

# HONG KONG EDGE 才誌

A magazine for the Hong Kong Market 香港市場資訊雜誌

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唐家成獲委任為證監會主席

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(Chairman of Nameson Group)

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支付行業變革在即  
企業備戰零售市場

**KPMG**

cutting through complexity



# Message from the Editors 編者的話

## Welcome to the second issue of Hong Kong Edge!

In this edition, we are delighted to highlight the appointment of our former Chairman for China and Asia Pacific, Mr Carlson Tong, as Chairman of the Securities and Futures Commission. We also feature an interview with Mr Wong Ting Chung, BBS, Chairman of the Namsan Group, where he shares with us his inspiring success stories.

Once again, our KPMG professionals continue to share their observations, insights and knowledge around tax, corporate governance and business processes. We hope these articles will be of interest to you.

On the tax front, KPMG is proud to be named Best Tax Advisor by The Corporate Treasurer in its 2012 Alliance Awards. Significantly, we were the only non-financial institution winner, clearly reflecting our strength in the marketplace and ability to provide strategic tax advice.

We strongly believe that part of our role as a responsible member of Hong Kong's business community is to support professional bodies. Ivy Cheung, our Audit partner who has served as Council Member of the Hong Kong Institute of Certified Public Accountants for the past year, is seeking re-election this month. We would like to seek your continued support for her.

As we enter 2013 very soon, we would like to take this opportunity to wish you all a wonderful Christmas and a very Happy New Year!

## 歡迎閱讀《才誌》第二期

在今期《才誌》中，我們很高興向讀者分享畢馬威中國及亞太區前任主席，唐家成先生獲委任為證監會主席的喜訊。我們亦專訪了南旋集團主席兼創辦人王庭聰先生BBS，分享他的創業經驗與成功之道。

畢馬威的專業人員將會繼續環繞稅務、企業管治和業務流程等領域進行重點討論，並分享他們的專業見解和看法，希望能助讀者洞察形勢，隨時掌握最新商業動態。

在稅務方面，畢馬威很榮幸在著名財經雜誌《Corporate Treasurer》2012年「Alliance Awards」評選中，榮獲「最佳稅務諮詢服務機構」獎項。我們憑着雄厚實力和完善的稅務諮詢服務，成為唯一一家奪得這個獎項的非金融機構。

我們深信，作為香港商界的一份子，我們應該鼎力支持及參與各專業團體的活動，作出應有的貢獻。張穎嫻（畢馬威審計合夥人）於本月競選連任香港會計師公會理事會成員，希望能繼續得到大家的支持。

隨着 2013 年即將來到，我們在此祝大家聖誕快樂，新年進步！



**Philip Wong**

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KPMG China  
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畢馬威中國



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合夥人，香港市場  
畢馬威中國



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Market news 市場動向

# Carlson Tong appointed SFC Chairman

## 唐家成獲委任為證監會主席

**W**e are delighted to share the news that former KPMG Chairman for China and Asia Pacific, Carlson Tong, has been appointed as Chairman of the Securities and Futures Commission (SFC), effective October 2012.

Carlson began his career in the U.K. when he joined KPMG in 1979 after qualifying as an accountant. In 1985, he returned to Hong Kong and rose through the ranks to become Chairman of KPMG China in 2007 and KPMG ASPAC Chairman in 2009. From 2006 – 2008, Carlson also chaired the Hong Kong Stock Exchange's listing committee.

**我**們很高興告訴各位，唐家成先生（畢馬威中國及畢馬威亞太區前任主席）獲委任為證券及期貨事務監察委員會（證監會）主席，由2012年10月起生效。

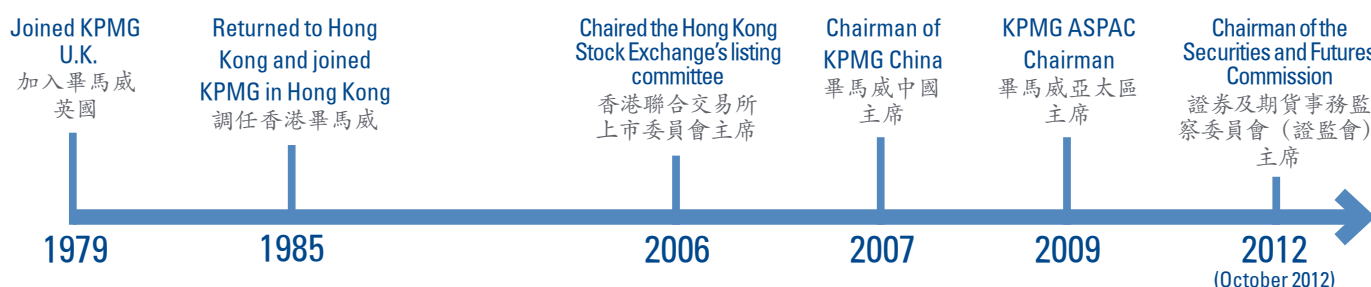
唐家成先生取得會計師資格後，在1979年加入畢馬威英國，1985年調任香港，在2007年獲委任為畢馬威中國主席，並在2009年獲委任為畢馬威亞太區主席。在2006年至2008年期間，唐家成先生曾擔任香港聯合交易所上市委員會主席。

After retiring in April last year, Carlson has certainly not slowed down! He has maintained a very busy schedule through his involvement in public roles including non-executive director of the SFC and Chairman of the English Schools Foundation.

Carlson succeeds Dr Eddy Fong, who has chaired the SFC for six years. "The SFC plays a vital role in upholding Hong Kong's position as a leading international financial centre, and I feel honoured to have been appointed as its Chairman," said Carlson. "I would like to express my gratitude to Eddy for leading the SFC over these past six years. I have greatly appreciated his guidance since joining the SFC as a non-executive director 18 months ago. The SFC has a very strong team under Ashley's leadership and I look forward to working closely with him, the Board, the Executive Team and our stakeholders," he added.

唐家成先生在去年4月退任畢馬威中國及畢馬威亞太區主席後，生活依然繁忙。他積極將時間投入於公職，包括擔任證監會非執行董事和英基學校協會主席。

唐家成先生獲委任接替六年任期屆滿的方正博士，出任證監會主席。唐家成先生說：「證監會對維持香港的主要國際金融中心地位扮演重要角色，我很榮幸獲委任為證監會主席。我對於方博士過去六年來領導證監會所作出的貢獻，表示謝意。我於年半前加入證監會擔任非執行董事，承蒙方博士悉心指導，為此我十分感激。在歐達禮先生的領導下，證監會團隊繼續發揮出色表現，我期待與歐達禮先生、董事局、執行管理層以及業界人士緊密合作。」







“The SFC plays a vital role in upholding Hong Kong’s position as a leading international financial centre, and I feel honoured to have been appointed as its Chairman.”

“證監會對維持香港的主要國際金融中心地位扮演重要角色，我很榮幸獲委任為證監會主席。”

# Interview with Mr Wong Ting Chung

(Chairman of Nameson Group)

## 人物專訪:王庭聰先生(南旋集團主席)

In this issue of Hong Kong Edge, we are privileged to have Mr Wong Ting Chung, BBS, the founder and Chairman of the Nameson Group, share with us some of his key success factors, which have led to his achievements both professionally and in a personal capacity.

在 本期《才誌》中，我們非常榮幸地邀請了南旋集團主席兼創辦人王庭聰先生BBS，分享他的成功之道。王庭聰先生不僅在事業上取得卓越成就，同時也活出了精彩豐盛的人生。

In 1972, at the age of 11, Mr Wong Ting Chung immigrated to Hong Kong. From humble beginnings, Mr Wong established his first garment manufacturing business at the young age of 18! Through many trials and tribulations, Mr Wong has developed the Nameson Group into one of the premier knitwear garment manufacturing facilities in China and one of the largest sweater manufacturers in the world. It now occupies over 360,000 square meters in the Huizhou Nameson Industrial Centre with 12,000 employees and over 3,000 state-of-the-art fully automated knitting machines from Germany and Japan.

Under Mr Wong's leadership, the Nameson Group has consistently experienced strong financial performance and tremendous development. It has grown from strength to strength in not only in the garment industry, but has also extended into residential real estate development, hotels and most recently, the health food industry; it will soon enter the transportation industry in China as well. Through it all and despite his extremely busy schedule (more on that later), Mr Wong has remained extremely active and dedicated to the Hong Kong social welfare environment and the development of corporate social responsibility and sustainability in his business ventures. Mr Wong's numerous social and charitable appointments and commitments are and continue to be a testament to these core values.

**Mr Wong graciously shared with KPMG some of his experience and insights as a successful entrepreneur in Hong Kong and China.**

1972年，11歲的王庭聰先生移居香港。憑着他的幹勁，當年只是18歲的他已成立了自己的第一間製衣廠，可謂白手興家。王庭聰先生衝破了重重考驗與挑戰，將南旋集團發展成為現今中國最領先的針織和服裝產品生產商之一，也是世界頂級的毛衣生產商。惠州南旋工業中心佔地逾36萬平方米，擁有12,000名員工以及3,000多部德國、日本最先進的全自動電腦電機。

在王庭聰先生的領導下，南旋集團不斷發展壯大，並取得了驕人的業績，不僅製衣業務得到了長足的發展，集團亦將業務延伸至住宅房地產的開發、酒店業務，近期更涉足健康食品業，在不久的將來還會進軍中國內地的公共交通業。雖然王庭聰先生日理萬機，但他還是不遺餘力，積極為香港的社會公益慈善活動作出貢獻，宏揚企業社會責任和可持續發展的精神。王庭聰先生在多個社會公益慈善團體中擔任公職，身體力行，充分體現出他熱心公益的核心精神。

**王庭聰先生非常樂意地跟畢馬威分享他在中國內地及香港營商的成功經驗和深刻見解。**

**KPMG---畢馬威**

**Mr Wong Ting Chung---WTC王庭聰先生**

**KPMG:** Thank you Mr Wong, for accepting our invitation to this interview. We are honoured that you have taken time out of your busy schedule to be interviewed for our **Hong Kong Edge** magazine.



**Mr Wong is currently involved in numerous charitable organisations and public bodies for social welfare, including:**

- Honorary Director of the Hong Kong Baptist University Foundation
- Co-chairman of Community for the Chest Organising Committee
- Vice-chairman of Heifer Hong Kong Fundraising Committee 2012
- Honorary Director of the Chinese Chamber of Commerce
- Director of Yan Chai Hospital Board



**畢馬威：**王先生，非常感謝您接受我們的邀請，在百忙中抽空接受畢馬威《才誌》的訪問。您能否與我們的讀者分享一下，您是如何創立南旋集團？又是如何帶領南旋集團取得今天的成就？

**WTC：** I started my first business in Hong Kong, a small garment manufacturing company in Tokwawan in the late 1970s when I was 18 years old. That venture failed after only six months and I ended up back at work for my previous employer.

