

- **Population:** 6.9 million
- **Time zone:** GMT+8
- **Currency:** Hong Kong Dollars
- **Political status:** Special Administrative Region (SAR) of China
- **Airport:** Hong Kong International Airport, Chek Lap Kok

HONG KONG

Legislative update

The Companies (Amendment) Ordinance 2004 (Phase III implementation)

- Gazetted 13/5/2005, effective 15/7/2005
- To implement recommendations made by the Standing Committee on Company Law Reform on shareholder remedies-related provisions in the Schedule 3

The Companies (Amendment) Ordinance 2005

- Gazetted 7/10/2005; effective 1/12/2005
- To more closely align accounting standards with international accounting standards
- Enhance quality and transparency of financial reporting

Revenue (Abolition of Estate Duty) Bill 2005

- Gazetted 2/11/2005; effective 11/2/2006
- To amend the Estate Duty Ordinance (Cap. 111) to implement the proposal announced in the 2005-06 Budget to abolish estate duty

Double Taxation Agreement with Thailand

- Signed 7/9/2005; effective 1/4/2006 and with respect to Thai taxes from 1/1/2006
- To avoid double taxation and the prevention of fiscal evasion with respect to taxes on income

Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2005

- Gazetted 11/11/2005; effective 6/1/2006
- To amend definitions of some of the regulated activities under Part 2 of Schedule 5 to the SFO
- The nine types of regulated activities are dealing in securities; dealing in future contracts; leveraged foreign exchange trading; advising on securities; advising on future contracts; advising on corporate finance; providing automated trading services; securities margin financing; and asset management

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HONG KONG

by Kishore Sakhrani

Report Summary

- The undiscovered offshore centre
- Financial services
- Company formations

On 11 December 2001 China officially became a full member of the World Trade Organisation, ensuring permanent most-favoured-nation treatment by all other WTO members. Since then, China's exports have continued to grow apace, with an average GDP growth of 8.8% per year from 2001 to 2005.

Hong Kong is ideally situated to take advantage of China's increasing integration into the international trading community. Its location provides excellent transport and communications links to the Pearl River Delta, China's leading export-manufacturing region.

The Closer Economic Partnership Agreement (CEPA), signed in June 2003, eliminates Chinese tariffs on 374 categories of goods manufactured in Hong Kong. Hong Kong service companies, which have unparalleled professional expertise in doing business in China, also get accelerated access to the Mainland market under CEPA.

The undiscovered offshore centre

Hong Kong offers the circumstance, possibly unique in the world, of a commercially advanced environment where taxes can be greatly minimised and, in many cases, completely eliminated.

The tax system is very simple, with no capital gains tax, dividend withholding tax nor VAT.

Profits tax payable by both local and foreign companies is only 17.5%, and is based on the source of the transaction, not the domicile of the company.

Transactions deemed to have an offshore source are not subject to any profits tax.

In a nutshell, to be deemed an offshore transaction, the contract should be negotiated outside Hong Kong and the services provided or goods manufactured somewhere else. If those conditions are met, the transaction will not be deemed to be taxable, even if it is booked and the funds received in Hong Kong. International transactions can thus be structured through a Hong Kong company such that they are tax-neutral (i.e. they generate no additional tax liability for the owners). The profits can then be remitted elsewhere, with no withholding tax.

Financial services

Hong Kong is the financial capital of Asia outside Japan. At the end of September 2005 Hong Kong had 131 licensed banks, 36 restricted license banks and 35 deposit-taking companies, as well as representative offices for 85 additional foreign banks. Interests from 31 countries beneficially owned these institutions, which included 71 of the world's 100 largest banks. Together, they operated a comprehensive network of some 1300 local branches.

Given the large number of participants, it is not surprising that the banking sector is highly competitive and possesses a broad range of expertise.

Hong Kong's roots as an international commercial centre have ensured that its banks are well versed in all aspects of trade finance. Project finance is also a major strength, as a result of the funding requirements for deals in China.

Because the banking sector is so highly developed, it is often possible for companies to get credit on better terms than are normally available in many other countries.

Hong Kong also has an active insurance market. At the end of September 2005, Hong Kong was home to 180 authorised insurers, of which 116 were pure general insurers, 45 were pure long-term insurers and 19 were composite insurers.

Companies listed on the Hong Kong stock exchange must comply with legal, accounting and financial regulatory standards that are comparable to those of any major Western exchange. As a result, Hong Kong listed companies have greater credibility than their listed counterparts on the mainland.

Company formations

Hong Kong has only one kind of company. There are no exempt or non-resident corporations. A local company can be incorporated in about one week.

It is possible for corporations to act as shareholders and directors of a Hong Kong company, with no residency requirements. Hong Kong companies do, however, require a registered office in Hong Kong and a company secretary that is a Hong Kong resident or company.

Many service providers act as corporate nominee shareholders and directors, and company secretaries.

Hong Kong companies are required to file an annual return that lists, among other things, the shareholders, directors, company secretary, authorised and issued share capital and location of the registered office. As this is a public record, the use of corporate nominees to hide beneficial ownership is not uncommon.

An active Hong Kong company is required to submit audited accounts to its shareholders and file those accounts with the Inland Revenue Department each year.

A detailed Companies Ordinance governs how Hong Kong companies are managed and there are adequate safeguards for minority shareholders and creditors.

About the Author

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