

Hong Kong Company Compliance and Maintenance Guideline Note

The Hong Kong company in this article refers to a private company limited by shares incorporated/registered in accordance with the Hong Kong Companies Ordinance. Some of the compliance requirements are also applicable to public companies.

This guideline note aims to explain briefly those compliance requirements and the related costs and its present in 5 sections. Sections 1 to 3 of this article introduces in brief the basic compliance and maintenance requirements, such as maintenance of company secretary and registered office, filing of Annual Return, Profits Tax Return and filing of change of registration particulars of a company.

Section 4 shows the fees and costs associated with the various basic requirements introduced in sections 1 to 3. The fees and costs shown in section 4 are estimations and for reference only.

Section 5 details the responsibilities of an employer in Hong Kong, including taking out employee compensation insurance, registration and contribution of mandatory provident fund and reporting of commencement and termination of employment and payment of remuneration to employees, and also our fees for handling the reporting requirements.

The fees stated in the quotation are for general reference only and is subject to change from time to time.

Where Kaizen is the company secretary of client's Hong Kong company, Kaizen will send out a notice of and our fees for annual renewal to client by email at least 2 months before the anniversary date of the company. Kaizen will state clearly the deadline for payment of annual renewal fees and payment should be cleared by the deadline so as to allow us sufficient time to process the annual renewal. If we have not received the payment by the deadline, we should not be held liable for any penalty resulting from late filing or payment of government fee.

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1. Company Law Related Compliance Requirements

(1) Director

A company is required to appoint at least one director and at least one director must be a nature person. The first director is appointed by the founder members at the time of incorporation. A director can resign from the company any time. However, the resigning director must serve a notice of resignation at the registered office of the company or notify the Companies Registry with a within 15 days. The members can also dismiss a director by holding a meeting to pass a resolution and then inform the Companies Registry within 15 days.

Also, if there is in change to a director's personal particulars, such as the name, passport number and residential address, the company is also required to inform the Companies Registry within 15 days.

(2) Company Secretary

A Hong Kong company must appoint a Hong Kong resident or a Hong Kong company to act as its company secretary. The company secretary is being appointed by the directors and the remuneration of the company secretary is determined by the directors. In the case where there is a change of company secretary or change of personal particulars, such as name and residential address, the Companies Registry should be notified within 15 days of such a change.

(3) Registered Office

In accordance with the Hong Kong Companies ordinance, all companies registered in Hong Kong must always maintain a street address as its registered office address in Hong Kong so as enable legal service to be served. If there is any change to the registered office, the Companies Registry should be notified of the change with 15 days by a designated form.

(4) Appointment of Designated Representative

Effective from 1 March 2018, each and every company registered in Hong Kong is required to appoint a licenced corporate service provider or accounting firm or law firm as its designated representative. The responsibilities of the designated representative include updating and maintaining the Significant Controller Register (SCR) and liaison and providing assistance relating to the company's SCR to a law enforcement officer.

(5) Share Capital

There is no limitation on the amount of share capital, but at least one share should be issued to each founder member. Capital can be contributed by cash, tangible assets (equipment, real estate property and inventory) or intangible assets (patent, trademark or technical know-how). If capital is contributed by non-cash assets, the members could arrive at the valuation of the assets by among themselves.

A company can increase or reduce its capital by passing a resolution of the members. The capital of a company can be increased by way of an increase of number of shares and amount of capital, or by an increase in the number of shares or amount of capital. For example, the members of a company can decide to convert the amounts due from the company to capital with allotting additional shares.

A company can also change the denomination of its capital, for example, from HKD to RMB or USD. It can also merge or divide its shares, for example, 10 shares being merged into 1 share or 1 share being divided into 5 shares.

Where a company increase its capital, or changes the denomination of its shares, or merges or divides its shares, it should notify the Companies Registry within 1 month of such changes.

A company can reduce its capital and return it to its members by passing a resolution. In the case where the company is insolvent or will be insolvent after a reduction of capital, court approval is required for capital reduction.

(6) Members

The minimum and maximum numbers of members (shareholder) are 1 and 50 respectively for a private company. Once the number of members exceeds 50, the company becomes a public company. Two persons holding one share is counted as one member. Also, employees and ex-employees holding shares as a result of employment is not counted as members.

Members are the beneficiary own of the shares in a company and shares are personal property of members. Therefore, a member can transfer (with or without consideration) to any person. However, the Articles of Association of a private company always provides that transfer of shares is subject to approval by the board of directors and the remaining members have first priority (pre-emptive rights) to purchases shares from the leaving member.

A transfer of shares mainly involves the stamping of transfer documents and payment of stamp duty. A company is not required to notify the Companies Registry of change of shareholders. Any change of shareholder is shown in the next annual return.

