



# Taxation of international executives: Hong Kong (SAR), China



January 2023

# Contents

<b>1</b>	<b>Overview and Introduction</b>	<b>4</b>
<b>2</b>	<b>Income Tax</b>	<b>6</b>
<b>3</b>	<b>Special considerations for short-term assignments</b>	<b>18</b>
<b>4</b>	<b>Other taxes and levies</b>	<b>20</b>
<b>5</b>	<b>Immigration</b>	<b>24</b>

**01**

# **Overview and Introduction**

# 1 Overview and Introduction

Hong Kong (SAR) became The Hong Kong Special Administrative Region (SAR) of the People's Republic of China (PRC) on 1 July 1997 and has operated since that date under the terms of the Basic Law. The Basic Law provides that the laws previously in force in Hong Kong (SAR), that is, common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, subject to amendment by the Hong Kong (SAR).

In relation to the economy and tax system, the Basic Law provides that the Hong Kong (SAR) shall have independent finances and shall use its financial revenues exclusively for its own purposes. Further, the Basic Law provides that the PRC government shall not levy taxes in the Hong Kong (SAR).

The official currency of Hong Kong (SAR) is the Hong Kong Dollar (HKD).

Herein, the host country/jurisdiction refers to the country/jurisdiction where the expatriate is going on assignment. The home country/jurisdiction refers to the country/jurisdiction where the expatriate lives when they are not on assignment.

**02**

# **Income tax**

## 2 Income Tax

There is no general income tax in Hong Kong (SAR). For income to be subject to tax, it must fall within one of the specific heads of taxation.

- Salaries tax – on income from an office, employment and any pension.
- Profits tax – on income from a trade, profession or business.
- Property tax – on income from land and buildings located in Hong Kong (SAR).

### 2.1 Tax Returns and Compliance

Every taxpayer is required to notify the Commissioner of Inland Revenue that they are chargeable to tax no later than 4 months after the end of the year of assessment in which they are chargeable. Notification is not required where a taxpayer has already been issued an Individual Tax Return for the relevant year of assessment.

Upon receipt of notice of commencement of employment of an employee who is or is likely to be chargeable to salaries tax, the Inland Revenue Department may issue a provisional tax return form to the employee requiring them to give an estimate of their income for the period from commencement to the following 31 March. On the basis of this estimate, the Inland Revenue Department may assess the employee to provisional salaries tax.

Shortly after the end of the tax year, the employer will be issued with a notice requiring them to submit an employer's return to the Inland Revenue Department, showing the actual remuneration accruing to each employee in the year to the preceding 31 March. In addition, each employee is required (generally in May each year) to complete an individual tax return covering the same period. On the basis of these returns, the employee's final liability for the year of assessment and provisional tax liability for the succeeding year of assessment will be calculated. Tax payments are generally made in January and April; the balance of the final tax for the preceding year of assessment and 75 percent of the provisional tax for the current year of assessment are paid in January, with the remaining 25 percent of the provisional tax being paid shortly after the end of the year of assessment, in April.

#### When are tax returns due? That is, what is the tax return due date?

Generally, within 1 month of the date of issue by the Inland Revenue Department.

#### What is the tax year-end?

31 March.

#### What are the compliance requirements for tax returns in Hong Kong (SAR)?

#### Residents and non-residents

See comments below.

### 2.2 Tax rates

#### What are the current income tax rates for residents and non-residents in Hong Kong (SAR)?

## Residents and non-residents

Salaries tax is charged at the lower of:

- net assessable income, less concessionary deductions at the standard rate (for 2021/22) of 15 percent
- net assessable income, less concessionary deductions and personal allowances, charged at the following progressive rates

### Income tax table for 2021/22

Taxable income bracket		Total tax income below bracket	Tax
From HKD	To HKD	Percent	HKD
0	50,000	2	1,000
50,001	100,000	6	3,000
100,001	150,000	10	5,000
150,001	200,000	14	7,000
200,001	Over	17	

## 2.3 Residence rules

### For the purposes of taxation, how is an individual defined as a resident of Hong Kong (SAR)?

Taxation in Hong Kong (SAR) is territorial. The residence status of the employee is generally not determinative when considering their liability to salaries tax.

Hong Kong (SAR) salaries tax is charged in respect of income arising in or derived from Hong Kong (SAR) from any office or employment of profit (and any pension). In respect of an employment, to determine the extent of salaries tax payable, it is first necessary to determine whether the income is derived from a Hong Kong (SAR)-located employment or a non-Hong Kong (SAR)-located employment. If an employment is located in Hong Kong (SAR), it will be regarded as being a Hong Kong (SAR)-located employment and all income from the employment will fall within the scope of salaries tax. If an employment is located outside Hong Kong (SAR), it will be regarded as being a non-Hong Kong (SAR)-located employment and the liability to salaries tax will be limited to tax on income from services rendered in Hong Kong (SAR) plus the attributable leave. In such a case, the taxpayer generally apportions their income between the Hong Kong (SAR) and non-Hong Kong (SAR) services on the basis of days spent inside and outside Hong Kong (SAR).