The lessons I learned from this failed experience helped me tremendously in my second venture, which I started in 1982. Together with my wife, and with the lessons learned from the first failed venture, we started a second knitwear operation, which grew four-fold in two years and then doubled in size again two years after that. In 1990, we started the Nameson Group with the focus of going into the ODM (original design manufacturer) business for knitwear. But success was certainly not automatic. In fact, we had some difficult times in the early 1990s. But with support from close friends in the industry, we were able to overcome these difficulties and our business has prospered and also branched out into different industries.

There were certainly some critical success factors which have been instrumental to achieving the level of success we enjoy today. Firstly, I am committed to planning for the future and developing strategies for the long-term. Secondly, we stay focused. A good example of this was when we established manufacturing facilities in Japan to produce goods for our clients in Japan. We certainly had strong opponents to this strategy, but with the belief that high-automation would help to control costs and Japanese production would solve import quota problems, the commitment to our strategy and focus on the execution of this strategy proved to be an extremely successful step forward for our group.

Another example is when we began investing heavily in state-of-the-art manufacturing technology for our facilities in China in the early 2000s, in anticipation of increasing



王庭聰先生目前在慈善機構和社會福利團體擔任的公職包括：

- 香港浸會大學基金榮譽會董
- 公益金港島、九龍區百萬行籌委會主席
- 2012年國際小母牛香港籌募委員會副主席
- 香港中華總商會第四十八屆會董
- 香港仁濟醫院董事局總理

## Interview with Mr Wong Ting Chung

production costs and labour shortages in the future. Again, as expected, no one agreed with our approach at that time. But this strategy has definitely been one of the keys to our success in the manufacturing industry. Despite our friends' objections and competitors' challenges, we did not deviate from our long-term commitment to automation and we have proven everyone wrong.

Finally, I am a firm believer in first mover advantage. This is a point which I stress with my management team. We must try to be accurate in our long-term visions, stay focused on the goal and act before anyone else. To date, we have been very successful by following these key success factors.

**王庭聰：**在70年代後期，我18歲的時候，在九龍土瓜灣開設了第一家公司，那是一家小型製衣廠。可惜該製衣廠在短短6個月後便結束營業，於是我又回到前僱主那裡工作。但是，這次失敗經驗卻是我一生中寶貴的一課，反而為我在1982年第二次創業時帶來啟發。我和妻子汲取了第一次失敗的教訓，成立了第二家針織製衣廠，業務在兩年間取得四倍增長，其後兩年再翻了一番。1990年，我們成立了南旋集團，主要從事針織衫的原始設計生產（ODM），集團業務蒸蒸日上。但是，成功並不是必然的。事實上，在90年代初，我們也曾遇到種種困難，幸得業界好友支持，我們才能迎難而上，克服重重挑戰，業務不斷茁壯成長，並能擴展到其他不同行業。

我們之所以能夠取得今天的成績，實賴幾個成功因素。首先，我經常從長遠角度，規劃未來的發展路向。第二，堅定不移也非常重要。我可與各位分享一個很好的例子，就是當年我們在日本建立生產線，為日本市場生產商品。對於這個策略的實施，我們面對很多強烈的反對聲音，但是我們始終堅信，高度自動化生產可有利於控制成本，而在日本本土生產也可以解決進口配額的問題。因此，我們堅定不移地實施這個策略。最後事實證明，這對集團來說，是非常成功的一步。

另外，在2000年代初期，有鑒於未來勞動力不足、勞工成本上升的趨勢，我們開始在中國內地的廠房大舉投資添置最先進的機械，以為未雨綢繆之策。一如所料，當時也同樣沒有人贊成這個計劃。但是，最後事實也證明，這又是我們在製衣業能夠屹立的關鍵。雖然面對朋輩的反對和競爭對手的挑戰，我們仍是堅定不移地朝着自動化生產的方向邁進。事實證明，我們的方向是正確的。

最後，我堅信「先驅優勢」的策略，也不斷地向我的管理團隊強調這個策略的重要性。我們必須「看得

準，走得快」，制訂準確的、不斷更新的長遠發展目標，並堅毅不屈，使自己成為市場的先驅者。直到目前為止，這些因素是我們在市場上取得成功的關鍵。

**KPMG：**With the above key success factors in mind, what are your future plans for the Nameson Group?

**畢馬威：**根據以上的成功關鍵因素，您對南旋集團未來的發展有何期望？

**WTC：**With the Nameson Group, I always have a 10 year plan and this is a 10 year plan which we roll forward every single year. At the end of each year, I sit down with my management team and assess where we are, how far we have progressed and what needs to be done better in terms of staying focused on our strategy and whether we have acted fast enough. The plan is then rolled forward into the next 10 years and we start the process again the following year.

Around early to mid 2000s, we formulated a strategy to focus on developing our presence in China. Steps were taken in consolidating our business in China and the Huizhou Nameson Industrial Centre was established. With the success of our knitwear business based in Huizhou, we could afford to branch out into different industries and we seized the opportunity to diversify our business in China. Our new long-term goal for the Nameson Group became providing the China market with basic essentials: clothing, food, housing and transportation.

Collaborating with close friends, by mid 2000s, the Nameson Group had already commenced development of a major residential property development in Huizhou, and in 2011, the Nameson Group's brand new hotel complex also in Huizhou was unveiled. Meanwhile, plans for developing new residential complexes are already in the works in Tianjin and we have just launched our health food products business earlier this year.

Our expectation is that this new line of business will eventually be rolled out across China. Last but not least, in the very near future, we will also be launching a fully licensed transportation business in China.

By staying focused on our long-term strategy and acting fast, we have been able to firmly establish our presence in various parts of China.

**王庭聰：**對於南旋集團，我始終有一個十年發展計劃，並逐年推進實施。每年年底，我會與管理團隊共同檢討我們正處於哪個階段，取得了哪些成果，在落實業務發展策略方面有哪些改善空間，以及我們是否能夠迅速反應。之後，我們再次重新開始，繼續制訂下一個十年計劃。



大概在2000年代初期至中期，我們制訂了集中發展中國內地業務的策略。我們採取了多項措施，整合在中國內地的業務，並成立了惠州南旋工業中心。隨着惠州的針織業務取得驕人的成績，我們繼續努力，將業務拓展至不同領域。我們新的長期目標，是為中國市場的每一個人提供衣食住行的基本必需品，包括服裝、食品、住房及交通設施。

到了2000年代中後期，南旋集團及其合作夥伴共同開發惠州的大型住宅房地產業務；2011年，南旋集團在惠州投資興建的酒店正式開業。我們同時在天津發展工廠和住宅房項目，並且在今年年初推出了健康食品業務，希望能在全國推廣。不久將來，我們還將在中國內地開展交通業務。通過專注落實長期策略並迅速行動，我們已經能夠在中國多個省市建立起穩固的業務基礎。

**KPMG:** The Nameson Group's development in the traditional industries has certainly been very impressive. Do you have any intention for the Nameson Group to move into the world of electronic commerce?

**畢馬威:** 南旋集團在傳統行業的發展令人印象深刻。南旋集團是否有意開拓電子商務領域？

**WTC:** Electronic commerce has always been part of our long-term strategy. While our businesses are not traditionally based on electronic commerce, we have already taken steps to incorporate our existing business into the world of electronic commerce. Our initial focus has been the development of online businesses in connection with our own garment brands as well as our health food business. This again goes back to our focus on long-term strategies and 10 year plans which we roll forward every year. I am constantly thinking about our strategies and whether they need to be fine tuned. In fact, I enjoy bouncing my ideas and long-term strategies off my close friends from various industries over dinners and days off!

**王庭聰:** 電子商務領域一直是我們長期策略的一部分。雖然我們的業務一直也並非以電子商務的形式經營，但我們已經開始將現有的業務融入到電子商務領域當中。我們最初的焦點，是開拓服裝品牌和健康食品的網上業務。這又回到我們的長期策略及每年推進的十年計劃。我與團隊不斷檢討集團策略，考慮是否需要調整。事實上，我很喜歡與各行各業的友好朋輩在享用晚餐或在放假時，共同討論如何調整長期策略！

**KPMG:** Sounds like you don't take any time off?

**畢馬威:** 聽起來你沒有休息時間？

**WTC:** With me, as the Chairman of the group and the leader of our businesses, I try not to see it as time off or vacation time. What is important to me is that we are always involved in the business. Don't get me wrong, during less hectic times, I enjoy taking a break, but I am mindful of never being away from the business. In that way, even when I am enjoying a nice meal with friends and family, I am always thinking about our business.

**王庭聰:** 對我來說，作為老闆，只可以「偷懶」，但是不可以放假，就是說老闆可以在工作中的某些時間偷閒休息一下，但是無時無刻不是在工作。我認為，時刻參與企業的運營是非常重要的；但如果工作不太繁忙，我也很享受休息放假的時間。然而，即使在與親朋好友聚餐之時，也隨時把業務放在心上。

**KPMG:** You mentioned twice in this interview that close friends have been instrumental to your career development at critical times. What is your perspective on maintaining and developing strong business and personal relationships?

**畢馬威:** 您在這次訪問中，兩次提到朋輩好友，他們在您事業發展的關鍵時刻給予很大幫助。您如何看待保持、發展強大的業務與個人關係網？

**WTC:** I am a firm believer in building long-term relationships which are based on honesty and 'heart'. I firmly believe that by treating people with honesty, integrity and with mutual benefit in mind, relationships will always be rewarding from both a personal and business perspective. There are many examples of this in my career, all of which have been critical to my success.

**王庭聰:** 我堅信，建立長期關係是以真誠、真心為基礎的。我深信，只要自己真誠待人，別人也會真心回應，對業務或個人層面也帶來裨益。在我事業發展的路途上，有許多這樣的經歷，也對我的事業發揮了很重要的作用。



James Pang and Zoe Lau

彭志忠 劉詠楠

# Payments transformation requires companies to prepare for new competition in the retail industry

## 支付行業變革在即 企業備戰零售市場

Over the past few decades, the consumption patterns and transaction behaviours of consumers have changed dramatically. To meet this market trend, the payments industry is revolutionising. Today, consumers and corporate clients are no longer paying only with cash and cheque; they are using a variety of payment methods designed to make day-to-day shopping, bill payments, bank transfers and overseas transfers quicker and easier.

