

The Advantages of Hong Kong from a Legal Perspective

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Kenneth Wiener

Goodmans

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

Contacts

Toronto

Kenneth Wiener
Suite 2400
250 Yonge Street
Toronto
(416) 597-4106
kwiener@goodmans.ca

Hong Kong

Leo Seewald
11th Floor, 9 Queen's Road Central
Hong Kong
(852) 2848-4886
lseewald@goodmans.ca

Vancouver

Bruce Wright
355 Burrard Street
Suite 1900
Vancouver
(604) 682-7737
bwright@goodmans.ca