

Taxing cross-border activities between Mainland China and Hong Kong in the new international tax environment

**国际税收规则重塑背景下
两地经济活动涉税问题探讨**

**Hong Kong
19 June 2014**

**Ms. Fu Yao
Director, Tax Affairs on Hong Kong, Macau and Taiwan,
International Taxation Department
State Administration of Taxation, P.R. China**



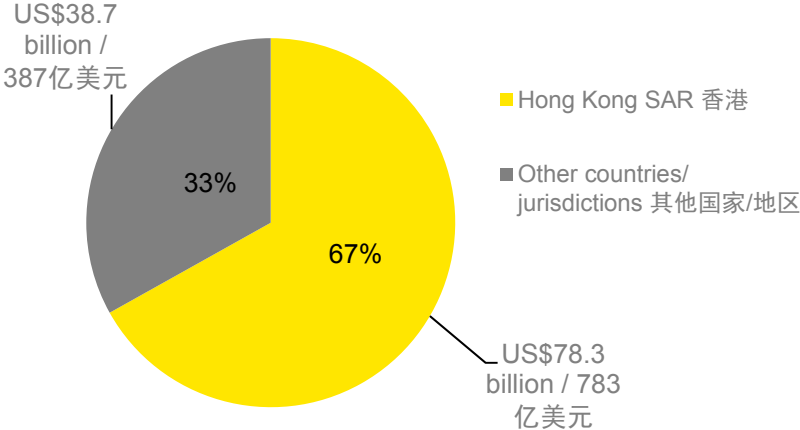
**Cross-border economic activities and cooperation on tax developments
between Mainland of China and Hong Kong SAR**
两地经济往来及税收工作成就



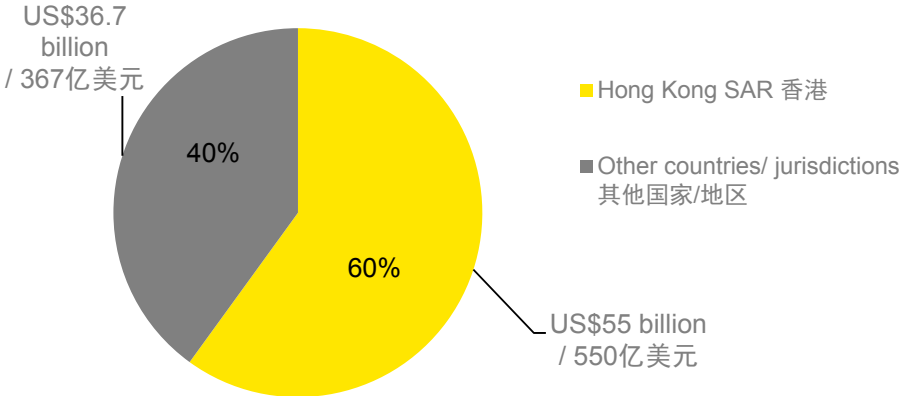
Cross-border economic activities and cooperation on tax developments between Mainland of China and Hong Kong SAR

两地经济往来及税收工作成就

Non-financial FDI inbound to Mainland of China in 2013
2013 年内地吸收非金融直接总投资



Non-financial FDI outbound from Mainland of China in 2013
2013 年内地对外直接总投资



Hong Kong SAR plays an irreplaceable role in attracting foreign direct investments (FDI) to Mainland of China and also for the foreign trade.
香港地区在我国吸引外资和对外贸易方面起着不可替代的作用

