

# Doing Business in Hong Kong

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This guide provides an overview of registration, compliance and reporting requirements for corporates coming inbound into Hong Kong for the first time. The information provided is general in nature and should not be relied upon as professional advice.

## Registration requirements

The related authorities which are responsible for registration of a business established in Hong Kong are:

### 1. Companies Registry (CR)

The CR is responsible for registration of all documents submitted for incorporation of companies in Hong Kong. A Certificate of Incorporation with a company number will be provided after successful application. The CR is also responsible for registration of non-Hong Kong companies which have established a place of business in Hong Kong. A Certificate of Registration with a registration number will be provided after successful application.

### 2. Business Registration Office (BRO)

The BRO of the Inland Revenue Department is responsible for registering a business carried on in Hong Kong. A Business Registration Certificate (BRC) with the business name, business nature and business address will be issued after successful application. The BRC has to be displayed at a conspicuous place at an address where the business is carried on.

Certain businesses or activities (such as banks, insurance companies, regulated activities under the Securities and Futures Ordinance, travel agencies, restaurants, etc.), would require separate licenses from the relevant authorities in order to operate in Hong Kong.

## Choice of vehicle

Below are the popular corporate registration vehicles for foreign companies to invest in Hong Kong:

### 1. Private Company Limited by Shares (A Subsidiary Company)

The Subsidiary Company is the most common type of vehicle for setting up a business in Hong Kong. It provides the simplest and fastest way for company formation. The minimum number of director and member is one. There is no limitation on nationality of directors and members. Both corporates and individuals can act as members of a Hong Kong company.

Under the new Companies Ordinance which has been effective since 3 March 2014, at least one natural person must be appointed as a director of a private limited company. A public company, a private company within a listed group and a company limited by guarantee must not have corporate directors.

A Hong Kong registered office address and a company secretary are required on incorporation. For a private limited company, the number of its members is limited to 50. The minimum number of issued share is 1. There are restrictions for a private company to transfer its shares and issue shares to the public.

The "par value" regime of shares has been abolished since 3 March 2014. A company can decide the value of each share and the currency of its shares.

**Legal status:** A Subsidiary Company is regarded as a separate legal entity with limited liability and has its own identity for tax and legal purposes.

**Registration process:** The incorporation of a new company can normally be completed in 1-4 working days depending on the mode of application.



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## 2. Registered non-Hong Kong company (A branch office)

A foreign company can choose to register its company in Hong Kong as a non-Hong Kong company under Part 16 of the Companies Ordinance.

**Legal status:** A branch office does not have limited liability and is not recognized as having a separate legal identity from its foreign head office.

**Registration process:** The registration process for a non-Hong Kong company is more complex and sometimes time-consuming, as the foreign company's supporting documents are required to be submitted to the CR for registration. The documents have to be in English/Chinese or translated into English/Chinese for registration. The registration process normally requires 14 working days.

## Compliance and Reporting

### 1. Corporate Secretarial

#### 1.1 Subsidiary company

**Governance:** There are statutory and fiduciary responsibilities that a director needs to take care of. Failing to comply with the director's duties may make him/her liable to civil or criminal proceedings and may disqualify him/her from being the director.

**Annual compliance:** Filing of annual return and renewing of BRC with government fees annually.

**Annual general meeting (AGM):** A company must hold an AGM in respect of each financial year of the company, unless it has fulfilled certain conditions to dispense with such requirement.

#### 1.2 Branch office

**Governance:** The companies ordinance requires a non-Hong Kong company to appoint an authorized representative to act on behalf of the company. The authorized representative must be a permanent resident of Hong Kong.

**Annual compliance:** A registered non-Hong Kong company has to file an annual return with the CR and renew the BRC with government fees every year.

### 2. Accounting and reporting

#### 2.1 Subsidiary company

- ▶ A Hong Kong company is statutorily required under the Companies Ordinance to prepare audited financial statements, which must comply with the accounting standards stipulated by the Hong Kong Institute of Certified Public Accountants.
- ▶ The audited financial statements must be prepared annually, except those companies which have made statutory declaration for dormancy within the terms of the companies ordinance.
- ▶ The audited financial statements are normally required to be submitted to the Inland Revenue Department for annual tax filing purposes together with the profits tax returns.

#### 2.2 Branch office

Depending on the laws of the places of incorporation, a non-Hong Kong company which is registered in Hong Kong may be required to deliver to the CR annually a certified copy of its accounts.



## 3. Tax

Hong Kong's simple tax system and low tax rates are welcomed by many foreign investors. The major Hong Kong tax issues to be considered in establishing an entity in Hong Kong are highlighted below. The information provided is general in nature and should not be relied upon as professional advice.

### 3.1 Profits tax

- ▶ Hong Kong adopts a territorial concept of taxation.
- ▶ Companies (including Hong Kong companies and non-Hong Kong companies) carrying on a trade, profession or business in Hong Kong are subject to profits tax on profits derived from Hong Kong. The current corporate profits tax rate is 16.5%.
- ▶ Tax losses incurred in a year can generally be carried forward indefinitely and set off against the profits of the company in subsequent years.
- ▶ Consolidated filing is not permitted. Hong Kong does not provide group relief for tax losses.
- ▶ Certain royalties received by a foreign entity that does not carry on a trade, profession or business in Hong Kong from a Hong Kong payer are liable to withholding tax in Hong Kong.
- ▶ Hong Kong does not impose withholding tax on dividends and interest received by a foreign entity from a Hong Kong payer.
- ▶ Capital gains are not taxable, and capital losses are not deductible for profits tax purposes.

### 3.2 Indirect tax

There is no goods and services tax or value added tax in Hong Kong.

### 3.3 Customs or Excise duties

Hong Kong is a free port and does not levy any customs tariff on imports and exports. Excise duties are levied only on liquor with an alcoholic strength of more than 30% by volume, tobacco, hydrocarbon oil and methyl alcohol.

## Funding operations

There is no debt to equity ratio requirement or thin capitalization rule in Hong Kong. Companies can generally be funded by debt, equity or both.

Hong Kong imposes no foreign exchange controls. Companies can freely fund its business by domestic or foreign debts.

## Foreign investment consideration

There is no restriction on foreign individuals or foreign owned companies to act as Hong Kong companies' members.

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