

4. Taxes on business

Profits tax

Taxable persons

A person (defined in the IRO as including a corporation, a partnership, a trustee, whether incorporated or unincorporated, as well as a natural person), or a body of persons, will be subject to profits tax if he is:

- Carrying on a trade, profession or business in Hong Kong
- Deriving a source of assessable profits from that trade, profession or business.

It should be noted that capital profits are excluded from the charge to tax and also, that branches of foreign companies operating in Hong Kong are treated in the same way as companies incorporated in Hong Kong for tax purposes.

Taxable period

The tax assessment year runs from 1 April to 31 March the following year and this period must be used for all tax returns and assessment for salaries tax and property tax. For purposes of profits tax, however, a company, partnership, or sole proprietor may use a different accounting year, and the basis period for a particular tax assessment year is the accounting year ending within the assessment year.

Taxable income

Certain income, such as sums received from the exhibition of films, videotapes, sound recording or related advertising material, from the use of patents, trade marks, and so on, and from the hire and rental of moveable property in Hong Kong, is deemed to have a source in Hong Kong. Income relating to the use of intellectual property rights will be deemed taxable in Hong Kong if the payer claims a deduction therefor, irrespective of the place where the intellectual property is used. Some of the deemed income is subject to reduced tax whilst the rest is subject to the full rate of tax.

Deductions in general

Expenses may be deducted if they are incurred wholly and exclusively in the production of assessable profits.

Depreciation

Depreciation allowances on fixed assets in accordance with pre-determined rates are allowed instead of the depreciation charged in the accounts. Those rates are shown in Table 1

Table 1

Type of expenditure	Allowance and rate	Type of allowance
Plant and machinery	Initial allowance 60%	RB
	Annual allowance 10%/20%/30%	
Manufacturing plant and machinery	Initial allowance 100%	SL
Commercial building	Annual allowance 4%	
Industrial building	Initial allowance 20%	SL
	Annual allowance 4%	
Building refurbishment	Annual allowance 20%	SL

Non-deductible expenditure

Expenses are generally not deductible if they are capital in nature or not incurred in the production of profits chargeable to Hong Kong profits tax.

Capital gains

Capital gains are not taxable.

Losses

Losses may be carried forward indefinitely but are not available for carry-back.

Dividends

Dividends are exempt from profits tax, whether received from Hong Kong or foreign companies.

Interest and royalties

Interest income from local financial institutions is, under certain conditions, not taxable. Interest income from non-financial institutions is taxable if sourced in Hong Kong.

Royalties received by a company carrying on a business in Hong Kong are taxable if they are sourced in Hong Kong. If the recipient is non-Hong Kong resident, royalties are taxable only if they are sourced in Hong Kong or the payer claims deduction of the royalty in Hong Kong.

Group treatment

There is no consolidated taxation or special treatment for groups of companies.

Anti-avoidance

General

General and specific provisions exist.

Thin capitalisation

There is no thin capitalisation regulation.

Transfer pricing

Provisions on transfer pricing exist.

Controlled foreign companies

There is no Controlled Foreign Companies rule.

Tax rate

The 2006-07 rates of profits tax are 17.5% for companies and 16% for unincorporated businesses.

Administration

Tax returns

Annual filing of Employer's Return, Individual Tax Returns and Profits Tax Returns are generally due within one month from the date of issuance. Depending on the company accounting year end, the due dates for Profits Tax Return for the companies with accounting year end from January to March could be extended to mid-November while companies with

accounting year end in December could be extended to end of July or mid-August. The extension is subject to the Inland Revenue Department's policy for the year.

Payment and collection

Profits tax is collected by the levying of a provisional tax based on the previous year's results. When the computation of the current year's results has been agreed, the IRD will levy a final tax to collect the difference. Provisional tax and final tax are collected together. It is possible to request a holdover of provisional tax, not later than 28 days before the day by which the provisional profits tax is to be paid or 14 days after the date of notice for payment of provisional tax, whichever is later, if accounts (which need not be audited) are lodged to substantiate any reduction in assessable profits of more than 10% on the previous year. Late payments are liable to a surcharge.

Appeals against profit tax assessments

Should an assessment be disputed by the taxpayer, appeal is by way of a notice of objection to the assessor and, if not determined, to the Board of Review and, ultimately, to the Courts.

Advance rulings

Taxpayers are able to obtain advance rulings on proposed transactions.

Value added tax

Hong Kong does not yet have a value-added ('VAT') or goods and services tax ('GST').