



HONG KONG TAX ALERT

ISSUE 14 | September 2018

Hong Kong – Visa for same sex dependants (and civil partnerships / civil unions)

Summary

Following from a recent court case in respect of dependant visa eligibility for same sex partners, the Hong Kong Government has announced that, effective from 19 September 2018, the immigration policy has been revised in respect of applications for same-sex dependants.

Why this matters

With effect from 19 September 2018, a person who has entered into a same-sex civil partnership, same-sex civil union, same-sex marriage, opposite-sex civil partnership or opposite-sex civil union outside Hong Kong with an eligible sponsor will become eligible to apply for a dependant visa/ entry permit for entry into Hong Kong.

Previously, a person who is the other party to one of the above relationships, who would like to accompany the applicant, had to come to Hong Kong as a visitor within the allowed period of stay. As a visitor, he/she was not allowed to take up any employment in Hong Kong. Under the revised policy, same-sex and other spouses who do not fall within the Hong Kong legislation of a spouse¹ will be allowed to stay for the same period as the sponsor's visa period and take up employment in Hong Kong.

Application criteria

The original criteria of the Policy for dependants remain unchanged. An application for admission of a dependant may be favourably considered if it meets the below criteria.

- (i) there is reasonable proof of a genuine relationship between the applicant and the sponsor;
- (ii) there is no known record to the detriment of the applicant; and
- (iii) the sponsor is able to support the dependant's living at a standard well above the subsistence level and provide him/her with suitable accommodation in Hong Kong.

¹ A valid marriage under Hong Kong Law is heterosexual and monogamous.

The Government stated that the revised Policy allows those who are able to provide care and financial support to their dependants to sponsor their non-local dependants to come and reside in Hong Kong.

Further matter

Under the Immigration guidelines, dependants who have ordinarily resided in Hong Kong for a continuous period of not less than seven years may apply for the right of abode in Hong Kong in accordance with the law. A same-sex partner who has been coming to Hong Kong as a visitor previously, may only start counting their period of stay after they have obtained the dependant visa.

KPMG observations

The change in policy is intended to attract and retain talent in Hong Kong.

Employers may need to consider their current benefit policy and/or global mobility policy for dependants. In particular, they will need to consider if the accommodation provided by the employer meets the standard of “well above the subsistence level,” which is one the factor to be considered by the Immigration Department for the application.

Contact us:



Lewis Y. Lu
National Head of Tax
Tel: +86 21 2212 3421
lewis.lu@kpmg.com



Curtis Ng
Head of Tax, Hong Kong
Tel: +852 2143 8709
curtis.ng@kpmg.com

Corporate Tax Advisory



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



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



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



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



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



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



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



Eva Chow
Director
Tel: +852 2685 7454
eva.chow@kpmg.com



Elizabeth de la Cruz
Director
Tel: +852 2826 8071
elizabeth.delacruz@kpmg.com



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



Michael Olesnick
Special Advisor
Tel: +852 2913 2980
michael.olesnick@kpmg.com

Deal Advisory, M&A Tax



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



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



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



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



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

China Tax



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



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



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



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



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

US Tax

Global Transfer Pricing Services



Karmen Yeung
Head of Global Transfer Pricing Services, Hong Kong
Tel: +852 2143 8753
karmen.yeung@kpmg.com



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



Patrick Cheung
Partner
Tel: + 852 3927 4602
patrick.p.cheung@kpmg.com



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



Lachlan Wolfers
National Head of Indirect Tax & Tax Technology; Asia Pacific Regional Leader, Indirect Tax
Tel: +852 2685 7791
lachlan.wolfers@kpmg.com



Alexander Zegers
Director, Tax Technology
Tel: +852 2143 8796
zegers.alexander@kpmg.com

Global Mobility Services



Murray Sarelius
National Head of Global Mobility Services
Tel: +852 3927 5671
murray.sarelius@kpmg.com



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



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



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

kpmg.com/cn

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2018 KPMG Huazhen LLP — a People's Republic of China partnership, KPMG Advisory (China) Limited — a wholly foreign owned enterprise in China, and KPMG — a Hong Kong partnership, are member firms of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

© 2018 KPMG, a Macau partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

© 2018 KPMG Tax Services Limited, a Hong Kong limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.