

Hong Kong Taxation

Chartered Governance Qualifying Programme

Syllabus

The Hong Kong Chartered Governance Institute

Chartered Governance Qualifying Programme

Hong Kong Taxation

Part Two Programme

Total study time: 200 hours

Introduction

The aim of this module is to develop your understanding of the current law relating to Hong Kong taxation and its practical application to companies, partnerships and individuals.

Learning outcomes

After successful completion of this module you should be able to:

1. Demonstrate an understanding of the tax system and administration in Hong Kong.
2. Apply the law, principles and practices in determining the income tax liabilities for corporations, partnerships and individuals in Hong Kong on various situations and courses of actions.
3. Apply the law, principles and practices in determining the applicable stamp duty in Hong Kong; formulate and evaluate basic stamp duty planning ideas and strategies to enhance stamp duty efficiency.
4. Apply and communicate tax knowledge and practice to form sound judgments for business operation and investment decisions; formulate and evaluate basic tax planning ideas and strategies to enhance tax efficiency.
5. Identify the tax implications on cross-border activities and demonstrate an understanding of the application of double taxation arrangements/agreements and related law, principles and practices in ascertaining the tax implications.

Module content

Section A: The general concept of Hong Kong taxation system	
<i>10% - 20 learning hours</i>	
LO.1: Demonstrate an understanding of the tax system and administration in Hong Kong	
Topic area	Learning areas
The Hong Kong taxation system	<ul style="list-style-type: none"> • Describe the key features of Hong Kong’s tax system: <ul style="list-style-type: none"> • describe the Hong Kong’s tax system • explain the territorial source principle • describe the roles of the taxpayer, tax advisor and the Inland Revenue Department (IRD) • Types of tax: <ul style="list-style-type: none"> • describe the various types of taxes levied under the Inland Revenue Ordinance (IRO) and Stamp Duty Ordinance (SDO) • Administrative bodies: <ul style="list-style-type: none"> • structure and procedures of the IRD: <ul style="list-style-type: none"> - describe the structure of the IRD - explain the procedures adopted by the IRD • Board of Review: <ul style="list-style-type: none"> - describe the role and formation of the Board of Review • Board of Inland Revenue: <ul style="list-style-type: none"> - describe the role and formation of the Board of Inland Revenue - describe the Inland Revenue Rules • Issue of tax returns and assessments: <ul style="list-style-type: none"> • returns, offences and penalties: <ul style="list-style-type: none"> - authority of IRD officers to require the furnishing of returns, statements and information - authority of IRD officers to seize books, records and documents by way of search warrant - obligations of a taxpayer in relation to business and rental records - obligations and rights of an employer under the IRO - key compliance and disclosure aspects in relation to profits tax, salaries tax and property tax - tax offences and the related penalty provisions under the IRO • assessments, additional assessments and provisional tax demand note: <ul style="list-style-type: none"> - provisions under the IRO in relation to tax assessments/provisional tax demand notes • Payment and recovery, hold-over and refund of taxes: <ul style="list-style-type: none"> • provisions under the IRO in respect of payment of tax • provisions under the IRO in relation to recovery, hold-over and refund of taxes

Topic area	Learning areas
<p>The Hong Kong taxation system (cont.)</p>	<ul style="list-style-type: none"> • Objections and appeals: <ul style="list-style-type: none"> • objection and appeal procedures under the IRO • explain and apply DIPN 6 (Revised) • Duties and authorities of officers of the IRD; official secrecy: <ul style="list-style-type: none"> • explain the duties and authorities of IRD officers • explain the secrecy provisions under section 4 of the IRO • Duties and liabilities of a taxpayer or his agent or an executor: <ul style="list-style-type: none"> • explain the duties and liabilities of a taxpayer, his agent or an executor under the IRO and the SDO • Sources of Hong Kong tax law – statute, case law, Board of Review decisions: <ul style="list-style-type: none"> • describe various sources of tax law • describe the doctrine of precedent in the context of taxation law • Interpretation of tax statutes: <ul style="list-style-type: none"> • explain the rules of interpretation of tax law and their applications • explain the purposive interpretation and the significance of the Ramsay principle • The Basic Law: <ul style="list-style-type: none"> • explain tax relations between Mainland China and Hong Kong SAR • describe the major articles of the Basic Law regarding taxation • Explain and apply Departmental Interpretation and Practice Notes (DIPN) 29

