



Certified Tax Adviser (CTA) Qualifying Examination

Paper 2 - Hong Kong Tax

Objective of the Paper

To develop candidates' understanding of the current law relating to taxation under the Inland Revenue Ordinance and the Stamp Duty Ordinance of the Hong Kong SAR and their ability to interpret and apply the taxation statutes to practical situations in relation to corporations, partnerships and individuals.

After successfully completing this examination, candidates should be able to:

- demonstrate a thorough understanding of the practical aspects of the Hong Kong SAR taxation system
- apply the tax principles, decided cases and legislations to the Hong Kong taxation system and have an appreciation of the interaction of the various taxes
- prepare tax computations on property tax, salaries tax, profits tax, personal assessment and stamp duty.

(Note: Only background knowledge of tax planning is expected in this paper. The ability to analyse the taxation issues of a given situation and to offer tax planning solutions will be examined in Paper 5 "Advanced Taxation Practice".)

New Legislation

The Institute will not set questions requiring detailed knowledge of new legislation until **at least six calendar months** after the last day of the month on which the legislation is gazetted upon approval by the Legislative Council. However, candidates taking the examination should be prepared to answer questions requiring knowledge of the principal aspects of that legislation at examinations held within that six-month period.

Structure of the Paper

The paper is a three-hour closed book examination to be based on the Inland Revenue Ordinance and the Stamp Duty Ordinance of the Hong Kong SAR, and the relevant case law in the Hong Kong SAR, the United Kingdom and other existing and former Commonwealth countries. Questions will not be set on legislative changes which relate to amendments made to the two ordinances and tax cases that are decided within six months before an examination.

Format of the Paper

The examination paper consists of two sections:

Section A

This section scores 36% of the overall marks of the paper and consists of one compulsory question on a common practical situation that requires a CTA to apply the knowledge in Hong Kong tax.

Section B

This section scores 64% of the overall marks of the paper. Five questions will be set and candidates are required to answer any four questions in this section. These questions are on either stamp duty, profits tax (including depreciation allowances and Hong Kong tax implications of overseas activities of Hong Kong companies/individuals and activities of non-Hong Kong companies/individuals in Hong Kong), salaries tax, property tax, personal assessment, tax administration, or anti-avoidance and tax planning.

Syllabus for the Paper

The syllabus covers the four main sources of taxation in Hong Kong SAR which are:

- Property Tax
- Salaries Tax
- Profits Tax (including Special Classes of Business)
- Stamp Duty

(Note: Questions on tax planning schemes and practices will not be set in this paper. These aspects will be covered in Paper 5 “Advanced Taxation Practice”.)

In addition to a thorough knowledge of the four sources listed above, candidates are expected to have thorough knowledge of the following areas:

- the administration of the Hong Kong taxation system
- computation of tax under personal assessment
- tax avoidance, tax evasion and anti-avoidance provisions.

Candidates are also required to have basic knowledge of the following areas:

- Hong Kong tax implications of overseas activities of Hong Kong companies/individuals and activities of non-Hong Kong companies/individuals in Hong Kong
- tax planning possible within the Hong Kong tax legislations, the current practice and the role of tax practitioners in field audit and investigation.

The four sources of taxation together with the areas listed above form the core of the syllabus for this paper. Candidates should note that there are overlaps among the various taxes and areas within the syllabus and they should be prepared for tackling questions encompassing the implications of several sources of taxation. For each topic area in the syllabus, candidates should have knowledge of both relevant statutory provisions and case law as appropriate, except those topics about which candidates are expected to have basic knowledge.

The Hong Kong Taxation System and Tax Administration under the Inland Revenue Ordinance

Candidates should demonstrate knowledge of the administration of the Hong Kong taxation system including assessment, collection, appeal procedures and penalties in respect of all sources of taxes under the Inland Revenue Ordinance.

Areas of study include:

- basic structure of the Hong Kong taxation system
- sources of Hong Kong tax law, including statutes, case law, Board of Review decisions, departmental interpretation and practice notes
- basic structure, powers and functions of the Inland Revenue Department, Board of Inland Revenue and Board of Review

- powers of the assessor to obtain returns
- powers of officers of the Inland Revenue Department to obtain information:
 - assessor
 - inspector
 - Assistant Commissioner of Inland Revenue
 - Deputy Commissioner of Inland Revenue
 - Commissioner of Inland Revenue
- rights and obligations of a taxpayer of property tax, salaries tax or profits tax, and those of an employer
- powers and limitations of an assessor in raising an assessment
- persons responsible for compliance with the Inland Revenue Ordinance
- notices issued by the Inland Revenue Department and how they should be served
- requirements and procedures for lodging a valid objection by a taxpayer
- procedures at the Inland Revenue Department upon receipt of a valid objection
- requirements of a valid appeal to the Board of Review against the Commissioner of Inland Revenue's determination
- how the Board of Review hears and disposes of an appeal
- procedures for lodging an appeal to the:
 - Court of First Instance
 - Court of Appeal
 - Court of Final Appeal
- powers of the Inland Revenue Department in respect of the demand of payment of tax under objection or appeal
- right of a taxpayer to make a claim against an error or omission
- powers of the Inland Revenue Department in the recovery of tax
- procedures for claiming repayment of tax
- procedures for and requirements of application for holdover of payment of provisional taxes
- penalties to be imposed and actions that can be taken by the Inland Revenue Department in respect of an offence committed by the taxpayer
- procedures for raising an assessment to additional tax under section 82A
- requirements of a valid appeal against the assessment to additional tax under section 82A.
- Advance Ruling and its application.

