

# Franchising Q&A: Hong Kong

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Hong Kong - specific information concerning the key legal and commercial issues to be considered when setting up a franchise.

This Q&A provides country-specific commentary on *Practice note, Franchising: Cross-border overview*, and forms part of *Cross-border commercial transactions*.

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## General

1. Is franchising common? What statistics are available to show the importance of franchising in the national economy? What types of products / businesses are susceptible to franchising? What comments can be made about the expansion of domestic franchisors overseas?

Franchising is growing steadily in the Hong Kong Special Administrative Region (Hong Kong). There were only 55 franchise operators in 1992, according to data published by the Hong Kong Franchise Association.

There are around 75 franchise brands operating in Hong Kong, with around 56% of them being local franchises. However, as franchise operations are not required to register with the Hong Kong government or trade associations, this may be an underestimation.

The majority of franchise operators are in the catering sector, service industries and retail. The Hong Kong International Franchising Show in 2018 attracted over 140 Hong Kong and international brands from sectors including food & beverage, retail, education, business consultancy, brand agents, and personal care services.

Hong Kong is an attractive franchising market, as an entry point to China and other international markets. In 2019, unofficial statistics indicate that China has over 4,500 franchise systems and around 400,000 franchise-owned outlets in operation, so Hong Kong is well positioned to connect with Chinese companies to expand franchising locally and internationally. China is also the most common first point of expansion for domestic franchisors overseas.

## Overseas expansion

2. Does national law permit a foreign franchisor to enter into a franchise agreement without establishing a wholly-owned subsidiary or a branch office in your country?

Yes.

3. Are there any rules that would restrict the setting up of branches or subsidiaries or joint ventures by a foreign-owned business?

No. In general, there are no rules restricting the setting up of branches, subsidiaries or joint ventures by a foreign-owned business. A company can be 100% owned by foreigners, except for companies in:

- Banking.
- Civil aviation.
- Television broadcasting.
- Sound broadcasting.

4. Will there be any difficulties in a domestic franchisee making payment to a foreign franchisor either in local currency or in the currency of the franchisor's country? Are there any exchange controls in operation?

Hong Kong does not have any foreign exchange control regulations, and does not have restrictions on capital in or out of Hong Kong.

## **Regulation of franchising**

5. Is franchising specifically regulated by law? Is any legislation pending, which is likely to affect franchising? Are there any formalities that a franchisor must comply with when setting up a franchise system (for example, any registration or disclosure requirements)?

Franchising in Hong Kong is not specifically regulated by law. However, the following common law principles and legislation are relevant when setting up or operating a franchise:

- General principles of contract law.
- Personal Data (Privacy) Ordinance, governing the use of personal data.
- Competition Ordinance, prohibiting the franchisor from exerting excessive restrictions on the franchisee or setting up arrangements that affect fair competition in the market.
- Laws relating to intellectual property rights, including the Trade Marks Ordinance, Trade Descriptions Ordinance, Copyright Ordinance, Registered Designs Ordinance, and Patents Ordinance.
- Consumer protection law, including the Control of Exemption Clauses Ordinance, the Consumer Goods Safety Ordinance, the Sale of Goods Ordinance, the Supply of Services (Implied Terms) Ordinance and the Unconscionable Contracts Ordinance.

The Hong Kong government does not impose any formalities that the franchisor must comply with when setting up a franchise system. Franchise operations are not required to register with the Hong Kong government or any trade associations.

The Hong Kong Franchising Association (HKFA) has a Code of Ethics, requiring the franchisor to provide full written disclosure of all information relevant to the franchise relationship, but there is no legislation that stipulates any disclosure requirements when setting up a franchise system.

Information provided in compliance with the HKFA's Code includes:

- The franchisor's current operations.
- The investment required.
- Potential profits and performance records for each prospective franchisee within a reasonable time, before the execution of any binding document.

Franchisees are also expected to provide full disclosure of all relevant information to help the franchisor select an appropriate franchisee for the franchised business. However, the disclosure requirements in the HKFA's Code do not have the force of law.

A franchisee may rescind the contract and claim damages under Hong Kong common law, if they suffer losses because of fraudulent or negligent misrepresentation by the franchisor to induce them to enter into a contract. If

fraud cannot be established, the franchisee may still be permitted to rescind the agreement and be awarded damages in accordance with the Misrepresentation Ordinance.

