Hong Kong (SAR) Tax Alert

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A quick guide to the 2023/24 profits tax filing

Summary

The 2023/24 profits tax filing season has kicked off with the bulk issuance of the 2023/24 profits tax returns on 2 April 2024.

In this tax alert, we (1) list out the important due dates for 2023/24 profits tax filing and other tax reporting obligations, (2) highlight the major changes to the 2023/24 profits tax returns and the new/revised forms for profits tax filing, (3) discuss the key Hong Kong profits tax developments that may impact the 2023/24 profits tax filing positions of business groups in the Hong Kong SAR (Hong Kong) and (4) provide an update on Hong Kong's digitalisation of tax reporting.

1. Due dates for filing the 2023/24 profits tax returns

For taxpayers with a tax representative, the extended due dates for filing the 2023/24 profits tax returns under the Block Extension Scheme[1] are as follows:

Accounting date code	Extended due date	Further extended due date for semi-electronic / electronic filing upon application
"N" code (1 April 2023 to 30 November 2023)	2 May 2024 *(No extension)*	2 June 2024
"D" code (1 December to 31 December 2023)	15 August 2024	15 September 2024
"M" code profit cases (1 January 2024 to 31 March 2024)	15 November 2024	15 December 2024
"M" code loss cases (1 January 2024 to 31 March 2024)	31 January 2025	31 January 2025 *(No further extension)*

1 For more details, please refer to the Circular Letter on the Block Extension Scheme issued by the IRD: https://www.ird.gov.hk/eng/pdf/bel24e.pdf

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2. The 2023/24 profits tax returns, new forms and update on e-filing

Key changes in the 2023/24 profits tax returns (i.e. BIR 51 and BIR 52)

We summarise in the table below the major changes in the 2023/24 profits tax returns.

Items in the return	Major changes
Item 3.2 in BIR 51 / Item 2.2 in BIR 52	Updated for taxpayers to indicate whether they have any deemed assessable profits in relation to **family-owned investment holding vehicles** (FIHVs) and/or **family-owned special purpose entities** (FSPEs) under the anti-round tripping provisions of the family office tax regime[2].
Item 7.11 in BIR 51 / Item 7.7 in BIR 52	Updated for taxpayers to indicate whether they are an FSPE held by an eligible FIHV.
Item 7.12 in BIR 51	A new checkbox for taxpayers to indicate whether they are an **eligible single family office** of a family. If yes, the taxpayers need to provide information about the FIHVs managed and the specified net asset value.
Item 7.14 in BIR 51 / Item 7.9 in BIR 52	A new checkbox for claiming the profits tax concession for **Hong Kong sourced eligible intellectual property (IP) income** under the proposed patent box tax incentive in Hong Kong[3].
Item 9.19 in BIR 51 / Item 9.7 in BIR 52	A new checkbox on the **new Supplementary Form S20** to be completed by taxpayers electing for the tax concession for **FIHVs**.
Item 10.4 in BIR 51 / BIR 52	A new checkbox for taxpayers to state the amount of **onshore equity disposal gains** that have been treated as non-taxable under the tax certainty enhancement scheme[4]. The **new Form IR1481** needs to be completed as well.
Item 10.10 in BIR 51 / BIR 52	A new checkbox for taxpayers to state the amount of profits earned by a **FSPE** that are chargeable at the 0% concessionary tax rate under the family office tax regime.

New / revised forms for profits tax filing

The following new / revised forms have been introduced from the year of assessment (YOA) 2023/24 and are now available on the Inland Revenue Department's (IRD) website[5]:

- New Supplementary Form S20 – to be filed by taxpayers claiming the tax concession for FIHVs (instead of completing Form IR1479 as in last year);
- Revised Form IR1478 – to be filed by taxpayers deriving and/or receiving any specified foreign sourced income[6];
- New Form IR1480 – a sample statutory declaration to be completed and signed by members of a family to support a claim for the tax concession for the FIHV(s) held by the family;
- New Form IR1481 – to be filed by taxpayers claiming onshore equity disposal gains as non-taxable under the tax certainty enhancement scheme; and
- New Form IR1482 – to be filed by taxpayers claiming the tax concession for onshore eligible IP income under the proposed patent box tax incentive. The form will be available upon enactment of the relevant tax bill that was recently gazetted.