Property Tax

Candidates are expected to have thorough understanding of all aspects of property tax in Hong Kong, in particular the computation of property tax liabilities of owners of land/buildings situated in Hong Kong. Questions set on property tax, if any, may involve the interaction of property income with other sources of income.

Areas of study include:

- persons and properties chargeable to property tax
- computation of the assessable value and net assessable value
- treatment of the irrecoverable consideration and lump sum payment
- computation of the amount of property tax and provisional property tax
- requirements and conditions for holdover of payment of provisional property tax
- circumstances where income from letting of property is subject to property tax or profits tax
- conditions for exemption of property tax for corporations and set-off of property tax against profits tax
- statutory requirements of retention of rent records
- property owners' obligations and responsibilities
- comparison of the Hong Kong tax implications between property tax and profits tax on rental income.

Salaries Tax

Candidates are expected to have thorough understanding of different aspects of salaries tax in Hong Kong, particularly the computation of salaries tax liabilities of individuals. Questions on this topic may involve arrangements relating to the source of employment or remuneration package, and the interaction of employment income with other sources of income. Detailed explanations of the tax principles and treatments, with references being made to decided tax cases, statutory provisions in the Inland Revenue Ordinance and practices of the Inland Revenue Department, etc, are expected.

Areas of study include:

- factors to be considered in determining the locality of income of:
 - employment
 - office
 - pension
- distinction between employment and profession and the Hong Kong tax implications on income from employment and income from profession
- differences between the treatment of:
 - Hong Kong office and non-Hong Kong office
 - Hong Kong employment and non-Hong Kong employment
- tax treatment of income of Hong Kong employment where foreign tax has been paid (with and without treaty arrangement)
- tax treatment of the income received by aircrew and seamen
- different types of income exempted from salaries tax
- basis period
- accrual of income and determination of the date of accrual for different kinds of income
- procedures for and treatment of relating back lump sum receipts
- different kinds of income to be included as income from employment or office
- computation of taxable benefits, including:
 - accommodation benefit
 - holiday warrant share options
 - education expenses of a child of an employee
 - benefits-in-kind
- computation of assessable income, net assessable income and net chargeable income
- conditions for deduction of expenses from assessable income
- conditions for deduction of concessionary deductions
- conditions for the deduction of personal allowances
- computation of the amount of salaries tax and provisional salaries tax
- requirements and conditions for holdover of payment of provisional salaries tax
- meaning of “husband”, “wife” and “husband and wife living apart”
- tax treatments of a husband and wife under separate taxation and under joint assessment
- procedures and time limit for the election of joint assessment
- tax treatment of a husband and wife in the year of marriage, separation, divorce and death
- double taxation relief
- services companies and application of section 9A
- distinction between employment and office and the Hong Kong tax implications on income from employment income and income from office.

Profits Tax

Profits tax is a key area of the syllabus. This key area will be examined in the form of one compulsory question in section A and optional questions in section B. Candidates are expected to have a thorough understanding of various aspects of profits tax in Hong Kong for businesses of an individual, partnership and corporation, including depreciation allowances for machinery or plant, buildings and structures. Candidates must be able to prepare profits tax computations and determine the basis periods upon cessation of business and change of accounting dates. Detailed

explanations of the tax principles and treatments are expected with reference to decided tax cases, statutory provisions in the Inland Revenue Ordinance and practices of the Inland Revenue Department, etc. Candidates are also expected to have knowledge of tax computations and applications of tax provisions relevant to special classes of business in Hong Kong. However, special business will not be set as the compulsory question.