過去幾十年內，人們的消費模式和交易方式發生了巨變，逐漸進入到歷史新時代。與此同時，支付行業也在經歷着一場悄無聲息的變革。如今，無論是個人消費者，還是企業用戶，都不再只是依賴現金和支票為主要支付方式，而是採用多種多樣的付款方法，令日常購物、繳付賬單、銀行轉賬及海外匯款等都變得簡單快捷。

Payments in Hong Kong's retail outlets are now made by Octopus cards, EPS, and credit cards. Likewise, for individuals who prefer to shop online in the comfort of their home, they can now use credit cards, bank account transfers through Internet banking, PPS, and PayPal as alternative payment methods. The changes we are seeing in the market are not only impacting the retail market. Payment methods and cash flow processing are now being enhanced and improved to support corporate clients.



支付行業的發展對人們的生活模式產生了重要影響。二十年前，人們主要使用現金付款，時至今日，我們可以用八達通、提款卡、信用卡進行購物，甚至可以安坐家中，通過信用卡、網上銀行戶口轉賬、繳費靈、PayPal等方式進行網購。此外，企業的付款方式及現金流量的處理也發生了變化。金融管理局的數據顯示，過去十年，網上銀行賬戶的數量平均增長22%。僅2011年下半年，個人網上銀行平均每月處理的交易額為4,130億港元，企業網上銀行平均每月處理的交易額更高達40,130億元。截至2011年底，八達通發卡量約為2,300萬張，同年總交易額高達406億元。

### 非接觸付款發展迅速

由以上數據可見，非接觸式支付工具及網上銀行服務發展迅速。香港金融管理局於今年九月公佈多項零售支付項目的發展路向，表示在未來幾年將大力發展現有的各種支付平台，包括網上銀行服務、即日跨行轉賬服務、近場通訊流動支付平台等。與此同時，為了保障消費者和企業用戶的利益，有效監管服務供應商，金管局將在短期內修訂相關法律框架，擬訂立儲值電子貨幣牌照制度，並有望在今年年底或明年上半年向業界諮詢。

Over the past ten years, there has been a significant rise in the amount of transactions being performed with contactless payment methods and online banking services. According to the Hong Kong Monetary Authority (HKMA), the number of Internet bank accounts has increased by an average of 22 percent over the past ten years. In the second half of 2011, the average total monthly transaction value processed by personal e-banking was HKD 413 billion, and for corporate e-banking, a total of HKD 4,013 billion. By the





end of 2011, there were 23 million Octopus cards issued and the turnover generated had reached HKD 40.6 billion.

More recently, the HKMA continues to drive improvements to the payments infrastructure within Hong Kong. In September 2012, the HKMA announced the development of a number of retail payment initiatives in Hong Kong. These initiatives cover enhancements to the implementation of an e-bill system, same-day interbank credit transfers and the development of an interoperable Near Field Communication (NFC) mobile payment infrastructure.

The HKMA is also developing a legislative framework for stored value facilities and retail payment systems, with a view to enhancing consumer protection and the safety and soundness of evolving innovative retail payment products and services within Hong Kong. Statutory consultation is due to commence by the end of 2012 or early 2013.

Through the above measures, consumers and corporate clients can expect increased variety in payment services while receiving greater payment protection and convenience. Individual consumers can expect a comfortable and quick buying experience while corporate clients will have greater visibility on the liquidity and cash flow, promoting business development. However, providers of contactless payment services will face new challenges due to industry developments and policy reforms to meet these expectations.

Service providers will have to invest more capital and resources to improve their technical infrastructure and meet client needs as well as the requirements of regulators. The HKMA has expressed that the revision of the legislative framework aims to provide appropriate policies and rules for developing the retail payments industry and to encourage innovation and fair competition. However, the outcome of

通過上述各項措施，廣大市民和企業用戶可以享用更加多元化的支付服務，得到更多保障，輕鬆方便地處理支付交易。個人消費者能夠更加舒適快捷地消費；企業用戶亦能有效管理企業的資金流轉周期，促進業務發展。然而，對相關服務的供應商來說，監管改革與行業發展卻意味着新的挑戰。他們需要投入更多資金和資源，提高內部科技基礎，以滿足客戶的需要，這也可能引發另一次重大改革。此外，他們更要在提高內部基礎的同時，努力達到各項監管條例要求。金管局表示，提升法律框架的主要目的在於為香港零售支付業提供適切的政策與法規，鼓勵創意及公平競爭；各供應商需要增加資源，重新檢閱內部架構及程序，以滿足修改後的條例要求。



## Industry insights

such changes is that service providers will inevitably be forced to employ more resources and review their internal framework and procedures to confirm they comply with the revised regulations.

The retail industry is a key component of Hong Kong's economic stability and development. According to the 2010 Census and Statistics Department's figures, total sales in the retail industry reached HKD 324.9 billion with 240,000 people working in this industry, which accounts for 6.5 percent of the overall labour force. The various measures initiated by the government to support the retail industry will, in the long run, promote the growth of the Hong Kong economy.

Due to limited capital and resources and the increasingly stringent regulatory environment, financial institutions and payment service providers will need to identify the needs of their clients, review their market positions and fully understand their regulatory obligations in order to provide creative and flexible services to grasp new business opportunities.

In recent years, the rapid development of social media and Internet services has provided consumers and corporate clients in Hong Kong the ability to pay and transact through an increasing number of channels. This provides the retail industry with the ability to interact with a wider potential market. This trend is seen across Asia including mainland China where the government has emphasised the importance of its development in the 11th and 12th Five-Year Plans.

In October this year, the annual SWIFT International Banking Operations Seminar (Sibos) was held in Asia. At the conference, senior executives from different industries around the world discussed the development of the payments industry. As Sibos was held in Asia, the world's payments industry is focused on the region and how it is radically transforming. Only when financial institutions and service providers are prepared for the transformation and able to seize the opportunities can they become industry leaders in Asia and reap long-term profits.

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一直以來，零售業在香港經濟發展中佔有舉足輕重的地位。根據2010年政府統計處資料，零售業的總銷售貨額為3,249億元，有24萬從業人員，佔整體勞動人口的6.5%。長遠來說，政府推出各項措施，大力發展零售業，也會進一步推動香港經濟的增長。因此，面對有限的資源和資金，以及日趨嚴格的監管環境，金融機構和支付服務供應商必須重新審視市場定位，發掘消費者和用戶的需求所在，充分了解監管條例的要求，才能發揮無限創意，為消費者提供多元化的服務，進而覓得無限商機。

### 「十二五」的網上商業

近年來，隨着社交媒體及互聯網的迅速發展，消費者和企業用戶可透過多種媒體渠道消費或處理商業交易，為零售業提供了更加廣闊的市場。這種趨勢亦不斷擴大至亞洲各地。除了香港大力支持零售支付項目發展以外，中國政府亦在「十一五」及「十二五」規劃強調發展支付業的重要性，並在「十二五」規劃中，將支付業列為重點發展項目。此外，由環球銀行間金融通信協會(SWIFT)舉辦的2012年國際銀行營運研討會(Sibos)於10月底在亞洲舉行。會上，來自全球不同行業的高級行政人員齊聚亞洲，共同探討支付業的現狀及未來發展趨勢。由此可見，亞洲的支付行業已經成為全球關注的焦點，亦將面臨前所未有的重大改革。如果香港的金融機構和服務供應商能夠在這場改革來臨前及時把握先機，為未來作好準備，便有望成為亞洲支付業的先鋒，實現長期效益。

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**彭志忠**是畢馬威合夥人，在公共事業、金融服務、電訊、零售等多個行業擁有超過20年的專業諮詢和商業經驗。他曾在中國內地、歐洲和東南亞等地區領導多個地區和跨國的專業諮詢項目，近期負責領導風險管理、公司治理、目標營運模式和信息技術基礎建設等多個專業項目。此外，他還領導畢馬威在亞太區的雲計算服務。

**劉詠楠**是畢馬威經理，在審計和專業諮詢方面擁有豐富經驗，曾為金融服務、電子和公共事業等多個行業的客戶提供專業服務，包括為客戶制訂目標營運模式、檢討和設計業務流程，建立公司治理模型等。



James Pang  
彭志忠



Zoe Lau  
劉詠楠

# Corporate crisis management and strategies

## 企業危機管理策略與方法

**A**ccording to recent investor reports, rumours can have a significant impact on an organisation's financial situation and reputation, irrespective of whether they are based on fact. Therefore, it is important for organisations to develop strategies to recognise both the objective and subjective factors involved so that they can neutralise false rumours or minimise the impact if they are true. The longer a rumour is unaddressed, the more loss it will cause and the more resources and people will need to get involved to resolve the crisis. Organisations will only be able to respond to a crisis effectively if they are well prepared for negative rumours and are proactive in taking the following steps:

**根**據最新的投資者報告顯示，謠言傳播對企業造成極大傷害，無論這些傳言是否真實可信，都會影響企業的財務狀況和聲譽。因此，企業必須制定策略，考慮主、客觀因素，努力控制虛假謠言傳播，或將謠言帶來的損失降至最低。如果放任謠言肆意傳播而不及時處理，時間越長，損失則越大，企業亦需投入更多的人力和資源去補救。因此，企業必須時刻作好準備，面對負面傳聞時，積極採取以下措施，方可順利應對危機。

### 1. Establishing a Crisis Management Committee

It is most effective to try and prevent the transmission of rumours before they start to spread. However, most organisations tend to be unaware that this is the optimal time to stop rumours from spreading, and then find they cannot stop them from spreading at a later stage. Although many companies have well-established business continuity plans (BCP) to manage business disruptions caused by rumours, natural disasters, terrorist acts and so on, it is less common for them to have Crisis Management Committee, which are designed to manage a broader range of problems, particularly the type of business scandals that have recently been quite common.

In many cases, Crisis Management Committees are more likely to be set up in industries susceptible to disaster. Examples include hospitals and health authorities, which must always be ready to deal with health pandemics, or energy companies which must remain vigilant as product contamination can cause large-scale loss of life and environmental damage. Many organisations in other industries have also come to recognise the importance of setting up a Crisis Management committee to respond to crises.

