



December 2012

Re: Canada – Hong Kong Tax Treaty

On November 11, 2012, Canada and Hong Kong signed a tax treaty, which will come into force in the taxation year following the calendar year of ratification. Assuming that ratification will occur in 2013, then, the treaty will take effect as follows:

- For Canadian individuals – for January 1, 2014 and thereafter
- For Canadian corporations – for fiscal years beginning on or after January 1, 2014
- For non-residents of Canada subject to Canadian withholding tax – for amounts paid or credited on or after January 1, 2014

Some key provisions of the new treaty are as follows:

- Canadian withholding tax rate on dividends will be reduced from the existing 25% to:
 - 5% for dividends paid to a Hong Kong company that controls directly or indirectly at least 10% of the voting shares of the Canadian payor company
 - 15% in all other cases
- Canadian withholding tax rate on interest paid to related parties will be reduced from the existing 25% to 10% (arm's-length interest is already exempt)
- Capital gain from the disposition of Canadian property is not taxable in Canada, except in the following situations:
 - Sale of Canadian immovable property (real estate)
 - Sale of shares in a Canadian company that derives more than 50% of its value directly or indirectly from Canadian immovable property
 - Sale of Canadian movable property forming part of the business property used in a permanent establishment in Canada
- Active business income earned in Hong Kong by a foreign affiliate of a Canadian corporation can be included in the foreign affiliate's "exempt surplus" – dividends paid out of exempt surplus will not be subject to further taxation in Canada. It is anticipated that when the treaty is ratified, the exempt surplus can be computed with retroactive application to the foreign affiliate's taxation year that includes the November 11, 2012 signing date.
- There is an agreement for the exchange of information between the two jurisdictions. The provision does not require an automatic or spontaneous exchange and information shall not be disclosed to a third jurisdiction. In addition, each side may request information only for taxable periods for which the agreement has effect.

Please feel free to contact us to review this matter in greater detail. Thank you for your kind attention.

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