To determine whether a taxpayer's employment is located outside Hong Kong (SAR), and therefore regarded as being a non-Hong Kong (SAR)-located employment, the Inland Revenue Department will take into account all of the relevant facts, with particular emphasis on:

- where the contract of employment was negotiated and entered into and is enforceable, whether in Hong Kong (SAR) or outside Hong Kong (SAR)
- where the employer is resident, whether in Hong Kong (SAR) or outside Hong Kong (SAR)
- where the employee's remuneration is paid to them, whether in Hong Kong (SAR) or outside Hong Kong (SAR).

(Different rules apply to determine the location of director's fees and a pension.)

There are a number of exemptions from salaries tax available to employees. In general, if all services with respect to the employment are rendered outside Hong Kong (SAR), regardless of the status of the employment (see earlier), the income will be fully exempt from tax. In addition, if duties are rendered in Hong Kong (SAR) during visits of 60 days or less in a fiscal year, no liability will arise. The Inland Revenue Department may not recognize as visits periods spent in Hong Kong (SAR) where the individual is based in or has a place of residence in Hong Kong (SAR) (regardless of the actual number of days spent in Hong Kong (SAR)). This 60-day exemption is only available for employments and does not apply to director's fees.

If the above full exemptions do not apply, partial exemptions may be available to mitigate double taxation of income. If the double taxation arises in a jurisdiction with which Hong Kong (SAR) does not have a double taxation arrangement, unilateral relief will be available to exclude income derived from services rendered in the jurisdiction where the income for the services rendered is subject to a tax of a similar nature as salaries tax in that jurisdiction (and the tax has actually been paid). On the other hand, if the double taxation arises in a jurisdiction with which Hong Kong (SAR) has a double tax arrangement, relief should be claimed under the arrangement.

**Is there a de minimus number of days rule when it comes to residency start and end date? For example, a taxpayer can't come back to the host country/jurisdiction for more than 10 days after their assignment is over and they repatriate.**

No. See comments above in respect of the basis of taxation.

**What if the assignee enters the country/jurisdiction before their assignment begins?**

See comments earlier in respect of the basis of taxation. Taxation is territorial and liability to tax is not determined by the assignment start date.

## **2.4 Termination of residence**

**Are there any tax compliance requirements when leaving Hong Kong (SAR)?**

The employer is required to notify the Inland Revenue Department if they cease or is about to cease to employ an employee in Hong Kong (SAR). The notification should be submitted at least 1 month before the expected cessation date. The employer of an employee who is about to leave Hong Kong (SAR), for a period exceeding 1 month, must notify the Inland Revenue Department of the expected date of departure no later than 1 month before the expected departure date. This does not apply to an employee who is required in the course of their employment to leave Hong Kong (SAR) at frequent intervals. In the case of departing employees, whom the employer has ceased/will cease to employ, the employer is prohibited from making any payments to or for the benefit of the employee during the 1-month period from submission of the notification of departure from Hong Kong (SAR), unless the Inland Revenue Department gives prior clearance.

**What if the assignee comes back for a trip after residency has terminated?**

See comments earlier in respect of the basis of taxation. Taxation is territorial and liability to tax is not determined by the assignment start date or end date.

**Communication between immigration and taxation authorities**

**Do the immigration authorities in Hong Kong (SAR) provide information to the local taxation authorities regarding when a person enters or leaves Hong Kong (SAR)?**

Information can be requested from the immigration authorities by the taxation authorities.

In cases of non-payment of tax, after completing certain procedures, the taxation authorities can request that an individual is prevented from leaving Hong Kong (SAR) by the immigration authorities.

## Filing requirements

### Will an assignee have a filing requirement in the host country/jurisdiction after they leave the country/jurisdiction and repatriate?

If the assignee has income that is subject to salaries tax, they may have a filing requirement in Hong Kong (SAR) after they leave Hong Kong (SAR).

## 2.5 Economic employer approach

### Do the taxation authorities in Hong Kong (SAR) adopt the economic employer approach to interpreting Article 15 of the Organisation for Economic Co-operation and Development (OECD) treaty? If no, are the taxation authorities in Hong Kong (SAR) considering the adoption of this interpretation of economic employer in the future?

Hong Kong (SAR) continues to expand the number of Comprehensive Double Taxation Agreements, but the economic employer approach has not been extensively tested in practice. To date, no guidance has been provided by the taxation authorities in Hong Kong (SAR) on the economic employer approach and it is unclear whether the taxation authorities in Hong Kong (SAR) will adopt this approach.

### De minimus number of days

#### Are there a de minimus number of days before the local taxation authorities will apply the economic employer approach? If yes, what is the de minimus number of days?

See comments above in respect of economic employer approach.