In order to respond to a crisis swiftly, a Crisis Management Committee should comprise a number of senior executives

#### (一) 設立危機管理委員會

如果企業能在謠言傳播初期及時採取行動，效果最為明顯。但大部份企業往往很少有這種防範意識，令謠言不斷擴散。許多企業已經制定連續營運計劃，用以應對謠言、自然災害及恐怖活動等事件引起的業務中斷，但很少有企業成立危機管理委員會，協處理一系列可能面對的問題，特別是近期頻繁出現的商業醜聞。

在很多情況下，易受災害影響的行業更傾向設立危機管理委員會，如醫院和衛生主管部門需要隨時準備，應對流行疾病等災難；能源公司亦需時刻保持警惕，及時處理因產品污染而造成的大規模傷亡和環境破壞。另外，許多從事其他行業的公司也逐漸意識到，設立危機管理委員會對處理危機事件是至關重要的。

為了能夠及時採取行動，危機管理委員會成員應包括一些公司高管人員，他們可以直接向董事會和行政總裁報告。危機管理委員會亦須具有足夠的資源和能力，有權採取一切必要措施迅速化解危機。通常情況下，危機管理委員會作出的決定可以取代企業所有具體政策及標準作業程序。





who report directly to the board of directors and the chief executive officer. The Committee should have the adequate resources, skills and authority to do whatever is necessary to resolve a crisis quickly. As a general principle, the Crisis Management Committee's decisions can supersede all day-to-day policies and standard operating procedures.

## 2. Developing a crisis management plan

The purpose of a crisis management plan (CMP) is to provide a documented framework that enables an organisation to manage any crisis event, regardless of the cause. Since every crisis is different, it is impossible for organisations to predict if or when they will occur. Drafting detailed CMPs for all possible eventualities is also likely to be a huge waste of resources.

Instead, we recommend that organisations take the following measures to manage the crisis effectively:

- Companies should identify real/known threats to their business and design detailed CMPs to deal with those particular eventualities.
- Crisis Management Sub-committees should be established and should be ready to deal with any crisis as it occurs.

**As an example, the composition of a Crisis Management Sub-committee for a regulatory investigation might be very different to that of a sub-committee appointed to manage an environmental disaster:**

Regulatory investigation	Environmental disaster
CEO	CEO
Head of Communications	Head of Communications
General counsel	Head of Environmental Planning
Head of Compliance	Manager of Occupational Health and Safety
	HR manager
	General counsel



## (二) 制定危機管理計劃

危機管理計劃 (Crisis Management Plan) 可以為企業提供危機事件記錄標準，以有效管理各種原因所致的危機事件。由於危機事件爆發的具體情況不同，企業很難對其作出預測。因此，企業無須嘗試制定詳細的危機管理計劃，以處理所有可能發生的事件，這很有可能是一種巨大的資源浪費。

相反，我們建議企業採取以下措施，有效管理危機事件：

- 企業應找出業務中真實存在的風險，針對已經發現的業務風險，制定危機管理計劃的具體內容；
- 針對已經發現的風險事件，成立危機管理小組，隨時準備處理危機事件。

在危機管理小組成員構成方面，負責處理監管機構調查的小組成員，以及負責處理環境災難的小組成員存在較大差異：

處理監管機構調查	處理環境災難
行政總裁	行政總裁
公關部門負責人	公關部門負責人
法律顧問	環境規劃部門負責人
合規部門負責人	職業安全與健康部門經理
	人力資源部經理
	法律顧問

## Corporate governance

In addition, the Crisis Management Sub-committee must:

- Suit the particular crisis
- Comprise senior management, who have the seniority and authority to make and implement decisions quickly
- Convene immediately after the crisis occurs
- Devise a suitable CMP for the crisis at hand
- Identify and appoint necessary external advisors
- Develop a reporting mechanism
- Brief the board immediately and agree on a reporting schedule with the board (e.g. daily or every second day).

### 3. Setting up a rapid response mechanism

Conducting an investigation of the crisis event:

When information relating to an actual or potential crisis is uncovered, management should be prepared to conduct a comprehensive and objective internal investigation. The purpose of such an investigation is to gather facts, leading to a credible assessment of the suspected violation or disruption to business. By conducting an effective internal investigation, management can address a potentially troublesome situation.

A well-designed investigation will typically include the following characteristics:

- It will be overseen by a special committee of the board (for instance Audit Committee or other similar committees), which must have independent directors who can ward off undue pressure or interference from management.
- The special committee should select external consultants who have few or no ties to the entity's management team, allowing them to perform an unbiased, independent and qualified investigation.
- The external consultants are responsible for the investigation work based on the proposed scope of the investigation.
- Full cooperation should be required, which would prevent employees and management from obscuring the facts that need to be investigated.

此外，危機管理小組應具備以下特點：

- 針對具體危機事件；
- 小組成員包括有資歷、有權力的高管層，他們能夠迅速作出決策，並確保決策得以執行；
- 事件發生後，迅速召開危機處理會議；
- 針對所發生的危機事件，制定危機管理計劃；
- 必要時尋找並任命外部顧問；
- 制定匯報機制；
- 及時向董事會報告，並與之達成報告協議（如每天或每兩天向董事會報告）。

### (三) 建立快速反應機制

#### 1. 針對事件開展調查

管理層一旦發現危機，應展開全面客觀的內部調查，收集事實，對涉違反業務規定或導致營運中斷的事進行可靠的分析。通過有效的內部調查，管理層可解決潛在困境。一套設計良好的調查程序通常具備以下特點：

- 負責監督的特別委員會（如審計委員會或其他職能委員會）須由獨立董事組成，以抵擋管理層施壓和過分干預；
- 特別委員會負責挑選外部顧問，候選機構應與管理層保持較少聯繫或毫無關聯，以確保開展公正、獨立、有效的調查；
- 按建議的調查範圍，由外部顧問負責調查工作；
- 內部通力合作，杜絕員工或管理層掩蓋需要調查的事實；

#### About the authors:

**Ivy Cheung** is our partner specialising in audits for telecommunications, government, and the property and infrastructure sectors. Ivy's extensive IPO experience in assisting Hong Kong and PRC enterprises to raise funds in Hong Kong and overseas stock exchanges enables her to build and develop her knowledge on the various national standards and regulatory requirements. Ivy is a council member of the Hong Kong Institute of Certified Public Accountants, and is standing for re-election in the upcoming council member election (see p 18-19 for details).

**Patrick Ho** is a partner in our Property and Infrastructure audit practice in Hong Kong. Patrick has solid experience in leading group audits and providing audit services to listed companies and multinational companies with investments in Hong Kong and mainland China. He has been involved in a number of IPOs, mergers & acquisitions and fund raising projects.





- Reporting protocol should be in place that provides the external consultants, regulators and the public with information relevant to the investigation's findings in the spirit of cooperation and transparency.

### Enforcement and accountability

It is a regulatory requirement for organisations to have a disciplinary system, and a consistent and credible disciplinary system is a key control that can help organisations deal with a crisis effectively. Implementing an effective system also helps management send the message to internal and external parties that the organisation views crisis management as a top priority.

### Corrective action

After a crisis has occurred, management should consider taking action to remedy the damage caused. For example, management may wish to consider taking the following steps, where appropriate:

- Disclosing the results of the investigation to the government or other relevant bodies (i.e. regulators) voluntarily
- Trying to make up for the damage caused
- Examining the root causes of the relevant control breakdowns and ensuring that risk is mitigated
- Disciplining those involved in the misconduct as well as management staff who failed to prevent or detect such events
- Communicating more widely, informing all staff that management has taken the appropriate corrective action.

Although publicly disclosing fraud and misconduct can be embarrassing for an organisation, management should consider taking such action to help combat negative publicity, demonstrate good faith and assist in putting the matter to rest.

*The Chinese version of this article was published in the Hong Kong Economic Journal on 31 October 2012.*

- 制定報告協議，秉承高度合作與透明的理念，為外部顧問、監管機構及社會大眾提供調查發現的相關信息。

### 2. 執法與問責

企業實行一致可靠的政策制度，是有效處理危機的關鍵。此外，監管機構亦要求企業制定適當的內部政策。企業通過實施有效的制度，可以向內部和外部相關各方展現管理層解決危機的決心。

### 3. 補救行動

企業一旦發生危機，管理層應當考慮採取行動，彌補所造成的損失。例如，在適當情況下，管理層可能考慮採取以下步驟：

- 主動向政府或其他相關機構（如監管部門）披露調查結果；
- 彌補所造成的損失；
- 查找相關內控發生故障的根本原因，確保風險已經得到緩解；
- 對於涉及不當行為的員工，以及未能阻止或發現此類事件的管理層，執行紀律處分；
- 就管理層採取的適當行動，應廣泛地通知員工。

不可否認，公開披露欺詐、不當行為或令企業陷入尷尬，但出於社會及企業自身的考慮，管理層仍應這樣做，以打擊所有負面消息，向公眾展示良好信譽，並協助相關各方平息並解決危機事件。

本文曾於2012年10月31日在香港信報財經新聞刊登。

#### 作者簡介：

**張穎嫻**，畢馬威合夥人，專注電訊、政府機構、房地產及基建行業審計工作。張穎嫻在新股上市項目有豐富經驗，曾為香港及中國大陸企業在香港及海外股票市場上市籌集資金，並熟悉國際監管要求及標準。張穎嫻現為香港會計師公會理事會成員，並將爭取競選連任（詳情見本刊第18-19頁）

**何偉明**，畢馬威房地產和基建行業審計合夥人。他在領導集團審計項目，以及為在中國和香港經營業務的上市公司和跨國企業提供審計服務方面擁有豐富的經驗，曾參與多個上市、企業併購和集資項目。



Ivy Cheung  
張穎嫻



Patrick Ho  
何偉明

**HKICPA Council election** 香港會計師公會理事會選舉

# Vote for Ivy Cheung

## 請投張穎嫻一票



## Ivy Cheung is seeking your support for her re-election as a Council Member of the Hong Kong Institute of Certified Public Accountants.

Ivy is our partner specialising in audits for telecommunications, government, property and infrastructure sectors. Ivy's extensive IPO experience in assisting Hong Kong and PRC enterprises to raise funds in Hong Kong and overseas stock exchanges enables her to build up and develop her knowledge on the various national standards and regulatory requirements.

She has over 20 years of accounting experience serving Hong Kong enterprises, and is both passionate and committed to contributing to the development of our profession. Ivy believes she can make a valuable contribution to the Institute, its members and the profession as a whole.

Ivy's election statement can be found at <http://www.kpmg.com.hk/ivycheung>

Completed ballot papers must be returned to the Institute by 5:30 pm on 11 December. Alternatively, you can cast your votes online at the HKICPA website beginning Wednesday, 28 November. Thank you in advance for your support.





