



商業信託  
Commercial Trust

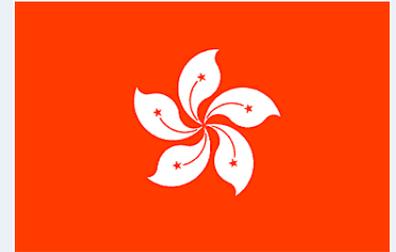


## Country Profile: Hong Kong

## The Facts

Location	The south-eastern tip of China
Languages	Official - Chinese, English Spoken - Cantonese, English Written - Traditional Chinese, English alphabet
Nationality	Chinese
Religions	Eclectic mixture of local religions – 90% Christian – 10%
Government	Special Administrative Region of the People's Republic of China
Head of Government	Chief Executive
Legislature	Legislative Council
Constitutional Document	The Basic Law
Economy	Hong Kong's economy is characterized by free trade, low taxation and minimum government intervention. It is the world's 10th largest trading economy, with the mainland of China as its most significant trading partner.
Currency	Hong Kong Dollar (HKD)
GDP	Total - HKD 1,743.5 billion Per capita – HKD 246,677 Real GDP growth - +5.8%
Population	7 million (approx.)
Percentage of population	Chinese - 92% Others – 8%
Area	1,104 km <sup>2</sup>
Time zone	HKT (UTC+8)
Public Holidays	General holidays – 17 Statutory holidays – 12
Climate	Sub-tropical

Source: Government Hong Kong – the facts



## Hong Kong

In the past few years Asia has become the hub for international businesses looking to expand their horizons, resulting in huge volumes of foreign investment in the region. Of the emerging markets in Asia but the one market which is seeing considerable investment, and that offers lucrative opportunities for businesses is Hong Kong. Not only is Hong Kong equipped with liberal policies, simple tax norms, government support, but its ideal location gives businesses the access to North, South and South-East Asia markets.

## The Hong Kong Business Climate

Hong Kong's economy has nearly tripled in the last 20 years, showing how keen businesses seem to be to invest in the region. Its GDP is growing at an average annual rate of 4.4% and it is considered the second most favoured destination for inward investment in Asia. Hong Kong has been ranked first in the Heritage Foundation Index of Economic Freedom, which evaluates the freedom enjoyed by a business in the trade, financial, investment and labour markets. The open and liberal policy for investment in Hong Kong is responsible for internationalization and the emergence of a business friendly environment. There are no tariffs and regulatory measures that affect trade, which is hugely supplemented by a simple tax structure.

Businesses that have done their planning and research can reap better rewards than those that come without having done their homework. Some of the factors that favour the setting up of businesses in this jurisdiction include:

- **Free trade and investment policy:** With no restrictions on inward and outward investments, the economy is driven by principles of the free market and allows 100% ownership of the business entity.
- **Simple tax system:** No withholding tax on dividends when paid or received, no capital gains tax. It is considered one of the lowest tax jurisdictions in the world, with no sales tax or VAT.
- **Transparent legal system:** Hong Kong's legal system operates under British law and is not only fair but also provides protection of intellectual property rights, copyrights, patents and trademarks.
- **Talented work force:** Hong Kong offers a skilled workforce and with the medium of business communication being primarily English, investors couldn't have asked for more.

## Setting Up a Business in Hong Kong

There are many ways in which businesses start trading in Hong Kong, such as by trading as limited companies, partnerships, joint ventures, sole proprietorships, and trusts. One of the strong initiatives taken by the government to improve Hong Kong's status as a financial centre was the introduction of the Company Bill. The bill has four main objectives, enhancing corporate governance, better regulation, modernizing the law and facilitating businesses. Some of the key aspects covered in the bill were adoption of a mandatory, no par value, share regime, removing the need for authorized capital and rationalizing capital maintenance rules.

Minimal corporate disclosure and loose administrative requirements also account for the rise in the number of companies being founded in the region. Any company that wishes to do business in Hong Kong and plans to establish a representative office should register under the Business registration ordinance (Cap 310). The registration should be done within one month of the commencement of the business. The registration fee for one year was HKD 2,450 in 2008. Applications for incorporation of companies should be made to Companies Registry (13-14 floors, Queensway Government offices, 66 Queensway, Hong Kong). The certificate of incorporation generally comes in 4 days. With effect from February 21, 2011, Hong Kong Company Registry and Inland Revenue Department jointly launched a one stop company and business registration regime to make the process of registering a company friendly and hassle free.