6. Are there any laws, regulations or case law that apply to distributorship or agency relationships that might be interpreted in such a way as to apply to the franchise relationship?

There are no specific laws or regulations that apply to the establishment of a distributorship or agency relationship.

The provisions in the franchise agreement and the particular facts of the arrangement will define any relationship. To prevent the franchisor becoming vicariously liable for the acts or omission of a franchisee in the franchised business, the franchise agreement should include provisions that:

- Expressly disclaim a distributorship or agency relationship.
- Prohibit the franchisee from making any misrepresentation that it is an agent for the franchisor.
- Require the franchisee to indemnify the franchisor for losses suffered from any third party claim due to any misrepresentation that the franchisee was an agent of the franchisor.

7. Is there an obligation on franchisors and / or franchisees to comply with any voluntary code? What are the main obligations imposed in such code? Is it usual practice to incorporate the code into the franchise agreement?

The HKFA has a Code of Ethics which it imposes upon its members (see [Question 5](#)). Membership of the HKFA and compliance with the Code of Ethics is voluntary.

The Code's main obligations for both franchisor and franchisee are:

- No member shall offer, sell or promote the sale of any franchise by any explicit or implied representation that may deceive or mislead prospective buyers.
- No member shall imitate the trade mark, trade name, corporate name, advertising slogan or other mark of identification of another in any manner that may mislead or deceive or cause confusion.

- Members acknowledge that all information provided during the negotiation of a franchise agreement is confidential and will not be utilised or disclosed to any other party without prior written agreement by both parties.
- The franchisor and franchisee will endeavour to maintain and preserve the franchised business and will readily, jointly or severally, take action to protect the franchise and its property.
- The franchisor and franchisee will make every effort to resolve disputes with good faith and goodwill through fair and reasonable direct communication and negotiation. Failing this, due consideration should be then given to the process of arbitration.
- The franchisor and franchisee will have adequate finances to support the development of the franchise.

The Code of Ethics imposes the following obligations on a franchisor:

- Full written disclosure of all information considered material to the franchise relationship.
- The franchisor will advise a prospective franchisee to seek independent professional legal advice before accepting any commitment.
- The franchisor will encourage a prospective franchisee to contact existing franchisees to gain a better understanding of the franchised business.
- The franchisor will only select and accept a franchisee who upon reasonable investigation appears to possess the basic skills, education, personal qualities and financial resources adequate to perform and fulfill the requirements of the franchise.
- The franchisor will give guidance to the franchisee for the purpose of maintaining the integrity of the franchise system.
- The franchisor will maintain consistent quality in goods or services of the franchise and ensure a constant supply of quality materials, products and services.
- The franchisor will be accessible and responsive to communications from the franchisee.
- The franchisor must give notice to the franchisee of any contractual breach and grant reasonable time to remedy default.

The Code of Ethics imposes the following obligations on a franchisee:

- The franchisee will provide full disclosure of all material information to help the franchisor select an appropriate franchisee.
- The franchisee will show competency and integrity in the conduct and promotion of the franchised business.
- The franchisee will conduct the franchised business in compliance with all applicable laws and will maintain accurate records for review by the franchisor at their discretion.
- The franchisee will respect the confidentiality of all information in relation to a franchise and will not, during or after termination of the franchise relationship, disclose any information without the franchisor's written consent.

- The franchisee will undertake and complete all training to ensure the franchised business is managed in a manner appropriate to the balance of the franchise system.

The HKFA's Code of Ethics is not usually included in the franchise agreement, and the obligations set out in the Code are not legally binding unless expressly stated in the franchise agreement.

## Competition law

8. Are there any national laws or regulations that would affect the following business practices:

- Exclusive dealing?
- Territorial restrictions?
- Customer restrictions?
- Resale price maintenance?
- Minimum purchase targets?
- Imposition by the franchisor of restrictions on the sources of supply to franchisees?
- Discrimination by the franchisor among franchisees for fees, royalties, payment for goods, services, and so on?

The Competition Ordinance, which came into effect on 14 December 2015, prohibits restrictions on competition in Hong Kong with three conduct rules:

- The First Conduct Rule prohibits any form of agreement, concerted practice or decision that has the object or effect of preventing, restricting or distorting competition in Hong Kong.
- The Second Conduct Rule prohibits undertakings with a substantial degree of market power to abuse that power by engaging in conduct that has the object or effect of preventing, restricting or distorting competition in Hong Kong.
- The Third Conduct Rule (the Merger Rule) only applies to entities in the telecommunications market, and prohibits mergers, acquisitions and joint ventures between telecommunications licensees that have the effect of substantially lessening competition in Hong Kong.

