

Automatic Exchange of Information by Hong Kong – Hong Kong intensifies its implementation strategy due to international pressure and plans to expand the list of reportable jurisdictions to include all EU member states (including France).

In September 2014, Hong Kong indicated its support for implementing automatic exchange of financial account information (“AEOI”) on a reciprocal basis with appropriate partners with a view to commencing the first automatic exchange by the end of 2018.

In order to implement the AEOI, the Hong Kong Government introduced an amendment bill to the Inland Revenue Ordinance which took effect on 30 June 2016 (the “Ordinance”). Under this new legislation, Hong Kong financial institutions are required to identify financial accounts held by tax residents of reportable jurisdictions and to report to the Hong Kong Tax Administration (the “IRD”) information such as (i) full identification of bank account holders, (ii) account number, and (iii) account balance. When the Ordinance came into force, the list of reportable jurisdictions was empty.

As of today, only Japan and the United Kingdom are in the list of reportable jurisdictions although Hong Kong has signed bilateral competent authority agreements (“CAA”) with 9 additional jurisdictions (Portugal, South Africa, Belgium, Canada, Guernsey, Italy, Korea, Mexico, and the Netherlands).

Under increasing international pressure, and in a context where the OECD and the EU are in the process of identifying “non-cooperative tax jurisdictions” (one of the criteria being assessed is the status of AEOI implementation), Hong Kong has intensified its implementation strategy. A new bill was gazetted on 24 March 2017 which seeks to expand the list of “reportable jurisdictions” to a total of 74 jurisdictions including: a) all Member States of the EU; b) Hong Kong’s tax treaty partners which have committed to AEOI; and c) jurisdictions which have expressed

interest to the OECD in conducting AEOI with Hong Kong.

This bill (if adopted) is meant to take effect from 1 July 2017. In practice, this would mean that all Hong Kong financial institutions should be obliged from 1 July 2017 to identify and collect information on accounts of tax residents in these 74 jurisdictions (including France), and furnish the information so collected for the period from 1 July 2017 to 31 December 2017 to the IRD by May 2018 (note that the information should cover the full 2017 calendar year for Japan and the United Kingdom). Information should however be exchanged by the IRD to the various reportable jurisdictions once a CAA is signed with the relevant jurisdictions. Reporting in subsequent years should cover the full calendar year.

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