



2025 SERVICE SYNOPSIS

GLOBAL TAX COMPLIANCE - GENERAL ADVICE

Hong Kong CPA is not allowed nor suitable to give practical advice in overseas tax compliance, but more and more clients are coming across global tax compliance issues in recent years. Those clients should seek relevant overseas' local tax advisers to resolve their queries. Our common general advice is as follows-

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- Hong Kong does not have capital gain tax, gift tax, worldwide tax, withholding tax (deemed as final tax) and estate duties (death/ inheritance tax), but many overseas countries have those kinds of taxes and calculating at unexpected ways, e.g. capital gain tax calculated at the difference between the current disposal value and the original acquisition amount of which is not the merely value at the point of obtaining ownership or effective date of immigration.
- Non-compliance of tax reporting or disclosure obligations in many overseas countries are of criminal offence and subject to very high penalty, even no tax payments be liable for after the reporting.
- Tax obligations do not just arise from nationality, identity or alike recognition (e.g. US green card), but also the status inherited from parents, permanent establishment (PE) and number of days (e.g. over 183 days pa or on average) stating in the countries.
- For doing business with overseas countries, overseas tax obligations can also arise, even if the client does not have subsidiary or branch in those countries. For example, if one client sells goods via the internet to one state in US with an accumulated amount more than US\$250k or 200 transactions, the client may have already been exposed to US tax, even though no subsidiary or branch be set up in US.
- The same business or transaction may be subject to more than one kind of tax, e.g. country level tax and local level tax.
- Custom duty is also one key of international tax and it in fact affects the tax determination in transfer pricing transactions. For example, in order to reduce custom duties payment, the service costs are not absorbed in the goods costs and such service costs may not be recognized as income tax deductible amount due to unable to satisfy the TP challenges.
- Passive income (e.g. distribution, dividends & interests) are subject to Withholding Tax (say US:30%) of which higher than Corporate tax (say US:21%) or Individuals tax (say US:10-37%), this may be why FACTA & CRS compliance demanding the segregation in reporting of passive income entity and active income entity.

- Active income does not mean whether the entity is dormant or active, it means income being generated from non-passive activities or transactions or something else. It means a dormant company can be classified as active income entity (At least in the past, the entity had active income). Therefore, dormant companies should not be automatically reported as Passive Income Entity.
- Overseas tax returns MUST not be signed-out, unless clients have ascertained that there are real obligations to do so. The data to be filled in those tax returns, if really required, must be very accurate for protecting the subsequent right in claiming back withholding tax or tax deductions or credits under tax treaty.
- In foreign securities or funds investment, the investors may be subject to the overseas tax compliance obligations, e.g. For private equity fund investments, the fund partnership/ operating agreement must be checked out.
- Re-thinking of key factors for taxability **in Hong Kong**

KEY FACTORS	HK Source (location of)	Trading (carrying on a business)	Revenue or Capital Nature
Key Conditions	*Operation test *Customers & Suppliers *Management *Provision of credit	*Badges of trade *Deeming in law *Non-trading passive income	*Badges of trade *Original intention
Challenges	*Global compliance & source disputes *Vague & misconception	*Reporting & disclosures *Governing bodies *Unawareness to tax liabilities	*Capital gain exemption at risk *Exposure to high tax rate or amount
Risky Level	High & increasing	Higher risk of double taxed, calculation, period, penalty & extent	*High & Significant *No time bar

BEPS PILLAR TWO TAX OBLIGATIONS

Members of Multinationals with Revenue more than Euro 750m is subject to a global minimum tax at least at an effective tax rate 15% per Jurisdiction basis, i.e. not only calculating on each entity's own performance and financial position, but also considering other group members' data in the same Jurisdiction. Top-up taxes may be liable to pay for the group's shortage of lower than 15% tax payment, and liable to report and disclose the relevant tax obligations. Each client must consult with its ultimate holding company to ascertain the proper compliance with BEPS Pillar Two international tax reform.

ILLUSION OF NON-TAXABLE IN HONG KONG

Frequent buying & selling OF AND speculative-intended dealing OF securities and real properties are taxable in Hong Kong, despite long-period of ownership. Badges of trade analysis being applied to determine the HK taxability, unless-

- Approved as Qualifying Equity Interests (Ord. No. 33 of 2023)
- Approved as various **Investment Fund** regimes & obtaining tax-exemption
- Approved as Family Offices

LIQUIDITY AND IMPAIRMENT

Financial health and impairment loss estimation are two key management risk assessment factors in 2024 onwards, in view of the continuous downturn in Hong Kong economy. It is not only a global & local economic issue, but also a financial & liquidity issue, which may bring about downsizing of business and suffering in transaction price merely due to shortage of funds source in market.

