

# Hong Kong Tax Alert

2 April 2024  
2024 Issue No. 3

## 2023/24 profits tax filing season has commenced

On 2 April 2024, the Inland Revenue Department (IRD) issued bulk profits tax returns to taxpayers for the year of assessment 2023/24.

This alert draws your attention to the filing due dates for the 2023/24 profits tax returns and the requirement to notify the IRD of chargeability to tax where applicable. Note that new items in connection with new tax measures have been added in the tax return. These items concern the family office incentive, patent box regime, specified foreign-sourced income and tax certainty enhancement scheme.

Should you have any questions regarding the filing of your tax returns, including your eligibility for the new tax measures, please contact your tax executives.

## 2023/24 tax filing deadlines

The tax filing season for the fiscal year ended 31 March 2024 (i.e., year of assessment 2023/24) has commenced with the IRD's bulk issuance of the relevant profits tax returns (i.e., Form BIR 51 for corporations or Form BIR 52 for entities other than corporations) on 2 April 2024.

Returns are normally due for filing within one month of their date of issue. However, the IRD has for many years operated a block extension scheme whereby the filing deadline can be extended in instances where a taxpayer is professionally represented. Under the 2023/24 block extension scheme, the filing dates for the bulk returns issued on 2 April 2024 can be extended as follows:

For taxpayers with accounting dates falling between	Extended due date
1 April 2023 – 30 November 2023 (Accounting date code "N")	No extension – due on 2 May 2024 (Thursday)
1 December 2023 – 31 December 2023 (Accounting date code "D")	15 August 2024 (Thursday)
1 January 2024 – 31 March 2024 – with taxable profits for the year (Accounting date code "M")	15 November 2024 (Friday)
1 January 2024 – 31 March 2024 – with tax losses for the year (Accounting date code "M")	31 January 2025 (Friday)

## Further extension of one month for using voluntary electronic filing for 2023/24

As in the previous year, to promote voluntary electronic filing, the IRD will, on receiving an application that is made at least 7 working days before the original due date, grant a further extension of one month if professionally represented taxpayers are to file the 2023/24 tax returns including the financial statements and tax computations, through the internet. The additional extension of one month will be counted from the date immediately after the extended due date indicated above or the normal due date of the return, whichever is the later. It should however be noted that the extended due date of 31 January 2025 indicated above for filing M-code cases with tax losses would not be further extended, even if electronic filing is adopted for such cases.

## Notification of chargeability where no tax return has been issued

Taxpayers who are not issued with a tax return but nonetheless have profits chargeable to tax for any year of assessment (before the set-off of losses brought forward) are required to notify the IRD of their chargeability. The notification is required to be in writing, addressed to the Commissioner of Inland Revenue (CIR) and submitted within four months after the end of the basis period for the year of assessment concerned.

It should be noted that a taxpayer's basis period for a year of assessment depends on their accounting year-end date. As a result, the time limit for taxpayers to inform the IRD of chargeability will vary. For example, Company A (with an accounting year ended on 31 December 2023) and Company B (with an accounting year ended on 31 March 2024) will be required to inform the IRD of their chargeability for the year of assessment 2023/24 on or before 30 April 2024 and 31 July 2024 respectively (i.e., within four months of their respective year-end dates).

Failure to inform the IRD of chargeability within the stipulated time frame, without reasonable excuse, will render a taxpayer liable to a fixed fine of up to HK\$10,000 and potentially a penalty of up to three times the tax involved for each offence.

However, there is no need for a taxpayer to inform the IRD of chargeability if the taxpayer has been filing tax returns annually and could reasonably expect that, in the normal course of events, the IRD would issue a return in the current year.

Conversely, if a chargeable taxpayer has previously been advised by the IRD that a profits tax return will no longer be issued on an annual basis, or the taxpayer has recently commenced business, the CIR must be notified of chargeability within the stipulated period.

