

**A guide to Salaries Tax
for people coming to
work in Hong Kong**

**HK or non-HK office
HK or non-HK employment
the days-in-days-out basis of
assessment**

Foreword

This leaflet provides general guidance to people coming to work in Hong Kong (HK) for the first time on how their income will be assessed to Salaries Tax.

Contents and descriptions are simplified to assist understanding of the subject.

It is not possible to cover every relevant aspect. For instance, this leaflet does not cover the special tax treatments for aircrews, seamen and certain government officials.

To know more about the tax rules, you may refer to the Inland Revenue Ordinance (“IRO”) (Cap. 112) and its subsidiary legislation.

The charge to Salaries Tax

Salaries Tax is payable by you for each year of assessment on income from an office or employment.

A year of assessment runs from 1 April to 31 March of the following year.

The amount of Salaries Tax payable by you depends on :

- ◆ the amount of income (including salaries, wages, commissions, tips, bonuses, allowances, perquisites, leave pay, terminal/retirement awards, contract gratuities and non-cash benefits such as the provision of a place of residence and the granting of stock-based awards);
- ◆ if you are a director, whether for tax purposes your directorship is a HK office or a non-HK office;
- ◆ if you are an employee, whether for tax purposes your employment is a HK employment or a non-HK employment;
- ◆ your tax allowances; and

- ◆ deductions for approved charitable donations, self-education expenses and home loan interests, etc.

Under the Taxpayer's Charter, you are only obliged to pay the correct amount of tax, no more and no less.

Tax treatment of HK & non-HK office

Directorship is regarded as an office. Generally speaking, if you hold a HK office, your earnings will be fully assessable.

Earnings from a non-HK directorship are exempt from Salaries Tax.

Omission of income has serious consequences. If you are uncertain whether your income is taxable or exempt, you should supply the Assessor with details.

Sometimes a taxpayer may have an office as well as an employment with the same company simultaneously. If you work in dual capacity, please state so in your tax return and provide details/documents to enable the Assessor to establish a correct basis of assessment, right from start.

Tax treatment of HK & non-HK employments

In broad terms, if you have a non-HK employment, the Assessor will assess your tax liability according to the days you spent in HK during each year of assessment. See answer to Question 3 in Common Q&A in this pamphlet. It describes how you should make an exemption claim and the information/evidence required.

In the great majority of cases, people coming to work in HK are engaged in "HK employments" rather than "non-HK employments". If you have a HK employment, all of your earnings have to be included in your assessable income.

If you have spent considerable time rendering services outside HK, you may seek complete/partial exemption from tax or claim for tax credit in your tax return on a year-by-year basis, in respect of each employment, on the following grounds –

- (a) you performed all services outside HK during that year of assessment;
- (b) you undertook a job outside HK, your work was controlled and supervised outside HK, and, your trips constituted “visits” to HK and during that year of assessment the aggregated periods of visits do not exceed 60 days;
- (c) you have paid tax (similar to Salaries Tax) to a territory outside Hong Kong in respect of income derived from services rendered by you in that territory (from the year of assessment 2018/19 onwards, this relief does not apply to income derived by a person from services rendered in a territory which has made a comprehensive double taxation agreement or arrangement with Hong Kong); or
- (d) given that you are a Hong Kong resident person, you may claim double taxation relief by way of tax credit in respect of the income derived from services rendered by you in a territory which has made a comprehensive double taxation agreement or arrangement with Hong Kong.

Other matters of concern

Making a trip to HK for the purpose of training, attending conference or reporting work progress will be regarded as rendering service in HK.

“Visit” means a short or temporary stay. In counting the number of days, both the day of arrival and the day of departure should be included. For instance, arrival at 11:59 p.m. on 30 March and departure at 11:00 a.m. on 31 March will be counted as a visit of 2 days.

The law provides for heavy penalties in respect of

- ◆ failure to notify chargeability to tax in time, i.e. you are liable to tax for a year of assessment and have not been issued with a tax return for that

year of assessment, but you failed to notify the chargeability to tax within 4 months after the end of the basis period for that year of assessment,

- ◆ failure to file a tax return,
- ◆ filing a tax return late, and/or
- ◆ filing an incorrect tax return.

Common questions and answers

Q.1 I was born in HK but had migrated to and worked in the United States.

My employer, an American company, has seconded me to work for its HK Branch as a full time sales representative in HK.

How would I be taxed?

A.1 As you are seconded to work full time in HK, you have a HK employment and will be taxed on your full income.

You should report the income in tax returns and pay tax as a local employee. There will not be any tax relief for you in respect of tax paid by reason of your nationality/residence/citizenship.

Q.2 I studied and worked in Australia previously.

A year ago, I was recruited to work as a trainee accountant for two years in the HK branch of an international public accountants firm.

Occasionally I am required to make short business trips to the Mainland.