LSP AND LEAVES OBLIGATIONS

The abolition of MPF offsetting arrangement will take effect on 1 May 2025, it may affect the client's sufficiency in carrying provision amount for employee obligations, in particular of the common market losses in many MPF funds. The effects of accounting estimation should be reviewed as soon as possible before the end of reporting. Accumulated leave balance obligations should be considered, especially if many employees have not taken long-holidays leaves in the COVID-period.

AML INFORMATION RENEWAL

Despite knowing clients a long period ago, we are professionally governed by KYC & AML regulations, which demand our periodic update (say, 3 year-period) of each client's identity information (verifying ID & address proof) and having face-to-face meetings from time to time to ensure instructions being given by right person. We understand that it is a nuisance to many clients and would minimize the unnecessary procedures as far as possible.

RENTAL INCOME & LEASE DISCLOSURE OBLIGATIONS

Highly likely uncollectible rental income is not required to recognize as Revenue (and then impaired the rent receivables) in company accounting, but Hong Kong Property Tax Return reporting, the full amount of rental income based on the lease agreement should be reported together with the bad debts.

Surrender or rent reduction agreement had better be proved by written document between landlord and tenant to avoid subsequent disputes and accounting uncertainties.

Obligations and rights on non-cancellable leases are required to disclose, provided that the relevant tenancy agreement has been signed (at or before the reporting date), stamped (duties paid & legally enforceable) and kept valid, otherwise it need not be considered in disclosures.

SPECIFIED FOREIGN-SOURCED INCOME

Legal Entity Recipient, who carrying on business in Hong Kong, of specified foreign-sourced incomes (interest, dividend, disposal gain & IP income) may be tax chargeable in Hong Kong, if it is identified as a Multinational Enterprise (MNE) Group member (including its Acting-For-Agent) with another group member or branch (being a permanent establishment) located in another jurisdiction, unless it is exempted or relieved or credited via tests of (1) Economic Substance in Hong Kong, (2) Participation, (3) Regulated Financial Entity, (4) Trader status, (5) Intra-Group Transfer Relief or (6) other applicable law & regulations.



2025 服務概要

全球稅務合規(一般建議)

香港註冊會計師不允許且不適合在海外稅務合規方面提供實務建議，但近年來，越來越多客戶遇到全球稅務合規的問題。這些客戶應該尋求相關海外當地的稅務顧問來解決他們的疑問。我們的一般建議如下-

- 香港沒有資本增值稅，贈予稅，全球稅，預扣稅（視為最終稅）和遺產稅，但很多海外國家都有這樣類型的稅種且計算方式可能出乎意料，例如，資本增值稅是以當前的可出售價值與原始收購價值之間的差額進行計算，並不是以移民生效日時的價值計算。
- 在許多海外國家，不遵守稅務申報或披露義務屬於刑事犯罪且罰款極高，即使在申報後不用繳納任何稅款。
- 稅務義務不僅僅是產生自國籍、身份或類似的認可（例如美國綠卡），還包括從父母那裏繼承的身份、常設機構（PE）和在該國居住的天數（例如每年超過 183 天或平均）
- 對於在海外國家開展業務，即使客戶在那些國家沒有子公司或分公司，也可能會產生海外納稅義務。例如，如果一個客戶通過互聯網向美國某個州銷售商品，其累計銷售金額超過 25 萬美元或交易超過 200 次，那麼該客戶即使沒有在美國設立子公司或分支機構，也可能會面臨美國稅收義務。
- 同一業務或交易可能需要繳納多種稅種，例如國家級稅務和地方級稅務。
- 關稅也是國際稅收的關鍵之一，它實際上影響轉讓定價交易中的稅收確定。例如，為了減少關稅支付，服務成本不被計入貨物成本且該服務成本由於無法滿足轉讓定價的挑戰而可能不能被確認為所得稅扣除金額。
- 被動收入（例如分派、股息和利息）需繳納預扣稅（美國 30%），高於公司稅（美國 21%）或者個人稅（美國 10-37%），這或許是 FACTA 和 CRS 的合規要求在呈報中區分被動收入實體和主動收入實體的原因。
- 主動收入不意味著實體是休眠還是活躍的，它意味著收入產生於非被動活動或交易或其他方面產生的收入。休眠公司可以被歸納為主動收入實體（至少在過去，該實體有主動收入）。因此，休眠公司不應自動報告為被動收入實體。
- 除非客戶確定有實際義務這樣做，否則不應簽署海外納稅申報表。如若確實需要填寫這些納稅申報表，則必須非常準確填寫以保護後續根據稅收協定索回預扣稅或稅務減免或抵免的權利。
- 在投資海外證券或基金時，投資者可能需遵守海外稅務合規義務。例如，投資私募股權基金時，必須查閱基金合夥/運營協議。