(7) Filing of Annual Return

An Annual Return is required to be filed within 42 days after the anniversary of incorporation. The purpose of the annual return is to report all changes in the particulars of the company with the Companies Registry and therefore make known to the general public the up-to-date registration particulars of the company.

At the time of filing of the annual return, the company also needs to make a payment of a statutory filing fee of USD15 to the Companies Registry.

If the Annual Return is not filed within 42 days after the anniversary day, substantially higher filing fee will be applicable. The registration fee payable for the late delivery of an Annual Return is:

Table 1 - Annual Return Statutory Filing Fees

No.	If the Annual Return is delivered	Registration Fees (USD)
1	more than 42 days after but within 3 months after the anniversary of incorporation	115
2	more than 3 months after but within 6 months after the anniversary of incorporation	230
3	more than 6 months after but within 9 months after the anniversary of incorporation	345
4	more than 9 months after the anniversary of incorporation	460

In addition, companies which fail to file annual returns or file annual returns late may be liable to prosecution and, if convicted, pay the fines imposed by the court. The maximum level of fine for a company which failed to comply with the requirements for completing and filing annual return is a fixed penalty of USD6,420 and a daily default fine of USD92.

(8) Book-keeping and Preparation of Financial Statements

All companies registered in Hong Kong are required to maintain proper books of accounts and prepare a set of annual financial statements in accordance with SME-FRS, HKFRS for Private Entities or HKFRS issued by the Hong Kong Institute of Certified Public Accountants and the financial statements should be laid before an Annual General Meeting. The financial statements include directors' report, statement of financial position, income statement and notes to the accounts. If the company concerned is an ultimate holding company, the Companies Ordinance further requires it to prepare consolidated financial statements.

The accounting records should be kept at the registered office or any other place as approved by the directors. If the accounting records are kept outside Hong Kong, such records should be sent back to Hong Kong once every 6 month period.

The account records should be kept for at least 7 years.

(9) Annual Statutory Audit

The Hong Kong Companies Ordinance requires a Hong Kong registered company to appoint a practising public accountant or a public accounting firm licenced in Hong Kong as its independent auditor. The duty of the auditor is to audit and report to the shareholders whether the financial statements of the company present a true and fair view of the financial position of company.

The preparation of audited financial statements is a requirement of the Companies Ordinance. Even in the case that your Hong Kong company has not yet commenced business or did not have any business transaction in a particular year.

(10) Annual General Meeting

Every company registered in Hong Kong is required by the Companies Ordinance to hold an Annual General Meeting (AGM) once a year, unless it meets the requirements set out in below paragraph. The interval between two AGMs cannot longer than 15 months and the first AGM must be held within 18 months after incorporation.

The Companies Ordinance further provides that a company is not required to hold AGM in the following circumstances:

- (a) If everything that is required to be done at the meeting is done by a written resolution and copies of the documents required to be laid or produced at the meeting are provided to each member of the company on or before the circulation date of the written resolution (s612(1));
- (b) It is a single member company (s612(2)(a));
- (c) It decides to dispense with the holding of AGM by a written resolution or a resolution at a general meeting passed by all members (s613);
- (d) It is a dormant company (s611).

If all the shareholders entitled to attend and vote at the AGM so agree, the meeting may be held at short notice, but otherwise at least 21 clear days' notice is required. Copies of any audited accounts to be considered at the AGM must be sent to all shareholders, debenture holders and other persons so entitled not less than 21 days before the date of the meeting, unless all shareholders entitled to attend and vote at the meeting otherwise agree.

(11) Significant Controller Register

From 1 March 2018, all Hong Kong incorporated companies (except for companies listed on the Hong Kong Stock Exchange) are required to maintain a register of significant controllers (the 'SCR'), which will be accessible to persons whose names are entered in the register or on demand made by any law enforcement officer. Even if a company does not have a significant controller, the company is still required to keep an SCR.

Failure of the company to comply with its SCR obligations is a criminal offence and the company and every responsible person of the company will be liable to a fine of USD3,220 and if applicable, a further daily fine of USD90.

(12) Other Compliance Requirements

In accordance with the requirements of Companies Ordinance, a Hong Kong registered company is required to:

- (a) Update its Register of Members in a timely manner, Register of Directors, Register of Secretary, Register of Transfers and any other statutory registers in a timely manner;
- (b) Update its Register of Significant Controllers;
- (c) Maintain records of minutes and accounting records.