2 Please refer to our Hong Kong (SAR) Tax Alerts – Issue 28, December 2022 and Issue 7, April 2023 for more details of the concessionary tax regime for family offices in Hong Kong.
3 Under the proposed patent box tax incentive in Hong Kong, onshore income derived from use or sale of eligible IPs will be taxed at a 5% concessionary tax rate when the specified conditions are met. For more details of the HKSAR Government's proposal of the incentive, please refer to our Hong Kong (SAR) Tax Alert – Issue 16, September 2023 and the Inland Revenue (Amendment) (Tax Concessions for Intellectual Property Income) Bill 2024 gazetted on 28 March 2024. The Bill can be accessed via this link: https://www.gld.gov.hk/egazette/pdf/20242813/es3202428136.pdf
4 The tax certainty enhancement scheme applies to onshore gains on disposal of equity interests occurring on or after 1 January 2024, subject to certain conditions. Please refer to our Hong Kong (SAR) Tax Alert – Issue 28, December 2023 for more details.
5 The new forms can be accessed via this link: https://www.ird.gov.hk/eng/paf/for.htm#pf
6 Specified foreign-sourced income are foreign-sourced dividends, interest, royalties and gains from disposal of equity interests and any other assets.

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Modes of profits tax filing

There is no change in the profits tax filing arrangement for the YOA 2023/24 from last year. The three existing filing modes below (i.e. full electronic; semi-electronic and paper modes) are still available, and the electronic filing of profits tax returns remains voluntary.

Filing mode	Profits tax return (BIR 51 or BIR 52)	Supplementary forms / IR1478 / IR1481 / IR1482	Supporting documents
Paper	Paper	XML	Paper
Electronic	Electronic	XML	iXBRL
Semi-Electronic	Paper*	XML	iXBRL

** Same as last year, a simplified profits tax return is required to be printed for signature and submission in paper form.*

New versions of the IRD Taxonomy Package and preparation tool

New versions of the IRD Taxonomy Package and iXBRL Data Preparation Tools have been launched from 1 April 2024 with certain updates / enhancements[7]. In particular, the Traditional Chinese edition of the Package and the Tools are now available.

3. Key profits tax developments relevant to return filing

The expanded FSIE regime in Hong Kong

The foreign-sourced income exemption (FSIE) regime was first introduced in Hong Kong on 1 January 2023 to cover foreign-sourced dividends, interest, royalties and equity disposal gains derived by MNE groups. Effective from **1 January 2024**, the scope of the regime has been expanded to cover foreign-sourced gains from disposal of all kinds of assets, and a trader exclusion and an intra-group transfer relief have been introduced at the same time[8].

The above changes to the FSIE regime will be relevant to "M code" taxpayers for the three months from January to March 2024 for YOA 2023/24. For "D code" and "N code" taxpayers, YOA 2023/24 will be the first year of which they may be subject to the FSIE regime in respect of their foreign-sourced dividends, interest, royalties and equity disposal gains.

Where the FSIE regime applies, adjustment in the tax computation is required to exclude specified foreign-sourced income accrued but not yet received in Hong Kong during the YOA 2023/24. If any specified foreign-sourced income accrued on or after 1 January 2023 was received in Hong Kong during the YOA 2023/24 and is chargeable to profits tax because the tax exemption/deferral does not apply, taxpayers would need to (1) report the income as assessable profits in the profits tax filing (if a profits tax return has been issued) or (2) notify the IRD in writing that it is chargeable to profits tax within 4 months after the fiscal year end (if no profits tax return has been issued).