## Private Company

These are the regulations for any Hong Kong private company limited by shares. The key features are as follows:

- Minimum number of shareholders and subscribers is two
- No minimum authorized capital required
- Shares can be issued at premium or discount
- Nominees, shareholders, directors permitted, minimum number of directors is two
- Every company to have a secretary, which can be an individual
- Accounts must be prepared, filed and audited. Regular returns should be filed.
- The company may purchase its own shares out of distributable profits.

Each private company must register itself annually under the Business Registration Ordinance. The fee for re-registering is HKD 105 if the application for registration is received within 42 days after the anniversary of incorporation. However, if the application for registration is not received within 42 days, the application fee could go up to HKD 3480. Under the Article of Association, a private company must also restrict the rights to transfer shares and limit the number of members to 50, excluding employees. Private companies are prohibited from offering subscription of shares or debentures to the public.

## Limited Partnership

One of the other ways of doing business in Hong Kong is by forming a limited partnership. The regulations relating to limited partnerships are contained in the Limited Partnership Ordinance, and include:

- Limited partnerships are required to obtain a license to operate under the Business Registration Ordinance. The annual cost for this license is HKD340.
- Limited partnerships can consist of general and limited partners. There should be at least one general partner whose liability to debts is unlimited, while the liability of the partners is limited to the amount of their unpaid share capital.
- Limited partnerships have to be registered at the Companies Registry under the Limited Partnership Ordinance. Failing to do so deems them as general partnerships.
- The limited partner is not allowed to take out his capital while still in partnership and cannot take part in management.
- Maximum partners allowed are 20.

## Sole Proprietorship

Sole proprietorship in Hong Kong is subject to profits tax, just like any other business, but the rate of tax is 15%, instead of 16.5%, on taxable income. The rules for formation of sole proprietorship in Hong Kong are pretty much similar to the laws in the UK. It is treated as a partnership with one partner, and the owner has unlimited liability towards the debts of his firm. There are many advantages of sole proprietorship, since it is easy to setup and allows good profit entitlement. All you have to do is apply for a license at the Business Registration Office.

## Hong Kong Trusts

Trust laws in Hong Kong are similar to British trust laws. Unlike other offshore jurisdictions, Hong Kong doesn't tamper with its jurisdictions, making it an attractive destination for creating settlements. Trust law follows the Trust Ordinance, which is modelled along the lines of the English Trust Law of 1925. Fixed and discretionary trusts may be settled in Hong Kong. The trust documents do not have to be registered and there are no statutory requirements on returns or on submitting financial statements. An offshore Hong Kong trust requires a settler, who is an individual responsible for transferring funds to the trust and nominating the trustee. It is the responsibility of the protector to ensure that the trustee administers the funds in compliance with the trust deed.

## Taxation of Companies

Corporations, partnerships, trustees, proprietorships or any bodies of persons conducting any trade or business in Hong Kong are subject to profits tax (tax charged on all profits). The tax is, however, not charged on profits resulting from the sale of capital assets. The only difference in the tax norms for residents and non-residents operating businesses in Hong Kong is that residents may derive profits from abroad without being liable to pay tax, whereas a non-resident will need to file tax on profits arising in Hong Kong. If a person sells his property as part of a profit making scheme, then that may be considered as a business and he is bound to be charged tax on that. In general, companies pay a standard rate of 16.5% on assessable profits, and businesses other than corporate entities pay 15% on assessable profits.