Section B: The taxation of limited companies, partnerships and individuals under profits tax	
<i>30% - 60 learning hours</i>	
LO.2: Apply the law, principles and practices in determining the income tax liabilities for corporations, partnerships and individuals in Hong Kong on various situations and courses of actions	
Topic area	Learning areas
The taxation of limited companies, partnerships and individuals under profits tax	<ul style="list-style-type: none"> • Charging scope of profits tax: <ul style="list-style-type: none"> • describe the charging scope of profits tax • identify the specific rules applicable to special classes of corporate entities including financial institutions, insurance companies, ship owners, aircraft owners, clubs and associations • identify the relevant issues in respect of residents and non-residents: <ul style="list-style-type: none"> - compare and contrast the tax treatment for residents and non-residents - explain the methods used by the IRD in assessing a non-resident person's Hong Kong profits tax liability - define and explain the meaning of an agent of a non-resident person - ascertain the withholding tax liability of a Hong Kong resident in respect of payments made to non-residents - explain and apply DIPNs 17 (Revised) and 30 (Revised) • Badges of trade: <ul style="list-style-type: none"> • explain the conditions for determining whether a person carries on a trade in Hong Kong • apply the badges of trade with reference to recent Board of Review decisions and court cases • Source of business profits: <ul style="list-style-type: none"> • describe and explain the rules governing the source of various types of profits • describe and explain the latest developments in tax cases on source issues • explain and apply DIPN 21 (Revised), 13, 39 and 49 • Deemed trading receipts: <ul style="list-style-type: none"> • explain the rules governing the taxation of deemed trading receipts under sections 15 and 15A of the IRO • explain and apply DIPN 22 (Revised) and 49 • General deductions and specific deductions: <ul style="list-style-type: none"> • explain the rules governing deductible and non-deductible profits tax deductions under the IRO • explain and apply DIPN 3 (Revised), 5 (Revised), 13 (Revised), 13A, 24 (Revised), 28, 33 (Revised), 40, 42, 49, 52 and 55 • Distinction between capital and revenue items: <ul style="list-style-type: none"> • distinguish between the capital and revenue items, and the related tax impact • Computation and treatment of losses: <ul style="list-style-type: none"> • explain the treatment of losses and their computation • explain and apply DIPN 8 (Revised)

Topic area	Learning areas
<p>The taxation of limited companies, partnerships and individuals under profits tax (cont.)</p>	<ul style="list-style-type: none"> • Basis period, business commencement and cessation: <ul style="list-style-type: none"> • explain and apply the rules for ascertaining a basis period • explain the rules for ascertaining business commencement and cessation and the related issues • Stock valuation and change of intention: <ul style="list-style-type: none"> • explain and apply the rules for stock valuation • explain and apply the rules governing change of intention on holding trading stock and long-term investment assets • explain and apply DIPN 1 (Revised) • Corporate treasury activity: <ul style="list-style-type: none"> • explain the profits tax concession to qualifying corporate treasury centres • explain the rules governing the deduction of interest payments on money borrowed by a corporation carrying on in Hong Kong an intra-group financing business • explain and apply DIPN 52 • Ascertainment of profits tax liability: <ul style="list-style-type: none"> • identify assessable and non-assessable profits from a trade, profession and business • ascertain the basis period for computing assessable profits for the years in which the business commenced, ceased or there is a change in accounting date • prepare profits tax computations • recognise the relevance of accounting policies in the context of tax computations • explain and apply DIPN 1 (Revised), 20 (Revised), 34 (Revised), 40 (Revised), 42 and 43 • Partnerships and allocation of profit/loss: <ul style="list-style-type: none"> • describe and apply the tax rules in relation to partnerships and joint ventures • apply the rules relating to partnerships and joint ventures in evaluating the choice of entity for business purposes and the tax reporting requirements • Depreciation allowances: plant and machinery: <ul style="list-style-type: none"> • explain the rules in relation to depreciation allowances for plant and machinery • compute the depreciation allowances for plant and machinery • explain and apply DIPN 7 (Revised) • Depreciation allowances: industrial buildings and commercial buildings: <ul style="list-style-type: none"> • explain the rules in relation to depreciation allowances for industrial buildings and commercial buildings • compute the depreciation allowances for industrial and commercial buildings • explain and apply DIPN 2 (Revised)

