This guide has been prepared by the Zetland Fiduciary Group Limited and is intended for the information of clients or prospective clients. As such, it is designed to provide general information. The information set out is not, nor is it intended to be, exhaustive. Such information does not purport to be and is not legal, tax or other professional advice. Our aim has been to provide a broad overview. We will be pleased to offer more comprehensive and specific professional advice to individual clients depending on the situation.



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HONG KONG AS AN OFFSHORE CENTRE

Hong Kong is situated at the south-eastern tip of the mainland of China, covering a total area of just under 1,100 square kilometres including Hong Kong Island, Kowloon and the New Territories, as well as 235 outlying islands.

Hong Kong is Zetland's home and business base. Although not commonly thought of as an offshore financial centre, Hong Kong offers significant tax advantages including low rates of taxation and a simple tax regime.

Background

Hong Kong was established as a British colony in 1841 and under the terms of the Joint Declaration of the British and Chinese governments of 1984, reverted to Chinese sovereignty on 1 July 1997. At that time, Hong Kong became a Special Administrative Region of the People's Republic of China retaining its current political, social, commercial and legal system for a minimum period of 50 years after 1 July 1997. Since the handover, Hong Kong has continued to run its own affairs with complete autonomy.

Hong Kong has for the 21st consecutive year retained its rating as the freest economy in the world in the annual Index of Economic Freedom published by The Heritage Foundation. Hong Kong is also a major trading centre with total volume of trade in goods and re-exports of over US$500 billion. Hong Kong is the world's 12th largest trading economy, 7th largest foreign exchange market, 15th largest banking centre and Asia's 3rd biggest stock market as well. Hong Kong's population is approximately 7.25 million with gross domestic product growing at an average annual rate of around 3% in real terms. The local language is the Cantonese dialect and Mandarin Chinese is increasingly spoken in Hong Kong.

Legal & Business

The legal system in Hong Kong is based on English common law and an increasingly comprehensive body of statutory law passed by the local legislature. Generally, the legal system is effective and the courts are relatively efficient. Hong Kong is well populated with law firms including a number of major firms from the United Kingdom, Australia, Canada and the USA. The legal system is now bilingual with English and Cantonese but English prevails. The Hong Kong government has generally adopted a positive non-intervention policy and in general makes no distinction between local and foreign companies. Since October 1983, the Hong Kong Dollar has been pegged to the US Dollar at the rate of HK$7.8 to US$1 and there are no controls over foreign exchange or the remittance of funds.

Hong Kong acts as a regional business centre in Asia with well established commercial links to most Asian countries. Hong Kong is in a special position with regard to business in China and this has been enhanced through the Closer Economic Partnership Arrangement (CEPA) which grants Hong Kong companies tariff free access to the Chinese market for certain goods and offers concessions for service companies. CEPA was enacted in 2004 and the two sides continue to improve and update the agreement having signed nine further supplements to the original agreement to date bringing in a new package of services liberalisation and co-operation measures. CEPA and its nine supplements provide a sound foundation on the economic integration between Hong Kong and the Mainland.

Economy

Hong Kong has always been a major trading centre. During the post war period, the local economy developed rapidly in the field of manufacturing based largely on textile and garment production and other consumer good industries such as toys. With the rapid development of the Chinese economy since the late 1970s, manufacturing has increasingly moved out of Hong Kong and into China although some high value added manufacturing remains.

There is little heavy industry in Hong Kong and the economy is increasingly dependent on services. Hong Kong is also popular as regional headquarters for many multinational companies and has been successful in growing substantial indigenous companies in fields such as hotel management, property development,

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telecommunications and manufacturing. The local economy is dominated by the real estate sector which is active both within the territory and increasingly overseas in countries such as China, Malaysia and Vietnam. Hong Kong has independent membership of several international bodies such as the World Trade Organisation and for most international purposes is and will continue to be treated as a separate entity from China.

Finance & Taxation

Hong Kong is a major international financial centre with a large representation of banks, insurance companies, merchant banks, fund managers, venture capital companies and other financial intermediaries. The local stock market is highly liquid and trades actively. Hong Kong is the major centre in Asia for funds management and has substantial currency, gold and securities trading activities as well as being a focus for the provision of capital (both equity and loan based). There are no restrictions on investments in any part of the economy although there is close supervision in some areas, primarily in the financial sector. The banking sector’s external assets are among the largest in the world. Hong Kong’s stock market is also one of the world\'s largest in terms of market capitalisation.

