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Smart Business Solutions

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## Hong Kong: Hong Kong Implements Tax Certainty Enhancement Scheme for Onshore Equity Disposal Gains

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Hong Kong has taken a significant step towards enhancing tax certainty with the implementation of the tax certainty enhancement scheme for onshore equity disposal gains. The scheme, which was enacted into law on 15 December 2023, provides clarity regarding the tax treatment of gains arising from the disposal of equity interests. Its primary objective is to strengthen Hong Kong's position as a prominent international business and investment hub. The scheme applies to onshore disposal gains on equity interests for any disposal occurring on or after 1 January 2024, and accruing during the basis period for a tax year beginning on or after 1 April 2023.

Previously, determining the taxability of onshore disposal gains in Hong Kong required a detailed analysis based on the "badges of trade" under domestic tax law. However, the introduction of the tax certainty enhancement scheme simplifies the process by providing safe-harbour rules.

According to the scheme, gains arising from the disposal of equity interests will be deemed non-taxable if specific conditions are met. Specifically, the investor entity must hold at least 15% of the total equity interest in an investee entity for a continuous period of 24 months preceding the disposal. Additionally, subsequent disposals can take place within 24 months after the initial disposal, allowing for disposal in tranches.

It is important to note that the safe-harbour rules do not apply to all disposal gains. Gains on the disposal of property-related investee entities with a high risk of abuse, for example, are excluded. In such cases, the taxability of disposal gains will continue to be determined under the existing badges-of-trade analysis.

For background information and details of the enhancement scheme, please refer to our [Tax Insights 08/2023](#).

## Key Takeaway

The tax certainty enhancement scheme for onshore equity disposal gains in Hong Kong represents a significant and positive development that offers taxpayers clarity regarding the tax treatment of these gains. By reducing uncertainty and creating a more favorable business and investment environment, the scheme aims to attract international businesses and investors to Hong Kong.

To effectively navigate the complexities of the scheme and ensure compliance, it is advisable for taxpayers to seek professional advice from experts in the field.

## References

For further information, please visit <https://www.ird.gov.hk/eng/pdf/es12023275033.pdf>.

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# How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above updates to your business.

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