## **Supplementary forms and other forms to the tax returns must be filed electronically**

Regardless of whether a tax return is filed in paper form or electronically, the supplementary forms (i.e., S1 to S18 and S20) and other forms (i.e., IR 1478, IR 1481 and IR 1482) that need to accompany the return (collectively referred to as Required Forms) are required to be filed electronically.

If a taxpayer needs to file any Required Forms, they must download the relevant form from the IRD website ([www.ird.gov.hk/e\\_pfr](http://www.ird.gov.hk/e_pfr)) and fill in the relevant form electronically. After completion, the taxpayer must export the filled form to XML file and upload the XML file via the eTAX services (the eTAX) provided at the GovHK website (<https://www.gov.hk/en/business/taxes/profittax/>) for submission.

Where a tax return is filed in paper form, the taxpayer is also required to print a paper Control List (IR 1477) containing details of the XML files uploaded via the eTAX and the QR code generated by the eTAX for submission together with the return in paper form. The paper Control List must be signed by the same person signing the tax return.

Items 9.1 to 9.19 of BIR 51 and Items 9.1 to 9.7 of BIR 52 indicate the relevant supplementary forms (S1 to S18 and S20 for BIR 51 or S1 to S5, S15 and S20 for BIR 52) to be uploaded via the eTAX.

## **New or updated items included in the tax returns in respect of tax measures recently introduced**

Such tax measures included:

- (i) The tax exemption for family-owned investment holding vehicles (FIHVs) of an eligible single family office (ESFO) and the family-owned special purpose entities (FSPEs) employed by FIHVs in their investment holding structure;
- (ii) The 5% concessionary tax rate that will apply to qualifying income derived from a qualifying intellectual property (IP) under the proposed patent box tax incentive that is expected, upon enactment, to apply retrospectively to the year of assessment 2023/24;
- (iii) The extension of the scope of disposal gains under the foreign-sourced income exemption (FSIE) regime from previously covering equity interests only to all kinds of assets; and
- (iv) The tax certainty enhancement scheme (TCES) under which, where the conditions are satisfied and subject to certain exceptions, onshore disposal gains on equity interests would be deemed to be non-taxable capital gains under section 14 of the Inland Revenue Ordinance (IRO), i.e., without the necessity to undertake the normal "badges of trade" analysis.

The new or updated items included in the 2023/24 profits tax returns in respect of each of the above tax measures are listed in Appendices I to IV to this alert.

Clients who have any questions regarding the filing of their tax returns including their eligibility for the tax measures recently introduced, the supplementary forms and other forms that need to accompany the tax returns, should contact their tax executives.



## **Appendix I - New or updated items included in the tax returns in respect of the tax exemption for FIHVs and FSPEs**

- ▶ BIR 51 (Item 3.2) and BIR 52 (Item 2.2): To indicate whether the taxpayer had deemed assessable profits by virtue of their beneficial ownership in the FIHVs/FSPEs under certain conditions under section 22 (in relation to the profits of FIHVs that are exempt from tax in the hands of the FIHVs) and/or section 23 (in relation to profits of FSPEs that are exempt from tax in the hands of the FSPEs) of Schedule 16E to the IRO.
- ▶ BIR 51 (Item 7.11) and BIR 52 (Item 7.7): To indicate whether the taxpayer is an FSPE in which an FIHV has beneficial interest.
- ▶ BIR 51 (Item 7.12): To indicate whether the taxpayer is an ESFO of a family. The following information is required if the ESFO manages one or more FIHVs:
  - (i) Total number of FIHVs managed by the ESFO;
  - (ii) Name, address and business registration number (if any) of each FIHV managed by the ESFO; and
  - (iii) Whether the FIHVs/FSPEs managed by the ESFO have complied with the specified net asset value.
- ▶ BIR 51 (Item 10.10) and BIR 52 (Item 10.10): To state the amount of profits earned by an FSPE from transactions specified in section 16(3) of Schedule 16E to the IRO that are chargeable at concessionary tax rate.