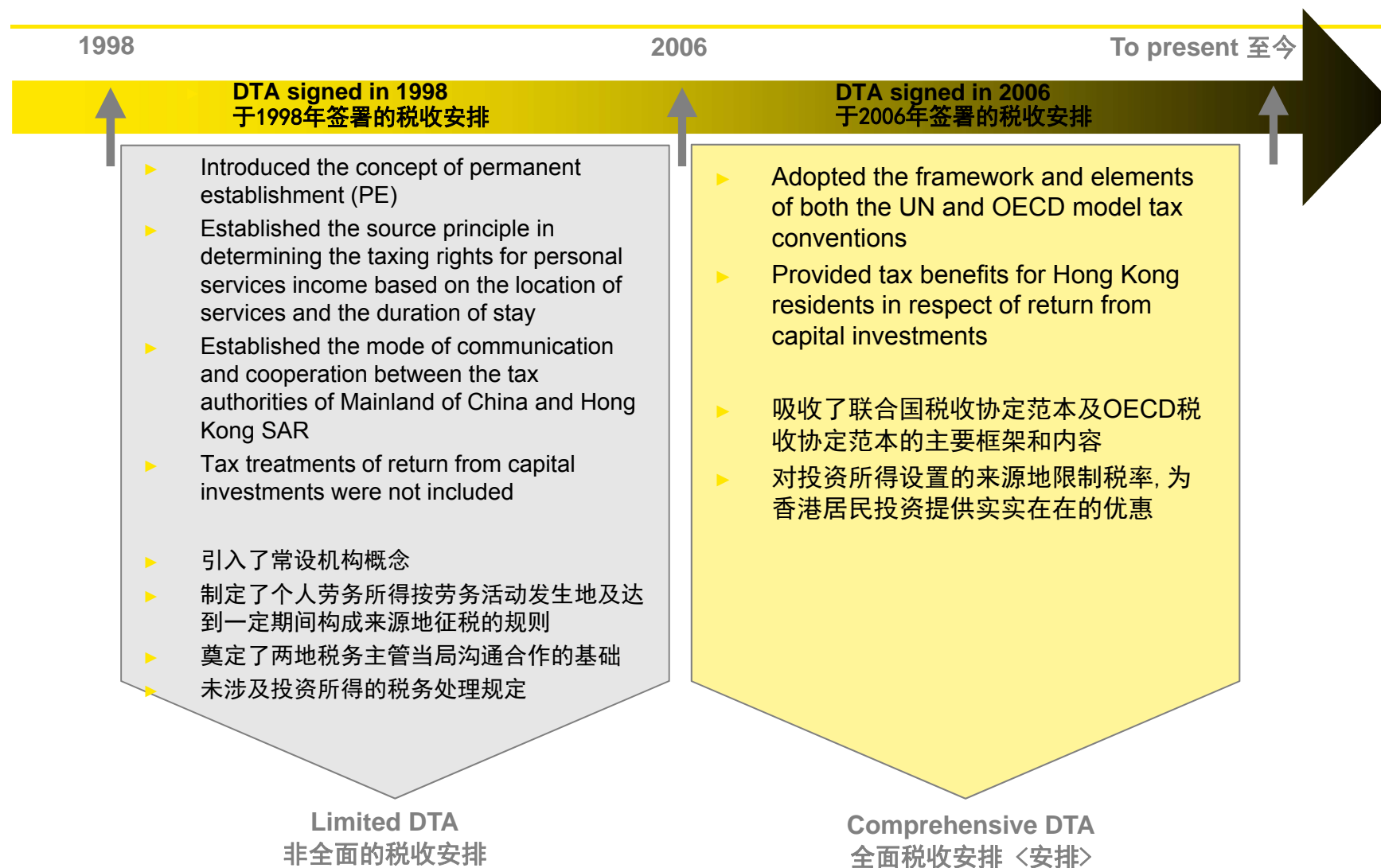
Cross-border economic activities and cooperation on tax developments between Mainland of China and Hong Kong SAR (cont'd)

两地经济往来及税收工作成就（续）



Cross-border economic activities and cooperation on tax developments between Mainland of China and Hong Kong SAR (cont'd)

