## **Table of Contents**

| ٩b | out V | Volters Kluwer Hong Kong Limited                     | ii    |
|----|-------|--|-------|
|    |       | he Technical Reviewer                                |       |
|    |       | ord  |       |
|    |       | t Details of BDO in Hong Kong                        |       |
|    |       | d Table of Contents                                  |       |
|    |       | hts of 2022/23 Revenue Developments                  |       |
|    |       |  |       |
| ٥r | apte  |  | 24    |
|    | 1     | Introduction to Hong Kong Revenue Law                |       |
|    | 2     | Salaries Tax   |       |
|    | 3     | Personal Allowances                                  |       |
|    | 4     | Personal Assessment                                  |       |
|    | 5     | Property Tax   | 309   |
|    | 6     | Profits Tax: Chargeability, Basis Period and         |       |
|    | _     | Profits Tax Rates                                    |       |
|    | 7     | Profits Tax: Stock Valuation, Deductions and Losses  |       |
|    | 8     | Profits Tax: Special Items, Businesses and Taxpayers |       |
|    | 9     | Depreciation and Other Capital Allowances            | 795   |
|    | 10    | Returns and Information ● Assessment to Tax          |       |
|    |       | Provisional Tax                                      |       |
|    | 11    | Payment and Recovery of Tax                          |       |
|    | 12    | Objections • Appeals                                 | . 945 |
|    | 13    | Offences and Penalties                               | 997   |
|    | 14    | Advance Rulings ● Anti-Avoidance Measures            | 1035  |
|    | 15    | Stamp Duty   | .1109 |
|    | 16    | International Tax Considerations:                    |       |
|    |       | Tax Treaties and BEPS                                | 1203  |
|    | 17    | Transfer Pricing                                     | 1279  |
|    | Sec   | tion Finding List                                    |       |
|    |       | e Table  |       |
|    |       | ird of Review Decisions                              |       |
|    |       | ex   |       |
|    |       |  |       |

## **References to Ordinance**

Unless otherwise specified, section references relate to the *Inland Revenue Ordinance* (*Cap 112*).

## **Detailed Table of Contents**

|           | ers Kluwer Hong Kong Limited                   |                    |
|-----------|--|--------------------|
|           | echnical Reviewer                              |                    |
|           | tails of PDO in Hong Kong                      |                    |
|           | tails of BDO in Hong Kongble of Contents       |                    |
|           |  |                    |
| HIGHLIGH  | TS OF 2022/23 REVENUE DEVELOPMENTS             |                    |
|           | Highlights of 2022/23 Revenue Developments     | ¶100               |
|           | Key tax measures in response to COVID-19       |                    |
|           | Pandemic                                       | ¶105               |
|           | The Departmental Information and               |                    |
|           | Technology Plan and the e-Filing Project       |                    |
|           | Profits tax cases                              |                    |
|           | Salaries tax cases                             |                    |
|           | Stamp duty cases                               | ••                 |
|           | Legislation  Tax Rates and Personal Allowances | ¶150               |
|           |  | ¶200               |
|           | at a Glance  Due Dates for Tax Returns         | •••                |
|           | Time Limits for Notices, Elections, Objections | 1  <del>4</del> 00 |
|           | and Appeals                                    | ¶500               |
|           | Penalty Levels                                 |                    |
|           | ·  | 000                |
| Chapter 1 | INTRODUCTION TO HONG KONG                      |                    |
|           | REVENUE LAW                                    |                    |
|           | Scope of this Chapter                          |                    |
|           | Hong Kong Special Administrative Region        | ••                 |
|           | Applicable Laws                                |                    |
|           | Inland Revenue Ordinance                       |                    |
|           | Stamp Duty Ordinance                           | . ¶1-4500          |
| Chapter 2 | SALARIES TAX                                   |                    |
| ·         | Overview                                       | . ¶2-0050          |
|           | Flowchart                                      | .¶2-0100           |
|           | Definition of "Income"                         | .¶2-0300           |
|           | Deemed Employment Income                       | .¶2-0500           |
|           | Statutory Exemptions                           | . ¶2-0800          |

