

**Taxation of non-resident
entertainers and sportsmen
in Hong Kong**

**Hong Kong payer should complete Form I.R.623
and withhold money to meet tax payment**

Foreword

The Inland Revenue Ordinance (“the IRO”) provides that sums received or profits derived directly or indirectly (including the payment of taxes to the Government) from performance(s) in Hong Kong by an entertainer or sportsman, who is **not** a Hong Kong resident, are chargeable to Hong Kong Profits Tax. This leaflet explains the relevant legislation, the procedures for tax clearance and the legal obligations of the “**Hong Kong payer**”.

Who is an “Entertainer or Sportsman”?

“Entertainer or sportsman” is statutorily defined in the Ordinance. It means a person, other than a corporation, who gives performances (whether alone or with other persons) in his character as an entertainer or sportsman in any kind of entertainment or sport, including:

- activity in a live or recorded form; and
- activity which the public is or may be permitted to see or hear, whether for payment or not.

What income is chargeable to Hong Kong Profits Tax?

Sums received from performances in Hong Kong given by a non-resident entertainer or sportsman on or in connection with a commercial occasion or event are chargeable to Hong Kong Profits Tax. Such performance includes:

- any appearance of the entertainer or sportsman by way of or in connection with the promotion of any such occasion or event; and
- any participation by the entertainer or sportsman in or for sound recording, films, videos, radio, television or other similar transmissions (whether live or recorded).

How to calculate the tax payable

Profits Tax is charged on the gross amount received (plus the tax borne by the Hong Kong payer, if any) less deductible expenses. For deductible expenses, unless the taxpayer wishes to claim the actual expenses incurred and can produce relevant receipts to substantiate the claim, the Assessor will allow a deduction equal to one-third of the gross amount received (plus the tax borne by the Hong Kong payer, if any).

Example:

Company X, a Hong Kong company, negotiated with a non-resident entertainer and directly procured him/her to give performance in Hong Kong on 2 and 3 July Year R for a gross sum of \$300,000 in Hong Kong dollars (the non-resident entertainer's tax would not be borne by Company X). The tax payable is \$30,000, as computed below:

Gross amount payable	\$300,000
Less: deduction for expenses (1/3)	<u>\$100,000</u>
Assessable profits	<u>\$200,000</u>
Tax payable @ 15%	<u>\$30,000</u>

Note : The tax rate is for illustration purpose only.

A corporation is charged to Profits Tax at a higher rate. Hence, in the above example, if Company X did not make a contract with the entertainer directly but procured the performance through the entertainer's non-resident corporate agent, Profits Tax will be payable at the higher rate of 16.5%, as follows:

Assessable profits	<u>\$200,000</u>
Tax payable @ 16.5% corporation rate	<u>\$33,000</u>

Note : The tax rate is for illustration purpose only.

Legal obligations of the “Hong Kong payer”

The Ordinance provides that a non-resident entertainer or sportsman is chargeable to tax in the name of the person in Hong Kong who pays or credits the sums to that entertainer or sportsman or his/her agent. The Hong Kong person who made the payment became the “Hong Kong payer”. In the majority of situations, the payer would be the Hong Kong promoter or sponsor of the activity concerned. The Hong Kong payer is responsible for

- completing the tax return to report the gross amount payable to the recipient; if required; and
- settling the tax due.

In the above example, by operation of the law, Company X has become the Hong Kong payer. Hence this Department will issue to Company X a notice of assessment to demand tax. Recovery action for any tax in default will also be taken against Company X.

Procedures for tax clearance

- (1) The **Hong Kong payer** should complete Form IR623 in duplicate immediately when the non-resident entertainer or sportsman arrives in Hong Kong. The Form I.R. 623 may be obtained through the Fax-A-Form Service at 2598 6001, or downloaded under **“Public Forms and Pamphlets”** from this Department’s Web site at www.ird.gov.hk. The completed form may be sent to this Department by post at G.P.O. Box 132 Hong Kong or by fax at 2877 1232.
- (2) The **Hong Kong payer** should, out of the gross amount payable to the entertainer or sportsman or his/her agent, retain a percentage of the gross sum payable to ensure that there will be sufficient fund for tax payment. The percentage for the respective years of assessment is as follows –

	Year of assessment		
	2003/04	2004/05 to 2007/08#	2008/09 and onwards
If the performance is procured directly with the entertainer / sportsman	10.33%	10.67%	10%
If the performance is procured through a non-resident agent who is			
(a) an individual person or a partnership,	10.33%	10.67%	10%
(b) a corporate agent or a corporation.	11.67%	11.67%	11%

#75% of the 2007/08 profits tax is waived subject to a ceiling of \$25,000 per case.

- (3) Upon receipt of Form I.R. 623, this Department will issue to the **Hong Kong payer** a notice of assessment for the non-resident entertainer or sportsman or his/her agent.
- (4) The **Hong Kong payer** is responsible to settle the tax due out of the amount retained (as per paragraph 2 above).
- (5) If the assessment is considered excessive, the right to object against the assessment may be exercised by the Hong Kong payer or the non-resident entertainer/sportsman or his/her agent. However, there must be a written notice of objection lodged with this Department within one month after the date of issue of the assessment stating the grounds of objection clearly. Apart from this, the law also provides that an objection cannot be regarded as validly made unless the

Department has received a properly completed tax return. In the event that a tax return has not yet been issued/filed, the Hong Kong payer or the non-resident entertainer/sportsman or his/her agent should write to /call the Assessor concerned immediately for the issue of a tax return (or a duplicate). Pending the ultimate settlement of the objection, the Hong Kong payer may have to pay all the tax in the first instance.

Further information and assistance

Please call 2594 2680, and our officers will consider the practical aspects of your case and advise you further.

[The contents of this leaflet are for guidance only]

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