

Hong Kong proposes tax incentives for aircraft leasing business

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Hong Kong announced in the 2017 Policy Address that tax concessions will be offered to attract companies to domicile their aircraft leasing business in Hong Kong. Following the announcement, a briefing paper was presented to the Legislative Council outlining a proposed dedicated tax regime to implement the tax concessions.

To attract aircraft leasing businesses to locate in Hong Kong, the Government has proposed the following provisions:

- (a) Qualifying aircraft lessors and qualifying aircraft leasing managers will be taxed at 8.25% (i.e., 50% of the current profits tax rate of 16.5%) on their qualifying profits derived from leasing of aircraft to non-Hong Kong aircraft operators.
- (b) Offshore aircraft leasing will result in an effective tax rate of 1.65% as the deemed taxable amount at 20% on the net rentals or operating profits (excluding tax depreciation) (i.e., 20% x 8.25%).

The tax regime will be subject to anti-abuse provisions comprising the following features:

- (i) Ensuring that the half-rate concession will apply if the corresponding payments (presumably rentals paid by non-Hong Kong aircraft operators) are not fully tax-deductible in Hong Kong.
- (ii) Specifying that qualifying aircraft lessors and qualifying aircraft leasing managers are standalone corporate entities so as to prohibit loss shifting.

- (iii) Confirming that business transactions with associated parties are conducted on an arm's length basis.
- (iv) Ascertaining the lessors have commercial substance in Hong Kong.

The proposal will be effected through amendments to the Inland Revenue Ordinance and the relevant legislative bill will be submitted before the Legislative Council in April this year.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Tax Services Limited, Hong Kong

- | | | |
|--|----------------|-------------------------|
| ▶ Tracy Ho | +852 2846 9065 | tracy.ho@hk.ey.com |
| ▶ Florence Chan, <i>Financial Services</i> | +852 2849 9228 | florence.chan@hk.ey.com |

Ernst & Young LLP, Hong Kong Tax Desk, New York

- | | | |
|------------------|-----------------|------------------------|
| ▶ Charlotte Wong | +1 212 773 7590 | charlotte.wong1@ey.com |
|------------------|-----------------|------------------------|

Ernst & Young LLP, Asia Pacific Business Group, New York

- | | | |
|------------------|-----------------|-----------------------|
| ▶ Chris Finnerty | +1 212 773 7479 | chris.finnerty@ey.com |
| ▶ Kaz Parsch | +1 212 773 7201 | kazuyo.parsch@ey.com |
| ▶ Bee-Khun Yap | +1 212 773 1816 | bee-khun.yap@ey.com |

Ernst & Young LLP, Asia Pacific Business Group, Houston

- | | | |
|----------------|-----------------|---------------------|
| ▶ Trang Martin | +1 713 751 5775 | trang.martin@ey.com |
|----------------|-----------------|---------------------|

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