Hong Kong Tax Alert

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Hong Kong will now implement the Pillar 2 Rules under BEPS 2.0 in 2024 at the earliest

Summary

In a recent open letter issued by the Hong Kong SAR (Hong Kong) government, the government indicated that the implementation of the global minimum tax under BEPS 2.0 in Hong Kong has now been deferred from 2023 to 2024 at the earliest.

In this tax alert, we summarise the key updates included in the letter and our observations on this development.

The Secretary for Financial Services and the Treasury issued an open letter on 15 August 2022 to provide the latest update on the implementation of Pillar 2 under BEPS 2.0 in Hong Kong. The letter can now be accessed via this link.

The key messages of the letter

The key messages of the letter are as follows:

1. the implementation of the Income Inclusion Rule (IIR) has now been deferred from 2023 to 2024 at the earliest - the government plans to introduce the necessary legislative proposals to the Legislative Council in 2023;
2. as for the implementation timeline for the Undertaxed Payment Rule, the government will monitor the implementation status of other jurisdictions and review Hong Kong's own implementation plan;
3. the government originally announced in the 2022/23 Budget delivered in February this year that it would consider introducing a domestic minimum top-up tax in Hong Kong starting from year of assessment 2024/25 (i.e. 1 April 2024) – this will now also be subject to the implementation status of other jurisdictions;
4. in the coming months, the government will continue to closely monitor the OECD's latest timetable on the implementation of BEPS 2.0 and the implementation plans of other jurisdictions, and keep stakeholders closely informed of the implementation progress of Hong Kong; and
5. as the OECD's aims to release the Implementation Framework of the GloBE Rules under Pillar 2 later this year, the government plans to launch a consultation towards the end of 2022 to collect views on the translation of the Pillar 2 rules into domestic legislation and the relevant requirements.

KPMG observations

We welcome the government's decision to defer the implementation of Pillar 2 in Hong Kong in line with international developments. The timely issue of the letter provides much needed clarification on the government's implementation plan of Pillar 2 in Hong Kong.

Given the likely delay in the global minimum tax implementation in the European Union and the fact that some other jurisdictions (e.g. the UK and Switzerland) have now planned to implement the IIR in 2024 instead of 2023, similar deferral in Hong Kong is sensible. We see no need for Hong Kong to be the first mover on Pillar 2 implementation. The deferral also allows more time for both the government and the in-scope MNE groups in Hong Kong to better prepare for the significant challenges Pillar 2 implementation will present.

Having said that, in-scope MNE groups in Hong Kong should recognise by now that it is almost (if not absolutely) certain that Hong Kong will go ahead to implement Pillar 2 and it is just a matter of timing as to when the implementation will take place. These groups should make good use of the additional time available to prepare for perhaps the most significant changes to the Hong Kong tax system in the past few decades.

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