## 請支持本所合夥人張穎嫻 連任香港會計師公會理事 會成員：

張穎嫻現擔任畢馬威會計師事務所審計服務合夥人，專注服務電信、政府機構、房地產和基建行業的客戶。她在首次公開招股項目擁有豐富經驗，曾多次協助香港和中國內地企業到香港和海外市場集資，因此對各地的會計準則和監管要求均有深刻的認識。

張穎嫻擁有二十多年服務香港企業的會計經驗。一直以來，她不遺餘力，積極推動會計行業的發展。她將會繼續竭盡所能，為香港會計師公會、各位會員和整個會計行業的發展作出貢獻。

張穎嫻的參選政綱可在以下網址查看：

<http://www.kpmg.com.hk/ivycheung>

請於2012年12月11日下午5時半前，把填妥的選票交回公會。會員也可選擇由2012年11月28日（星期三）起在公會網頁投票。希望繼續得到大家的支持。





# Vote for IVY CHEUNG

**C**ommitted  
全心投入

**P**assionate  
充滿熱誠

**A**ction-driven  
坐言起行

## KPMG events

### Tax Forum

**O**n 26 October, we held our annual Tax Forum at the Conrad Hotel. The Forum was a resounding success and brought together over 350 senior executives, tax professionals and KPMG partners to discuss developments within the current taxation environment.

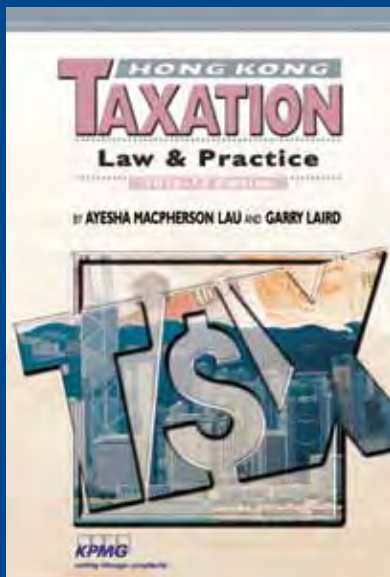
The Forum covered a wide variety of recent tax topics that have impacted the finance functions across different industries, including: latest tax developments in Hong Kong, the impact of the China VAT reforms, recent transfer pricing trends, as well as tax issues surrounding employment.

### 稅務論壇

我

們於10月26日假港麗酒店舉行了年度稅務論壇，活動反應熱烈，有超過350名企業高管人員、稅務專業人員和畢馬威合夥人出席，共同探討當前稅務環境的最新發展。

會上，我們談論了各行各業需要處理的熱點稅務課題，其中包括香港稅務環境的最新發展、中國增值稅改革的影響、轉讓定價的最新趨勢以及與僱傭有關的稅務安排等。



#### Annual Guide to Hong Kong Taxation Hong Kong Taxation: Law and Practice (2012-13)

KPMG China, together with the Chinese University Press, has published the latest edition of Hong Kong Taxation: Law and Practice (2012-13). This straightforward and accessible guide to Hong Kong's tax regime is co-authored by Ayesha M. Lau and Garry Laird from our Hong Kong office.

#### 香港稅務年度指南

《香港稅務：法例與實施說明》(2012-2013年版)

畢馬威中國與中文大學出版社攜手合作的《香港稅務：法例與實施說明》(2012-2013年版)已經出版。本書由畢馬威中國香港辦事處劉麥嘉軒 (Ayesha M. Lau) 和黎嘉德 (Garry Laird) 合著，深入淺出介紹香港稅制的各主要範疇。



**Ayesha M. Lau**  
劉麥嘉軒



**Garry Laird**  
黎嘉德



# KPMG Tax Forum 2012



## KPMG awarded 2012 Best Tax Advisor

**K**PMG has been named Best Tax Advisor by The Corporate Treasurer in its 2012 Alliance Awards. In its inaugural Alliance Awards, KPMG was selected as the only non-financial institution winner, taking home the best regional tax advisor award.

### 畢馬威榮獲2012年度 「最佳稅務諮詢服務機構」獎項

**畢**馬威在著名財經雜誌《Corporate Treasurer》2012年「Alliance Awards」評選中，獲得「最佳稅務諮詢服務機構」獎項。

在首屆Alliance Awards中，畢馬威獲評選為亞太區「最佳稅務諮詢服務機構」，是整個評選中唯一一家奪取獎項的非金融機構。



## KPMG events

### Capital Markets Forum

**O**n 10 October 2012, we held our inaugural Capital Markets Forum - Navigating Turbulence and Seizing Opportunities in Hong Kong. Speakers from UBS, Shearman & Sterling, King & Wood Mallesons, and the Hong Kong Investor Relations Association were invited to discuss current challenges in the capital markets and opportunities for both listed companies and companies considering or preparing for an IPO. This was followed by a panel discussion to exchange views with the audience. The Forum was very well received with over 100 participants attending the event.

### 資本市場論壇

**我**們於2012年10月10日舉行了「畢馬威資本市場論壇：駕馭動盪、把握機遇」。會上，來自瑞銀、謝爾曼·思特靈律師事務所（Shearman & Sterling）、金杜律師事務所（King & Wood Mallesons）和香港投資者關係協會的講者聚首一堂，和大家分享資本市場目前面對的考驗，同時分析上市公司和考慮或籌備上市的公司應如何從中把握機遇。其後還設有小組討論環節，為各參加者提供互動交流的平台。本活動反應十分熱烈，參加者超過100人。









## KPMG events

# Leaders of our Community Luncheon - 19 September 2012

**O**n 19th September 2012, we held another KPMG 'Leaders of our Community' Luncheon and were delighted to have the Honourable Bernard Charnwut Chan, a deputy to the National People's Congress of China and a non-official member of Hong Kong's Executive Council, as our guest speaker.

Mr Chan shared his insights into his roles in the government, the business sector and the community to over 120 attendees. As the Chairman of the Council for Sustainable Development, he also shared his view on how companies can adopt business strategies that meet the needs of the enterprise and its stakeholders while sustaining the human and natural resources.

## 2012年9月19日畢馬威「菁英卓見系列」午餐會

畢

馬威於2012年9月12日舉辦了「菁英卓見系列」午餐會，很榮幸邀得全國人民代表大會代表兼香港行政會議非官守議員陳智思先生應邀擔任這次午餐會的主講嘉賓，分享他在履行政府、商界和社區團體職務時的心得和經驗。此外，陳先生以可持續發展委員會主席的身份，探討企業在落實商業策略的同時，如何維持人力和天然資源的持續性，並兼顧本身和相關利益者的需要。





## Leaders of our Community Luncheon - 23 November 2012

**W**e were delighted to have the Honourable Anna Wu Hung-Yuk, Chairperson of the Mandatory Provident Fund Schemes Authority as our guest speaker of KPMG 'Leaders of our Community' Luncheon on 23 November 2012. Ms Wu shared her insights into the past and future of Hong Kong's mandatory provident funds. Ms Wu's speech was well received by nearly 200 attendees at the luncheon and has attracted overwhelming media attention.

### 2012年11月23日畢馬威「菁英卓見系列」午餐會

**畢**馬威於2012年11月23日舉辦了「菁英卓見系列」午餐會，並很榮幸邀得香港特別行政區政府行政會議非官守議員、強制性公積金計劃管理局主席胡紅玉議員擔任主講嘉賓，與我們分享香港強積金制度的發展歷程和未來路向。近200位來賓於午餐會上對胡議員的分享反應熱烈，踴躍交流。本活動亦吸引了多家傳媒機構前來採訪報導。



## KPMG events

# KPMG Business Administration Paper 2012

**K**PMG is proud to be the title sponsor of the 2012 Hong Kong Federation of Business Students (HKFBS) Business Administration Paper (BA Paper). This is the third year that KPMG has worked in conjunction with HKFBS to sponsor the BA Paper, which is aimed at:

- fostering the interflow of ideas between academia and business
- enhancing students' appreciation of the real business environment
- encouraging the development of analytical and critical thinking skills in a business context.

HKFBS is a non-profit organisation founded in 1985, comprising more than 10,000 business students from the nine local universities. The BA Paper is a highly regarded inter-university business plan writing competition held annually by HKFBS since 1986.

KPMG believes that such business writing competitions provide valuable exposure to the business environment and is a departure from student's routine classroom projects. Competitions such as these propel them to think, learn and be inspired.

As an Employer of Choice, KPMG believe beyond attracting top students into our firm. We also have a commitment to putting care and attention into retaining and developing our people throughout their careers. This also allows us to offer the best talent, expertise and knowledge to our clients.

At KPMG, we are devoted to nurturing the development of talented students, as we readily acknowledge that such students will eventually become pinnacles of the business community and the leaders of tomorrow. We are extremely proud of the fact that KPMG has once again ranked second globally in Universum's 2012 World's Most Attractive Employers' list for the third year running. At the first Universum Asia Top 50 Ideal Employer Awards held this July, KPMG was ranked first in the Professional Services firm category. KPMG is the only Big 4 firm on the podium for the overall award category, coming second in the Business category as Ideal Employer in Asia.

## 畢馬威2012年度「香港商業策略寫作比賽」

畢馬威很榮幸成為2012年度香港大專商學生聯會 (HKFBS)「香港商業策略寫作比賽」的冠名贊助機構。這是畢馬威第三年贊助香港大專商學生聯會舉辦的「香港商業策略寫作比賽」。這項比賽的宗旨是：

- 促進學術界與商界之間的思想交流；
- 提高學生對實際商業環境的認識；及
- 鼓勵學生發展具備商業觸角的分析和思維能力。

香港大專商學生聯會創立於1985年，是一家非牟利機構，會員包括來自本地合共9間大專院校逾10,000名商科學生。「香港商業策略寫作比賽」始於1986年，由香港大專商學生聯會每年舉辦，為各大專院校的商學生所歡迎，也深得學界及商界的支持。

我們相信，這類商業寫作比賽能夠為學生提供寶貴機會，親身體驗商業環境的運作，擴闊學生在日常課堂習作以外的視野，推動他們的思考、學習，從中得到啟發。

作為「理想僱主」，畢馬威不僅要吸引優秀學生成為我們的一份子，我們還要關心和關顧每一位員工，致力為他們提供培訓和事業發展的機會，藉此挽留人才，從而為客戶提供優秀的人才、專業知識和服務。

畢馬威一直致力培育優秀學生，使他們成為商界和未來社會的棟樑。我們很榮幸在Universum 2012年「全球最受歡迎僱主」排名榜中，連續第三年獲評選為最佳僱主第二位。此外，我們在今年7月由Universum 舉行的首屆「亞洲50大最受歡迎僱主」排名榜中，也獲評選為專業服務組別的第一名。我們是四大會計師事務所中，唯一一家獲頒整體表現組別大獎的會計師事務所，在亞洲最受歡迎僱主商業組別中名列第二位。





# OPENING CEREMONY AND TRAINING SESSION



Our long-term support for the HKFBS supplements many of our other initiatives, other initiatives, including our Elite and Internship recruitment programmes, University Relations activities, and development programmes each year.

