Preface to 2014–15 Edition

In tax terms, the year to 30 June 2014 was dominated by global tax events. The ambitious Base Erosion and Profit Shifting (BEPS) project driven by the G20 Nations and the Organisation for Economic Co-operation and Development (OECD) carefully examines existing international tax principles as a conseqence of tax authorities around the world increasing efforts to counter aggressive tax strategies. Ultimately Hong Kong, as an international financial centre, will feel the effect of the changes likely to come about from the BEPS initiative.

Legislation was passed in July 2013 that enabled Hong Kong to enter into standalone tax information exchange agreements (TIEA) and in March 2014, Hong Kong concluded its first TIEA with the United States. The TIEA will also provide the necessary legal basis for Hong Kong to provide, upon request by the United States, certain information that is required to be reported by financial institutions in Hong Kong to the United States under the Foreign Account Tax Compliance Act (FATCA), which became effective from 1 July 2014. Following the signing of the TIEA, Hong Kong has agreed, *in substance*, an intergovernmental agreement facilitating the compliance with FATCA by financial institutions in Hong Kong.

On the domestic front, new legislation was enacted granting concessionary tax rate (50% of the normal profits tax rate) for offshore captive insurance business, and is intended to attract companies to establish captive insurance companies in Hong Kong and strengthen the territory's role as an international financial centre.

In July 2013, legislation was enacted which provided for the taxation for Islamic bonds (*sukuk*) which creates market parity with conventional instruments for profits tax, property tax and stamp duty purposes, and is achieved by treating the bond and investment arrangement in a typical *sukuk* structure as *debt arrangements* for the purposes of taxation provided the arrangements meet prescribed qualifying conditions.

The Stamp Duty (Amendment) Ordinance 2014 was gazetted in February 2014, retrospectively effective to 27 October 2012, which increased the duty rates of Special Stamp Duty (which is levied on the resale of Hong Kong residential properties within certain periods from the date of acquisition) from 5%–15% to 10%–20%, and extending the property holding period from 24 months to 36 months. It also introduced a Buyer's Stamp Duty on acquisition of residential properties by any persons (including Hong Kong and overseas incorporated companies) other than individuals who are permanent residents in Hong Kong. At 30 June 2014, further stamp duty legislation was pending, particularly the proposed doubling, subject to specific exclusions, of the existing ad valorem stamp duty rates on the transfer of immovable property in Hong Kong.

In the leading tax case of the past year the Court of Appeal delivered its judgement in *Nice Cheer Investment Ltd. v CIR*, dismissed the CIR's appeal and upheld the decisions of the lower courts that unrealised profits recognised in the taxpayer's accounts are not taxable. This decision will result in change to the long established assessing practice of taxing unrealised revaluation profits.

It is expected that the coming year will again be dominated by BEPS and exchange of information developments, while in Hong Kong a number of important court decisions are eagerly awaited.

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