Ali Tse	+852 2849 9298	ali.tse@hk.ey.com
▶ Jack Fernandez	+852 2629 3990	jack.fernandez@hk.ey.com
▶ Helen Chen	+852 2629 3927	helen.chen@hk.ey.com
▶ Kalok Chu	+852 2629 3044	kalok.chu@hk.ey.com

Ernst & Young (China) Advisory Limited, Financial Services, People's Republic of China

▶ Patrick Cheung	+86 139 1147 1108	patrick.cheung@hk.ey.com
▶ Helen Chen	+86 21 2228 4976	helen.chen@hk.ey.com

Ernst & Young (Singapore), Financial Services - Transfer Pricing, Singapore

▶ Jonathon McCarthy	+65 6309 8712	jonathon.mccarthy@sg.ey.com
---------------------	---------------	-----------------------------

Ernst & Young (China) Advisory Limited, Financial Services Tax Team, Hong Kong

▶ Florence Chan, <i>Greater China FSO Regional Tax Leader</i>	+852 2849 9228	florence.chan@hk.ey.com
▶ James Badenach, <i>Asia-Pacific BCM Tax Leader</i>	+852 2629 3988	james.badenach@hk.ey.com
▶ John MacArthur, <i>Asia-Pacific FSO ITS Leader</i>	+852 2629 3808	john.macarthur@hk.ey.com

Ernst & Young, Global Financial Services, Transfer Pricing Leaders

Germany

▶ Ulf Andresen, <i>Frankfurt</i>	+49 6196 996 27133	ulf.andresen@de.ey.com
----------------------------------	--------------------	------------------------

Hong Kong

▶ Patrick Cheung, <i>Hong Kong</i>	+852 2846 9905	patrick.cheung@hk.ey.com
------------------------------------	----------------	--------------------------

Japan

▶ Sam Gordon, <i>Tokyo</i>	+81 3 3506 1259	samuel.gordon@jp.ey.com
----------------------------	-----------------	-------------------------

United Kingdom

▶ Steve Labrum, <i>London</i>	+44 20 7951 5603	slabrum@uk.ey.com
▶ Oliver Davidson, <i>London</i>	+44 20 795 11571	odavidson@uk.ey.com

United States

▶ Chris Faiferlick, <i>Washington, DC</i>	+1 202 327 8071	chris.faiferlick@ey.com
▶ Barbara Mace, <i>New York</i>	+1 212 773 2502	barbara.mace@ey.com

Ernst & Young Transfer Pricing

- ▶ **Global Transfer Pricing**, Germany
Thomas Borstell, +49 211 9352 10601
- ▶ **Americas**, United States
Bob Ackerman, +1 202 327 5944
Purvez Captain, +1 713 750 8341
- ▶ **EMEA**, Germany
Oliver Wehnert, +49 211 9352 10627
- ▶ **Asia Pacific**, Singapore
Luis Coronado, +65 6309 8826
- ▶ **Japan**, Tokyo
Kai Hielscher, +49 89 14331 16711
- ▶ **Global Markets**, United Kingdom
John Hobster, +44 207 951 6438
- ▶ **TESCM**, Amsterdam
Victor Bartels, +31 88 4071378
- ▶ **Global Financial Services TP**, London
Stephen Labrum, +44 20 7951 5603