## 2.6 Types of taxable compensation

### What categories are subject to income tax in general situations?

Income from any office or employment is defined as including any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite, or allowance, whether derived from the employer or others.

The following are specifically included as taxable income:

- any amount paid by the employer in connection with the education of an employee's child
- pecuniary liabilities incurred by the employee and discharged by the employer to the extent of the amount discharged
- benefits-in-kind which are capable of being converted into money by the recipient any gain realized by the exercise, assignment, or release of right to acquire shares or
- stock in a corporation obtained by a person as the holder of an office or an employee of that or any other corporation
- any amount incurred by the employer in connection with a holiday journey of the employee (including home leave)
- accommodation benefits are specifically included as taxable benefits-in-kind, but preferential tax treatment may be available.

Where an employee occupies rent-free or subsidized accommodation at the expense of the employer, the taxable benefit is the rental value of the residence. (Where some rent is paid by the employee, the taxable benefit is the excess of rental value over the rent paid.) The rental value for a flat or house is 10 percent of the employee's total net income from the employer and the associated corporation after deducting outgoings and expenses (excluding expenses of self-education). A housing allowance, which may be disbursed at the discretion of the employee, is taxable in full as income (although rental reimbursement arrangements can be structured tax effectively).

## **Intra-group statutory directors**

**Will a non-resident of Hong Kong (SAR) who, as part of their employment within a group company, is also appointed as a statutory director (i.e. member of the Board of Directors in a group company situated in Hong Kong (SAR)) trigger a personal tax liability in Hong Kong (SAR), even though no separate director's fee/remuneration is paid for their duties as a board member?**

Generally no, if not separately remunerated for the director's duties. Appointment as a statutory director, on its own, does not trigger a personal tax liability in Hong Kong (SAR).

**Will the taxation be triggered irrespective of whether or not the board member is physically present at the board meetings in Hong Kong (SAR)?**

No, if not separately remunerated. See above.

**Will the answer be different if the cost directly or indirectly is charged to/allocated to the company situated in Hong Kong (SAR) (i.e. as a general management fee where the duties rendered as a board member is included)?**

Assuming not separately remunerated, tax as employment if appropriate in circumstances.

**In the case that a tax liability is triggered, how will the taxable income be determined?**

If the director's fee relates to services rendered for the Hong Kong (SAR) office, it will be fully taxed in Hong Kong (SAR).

## **2.7 Tax-exempt income**

**Are there any areas of income that are exempt from taxation in Hong Kong (SAR)? If so, please provide a general definition of these areas.**

There are no exemptions for specific types of income. However, due to the limited application of the benefit-in-kind provisions, it is possible to provide many benefits to employees tax-free.

## **2.8 Expatriate concessions**

**Are there any concessions made for expatriates in Hong Kong (SAR)?**

There are no special expatriate concessions.

## **2.9 Salary earned from working abroad**

**Is salary earned from working abroad taxed in Hong Kong (SAR)? If so, how?**

If the employment is regarded as being a Hong Kong (SAR)-located employment, the employee will be liable to salaries tax on all remuneration (subject to the exemptions noted earlier), even if some of the services are rendered outside Hong Kong (SAR). Relief may be available to mitigate the potential impact of double taxation.

## **2.10 Taxation of investment income and capital gains**

**Are investment income and capital gains taxed in Hong Kong (SAR)? If so, how?**

**Dividends, interest, and rental income**

Generally, personal investment income and capital gains are not subject to tax in Hong Kong (SAR). However, rental income from property (land and buildings) located in Hong Kong (SAR) is subject to property tax.

### Gains from stock option exercises

Any gain realized by the exercise, assignment or release of right to acquire shares or stock in a corporation obtained by a person as the holder of an office or employment of that or any other corporation is subject to salaries tax.

To determine the extent of the liability to tax, the location of the employment and the characteristic of the award are considered.

Residency status	Taxable at:		
	Grant	Vest	Exercise
Resident	N	N	Y
Non-resident	N	N	Y
Other (if applicable)	N	N	Y

### Foreign exchange gains and losses

In general, foreign exchange gains and losses are not subject to taxation.

Foreign exchange gains and losses will only be subject to tax if they are regarded as the Hong Kong (SAR) profits from a trade, profession or business undertaken in Hong Kong (SAR).

### Principal residence gains and losses

There is no capital gains tax in Hong Kong (SAR).

### Capital losses

No relief.

### Personal use items

There is no capital gains tax in Hong Kong (SAR).

### Gifts

There is no capital gains tax or gift taxes in Hong Kong (SAR).

## 2.11 Additional capital gains tax (CGT) issues and exceptions

Are there additional capital gains tax (CGT) issues in Hong Kong (SAR)? If so, please discuss?

No.

Are there capital gains tax exceptions in Hong Kong (SAR)? If so, please discuss?

Not applicable.

## 2.12 General deductions from income

What are the general deductions from income allowed in Hong Kong (SAR)?

