



HONG KONG TAX ALERT

ISSUE 8 | September 2019

Hong Kong introduces Special Rates on first-hand private residential units

Summary

The Hong Kong Government gazette the Rating (Amendment) Bill 2019 to introduce special rates chargeable on certain private domestic premises that are unsold and unlet after the issue of the occupation permits for the premises.

With a view to encourage a more timely supply of first-hand private residential units, on 13 September 2019, the Rating (Amendment) Bill 2019 was gazetted, introducing “Special Rates” on vacant first-hand private residential units with an occupation permit (“OP”) issued for 12 months or more, unless the units have been sold, or have been leased out for over 183 days during the reporting period. Special Rates are chargeable at a flat rate of 200 per cent of the rateable value of the subject target unit, while Government has proposed to exempt units permitted for domestic use in certain types of premises. A first-owner who holds a unit is required to submit annual returns to the Rating and Valuation Department (“RVD”) to declare the status of the unit during the past 12 months. Penalties and fines would be imposed for failure to submit returns to the RVD within a specified period or failure to notify the RVD within a specified period after cancellation of sale and purchase agreement.

We give a brief overview of the main implications below.

Submission of annual return to the RVD

The first-owner is required to declare the status of the units concerned, including

- a) Whether the unit was leased to any person during the reporting period;
- b) Whether the unit was provided by the first-owner to an employee as a place of residence during the reporting period; and
- c) Whether any agreement of sale and purchase (“ASP”) of the unit was entered into before or during the reporting period by the first-owner with other person.

Details of related party transactions must be provided. The annual return can be submitted to the RVD either in paper form or in form of an electronic record. In event of subsequent cancellation or termination of the ASP, the first-owner is required to notify the RVD in writing within 28 days immediately after the date of the event. Penalties and fines will be imposed for late return submission or notification.

Payment of Special Rates

Special Rates are chargeable on certain private domestic premises that are unsold after the issue of the occupation permits for the premises, at 200% of the rateable value of the unit. Special Rates would not be charged if

- The unit is leased to a person (other than a related party of the first-owner) during the reporting period;
- The unit is provided by the first-owner as an employer to an employee of the first-owner as a place of residence for not less than 183 days during the reporting period; or
- An ASP was entered into by the first-owner as vendor with another person (other than a related party of the first-owner) as purchaser and is in force on the last day of the reporting period.

A person deriving the title of the target unit directly or indirectly from the original first-owner becomes a first-owner of the target unit if he is a related party of the original first-owner.

The Government has proposed to exempt units permitted for domestic use in certain types of premises, including but not limited to the following:

- Premises held by the Government or incorporated public officer
- Subsidised housing or transitional housing
- Premises held by the Urban Renewal Authority (“URA”) for rehousing eligible persons affected by URA projects;
- Licensed hotels and guesthouses;
- Hospitals, nursing homes, residential care homes for elderly, residential care homes for persons with disabilities, etc.

KPMG observations

The Bill will be introduced into the Legislative Council following the first Council meeting in the 2019/20 legislative session. The outcome to the Bill would have a significant impact to real estate developers. Affected companies will need to ensure mechanisms are in place to enable the timely and accurate submission of the required information. They will also need to review their current holdings, quantify the impact of the proposed changes and look into effective ways to reduce their exposure.

For more information and assistance, please contact your usual tax advisor or one of our tax contacts below.

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



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



Eugene Yeung
Director
Tel: + 852 2143 8575
eugene.yeung@kpmg.com

Deal Advisory, M&A Tax



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



Nigel Hobler
Partner
Tel: +852 2978 8266
nr.hobler@kpmg.com



Anthony Pak
Director
Tel: +852 2847 5088
anthony.pak@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



Vivian Tu
Director
Tel: +852 2913 2578
vivian.l.tu@kpmg.com



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

US Tax

Global Transfer Pricing Services



Xiaoyue Wang
Partner, Head of Global Transfer
Pricing Services, China
Tel: +8610 8508 7090
xiaoyue.wang@kpmg.com



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



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



Michelle Sun
Partner
Tel: + 852 3927 5625
michelle.sun@kpmg.com



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

People Services



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



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



Gabriel Ho
Director
Tel: +852 3927 5570
gabriel.ho@kpmg.com



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

kpmg.com/cn

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