How would I be assessed to Salaries Tax?

A.2 For the purpose of Salaries Tax, you would be regarded as having been recruited by a HK employer.

In short, you have a HK employment and you will pay tax on your full income.

Regarding the short business trips to the Mainland, the Assessor would consider partial exemption from tax if you have paid tax in the Mainland

and can produce PRC tax receipts for inspection. You have to give details on the basis of calculation of the PRC tax paid if this is not shown in the tax receipts.

With effect from the year of assessment 2018/19, you can only claim double taxation relief by way of tax credit, given that you are a person who is resident for tax purposes in Hong Kong (Hong Kong resident person).

Q.3 I was recruited by a multi-national company in Toronto many years ago.

Since May 2017, I was assigned to work for most part of the year in Asia and with regional responsibilities for SE Asia. To carry out my duties, I have to travel and work in five big cities in SE Asia, including HK.

How would I be taxed?

A.3 From what you said, you appear to have a non-HK employment and may qualify to be assessed on a days-in-days-out basis.

You will pay Salaries Tax and Provisional Salaries Tax.

In your tax return you are required to report your full annual income and then claim exemption.

If you receive remuneration from more than one place and/or from more than one company, you should take extra care to ensure that you have reported the full income for the year in your annual tax return.

The Assessor handling your claim will need to examine your claim closely, particularly when you are assessed to Salaries Tax in HK for the first time.

Details/evidence required to be furnished for this purpose usually include

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- ◆ full particulars of your employer, including name, place of incorporation, principal address of its headquarters and the nature of business;

- ◆ a copy of the relevant employment contract, plus a description stating where that contract was negotiated and entered into and is enforceable;
- ◆ details regarding your remuneration and also the place of payment of remuneration to you; and
- ◆ a travel schedule for that year of assessment, showing dates of arrival in and departure from HK and purpose of the trips.

As employment terms and conditions are diverse and may change in the course of time, the Assessor may need to understand the underlying country/industry/organizational practices. Details/evidence to be required from the employee may vary from case to case. Sometimes, the Assessor may also need to obtain information from the employer. For instance, to find out the span of control (i.e. who supervises and controls the activities of the employee), the Assessor may have to study the organization charts of the companies concerned.

Please note that in apportioning the employee's annual income on a days-in-days-out basis, the day of arrival and the day of departure will be counted as 1 day instead of 2 days, see below for illustration -

Arrival date	Departure date	No. of days in HK
1 May 2017	1 September 2017	123 (Y/A 2017/18)
1 January 2018	12 January 2018	11 (Y/A 2017/18)
1 March 2018	12 April 2018	42 (31 days in Y/A 2017/18 and 11 days in Y/A 2018/19)

$$\text{Full income (Y/A 2017/18)} \times \frac{165 \text{ days (123 + 11 + 31)}}{365 \text{ days}}$$

Any leave pay attributable to services rendered in HK should also be taxable. Leave days attributable to services rendered in HK is computed as follows -

$$\text{Total leave days} \times \frac{\text{Business days in HK}}{\text{Total business days}}$$

$$\text{Business days in HK} + \text{Business days outside HK} + \text{Leave days} = 365 \text{ or } 366$$

Q.4 I am the marketing manager of A Ltd., a company in Singapore.

I first came to HK to buy goods on 1 May 2017. Up to 31 March 2018, I have made 3 trips, as follows:

Arriving in HK	Departing from HK	Number of days visiting HK
1 May 2017	14 May 2017	14
1 Nov 2017	24 Nov 2017	24
1 Feb 2018	22 Feb 2018	22
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Do I have to pay Salaries Tax for the year of assessment 2017/18?

A.4 No, in the year of assessment 2017/18 your presence in HK amounted to just 60 days and you are exempt.

Should you have departed one day later, on 23 Feb 2018, you have to pay tax calculated on the days-in-days-out basis.

Q.5 I am employed as a researcher by a Chinese enterprise carrying on business in Beijing (for the period from 1 April 2017 to 31 March 2018).

For a research project, I have worked in HK, arriving on 1 May 2017 and departing on 1 Sept 2017.

Do I have to pay Salaries Tax in HK?

Can I get tax allowances for my spouse and child?

A.5 Yes. From what you said, you clearly have a non-HK employment. You were present for 124 days, but regarded as having rendered services in HK for 123 days. Your tax liability will be computed, according to the following formula :

$$\text{Full income (Y/A 2017/18)} \times \frac{123 \text{ days}}{365 \text{ days}}$$

If you have received any special allowances for the period of stay in HK, these allowances are fully taxable and no apportionment is allowed.

You can get married person's allowance and child allowance even if your spouse and child do not come with you to HK.

Further information and assistance

You may

- (a) visit our website : www.ird.gov.hk; or
- (b) telephone 187 8022.

(The contents of this leaflet are for guidance only)

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