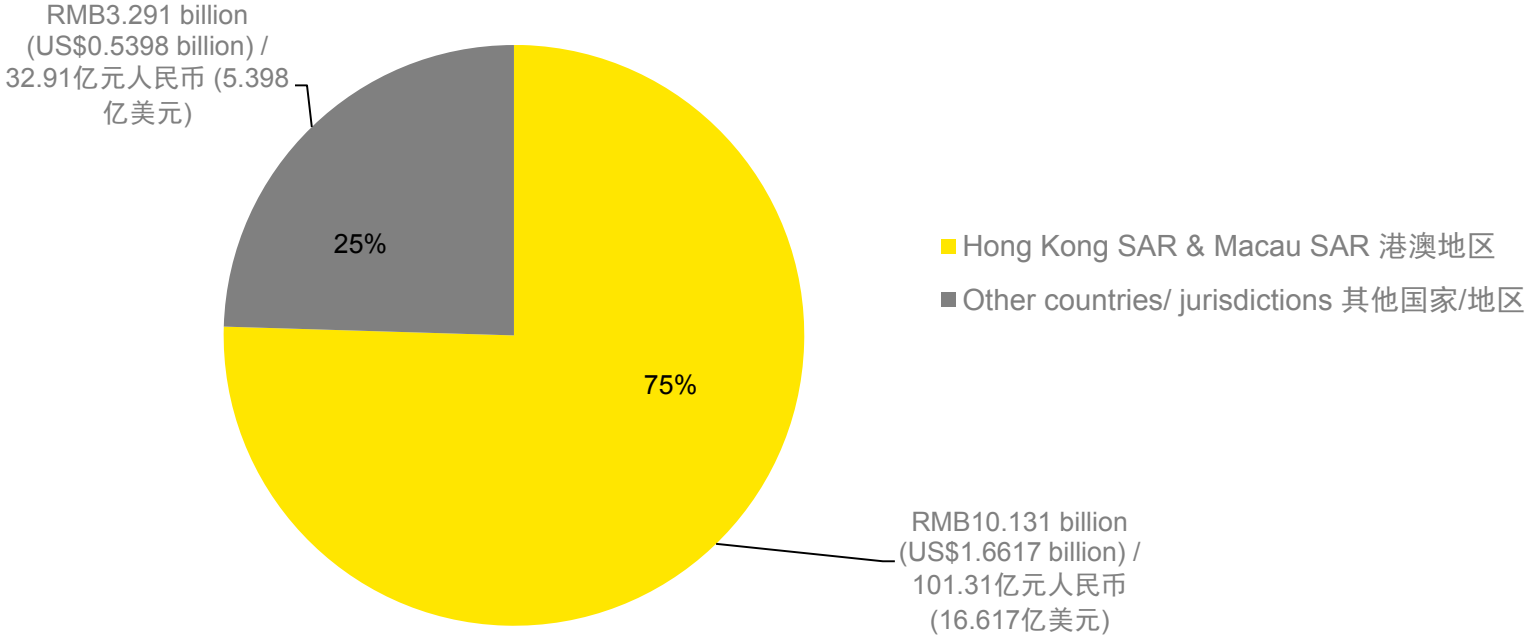
两地经济往来及税收工作成就（续）



Cross-border economic activities and cooperation on tax developments between Mainland of China and Hong Kong SAR (cont'd)

两地经济往来及税收工作成就（续）

Total tax treaty benefits under double tax treaties with other countries / jurisdictions in 2013
2013年中国与其他国家/地区税收协定待遇下涉及的各方税款减免总额



Forex rate reference:
www.pbc.gov.cn/publish/english/955/2014/20140116163127964237407/20140116163127964237407_.html

New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies
国际税收规则重塑背景下两地税收工作面临的新形势



New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies

国际税收规则重塑背景下两地税收工作面临的新形势

International economic development 国际经济发展状况

- ▶ Currently, the world economy development has the following features:
 - ▶ Acceleration of economic and market globalization
 - ▶ High mobility of capital and labor
 - ▶ Shift of production activities to low costs locations
 - ▶ Gradual elimination of trade barriers
 - ▶ Highly developed technology and communication mode
- ▶ 目前国际经济面临着如下几方面特点
 - ▶ 经济和市场全球化的步伐明显加快
 - ▶ 资本与劳务更加自由的流动
 - ▶ 制造业选择低成本地区进行制造活动便利
 - ▶ 贸易壁垒逐渐消除
 - ▶ 技术与通讯高度发达

OECD BEPS Report 经合组织税基侵蚀和利润转移报告

- ▶ OECD issued the “Base Erosion and Profit Shifting” (BEPS) Report and the Action Plan which brings significant changes to international tax policies.
- ▶ OECD发布了《关于税基侵蚀和利润转移报告》(BEPS)及15项行动计划，带来国际税收规则的巨大变化

