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The trusted solution in wealth structuring

Hong Kong companies

Hong Kong may be the perfect location to establish estate planning solutions for Asian clients using the vehicles, laws and tax benefits available in such a well-established international finance centre.

Hong Kong operates within a "one country two systems" principle since its handover from the United Kingdom to China. The legal framework of Hong Kong is based on English common law, supplemented by local legislation.

Hong Kong is a major international financial centre, comprising an integrated network of institutions and markets that provide a wide range of products and services to local and international customers and investors. Hong Kong has numerous licensed banks, a skilled corporate service industry and, being a common law jurisdiction, it has its own corporate and trust law.

Nerine's offices in Hong Kong first opened in 2006 to assist local and expatriate individuals and businesses in establishing and administering corporate and trust structures globally, providing direct and locally based assistance to our clients and advisors based in, or wishing to enter, Asia.

Advantages of Hong Kong

As a gateway to China, Hong Kong offers a tax efficient method for investing into China. Its economy, highly dependent on international trade and finance, remains one of the most vibrant in the world. Hong Kong is credited with one of the world's lowest tax burdens and a high level of monetary freedom.

As at 31 January 2016, Hong Kong had signed 35 comprehensive double taxation agreements.

Company law

The requirements for a Hong Kong private limited company are defined within the Companies Ordinance (CAP622). Below is a summary of the key points:

Name requirements:

The company name must be unique. Restrictions apply to the use of certain words in a company name, for example "bank" or "trust". Company names may be in English or in English with Chinese characters and must include the description "limited".

Shareholders requirements:

There is a minimum requirement of one shareholder per company. A shareholder need not be resident in Hong Kong and can be an individual or a corporate body. The identities of shareholders are a matter of public record and can therefore be ascertained by undertaking a company search.

With the re-write of the Companies Ordinance in 2014, the concept of nominal value (also referred to as par value) of shares has been abolished. It was generally accepted that shares with par value do not serve their original purpose of protecting creditors and shareholders. Under the new regime concepts such as par value, share premium and requirement for authorised share capital are no longer necessary and have been abolished.

At least one share must be issued. Shares are freely transferable but any transfer will be subject to stamp duty at the rate of 0.2% of the consideration or the perceived value of the company.

Company secretary and registered office:

Under Hong Kong law, every company must appoint a company secretary who must be resident in Hong Kong. Amongst other duties, the company secretary has a statutory obligation to ensure that the company is compliant with the requirements of the Hong Kong Companies Ordinance and must maintain the statutory books and records of the company. A company secretary can be either an individual or a corporate body. A sole director cannot also act as the secretary of a company.

Every company is required to have a registered office address in Hong Kong. The registered office address must be advised to the Registrar of Companies for the purpose of serving statutory notices. All statutory records must be kept in Hong Kong.

Directors, management & control:

A private limited company must have a minimum of one individual director; companies other than private companies must have at least two directors. Directors may be non-residents of Hong Kong. The details of directors of Hong Kong companies are a matter of public record.

Where a private company has only one member who is also the sole director of the company, the company may nominate a person as a reserve director of the company, in the event of the sole directors' death or incapacity.

On-going statutory requirements

Accounts and auditing:

All Hong Kong companies are required to keep accounts and have their financial statements audited on an annual basis by a Hong Kong registered auditor unless they fall under an exemption. The first set of financial statements may cover a period of up to 18 months. With the new Companies Ordinance, the concept of Account Reference Period ("ARP") was introduced to determine the financial year of a company. It also is the period by reference to which the annual financial statements are to be prepared.

Nerine can provide bookkeeping and accounting services and liaise with an appropriate auditor where required.

Annual general meetings:

All Hong Kong companies are required to hold an Annual General Meeting ("AGM"), within each financial year with reference to its ARP, which means for private companies, not being a subsidiary of a public company, within 9 months after the end of its ARP.

Under the new Companies Ordinance, a company is not required to hold an AGM if:

- It is done by way of a written resolution; or
- It is a single member company; or
- If all members pass a written resolution or resolve at a general meeting to dispense with the holding of AGMs in respect of a particular financial year or for subsequent financial years; or
- If the company is dormant as defined under section 5 of the Companies Ordinance.

Annual returns:

All Hong Kong companies are required to file an annual return on the anniversary of its date of incorporation.

Hong Kong profit tax return and employer's return:

Approximately 18 months after the incorporation of the Hong Kong company, the Inland Revenue will issue a profits tax return and employers return. The profit tax return declares the assessable profit (or adjusted loss) and the net profit (or loss) for the financial period (1 April to 31 March), arising in or derived from Hong Kong, calculated in accordance with the provisions of Part IV of the Inland Revenue Ordinance.

These filing requirements apply to all companies unless they are registered dormant.