

HONG KONG TAX

2016/17 PROFITS TAX RETURNS



The Inland Revenue Department (IRD) has bulk issued Profits Tax Returns (Returns) to taxpayers for the year of assessment 2016/17 in early April 2017. The following is a list of reminders regarding completion and filing of Returns:

KEY DATES

Returns are generally due for filing within 1 month from the date of issue. For represented taxpayers, the filing due dates can be extended as follows under the block extension scheme:

Date	Particulars
4 May 2017	Due date for taxpayers with accounting dates falling between 1 April 2016 to 30 November 2016, ie no extension
5 May 2017	Due date for taxpayers with file number prefixes 22 or 95 <u>and</u> with accounting dates falling between 1 April 2016 to 30 November 2016, ie no extension
15 August 2017	Due date for taxpayers with accounting dates falling between 1 December 2016 to 31 December 2016
15 November 2017	Due date for taxpayers with accounting dates falling between 1 January 2017 to 31 March 2017 <u>and</u> with taxable profits for the year (before tax losses set-off)
31 January 2018	Due date for taxpayers with accounting dates falling between 1 January 2017 to 31 March 2017 <u>and</u> with allowable tax losses for the year

WHAT IF NO RETURN HAS BEEN RECEIVED?

1. Change address

Have you notified the IRD of the change in postal address?

2. Newly registered business

Generally, the first Return will be issued some 18 months after the date of commencement of a new business (or the date of incorporation in the case of a newly incorporated company). Such Returns are due within 3 months from the date of issue. There is no need to submit applications for extension of time in respect of these cases.

Taxpayers, who commenced business and derived chargeable profits shall, as explained below, inform the IRD of chargeability to tax.

3. Periodic issues

The IRD may from time to time issue Returns to taxpayers, and applications for extension of time should be filed separately.

These applications will be treated on the same basis as extensions granted under the block extension scheme.

NOTIFICATION OF CHARGEABILITY

Persons chargeable to tax are obligated to inform the IRD in writing of chargeability to tax within 4 months after the end of the basis period for the year of assessment concerned. Failure to inform the IRD within the prescribed time may result in a fixed fine of up to HK\$10,000 and potentially a penalty of up to 3 times the tax involved.

Where a taxpayer has received Returns in prior years, and could reasonably expect that a return would be issued in the current year, there is no need to inform the IRD of chargeability. Taxpayers, who have previously been informed by the IRD that Returns will no longer be issued to it annually, or who commenced to derive chargeable profits, shall inform the IRD within the stipulated period.

FAIR VALUE ACCOUNTING - REVALUATION GAINS/LOSSES IN RESPECT OF SECURITIES HELD FOR TRADING PURPOSES

The IRD will continue to accept Returns in which assessable profits derived from revaluation gains/losses in respect of securities held for trading purposes are computed on a fair value basis.

Subsequent to the judgment of the Court of Final Appeal in *Nice Cheer Investment Limited v CIR*, the IRD has agreed since the year of assessment 2013/14 as an interim administrative measure to accept Returns in which the assessable profits are computed on a fair value basis.

It was held in *Nice Cheer* that year-end mark-to-market unrealised revaluation gains in respect of trading securities were not chargeable to tax. Unrealised losses, the deductibility of which was not an issue under *Nice Cheer*,

may be deductible if they represented material and permanent fall in value.

The IRD also agrees to re-compute the 2016/17 assessable profits computed on a fair value basis if taxpayers subsequently adopt the realisation basis. Any request for re-computation, however, should be made within the time limits laid down in sections 60 or 70A of the Inland Revenue Ordinance.

ADDITIONAL DISCLOSURE REQUIREMENTS

1. Corporate treasury center (CTC)

Concessionary tax rate at 8.25% applies to profits derived by qualifying CTCs. Taxpayers who wish to claim any CTC profits as qualifying for the concessionary rate can make the election by checking Box 3.4 of the Return as "Yes". In addition, the following information should be provided:

- Computation of assessable profits chargeable at concessionary rate;
- Disclosure of amount of qualifying profits in Box 9.20 of the Return; and
- Disclosure of amount of deduction claimed for interest to non-Hong Kong associated corporations in Box 9.21 of the Return.

2. Distributions on banking regulatory capital securities

Financial institutions that claimed deduction for distribution arising from regulatory capital securities should check Box 3.8 of the Return.

ACTION REQUIRED

If you need any tax assistance including applying for block extension, informing chargeability and/or preparing and filing the Returns, please feel free to contact us.

BDO'S SUPPORT AND ASSISTANCE

If you have any questions regarding this publication, please feel free to contact us:

25th Floor, Wing On Centre
111 Connaught Road Central
Hong Kong
Tel: +852 2218 8288
Fax: +852 2815 2239
info@bdo.com.hk

AGNES CHEUNG
Director & Head of Tax
Tel: +852 2218 3232
agnescheung@bdo.com.hk

CAROL LAM
Director
Tel: +852 2218 8296
carollam@bdo.com.hk

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