Tourism

Hong Kong is also an interesting and exciting place to visit with many good hotels and restaurants, excellent shopping and entertainment facilities and it is convenient as a base for travelling to mainland China or neighbouring countries. The climate in Hong Kong is seasonal with a hot and wet summer and cool and dry autumn and winter. The typhoon season lasts from July to September, although strong typhoons are relatively rare. The best months for visiting are between October and February, and October is generally the peak month for business travellers in the territory. Additionally, there are a number of sporting, cultural, educational and exhibition events throughout the year which attract large numbers of visitors to Hong Kong.

Zetland’s office is situated in Central on Hong Kong Island and Zetland can arrange hotel accommodation and transportation for visiting clients.



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HONG KONG COMPANIES

There are two forms of limited companies that can be established in Hong Kong, private and public companies. Private limited companies have restricted member rights to transfer shares without the company's knowing, a 50-person limit on the number of members and are prohibited to invite the public to subscribe for any shares or debentures of the company. A public limited company does not have the restrictions of a private limited company but are on the other hand subject to more comprehensive administrative requirements. Most companies registered in Hong Kong are private limited companies.

A Hong Kong company can be incorporated within one day using Zetland's e-incorporation and nominee services. A paper incorporation would generally take five working days. The establishment, running and winding up of companies in Hong Kong is governed by the Companies Ordinance. The following are some of the main points affecting newly established companies.

Company Names

For the incorporation of a new company or the change of name of an existing company, the name must prove satisfactory to the Registrar of Companies. The name must be unique and not be in conflict with names of other companies which have been incorporated with the Hong Kong Companies Registry and there are restrictions on certain words appearing in a company name, e.g. "bank". Company names may be in English or Chinese and must include the word "Limited".

By utilising a shelf company with a different trading name, business may be commenced immediately and subsequently the official company name may be changed. It is possible to register service and trade marks in Hong Kong and intellectual property protection is strong.

Shareholders

There must be a minimum of one shareholder who may be an individual or corporation and need not be resident in Hong Kong. It is common in Hong Kong for shareholders to be nominees. To protect the interests of beneficial shareholders, a simple declaration of trust is prepared and signed, adjudicated and delivered to the beneficial owner for safe keeping together with the share certificates (in the nominee's name) and with a blank transfer form already completed by the nominee. Thus, the beneficial owner can take control of the company at any time. The identities of nominee shareholders are matters of public record and may be determined by undertaking a search at the Companies Registry. Zetland can perform searches of Hong Kong registered companies for clients.

With effect from 1st March 2018, every company incorporated in Hong Kong is required to:

- take reasonable steps to ascertain individuals and legal entities with significant control over it ("significant controllers");
- obtain accurate and up-to-date information about them; and
- maintain a register of significant controllers ("significant controllers register") which contains specified particulars.

Listed companies will be exempt as under the Securities and Futures Ordinance they are already subjected to a more stringent regime.

The significant controllers register of a Hong Kong company will NOT be open for public inspection.

An individual is a significant controller if he:

- holds directly or indirectly more than 25% of the issued shares in the company;
- holds directly or indirectly the right to appoint or remove a majority of the board of director of the company; or
- has the right to exercise, or actually exercises, significant influence or control over the company.

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A legal entity is a significant controller of a company if it:

- meets any of the above criteria; and
- is immediately above the company in the ownership chain.

It is important to note that the significant controllers register of a Hong Kong company will not be open for public inspection.

Directors

A minimum of one director is necessary. Directors may be individuals or corporations and may be non residents of Hong Kong. A private company's board of directors must consist of at least one individual director.

It is common practice in Hong Kong for nominees to be appointed, especially by overseas principals, to be directors of local private companies. The duties of directors are laid down in each company's articles of association; matters described in the Companies Ordinance and the general provisions of English company law also have a direct bearing on the liabilities and responsibilities of directors. Zetland nominee corporations or trustworthy individuals are available to act as company directors, if required.

Secretary

Every company must have a secretary who may be an individual ordinarily residing in Hong Kong or a Hong Kong corporation. The company secretary is responsible for making the periodic returns to the Registrar of Companies, maintaining the statutory books and records of the company, convening the meetings of members, etc. The secretary maintains the company's statutory records which may be made available for inspection by shareholders. Zetland Secretaries Limited acts as company secretary for clients with Hong Kong companies.

Registered Address

Each company must have a registered address in Hong Kong with a clearly visible nameplate. Unless otherwise filed with the Company's Registry, the statutory books and records of a company are to be kept at the registered address of a company. Zetland Secretaries Limited provides the registered address for a company to comply with statutory regulations.

Share Capital

There is no minimum or maximum share capital. The new Companies Ordinance abolished the principle of par-value shares. All companies incorporated under the new Ordinance have no par-value shares and par-value shares of existing companies are deemed to be no-par value shares. Only a minimum of one share needs to be issued and may be held by a corporation or an individual. Anonymity can be achieved by the use of nominee shareholders.