A deduction may be claimed by the employee for expenses that have been incurred wholly, exclusively and necessarily in the production of assessable income. In practice, an expenditure claim for salaries tax purposes rarely is successful because of the need to establish that the expenditure was incurred wholly, exclusively and necessarily for the employment.

A depreciation allowance may be claimed in respect of plant and machinery, the use of which is essential to the production of assessable income.

The personal allowances, which may be claimed for the year of assessment 2021/22 are:

	HKD
Personal allowances	
• (basic)	132,000
• (married)	264,000
Single parent allowance	132,000
Child allowance - 1st to 9th child (each)	
• Year of birth	240,000
• Other years	120,000
Dependent parent allowance / Dependent grandparent allowance (each)	
• (aged 60 or above)	50,000
• (aged between 55 and 59)	25,000
Additional dependent parent and grandparent allowance	
• (aged 60 or above)	50,000
• (aged between 55 and 59)	25,000
Disabled dependent (spouse/child/parent/grandparent/brother/sister) allowance	75,000
Dependent brother/sister	37,500
Personal Disability Allowance	75,000

The allowances are available in full whether the employee is in Hong Kong (SAR) for part or all of a year of assessment. However, these allowances are only available if the employee is subject to tax at the progressive rates of salaries tax rather than the standard 15 percent rate.

Donations to approved charitable organizations may be deducted for tax purposes. The employee may not deduct charitable donations exceeding 35 percent of their assessable income less the deductions of outgoings and expenses and depreciation allowances.

### Home loan interest

Home mortgage interest payments are deductible against income subject to salaries tax. Owner-occupiers may claim a deduction for mortgage interest payments up to a maximum of HKD100,000 per year for one property. The deduction can be claimed for 20 years.

### **Elderly residential care expenses**

A deductible expense (maximum of HKD100,000 each year) is available for expenses of a dependent parent/grandparent in residential care home.

### **Mandatory contributions to recognized retirement schemes**

Mandatory contributions to a mandatory provident fund scheme or recognized retirement scheme by the employee, of up to HKD18,000 for the year of assessment 2021/22, are tax deductible.

### **Self-education expenses**

A maximum deduction of HKD100,000 for the year of assessment 2021/22 is available in respect of fees for training courses run by approved institutions for the purpose of gaining or maintaining qualifications for use in any employment.

### **Qualifying premiums under voluntary health insurance scheme policy**

A deduction for Voluntary Health Insurance Scheme (VHIS) premiums paid up to HKD8,000 per insured person for the year of assessment 2021/22 is available for insurance policies procured for the benefit of the taxpayer and all specified relatives, which cover the taxpayer's spouse and children, and the taxpayer's or their spouse's grandparents, parents and siblings.

### **Qualifying annuity premiums and MPF voluntary contributions**

A deduction for premiums paid to qualifying deferred annuities and contributions made to tax deductible Mandatory Provident Fund voluntary contribution (TVC) accounts. The maximum tax-deductible limit is HKD60,000 for the year of assessment 2021/22.

### **Domestic Rent Deductions**

Effective from the Year of Assessment 2022/2023, taxpayer who does not own any domestic property and is liable to salaries tax can claim tax deduction in the Individual Tax Return Form BIR60 for eligible domestic rental expense paid by him/her or his/her spouse as the tenant in respect of the primary accommodation.

Taxpayer who is provided with place of residence by employer is not eligible for the domestic rental expense deduction. In other words, taxpayer will NOT be eligible for domestic rental expense deduction if he/she have enrolled in the rental reimbursement scheme.

The maximum deduction for rents paid for eligible domestic premises is HK\$100,000 per year of assessment.

## **2.13 Tax reimbursement methods**

### **What are the tax reimbursement methods generally used by employers in Hong Kong (SAR)?**

The following are the normal methods of recognizing tax reimbursements paid by the employer:

- current year gross-up
- current year reimbursement
- 1-year rollover

## **2.14 Calculation of estimates/prepayments/withholding**

**How are estimates/prepayments/withholding of tax handled in Hong Kong (SAR)? For example, pay-as-you-earn (PAYE), pay-as-you-go (PAYG), and so on.**

## Pay-as-you-go (PAYG) withholding

There is no tax withholding in Hong Kong (SAR).

## PAYG installments

There is no PAYG in Hong Kong (SAR). See comments earlier regarding tax payments.

## When are estimates/prepayments/withholding of tax due in Hong Kong (SAR)? For example: monthly, annually, both, and so on.

Provisional tax is payable in two installments, one of 75 percent in the last quarter of the year of assessment and the remaining 25 percent shortly after the end of the year of assessment. The provisional tax payable is typically estimated based on the income for the previous year of assessment.

The final tax for the previous year of assessment is payable at the same time as the first installment of provisional tax.

## 2.15 Relief for foreign taxes

### Is there any Relief for Foreign Taxes in Hong Kong (SAR)? For example, a foreign tax credit (FTC) system, double taxation treaties, and so on?