| Common Law Income Principles            | ¶2-1100 |
|---|---------|
| Taxation of Fringe Benefits             |         |
| Taxation of Wages, Bonuses,             |         |
| Allowances, etc                         | ¶2-1750 |
| Taxation of Retirement Benefits         |         |
| Taxation of Housing Benefits            | ¶2-2100 |
| Taxation of Share/Stock Option Benefits | ¶2-2600 |
| Taxation of Share Awards                | ¶2-2750 |
| Identifying "Employment" or "Office"    |         |
| Source of Income                        | ¶2-3000 |
| Exemption for Services Rendered Outside |         |
| Hong Kong                               |         |
| The "60 Days Rule"                      | ¶2-3700 |
| Preventing Double Taxation              | ¶2-4100 |
| Determining Salaries Tax Liability      | ¶2-4250 |
| Assessable Income                       | ¶2-4500 |
| Allowable Deductions                    | ¶2-4900 |
| General Deductibility of Outgoings      |         |
| and Expenses                            |         |
| Deduction for Self-Education Expenses   | ¶2-5300 |
| Deductibility of Other Expenses         | ¶2-5350 |
| Claiming Deductions for Expenses        | ¶2-5800 |
| Deduction of Capital Allowances         | ¶2-6100 |
| Deduction of Losses Carried Forward     | ¶2-6150 |
| Addition of Balancing Charge            | ¶2-6200 |
| Net Chargeable Income                   | ¶2-6300 |
| Concessionary Deductions                | ¶2-6400 |
| Approved Charitable Donations           | ¶2-6450 |
| Elderly Residential Care Expenses       |         |
| Home Loan Interest                      | ¶2-6700 |
| Contributions to Recognised             |         |
| Retirement Schemes                      |         |
| Health Insurance Premiums               | ¶2-7000 |
| Annuity Premiums and MPF Voluntary      |         |
| Contributions                           | ¶2-7020 |
| Personal Allowances                     |         |
| Joint Assessment of Spouses             | ¶2-7100 |
| Salaries Tax Rates and Computation      | ¶2-7700 |

| Chapter 3 | PERSONAL ALLOWANCES                         |           |
|-----------|---|-----------|
|           | Overview                                    | .¶3-0100  |
|           | Basic Allowance                             | ••        |
|           | Married Person's Allowance                  | .¶3-1000  |
|           | Dependent Parent Allowance                  | ••        |
|           | Dependent Grandparent Allowance             | .¶3-2500  |
|           | Dependent Brother or Dependent Sister       |           |
|           | Allowance                                   |           |
|           | Child Allowance                             |           |
|           | Disabled Dependant Allowance                |           |
|           | Personal Disability Allowance               |           |
|           | Single Parent Allowance                     | ••        |
|           | Restrictions on Eligibility                 | . ¶3-7000 |
| Chapter 4 | PERSONAL ASSESSMENT                         |           |
| •         | Overview                                    | .¶4-0200  |
|           | Why Elect Personal Assessment?              | ••        |
|           | Eligible Taxpayers                          | .¶4-1200  |
|           | Making the Election                         |           |
|           | Calculation of Total Income                 |           |
|           | Allowable Deductions                        | .¶4-5000  |
|           | Personal Allowances                         | .¶4-6500  |
|           | Charge to Tax                               | .¶4-8000  |
| Chapter 5 | PROPERTY TAX                                |           |
| onapio. o | Overview                                    | .¶5-0100  |
|           | Flowchart                                   | ••        |
|           | Ownership of Property                       |           |
|           | Net Assessable Value of Property            |           |
|           | Prescribed Deductions                       |           |
|           | Exemption and Relief From Tax               | ••        |
|           | Property Tax Rate and Computation           | ••        |
| Chapter 6 | PROFITS TAX: CHARGEABILITY, BASIS PER       | NOD.      |
| Chapter 0 | AND PROFITS TAX RATES                       | NOD       |
|           | Overview                                    | ¶6-0030   |
|           | Flowchart                                   |           |
|           | The Departmental Information and Technology |           |
|           | Plan and the e-Filing Project               |           |