The theme for this year's BA Paper is 'Angles of Venture', which questions the common assumption that a business idea is either good or bad.

Participants have been challenged to turn a seemingly ridiculous and impossible idea into a cash cow by viewing the idea from different angles.

Participants are required to develop an innovative business plan to sell a product/service in its most unconventional market, i.e., turn an idea that sounds bad into a successful venture, such as:

- Sell durian products to people who do not eat durian
- Sell cosmetics to men
- Sell tap water (by means other than water supply)
- Sell ties to women.

To kick-off the competition, the BA Paper Opening Ceremony was held on 28 October at W Hotel, and was attended by over 200 students as well as prominent members of Hong Kong's academic and business community.

Amongst the KPMG representatives at the Opening Ceremony were Roy Leung (Partner, Hong Kong Market) who had the privilege of introducing this year's theme, and David Hsu (Senior Manager, Consulting) who delivered a training session to participants on how to write a business proposal.

The BA paper competition will run through January 2013, and culminate in a Grand Final presentation to be made by the five finalists on 20 January 2013 at the Hong Kong Convention and Exhibition Centre.

We are really looking forward to seeing the creative and interesting proposals that will be presented for this year's competition, and wish all participants the best of luck!

畢馬威除了對香港大專商學生聯會長期給予支持外，每年還會舉辦其他活動，包括精英和實習生招聘計劃、大專院校聯誼活動和各種發展項目等。

本年度的「香港商業策略寫作比賽」以「發揮創業觸角」(Angles of Venture) 為主題，旨在鼓勵參賽者突破傳統的既定框框，以探討商業構思。

參賽者這次要從不同的角度，來思考看似天馬行空和不設實際的概念，然後把它們轉化為有利可圖的商機。

參賽者需要發揮創意，提交一份業務計劃書，在最有違傳統概念的市場上推銷某項產品/服務，即如何將似乎不可行的概念轉化為成功的商業概念，例如：

- 如何向不吃榴槤的人推銷榴槤產品
- 如何向男士推銷化妝品
- 如何推銷從供水以外的途徑取得的自來水
- 如何向女士推銷領帶

「香港商業策略寫作比賽」的開幕典禮於10月28日假W酒店舉行，逾200名學生和來自學術界和商界的知名人士親臨會場，一同為這項比賽揭開序幕。

出席開幕典禮的畢馬威代表包括梁思傑（香港市場合夥人）和徐毅（信息技術諮詢服務高級經理）。前者特地向與會者介紹本年度的比賽主題；後者則在培訓環節中向與會者說明如何撰寫業務建議書。

「香港商業策略寫作比賽」將於2013年1月完結。最後五名入圍者將於2013年1月20日，親臨香港會議展覽中心的決賽進行演示。

我們熱切期待本年度的比賽可吸引參賽者提交創意新穎的業務建議書，同時希望所有參賽者通過這項活動獲益良多。





## KPMG in the market



### KPMG in the market 畢馬威市場參與

## FHKI 2012 Young Industrialist Awards of Hong Kong and the Industrialist of the Year Award

### 香港工業總會2012年 「香港青年工業家獎」和 「傑出工業家獎」

KPMG China had the pleasure of sponsoring the 2012 Young Industrialist Awards of Hong Kong and the Industrialist of the Year Award. Since their launch in 1988 by the Federation of Hong Kong Industries (FHKI), the Awards have become an important event in Hong Kong. They aim to honour outstanding industrialists with significant achievements in the industry and commendable contributions to the economic and social development of Hong Kong.

The presentation dinner was held at the Hong Kong Convention & Exhibition Centre on 15 November. The Industrialist of the Year 2012 was awarded to Mr Lo Lok Fung Kenneth, Chairman of Crystal Group, while the Young Industrialists of the Year were awarded to Mr Chan Ka Wai Calvin, Executive Director of Catalo Natural Health Foods Limited; Mr Choi Chun Kit Felix, Managing Director of Hongrita Mold Limited; Mr Hong Tian Zhu, Chairman, Texhong Textile Group Limited; and Mr Tai Lun, Paul, Regional Director, Mainetti Group.

畢馬威中國很榮幸擔任香港工業總會2012年「香港青年工業家獎」和「傑出工業家獎」的贊助機構。香港工業總會自1988年創辦這些獎項以來，這個活動已成為香港商界盛事。這些獎項旨在表揚努力不懈，對香港的工業界、經濟和社會發展作出巨大貢獻的工業家。

2012年度的頒獎晚會於11月15日在香港會議展覽中心舉行。今年，工總將「傑出工業家獎」頒予羅樂風先生（晶苑集團主席）；「香港青年工業家獎」的得獎者包括陳家偉先生（家得路美國天然健康食品有限公司執行董事及總裁）、蔡俊杰先生（鴻利達模具有限公司董事總經理）、洪天祝先生（天虹紡織集團有限公司董事局主席兼行政總裁）及戴麟先生（萬美集團遠東區總裁）。





KPMG in the market 畢馬威市場參與

## Hong Kong International Wine & Spirit Competition 「香港國際美酒品評大獎」

Backed by the Hong Kong Trade Development Council (HKTDC), the Cathay Pacific Hong Kong International Wine & Spirit Competition is run in partnership with the London-based International Wine & Spirit Competition, which has been running for 40 years and is the world's premier platform for recognising quality in the industry. For the past two years, KPMG China has been sponsoring the event by acting as a scrutineer on an honorary basis. The competition is created specifically for the Asian market. The 2012 competition was held on 4-8 October and the results were announced at an award ceremony at the Hong Kong International Wine & Spirit Fair (organised by HKTDC) on 8 November 2012.

由香港貿易發展局 (HKTDC) 主辦的「國泰航空香港國際美酒品評大獎」沿襲自逾40年歷史之久的「倫敦國際美酒品評大獎」，是受到國際酒業公認之權威賽事。過去2年，畢馬威中國很榮幸擔任這項活動的榮譽核數師，審核評審過程及結果計算方法。這個比賽是亞洲的美酒品評比賽，專門為亞洲口味和消費市場而設，比賽於10月4日至8日舉行，結果於2012年11月8日舉辦的香港國際美酒展(由HKTDC主辦)頒獎盛會上公布。





Karmen Yeung and Jessie Lin 楊嘉燕 連楊雁

# Announcement 16 Gives Favourable Tax Treatment to Hong Kong Residents

## 香港居民受惠內地 16號公告的新稅務政策

**C**ontinuing economic cooperation between mainland China and both Hong Kong and Macau has given rise to an increasing number of Hong Kong and Macau residents exercising employment duties in mainland China in recent years. As a result, double taxation has become an emerging issue due to the differing income sourcing rules adopted by mainland China and Hong Kong/Macau.

Under the previous tax regime, some of the employment income, bonuses in particular, was subject to double taxation. When the number of days Hong Kong residents had stayed in mainland China exceeded the tax-free period, the PRC individual income tax would be determined based on the number of days spent working in mainland China while tax payable on bonus was not determined on a time-apportionment basis.

When individuals applied for exemption from salaries tax for part of their income in Hong Kong, only income generated from the days not working in Hong Kong was exempted. To this end, the State Administration of Taxation (SAT) issued Announcement [2012] No. 16 (Announcement 16) on 26 April 2012 to address the double taxation issues faced by Hong Kong and Macau tax residents who exercise their employment duties in mainland China. Announcement 16 came into effect on 1 June 2012 and is applicable to employment income derived from this date. We have outlined some key issues for local tax authorities, enterprises and tax payers to better understand and implement the Announcement.

**隨**著港澳地區與內地企業之間的經濟交流與合作領域不斷擴大，來往內地工作的港澳居民人數也隨之有增無減。但與此同時，由於中港稅制差異，香港居民的工資所得在內地與香港被雙重徵稅的問題一直存在。過去相關的稅務法規令部分工資薪金，尤其是獎金部分出現雙重徵稅：當港人在內地逗留時間超過中港稅收安排的免稅時間後，其在內地繳納個人所得稅的計算是按該個人在華工作天數分攤，對獎金收入，更不允許按天數分攤；而該個人在香港申請部分入息豁免計算香港薪俸稅時，一般只能豁免該個人在非港工作天數所產生的收入。兩地政府就此問題多次交流，國家稅務總局終於2012年4月26日出臺第16號公告（以下簡稱「16號公告」），由2012年6月1日起實施，目的是解決港人工資薪金雙重徵稅的問題。地方稅務機構、相關企業及納稅人需要掌握以下幾個關鍵問題，以準確理解並執行公告的具體規定。





## 1. New rules and eligibility

Announcement 16 provides further interpretation of and revision to clauses related to employment income in the arrangement between mainland China and the Hong Kong/Macau Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Income Taxes.

According to Announcement 16, tax residents of Hong Kong and Macau are eligible to apply for the favourable tax treatment if they are employed in Hong Kong or Macau and travel to mainland China to exercise employment duties, or are employed in Hong Kong/Macau and mainland China concurrently, and exercise employment duties in mainland China. Therefore, only tax residents from Hong Kong and Macau are eligible (hereinafter “eligible individuals”) while tax residents from other jurisdictions and residents of Hong Kong and Macau employed in mainland China are not eligible.

## 2. Employment income rules and tax calculation

Announcement 16 provides a new formula to calculate PRC individual income tax for eligible individuals who work in mainland China for more than 183 days:

$$\text{Tax payable} = \text{Individual income tax on total monthly income} \times (\text{No. of days physically present in mainland China} / \text{total no. of days in the month})$$

The SAT has changed the day-count in the previous formula from working days to days of being physically present. A closer look at the definition of ‘working days’ in previous tax rules and rules for exemption from salaries tax in Hong Kong shows how the SAT has been able to address the double taxation issue by making the change.