2. Tax Law Related Compliance Requirements

(1) Renewal of Business Registration Certificate

The Business Registration Certificate is also the tax registration certificate of a Hong Kong company, as the business registration number is also the tax file number. At the time of registration of a company, the founder must also apply for a business registration certificate. A company can apply to have business registration certificate with a one year or three year validity period. A company is required to renew its business registration every year, unless its business registration certificate has a validity period of three years. The business registration certificate can normally be renewed one month before or after its expiration date.

The current business registration fees for one year and three year registration certificates are USD286 and USD754 respectively. Normally, late renewal will attract a penalty of USD40 initially. Further delay will result in court proceeding and extra fine.

(2) Filing of Profits Tax Return

On the first working date of every fiscal year, the Inland Revenue Department will issue a Profits Tax Return to each company registered in Hong Kong. A company must file the completed return together with supporting documents with the IRD within the deadline specified in the return. This is to report the operating results of the company to the tax authority so as to enable the tax authority to assess if the company is chargeable to profits tax.

When a company files its Profits Tax Return, it must also file a tax computation and a copy of audited financial statements as supporting documents. In the case where the turnover of a company is less USD258,000, the audited financial statements is not required to be filed. However, the company should still engage a Hong Kong accounting firm to audit its financial statements every year as the tax authority has the right to request the filing of audited financial statements any time as it think fit.

In general, the company will have a month to complete and file the profits tax return. Extension for filing of the return is possible with reasonable grounds.

Late filing of Profits Tax Return will initially result in a fine of USD155. The company will still need to file the said return within the deadline specified in the penalty notice. Further delay may result in court proceeding.

Also, the tax authority has the right to issue an estimated assessment and demand for payment of tax so assessed in the situation of late filing of tax return. If an objection is not raised within one month after the issue of the estimated assessment, it will become final and conclusive. Nevertheless, the company will still need to pay the difference if the actual tax liability is higher than the amounted estimated.

(3) Filing Employer's Return

Normally, an Employer's Return is issued by the tax authority to all employers in Hong Kong on the first working day of April each year. Employer is required to complete and return the Employer's Return within one month from the date of issue. The Employer's Return is to report to the Hong Kong Inland Revenue Department the amount of remuneration the company paid to each of its employees (including directors), including salaries, wages, commissions, bonus and provision of quarters for the period from 1 April to 31 March every year, so as to enable the tax authority to assess and charge individual income tax on the employees.

The Employer's Return consists of two forms, namely BIR56A and BIR56B. If a company hired no employee in the previous tax year, it is still required file BIR56A. and when a company hired employees, a BIR56B is required to be completed and filed for each employee.

Late filing of Employer's Return will result in a fine of around USD400 or more and may be liable to prosecution.

In addition, in accordance with the requirements of Hong Kong Inland Revenue Ordinance, when a company hires employees or when its employees resign, it should report the personal particulars of those employees hired or those employees resigned to the tax authority.

3. Human Resource Related Compliance Requirements

(1) Payroll and MPF Reporting Services

An employer in Hong Kong is required to make arrangements for relevant employees aged between 18 and 65, who have been employed for 60 days or more, to join a registered MPF scheme. It can select one or more MPF schemes managed by the licensed trustees (e.g. HSBC, Standard Chartered Bank and licensed insurance companies) and then arrange the relevant employees to join the scheme.

Mandatory contributions are calculated on the basis of 10% of an employee's relevant income within the range between USD920 and USD3,850. The employer and its employee each are required to pay 5% to the scheme. Maximum and minimum income levels have been set for mandatory contribution purposes. If the employee's income is less than USD920 per month, he or she will be exempted from making mandatory contribution but the employer is still required to contribute an amount equals to 5% of the employee's income.

(2) Labour Compensation Insurance

According to section 40 of the Employees' Compensation Ordinance, no employer shall employ any employee in any employment unless there is in force a policy of insurance to cover his liabilities under the laws (including the common law) for injuries at work in respect of all his employees, irrespective of the length of employment contract or working hours, full-time or part-time employment.

The minimum insurance cover should be for an amount:

No. of Employees	Amount of Insurance Cover per Event
not more than 200	not less than HKD100 million
more than 200	not less than HKD200 million

An employer who fails to comply with the Ordinance to secure an insurance cover is liable to prosecution and, upon conviction, to a maximum fine of around USD13,000 and imprisonment for two years.

Moreover, under the Employees' Compensation Assistance Ordinance (Chapter 365 of the Laws of Hong Kong), an employer who fails to comply with the compulsory insurance requirement is liable to pay a surcharge to the Employees Compensation Assistance Fund Board.

4. Annual Maintenance Costs

In order to provide our existing and potential clients with a clear picture of what they should budget to maintain their Hong Kong companies in good standing, we have prepared the below table detailing the related compliance and maintenance costs for their reference. The annual maintenance/compliance fees are expected to be incurred once a year from the second year onward and the variable fees are for general reference only and represent the minimum you should budget for the purpose of maintaining a Hong Kong company in good standing. The actual costs will vary in accordance with the nature of business or scale of operation of the company and some other factors.