In addition, the **Form IR1478** would need to be completed and filed electronically. The form for this year has been revised to reflect the above mentioned changes and some enhancements (e.g. taxpayers can now indicate whether they rely on the participation requirement to claim a tax exemption under the FSIE regime and if not, they do not need to complete the section on participation exemption in the form).

Tax certainty enhancement scheme for non-taxation of onshore equity disposal gains

Under the tax certainty enhancement scheme that became effective from **1 January 2024**, a bright-line test with the equity holding conditions (i.e. an ownership threshold of at least 15% and a holding period of at least 24 months before disposal) would be applied to regard onshore equity disposal gains as capital in nature and non-taxable, subject to certain exclusions. "M code" taxpayers pursuing such non-taxable claim on their onshore equity disposal gains derived on or after 1 January 2024 are required to complete and file electronically **the new Form IR1481**.

For more details of the tax certainty enhancement scheme, please refer to our [Hong Kong (SAR) Tax Alert – Issue 18, October 2023].

7 Please refer to paragraph 28 of the Circular Letter on the Block Extension Scheme for a summary of the updates / enhancements: https://www.ird.gov.hk/eng/pdf/bel24e.pdf
8 For more details of the FSIE regime in Hong Kong, please refer to our Hong Kong (SAR) Tax Alerts on this FSIE landing page.

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Enhanced preferential tax regime for aircraft leasing

Various enhancements have been made to the aircraft leasing tax regime **effective from the YOA 2023/24**, including (1) an outright tax deduction of the aircraft acquisition costs, (2) an expanded scope of the tax concession to cover wet leases and funding leases, (3) removal of the restriction on the lease term and the requirement of leasing to aircraft operators and (4) an expanded scope of qualifying leasing activities. Aircraft leasing groups in Hong Kong should take note of the above enhancements when determining their eligibility to the tax concession and their profits tax filing positions.

For more details of the enhanced aircraft leasing preferential tax regime, please refer to our Hong Kong (SAR) Tax Alert – Issue 25, December 2023.

Tax deduction for spectrum utilisation fees for the telecommunication industry

A new tax deduction is available for capital expenditures incurred as spectrum utilisation fees by mobile network operators in respect of **radio spectrum auctions conducted on or after 19 January 2024**. For more details of the new tax deduction, please refer to our Hong Kong (SAR) Tax Alert – Issue 29, December 2023.

Tax treatment of insurers under the Risk-based Capital regime

Although the HKSAR Government aims to implement the Risk-based Capital (RBC) regime for the insurance industry in Hong Kong from 1 July 2024[9], the amendments to the Inland Revenue Ordinance (IRO) contained in the Insurance (Amendment) Ordinance 2023[10] that specify the taxation arrangement for insurers under the RBC regime came into operation on **14 July 2023**. Insurance business groups in Hong Kong with early adoption of the RBC regime should take note of the new tax treatments under the regime.

For the taxation arrangement for insurers under the RBC regime, please refer to our Hong Kong (SAR) Tax Alert – Issue 9, May 2023.

Transfer of files to the Large Business Office of the IRD

The Large Business Office (LBO) was formed under Unit One within the IRD a few years ago. Initially, only certain selected large business groups were handled by the LBO. In the past few months, the IRD started to send letters to various large MNE groups that are subject to the country-by-country reporting (CbCR) requirement (i.e. with annual consolidated group revenue of HKD 6.8 billion / EUR 750 million or more) to inform them that the profits tax files of the constituent entities (except inactive entities) within their groups would be transferred to the LBO for handling going forward.

This means that the same team of assessors in the LBO will look at the tax matters of the different constituent entities within an in-scope large MNE group. This would enable the IRD to better understand / examine the group's related party transactions on one hand and promote consistency in the tax treatments within the group on the other hand. More importantly, the files transfer will possibly pave the way for the administration of the global minimum tax and/or the domestic minimum top-up tax that would take effect from financial years beginning on or after 1 January 2025.