## **Appendix II - New item included in the tax returns in respect of the proposed patent box tax incentive**

- ▶ BIR 51 (Item 7.14) and BIR 52 (Item 7.9): To indicate whether the taxpayer wishes to claim profits tax concessions for profits sourced in Hong Kong from eligible IP income (subject to the enactment and operation of the relevant legislation). If applicable, new Form IR 1482 is required to be completed and submitted electronically via the eTAX.

## **Appendix III - Updated item included in the tax returns in respect of the refinements to the FSIE regime**

- ▶ BIR 51 (Item 7.13) and BIR 52 (Item 7.8): To indicate whether the taxpayer, as a member of a multinational enterprise group, derived and/or received any specified foreign-sourced income during the basis period. If applicable, Form IR 1478, which has been updated to ask for information in respect of disposal gains on all kinds of assets, is required to be completed and submitted electronically via the eTAX.

## **Appendix IV - New item included in the tax returns in respect of the TCES**

- ▶ BIR 51 (Item 10.4) and BIR 52 (Item 10.4): To state the amount of gains or profits from disposal of qualifying equity interests excluded from the assessable profits or adjusted loss. If applicable, new Form IR 1481 is required to be completed and submitted electronically via the eTAX.



## Hong Kong office

**Jasmine Lee**, Managing Partner, Hong Kong & Macau  
 27/F One Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong  
 Tel: +852 2846 9888 Fax: +852 2868 4432