|           | Liability to Profits Tax                   | ¶6-0200  |
|-----------|--|----------|
|           | Definition of Trade                        | ¶6-0350  |
|           | Characteristics of Trade                   | ¶6-0500  |
|           | Types of Trade                             | ¶6-0970  |
|           | Definition and Characteristics of Business | ¶6-1100  |
|           | Characteristics of a Profession            | ¶6-1250  |
|           | Commencement and Cessation of Trade,       |          |
|           | Business, or Profession                    | ¶6-1400  |
|           | Company Amalgamation                       | ¶6-1550  |
|           | Carrying on Business in Hong Kong          | ¶6-1650  |
|           | Source of Profits                          | ¶6-1700  |
|           | Determining Source of Specific Profits     | ¶6-1860  |
|           | Deemed Hong Kong-Sourced                   |          |
|           | Trading Receipts                           | ¶6-2200  |
|           | Exemptions and Tax Relief                  | ¶6-3400  |
|           | Exemption of Capital Receipts              | ¶6-3440  |
|           | Exemption for Stock Borrowing and Lending  |          |
|           | Exemption for Mutual Funds, Unit Trusts    |          |
|           | and Other Investment Scheme Profits        | ¶6-3840  |
|           | When Have Profits Arisen or Been Derived?  | ¶6-4100  |
|           | Basis Period for Profits Tax Assessment    | ¶6-8700  |
|           | Profits Tax Rates                          | ¶6-9100  |
| Chapter 7 | PROFITS TAX: STOCK VALUATION,              |          |
| Chapter 1 | DEDUCTIONS AND LOSSES                      |          |
|           | Trading Stock and Work in Progress         | ¶7_2850  |
|           | Allowable Deductions                       |          |
|           | Specific Deductions Under Sections 16–16I  |          |
|           | Deduction for Borrowing Expenses           |          |
|           | Deduction for Rent, Foreign Tax, Bad Debts |          |
|           | Deduction for Repair and                   | 1-5000   |
|           | Replacement Costs                          | ¶7-5180  |
|           | Deduction for Intellectual Property        |          |
|           | Registration Costs                         | .¶7-5260 |
|           | Deduction for Retirement Scheme Payments.  |          |
|           | Deduction for Research and                 |          |
|           | Development Costs                          | ¶7-5420  |
|           | = = : = = = = :                            |          |

|           | Deduction for Technical Education          |         |
|-----------|--|---------|
|           | Payments                                   | ¶7-5500 |
|           | Deduction for Charitable Donations         |         |
|           | Deduction for Patent and Know-How          |         |
|           | Purchase Costs                             | ¶7-5580 |
|           | Deduction for Capital Expenditure for      |         |
|           | Purchase of Intellectual Property Rights   | ¶7-5590 |
|           | Deduction for Building Refurbishment       | "       |
|           | Expenditure                                | ¶7-5620 |
|           | Deduction for Capital Expenditure on       | "       |
|           | Prescribed Fixed Assets                    | ¶7-5660 |
|           | Deduction for Capital Expenditure on       | "       |
|           | Environmental Protection Facilities        | ¶7-5720 |
|           | Deduction for Management Fees              |         |
|           | Non-Deductible Expenses and Losses         |         |
|           | Treatment of Losses                        |         |
|           | Balancing Charges and Depreciation         | "       |
|           | Allowances                                 | ¶7-6950 |
|           |  |         |
| Chapter 8 | PROFITS TAX: SPECIAL ITEMS,                |         |
|           | BUSINESSES AND TAXPAYERS                   |         |
|           | E-Commerce and Digital Economy             | **      |
|           | Financial Instruments                      | **      |
|           | Exemption of Funds                         | ¶8-3850 |
|           | Relief for Qualifying Debt Instrument      |         |
|           | Interest and Profits                       | ¶8-3880 |
|           | Relief for Qualifying Aircraft Lessors and |         |
|           | Qualifying Aircraft Leasing Managers       | ¶8-3900 |
|           | Relief for Qualifying Ship Lessors and     |         |
|           | Qualifying Ship Leasing Managers           | ¶8-3905 |
|           | Relief for Qualifying Corporate            |         |
|           | Treasury Centre                            | ¶8-3910 |
|           | Relief for Qualifying Reinsurance Business |         |
|           | and Captive Insurance Business             | **      |
|           | Special Taxpayers                          |         |
|           | Partnerships                               | **      |
|           | Life Insurance Corporations                |         |
|           | Non-Life Insurance Corporations            | ¶8-7500 |