Shares may be issued for cash or other consideration. Capital duty has been abolished since June 2012 and only stamp duty at the rate of 0.2% is payable on share transfers. Share capital may be denominated in currencies other than Hong Kong Dollars.

Private companies must restrict the transfer of shares, generally by providing that any transfer must first be approved by the directors of the company. Share transfers become effective on stamping. Stamp duty must be paid on the higher of the consideration paid or the net asset value of the company. The Stamp Duty office will, therefore, enquire as to the financial status of the company and request to see accounts. In the case of a company which has not commenced business, they will accept a confirmation from the company secretary.

Administration

Each company's Articles of Association provide basic rules and procedures for running the company.

The Hong Kong Companies Ordinance includes a model set of rules and generally private companies adopt this but with some modifications to ensure maximum flexibility in day to day administration. Zetland's standard set of articles of association

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is designed for ease of operations. Companies must file an annual return of shareholders, directors and certain other information with the Companies Registrar. The details filed are publicly available. Please refer to our information sheet on ongoing obligations of Hong Kong companies for more information.

Shelf Companies

The quickest way of establishing a company in Hong Kong is to purchase an existing, so called “off the shelf” company. Shelf companies have not been used for any purpose and are therefore clean. If necessary, Zetland will certify that a shelf company has not traded. If the shelf company name is not satisfactory, it can be changed. A list of Hong Kong and other shelf companies available for purchase from Zetland can be found at the following link:

https://zetland.biz/services/?Shelf_Companies

All Zetland shelf companies incorporated under the former Companies Ordinance Cap 32 have a standard share capital of HKD10,000 with one ordinary share issued to a nominee. Subsequently the share capital may be altered.

From time to time, Zetland has older companies available which have been established but not significantly used. Such companies are generally available at a premium for covering of the administration of the company prior to the purchase.

Branch Office

Companies incorporated outside Hong Kong that want to establish a place of business in Hong Kong may apply to the Companies Registry by delivering the required documents before or latest within one month of the establishment of that place of business. An authorized representative who may be a natural person and who must reside in Hong Kong is to be appointed to accept service of process and notices on behalf of the company. If all is in order, the Registrar will issue a Certificate of Registration to the company within 14 working days. The company is required to apply for Business Registration Certificate together with the application for registration.

In order to comply with requirements under the Companies Ordinance, a company must annually update the Registrar of Companies with its corporate information by making periodic returns such as annual return, employer’s return and profit tax return. The latest published financial statements in English or Chinese shall be delivered to the Registrar together with the annual return in case the company is required to do so in the place of its incorporation.

Operations

Once a company is incorporated or a shelf company is acquired, operations may commence at any time. The opening of bank accounts generally can take up to 2 month but the company may enter into agreements and conduct transactions with immediate effect.

If required, Zetland can have letterhead, invoices or similar, printed at modest cost and we are also able to arrange dedicated telephone, fax lines, domain registration and extranet services, if necessary.

It is also common for Hong Kong companies to grant a limited power of attorney to individuals for operations to be conducted outside of Hong Kong.

In situations where there are a number of shareholders, Zetland recommends that a Shareholders’ Agreement be drafted to cover matters such as disposal of shares, dividend policy or similar.

Audit and Accountancy

Under the Companies Ordinance, proper books of account must be kept by the company and accounts prepared including a standard report by directors.

The accounts must be audited by a Hong Kong certified public accountant meeting the requirements of the Audit Ordinance. The audited accounts need to be prepared within six months of the end of the company’s accounting reference period. The first accounting reference period should not be more than 18 months from the date of incorporation. Accounts and other records of the company can be kept outside of

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Hong Kong, subject to directors' approval.

The audited accounts of a Hong Kong company are not filed publicly, however, are required to be filed with the Inland Revenue Department for tax assessment unless the company qualifies as a "small" company in which case the audited accounts need to be available for inspection.

A private company is regarded as "small" if it satisfies any two of the following conditions: (a) total annual revenue of not more than HK$100 million; (b) total assets of not more than HK$100 million; and (c) no more than 100 employees.

The following types of companies may prepare simplified financial and directors' reports based on the SME FRS issued by the HKICPA:

- a private company if it qualifies as a "small private company" (except banks/deposit-taking companies, insurance companies or stockbrokers);
- the holding company of a group of companies that qualifies as a "group of small private companies";
- a private company that is not a member of a corporate group with the agreement of all its members;
- small guarantee companies and groups of small guarantee companies, which have a total annual revenue of not more than $25 million; and
- a private company or a group of private companies which is not qualified as a "small private company" or a "group of small private companies" but it meets a higher size threshold and 75% of its members so resolve with no member objecting.