In a franchising context, restrictions imposed by the franchisor that go beyond what is reasonably necessary to maintain and protect the franchisor's legitimate business interests may be considered anti-competitive, such as:

- Establishing a fixed or minimum resale price for the franchisee to follow.

- Imposing a non-competition obligation that is excessive in scope, duration or territory once the franchise agreement has ended.
- Prohibiting or restricting franchisees from sourcing their supplies from others which might have the object or effect of harming competition in Hong Kong.

9. Are there any local provisions relating to the imposition of minimum or maximum prices?

Fixing, maintaining, increasing or controlling the price of goods or services at an excessively high level could be considered anti-competitive and is in breach of the First Conduct Rule of the Competition Ordinance. However, a franchisor is generally not prohibited from providing franchisees with a recommended price list or setting a maximum price for the goods or services which does not have the object or effect of harming competition.

10. Are there any laws or regulations relating to restrictive covenants or covenants not to compete during the franchise agreement? To what extent is it possible to continue the restrictions after the agreement has expired? In particular, to what extent does the geographical extent and or the length of time of the restriction affect its enforceability?

Restrictive covenants are unenforceable on public policy grounds, unless the franchisor can demonstrate a legitimate interest and the restrictions are no more than is reasonably necessary to protect the franchisor's legitimate business interests.

A franchisor is generally allowed to impose a non-competition obligation on the franchisee during the term of the franchise agreement. After the franchise agreement expires, however, if the non-competition obligation is excessive in scope, duration or territory, and goes beyond what is reasonably necessary to protect the franchisor's legitimate business interests, it might be in breach of the First Conduct Rule under the Competition Ordinance.

*In Store Friendly Self Storage Group Ltd v Walon Entrepreneurs Ltd. [2017] HKCFI 437; HCA 499/2017 (10 March 2017)*, the franchise agreement precluded the defendant who failed to pay the franchise renewal fee from operating as a purported franchisee or engaging in a similar business for a period of one year, and subject the same to a non-solicitation agreement for one year. The former franchisee changed its name and continued to operate a mini storage facility. The court held that it would be difficult to calculate the new customers that were acquired through the ongoing use of the telephone number previously used by the franchised business and / or by word of mouth, and that it nevertheless benefitted from customers who believed they were communicating with the franchised business.

The franchisor successfully sought an interlocutory injunction restraining the former franchisee from continuing to operate a mini storage or any storage business within the same region as stipulated in the franchise agreement.

11. Does national law allow the franchisor to retain for his own exclusive use volume rebates, commissions, allowances paid by suppliers of products or services to franchisees?

There is no law prohibiting the franchisor to retain for its own exclusive use volume rebates, commissions, or allowances paid by suppliers of products, or services to franchisees. This will be stipulated in the franchise agreement between the franchisor and the franchisee.

12. How are trade marks protected under national law?

Trade marks are protected under the Trade Marks Ordinance, the Trade Descriptions Ordinance, and the common law rule of passing off.

The Trade Marks Ordinance protects:

- Trade marks.
- Certification marks.
- Collective marks.
- Well-known marks.

The Trade Descriptions Ordinance prohibits the use of false trade descriptions, false marks and forging of registered trade marks. The common law rule of passing off can be used to enforce rights of unregistered trade marks in Hong Kong, and the trade mark owner is required to prove the existence of the goodwill attached to the mark.



13. In the event that the franchisor is based abroad, is it necessary that the franchisee is registered as owner or user of the trade mark in order to be able to import goods bearing the trade mark?

It is not necessary for the franchisee to be registered as owner or user of the trade mark to be able to import goods bearing the franchisor's trade mark.

14. What intellectual property rights are typically licensed in a franchise agreement?

The IP rights typically licensed in a franchise agreement are:

- Trade marks.
- Service marks.
- Trade names and business names.
- Logos and emblems.
- Get-up.
- Indicators of origin.
- Patents and rights to inventions.
- Know-how.
- Copyright.
- Domain names.
- Rights in designs.
- Database rights.

15. What provisions are usually made in respect of trade marks in addition to any licensing of their use?

The franchisor may warrant:

- Its rights in any trade marks.
- Its entitlement to license its trade marks.
- That the use of them by the franchisee will not infringe any third party rights.