Section C: The taxation of individuals' income under salaries tax	
<i>20% - 40 learning hours</i>	
LO.2: Apply the law, principles and practices in determining the income tax liabilities for corporations, partnerships and individuals in Hong Kong on various situations and courses of actions	
Topic area	Learning areas
The taxation of individuals' income under salaries tax	<ul style="list-style-type: none"> • Charging scope of salaries tax: <ul style="list-style-type: none"> • describe the charging scope of salaries tax • discuss various exemption provisions under salaries tax • describe the rules for ascertaining the source of income from an office, employment and pension • compute the assessable income from an office, employment and pension • explain and apply DIPN 10 (Revised) • expenses and deductions • explain the rules in relation to the deduction of expenses and depreciation allowance allowable under salaries tax • explain the rules in respect of the concessionary deductions • explain and apply DIPN 9 (Revised), 23 (Revised), 35 (Revised), 36, 37 (Revised), 56 and 57 • Time basis assessment: <ul style="list-style-type: none"> • describe the circumstances under which time apportionment is applicable and compute the assessable income with time basis apportionment • explain and apply DIPN 10 (Revised) • Personal allowances: <ul style="list-style-type: none"> • describe the provisions under the IRO which govern the claims for various personal allowances • explain and apply DIPN 18 (Revised) • Benefits in kind, housing benefit, share-based benefits: <ul style="list-style-type: none"> • identify and explain the taxation of benefits in kind and housing benefit • explain the rules in relation to the taxation of employee share-based benefits • explain the rules in relation to the taxation of holiday journey benefits • explain and apply DIPN 16 (Revised), 38 (Revised) and 41 • Treatment of lump sum receipts and losses: <ul style="list-style-type: none"> • explain the taxation of lump sum receipts • explain the taxation of retirement scheme benefits • explain the treatment of losses • explain and apply DIPN 23 (Revised) • Separate taxation of spouses and joint assessment: <ul style="list-style-type: none"> • identify and explain the issues relating to the joint assessment of husband and wife • explain and apply DIPN 18 (Revised)

Topic area	Learning areas
The taxation of individuals' income under salaries tax (<i>cont.</i>)	<ul style="list-style-type: none"> • Ascertainment of salaries tax liability: <ul style="list-style-type: none"> • ascertain net assessable income • ascertain net chargeable income • ascertain allowable outgoings and expenses, deductions and allowances • compute salaries tax payable including provisional salaries tax under separate or joint assessment

Section D: The taxation of income from property under property tax

10% - 20 learning hours

LO.2: Apply the law, principles and practices in determining the income tax liabilities for corporations, partnerships and individuals in Hong Kong on various situations and courses of actions

Topic area	Learning areas
The taxation of income from property under property tax	<ul style="list-style-type: none"> • Charging scope of property tax: <ul style="list-style-type: none"> • describe the charging scope of the property tax • evaluate whether property letting constitutes a business • describe the relief and exemptions available under property tax • explain and apply DIPN 14 (Revised) • Chargeable property and owners of land and/or buildings: <ul style="list-style-type: none"> • describe and explain the definition of an owner of a property under the IRO • describe the obligations of property owners under the IRO • explain and apply DIPN 14 (Revised) • Ascertainment of assessable value and property tax liability: <ul style="list-style-type: none"> • ascertain the assessable value of a property • describe and explain allowable deductions under property tax • compute net assessable value and property tax payable • explain and apply DIPN 4 (Revised) and 14 (Revised)

<p>Section E: Election for personal assessment</p> <p style="text-align: right;"><i>5% - 10 learning hours</i></p> <p>LO.2: Apply the law, principles and practices in determining the income tax liabilities for corporations, partnerships and individuals in Hong Kong on various situations and courses of actions</p>	
Topic area	Learning areas
Election for personal assessment	<ul style="list-style-type: none"> • Election for personal assessment: <ul style="list-style-type: none"> • identify the issues, including eligibility and application procedures, relating to personal assessment election • demonstrate how a taxpayer can benefit from a personal assessment election • explain and apply DIPN 18 (Revised) • Computation of total income and tax payable under personal assessment

