

BASIC INFORMATION ABOUT HONG KONG COMPANIES

FORMATION OF A LIMITED LIABILITY COMPANY IN HONG KONG

For a new incorporation, it is necessary to submit the prescribed form, the Articles of Association of the company together with the prescribed fees to the Companies Registry. Thereafter, the Registrar will issue a Certificate of Incorporation and from that date onwards the Company may commence its business. The entire incorporation process takes approximately 10 days. Our company secretarial firm can also procure clean shelf companies which are available for immediate use.

ARTICLES OF ASSOCIATION

A company must have a set of Articles of Association which must contain the company's name, the fact that the liability of its members is limited, the share capital of the Company and other mandatory information. The Articles of Association will reflect many of the administrative regulations of the company, in particular, the way in which the members exercise their rights, the director's powers and the way in which shares may be transferred.

Simplified form of articles for a private company (Sample A) can be found here:

https://www.cr.gov.hk/en/companies_ordinance/docs/AA_Sample_A.pdf

SHAREHOLDER

The minimum number of shareholders for a private company is 1 and the maximum is 50. Shareholders may be an individual (aged over 18) or a corporate body. There is no residency or nationality requirement.

DIRECTOR

Every private company is required to have at least one natural person to act as director whom must be aged over 18 and must not be bankrupt. Directors may be an individual or corporate body and there is no residency or nationality requirement.

COMPANY SECRETARY

It is a statutory requirement that a Hong Kong company appoints a Company Secretary who, if a natural person, must be ordinarily resident in Hong Kong or if a corporate body, must have its registered office in Hong Kong. The company secretary is responsible for maintaining the statutory books and records of the company and ensuring the company's compliance with statutory requirements.

REGISTERED OFFICE

Under the Company Ordinance (Cap. 622) and laws in Hong Kong, each company must have a registered address in Hong Kong. This location acts as the address for receiving the company mail from the government. The registered address must be a physical address and cannot be a P.O. Box.

ANNUAL BUSINESS REGISTRATION

A company must apply for a Business Registration Certificate within one month of incorporation and maintain its registration annually by paying the prescribed fees. Renewal of the Business Registration Certificate will be requested around two months before expiry and a penalty will be levied in the event of late payment. When payment is long overdue, the Inland Revenue will also begin legal action and prosecution against the company.

REGISTER OF SIGNIFICANT CONTROLLERS

The Companies Ordinance has been amended to require a company incorporated in Hong Kong to identify persons who have significant control over the company (significant controllers) and to maintain a register of significant controllers (SCR) which shall be accessible by law enforcement officers upon demand. The SCR will not be accessible to the general public.

DESIGNATED REPRESENTATIVE

A company must designate at least one person as its designated representative to provide assistance to a law enforcement officer relating to the company's SCR.

EMPLOYER'S RETURN

The Inland Revenue Department will regularly issue an Employer's Return to a company for reporting salaries paid to staff subject to Hong Kong taxes. The return is required to be completed and filed to the IRD within one month from the date of issuance whether or not the company has employees or not. This return will typically be issued on 1 April every year covering the tax period from 1 April to 31 March in the following year.

AUDITED ACCOUNTS

The company must conduct an annual audit and compile audited accounts. The first audited accounts must be prepared and made up to date within 18 months after incorporation. Alternatively, the company can arrange for filing a "NIL" Profits Tax Return if the company has not commenced its business in Hong Kong.

ANNUAL GENERAL MEETING

The company is required to hold an Annual General Meeting (AGM) every calendar year. The AGM should be held within 18 months of the date of incorporation, after which no more than 15 months can elapse between one AGM and the next. A written resolution in lieu of a physical Annual General Meeting is permissible. The ordinary business which is conducted at an AGM includes appointment of directors, adopting audited accounts, appointment of auditors and declaration of dividends.

ANNUAL RETURN

Every company is required to file an annual return with the Companies Registry reporting on details such as its share capital, legal charges, directors, secretary, members and pay the prescribed annual registration fee.

PROFITS TAX RETURN

The Hong Kong government has adopted flat-rate tax regime for decades, which has been fixed at 16.5% for incorporated bodies since tax year 2008/09. To alleviate the tax burden on small-to-medium enterprises and to strengthen the competitive edge of Hong Kong among international financial centers (e.g. Singapore), the two-tier tax rate regime was introduced and can benefit eligible incorporated enterprises with a lowered profits tax rate, saving up to HK\$165,000 per year.

Under the two-tier tax regime, the profits tax rate for the first HK\$2 million of profits of corporate businesses is cut in half to 8.25%; remaining profits continue to be subject to the tax rate of 16.5%, starting from tax year 2018/19.

A Hong Kong company is required to submit a Profits Tax Return (detailed information on Profits Tax) Return and audited accounts to the Inland Revenue Department every year. Its first financial year end date can be fixed at any date within 18 months from the date of incorporation and the same financial year end date needs to be followed in subsequent years. The first profits tax return normally will be issued at 18 months from the incorporation date and then subsequent profits tax returns will be issued in April

every year. The commonly used year end dates in Hong Kong are 31 March and 31 December. The deadline for submitting a profits tax return depends on the year end date chosen, but in general a company is allowed several months to prepare its profits tax return and audited accounts after its financial year end date.

The company is required by law to keep sufficient records of its income and expenditure to enable the assessable profits of its trade or business to be readily ascertained. Such records must be kept for at least 7 years after the completion of the transaction to which they relate.

Corposec Management Limited
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