

# HONG KONG TAX NEWS

## Issue No. 4 – May 2010

### **Hong Kong signed a comprehensive double taxation agreement (“CDTA”) with Austria which has incorporated the latest OECD standard on exchange of information on 25 May 2010**

In the absence of a CDTA, profits of Hong Kong trading companies doing business through a permanent establishment (“PE”) in Austria may be taxed in both places if the income is Hong Kong sourced. Under the HK-Austria CDTA, double taxation is avoided in that any Austria tax paid by the Hong Kong companies shall be allowed as a deduction from the tax payable in Hong Kong. In addition, Hong Kong airlines operating flights to Austria will only be taxed in Hong Kong (Hong Kong corporation tax rate of 16.5% is much lower than that of Austria of 25%). Profits from international shipping transport earned by Hong Kong residents that arise in Austria, which are currently subject to tax in Austria, will enjoy tax exemption under the CDTA.

In the absence of the CDTA, Hong Kong residents receiving dividends and royalties from Austria which are not attributable to a PE in Austria are subject to withholding tax at 25% and 20% respectively. Under the HK-Austria CDTA, the withholding tax on dividends and royalties will be reduced as follows:

	<u><i>Dividend</i></u>	<u><i>Royalties</i></u>	<u><i>Interest</i></u>
<b><i>HK non treaty rate</i></b>	0%	4.5% / 4.95% (1)	0%
<b><i>HK-Austria CDTA</i></b>			
Austria non-treaty rate	25%	20%	0% (2)
Treaty rate	0% / 10% (3)	3%	0%

- (1) 4.5% if received by an unincorporated business; 4.95% if received by a corporation.
- (2) Generally speaking, Austria does not impose withholding tax on payment of interest to non-residents. However, the non-resident recipient will be subject to corporate income tax (currently at 25%) if the underlying loan is secured by Austrian real estate or, if the recipient has a PE in Austria and the loan capital is attributable to such PE.
- (3) Dividend income received by a non resident is exempted from withholding tax if the recipient is a company (other than a partnership) holding directly at least 10% of the capital of the company paying dividends. The withholding tax rate is reduced to 10% for other cases.

This is the 11<sup>th</sup> CDTA entered into by Hong Kong. The HK-Austria CDTA will come into force after the completion of ratification procedures in Hong Kong and Austria.

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