4. Hong Kong profits tax case relevant to return filing

In Board of Review Case No. D12/22[11], the Board held that the sums received by a property developer, which represent interest income derived from funds placed in stakeholder accounts for pre-sale of uncompleted residential units, do not qualify for the profits tax exemption for bank interest income in the hands of the property developer.

Taxpayers in the real estate sector with similar stakeholding arrangements should carefully assess the applicability of this case to them and consider whether there are reasonable basis to argue that the bank interest income exemption applies for the 2023/24 profits tax filing purposes. They should also closely monitor the development of this case. For a more detailed discussion of the case, please refer to our Hong Kong (SAR) Tax Alert – Issue 20, November 2023.

9 The timeline was recently mentioned in the Legislative Council's Panel on Financial Affairs meeting held on 18 March 2024. For more details, please refer to the legislative paper via this link: https://www.legco.gov.hk/yr2024/english/panels/fa/papers/fa20240318cb1-298-7-e.pdf
10 The Insurance (Amendment) Ordinance 2023 can accessed via this link: https://www.gld.gov.hk/egazette/pdf/20232728/es12023272820.pdf
11 The Board of Review's decision can be accessed via this link: https://www.info.gov.hk/bor/en/decisions/D1222.pdf

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5. The latest roadmap on digitised tax reporting in Hong Kong

It is understood that the ultimate goal of the IRD is to implement full-scale mandatory e-filing of profits tax returns by 2030. In this regard, the IRD has recently indicated the following:

- The definition of "multinational enterprise" (MNE) for e-filing purposes will follow that of Pillar 2 under BEPS 2.0, which will cover those groups with annual consolidated revenue of EUR 750 million or more in 2 of the 4 preceding fiscal years.
- All Hong Kong constituent entities (inclusive of dormant and inactive entities) of the in-scope MNE groups will be required to e-file their profits tax returns for YOA 2025/26 and subsequent YOAs, regardless of where the ultimate parent entity (UPE) is located.
- As the next phase of mandatory e-filing, the IRD is considering large businesses with turnover above a certain threshold to be the next batch of taxpayers required to e-file their profits tax returns in 2028.
- The IRD has also committed to releasing the Business Tax Portal (BTP) by 2025. Pre-registration for the BTP will be available from April to June 2025 with the launch of the portal from July 2025.

6. Other tax reporting requirements

We summarise below the due dates of other tax reporting obligations that may be applicable to business groups in Hong Kong:

Tax reporting obligation	Due date
Notification of chargeability	Within **4 months** after the end of the basis period for the YOA in which the taxpayer (1) became chargeable to tax or (2) received in Hong Kong specified foreign-sourced income that is chargeable to tax
Filing of CbCR notification	Within **3 months** after the end of the UPE's accounting period
Filing of CbCR return	Within **12 months** from the end of the reporting group's accounting period

KPMG observations

As Hong Kong continues to implement various changes to its profits tax regime (such as the expanded FSIE regime, the tax certainty enhancement scheme and various new tax incentives), business groups in Hong Kong will likely need to complete additional forms and provide more information as part of the profits tax filing process. Great care should be exercised during the filing process to ensure adequate and accurate information is provided to the IRD to minimise future enquiry or challenge from the IRD on the tax positions taken.

With the ongoing files transfer to the LBO which enables the IRD to gain a better understanding of the tax affairs of a large business group as a whole, large business groups in Hong Kong should perform a holistic review of the group's tax matters and revisit their intra-group transactions to ensure they are supported by commercial justifications and are in compliance with the transfer pricing rules.

Finally, large MNE groups that are within the scope of Pillar 2 of BEPS 2.0 and the mandatory e-filing of profits tax returns from YOA 2025/26 should plan ahead and get themselves ready for this significant change in Hong Kong tax reporting. They should also perform a comprehensive review of the existing data collection and tax filing processes with a view to achieve consistency and efficiency in future preparation of the profits tax return and domestic minimum top-up tax return.

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