### (一) 新規定內容及適用範圍

16號公告是以內地與香港、澳門政府簽署的《關於對所得稅避免雙重徵稅和防止偷稅漏稅的安排》為基礎，對其中的受僱所得條款作出了進一步解釋和修正。

國家稅務總局規定，16號公告只適用於在港澳受僱，或在內地與港澳地區間雙重受僱的居民。因此，16號公告只適用於來自港澳兩地的稅收居民（下文簡稱「適用個人」），並不適用於來自其他司法管轄區的稅收居民；此外，只在內地受僱的港澳居民不在規定範圍之內。

### (二) 受僱所得條款的相關規定及計稅方法

當局通過16號公告，提出新修訂的計稅公式用於適用個人計算其在內地應繳的個人所得稅。在16號公告執行後，適用個人如在內地工作超過183天，其取得的工資所得按以下公式計算個人所得稅：

$$\text{應納稅額} = \text{當月工資應納個人所得稅額}$$

×

$$(\text{當月境內實際停留天數} / \text{當月公曆天數})$$

當局把公式中原用的工作天數改為停留天數，表面上不見得有太大區別，但細讀原稅收法規對工作天數的定義及本港薪俸稅的豁免方式便能了解國家稅務總局是如何透過以上修改來解決適用個人的雙重徵稅問題。根據相關規定，對於在中國境內任職、受僱（包括同時受僱中港兩地）的港人個人計算實際在中國內地工作天數時，應包括其在中國內地工作期間內，在境內及境外享受的公休假日、個人休假日及接受培訓的天數。而不在中國境內的任職、受僱，但受派來華工作的個人，其在中國境內工作天數應包括在中國內地工作期間，在境內享受的公休假日。在16號公告中，國家稅務總局明確規定，港澳稅收居民在內地工

## Tax spotlight

According to the rules, when calculating the number of working days for Hong Kong residents employed in mainland China (including employment in Hong Kong and mainland China concurrently), the days for public and personal holidays and training at home and abroad that they have been entitled to during their working period in mainland China should be included. For those who are not employed in, but assigned to work in mainland China, their working days in mainland China should include the public holidays they have been entitled to.

Announcement 16 provides a practical solution to day-count for tax residents of Hong Kong and Macau in determining their PRC individual income tax (IIT) by allowing them to only account for the number of days they are physically present in mainland China. For entering and leaving mainland China within the same day or multiple entries and exits within the same day, a half day will be counted.

The method for sourcing bonuses for PRC IIT purposes has also been reviewed for eligible individuals, and a new approach to source bonuses based on one's physical presence in mainland China over the performance period has been introduced in Announcement 16.

### The formula for calculating the tax payable for eligible individuals' bonus is as follows:

$$\text{Individual income tax on 100\% of the bonus} \times (\text{No. of days physically present in mainland China during the performance period} / \text{total no. of days of the performance period})$$

The new bonus sourcing rule will effectively eliminate the potential double taxation issue for eligible individuals.

Companies that currently have, or intend to send tax residents of Hong Kong and Macau to work in mainland China should:

- Review the existing employment of these individuals to ensure that the employment structure reflects their working arrangement
- Apply for favourable tax treatment for eligible individuals
- Comply with the 'put-on-record' filing when filing tax returns that adopt the favourable tax treatment.

作天數應為「當期境內實際停留天數」，即要求按照個人當期在內地的實際停留天數來計算所得稅，對於當日入境、離境、往返或多次往返境內外的情況，仍可按半天計算。

國家稅務總局在16號公告中，除了對個人所得稅計算方法和境內實際工作天數作出規定外，亦提出了適用個人獎金來源地的確認方法。新政策明確指出，適用個人所得的獎金來源地，應當按照其獎金所屬期間內，於內地實際停留天數所佔的比例來劃分徵稅。

適用個人所得獎金應納稅額的計算公式如下：

100%獎金的應納個人所得稅額

×

(獎金所屬期間境內實際停留天數/獎金所屬期間所包含的全部公曆天數)

以上的改變大大減少適用個人獎金所得雙重徵稅的問題。

就僱有港澳稅收居民或擬派遣港澳稅收居民到內地工作的公司，我們提出以下建議：

- 公司應當認真審閱現有人員的派遣安排，確保僱傭關係與工作安排保持一致；
- 對符合稅收優惠條件的適用個人，公司應當執行上述稅收優惠；
- 在執行稅收優惠處理及進行納稅申報時，應按規定向主管稅務機關進行備案。

### About the authors:

**Karmen Yeung** is our PRC tax partner with over 15 years' experience providing PRC tax advisory services. She advises Hong Kong based companies and multinational corporations in their investment structure in China as well as the establishment of tax efficient supply chain models. In particular, Karmen advises companies in setting up their supply chain models including sourcing, manufacturing, distribution and retailing in China from the corporate income tax, transfer pricing, value added tax and customs duty perspectives.

**Jessie Lin** is our PRC tax manager who provides assistance to multinational corporations in respect of PRC Individual Income Tax compliance matters. She also advises corporations on other expatriate taxation matters in China, including review of employment contracts and structuring of tax efficient employment arrangements.





Eligible individuals must comply with the 'put-on-record' filing each time any of the favourable tax treatment is applied. It is anticipated, however, when submitting the tax return which adopts the favourable tax treatment, the individual or employer will need to enclose a declaration to state that the relevant conditions for applying the treatment have been met. It is also imperative that when reviewing the employment structure of these mobile employees, companies also review the relevant permanent establishment implications for the working arrangement of these employees as well as an effective cost allocation structure for the employee's remuneration, in order to address and mitigate the associated corporate and personal income tax exposure.

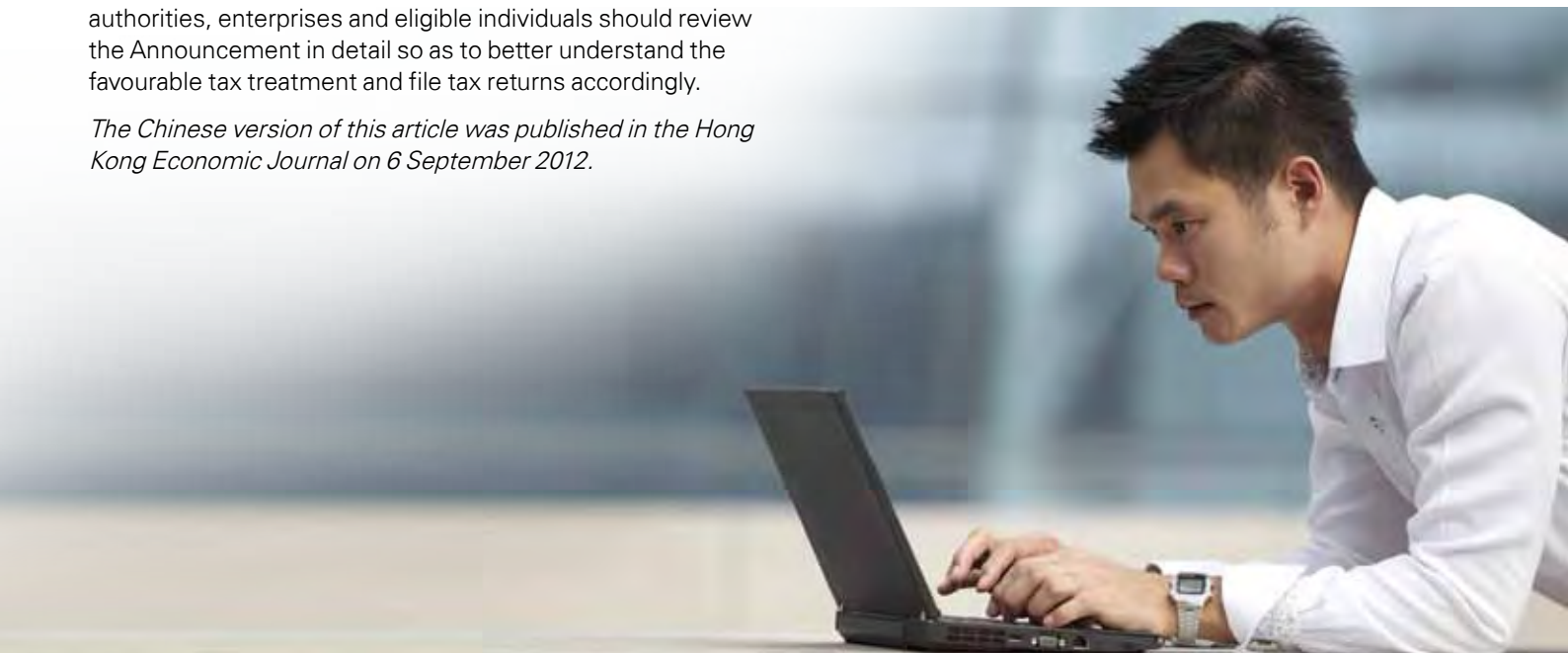
In conclusion, Announcement 16 provides further interpretation to IIT issues for tax residents of Hong Kong and Macau who work in mainland China, and implementation guidelines to address the double taxation issue. Local tax authorities, enterprises and eligible individuals should review the Announcement in detail so as to better understand the favourable tax treatment and file tax returns accordingly.

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雖然16號公告指出適用個人需按有關規定進行備案，但可以預見，個人或僱主在提交備案資料時，有可能被要求提交進一步資料證明其符合相關條件而使用優惠待遇。公司在審閱派遣員工的安排時，還應關注員工在內地的工作安排是否會對其常設機構產生影響，以有效防範並減輕公司及個人的稅務風險，確保合理分配員工的薪酬成本。

綜上所述，國家稅務總局通過16號公告，對跨境工作港澳稅收居民個人所得稅問題作出進一步詮釋，並就具體實施方案提出指引，以有效解決雙重徵稅問題。地方稅務機關、相關企業及適用個人應當認真研讀公告內容，了解各項優惠條件，準確執行稅務規定並進行納稅申報，確保稅務特殊規定得以順利實施。

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#### 作者簡介:

**楊嘉燕**為畢馬威中國稅務部合夥人，從事中國稅務諮詢工作超過15年。楊小姐主要為港資及跨國公司到內地投資提供中國稅務籌劃的建議，當中包括集團的股權架構，以至供應鏈的安排。為企業供應鏈管理從採購、生產、分銷及零售各環節所涉及的中國企業所得稅，轉讓定價，增值稅及關稅的籌劃提供諮詢。

**連楊雁**是畢馬威中國稅務經理，擅長協助跨國企業客戶處理中國內地個人所得稅方面的合規事宜，並為企業在中國境內的外籍員工的其他稅務安排提供專業諮詢，包括審閱僱傭合約和制訂具稅務效益的僱傭安排等。



Karmen Yeung  
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Jessie Lin  
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## Tax spotlight

Jennifer Wong and Ruby Lam 王尹巧儀 林美怡

# New tax case throws spotlight on source of profits

## 利潤來源新稅案

Under the Inland Revenue Ordinance (Ordinance), only profits sourced in Hong Kong are subject to Hong Kong profits tax while offshore sourced profits are outside the tax net. However, the phrase 'profits arising in or derived from Hong Kong' is not clearly defined under the Ordinance, which has led to considerable disputes between the Inland Revenue Department (IRD) and taxpayers, and endless discussions and debates in court on tax cases for determining source of profits. In early 2012, the Court of Appeal (COA) discussed a tax case involving the source of commission income and ruled in favour of the taxpayer's offshore income claim.