Operational models
运营模式

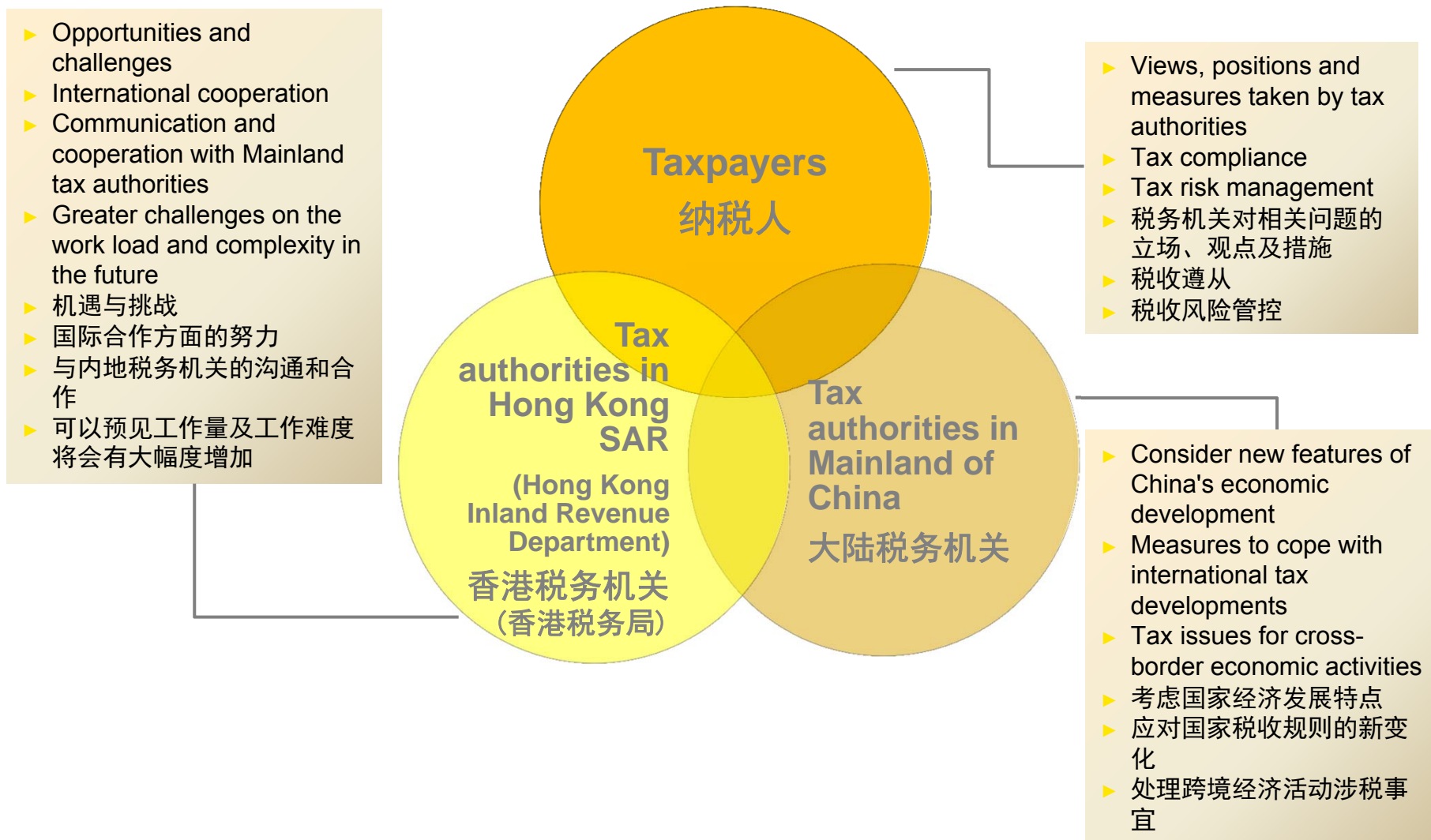
Tax planning
税收筹划

Tax compliance
纳税遵从

- ▶ Tax authorities and taxpayers of the Mainland and Hong Kong SAR are facing new challenges due to cross-border economic development.
- ▶ 两地税务机关及纳税人面临着由两地经济发展带来的新形势、新问题。

New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies (cont'd)

国际税收规则重塑背景下两地税收工作面临的新形势（续）



New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies (cont'd)

国际税收规则重塑背景下两地税收工作面临的新形势（续）

From Mainland tax authorities' perspective 内地税务主管当局方面



- ▶ Participate in international tax developments
- ▶ Research on BEPS
- ▶ Formulating comprehensive tax regulations
- ▶ Enhance tax collection and administration
- ▶ 参与国际税收规则重塑
- ▶ BEPS 研究
- ▶ 制定完善税收政策
- ▶ 税收征管

In details

- ▶ Consider the value created by the China market along the supply chain
- ▶ Avoid mismatch arrangement, abusive use of organizational structure and tax haven, or treaty shopping which results in double non-taxation, under collection of taxes or tax liability deferral

