



Hong Kong's foreign source income exemption regime for passive income effective 1 January 2023

The most sweeping change in recent times to Hong Kong's relatively straightforward tax regime comes into effect on 1 January 2023 through the [Inland Revenue \(Amendment\) \(Taxation on Specified Foreign-sourced Income\) Ordinance 2022](#) gazetted on 23 December 2022 which enacts a Hong Kong foreign source income exemption regime for passive income. Please see [Charltons newsletter](#) for a summary of the regime as originally proposed in the Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022.

Following feedback including from the European Union, certain amendments to the Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022 were reflected in the final [Inland Revenue \(Amendment\) \(Taxation on Specified Foreign-sourced Income\) Ordinance 2022](#) which include:

- Deleting the definition of "excluded entity" in Clauses 15H and 15I Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022 so that there will be no list of entities excluded from Hong Kong's foreign source income exemption regime ; and
- Amending the definition of "specified foreign-sourced income" in Section 15H [Inland Revenue \(Amendment\) \(Taxation on Specified Foreign-sourced Income\) Ordinance 2022](#) to exclude (i) any interest, dividends or equity disposal gains derived from or incidental to the profit-producing activities as required under a preferential tax regime with a substantial activities requirement; and (ii) any foreign-sourced interest, dividends and equity disposal gains accrued to an entity that has derived any exempt sums under the tax regime for ship-owner business.

The Inland Revenue Department has also stated that the "applicable rate" under the participation requirement refers to the highest corporate tax rate of the jurisdiction in which the specified foreign-sourced income, underlying profits or related downstream income is taxed (commonly known as the headline rate) which can be different from the actual tax rate.

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