<p>Section F: The relevance of the three separate income taxes to management decision-making and corporate planning</p> <p style="text-align: right;">10% - 20 learning hours</p> <p>LO.4: Apply and communicate tax knowledge and practice to form sound judgments for business operation and investment decisions; formulate and evaluate basic tax planning ideas and strategies to enhance tax efficiency</p>	
Topic area	Learning areas
<p>The relevance of the three separate income taxes to management decision-making and corporate planning including basic principles of the following:</p>	<ul style="list-style-type: none"> • Anti-avoidance provisions in the Inland Revenue Ordinance: <ul style="list-style-type: none"> • explain the general and specific anti-avoidance provisions (including transfer pricing provisions) under the IRO • discuss the application of the general and specific anti-avoidance provisions under the IRO • discuss the tax implications and development of the tax avoidance cases • explain tax issues in relation to deemed employment under service company Type I arrangements and profits tax – service company Type II arrangements • explain and apply DIPN 15 (Revised), 24 and 25 (Revised) • Ramsay principle: <ul style="list-style-type: none"> • explain the Ramsay principle • discuss the application of the Ramsay principle • explain and apply DIPN 15 (Revised) • Offences and penalties: <ul style="list-style-type: none"> • discuss the exposure to penalty in relation to tax planning • explain and apply DIPN 15 (Revised) • Advance rulings: <ul style="list-style-type: none"> • describe the advance ruling system • explain and apply DIPN 31 (Revised) • Hong Kong tax planning: <ul style="list-style-type: none"> • identify issues in tax planning opportunities for individuals, partnerships, unincorporated businesses and corporations and group restructuring • identify and explain tax-efficient ways to structure remuneration packages for employees and employment arrangements • identify and explain tax planning opportunities for individuals • identify and explain strategies to minimise or defer the tax liability of a group of companies • evaluate alternative business operations and transactions from a tax perspective • evaluate Hong Kong for international tax planning considerations • describe the role of OECD • discuss the use of transfer pricing arrangement in tax planning • explain and apply DIPN 24 (Revised), 45, 46, 48, 58, 59 and 60

Topic area	Learning areas
<p>The relevance of the three separate income taxes to management decision-making and corporate planning, including basic principles of the following: (<i>cont.</i>)</p>	<ul style="list-style-type: none"> • Field audits and tax investigations: <ul style="list-style-type: none"> • describe the key issues concerning tax investigation and field audit • discuss the efficient ways for early settlement of a field audit and investigation case • explain the settlement methods used by the IRD in the quantification process • Explain and apply DIPN 11 (Revised)

Section G: Stamp duty	
10% - 20 learning hours	
LO.3: Apply the law, principles and practices in determining the applicable stamp duty in Hong Kong; formulate and evaluate basic stamp duty planning ideas and strategies to enhance stamp duty efficiency	
Topic area	Learning areas
Stamp duty	<ul style="list-style-type: none"> • Charging scope of stamp duty: <ul style="list-style-type: none"> • describe the relevant charging scope of stamp duty • Conveyance on sale of immovable property: <ul style="list-style-type: none"> • explain the stamping requirements and practices in relation to conveyance on sale of immovable property in Hong Kong and compute the relevant stamp duty payable • Agreement for sale of residential immovable property: <ul style="list-style-type: none"> • explain the stamping requirements and practices in relation to agreement for sale of immovable property and compute the relevant stamp duty payable • explain and apply SOIPN 1, 3, 4, 5, 7 and 8 • Lease of immovable property: <ul style="list-style-type: none"> • explain the stamping requirements and practices in relation to lease of immovable property in Hong Kong and compute the relevant stamp duty payable • Hong Kong stock: <ul style="list-style-type: none"> • explain the stamping requirements and practices in relation to Hong Kong stock and compute the relevant stamp duty • Voluntary disposition inter vivos: <ul style="list-style-type: none"> • explain the stamp duty implication for voluntary disposition inter vivos • Exemptions and reliefs: <ul style="list-style-type: none"> • explain the exemptions and reliefs available under the SDO • Adjudication, assessment and administration: <ul style="list-style-type: none"> • describe the administration issues concerning stamp duty • explain the adjudication and appeal procedures for stamp duty assessment • describe stamp duty offence and the related penalty provisions under the SDO • Stamp duty planning: <ul style="list-style-type: none"> • identify and explain stamp duty planning opportunities

Section H: Double taxation	
<i>5% - 10 learning hours</i>	
LO.5: Identify the tax implications on cross-border activities and demonstrate an understanding of the application of double taxation arrangements/agreements and related law, principles and practices in ascertaining the tax implications.	
Topic area	Learning areas
Double taxation	<ul style="list-style-type: none"> • Taxation of cross-border activities: <ul style="list-style-type: none"> • describe the taxation issues in relation to cross border activities • Application of double taxation agreements/arrangement of Hong Kong (DTA): <ul style="list-style-type: none"> • explain the various articles and provisions under a DTA • explain the relationship between a DTA and the IRO • explain what constitutes a resident in the context of a DTA • define and explain a permanent establishment under a DTA • explain taxation for business profits under a DTA • explain taxation for employment income under a DTA • explain taxation for investment income and capital gain under a DTA • explain a transfer pricing adjustment and a corresponding adjustment under a DTA • calculate the amount of tax credits under a DTA • explain the article concerning exchange of information under a DTA • explain and apply DIPN 44 (Revised), 45 and 47 (Revised)

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