具体而言

- ▶ 充分考虑中国市场在价值创造中的作用
- ▶ 防范对错配安排、滥用组织形式、利用避税港规则或择协避税等形式造成的双重不征税、少征税、缓征税

Focus of cross-border economic activities
对跨境经济活动关注的重点

- ▶ Application of place of effective management
- ▶ General anti-avoidance rules
- ▶ Information exchange with tax haven countries (regions)
- ▶ 对实际管理机构所在地原则的运用
- ▶ 一般反避税规则
- ▶ 加大与避税港税收信息交换的力度

New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies (cont'd)

国际税收规则重塑背景下两地税收工作面临的新形势（续）

From HK tax authorities' perspective 香港税务主管当局方面

- ▶ International cooperation
 - ▶ Passed peer review of Global Forum on Transparency and Exchange of Information for Tax Purposes
 - ▶ Strengthen global cooperation in taxation with other countries/ jurisdictions
- ▶ Communication and cooperation with the Mainland tax authorities
 - ▶ Joint implementation of DTA
 - ▶ Improve procedures of tax resident recognition
 - ▶ Tackle treaty shopping
- ▶ Challenges
 - ▶ More requests from other countries/ jurisdictions
 - ▶ Respond to tax adjustments requested by foreign tax authorities
 - ▶ Potential increase of Mutual Agreement Procedure (MAP)

- ▶ 与全球的合作
 - ▶ 成功通过全球税收论坛税收信息交换同行审议
 - ▶ 加强与其他国家和地区在税务领域的合作
- ▶ 与内地税务主管当局间的沟通与合作
 - ▶ 共同执行两地税收安排
 - ▶ 完善居民身份认定程序
 - ▶ 防范安排滥用
- ▶ 面临的问题
 - ▶ 其他国家和地区税务主管当局更多的配合与合作的要求
 - ▶ 本地居民纳税人被境外税务机关进行利润调整后的对应调整要求
 - ▶ 可能越来越多的税务磋商

New environments encountered by the tax authorities of Mainland and Hong Kong SAR under new developments of international tax policies (cont'd)

国际税收规则重塑背景下两地税收工作面临的新形势（续）

From taxpayers' perspective 纳税人方面

Tax authorities' views and measures on relevant issues	关注税务部门对相关问题的观点及立场
<ul style="list-style-type: none">▶ Measures to align the taxing rights with the substance of the economic activities▶ Treatments for the use of offshore structures and tax heaven for double non-taxation▶ Prevention of base erosion by ways of cross-border investment and financing, and the use of exporting intangible properties for free▶ Pay attention to non-disclosures or minimal disclosures of foreign investments income and the use of shell companies or offshore accounts to carry out transactions for tax avoidance purposes▶ Treatments to cope with mismatch of profits level and the respective risks and functions as well we economic substances	<ul style="list-style-type: none">▶ 在征税权与经济活动实质相一致方面采取的措施▶ 对搭建离岸架构，恶意规避税收管辖的双重不征税的处理▶ 对利用跨境投融资、无偿向境外输出无形资产侵蚀境内税基的防范▶ 对境外投资企业不申报、少申报境外所得及设立避税地壳公司或离岸账户进行避税交易的关注▶ 对职能定位、经济实质与利润水平不匹配等问题的处理

The outlook of tax collection and administration in Mainland and Hong Kong SAR

两地税收工作展望



The outlook of tax collection and administration in Mainland and Hong Kong SAR

两地税收工作展望

Mainland tax authorities always takes into account the special status of Hong Kong SAR and the close economic relations of both sides in order to provide special treatments to Hong Kong tax residents for policy formulation and implementation, for example:

考虑到香港的特殊地位及两地更紧密的经济关系，在政策制定及执行层面针对香港居民纳税人也做过特别规定：

1 SAT Announcement [2012] 16 国家税务总局公告 [2012] 16

- Income derived from services provided by HK resident individuals in Mainland with dual employment can be calculated based on the number of actual days in Mainland of China
- 对频繁往来于两地工作的香港居民个人，在内地受雇按实际停留期间标准确立计税的活动时间

2 Shui Zong Han [2013] 165 税总函 [2013] 165

- Provide detailed guidance in relation to the determination of beneficial owner for Hong Kong tax residents
- 对香港居民纳税人的“受益所有人”身份判定作出便于享受安排待遇的政策细化规定

