

Hong Kong

Hong Kong is situated on the southern coast of the People's Republic of China. Its strategic location in the heart of Southeast Asia, combined with its industrious population and free market policies, has produced an impressive rate of economic growth over many years. With the return of Hong Kong to Chinese sovereignty, the newly created Hong Kong Special Administrative Region ("SAR") has a vital role to play in China's continuing economic development. For the next 50 years Hong Kong's social, legal and economic systems will remain unchanged. Hong Kong will be able to negotiate its own economic relations with other countries. China will be responsible for Hong Kong's foreign affairs and defense. With a landmass of less than 1,092 square kilometers, few natural resources and a population of 7 million people approximately, the one-time coastal settlement of Hong Kong has become the world's seventh largest trading economy. Hong Kong is an international business and finance center, a gateway for investments into and from China, and a springboard for companies accessing the Asian-Pacific region.

Professional services in the areas of banking, accounting and law are especially well developed in Hong Kong. Telecommunication systems in Hong Kong are excellent, enabling international direct dialing to over 200 centers. The port facilities are the most modern in the world and the airport is served by most international airlines.

The official languages are English and Chinese, with English being used in the commercial and political context and Cantonese Chinese in domestic trade and industry.

SALIENT FEATURES

The most common type of entity is the company limited by shares, although it is also possible to have companies that are unlimited. The company law is based on the United Kingdom Company Ordinance of 1932, which has been amended many times, most recently in 2003.

Hong Kong companies are preferred amongst the Asian/Pacific offshore centers. The major advantage to these companies is that they cannot be easily identified as offshore companies since they are not incorporated by virtue of a special exempt or IBC type legislation. A Hong Kong company would avoid the application of profit tax by arranging to have its income source outside Hong Kong.

The Articles of Association govern the internal affairs of the Hong Kong company and should include the following: the name of the company, the names and addresses of the subscribers, the liability of its members, the different classes of shares, the share capital and the currency in which the shares are to be issued.

The Hong Kong Company is not allowed to invite the general public to buy shares or debentures, nor is it permitted to purchase its own shares. The company may not give financial assistance to others to purchase its shares.

CORPORATE REQUIREMENTS

Name: A Hong Kong company must be incorporated with any name other than one, which suggests the Central Government of China or Hong Kong SAR Government. The name must be in English and/or Chinese and must end with the word “limited”. The words “Royal”, “Bank”, “Trust”, “Insurance” or any other specialized financial ending should be avoided unless the appropriate license has been obtained. It is possible to reserve names for up to three months and the incorporation process normally takes fifteen working days.

Subscribers: The Memorandum of Association must have at least one subscriber.

Capital / Shares: Capital can be denominated in any currency or in multi-currencies. There is no minimum authorized share capital requirement. Bearer shares and shares of no par value are not permitted. A minimum of one shareholder is required and they may be either individual or corporate and need not be a resident of Hong Kong. It is optional to keep the share registered office; a company can file a “Notification of Location of Registers” with the Company Registry.

Registered Office: All companies must have a Registered Office in Hong Kong and the address must be provided to the Registrar of Companies within 14 days after incorporation.

Directors: There must be at least one director, who can be of any nationality and may be an individual or a corporation. The directors need not be resident in Hong Kong. Details of the directors must be filed with the Companies Registry and made available to the public.

Secretary: A company secretary must be appointed. An individual secretary must be a resident of Hong Kong. A corporate secretary must have its registered office or a place of business in Hong Kong. Details of the company secretary must be filed with the Companies Registry and made available to the public.

Statutory Books: Every company must maintain the following statutory books: register of directors and secretaries, register of members, and register of charges. A minute book must be kept at the Registered Office. A Hong Kong company must also keep accounting records. These records may be kept at the Registered Office or elsewhere at the discretion of the directors. Every company must appoint an auditor who must be a member of the Hong Kong Society of Accountants and hold a practicing certificate. In the event that a company does not trade, there is no requirement for accounts to be produced or audited.

Business Registration: Any company incorporated in Hong Kong is required to obtain a Business Registration Certificate and be registered with the Inland Revenue Department. The Business Registration Certificate is renewable each year.

CONFIDENTIALITY

There is no requirement to disclose the beneficial owners of the company under the Companies Ordinance and the absence of tax treaties with other countries provides considerable confidentiality.

EXEMPTION FROM TAX

Hong Kong tax is based on the concept of “territorial” or “source” derived income. This means that taxation applies on income that has its source in Hong Kong rather than a tax based on residence. Hong Kong does not therefore impose tax on income generated outside Hong Kong even when remitted to Hong Kong.

The rate of taxation for these companies with Hong Kong source income is 17.5% on profits. There is no tax on capital gains nor is there any form of dividend or withholding tax.

TRANSFER OF FUNDS

Hong Kong does not impose any exchange controls and has a very open economy. There are no restrictions on foreign investment or on the transfer of income and capital in foreign currencies. The currency used is the Hong Kong dollar (HK\$), which is pegged to the United States dollar (US\$) at the approximate rate of HK\$7.8 to US\$1.

ANNUAL REQUIREMENTS

A Hong Kong company must hold an annual meeting, the first being no later than 18 months from the date of incorporation and every 15 months thereafter. The meetings of both directors and shareholders may take place anywhere subject to the limitation of the Articles of Association.

The Hong Kong tax year runs from April 1 until March 31 of the following year. The Companies Registry requires the filing of an annual return which gives details of the current directors and of the shareholders who have held shares in the company at any time during the year, audited accounts and supporting information to determine if source of income is from Hong Kong.

Every Hong Kong Company must fulfill the following requirements:

- Filing of the Profit Tax Return (these forms will be received on April of each year, and shall be duly completed, signed and submitted back to the authorities within one month);
- Filing of the Employer’s Return of Remuneration and Pensions (these forms will be received on April of each year, and shall be duly completed, signed and submitted back to the authorities within one month);
- Filing of Annual Return within 42 days of the anniversary date of incorporation;
- Settle the Business Registration Fees.

If any of the above requirements is not fulfilled, Inland Revenue of Companies Registry will pass the case to court.

The annual fee payable to the Government includes the Annual License (HK\$2,600), presentation of Annual Return fee (HK\$105) and Auditing fees. This must be submitted before the anniversary of the corporation.