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9 November 2021

Corporate and International Tax Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: **RGCITDTaxTreatiesBranch@treasury.gov.au**

Dear Sir/Madam,

Expanding Australia's Tax Treaty Program – Australia-Hong Kong Double Tax Agreement

CPA Australia represents the diverse interests of more than 168,000 members, working in over a 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

The Treasury's consultation on **Expanding Australia's Tax Treaty Network** provides a welcome opportunity to reiterate CPA Australia's ongoing support for consideration of a comprehensive Double Tax Agreement (DTA) between Australia and Hong Kong.

Hong Kong facilitates large volumes of economic and financial activity throughout Asia and is an important trade and investment partner for Australia. Hong Kong has a **number** of DTAs in place with jurisdictions that include Australian tax treaty partners such as the United Kingdom, Singapore, New Zealand, Japan, Indonesia and Malaysia.

In our 2017 **submission**[1] on the proposed Australia-Hong Kong Free Trade Agreement (FTA), we highlighted the need for a DTA to fully realise the economic benefits of the FTA, provide certainty and facilitate information exchange between jurisdictions. These considerations remain true today and we note the unusual situation of the **Australia-Hong Kong FTA** having commenced without a DTA in place.

We also understand that the OECD/G20 Base Erosion and Profit Shifting (BEPS) Inclusive Framework requires the establishment of multilateral instruments including those related to the **Two-Pillar Solution** to which both Australia and Hong Kong are signatories. In particular, we believe that Pillar Two will bring some jurisdictions such as Hong Kong into sharper focus, thereby strengthening the need for a DTA.

If you have any queries about this submission, contact Elinor Kasapidis, Senior Manager Tax Policy on +61 0466 675 194 or **elinor.kasapidis@cpaaustralia.com.au**.

Yours sincerely,

Dr Gary Pflugrath
Executive General Manager,
Policy and Advocacy

[1] See Attachment for relevant excerpt from the submission.

Excerpt from submission to the Department of Foreign Affairs and Trade on the proposed Australia-Hong Kong Free Trade Agreement (CPA Australia, 2017)

A tax treaty between Australia and Hong Kong

Australia and Hong Kong have not entered into a double tax agreement (DTA). We note that it would be highly unusual for Australia or Hong Kong to enter into a free trade agreement with another jurisdiction without a comprehensive DTA with that jurisdiction.

Further, we expect that the anticipated economic benefits of a free trade agreement may not fully materialise unless there is a DTA between Australia and Hong Kong. We therefore recommend that both parties seek to conclude a DTA consistent with the OECD model tax convention as soon as possible.

Such a DTA would help to encourage trade and investment and the movement of people between both markets by reducing or eliminating double taxation caused by overlapping tax jurisdictions. A DTA will also reduce tax impediments to cross-border trade and investment by providing taxpayers greater certainty on the tax rules that will apply to particular transactions between the two jurisdictions, and assist tax administration.

At an individual level, a DTA could reduce disincentives to the movement of people between both jurisdictions as a DTA would remove double taxation in for example, circumstances where a person from one jurisdiction is temporarily earning a salary in the other jurisdiction. For companies, it could encourage greater cross-border trade and investment by reducing foreign withholding tax on dividends, interest and/or royalties.

Other benefits that could flow from a DTA include:

- increasing certainty by prescribing how certain profits are to be calculated
- exempting certain short-term activities in the host jurisdiction from income tax
- providing certainty of treatment
- providing procedures that assist in resolving disputes, and
- enabling information to be exchanged between tax administrations.

We suggest that the withholding tax rates in the DTA should be the same, if not lower than the withholding rates under the Hong Kong-New Zealand Double Tax Agreement being:

- Dividends – 0 or 5 per cent for qualifying companies and 15 per cent for others
- Interest – 10 per cent
- Royalties – 5 per cent.