Companies that prepare simplified financial reports will be exempted from the true and fair view requirement for financial statements.

Winding Up

Although the voluntary winding up of a Hong Kong company is not a complicated exercise, there are formal procedures that must be followed. The degree of difficulty increases with the complexity of the balance sheet and the amount and type of the liabilities existing at the time of winding up. A quicker solution may be to apply for deregistration of the company although this takes some time and the company must be maintained in the interim.

Taxation in Hong Kong

The structure of income taxation in Hong Kong is relatively simple with only two major categories:

Salaries Tax - on an individual's income

Profits Tax - on business profits

There are also taxes on property ("rates"), stamp duties, customs duties and a variety of other duties and levies, but no sales tax at present. Estate duty was abolished in Hong Kong in 2005.

Salaries Tax

Salaries tax is levied on the income of individuals from employment within Hong Kong. The tax payable is calculated based on a progressive rate which is caped at 17% on the net chargeable income or a standard rate of 15% of the net total income. Personal relief is limited compared with other countries. For example, there is limited relief on interest expense in Hong Kong for individuals. For individuals who are based in Hong Kong but have earnings derived outside Hong Kong, an apportionment may be used.

It is recommended to obtain professional advice on complex situations. Personal service companies are subject to complex taxation rules.

Profits Tax

Profits tax is levied at the rate of 16.5% on taxable profits which are profits arising in Hong Kong. There is no tax on capital gains. Expenses incurred in earning assessable profits may be deducted and there is a scheme of depreciation allowances for fixed assets.

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In some cases, such as financial institutions, there are “ground rules” developed by the Inland Revenue Department as to the extent of profits derived in Hong Kong.

The question on Hong Kong taxable profit is one of facts and circumstances and there is a sizeable pool of case law as to the basis giving rise to taxable income. For a Hong Kong company, care is required to be taken when structuring transactions. Advice must be sought on the circumstances of each case.

Profits Tax Returns are normally issued to corporations in April. For a newly registered company, the first Profits Tax Return will be issued 18 months after the date of incorporation. A Profits Tax Return must be filed upon receipt even if the company is inactive.

Tax Treaties

Hong Kong’s tax regime and “territorial principle” of taxation which taxes only Hong Kong sourced income does generally not cause circumstances of double taxation. However, since 2001 Hong Kong has entered into 38 comprehensive double taxation agreements (CDTA). Hong Kong businesses with operations overseas in other treaty countries can benefit from the enhanced transparency the treaties provide in terms of treatment and taxability of income and benefit from reduced withholding tax rates when repatriating profits.

Of equal importance, there is no provision for the automatic exchange of information with overseas tax authorities. On 10th July 2013 a bill has passed to enable Hong Kong to enter into stand-alone tax information exchange agreements (TIEA) with other jurisdictions.

Situations involving royalties or interest payments require careful planning although the inclusion of a Hong Kong entity in an offshore structure can often be useful.

Out of the signed 38 CDTAs, 28 are already ratified and in force:

Jurisdiction	Dividends %	Interest %	Royalties %
Austria	0 / 10	0	3
Belarus	0 / 5	5	3 / 5
Belgium	0 / 5 / 15	10	5
Brunei	0	0 / 5 / 15	5
Canada	5 / 15	10	10
China	5 / 7	0 / 7	7
Czech Republic	5	0	10
France	10	0 / 10	10
Guernsey	0	0	4
Hungary	5 / 10	0 / 5	5
Indonesia	5 / 10	0 / 10	5
Ireland	0	0 / 10	3
Italy	10	12.5	15
Japan	5 / 10	0 / 10	5
Jersey	0	0	4
Korea	10 / 15	10	10
Kuwait	5	5	5
Latvia	0 / 10	0 / 10	3
Liechtenstein	0	0	3
Luxembourg	0 / 10	0	3
Mainland of China	5 / 10	7	5 / 7
Malaysia	5 / 10	10	8
Malta	0	0	3
Mexico	0	4,9 / 10	10
Netherlands	0 / 10	0	3
New Zealand	0 / 5 / 15	10	5
Pakistan	10	10	10
Romania	3 / 5	3	3
Russia	0 / 5 / 10	0	3
Saudi Arabia *	5	0	5 / 8
Portugal	5 / 10	10	5
Qatar	0	0	5
South Africa *	5 / 10	10	5
Spain	0 / 10	0 / 5	5
Switzerland	0 / 10	0	3
Thailand	10	10 / 15	5 / 10 / 15
UAE *	0 / 5	5	5
UK	0 / 15	Domestic rate	3
Vietnam	10	10	7 / 10

Banking in Hong Kong

Hong Kong is a major financial centre with approximately 200 authorized institutions

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including licensed banks, restricted licensed banks and deposit-taking companies incorporated in and outside Hong Kong.