**根**據香港稅務條例，只有來源自香港的利潤才需要在香港課稅，而離岸收入是不在利得稅徵稅範圍的。然而，香港稅務條例並沒有對「來源自香港的利潤」訂下明確的定義。因此，一直以來，這問題使香港稅務局與納稅人產生很多爭拗，同時也引致不少的法院案例就決定利潤來源提出討論和爭議。在2012年初，香港上訴法庭便就一案例的佣金的來源地作出討論及裁決，並確定納稅人的免稅離岸收入的申請。

In that case, the taxpayer, Li & Fung (Trading) Limited (LFT), is a member of the Li & Fung Group. LFT was engaged in the provision of buying agent services to its overseas customers, in return of commission of 6 percent of the free on board (FOB) value of the goods supplied to customers. LFT, in turn, engaged overseas affiliates to perform the sourcing services, and paid the affiliates 4 percent of the FOB value of the goods supplied for their services. LFT took the view that the 6 percent commission income was offshore income not chargeable to profits tax in Hong Kong. However, the IRD argued that LFT was in fact operating a 'supply-chain management business', and that the profit (i.e., the net commission of 2 percent arose from the management) and supervision of its own activities and those of its overseas affiliates which were undertaken in Hong Kong and therefore, should be taxable.

However, the Commissioner's argument was rejected by the Board of Review (Board). The Board held that LFT's business was the sourcing of merchandise for its customers, conducted through its affiliates outside Hong Kong, and therefore, its sourcing commission was non-taxable offshore income.

The decision was appealed by the Commissioner to the Court of First Instance (CFI) with a reformulated argument suggesting that the 6 percent commission income was

在該稅案中，納稅人利豐(貿易)有限公司 [Li & Fung (Trading) Limited] (以下簡稱「利豐貿易」)是利豐集團的成員，其業務是為海外客戶提供貨品採購代理服務，從而收取貨品離岸價的6%作為服務費用。另一方面，利豐貿易聘用海外的關聯公司為其客戶提供貨品採購服務，並支付貨品離岸價的4%作為服務費用。利豐貿易認為它從中所賺取的6%佣金為離岸的服務費用，不需在香港課稅。但稅務局局長認為利豐貿易經營「供應鏈管理業務」，其利潤（即淨佣金2%）是由利豐貿易在香港管理它自己及海外關聯公司的活動而產生的，因此需繳納香港利得稅。

### 上訴委員會裁定佣金免稅

稅務上訴委員會不同意稅務局局長的看法，裁定利豐貿易為客戶提供商品採購服務是由關聯公司在海外提供，所以其賺取的佣金屬於免稅的離岸收入。

稅務局局長把案件提交原訟法庭上訴，並在原訟法庭聆訊時更改其論點，辯稱利豐貿易的佣金收入是由其在香港及關聯公司在海外所進行的活動而產生的。稅務局認為應分攤利豐貿易所得的6%佣金為離岸的(4%)及香港來源的(2%)收入。

原訟法庭維持稅務上訴委員會的裁決，並認為稅務上訴委員會正確地跟隨ING Baring案中所訂下的利潤來源原則判決該案。原訟法庭認為利豐貿易所賺取的6%佣金收入是透過關聯





earned as a result of the activities carried out by LFT in Hong Kong and by its affiliates outside Hong Kong. As such, they should be apportioned on the basis that 4 percent related to the offshore activities by its affiliates and 2 percent arose from LFT's activities in Hong Kong.

The CFI upheld the Board's decision, and opined that the Board, in drawing its conclusion, had consistently followed the principle established in the ING Baring case in determining the source of profits. The CFI held that LFT's 6 percent commission was generated by the activities of its overseas affiliates, acting on its behalf, undertaken outside Hong Kong. The CFI noted that while it was true that LFT provided back-up services for its affiliates in Hong Kong, these were merely 'antecedent' or 'incidental' activities. Based on the above, the CFI held that the 6 percent commission income earned by LFT

公司以代表利豐貿易的身分在香港以外的地方所進行的活動而產生的。原訟法庭同意利豐貿易在香港為關聯公司提供支持活動，但這些都是「先前發生」或「次要」活動。根據以上分析，原訟法庭裁定利豐貿易所賺取的6%佣金收入是因海外進行的活動所得，無須繳納香港利得稅，也不需要分攤該利潤為香港及離岸收入。

稅務局局長就上述案件向上訴法庭提出上訴。上訴法庭完全同意原訟法庭的判決，並在判詞中再次重申ING Baring案中所述的利潤來源原則。

從表面看來，利豐一案的裁判對納稅人來說相信是一個好消息，因它給納稅人提供了理由和依據重組海外的業務架構，以支持離岸利潤的申請。納稅人更可辯稱案中定立的原則應不只局限於決定佣金收入的來源，亦可延伸至其他種類的收入。



## Tax spotlight

was overseas sourced and should not be subject to profits tax, and there was no ground for apportionment.

The Commissioner lodged an appeal to the COA, which confirmed the decision of the CFI. In its decision, the COA again reaffirmed the legal principles established in the ING Baring case for determining the source of profits.

Apparently, taxpayers should welcome the decisions in the Li & Fung case, because there may be more grounds for restructuring their overseas operations to pursue an offshore profits claim. Further, they may argue that the legal principle established in the Li & Fung case does not only apply to determining the source of commission income, but also to different types of income.

However, taxpayers should bear in mind the technical and legal principles issues involved in Li & Fung case. The Commissioner had reformulated its argument when appealing to the CFI, but was dismissed on the grounds that the reformulated argument (i.e., apportionment of LFT's commission income, with 2 percent being attributable to LFT's activities in Hong Kong and 4 percent to the offshore activities of LFT's affiliates) was not submitted before the Board's hearing in 2006. The Commissioner had also attempted to rely on the interview of Li & Fung's Chairman in the Harvard Business Review to show that some of LFT's activities were performed in Hong Kong. Since the point had not been brought before the Board, the COA held that it would be inappropriate to remit the matter to the Board to seek further evidence or to accept new points raised by the Commissioner. Therefore, it was doubtful whether the court would reach a different decision had the Commissioner put forward the above argument and evidence before the Board's hearing.

Not long after the COA issued its judgement, the IRD, in a rare move, stated its views on this case on its Frequently Asked Questions (FAQ) webpage. The IRD considered that the courts did not have the chance to consider the entire facts of the case; the COA simply reconfirmed the broad guiding principle and there was no new law or change in legal principle on source of profits. The IRD also restated that in formulating its judgement, the COA simply applied the well-established legal principles to the facts found by the Board. As there was no change in law on source of profits and the case was decided on its own facts, the IRD is of the view that the judgement would not have a wider application in determining the source of profits of other cases.

In view of the above, serious attention needs to be paid to the application of the Li & Fung case, and taxpayers should avoid placing too much emphasis and over-reliance on the decision of this case as a basis to restructure their overseas operation for pursuing of offshore profit claim.

但值得注意的是利豐一案的裁決涉及法律原則的技術性問題。其中，稅務局把案件提交原訟法庭上訴時更新了其論點，但被原訟法庭駁回，因稅務局後來更改的論點（即分攤利豐貿易所得的6%佣金為2%香港來源及4%離岸的收入）沒有在2006年稅務上訴委員會的聆訊中提出。稅務局也試圖依據利豐集團主席在《哈佛商業評論》的訪問內容以證明利豐貿易的一些活動是在香港履行的，但由於這些論據並沒有向稅務上訴委員會提出，上訴法庭裁定沒有理據將事件退回稅務上訴委員會找出補加的事實，或接受稅務局提出更新的論點。倘若稅務局在稅務上訴委員會聆訊時已經提出上述的論點及論據，法庭會否得出相同的判決是值得懷疑的。

在此案判詞發佈不久後，稅務局在其網頁的「常見問題」中表達了其對利豐一案裁決的看法，此做法是罕見的。稅務局認為法庭沒有機會考慮本案整體的事實，亦認為在該案中，上訴法庭沒有定下新的或改變法律原則來確定利潤來源地，而只不過再確認決定利潤來源地的概括指導原則。

### 稅局罕有網上評論裁決

同時稅務局重申，上訴法庭在裁決時只不過根據稅務上訴委員會所找到的事實及引用已確立的法律原則。由於確定利潤來源地的法例沒有改變，以及這案是按它本身的事實而作



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When a taxpayer cites the Li & Fung case to support the claim, we believe it is highly likely that the IRD will argue that the facts of the case in dispute are not identical with the Li & Fung case.

In addition, in all future cases, we believe that the IRD will endeavour to submit all possible arguments and evidence to the Board to avoid confronting any technical limitation on legal principles similar to the Li & Fung case, which would put the IRD in an unfavourable position. Going forward, we anticipate that disputes between the IRD and taxpayers on source of profits will continue, with some ending in litigation.

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出決定的，稅務局認為在考慮其他與利潤來源地有關的個案時這判決不會被廣泛引用。

鑑於上述情況，筆者認為要注意利豐一案的廣泛適用性，及不應過份強調及樂觀地依靠這案例的判決來重組海外的業務架構以支持離岸利潤的申請。納稅人在依據利豐一案時，筆者相信稅務局必會爭辯其他案件的事實跟利豐一案有所不同，因而認為利豐一案的裁決不直接適用於其他案例。在往後的稅案中，相信稅務局會小心地向稅務上訴委員會提出所有可能的論點和證據以防止類似利豐一案的法律原則技術性原因，而令法庭作出對稅務局不利的裁決。因此相信將來稅務局和納稅人仍然會就利潤來源地有不少的爭論，甚至需要在法庭訴訟解決。

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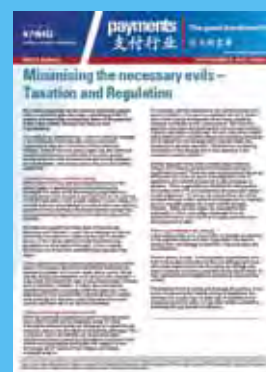
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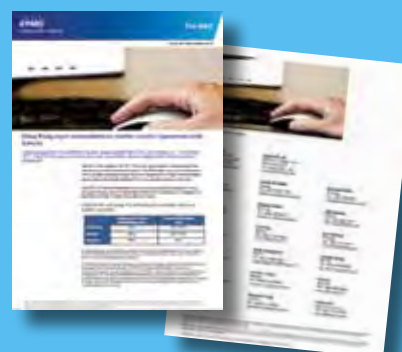
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