Certain kinds of profits that are deemed to be taxable in Hong Kong are:

- Amount received from exhibition or use in Hong Kong of films, tapes or sound recordings
- Sums received for the use or right to use in Hong Kong of any patent, design, trademark, copyrighted material, etc.
- Grants, financial help, subsidies offered to a business in Hong Kong
- Rentals arising from properties in Hong Kong
- Interests received by funds of a business carried in Hong Kong
- Profits received from sale or redemption of commercial paper, except in non-business context

### Exemption

Sums falling into these categories are excluded from assessable profits:

- Profit or any interest made with respect to bonds issues under loan ordinance (cap 61), and related to an exchange fund debt instrument
- Income and profits made from long term debt instruments
- Mutual fund, unit trust or investment scheme authorized as collective scheme (cap 571)
- With respect to funds, unit trust, etc, where the commissioner is satisfied that the scheme is a bona fide investment scheme, meeting the compliance requirements of supervisory authority
- Dividends received from corporations subject to Hong Kong profits tax

The following adjustments are made to a company's net income to arrive at its taxable income:

- Deduction of non-assessable profits
- Deduction of qualified business expenses
- Deduction of un-utilized losses
- Add balancing charges
- Deduction of capital allowances

Tax losses are deductible from profits arising in the year of assessment and may be carried forward to future years. Group tax relief is not permitted.

## Immigration and Visa Requirements

Any person who wishes to enter Hong Kong for investment, trade, education, training or residential purposes has to obtain the required visa before entering the region. Visa norms do not apply in the following conditions:

- The applicant is a permanent resident of Hong Kong
- The applicant possesses the right to unconditional stay in Hong Kong

Irrespective of your nature of stay or the category of your visa, you need to have a sponsor to support your cause. The sponsor must have resided in Hong Kong for more than three years. In case of an employment visa, the employer is usually expected to act as the sponsor, while for other categories of visa, any individual can act as the sponsor. The sponsor has to certify the following:

- The applicant is a law abiding citizen who will follow the regulations of the country
- The applicant will not stay more than the required period being offered to him by the immigration department
- The applicant is a suitable person to be allowed inside Hong Kong for his stated purpose

It is considered the sponsor's responsibility to inform the Immigration Department about any changes in the plan of stay of the applicant. It is also the duty of the sponsor to ensure the repatriation of the applicant to his original country after his legalized stay in Hong Kong is over. The sponsor needs to fill in the application form, along with the valid documents, and submit them to the Immigration Department before the individual's arrival. However, in some special cases, the application can be submitted to the Immigration Department after the applicant's arrival.

## Banking Requirements

Hong Kong's banking regulations present many advantages for investors and businesses alike. Some of the major advantages that Hong Kong's banking system offers are:

- No tax information exchange agreements with any nation
- No tax on offshore derived income
- No capital gains and inheritance tax
- Secure stable jurisdiction under the government of China

## Setting up Corporate Bank Accounts

In recent years, Hong Kong has tightened its policy on corporate accounts. It takes about 8-10 weeks for an account to be opened. The accounts have to be cleared by the standing committee and the money laundering committee. The banks now want the signatory on the bank account to be listed in the public registry as the owner or director of the corporation. To ensure that your bank account is opened smoothly, it is essential that the following members of the corporation meet the bank executives in person:

- Directors needed to form a quorum
- Principal shareholders, beneficiary owners with more than 10% ownership



The banks require a marketing plan to be submitted, along with the application process. The following categories of businesses are, however, not accepted:

- Trading of gas or oil
- Sugar, coffee
- Coal or other commodities
- Skin care products
- Pharmaceuticals
- Marketing consulting

The processes that banks follow to approve the opening of a corporate account include:

- On site examination and offsite review
- Meeting with directors and external auditors
- Capital adequacy and supervision of liquidity
- Financial disclosure standards adopted
- Derivatives and risk management

The documents that the business needs to submit at the time of account creation include:

- Copy of certificate of incorporation
- Copy of business registration certificate
- Copy of memorandum and articles of association
- Copy of notification of secretary, director, shareholders etc.
- If the company is more than a year old, then its annual tax return statement
- Initial deposit and handling charges
- Director's identification, nationality and residence proofs

Hong Kong is considered a world class banking center, with 100 times more bank deposits than Panama. It has 69 of the world's top 100 banks. The transparent legality, along with its tax information exchange norms, makes Hong Kong's banking regulations not only relaxed but rewarding.

IMD ranks Hong Kong as the Number #1 on the world competitiveness scoreboard. Although the advantages offered by Hong Kong don't guarantee a company's success, they do provide reassurance for someone who is choosing a jurisdiction to set up a company. Financial and economic freedom offered by the government not only brings lots of foreign investment to the country but subsequently huge growth too.

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