Press release

Hong Kong signs agreement with Japan on avoidance of double taxation

Tuesday, November 9, 2010

Hong Kong today (November 9) signed an agreement with Japan on 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 of Hong Kong, Professor K C Chan, signed the agreement in Hong Kong on behalf of the Hong Kong Special Administrative Region Government. The Consul-General of Japan in Hong Kong, Mr Yuji Kumamaru, signed on behalf of his Government.

This is the 16th comprehensive agreement on 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, Hungary, Kuwait, Austria, the United Kingdom, Ireland, Liechtenstein and France.

The CDTA sets out clearly the allocation of taxing rights between the two jurisdictions and the relief on tax rates on different types of passive income. It will help investors better assess their potential tax liabilities from cross-border economic activities, foster closer economic and trade links between the two places, and provide added incentives for companies in Japan to do business or invest in Hong Kong, and vice versa.

In the absence of a CDTA, the profits of Hong Kong companies doing business through a permanent establishment, such as a sales outlet in Japan, may be taxed in both places if the income is Hong Kong-sourced. Under the agreement, double taxation will be avoided in that any Japanese tax paid by the companies shall be allowed as a credit against the tax payable in Hong Kong in respect of the income, subject to the provisions of the tax laws of Hong Kong.

In the absence of a CDTA, Hong Kong residents receiving dividends from Japan not attributable to a permanent establishment in Japan are subject to a Japanese withholding tax, which is currently set at 20%. Under the agreement, such withholding tax is capped at 5% for a company holding (directly or indirectly) for a period of six months at least 10% of the voting shares of the company paying the dividends, and 10% for other cases. Also, Hong Kong residents receiving royalties from Japan are subject to a current withholding tax at 20% in Japan. Under the agreement, the royalties withholding tax will be capped at 5%. The Japanese interest withholding tax on Hong Kong residents will be reduced from the current rate of 20% to 10%.

Under the CDTA, Hong Kong airlines operating flights to Japan will be taxed at Hong Kong's corporation tax rate (which is lower than that of Japan). Profits from international shipping transport earned by Hong Kong residents that arise in Japan, which are currently subject to tax there, will enjoy tax exemption under the agreement.

The Hong Kong/Japan CDTA incorporates the latest Organisation for Economic Co-operation and Development standards on exchange of information.

The Hong Kong/Japan 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 with major trading and investment partners. Where CDTA discussions with some jurisdictions cannot be started for the time being, Hong Kong will seek to conclude limited double taxation avoidance arrangements 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/Japan CDTA can be found on the Inland Revenue Department website at (www.ird.gov.hk/eng/pdf/Agreement_Japan_HongKong.pdf).

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