



# HONG KONG TAX ALERT

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## Hong Kong and Russia conclude Double Tax Agreement

*A Double Tax Agreement between Hong Kong and Russia is expected to take effect in 2017.*

### Summary

- *Hong Kong concluded a Double Tax Agreement (DTA) with Russia, a significant economy along the Belt and Road*
- *The DTA will enter into force after the completion of ratification procedures on both sides. It is expected to take effect on 1 April 2017 in Hong Kong and 1 January 2017 in Russia.*
- *The DTA allocates taxing rights between the two jurisdictions, provides for reduced withholding tax rates and gives investors greater certainty on their potential tax liabilities arising from cross-border activities.*
- *The DTA also contains a number of favourable provisions that should encourage closer cooperation between Hong Kong and Russia.*

January 2016 Hong Kong concluded a Double Tax Agreement (DTA) with Russia, its 34<sup>th</sup> overall. The DTA allocates taxing rights between the two jurisdictions, provides for reduced withholding tax rates and gives investors greater certainty on their potential tax liabilities arising from cross-border activities. In addition, the DTA contains a number of favourable provisions that should encourage closer cooperation between Hong Kong and Russia.

The DTA will enter into force after the completion of ratification procedures on both sides. If the ratification process can be concluded in 2016, the DTA will be effective on 1 April 2017 in Hong Kong and 1 January 2017 in Russia.

### Active Income

In the absence of the DTA, income earned by Russian residents in Hong Kong is subject to both Hong Kong and Russian income tax. Under the DTA, however, tax paid in Hong Kong will be allowed as a credit against the Russian tax payable by a Russian resident.

The DTA also provides for a credit against Hong Kong tax payable in respect of any Russian tax paid. This situation may occur in rare situations where Hong Kong companies with profits attributable to a permanent establishment in Russia are also liable for tax in Hong Kong when such profits are regarded as sourced in Hong Kong.

### Passive Income

The Russian dividend withholding tax on Hong Kong residents will be reduced from 15% to either 5% or 10%, the lower rate being applicable where the beneficial owner of the dividends is a company which has a direct holding of at least 15% of the capital of the payer.

The DTA provides for Russian withholding tax on interest (currently 20%) to be reduced to 0%.

The Russian withholding tax on royalties is, under the DTA, reduced from 20% for companies to 3%.

## Other Notable Provisions

The DTA contains a number of provisions that are worthy of mention:

- Hong Kong airlines operating flights to Russia will be taxed at Hong Kong's profits tax rate and will not be subject to taxation in Russia.
- Profits from international shipping transport earned by Hong Kong residents that arise in Russia, which are currently subject to tax there, will not be taxed in Russia.
- The DTA includes an exchange of information article based on the current OECD model treaty standard and a domestic anti-abuse measure.

### Russia's withholding tax on Hong Kong residents:

|                  | <b>Russian<br/>Non-treaty<br/>Withholding Rate</b> | <b>Treaty Withholding Rate</b> |
|------------------|--|--------------------------------|
| <b>Dividends</b> | 15%  | 5%/10%                         |
| <b>Interest</b>  | 20%  | 0%                             |
| <b>Royalties</b> | 20%  | 3%                             |

The conclusion of this DTA is significant as many Russian companies prefer to operate in China via Hong Kong as well as raising capital through listing on the Hong Kong Stock Exchange.

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