

Press release

Hong Kong and Portugal sign tax pact

Tuesday, March 22, 2011

Hong Kong today (March 22) signed an agreement with Portugal 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 Consul-General of Portugal in Hong Kong, Mr Manuel Carvalho, signed on behalf of his Government.

This is the 19th 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, Hungary, Kuwait, Austria, the United Kingdom, Ireland, Liechtenstein, France, Japan, New Zealand and Switzerland.

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 Portugal to do business or invest in Hong Kong, and vice versa.

In the absence of a CDTA, income earned by Portuguese residents in Hong Kong are subject to both Hong Kong and Portuguese income tax. Profits of Portuguese companies doing business through a branch in Hong Kong are fully taxed in both places. Under the agreement, double taxation will be avoided as the Portuguese resident shall be entitled to a tax credit against Portuguese tax payable in respect of the same income taxed in Hong Kong.

In the absence of a CDTA, Hong Kong residents receiving dividends from Portugal not attributable to a permanent establishment in Portugal are subject to the Portuguese withholding tax, which is currently at 20% and 21.5% for corporation and individual respectively. Under the agreement, such withholding tax rate will be reduced to 10%. The withholding tax on dividends will be further reduced to 5% if the beneficial owner of the dividends is a company (other than a partnership) holding directly at least 10% of the capital of the company paying the dividends. The Portuguese withholding tax on interest, currently at 20% and 21.5% for corporations and individuals respectively, on Hong Kong residents will be capped at 10%. The Portuguese withholding tax on royalties, currently at 15% and 21.5% for corporations and individuals respectively, will be capped at 5%.

Under the CDTA, Hong Kong airlines operating flights to Portugal will be taxed at Hong Kong's corporation tax rate (which is lower than that of Portugal). Profits from international shipping transport earned by Hong Kong residents that arise in Portugal, which are currently subject to tax there, will not be taxed in Portugal under the agreement.

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

The Hong Kong/Portugal 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/Portugal CDTA can be found on the Inland Revenue Department's website (www.ird.gov.hk/eng/pdf/Agreement_Portugal_HongKong.pdf).

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