

Press release

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

Tuesday, March 23, 2010

Hong Kong today (March 23) signed an agreement with Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

The Financial Secretary, Mr John C Tsang, signed the agreement in Jakarta on behalf of the Hong Kong Special Administrative Region Government. The Indonesian Minister of Finance, Sri Mulyani Indrawati, signed on behalf of her Government.

This is the eighth comprehensive agreement for the avoidance of double taxation (CDTA) concluded by Hong Kong. It will eliminate double taxation instances encountered by Hong Kong and Indonesian investors, and bring about tax savings and certainty in tax liabilities in connection with cross-border economic activities. It will also help foster closer economic and trade links between the two places, and provide added incentives for Indonesian enterprises to do business or invest in Hong Kong, and vice versa.

In the absence of the CDTA, profits of Indonesian 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 Indonesian companies shall be allowed as a deduction from the tax payable in respect of the same income in Indonesia.

Under the CDTA, the income received by a Hong Kong resident from non-Indonesian employment exercised in Indonesia will be exempted from Indonesian income tax if his aggregate stay in any relevant 12-month period does not exceed 183 days, and vice versa.

In the absence of a CDTA, Hong Kong residents receiving dividends from Indonesia not attributable to a permanent establishment there are subject to an Indonesian withholding tax, which is currently at 20%. Under the agreement, this will be reduced to 10%. If the recipient is a company holding at least 25% of the share capital of the paying company, the withholding tax rate will be further reduced to 5%. Also, Hong Kong residents receiving royalties from Indonesia are subject to a current withholding tax of 20% in Indonesia. Under the agreement, the royalties withholding tax will be capped at 5%. The Indonesian interest withholding tax on Hong Kong residents will be reduced from the current rate of 20% to 10%.

Hong Kong airlines operating flights to Indonesia will be taxed at Hong Kong's corporation tax rate (which is lower than Indonesia's). Profits from international shipping transport earned by Hong Kong residents that arise in Indonesia, which are currently subject to tax there, will enjoy 50% reduction in tax under the agreement.

The signing of the agreement also marks a new page for Hong Kong in supporting the international effort in enhancing tax transparency. In February last year, the Financial Secretary announced his decision to put forward legislative amendments to enable Hong Kong to adopt the prevailing international standard on exchange of information in our CDTAs. The Government has moved swiftly on this initiative and the relevant legislation took effect earlier this month. The Hong Kong/Indonesia CDTA is among the first batch of CDTAs, following the Hong Kong/Brunei and Hong Kong/Netherlands CDTAs, that Hong Kong has signed using the latest Organisation for Economic Co-operation and Development standard on exchange of information. It is expected that more CDTAs using this new standard will be signed.

The Hong Kong/Indonesia 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, and has concluded CDTAs with Belgium in 2003, Thailand in 2005, the Mainland of China in 2006, Luxembourg in 2007, Vietnam in 2008, as well as Brunei and the Netherlands recently.

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, 28 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/Indonesia CDTA can be found on the Inland Revenue Department's website (www.ird.gov.hk/eng/pdf/Agreement_Indonesia_HongKong.pdf).

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