

The Role of Tax Treaties

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Hongkong's Treaty Network

- ❖ Hong Kong as a tax treaty partner
- ❖ Impressive tax treaty network
- ❖ Primarily based on OECD Model Convention
- ❖ Credit method

Goals set for tax treaties

- ❖ Elimination of double taxation
- ❖ Certainty and predictability for foreign investors
- ❖ Framework within which tax authorities can minimize disputes and resolve them when they arise
- ❖ Framework for cooperation between tax authorities
- ❖ Signal effect
- ❖ Incentive through double non-taxation?
- ❖ Unintended side effects

Elimination of double taxation

- ❖ Also possible by means of unilateral measures
- ❖ Revenue sacrifice by both source and resident state
- ❖ Withholding tax limitation (gross amount)

Certainty and predictability

- ❖ Framework with long term perspective
- ❖ Difficult to change
- ❖ Termination more frequent
- ❖ Treaty override? Creditibility loss

Mimimize disputes and solve them

- ❖ Interpretation of tax treaties under international standards
- ❖ Different courts, however courts should look at other courts' decisions
- ❖ Mutual agreement
- ❖ Arbitration clauses
- ❖ Courts

Framework for cooperation between tax authorities

- ❖ Exchange of information
- ❖ Mutual assistance in collection of taxes
- ❖ Mutual agreement procedures
- ❖ Requirement under domestic law for certain benefits (postponement of exit taxes, deductibility of certain expenses etc)
- ❖ Certificate of residence

Signal effect

- ❖ Serious tax regime
- ❖ Acceptance in the international community

Incentives through double non-taxation?

- ❖ Tax sparing credit
- ❖ Double non-taxation
 - Art 20: Students and business apprentice
 - Publicly supported cultural events
 - Art 15 par 3: Employees in international transport

Unintended side effects

- ❖ Utilization of foreign losses
- ❖ Conclusion of tax treaty: triggers exit tax?

Conclusion

- ❖ Elimination of double taxation: Not so much in the focus any more
- ❖ Predictability and certainty
- ❖ Framework to minimize and solve disputes
- ❖ Framework for cooperation between the tax authorities
- ❖ Signal effect