If the double taxation arises in a jurisdiction with which Hong Kong (SAR) does not have a double taxation arrangement, unilateral relief, by way of an exemption of the income from salaries tax, may be available under domestic legislation to the employees if they are subject to tax of a similar nature to salaries tax in another jurisdiction in respect of services rendered in that jurisdiction (and the tax has actually been paid). If the double taxation arises in a jurisdiction with which Hong Kong (SAR) has a double taxation arrangement, relief should be claimed under the arrangement.

## 2.16 General tax credits

### What are the general tax credits that may be claimed in Hong Kong (SAR)? Please list below.

See above. Tax credit relief can only be claimed if there is a double taxation agreement in place.

## 2.17 Sample tax calculation

This calculation assumes a married taxpayer resident in Hong Kong (SAR) with two children whose 3-year assignment begins 1 April 2019 and ends 31 March 2022. The taxpayer's base salary is 100,000 US dollars (USD) and the calculation covers 3 years.<sup>1</sup>

	2019/20 USD	2020/21 USD	2021/22 USD
Salary	100,000	100,000	100,000
Bonus	20,000	20,000	20,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car	6,000	6,000	6,000
Moving expense reimbursement	20,000	0	20,000

<sup>1</sup> Sample calculation generated by KPMG Tax Services Limited, the Hong Kong (SAR) member firm of KPMG International, based on the Inland Revenue Ordinance.

Home leave	0	5,000	0
Education allowance	3,000	3,000	3,000
Interest income from non-local sources	6,000	6,000	6,000

Exchange rate used for calculation: USD1.00 = HKD7.7293.

### Other assumptions

- The spouse does not derive income chargeable to salaries tax during the period from 1 April 2019 to 31 March 2022.
- All earned income is attributable to local sources.
- Bonuses are paid at the end of each year of assessment and accrue evenly throughout the year.
- Interest income is not remitted to Hong Kong (SAR).
- The company car originally cost USD50,000. The ownership of the company car is not transferred to the employee, and it is used for business and private purposes.
- The employee is deemed resident throughout the assignment.
- Tax treaties and totalization agreements are ignored for the purpose of this calculation. The one-off tax reductions available have been ignored.
- Contributions to a mandatory provident fund or recognized retirement scheme have been ignored.
- The housing allowance is a cash allowance and does not qualify for the favorable treatment for accommodation provided by the employer. Calculation of taxable income

### Calculation of taxable income

Year-ended	2019/20 USD	2020/21 USD	2021/22 USD
<b>Days in Hong Kong (SAR) during year</b>	<b>366</b>	<b>365</b>	<b>365</b>
Earned income subject to income tax			
Salary	100,000	100,000	100,000
Bonus	20,000	20,000	20,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car	0	0	0
Moving expense reimbursement	20,000	0	20,000
Home leave	0	5,000	0
Education allowance	3,000	3,000	3,000
Total earned income	165,000	150,000	165,000
Other income	0	0	0
Total income	165,000	150,000	165,000
Deductions	0	0	0

Total taxable income	165,000	150,000	165,000
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**Calculation of tax liability**

	2019/20 USD	2020/21 USD	2021/22 USD
Taxable income as above	165,000	150,000	165,000
Hong Kong (SAR) tax thereon	14,636	12,086	14,636

**03**

**Special considerations  
for short term  
assignments**

# 3 Special considerations for short-term assignments

For the purposes of this publication, a short-term assignment is defined as an assignment that lasts for less than 1 year.

## 3.1 Residency rules

Are there special residency considerations for short-term assignments?

No. See comments earlier in respect of residence rules.

## 3.2 Payroll considerations

Are there special payroll considerations for short-term assignments?

No.

## 3.3 Taxable income

What income will be taxed during short-term assignments?

See comments earlier in respect of types of taxable income.

## 3.4 Additional considerations

Are there any additional considerations that should be considered before initiating a short-term assignment in Hong Kong (SAR)?

See comments earlier in respect of residence rules.

**04**

# **Other taxes and levies**

# 4 Other taxes and levies

## 4.1 Social security levies

**Are there social security/social insurance taxes in Hong Kong (SAR)? If so, what are the rates for employers and employees?**

There are no social security/social insurance taxes in Hong Kong (SAR).

### Mandatory provident fund

Employers are required to make arrangements for all employees aged between 18 and 65 normally residing and working in Hong Kong (SAR) to join a mandatory provident fund (MPF) scheme.

However, exemption from the MPF requirements is available to any person entering Hong Kong (SAR) for the purpose of being employed or self-employed (i.e. on a valid employment visa) for a limited period (13 months or less) or who is a member of an overseas retirement scheme.

### Employer and employee

Relevant Income - includes wages, salary, leave pay, fee, commissions, bonuses, gratuity, perquisites, or allowances expressed in monetary terms, paid or payable by an employer (directly or indirectly) to the employee, but does not include severance payment or long service payments under the Employment Ordinance.