Table 2 – Annual Maintenance Fee

Item	Description	Amount (USD)	Note
Basic Maintenance Costs (Fixed)			
1	Business registration fee	286	1
2	Annual Return statutory filing fee	15	2
3	Company secretary	460	3
4	Business address service	360	4
5	Preparation of AGM documents	200	5
6	Designated Representative	200	
	Subtotal:	1,521	
Accounting and Tax Related Fees (Variable)			
7	Accounting and bookkeeping service	250 up	6
8	Financial statements statutory audit	1,000 up	7
9	Hong Kong Profits Tax computation and filing	350 up	8
10	Application for exemption from corporate income tax	TBA	9
11	Employer's return filing (No employee)	100	10
	Subtotal:	1,700 up	

Note:

- (1) The standard registration fees for a validity period of one and three years are USD286 and USD754 respectively.
- (2) The standard statutory registration fee of Annual Return is USD15 if filed within 42 days after the anniversary day, subject to change by the HK Government. Late filing will result in higher registration fee.

- (3) Kaizen's annual company secretary services include:
 - (a) acting as company secretary
 - (b) updating and maintenance of minutes of shareholders and directors;
 - (c) updating and maintenance of statutory registers;
 - (d) preparation and filing of annual return
- (4) Kaizen's registered office services include providing a Hong Kong street address as the registered office of the client's Hong Kong company and forwarding of mails from the Hong Kong Government and bank;
- (5) The fee covers the preparation of written resolutions in relation to AGM. Kaizen can arrange the convention and holding of physical AGM, our fees will be quoted upon request.
- (6) Kaizen's fee for accounting (book-keeping) varies from case to case. In particular, Kaizen's book-keeping service fee will depend on the volume of accounting transactions. Accounting transaction includes number of sales invoices, purchase bills, checks, bank remittances, and bank receipts etc. The number of transactions, the nature of business/transactions and tidiness of record keeping all will have an impact on the fees charged by Kaizen. Please contact Kaizen to obtain the accounting fee schedule.
- (7) The fees for auditing of financial statements are mainly determined by the nature of business and turnover and the types of assets held by the company. In general, fees for auditing of the financial statements of a company which is engaged in trading business and at the same time holds investment in property and security will definitely higher than that for a company with trading business only. Please contact Kaizen to obtain the audit fee schedule.
- (8) This fee covers preparation of tax computation, preparation and filing of profits tax return only. Kaizen can also assist clients to apply for exemption from profits tax. Fees for application for exemption from profits tax will be negotiated and charged separately.
- (9) In the case where a company carries out its business activities outside of Hong Kong, it may be eligible for exemption from profits tax (corporate income tax) on the income derived from those activities conducted outside Hong Kong. We can handle the application for exemption and our fee for this service will be quoted upon request.
- (10) This fee covers preparation and filing of employer's return for companies without employees. If there are employees, an extra fee of USD120 per employee will be charged. For example, Kaizen CPA Limited hired two employees during the year, then the total fees for handling employer's return will be USD340.

5. Payroll Processing and Filing of Employer's Returns

Table 3 – Payroll and Tax Return Filing Services Fees

Item	Particulars	Fee (USD)
1	Monthly Calculation of Salary, producing Pay slips on a monthly basis, handling MPF Contributions on a monthly basis and auto Payment of Salaries on a monthly basis	40 month/employee
2	Filing of Forms to IRD on hiring of each new employee (IR56E)	100
3	Filing of Forms to IRD on termination of each employees (IR56F)	100
4	Registration of MPF Scheme for each new employee (Note 1)	100
5	Report of termination of each Foreign Employees (IR56G)	100
6	Submission of BIR56A regardless number of employees (IR56A)	85
7	Submission of BIR56B for each employee (IR56B)	100
8	Report of Remuneration Paid to persons other than employees (IR6036A)	100
9	Report of Remuneration Paid to persons other than employees (IR56M)	100
10	Filing of annual Individual Income Tax Return (each employee) (Note 2)	250 up
11	Employees' compensation insurance	450

Note:

- (1) A company is required to register its new employee to a MPF scheme. A new employee does not have to make MPF contribution in the first two months of employment.
- (2) The Hong Kong tax authority will issue an individual income tax return (also known as salaries tax return) to all individual taxpayers in Hong Kong. The completion and filing of individual tax return are that the employees themselves.

If you wish to obtain more information or assistance, please visit our official website at www.kaizencpa.com or contact us through the following:

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