HONG KONG TAX ALERT

ISSUE 6 | March 2017

CRS: Proposed Expansion of the List of Reportable Jurisdictions

The Hong Kong government plans to expand the list of reportable jurisdictions for 2017 under the Common Reporting Standard (CRS) from 2 to 74 to meet international expectations.

Summary

- Financial institutions in Hong Kong are required to report full year information for 2017 regarding financial accounts held by tax residents of Japan and the UK
- For the additional 72 prospective reportable jurisdictions, CRS reporting will be limited in the first year to the financial information for the second half of 2017
- The first CRS reporting to the IRD will be due in May 2018, covering both the confirmed and prospective reportable jurisdictions
- This may lead to operational issues for reporting financial institutions in Hong Kong, including updating of client onboarding/remediation procedures and system enhancements for reporting of a half year's rather than a full year's information

Under the CRS framework, financial institutions in Hong Kong are required to identify and report to the IRD the financial accounts held by tax residents of overseas reportable jurisdictions (including individuals, entities and controlling persons of certain entity accounts) on an annual basis. CRS reporting will commence from 2018 with respect to 2017 account information.

Because Hong Kong is not a sovereign jurisdiction, it cannot be a direct signatory to the OECD multilateral agreement for the automatic exchange of CRS information. Hong Kong therefore originally planned to collect and report CRS information to other countries based on bilateral agreements. Hong Kong has signed bilateral Competent Authority Agreements (BCAA) with Japan and the UK for the exchange of CRS information from 2018 (with respect to 2017 data), and with Korea for the exchange of CRS information from 2019 (with respect to 2018 data). In view of the targeted approach adopted by Hong Kong, financial institutions are only required to report to the IRD for the first CRS reporting period (due in May 2018) the financial accounts held by tax residents of Japan and the UK.

However, Hong Kong is under pressure to accelerate this process. In particular, the European Union (EU) has announced that it will prepare a blacklist of "non-cooperative tax jurisdictions". One of the listing criteria relates to the implementation of CRS. Specifically, the EU requires arrangements to be in place for the exchange of CRS information with all member states of the EU by the end of 2017.

As a result, the Hong Kong government plans to add 72 jurisdictions (in addition to Japan and the UK) to Hong Kong's list of reportable jurisdictions for CRS purposes. The additions include all EU member states, all of Hong Kong's tax treaty partners which have committed to CRS, and other jurisdictions which have expressed an interest to the OECD in exchanging CRS information with Hong Kong. The new jurisdictions include Australia, Canada, China, France, Germany, India, Korea, Malaysia, Russia and Switzerland.

The Hong Kong government plans to commence the relevant legislative procedures shortly to ensure that these changes are effective from 1 July 2017. For the 72 new jurisdictions, CRS information needs to be provided to the IRD with effect from1 July 2017 (compared with I January 2017 for Japan and the UK), but the IRD will provide this information to the relevant country only after it has signed a Competent Authority agreement with that country.

KPMG comments

This proposed change will have a significant impact on financial institutions which so far have relied on the original targeted approach to identify and collect information. Other financial institutions which adopted a wider approach should evaluate whether they are able to extract financial data for only a six month period for the second half of 2017. It is worth noting that the due diligence deadline for high value individual accounts remains 31 December 2017, regardless of whether the account holders are tax residents of the confirmed or prospective reportable jurisdictions.

The IRD indicated that, notwithstanding it will collect all financial data with respect to residents of these 72 new reportable jurisdictions, it will only exchange CRS information with jurisdictions which have a legal basis that allows for the automatic exchange of financial account information. This would include either updating or the signing of Comprehensive Double Taxation Agreements or Tax Information Exchange Agreements and concluding a BCAA with the relevant jurisdiction. This could still be a lengthy process. The Hong Kong government is currently exploring an alternative legal basis for CRS information exchange, such as requesting Mainland China to extend its accession to various multilateral tax agreements to cover Hong Kong.

The proposed expansion of the list of CRS reportable jurisdictions is expected to be effective in less than 4 months' time. Financial institutions should be planning for the required operational and system enhancements. It is also important for financial institutions to provide up-to-date training for front-line staff and continuous customer communication, to ensure compliance with the latest requirements.