	Paid by employer	Paid by employee	Total
Mandatory Provident Fund	5% of relevant income, maximum contribution of HKD1,500 a month	5% of relevant income, maximum contribution of HKD1,500 a month	10% of relevant income, maximum contribution of HKD3,000 a month

## 4.2 Gift, wealth, estate, and/or inheritance tax

**Is there any gift, wealth, estate, and/or inheritance taxes in Hong Kong (SAR)?**

None. Estate duty was abolished with effect from February 2006.

## 4.3 Real estate tax

**Are there real estate taxes in Hong Kong (SAR)?**

Yes. Rental income from land and buildings located in Hong Kong (SAR) is subject to property tax. Government rent and rates are payable on properties throughout the jurisdiction.

## 4.4 Sales/VAT tax

**Are there sales and/or value-added taxes in Hong Kong (SAR)?**

No.

## 4.5 Unemployment tax

Are there unemployment taxes in Hong Kong (SAR)?

No.

## 4.6 Other taxes

Are there additional taxes in Hong Kong (SAR) that may be relevant to the general assignee? For example, customs tax, excise tax, stamp tax, and so on.

- Stamp duty may be payable on transactions of properties and transfers of Hong Kong (SAR) stock.
- Excise duty on liquor (excluding beer and wine) and tobacco.

### Foreign Financial Assets

Is there a requirement to declare/report offshore assets (e.g. foreign financial accounts, securities) to the country/jurisdiction's fiscal or banking authorities?

There is no requirement to report foreign financial assets to either the Hong Kong (SAR) fiscal or banking authorities.

However, Hong Kong (SAR) has signed up to automatic exchange of information under the Common Reporting Standard - the standard for all automatic exchange of financial information.

Financial institutions in Hong Kong (SAR) are required to identify and report to the Inland Revenue Department the financial accounts held by tax residents of overseas reportable jurisdictions on an annual basis. The Inland Revenue Department will pass this information to the relevant overseas jurisdictions. Reporting has commenced from 2018 with respect to 2017 account information.

Foreign financial assets captured by overseas tax authorities, who have also signed up the above network of automatic exchange, will also be exchanged with the Inland Revenue Department. The information exchanged will depend on the specifics of the relevant agreement.

**05**

# **Immigration**

# 5 Immigration

**Following is an overview of the concept of Hong Kong (“HKSAR”) immigration system for skilled labor.**

This summary provides basic information regarding permission to work in Hong Kong (SAR). The information is of a general nature and should not be relied upon as legal advice.

In general, unless the person has the right of abode or right to land, they are required to obtain a visa or entry permit to work in Hong Kong (SAR).

Under the existing Hong Kong (SAR) Immigration policies, there are different types of admission scheme for Talent, Professionals and Entrepreneurs.

# While each application is determined on its individual merits, an applicant should meet normal immigration requirements (such as holding a valid travel document with the ability to return to their country/jurisdiction of residence or citizenship, be of clear criminal record and raise no security or criminal concerns to Hong Kong (SAR), have no likelihood of becoming a burden on Hong Kong (SAR)) as well as the relevant specific eligibility criteria under each admission schemes.

\*\* Visa nationals and non-visa nationals who seek to take up any employment, establish or join in any business, study in Hong Kong (SAR) must obtain the appropriate visas (employment, investment, training or study).

\*\* Nationals of about 170 countries/jurisdictions may visit Hong Kong (SAR) without a visa/entry permit for a period ranging from 7 days to 180 days. For details, please refer to <https://www.immd.gov.hk/eng/services/visas/visit-transit/visit-visa-entry-permit.html#part2>

## 5.1 International Business Travel/Short-Term Assignments

**Describe (a) which nationalities may enter Hong Kong (SAR) as non-visa national, (b) which activities they may perform and (c) the maximum length of stay.**

A person permitted to enter Hong Kong (SAR) as a visitor shall be subject to the following conditions of stay:

- a. they shall not take any employment, whether paid or unpaid.
- b. they shall not establish or join in any business; and
- c. they shall not become a student at a school, university or other educational institution.

Visitors in Hong Kong (SAR) may generally engage in the following business-related activities:

- a. concluding contracts or submitting tenders.
- b. examining or supervising the installation/packaging of goods or equipment.
- c. participating in exhibitions or trade fairs (except selling goods or supplying services direct to the general public or constructing exhibition booths).
- d. settling compensation or other civil proceedings.
- e. participating in product orientation; and
- f. attending short-term seminars or other business meetings.
- g. attend an event to deliver speech(es)/presentation(s) subject to the following conditions:

- they will not be remunerated for speaking/presenting at the event (other than provision of accommodation, passage, meals, etc. relating to the event, or the reimbursement of such expenses).
- the duration of the whole event should be no longer than 7 days: and
- they can only attend one such event to deliver speech(es)/presentation(s) during each period of permitted stay.