Unless the franchisor's trade mark is registered and has been used in association with the relevant goods or services for a period of time in the market, the franchisor should be careful before providing such warranty.

The franchisee can be required to provide assistance to enable the franchisor to register its trade marks. The franchisee should be prohibited from obtaining trade mark registration as a proprietor unless requested by the franchisor.

The franchisee should acknowledge that the goodwill and the rights in the trade marks belong to the franchisor and that it will, if any rights accrue to the franchisee, do what is required to pass those rights to the franchisor.

16. Does the franchisee become entitled to any rights in a trade mark (or any other intellectual property right) by virtue of selling the trade marked products in his territory?

No, provided that the franchise agreement stipulates that all of the goodwill and the rights in the trade marks belong to the franchisor.

17. What provisions are usually made in respect of goodwill?

The franchisee may provide an acknowledgement that the goodwill relating to the use of the franchisor's intellectual property inures to the benefit of the franchisor. A provision requiring the franchisee to maintain the quality and not to affect the goodwill of the franchised business is usually stipulated in the franchise agreement.

18. Can the franchisor impose restrictions on the use of the franchisor's know-how and other confidential information by a franchisee either during or after the expiration of the franchise agreement?

Yes, subject to the common laws of trade, public policy, and the Competition Ordinance in Hong Kong. Confidentiality covenants are usually included in franchise agreements to protect the franchisor's know-how, and the confidentiality obligation on the franchisee continues after the agreement expires.

19. Are there any competition law implications of licensing intellectual property rights?

There are no competition law implications directly related to the licensing of intellectual property rights in franchise agreements. The law recognises the exclusivity of intellectual property rights to protect the franchisor's legitimate business interests.

## **Real property**

20. Are there any restrictions on ownership or leasing of immovable property that may arise in a franchising situation?

There are no restrictions on ownership or leasing of immovable property that specifically relate to franchising.

## **Employment issues**

21. Is there a risk that franchisees may be treated as employees of the franchisor?

There is a small risk that franchisees would be treated as employees of the franchisor. A provision stipulating that franchisees are not considered employees of the franchisor can be made in the franchise agreement to reduce this risk.

## The franchise agreement

22. Are any particular formalities required for a franchise agreement to be enforceable under national law?

Hong Kong law does not require any formalities to register the franchise agreement for it to be enforceable.

23. What rights does the franchisor usually grant to the franchisee?

The franchisor grants the franchisee the right to use the franchisor's intellectual property to operate the franchised business at a particular location, within a particular territory, for a specified term. The franchisor usually provides training on its know-how for operation of the franchised business.

24. Is it usual for the franchisor to grant exclusivity? Does this have any competition implications?

The terms of the license may be exclusive or non-exclusive. This is generally a commercial decision. The main advantage of exclusivity is that the franchisee will be protected from competition from the franchisor and other franchisees, and the franchisor will have a superior selling point.

Depending on the franchised business, it is not unusual for the franchisor to reserve the right to engage in the same business. Granting exclusivity should not have any competition implications provided that the restrictions imposed by the franchisor are directly related to the operation of the franchise, and do not go beyond what is reasonably necessary to protect the franchisor's legitimate business interests.

25. What term is commonly agreed for a franchise? Is it common to include a test period?

There are no legal restrictions on the term for a franchise but a term of three, five or ten years is commonly agreed, which mostly depends on the nature of the business including the term of the lease of the premise of the franchised business. The duration of the franchise, and the termination of the agreement, will be provided in the franchise agreement.

Depending on the franchised business, a franchisor may include a test period and reserve the right to terminate the franchise agreement if the franchisee fails the test period.

26. What rights of renewal are commonly included in the agreement? Is a charge made for renewal?

The agreement usually sets out the circumstances and conditions which will allow the franchisee the option to renew:

- If there are no breaches of the agreement by the franchisee.
- If the franchisee has paid for all fees.
- If the franchisee has satisfactorily completed any updated training for the continued operation of the franchised business.

Any charge for renewal is a commercial decision to make.

27. Does national law impose any obligations on the franchisor?

Hong Kong law does not impose any obligations on the franchisor.

28. What events will be regarded in law as justifying termination of the franchise agreement? Do any statutory obligations arise on termination? What provision is usually made in the agreement for termination?

A franchise agreement usually contains provisions regarding termination by either party, and may provide a notice period for them to rectify the breach.