Japanese and other regional banks are particularly strongly represented. In addition, major banks from Europe and North America have substantial operations in Hong Kong. The largest local banks are HSBC, which is now headquartered in London, Standard Chartered Bank and Bank of China Group.

Banks in Hong Kong are particularly strong in the areas of trade financing and related activities, mortgage finance and in foreign exchange dealing. Deposits may be made in all of the major currencies in Hong Kong. However, foreign currency deposits are usually booked outside of Hong Kong in a branch or subsidiary overseas.

Hong Kong is also a focus for lending in the Asian region and is a major loan syndication centre. Loan finance tends to be restricted to companies with established operations in Asia or with significant banking relationships already in place. For a new company, lending relationships will depend on producing good quality collateral as security.

RMB Banking, Settlement and Financing

Hong Kong is the world's first and most important RMB offshore finance centre and has officially sanctioned and regulated the RMB money market. RMB is fully deliverable offshore and all major and commercial banks in Hong Kong provide RMB services for retail and commercial banking, including RMB deposits, remittances, trade financing, currency exchange contracts, bond issuance, debt origination, investment funds and insurance products.

Through the RMB Trade Settlement Scheme trade or service related payments can be made in RMB without any further remittance approval from Chinese authorities and settlement clearing within 24 hours. FX forward, option and future exchange contracts and interest rate and crosscurrency swaps are available to hedge against foreign exchange rate risks.

For Mainland capital financing needs RMB can be raised offshore and remitted directly into China FIE capital accounts to finance projects and operations.

Bank Account Opening

New bank accounts for both Hong Kong and offshore companies may be opened upon presentation of the correct documentation. Banks in Hong Kong operate on the "know your client" (KYC) principle and require disclosure of beneficial owners of a company. Information regarding the beneficial owner will be held in confidence. Under the Hong Kong Monetary Authority (HKMA) regulatory regime and guidelines, all banks in Hong Kong require the presence of the director(s) and/or beneficial owner(s) to attend a KYC interview with a bank officer to open a bank account.

There is increasingly tight legislation against money laundering activities and hence, banks are conducting more due diligence in opening an account. Signatories for bank accounts may be individuals who are local or resident overseas. Proof of identity of the signatory must be furnished. Thus, for an overseas signatory, a notarised copy of the passport will be required. Banks will generally adhere only to original written instructions on corporate accounts. Internet banking has improved in recent years and is now available with most major banks.

Hong Kong banks offer the normal range of accounts. Facilities such as letters of credit, import loans, etc. need to be negotiated on a case by case basis. For new companies, these are usually set up on the basis of back-to-back letters of credit or against cash collateral.

Normal banking hours in Hong Kong are from Mondays to Fridays - 9:00 a.m. to 5:00 p.m. - and Saturdays - 9:00 a.m. to 1:00 p.m. However, there are several bank holidays throughout the year and this is something to check when doing business with Hong Kong. Banks (and all other businesses) may shut down in event of a typhoon or heavy rainstorm. Zetland is able to open bank accounts for companies set up or maintained for clients and to operate them according to clients' instructions. Zetland has good relationships with many banks and can provide introductions to clients seeking such facilities. Please see Zetland's Guide to International Banking for further details.

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HONG KONG ON THE INTERNET

The following websites have additional information on Hong Kong:

Hong Kong General Chamber of Commerce
www.hkgcc.org.hk

South China Monring Post
www.scmp.com.hk

Hong Kong Government
www.info.gov.hk

Hong Kong Tourist Association
www.hkta.org

Trade Development Council
www.tdc.org.hk

Stock Exchange of Hong Kong
www.hkex.com.hk

Hong Kong Securities Institute
www.hksi.org

Securities and Futures Commission
www.hksfc.org.hk

Hong Kong Investment Funds Association
www.hkifa.org.hk



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Zetland Guides and Info Sheets available on request:

Asset Protection; Belize Companies & Trusts; Belize International Foundations; Doing Business in China; Foundations; Hong Kong Companies; Hong Kong Trusts; Hong Kong Visas; Offshore Operations; Seychelles; Mauritius; Singapore Business Structures; Singapore Residency; Trusts; Wills and Probate in Hong Kong; Offshore RMB and info sheet on Hong Kong company ongoing obligations.

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