|            | Insurance Agents  | ¶8-7585  |
|------------|---|----------|
|            | Ship Owners   | ¶8-7620  |
|            | Aircraft Owners   | ¶8-7860  |
|            | Clubs   | ¶8-8020  |
|            | Trade, Professional or Business                         |          |
|            | Associations  | ¶8-8140  |
|            | Non-Residents   |          |
|            | Recognised Retirement Schemes                           |          |
|            | Charitable Bodies                                       | ¶8-8500  |
| Chapter 9  | DEPRECIATION AND OTHER CAPITAL ALLOWANCES               |          |
|            | Overview  | ¶9-0100  |
|            | Allowances for Industrial Buildings or                  |          |
|            | Structures  | ¶9-0300  |
|            | Allowances for Commercial Buildings or                  |          |
|            | Structures  | ¶9-1200  |
|            | <b>Buildings and Structures Bought Unused</b>           | ¶9-2000  |
|            | Building Refurbishment Deduction                        | ¶9-2300  |
|            | Allowances for Machinery or Plant                       | ¶9-2600  |
|            | Leasing Arrangements                                    | ¶9-4000  |
|            | Sale and Leaseback                                      | ¶9-4200  |
|            | Leveraged Leasing                                       | ¶9-4400  |
|            | Balancing Allowances and Charges                        | ¶9-5000  |
|            | Valuation of Assets                                     | ¶9-5800  |
|            | Prescribed Fixed Assets                                 | ¶9-6200  |
| Chapter 10 | RETURNS AND INFORMATION • ASSETTO TAX • PROVISIONAL TAX | SSMENT   |
| INLIGIN    | Overview  | ¶10 0100 |
|            | Taxpayer's duty to furnish returns                      | ••       |
|            | Taxpayer's duty to provide                              | 10-0500  |
|            | general information                                     | ¶10-1000 |
|            | Obtaining fuller or further information                 | ••       |
|            | Statement of assets and liabilities                     | ••       |
|            | Powers of entry, search and seizure                     | ••       |
|            | Duties of employers and public officers                 | **       |
|            |   |          |

|              | Signature and service of notices             | ¶10-3500         |
|--------------|--|------------------|
|              | Persons responsible for furnishing returns a | and              |
|              | information                                  | ¶10-3800         |
| ASSESS       | SMENT TO TAX                                 |                  |
|              | Overview                                     | ¶10-5500         |
|              | Making assessments                           | ¶10-5700         |
|              | Types of assessment                          | ¶10-6200         |
|              | Notification of assessment                   | ¶10-6800         |
|              | Finality and validity of assessment          | ¶10-7100         |
| PROVIS       | IONAL TAX                                    |                  |
|              | Overview                                     | ¶10-8000         |
|              | Persons liable                               | ¶10-8200         |
|              | Calculation, assessment and notification     |                  |
|              | of liability                                 | ¶10-8400         |
|              | Application against tax liability            | ¶10-8700         |
|              | Application for holding over payment         | ¶10-8900         |
| 01 1 14      | DAYAMENT AND DECOVEDY OF TAY                 |                  |
| Chapter 11   | PAYMENT AND RECOVERY OF TAX                  | <b>5</b> 14 0000 |
|              | Overview                                     |                  |
|              | Payment of Tax                               |                  |
|              | Holding Over Payment                         |                  |
|              | Recovery of Tax                              | ••               |
|              | Repayment of Tax                             | ¶11-8700         |
| Chapter 12   | OBJECTIONS • APPEALS                         |                  |
| OBJECT       |  |                  |
| 02020.       | Overview                                     | ¶12-0100         |
|              | Who may object?                              |                  |
|              | Requirements for valid objection             | **               |
|              | Determination of objection                   | ••               |
|              | Objection to personal assessment             | ••               |
| APPEAL       | ·  |                  |
| , <u>_</u> , | Overview                                     | ¶12-3000         |
|              | Appeal to Board of Review                    |                  |
|              | Transfer of appeal                           | **               |
|              | Appeal to Court of First Instance            |                  |
|              | Appeals to other Courts                      | ••               |
|              | Finality of assessment                       |                  |