Common law principles also allow a party to terminate the agreement in the following circumstances:

- When there is a repudiatory breach, which allows the non-breaching party to terminate the agreement and claim damages.
- If a franchisor has made a false statement of fact under fraudulent or negligent misrepresentation and induced a franchisee to enter into the agreement. If the franchisee has suffered losses as a result, the franchisee may rescind the agreement and claim for damages. If fraud cannot be established, the franchisee may still be permitted to rescind the agreement and claim damages in accordance with the Misrepresentation Ordinance.
- If the performance of the contractual obligations is rendered impossible due to some irresistible and extraneous cause that neither party is responsible for. In this case, the contract may be terminated by frustration.

If the franchisor has caused the franchisee's breach that triggers the termination right, the franchisor may be prevented by common law from exercising its termination rights.

A franchise agreement will normally contain provisions to allow the franchisor to terminate the agreement, if the franchisee:

- Becomes bankrupt, insolvent or unable to pay its debts.
- Commits an incurable breach of a material provision of the agreement.
- Repeatedly breaches provisions of the agreement.
- Abandons its business.
- Is convicted of a serious criminal offence.
- Fails to reach performance targets.
- Fails to demonstrate an understanding of the training to the satisfaction of the franchisor.

29. What rights does the franchisee have to compensation on termination of the franchising agreement? How is compensation for termination calculated?

There is no law governing compensation of the franchisee on termination of a franchising agreement. Any compensation depends on the terms of the franchise agreement.

## **International taxation**

30. What is the tax treatment of the initial fee paid by the franchisee?

There are no specific tax provisions in Hong Kong tax law relating to franchising, so standard tax law applies. However, the Inland Revenue Ordinance contains provisions relating to fees received or accrued by a franchisor for the use of any intellectual properties outside of Hong Kong (such as a patent or trade mark).

31. How will management and other continuing fees from the franchisee to the franchisor be treated in the franchisee's hands and, in particular, are there any tax deductions that have to be made?

Whether management and other continuing fees is tax deductible on the part of the franchisee would depend on the facts and circumstances of each franchise arrangement.

Depending on the terms of the franchise agreement and the apportionment of the fee, a franchisee may be able to claim deduction of capital expenditure in some of the areas provided by the Inland Revenue Ordinance, such as:

- R&D expenditure.
- Payments for technical education.
- Building refurbishment.

- The provision of prescribed fixed assets, including manufacturing machinery and computer hardware and software.
- Environmental protection facility which is defined to mean any environmental protection machinery, environmental protection installation or environment-friendly vehicle.

32. What is the tax treatment of intellectual property royalties paid by the franchisee?

Whether royalties derived from the licensing of intellectual property rights are taxable in Hong Kong depends on the facts and circumstances of each franchise arrangement. In general, profits arising in or derived from Hong Kong are assessable to tax whilst profits arising outside of Hong Kong are not taxable. However, the Inland Revenue Ordinance deems certain receipts related to intellectual property royalties, not otherwise taxable, chargeable to Hong Kong tax.

Fees received or accrued by a franchisor for the use of any intellectual property outside Hong Kong (such as patent, trade mark, copyright, or trade secrets), which are deductible when calculating the assessable profits of the franchisee, are deemed to be receipts derived from Hong Kong from a business carried on in Hong Kong. For royalties paid by a franchisee in Hong Kong to a foreign arm's length franchisor, such royalties shall be deemed to be receipts arising in or derived from Hong Kong and the assessable profits of the royalty income is deemed to be 30% of the gross amounts of the royalties subject to any double taxation agreements between Hong Kong and the country of resident of the franchisor.

33. Will a foreign franchisor who appoints a franchisee directly in your national territory be regarded as carrying on business in the national jurisdiction and therefore subject to the national tax regime?

All profits arising in or derived from carrying on a trade, business or profession in Hong Kong are subject to profits tax, while profits arising outside of Hong Kong are generally non-taxable, subject to the exceptions as provided in the Inland Revenue Ordinance, including those identified in [Question 32](#). Effective for years of assessment on or after 1 April 2018, the two-tier profit tax system was introduced in Hong Kong and applies to both local and foreign franchisors. For royalties paid by a franchisee in Hong Kong to a foreign arm's length franchisor corporation, the assessable profits deemed to arise in respect of the royalty income is 30% of the gross receipts which generates an effective tax rate of 2.475% (that is, 8.25% times 30%) for the first HKD2 million of assessable profits and 4.95% (that is, 16.5% times 30%) for the remaining amount provided that the two-tier tax rate is applicable.



