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Originated in Asia, Based in Asia, Serving the World

源於亞洲，基於亞洲，服務全球

FACT SHEET

## HONG KONG HOLDING COMPANIES

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### Using Hong Kong Corporate Structures in International Tax Planning – Holding Companies

#### Introduction

Choosing the location of holding company or regional holding company can be a daunting decision for many international structures. The minimization of tax, cost and risk are the main concerns. With the robust economy of China, coupled with the accession of China and Taiwan into WTO, much interest has been seen in investing in the Greater China or even the Asia Markets. Some investors may prefer to set up appropriate holding structures within Asia.

#### Criteria for Choosing a Suitable Jurisdiction for Holding Companies

##### ***Low Cost and Risk***

Considering cost and risk, a favorable jurisdiction for setting up holding companies should have the following characteristics: (1) There is no minimum capital requirements; (2) Except in case of public companies, there is no requirement to file accounts with the company house, thus avoiding financial information being available to the public; (3) Ease of setting up, relocation and dissolution when the company is no longer needed; (4) Possess some forms of investor protection agreements with major trading nations.

##### ***Favorable Tax Rates***

Considering tax, there should be (1) No tax on the income earned by its foreign subsidiaries, or the income of the holding company is exempted from any form of taxes; (2) No withholding tax on distribution (dividends) and non-resident shareholders can receive dividends without tax; (3) No or low Capital Gains tax on disposal of interest in the subsidiaries; (4) Possess a wide network of Double Taxation Treaties to reduce the tax on dividends, interest and royalty received from treaty countries.

##### ***Other Factors***

Other factors include: (1) Stable government and definite government policies; (2) Free flow of capital and a stable currency; (3) Image of an international financial centre; (4) Ease of listing and raising of capital.

Not all jurisdictions provide all of the above features. Those which come close to the list are, in Europe: United Kingdom, Portugal, Netherlands, Denmark, Luxembourg, Belgium, Cyprus; in Asia: Singapore and most notably, Hong Kong.

## The Advantages of Using Hong Kong Holding Company in Corporate Development

Hong Kong is a unique and sensible choice for those international groups wishing to establish a regional base in Asia, taking advantage of its financial infrastructure and strategic location—being in the heart of Asia and doorstep of China. The advantages of using Hong Kong as a jurisdiction for holding companies are as follows

### **Taxation System**

Hong Kong adopts one of the most pro-commerce tax systems in the world. Corporations are required to pay only 17.5%<sup>1</sup> profits tax on their profits. There is no restriction on the loss being carried forward. There is no value added tax, capital gains tax or sales tax. In addition, there is no withholding tax on dividend and interest. Hong Kong adopts a taxation system based on the territorial principle. Only profits which arise in or derived from Hong Kong are subject to tax in Hong Kong. Income from outside Hong Kong is not subject to any form of taxation. There is no restriction from capital inflow into or outflow from Hong Kong. Except for the double taxation “arrangement” signed with China<sup>2</sup>, and a double taxation agreement with Belgium and Thailand, there is no other double taxation agreement signed<sup>3</sup>. Hence the concepts of “resident” and “domicile”, although not alien, are only applicable and considered in very limited circumstances<sup>4</sup>.

Dividends from overseas subsidiaries are not taxed in Hong Kong since they are not sourced in Hong Kong. Dividends from Hong Kong subsidiaries are exempted from taxation in Hong Kong under the Inland Revenue Ordinance. Since Hong Kong does not have any Double Taxation Agreement with any country, dividends from other countries may be subject to withholding tax at full rate at the country where the subsidiaries are situated.

By using Hong Kong as the regional holding company, the major income of this Hong Kong Company, dividend and interest are tax-free if arranged properly. Distributions to shareholders are tax-free, which is a favorable factor in raising capital.

A properly structured group can avoid the withholding tax by using an intermediary holding company between Hong Kong and the subsidiaries. The Intermediary holding company should be located in a low tax jurisdiction with extensive network of tax treaties with other countries; one of the best choices is Mauritius (Global Business Company Category I). In Asia, we may also use Singapore or Malaysia Companies. In Europe or America, we may use United Kingdom Companies.

### **Disposal of Subsidiary**

There is no capital gains tax on disposal of overseas subsidiaries. Disposal of a Hong Kong subsidiary is subject to 0.2% stamp duty on the value of the shares transferred.

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<sup>1</sup> The Profit tax will be reducing to 16.5% on 1 April 2008.