Non-financial Services			Financial Services	
<b>Wilson Cheng</b> Tax Leader for Hong Kong and Macau +852 2846 9066 wilson.cheng@hk.ey.com			<b>Paul Ho</b> Tax Leader for Hong Kong +852 2849 9564 paul.ho@hk.ey.com	
<b>Business Tax Services/Global Compliance and Reporting</b>			<b>Business Tax Services/Global Compliance and Reporting</b>	
<b>Hong Kong Tax Services</b>			<b>Hong Kong Tax Services</b>	
<b>Wilson Cheng</b> +852 2846 9066 wilson.cheng@hk.ey.com	<b>Tracy Ho</b> +852 2846 9065 tracy.ho@hk.ey.com	<b>Jennifer Kam</b> +852 2846 9755 jennifer.kam@hk.ey.com	<b>Paul Ho</b> +852 2849 9564 paul.ho@hk.ey.com	<b>Ming Lam</b> +852 2849 9265 ming.lam@hk.ey.com
<b>May Leung</b> +852 2629 3089 may.leung@hk.ey.com	<b>Ada Ma</b> +852 2849 9391 ada.ma@hk.ey.com	<b>Ricky Tam</b> +852 2629 3752 ricky.tam@hk.ey.com	<b>Sunny Liu</b> +852 2846 9883 sunny.liu@hk.ey.com	<b>Helen Mok</b> +852 2849 9279 helen.mok@hk.ey.com
<b>Grace Tang</b> +852 2846 9889 grace.tang@hk.ey.com	<b>Karina Wong</b> +852 2849 9175 karina.wong@hk.ey.com	<b>Leo Wong</b> +852 2849 9165 leo.wong@hk.ey.com	<b>Customer Tax Operations and Reporting Services</b>	
<b>Jacqueline Chow</b> +852 2629 3122 jacqueline.chow@hk.ey.com			<b>Paul Ho</b> +852 2849 9564 paul.ho@hk.ey.com	
<b>China Tax Services</b>			<b>US Tax Services</b>	
<b>Ivan Chan</b> +852 2629 3828 ivan.chan@hk.ey.com	<b>Sam Fan</b> +852 2849 9278 sam.fan@hk.ey.com	<b>Becky Lai</b> +852 2629 3188 becky.lai@hk.ey.com	<b>Camelia Ho</b> +852 2849 9150 camelia.ho@hk.ey.com	<b>Michael Stenske</b> +852 2629 3058 michael.stenske@hk.ey.com
<b>Carol Liu</b> +852 2629 3788 carol.liu@hk.ey.com			<b>International Tax and Transaction Services</b>	
<b>Payroll Operate</b>			<b>China Tax Services</b>	
<b>Vincent Hu</b> +852 3752 4885 vincent-wh.hu@hk.ey.com	<b>Linda Liu</b> +86 21 2228 2801 linda-sy.liu@cn.ey.com	<b>Cecilia Feng</b> +852 2846 9735 cecilia.feng@hk.ey.com	<b>Cindy Li</b> +852 2629 3608 cindy.jy.li@hk.ey.com	
<b>International Tax and Transaction Services</b>			<b>International Tax Services</b>	
<b>International Tax Services</b>			<b>Sophie Lindsay</b> +852 3189 4589 sophie.lindsay@hk.ey.com	<b>Stuart Cioccarelli</b> +852 2675 2896 stuart.cioccarelli@hk.ey.com
<b>Jo An Yee</b> +852 2846 9710 jo-an.yee@hk.ey.com	<b>Sangeeth Aiyappa</b> +852 2629 3989 sangeeth.aiyappa@hk.ey.com	<b>Martin Richter</b> +852 2629 3938 martin.richter@hk.ey.com	<b>Rohit Narula</b> +852 2629 3549 rohit.narula@hk.ey.com	<b>Adam Williams</b> +852 2849 9589 adam-b.williams@hk.ey.com
	<b>Kenny Wei</b> +852 2629 3941 kenny.wei@hk.ey.com		<b>Maggie To</b> +852 3752 4779 maggie.to@hk.ey.com	<b>Ruairi Lamb</b> +852 2846 9070 ruairi.lamb@hk.ey.com
<b>Transaction Tax Services</b>			<b>Transfer Pricing Services</b>	
<b>Jane Hui</b> +852 2629 3836 jane.hui@hk.ey.com			<b>Ka Lok Chu</b> +852 2629 3044 kalok.chu@hk.ey.com	<b>Justin Kyte</b> +852 2629 3880 justin.kyte@hk.ey.com
<b>People Advisory Services</b>			<b>Rohit Narula</b> +852 2629 3549 rohit.narula@hk.ey.com	<b>Transaction Tax Services</b>
<b>Mary Chua</b> +852 2849 9448 mary.chua@hk.ey.com	<b>Christina Li</b> +852 2629 3664 christina.li@hk.ey.com	<b>Jeff Tang</b> +852 2515 4168 jeff.tk.tang@hk.ey.com	<b>Winnie Walker</b> +852 2629 3693 winnie.walker@hk.ey.com	<b>Paul Wen</b> +852 2629 3876 paul.wen@hk.ey.com
<b>Asia-Pacific Tax Center</b>				
<b>Tax Technology and Transformation Services</b>		<b>International Tax and Transaction Services</b>		<b>Indirect tax</b>
<b>Agnes Fok</b> +852 2629 3709 agnes.fok@hk.ey.com		<b>US Tax Desk</b>		<b>Shubhendu Misra</b> +852 2232 6578 shubhendu.misra@hk.ey.com
<b>Robert Hardesty</b> +852 2629 3291 robert.hardesty@hk.ey.com		<b>Jeremy Litton</b> +852 3471 2783 jeremy.litton@hk.ey.com		<b>Andy Winthrop</b> +852 2629 3556 andy.p.winthrop@hk.ey.com
<b>Albert Lee</b> +852 2629 3318 albert.lee@hk.ey.com		<b>Operating Model Effectiveness</b>		<b>Tax and Finance Operate</b>
		<b>Edvard Rinck</b> +852 9736 3038 edvard.rinck@hk.ey.com		<b>Tracey Kuuskoski</b> +852 2675 2842 tracey.kuuskoski@hk.ey.com

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