

Hong Kong Tax Alert

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Hong Kong concludes comprehensive double taxation arrangement with Bangladesh

On 30 August 2023, Hong Kong signed a comprehensive avoidance of double taxation agreement (CDTA) with Bangladesh, which is a jurisdiction participating in the Belt and Road Initiative of mainland China. This brings the number of CDTAs Hong Kong has concluded with other jurisdictions to 47. Appendix to this alert summarizes the status of Hong Kong's current CDTA network and CDTAs currently under negotiation or pending ratification.

This alert summarizes the salient points of the provisions of the CDTA as applicable to Hong Kong residents.

Promoting trade and investment

The CDTA sets out clearly the allocation of taxing rights between Hong Kong and Bangladesh helping investors to better assess their potential tax liabilities from cross-border economic activities. In addition, with the aim of facilitating trade and investment, the CDTA also contains provisions which reduce or eliminate applicable taxes in respect of certain income streams between the two jurisdictions.

The below table summarizes the applicable withholding rates for the captioned income flows received from Bangladesh by a Hong Kong resident as beneficial owner.

Income streams	Dividends	Interest	Royalties	Capital gains on disposal of shares	Fees for technical services
Tax rate					
Normal withholding rate	20%	20%	20%	15%	20%
Reduced rate under the CDTA	10/15% ¹	0%/10% ²	10%	0% ³	10%

The CDTA also provides tax relief for Hong Kong residents deriving profits from international shipping transport in Bangladesh. They will enjoy 50% tax reduction in Bangladesh in respect of the profits subject to tax there.

Avoidance of double taxation

Where the income of a Hong Kong resident is subject to tax in both Hong Kong and Bangladesh, any tax paid in Bangladesh, whether directly or by deduction, in accordance with the CDTA will be allowed as a credit against the tax payable in Hong Kong in respect of the same income. The available tax credit will, however, be limited to the Hong Kong tax charged on the same income.

Prevention of treaty abuse

The CDTA contains the following specific provisions against treaty abuse:

- (i) A preamble or introductory statement specifying that the CDTA is intended to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the CDTA for the indirect benefit of residents of third jurisdictions);
- (ii) The principal purpose test (PPT) provisions whereby the granting of tax benefits under the CDTA would be denied if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining the benefits was one of the principal purposes of any arrangement or transaction. The PPT would not however apply where it is established that granting the tax benefits in the circumstances would be in accordance with the object and purpose of the relevant provisions of the CDTA.

Effective date of the CDTA

The CDTA will only come into force in the tax year following the calendar year in which the relevant ratification procedures are completed. If the ratification procedures can be completed in 2023, the CDTA shall then have effect as follows:

- (a) For Hong Kong: for any year of assessment beginning on or after 1 April 2024
- (b) For Bangladesh: for any year of assessment beginning on or after 1 July 2024

Notes

1. A beneficial owner who is a Hong Kong resident and holds directly at least 10% of the capital of the Bangladesh company paying the dividends would be subject to tax at 10% of the gross amount of the dividends. In all other cases, the Hong Kong resident would be subject to tax at 15% of the gross amount of the dividends.
2. A 0% rate applies if the interest is paid to the HKSAR Government, Hong Kong Monetary Authority, the Exchange Fund or any entity wholly or mainly owned by the HKSAR Government as may be agreed from time to time between the competent authorities of the Contracting Parties.
3. The taxing rights to gains derived by a Hong Kong resident from the alienation of shares of a company in Bangladesh, not deriving more than 50% of its asset value directly or indirectly from immovable property situated in Bangladesh, regardless of the percentage of their shareholding, are allocated to Hong Kong under the CDTA. As such, disposal gains on shares derived by a Hong Kong resident from Bangladesh generally would not be subject to tax in Bangladesh. Whether such gains would be chargeable to tax in Hong Kong will be determined by the tax laws of Hong Kong.

Appendix I – Latest status of Hong Kong’s CDTA network

46 CDTAs signed and ratified

	Jurisdiction	Effective in Hong Kong from the year of assessment	Effective in the other contracting party from the year of assessment
1.	Austria	2012/13	1 January 2012
2.	Belarus	2018/19	1 January 2018
3.	Belgium	2004/05	1 January 2004
4.	Brunei	2011/12	1 January 2011
5.	Cambodia	2020/21	1 January 2020
6.	Canada	2014/15	1 January 2014
7.	Czech Republic	2013/14	1 January 2013
8.	Estonia	2020/21	1 January 2020
9.	Finland	2019/20	1 January 2019
10.	France	2012/13	1 January 2012
11.	Georgia	2022/23	1 January 2022
12.	Guernsey	2014/15	1 January 2014
13.	Hungary	2012/13	1 January 2012
14.	India	2019/20	1 April 2019
15.	Indonesia	2013/14	1 January 2013
16.	Ireland	2012/13	1 January 2012
17.	Italy	2016/17	1 January 2016
18.	Japan	2012/13	1 January 2012
19.	Jersey	2014/15	1 January 2014
20.	Korea	2017/18	1 January 2017
21.	Kuwait	2014/15	1 January 2014
22.	Latvia	2018/19	1 January 2018
23.	Liechtenstein	2012/13	1 January 2012
24.	Luxembourg	2008/09	1 January 2008
25.	Macau SAR	2021/22	1 January 2021
26.	Mainland China	2007/08	1 January 2007
27.	Malaysia	2013/14	1 January 2013
28.	Malta	2013/14	1 January 2013
29.	Mauritius	2024/25	1 January 2024
30.	Mexico	2014/15	1 January 2014
31.	Netherlands	2012/13	1 January 2012
32.	New Zealand	2012/13	1 April 2012
33.	Pakistan	2018/19	1 July 2018
34.	Portugal	2013/14	1 January 2013
35.	Qatar	2014/15	1 January 2014
36.	Romania	2017/18	1 January 2017
37.	Russian Federation	2017/18	1 January 2017
38.	Saudi Arabia	2019/20	1 January 2019
39.	Serbia	2021/22	1 January 2021
40.	South Africa	2016/17	1 January 2016
41.	Spain	2013/14	1 April 2013
42.	Switzerland	2013/14	1 January 2013
43.	Thailand	2006/07	1 January 2006
44.	United Kingdom	2011/12	1 or 6 April 2011
45.	United Arab Emirates	2016/17	1 January 2016
46.	Vietnam	2010/11	1 January 2010

1 CDTA signed but pending ratification

- Bangladesh

16 CDTAs under negotiation

- Armenia, Azerbaijan, Bahrain, Croatia, Cyprus, Germany, Israel, Jordan, Kyrgyz Republic, Lithuania, Maldives, Nigeria, North Macedonia, Norway, Turkey and Ukraine

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