A specific scheme has been piloted since June 2020 to allow entry on a visitor visa by specified parties involved in arbitration proceedings. This pilot scheme does not apply to persons who require a visa/entry permit to visit the HKSAR, and Mainland, Macao and Taiwan residents.

**Describe (a) the regulatory framework for business traveler being visa nationals (especially the applicable visa type), (b) which activities they may perform under this visa type and the (c) maximum length of stay.**

Please see above.

**Outline the process for obtaining the visa type(s) named above and describe (a) the required documents (including any legalization or translation requirements), (b) process steps, (c) processing time and (d) location of application.**

If the purpose of entry to HK is to take up employment or employment related work or engage in other activities outside Conditions of Stay as Visitor, the applicant must obtain employment visa or appropriate type of visa before arrival.

**Are there any visa waiver programs or specific visa categories for technical support staff on short-term assignments?**

No. Please see below for employment visa details.

## 5.2 Long-Term Assignments

**What are the main work permit categories for long-term assignments to Hong Kong (SAR)? In this context outline whether a local employment contract is required for the specific permit type.**

### General Employment Policy – Employment as Professionals

Applicants who possess special skills, knowledge or experience of value to and not readily available in the HKSAR may apply to come to work under the GEP (Employment as Professionals or Investment as Entrepreneurs). Amongst others, the applicant should have a confirmed offer of employment and is employed in a job relevant to their academic qualifications or work experience that cannot be readily taken up by the local work force.

The above entry arrangements do not apply to Chinese residents of Mainland and nationals of Afghanistan, Cuba, Laos, Korea (Democratic People's Republic of), Nepal and Vietnam.

### Employment under the Admission Scheme for Mainland Talents and Professionals

Chinese residents of the Mainland of China (the Mainland) who possess special skills, knowledge or experience of value to and not readily available in the HKSAR may apply to come to work under the ASMP. Amongst others, the applicant should have a confirmed offer of employment and is employed in a job relevant to their academic qualifications or work experience that cannot be readily taken up by the local work force.

### Top Talent Pass Scheme

TTPS seeks to attract top talents include high-income talents and graduates from the world's top universities to explore opportunities in Hong Kong. Applicants are not required to have secured an offer of employment in the HKSAR upon TTPS application.

The above scheme does not apply to Chinese residents of Mainland and nationals of Afghanistan, Cuba, Laos, Korea (Democratic People's Republic of), Nepal and Vietnam.

### **Employment under the Technology Talent Admission Scheme**

TechTAS is a pilot scheme which provides a fast-track arrangement for eligible technology companies/institutes to admit non-local technology talent to undertake research and development (R&D) work for them in the HKSAR.

The applicant should be a degree holder in science, technology, engineering or mathematics (STEM) from a well-recognized university, employed as a full-time employee in the HKSAR by the employing company/institute, which has a valid quota approved by the Innovation and Technology Commission.

### **Admission Scheme for the Second Generation of Chinese Hong Kong (SAR) Permanent Residents**

Applicants who are the second generation of emigrated Chinese Hong Kong (SAR) Permanent residents from overseas who wish to return to work in the HKSAR can apply under ASSG.

### **Training**

Applicants who wish to enter the HKSAR for a limited period (not more than 12 months) of training to acquire special skills and knowledge not available in the applicant's country/jurisdiction of domicile may apply for training visa. The signed employment contract between the applicant and the sponsoring company is required.

Note: This entry arrangement does not apply to nationals from Afghanistan, Cuba, Laos, Korea (Democratic People's Republic of) and Nepal; and Chinese residents of the Mainland (other than Mainland employees and business associates of well-established and multinational companies based in Hong Kong (SAR)).

### **Immigration Arrangements for Non-local Graduates**

Non-local students who have obtained an undergraduate or higher qualification in a full-time and locally-accredited program in the HKSAR and Greater Bay Area (GBA) campus graduates who have obtained an undergraduate or higher qualification in a full-time programme offered by a higher education institution in the Mainland cities of the Guangdong-Hong Kong-Macao Greater Bay Area jointly established by universities of the Mainland and Hong Kong in accordance with the Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools may apply to stay/return and work in the HKSAR under IANG. Non-local fresh graduates who submit application within 6 months after the date of their graduation is not required to have secured an offer of employment upon application. Returning non-local graduates, i.e. who submit applications after 6 months of the date of their graduation are required to have secured an offer of employment upon application.

Note: This entry arrangement does not apply to nationals of Afghanistan, Cuba, Laos, Korea (Democratic People's Republic of), Nepal and Vietnam.

### **Provide a general process overview to obtain a work and residence permit for long-term assignments (including processing times and maximum validation of the permit).**

- Document gathering and prepare visa application (1-4 weeks)
- File application to Immigration Department to obtain a work permit (in general 4-6 weeks)
- Travel to Hong Kong (SAR) and activate visa (within 3 months upon visa granted)
- Register Hong Kong (SAR) Identity Card (within 30 days upon arrival) Note: actual processing time may vary from case to case.

