Press release

Hong Kong signs comprehensive agreement with Kuwait on avoidance of double taxation

Thursday, May 13, 2010

Hong Kong today (May 13) signed an agreement with Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The Secretary for Financial Services and the Treasury, Professor K C Chan, signed the agreement in Hong Kong on behalf of the Hong Kong Special Administrative Region Government. The Kuwaiti Minister of Finance, Mr Mustafa Al Shamali, signed on behalf of his government.

This is the 10th comprehensive agreement for the avoidance of double taxation (CDTA) concluded by Hong Kong with its trading partners, coming after those with Belgium, Thailand, the Mainland of China, Luxembourg, Vietnam, Brunei, the Netherlands, Indonesia and Hungary.

The CDTA sets out clearly the allocation of taxing rights between the two jurisdictions. It will eliminate double taxation instances encountered by Hong Kong and Kuwaiti investors, and bring about tax savings and certainty in tax liabilities in connection with cross-border economic activities. This will help foster closer economic and trade links between the two places, and provide added incentives for Kuwaiti enterprises to do business or invest in Hong Kong, and vice versa.

In the absence of the CDTA, profits of Kuwaiti companies doing business through a permanent establishment, such as a branch, in Hong Kong are fully taxed in both places. Under the CDTA, double taxation is avoided in that any Hong Kong tax paid by Kuwaiti companies shall be allowed as a deduction from the tax payable in respect of the same incomes in Kuwait.

In the absence of a CDTA, Hong Kong residents receiving dividends from Kuwait not attributable to a permanent establishment there are subject to a Kuwaiti withholding tax, which is currently at 15%. Under the agreement, this will be reduced to 5%. Also, Hong Kong residents receiving royalties from Kuwait are subject to a current withholding tax of 15% in Kuwait. Under the agreement, the royalties withholding tax will be capped at 5%.

Profits from international shipping transport earned by Hong Kong residents that arise in Kuwait, which are currently subject to tax there, will enjoy tax exemption under the agreement. Upon its entry into force, the Hong Kong/Kuwait CDTA will supersede the existing limited double taxation avoidance agreement for airline income providing the same level of benefits.

The Hong Kong/Kuwait CDTA has incorporated the latest Organisation for Economic Co-operation and Development standard on exchange of information.

The Hong Kong/Kuwait CDTA will come into force after the completion of ratification procedures on both sides. In the case of Hong Kong, an order is required to be made by the Chief Executive in Council under the Inland Revenue Ordinance. The order is subject to negative vetting by the Legislative Council.

Hong Kong is actively seeking to establish a network of CDTAs. Where negotiations for comprehensive agreements cannot be proceeded with immediately, the Government is also seeking to conclude limited double taxation avoidance agreements for airline and shipping income with relevant partners. So far, 27 avoidance of double taxation agreements on airline income, six agreements on shipping income and two agreements on airline and shipping income have been reached.

Details of the Hong Kong/Kuwait CDTA can be found on the Inland Revenue Department's website (www.ird.gov.hk/eng/pdf/Agreement_Kuwait_HongKong.pdf).

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