34. Is it possible to make use of tax haven companies in international franchising?

It is possible to make use of a tax haven company to act as a franchisor in Hong Kong. The commercial and legal implications of having intellectual property rights transferred or licensed to a tax haven company would need to be considered. The Inland Revenue Department will use the territorial sourcing principle to determine whether profits are taxable in Hong Kong, and it will impose transfer pricing adjustments to reallocate profits or adjust deductions that do not follow the arm's length principle.

When transactions between related parties result in no profit or less-than-normal profit to the Hong Kong resident, the non-resident will be deemed to be carrying on business in Hong Kong and its profits may be subject to tax in Hong Kong. There may also be applicable tax treaties containing anti-treaty shopping provisions.

35. Is there a withholding obligation on dividends paid to foreign companies / individuals?

There is no such withholding obligation on dividends, interests or rents in Hong Kong. However, when a resident company/individual makes royalty payments to a non-resident company / individual for the use of intellectual property in Hong Kong or outside Hong Kong where the payments are deductible for profits tax purposes, a portion of the payments must be withheld and paid to the Inland Revenue Department.

36. Are there any other differences in the tax treatment of dividends paid to foreign companies / individuals as opposed to domestic shareholders?

#### **Distributing company liability**

There are no differences.

#### **Shareholder liability**

There are no differences.

37. Are there circumstances in which the (undistributed) profits of a foreign subsidiary can be taxed in the hands of a parent company that is tax resident in your jurisdiction (controlled foreign company legislation)?

To meet the guidelines and policy set forth by the Organization for Economic Cooperation and Development (OECD), Hong Kong enacted transfer pricing rules in July 2018. These rules deem transactions between associated persons to take place on an arm's length basis for tax purposes when the pricing of such transactions differs from an arm's length price and that result in a potential tax advantage in Hong Kong including a decrease in profits or an increase in utilisable expenditure.

38. Does national law permit a franchisor to make loans to a franchisee? Does national law dictate any terms of such a loan, for example, rate of interest? Does national law / regulation impose any debt / equity restrictions?

There is no law prohibiting a franchisor from making loans to a franchisee. The franchisor and franchisee are free to agree on the terms of a loan, provided that the arrangement complies with the applicable laws, such as the Money Lenders Ordinance. An intra-group loan that is borrowed not at arm's length interest rates would be subject to transfer pricing rules to avoid abusive profit shifting transactions.

39. Is there a withholding obligation on interest paid to foreign companies / individuals?

Hong Kong does not levy withholding tax on interest.

40. Are there any restrictions on the capital structure of a company incorporated in your country with a foreign parent (thin capitalisation rules)?

In general, there are no thin capitalisation rules in Hong Kong, but the deduction of interest expenses is limited, especially interests paid to non-residents. For interest expenses to be deductible, they must meet specified criteria and satisfy the general test of being incurred in the production of assessable profits.

41. How does national law define a "branch"? How are its profits taxed? What taxes are payable on the repatriation of profits by a foreign branch?

A branch of a foreign corporation is not a separate legal entity and is considered to be an extension of the foreign corporation. The branch is a fixed place of business through which the corporation carries on its activities. Profits are taxed based on the territorial source principle, and a Hong Kong branch of a foreign corporation (other than a financial institution) will be assessed according to the accounts maintained for the Hong Kong operation, or, if the Hong Kong accounts do not disclose the true profits arising in or derived from Hong Kong, the profit of the Hong Kong branch will be treated as a proportion of the total profits worldwide computed by reference to the ratio of turnover / assets in Hong Kong to the total turnover / assets. Alternatively, the Inland Revenue Department also has discretion to estimate the amount of profits of the branch in Hong Kong. Effective for years of assessment beginning on or after 1 April 2019, the above rule has effect only to the extent that it is not inconsistent with Section 50AAK of the Inland Revenue Ordinance (that is, the separate enterprises principle for attributing income or loss of the Hong Kong branch of a non-resident person in Hong Kong). There is no branch remittance tax in Hong Kong.

42. Are there any special tax considerations when a joint venture is used as a franchise vehicle?

The tax considerations when using a joint venture as a franchise vehicle will depend on the legal structure of the joint venture.

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