

Press Release

Hong Kong to commence automatic exchange of financial account information in tax matters with Japan and UK in 2018

Wednesday, October 26, 2016

Hong Kong has signed agreements with Japan and the United Kingdom with a view to commencing automatic exchange of financial account information in tax matters (AEOI) with these two tax jurisdictions in 2018, a Government spokesman said today (October 26).

In September 2014, Hong Kong indicated its support for the standard promulgated by the Organisation for Economic Co-operation and Development (OECD) on AEOI, with a view to commencing the first exchanges with appropriate partners on a reciprocal basis by the end of 2018. An ordinance amending the Inland Revenue Ordinance (IRO) was passed by the Legislative Council (LegCo) in June this year to provide the necessary legal framework for Hong Kong to implement AEOI, and came into effect on June 30, 2016.

The Inland Revenue Department (IRD) has recently signed bilateral competent authority agreements (CAAs), based on the model CAA promulgated by the OECD, with Japan and the United Kingdom. The Secretary for Financial Services and the Treasury has made a Notice to put these two jurisdictions into a list of "reportable jurisdictions" under the IRO. The Notice also puts a list of "participating jurisdictions" under the IRO, which includes all jurisdictions committed to adopting AEOI by 2018 (i.e. 100 jurisdictions excluding Hong Kong).

"Hong Kong has all along been supportive of the international efforts to enhance tax transparency and combat cross-border tax evasion. The agreements with Japan and the United Kingdom will pave the way for Hong Kong's timely implementation of AEOI. This is important to maintain our reputation as an international financial centre and a responsible member of the international community," said the spokesman.

The Notice will be published in the Gazette on October 28, 2016, and tabled at the LegCo at its sitting on November 2, 2016, for negative vetting. The relevant provisions will come into operation on December 31, 2016.

Under the AEOI standard, a financial institution (FI) is required to identify financial accounts held by tax residents of reportable jurisdictions in accordance with the OECD's due diligence procedures. FIs are required to collect the reportable information of these accounts and furnish such information to the IRD beginning from the reporting year. The IRD will exchange the information with the tax authorities of the AEOI partner jurisdictions on an annual basis.

Going forward, the Government has stressed that it will expand Hong Kong's network of AEOI with partners with which we have signed a comprehensive avoidance of double taxation agreement (CDTA) or a tax information exchange agreement (TIEA). The Government will commence AEOI discussions with all other CDTA/TIEA partners committed to adopting AEOI, and seek to conclude as many CAAs as practicable within 2017.

Background information

* The term "tax residents of reportable jurisdictions" refers to those who are liable to tax by reason of residence in the jurisdictions with which Hong Kong has entered into an AEOI arrangement. In general, whether or not an individual is a tax resident of a jurisdiction is determined by having regard to the person's physical presence or stay in a place (e.g. whether over 183 days within a tax year) or, in the case of a company, the place of incorporation or where the central management and control of the entity lies.

* Unless an account holder is a tax resident of another jurisdiction which has signed an AEOI agreement with Hong Kong, FIs in Hong Kong do not need to report the information of such an account to the IRD. FIs may request account holders to provide self-certifications on their personal information including tax residence, so as to enable FIs to identify those accounts which should be reported under the AEOI regime. To facilitate the checking of tax residency by account holders, the OECD has established a portal which provides information on tax residency rules in jurisdictions which have committed to implementing AEOI. The IRD has uploaded onto its website the relevant link to the OECD's portal, as well as a set of frequently asked questions for public reference (www.ird.gov.hk/eng/faq/dta_aeoi.htm).

* When performing due diligence procedures, FIs would be required to "look

through" an account holder which is a professionally managed investment entity, with its income primarily attributable to investing, reinvesting, or trading in financial assets (relevant entity), unless the relevant entity is resident in a participating jurisdiction.

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