<sup>2</sup> Based on the OECD model

<sup>3</sup> The Belgium-Hong Kong DTA is unique in that the dividends and capital gains earned by Hong Kong Holding company of Belgian companies attract a 0% withholding tax rate.

<sup>4</sup> One of such circumstances is the determination of residence in applying the relief under double taxation agreement with China.

### **Trading Structures**

Hong Kong Company is frequently used in trading structures as trading company or Agency Company to minimize cross-border tax, in particular investments into China. Taxes will be reduced by 50% or totally tax-free, if properly structured. For details, please refer to other technical notes issued by Maninvest.

In recent years, the Inland Revenue Department has adopted an “Advance Ruling” system. The taxpayer may apply to the Commissioner for a ruling on how any provision of the Inland Revenue Ordinance applies to him or the arrangement specified in the application. This added predictability to the Hong Kong tax regime.

### **Finance Company**

Taking the advantage of the first class banking industry and infra-structure of Hong Kong, Hong Kong Company is frequently used as regional financial company facilitating transactions in trade financing, fund raising, leasing and intra-group loans.

### **Enhancement of Corporate Image**

Hong Kong is a well-developed commercial and financial centre. Using Hong Kong Company as regional holding company can create a better corporate image, improving the confidence of your customers and investors towards your group.

### **Modern Companies Law Regime**

Companies laws in Hong Kong has adopted the most advance features, follow closely the development in United Kingdom and international. Pending legislation regarding minority shareholders protection and class action will become effective in 2005.

### **Other Advantages of Using Hong Kong Company as Holding Company**

Other than the reduction of tax burden, there are other additional advantages: -

1. Ease of setting up and maintenance: Only 14 days are required to set up a Hong Kong Company. Shelf companies are available only 8 days. Capital can be denominated in any currency. The costs of setting up and maintenance of a Hong Kong Company are relatively lower than most of the frequently used vehicles in other offshore jurisdictions. The cost of setting up a simple agency structure, including the drafting of agency agreement and the first year annual fee and government charges is around USD2,800. The annual maintenance cost is about USD1,700, including registered office, business registration, corporate secretary and government charges.
2. Ease of disposal: From November 1998, a “deregistration procedure” has been introduced into the Companies Ordinance which is a relatively economical procedure to dispose of dormant companies. Cost can be as low as USD1000.
3. Hong Kong’s currency has been pegged with USD at HKD7.8 to USD1 for over 20 years. It also allows the free flow of capital.
4. Hong Kong’s legal system is based on the English Common Law system. Foreigners appointed as judges before 1997 of common law origin are still sitting in the courts of Hong Kong. Hong

Kong Government is pro-commerce and relatively efficient. Company procedures are based on the U.K. system and are very simple. Hong Kong has a stable government and definite government policies

5. Professional services and image: Hong Kong is a renowned international financial center. Professional supporting services, legal services, banking services and other shipping related services can be arranged efficiently and economically. Besides, Hong Kong is not listed as a tax haven or un-cooperative financial center by the OECD and FTAF. In fact, Hong Kong was the Chairman of FATF for the year 2002. Hong Kong ranks the first in 2005 amongst 161 places as the freest economy in the world by the Index of Economic Freedom published jointly by the Heritage Foundation and the Wall Street Journal.
6. China Connection: Hong Kong is used by international groups as a hub for trading with China or as a stepping stone into China.

### The Advantages of Using Hong Kong Holding Company in Capital Raising

From the viewpoint of investors, the risk in investing in a Hong Kong Company is relatively low. This is because (1) The political risk factor of Hong Kong is low (2) Hong Kong has a high market transparency (3) The structuring of shares and investors relationship in a Hong Kong is highly flexible. The liquidity of shares of listed company is high. Traditional and strategic investors can acquire, dispose and adjust their portfolio in a swift way. Therefore, they are prepared to accept a lower rate of return, thus reducing the cost of capital for the company.

### How Maninvest Can Help You

The directors and management of Maninvest are professionals in the offshore industry having served the Asia markets for more than twenty years. Through our offices in Hong Kong, Shanghai and Macau as well as our associates in other Asia cities, we offer a full range of comprehensive value-added services to professional advisors and their clients.

Maninvest offers the following services:

- Incorporation of Hong Kong and other onshore/offshore companies and structures
- Full corporate management services
- Registered office, business office, mail redirection and business centre (available in selected locations only)
- Accounting services and re-invoicing services
- Asset protection and preservation advisory services
- Business establishment services
- Market exploration services