Our previous tax alerts on the CRS developments in Hong Kong are accessible below:

2016

Issue 11: CRS: Hong Kong guidance published

Issue 6: CRS/AEOI Hong Kong legislation gazetted

Issue 1: CRS/ AEOI: Hong Kong bill gazetted

2015

Issue 10: CRS/AEOI: Hong Kong responds to consultation

Issue 7: Hong Kong launches the Consultation on Automatic Exchange of Information

Contact us:

Khoon Ming Ho
Regional Leader Tax, Asia Pacific
Head of Tax, KPMG China
Tel: +86 10 8508 7082
khoonming.ho@kpmg.com

Ayesha M. Lau
Head of Local Market
Head of Tax, Hong Kong
Tel: +852 2826 7165
ayesha.lau@kpmg.com

Corporate Tax

Chris Abbiss
Head of Real Estate Tax, KPMG China
Tel: +852 2826 7226
chris.abbiss@kpmg.com

Stanley Ho
Principal
Tel: +852 2826 7296
stanley.ho@kpmg.com

Charles Kinsley
Principal
Tel: +852 2826 8070
charles.kinsley@kpmg.com

Alice Leung
Partner
Tel: +852 2143 8711
alice.leung@kpmg.com

Curtis Ng
Partner
Tel: +852 2143 8709
curtis.ng@kpmg.com

John Timpany
Partner
Tel: +852 2143 8790
john.timpany@kpmg.com

Matthew Fenwick
Director
Tel: +852 2143 8761
matthew.fenwick@kpmg.com

Sandy Fung
Director
Tel: +852 2143 8821
sandy.fung@kpmg.com

Ivor Morris
Director
Tel: +852 2847 5092
ivor.morris@kpmg.com

Natalie To
Director
Tel: +852 2143 8509
natalie.to@kpmg.com

Michael Olesnicky
Special Advisor
Tel: +852 2913 2980
michael.olesnicky@kpmg.com

M & A Tax

Darren Bowdern
Head of Financial Services Tax, KPMG China
Tel: +852 2826 7166
darren.bowdern@kpmg.com

Yvette Chan
Principal
Tel: +852 2847 5108
yvette.chan@kpmg.com

Benjamin Pong
Principal
Tel: +852 2143 8525
benjamin.pong@kpmg.com

Malcolm Prebble
Principal
Tel: +852 2685 7472
malcolm.j.prebble@kpmg.com

China Tax

Karmen Yeung
Partner
Tel: +852 2143 8753
karmen.yeung@kpmg.com

Daniel Hui
Principal
Tel: +852 2685 7815
daniel.hui@kpmg.com

Adam Zhong
Principal
Tel: +852 2685 7559
adam.zhong@kpmg.com

Travis Lee
Director
Tel: +852 2143 8524
travis.lee@kpmg.com

Steve Man
Director
Tel: +852 2978 8976
steve.man@kpmg.com

Transfer Pricing

John Kondos
Seconded Partner
Tel: +852 2685 7457
john.kondos@kpmg.com

Lu Chen
Principal
Tel: +852 2143 8777
lu.l.chen@kpmg.com

Irene Lee
Director
Tel: +852 2685 7372
irene.lee@kpmg.com

Global Mobility Services

Barbara Forrest
Principal
Tel: +852 2978 8941
barbara.forrest@kpmg.com

Murray Sarelius
Principal
Tel: +852 3927 5671
murray.sarelius@kpmg.com

David Siew
Principal
Tel: +852 2143 8785
david.siew@kpmg.com

Erica Chan
Director
Tel: +852 3927 5572
erica.chan@kpmg.com

Kate Lai
Director
Tel: +852 2978 8942
kate.lai@kpmg.com

US Tax

Wade Wagatsuma
Head of US Corporate Tax, KPMG China
Tel: +852 2685 7806
wade.wagatsuma@kpmg.com

Becky Wong
Director
Tel: +852 2978 8271
becky.wong@kpmg.com

Indirect Tax

Lachlan Wolfers
Head of Indirect Tax, KPMG China Regional Leader, Asia Pacific Indirect Tax
Tel: +852 2685 7791
lachlan.wolfers@kpmg.com

kpmg.com/cn