|            | Correction of errors  | .¶12-7250    |
|------------|---|--------------|
|            | assessment  | .¶12-7750    |
| Chapter 13 | OFFENCES AND PENALTIES Overview                               | .¶13-0200    |
|            | Offences Relating to Returns and Information                  |              |
|            | Fraud and Wilful Evasion                                      | .¶13-5100    |
|            | Additional Tax as Penalty                                     |              |
|            | Surcharge for Late Payment of Tax<br>Breach of Secrecy        |              |
| Chapter 14 | ADVANCE RULINGS • ANTI-AVOIDANCE MEASURES                     |              |
| ADVANO     | CE RULINGS  |              |
|            | Overview  | .¶14-0100    |
| ΛΝΤΙ ΛΥ    | Application Procedures OIDANCE MEASURES                       | .¶14-0700    |
| ANTI-AV    | Overview  | ¶14-3000     |
|            | Service Companies   |              |
|            | Artificial or Fictitious Transactions                         | .¶14-5200    |
|            | Transactions with Tax Benefit Purpose                         | ••           |
|            | Transfer of Loss Companies  Advance Rulings on Anti-Avoidance | .¶14-6700    |
|            | Provisions  | .¶14-7600    |
|            | Published Advance Rulings on Corporate                        | ¶14 7000     |
|            | Amalgamation  | .    14-7800 |
| •          | STAMP DUTY  | ¶15 0100     |
|            | Overview Chargeable Instruments                               |              |
|            | Instruments for the Transfer of Immovable                     | . 1110 0100  |
|            | Property  | .¶15-0400    |
|            | Agreements for the Sale of Property                           | **           |
|            | Transfer of Hong Kong Stock                                   | ••           |
|            | Hong Kong Bearer Instruments                                  | .¶15-2700    |

|            | Duplicates and Counterparts               |           |
|------------|---|-----------|
|            | Duty Payable and Persons Liable           | ¶15-3100  |
|            | Conveyance on sale of immovable property  |           |
|            | (Head 1(1))                               | ¶15-3180  |
|            | Agreement for sale of property            |           |
|            | (Head 1(1A))                              | ¶15-3500  |
|            | Special Stamp Duty and Buyer's Stamp Duty | <i>'</i>  |
|            | (Head 1(1AA), Head 1(1AAB), Head 1(1E     | 3)        |
|            | and Head 1(1C))                           | ¶15-3700  |
|            | Lease of immovable property (Head 1(2))   | ¶15-3740  |
|            | Hong Kong stock contract notes            |           |
|            | (Head 2(1) and (2))                       | ¶15-3900  |
|            | Other Hong Kong stock transfers           |           |
|            | (Head 2(3) and (4))                       | ¶15-4140  |
|            | Hong Kong bearer instruments              |           |
|            | (Head 3(1) and (2))                       | ¶15-4300  |
|            | Duplicates and counterparts (Head 4)      |           |
|            | Special Provision for Unit Trusts         |           |
|            | Form Requirements, Methods and Timing     |           |
|            | of Stamping                               | ¶15-4950  |
|            | Spoiled, Misused or Unwanted Stamps       |           |
|            | Adjudication and Appeal                   |           |
|            | Exemption and Relief                      |           |
|            | Offences Under the Ordinance              |           |
|            | Anti-Avoidance                            |           |
|            | Powers of Inspection And Search           |           |
|            | ·   |           |
| Chapter 16 | INTERNATIONAL TAX CONSIDERATIONS:         |           |
|            | TAX TREATIES AND BEPS                     |           |
|            | Overview                                  | ¶16-0500  |
|            | Comprehensive Double Taxation             |           |
|            | Agreements                                | ¶16-0600  |
|            | Limited Double Tax Agreements for         |           |
|            | International Shipping and                |           |
|            | Aircraft Income                           | **        |
|            | SE EROSION AND PROFIT SHIFTING INITIA     | AIIVE     |
| ANI        | D ITS IMPLEMENTATION IN HONG KONG         | #10 = 10° |
|            | Overview                                  | ¶16-5100  |

| Chapter 17 | TRANSFER PRICING                            |          |
|------------|---|----------|
|            | Transfer Pricing                            | ¶17-8000 |
|            | Transfer Pricing Legislation                | ¶17-8200 |
|            | Transfer Pricing Documentation              |          |
|            | Requirements                                | ¶17-8300 |
|            | Advance Pricing Arrangement                 | ¶17-8400 |
|            | Other Relevant Transfer Pricing Guidance    |          |
|            | Issued by the Inland Revenue                |          |
|            | Department                                  | ¶17-8500 |
|            | Guidance on Tax and Transfer Pricing Issues |          |
|            | Arising from Covid 19 Pandemic              | ¶17-8600 |

## **References to Ordinance**

Unless otherwise specified, section references relate to the *Inland Revenue Ordinance* (*Cap 112*).