Ernst & Young Member Firm Contacts

- ▶ **Argentina** Carlos Casanovas +54 11 4318 1619
- ▶ **Albania** Alexandros Karakitis +355 4 24 19 574
- ▶ **Australia** Paul Balkus +612 9248 4952
- ▶ **Austria** Andreas Stefaner +43 1 211 70 1041
- ▶ **Belgium** Herwig Joosten +32 02 774 9349
- ▶ **Brazil** Gil Mendes +55 11 2112 5466
- ▶ **Bulgaria** Laszlo Szaka +359 2 8177 141
- ▶ **Canada** Sean Kruger +1 416 941 1761
- ▶ **Chile** Osiel Gonzales +56 26 761 141
- ▶ **China** Jessica Tien +86 21 22282115
- ▶ **Colombia** Gustavo Pardo +1571 651 2210
- ▶ **Costa Rica** Rafael Sayagues +1 212 773 4761
- ▶ **Croatia** Denes Szabo +36 1 451 8209
- ▶ **Czech Republic** Libor Frýzek +420 225 335 310
- ▶ **Denmark** Thomas Bjerre +45 3 587 2901
- ▶ **Ecuador** Javier Salazar +1 593 2 255 5553
- ▶ **Egypt** Seema Sharma +1 214 969 8077
- ▶ **Estonia** Ranno Tingas +372 611 4578
- ▶ **Finland** Kennet Pettersson +358 40 556 1181
- ▶ **France** Franck Berger +33 4 78 63 17 10
- ▶ **Germany** Oliver Wehnert +49 211 9352 10627
- ▶ **Greece** Aggelos Benos +30 210 288 6 024
- ▶ **Hong Kong** Patrick Cheung +852 2846 9905
- ▶ **Hungary** Zoltan Liptak +36 1 451 8638
- ▶ **India** Vijay Iyer +91 98 1049 5203
- ▶ **India (TPC)** Puja Ramasubban +91 80 6608 6895
- ▶ **Indonesia** Carlo Navarro +62 21 5289 5000
- ▶ **Ireland** Dan McSwiney +353 1 221 2094
- ▶ **Israel** Lior Harary-Nitzan +972 3 623 2749
- ▶ **Italy** Davide Bergami +39 02 851 4409
- ▶ **Japan** Kai Hielscher +81 3 3506 1356
- ▶ **Kazakhstan** Roman Yurtayev +87 727 258 5960
- ▶ **Korea** Rap Choi +82 2 3770 1001
- ▶ **Latvia** Ilona Butane +371 704 3836
- ▶ **Lithuania** Leonas Lingis +370 5 274 2279
- ▶ **Luxembourg** Paul Leyder +352 42 124 7240
- ▶ **Malaysia** Janice Wong +6 03 7495 8223
- ▶ **Mexico** Jorge Castellon +52 81 81521829
- ▶ **Netherlands** Danny Oosterhoff +31 88 40 71007
- ▶ **New Zealand** Mark Loveday +64 9 300 7085
- ▶ **Norway** Marius Leivestad +47 24 00 23 86
- ▶ **Peru** Marcial Garcia +151 1 411 4424
- ▶ **Philippines** Romulo Danao +63 2 894 8392
- ▶ **Poland** Aneta Blazejewska-Gaczynska +48 22 557 8996
- ▶ **Portugal** Paulo Mendonca +351 21 791 2045
- ▶ **Romania** Alexander Milcev +402 1402 4000
- ▶ **Russia** Evgenia Veter +7 495 660 4880
- ▶ **Singapore** Luis Coronado +65 6309 8826
- ▶ **Slovak Republic** Gunter Oszwald +421 2 333 39610
- ▶ **Slovenia** Denes Szabo +36 1 451 8209
- ▶ **South Africa** Karen Miller +27 21 443 0200
- ▶ **Spain** Ramón Palacín Sotillos +34 915 727 485
- ▶ **Sweden** Mikael Hall +46 8 520 592 35
- ▶ **Switzerland** Edvard Rinck +41 58 286 4250
- ▶ **Taiwan** George Chou +86 21 2228 8888
- ▶ **Thailand** Anthony Loh +662 264 0777
- ▶ **Turkey** Alper Yilmaz +90 212 368 53 60
- ▶ **United Arab Emirates** Seema Sharma +1 214 969 8077
- ▶ **United Kingdom** Tim Steel +44 20 7951 1149
- ▶ **United States** Bob Ackerman +1 202 327 5944
Purvez Captain +1 713 750 8341
- ▶ **Venezuela** Jose A. Velazquez +58 212 905 66 59
- ▶ **Vietnam** Nitin Jain +84 8 832 45252

Ernst & Young

Assurance | Tax | Transactions | Advisory

About Ernst & Young

Ernst & Young is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 152,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential.

Ernst & Young refers to the global organization of member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit www.ey.com.

About Transfer Pricing/TESCM

We bring you a global perspective on transfer pricing and tax effective supply chain management (TESCM), based on our long-standing experience of what really works. We help you configure your supply chain effectively and design and implement sustainable transfer pricing policies. Our multi-skilled teams support you in implementing proactive, pragmatic and integrated strategies that address tax risks and help your business achieve its potential. It's how Ernst & Young makes a difference.

www.ey.com

© 2012 EYGM Limited.
All Rights Reserved.

EYG no. CM2653

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.