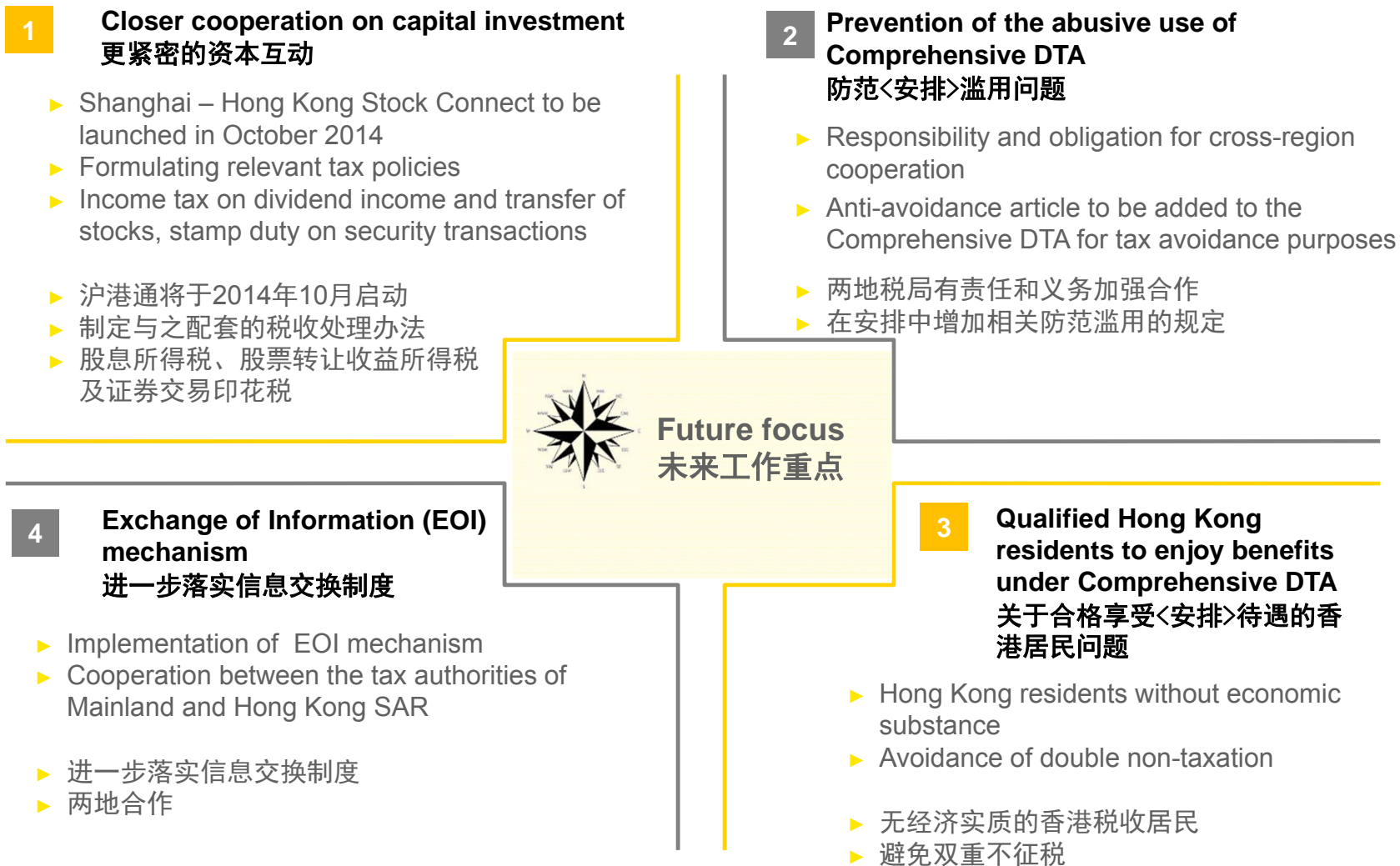
3 SAT Announcement [2013] 53 国家税务总局公告 [2013] 53

- Provide procedural guidance on recognition of Hong Kong tax residents
- 明确香港居民身份认定方面的程序性规定

? What's next 下一步

The outlook of tax collection and administration in Mainland and Hong Kong SAR (cont'd)

两地税收工作展望（续）



Questions & answers 问与答

