The Advantages of Hong Kong from a Legal Perspective

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Hong Kong Past and Present

• Traditional doorway to China

• Good reasons from a legal perspective to still invest in China through a Hong Kong holding company

• Since July 1, 1997 Hong Kong is China

• The “Delaware” of greater China as the region with:
  • Most sophisticated legal system
  • Lowest standard corporate tax rate
  • Most established financial market

• Not surprising that Hong Kong is still the number one source of investment into mainland China

• Consistently voted the freest economy in the world by the Heritage Foundation
The Benefits of Hong Kong

• Legal system – “one country, two systems”

  • Rule of Law – reliable enforcement of contractual obligations
  • Hong Kong continues to use English common law as its legal foundation
  • Laws in English and Chinese - both are official languages
  • Dispute Resolution – arbitrate your Chinese contracts in Hong Kong!
  • Enforcement - new draft law would make money judgments of a Hong Kong court enforceable in mainland China
The Benefits of Hong Kong

- Tax benefits
  - Corporate tax - 17.5% in Hong Kong versus 33% in mainland China
  - Transfer pricing benefits - make your profits in Hong Kong, not China
  - Personal income tax - 16% versus 45%
The Benefits of Hong Kong

• The comfort effect
  • Some of your customers may prefer to contract with a Hong Kong holding company rather than with a PRC company
    • Instant credibility
    • Your customers know they can rely on the rule of law in Hong Kong

• The buffer effect
  • A Hong Kong holding company can insulate your Canadian parent company from any direct liability arising in China
The Benefits of Hong Kong

• Restructuring benefits of a Hong Kong holding company – flexibility as sale of a WFOE or JV can be done either indirectly at the Hong Kong level or directly at the PRC level

  • Selling at the Hong Kong level:
    • No transfer tax or capital gains tax in Hong Kong
    • No government approvals required for share transfers
    • Transfers can be done immediately
    • May be taxed in Canada
The Benefits of Hong Kong

• Selling at the PRC level:
  
  • If sold with a gain, likely better from a tax perspective to have the seller in Hong Kong than in Canada
  
  • No tax in Canada if your Hong Kong holding company sells a WFOE or JV and all or substantially all of its assets are used in carrying on an active business in mainland China
  
  • Reinvest the profits from Hong Kong
The Benefits of Hong Kong

• Easy to do

  • Incorporating a Hong Kong company is cost effective (about CDN$2,500) and can be done quickly

  • Using a Hong Kong company to establish your business in China is easy and efficient

  • Chinese authorities most familiar with Hong Kong companies as parent companies
The Benefits of Hong Kong

• Additional benefits for businesses new to China
  
  • Hong Kong business people have vast experience in doing business in China
  
  • Hong Kong is a much simpler and more transparent place to do business than mainland China
    • Do you know with whom you are dealing?
  
  • Go through Chinese companies with branch offices in Hong Kong or Hong Kong trading companies
    • Consider sourcing Chinese products in Hong Kong
    • Consider a Hong Kong partner if you want to export to China
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