**Is there a minimum salary requirement to obtain a long-term work and residence permit for assignments? Can allowances be taken into account for the salary?**

The remuneration package including income, accommodation, medical and other fringe benefits should be broadly commensurate with the prevailing market level for professionals in the HKSAR.

**Is there a fast-track process which could expedite the visa/ work permit?**

No, currently there is no fast-track option for Hong Kong (SAR).

**At what stage is the employee permitted to start working when applying for a long-term work and residence permit (assignees/ local hire)?**

The employee is permitted to start working once they obtained a valid visa/entry permit for taking up employment in Hong Kong (SAR).

**Can a short-term permit/ business visa be transferred to a long-term permit in Hong Kong (SAR)?**

Determined by employment circumstance and the contract/assignment period (subject to Immigration Department's approval of the application), it may be feasible to extend the short-term permit if the employment circumstance has changed from short term assignment to long term assignment or permanent local employment.

**Is it possible to renew work and residence permits?**

In general, the applicant may apply for extension of stay within 4 weeks before visa expires

**Is there a quota or system or a labor market test in place?**

Please see above.

**Would it be possible to bring family members to Hong Kong (SAR)?**

An individual who has been admitted into the HKSAR to take up employment (as a professional, for investment to establish/join in business, or for training), Immigration Arrangements for Non-local Graduates, the Quality Migrant Admission Scheme or the Admission Scheme for the Second Generation of Chinese Hong Kong (SAR) Permanent Residents, the following dependents may apply to join them for residence in the HKSAR:

- their spouse; or the other party to a same-sex civil partnership, same-sex civil union, "same-sex marriage", opposite-sex civil partnership or opposite-sex civil union entered into by them in accordance with the local law in force of the place of celebration and with such status being legally and officially recognized by the local authorities of the place of celebration; and
- their unmarried dependent child under the age of 18.

**Is it possible to obtain a permanent residence permit?**

Generally, a person holding valid visa who has ordinarily resided in the Hong Kong (SAR) Special Administrative Region (HKSAR) for a continuous period of not less than 7 years may apply for the right of abode in the HKSAR in accordance with the law.

**What if circumstances change after the Work and Residence application process (e.g. change of employment or personal situation, including job title, job role or salary)?**

In general, professionals admitted under the GEP/ASMP who are on employment condition shall only take such employment as approved by the Director of Immigration and should seek prior approval from the Director of Immigration for any change in employment.

**How long can a permit holder leave Hong Kong (SAR) without their permit becoming invalid?**

A visa holder can leave Hong Kong (SAR) within the currency of their permitted limit of stay provided that they return before visa expires and that the circumstances upon which they have acquired their residential status remain unchanged.

**Must immigration permissions be cancelled by the end of the assignment/employment?**

The visa sponsoring company (if any) should notify Immigration Department by writing upon the end of employment/sponsorship.

## Are there any penalties for individuals and/or companies in place for non-compliance with immigration law?

Any person who contravenes a condition of stay in force in respect of them shall be guilty of an offence and shall be liable on conviction to a maximum fine of HK\$50,000 and to imprisonment for 2 years.

By employing illegal workers, the employer is liable to a maximum fine of \$500,000- and 10-years' imprisonment.

## 5.3 Other Important Items

List any other important items to note, or common obstacles faced, in Hong Kong (SAR) when it comes to the immigration processes.

Some important items to note:

- Where a document is not in Chinese or English, it must be accompanied by a Chinese or English translation certified as a true translation by a sworn translator, court translator, authorized public translator, certified translator, expert translator or official translator
- It is an offence to make false statements or representations to an immigration officer. To verify the authenticity of the information and documents submitted with a visa application, field visits may be conducted. A person who knowingly and willfully makes a statement or gives information which they know to be false or does not believe to be true shall be guilty of an offence under the Laws of Hong Kong (SAR) and any such visa/entry permit issued or permission to enter or remain in Hong Kong (SAR) granted shall have no effect.
- Sponsoring Company should make genuine efforts to recruit a suitable local candidate in Hong Kong (SAR) for the role.
- Starting from 28 December 2021, Immigration Department has launched electronic services for visa application and "e-Visa" arrangement allowing applicants to complete the entire process of visa application, including application submission, payment and "e-Visa" collection, online without having to attend an Immigration office in person.
- Company forms will need to be stamped with Hong Kong (SAR) / Sponsoring Company Chop.
- Where the Company has not had an application approved in the preceding 18 months – additional documents substantiating company background and financial standing required.
- Immigration may issue enquiry letter to request further documents before approving the application
- Visa label issued on approval and to be activated on next arrival to Hong Kong (SAR)
- Application for Hong Kong (SAR) Identity Cards should be made within 30 days after the first arrival and activation of visa label. Application for extension of stay can be submitted 4 weeks prior to expiry of visa label.

[Back to top](#)



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