● 重新思考香港徵稅的關鍵因素

關鍵因素	香港來源（所在地）	貿易（經營業務）	收入或資本性質
關鍵條件	*運作測試 *客戶&供應商 *管理 *信貸提供	*貿易徽章 *法律認定 *非交易被動收入	*貿易徽章 *原始意圖
挑戰	*全球合規及來源爭議 *模糊及誤解	*報告與披露 *管理機構 *不了解稅務責任	*資本增值豁免面臨風險 *面臨高稅率或高稅額
風險級別	高且增加	雙重徵稅風險較高， 計算, 期限, 罰款及範圍	*高且重要的 *沒有時間限制

稅基侵蝕和利潤轉移（BEPS）第二支柱稅收義務

收入超過 7.5 億歐元的跨國公司成員必須繳納全球最低稅率，每個司法管轄區的有效稅率至少為 15%。即不僅要計算實體自身的業績表現和財務狀況，而且要考慮同一管轄範圍內的其他集團成員的數據。集團有義務補繳稅款以彌補低於 15% 的納稅缺口，並且承擔申報和披露相關的納稅義務。每個客戶必須諮詢其最終控股公司，以確保其正確遵守 BEPS 第二支柱國際稅收改革。

香港免稅的假象

頻繁買賣證券和不動產以及投機性交易在香港是可以納入為可評稅活動，儘管持有相關資產時間較長。貿易徽章分析適用於確定香港的應納稅性，除非-

- 獲批成為合格股權（2023 年第 33 號法令）
- 獲批成為各種**投資基金**制度並獲得免稅
- 獲批成為**家族辦公室**

流動性及減值

鑒於香港經濟持續低迷，財務健康和減值損失預估是 2024 年及以後兩個關鍵的風險管理評估因素。這不僅是全球和地方經濟問題，更是一個金融和流動性的問題，僅僅是因為市場資金來源短缺便可以帶來業務規模縮減以及交易價格受損。

長期服務金及休假義務

強積金對衝安排將於 2025 年 5 月 1 日取消，這可能會影響客戶對僱員責任準備金的充足性，尤其是許多強積金基金普遍蒙受市場的損失，應在報告期結束前儘快的審查其對會計估計的影響。應考慮累積休假餘額義務，尤其是在疫情期間許多員工沒有休長假。

反洗錢信息更新

儘管我們很早就認識客戶，但我們仍然受 KYC 和 AML 法規的專業約束，這些法規要求我們定期（例如每 3 年）更新每個客戶的身份信息（驗證身份證和地址證明），並時不時地進行面對面的會議以確保指示由正確的人士發出。我們理解這對許多客戶來說是一種麻煩，因此會盡可能減少不必要的程序。

租金收入及租約終止義務

極有可能無法收回的租金收入在公司會計上不需確認為收入（進而減記租金應收款項），但香港物業稅申報表上，應按照租賃協議上的全額租金收入與壞賬損失一齊報告。

房東和租客之間最好以書面文件形式證明退租或減租，以避免後續的糾紛和會計不確定性。

不可取消租約的義務和權利必須被披露，前提是相關租賃協議已經簽署（在報告期或之前）、加蓋了印花稅印章（已付稅且具法律效力）並保持有效，否則無需考慮披露。

特定的外國來源收入

在香港經營業務的法人實體接收者，如果該企業被認定為跨國企業集團成員（包括其代理機構），且另一家集團成員或分支機構（為常設機構）位於另一個司法管轄區，則其特定的外國來源收入（利息、股息、處置收益以及知識產權收入）可能須在香港繳稅。除非其通過以下測試獲得豁免或寬免或抵免：（1）香港經濟實質，（2）參與，（3）受監管的金融實體，（4）交易者身份，（5）集團內部轉移減免或（6）其他適用的法律法規。