Areas of study include:

- two-tier profits tax rates regime
- meaning of persons, trade and business
- badges of trade
- meaning of profits arising in or derived from Hong Kong and factors to be considered in determining the source of profit
- proper format of presentation in relation to the computation of assessable profits
- when income from business should be assessed
- capital and revenue receipts and capital and revenue expenditure
- different kinds of deemed trading receipts chargeable to profits tax
- different kinds of income to be excluded from profits tax
- general conditions for the deduction of various types of expenses under profits tax
- conditions for the deduction of specific expenses under profits tax, including:
 - special contributions to recognised occupational retirement schemes
 - expenditure on scientific research
 - expenditure on refurbishment of building
 - expenditure on prescribed fixed assets
 - expenditure on environmental protection facilities
 - technical education payment
 - purchase costs of patent and know-how
 - purchase costs of intellectual property rights
- various types of non-deductible expenditure under profits tax
- different acceptable methods of the valuation of stock
- the principle of *Sharkey v. Wernher*, and taxability of unrealized profits
- basis periods for different circumstances
- computation of the amount of profits tax and provisional profits tax
- requirements and conditions for holdover of payment of provisional profits tax
- treatment of losses for different kinds of businesses
- meaning of partnership and illegal partnership
- computation of the profit/loss shared by each partner of a partnership business
- persons who are liable to pay tax under partnership
- treatment of share of profit/loss where there is a change in a partnership
- treatment of losses of a partnership
- profits tax liabilities of non-residents
- exemption of non-residents from profits tax
- special classes of business: insurance business, shipping business, clubs and trade associations, financial institutions, aircraft business
- anti-avoidance provisions relevant to profits tax
- double taxation relief
- determination of commencement of business and cessation of business
- taxation of unrealised profits and the implications of accounting standards on taxation
- treatment of depreciation allowances in computation of profits tax
- exemptions, reliefs and concessionary treatments under profits tax
- tax implications for alternative bond schemes.

Depreciation Allowances

Candidates are required to have thorough knowledge of the computation of different types of

depreciation allowances.

Areas of study include:

- meaning of plant and machinery
- examples of plant and machinery
- persons who are entitled to claim depreciation allowances on plant and machinery
- qualifying expenditure for depreciation allowances on plant and machinery
- computation of depreciation allowances under the pooling system and the non-pooling system
- meaning of industrial/commercial building
- persons who are entitled to claim industrial/commercial building allowance
- qualifying expenditure for industrial/commercial building allowance
- computation of industrial/commercial building allowance.

Personal Assessment

Candidates are expected to have thorough understanding of the various aspects of personal assessment in Hong Kong.

Areas of study include:

- persons who are eligible to elect for personal assessment
- requirements and conditions for electing personal assessment
- ascertainment of total income under personal assessment
- deductions and allowances under personal assessment
- treatment of losses
- computation of the tax payable under personal assessment in respect of:
 - an individual
 - husband and wife

Stamp Duty

Candidates are expected to have thorough knowledge of the application of tax principles, decided cases and statutory provisions relevant to stamp duty in Hong Kong.

Areas of study include:

- basic scope of charge
- principles of assessment
- reliefs and exemptions, including relief for alternative bond schemes
- administration including adjudication, assessment, appeal, late filing, penalty, etc.

Overseas Activities, Tax Planning and Anti-avoidance

Candidates are expected to have basic knowledge of anti-avoidance provisions in the Inland Revenue Ordinance and Stamp Duty Ordinance, case law principles, and general understanding and knowledge of tax planning for all the sources of tax, including stamp duty, covered by the syllabus. Knowledge of how double taxation relief operates is also expected although in-depth knowledge of double taxation agreements (except the Arrangement signed between the HKSAR and Mainland China) is not required.

Areas of study include:

- Hong Kong tax liability of different types of activities carried out overseas by a Hong Kong company or individual
- licensing and franchising
- transfer pricing (latest regulatory framework and documentation requirements) and advance pricing agreement
- tax efficiency, tax avoidance and tax evasion

- field audit
- back duty investigation
- methods of quantifying understatement of income
- anti-avoidance provisions.

Reference Books

1. **Hong Kong Taxation: Law & Practice (latest edition)**
Author: Ayesha Macpherson Lau; Justin Pearce
Publisher: The Chinese University Press
2. **Advanced Taxation in Hong Kong (latest edition)**
Author: Dora Lee
Publisher: Pearson Education
3. **Inland Revenue Ordinance (Chapter 112) and Inland Revenue Rules**
Website: www.legislation.gov.hk
4. **Stamp Duty Ordinance (Chapter 117)**
Website: www.legislation.gov.hk
5. **Departmental Interpretation and Practice Notes**
issued by Inland Revenue Department/Stamp Office
Website: www.ird.gov.hk

Supplementary Reading

1. **Hong Kong Master Tax Guide (latest edition)**
Author: PricewaterhouseCoopers
Publisher: Wolters & Kluwer (HK)
2. **Hong Kong Tax Law: Cases and Materials (latest edition)**
Author: Andrew Halkyard; Jefferson P Vanderwolk; Wilson WS Chow
Publisher: LexisNexis Hong Kong
3. **Hong Kong Taxation and Tax Planning (latest edition)**
Author: Patrick Kin-Wai Ho
Publisher: Pilot Publishing Ltd
4. **Hong Kong Board of Review Decisions**
Publisher: Hong Kong Government Printer
Website: www.info.gov.hk/bor/eng/decision.htm
5. **Hong Kong Tax Cases**
Publisher: Hong Kong Government Printer
Website: legalref.judiciary.gov.hk

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