

The Tax Arrangement between Mainland China and Hong Kong -Its Characteristics, Issues and Solutions

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Research background



The Tax Arrangement between Mainland China and Hong Kong plays a significant role in promoting the development of Hong Kong's economy.

Research background

- With the rapid development of digital economy and the innovative business model of transnational corporations, international taxation rules -which have been implemented for nearly 100 years - suffer a serious impact.



Research background



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- The status of Mainland China in economic globalization is undergoing profound changes - mainly from capital input to both capital input and capital output and from a world factory to a world market.

Research background



It is significant theoretically and practically to effectively address these new issues so that the Arrangement continues to promote the economic development of Hong Kong.

Structure of the Paper

1

A comparative study of the Arrangement and the relevant provisions in the OECD Model, the UN Model and the Sino-British Tax Convention.

2

Two characteristics of the Arrangement .

3

Issues and solutions of the Arrangement.



A comparative study of the Arrangement and the relevant provisions in the OECD Model, the UN Model and the Sino-British Tax Convention.

1

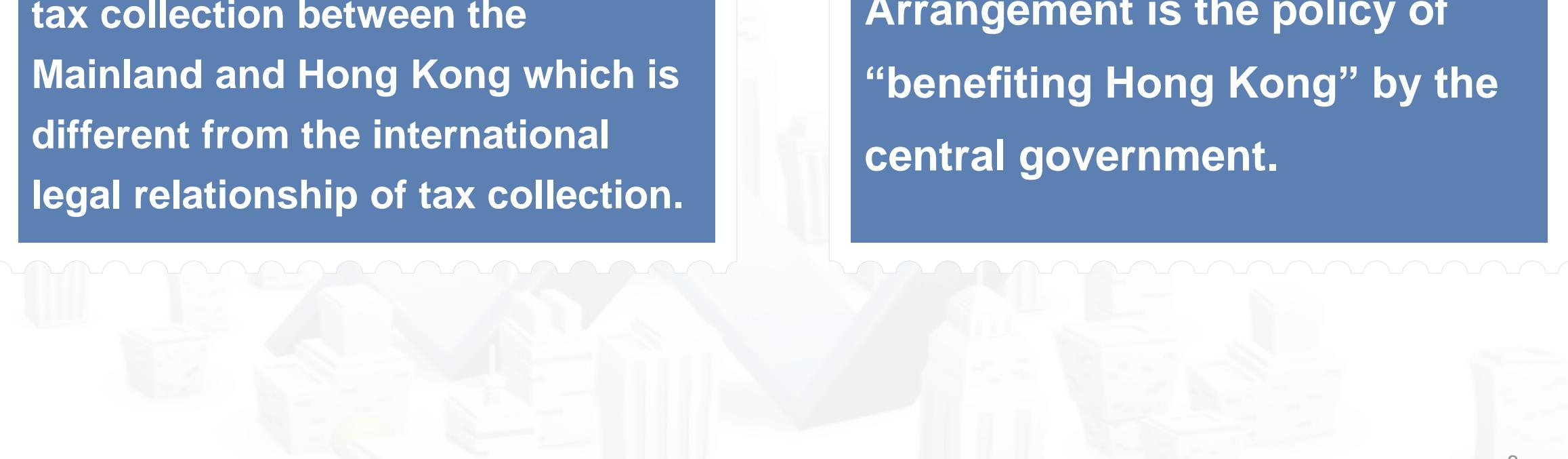
**The main entry point of this paper -----
the allocation of taxing rights between the two
contracting parties and anti-tax avoidance .**

2

**A detailed comparative analysis is made to
the meaning and interpretation of “resident” ,
meaning and interpretation of permanent establishment (PE),
distributive rules on the allocation of taxing rights between the
contracting states and so on.**

Two characteristics of the Arrangement

1.



The Arrangement reflects the interregional legal relationship of tax collection between the Mainland and Hong Kong which is different from the international legal relationship of tax collection.

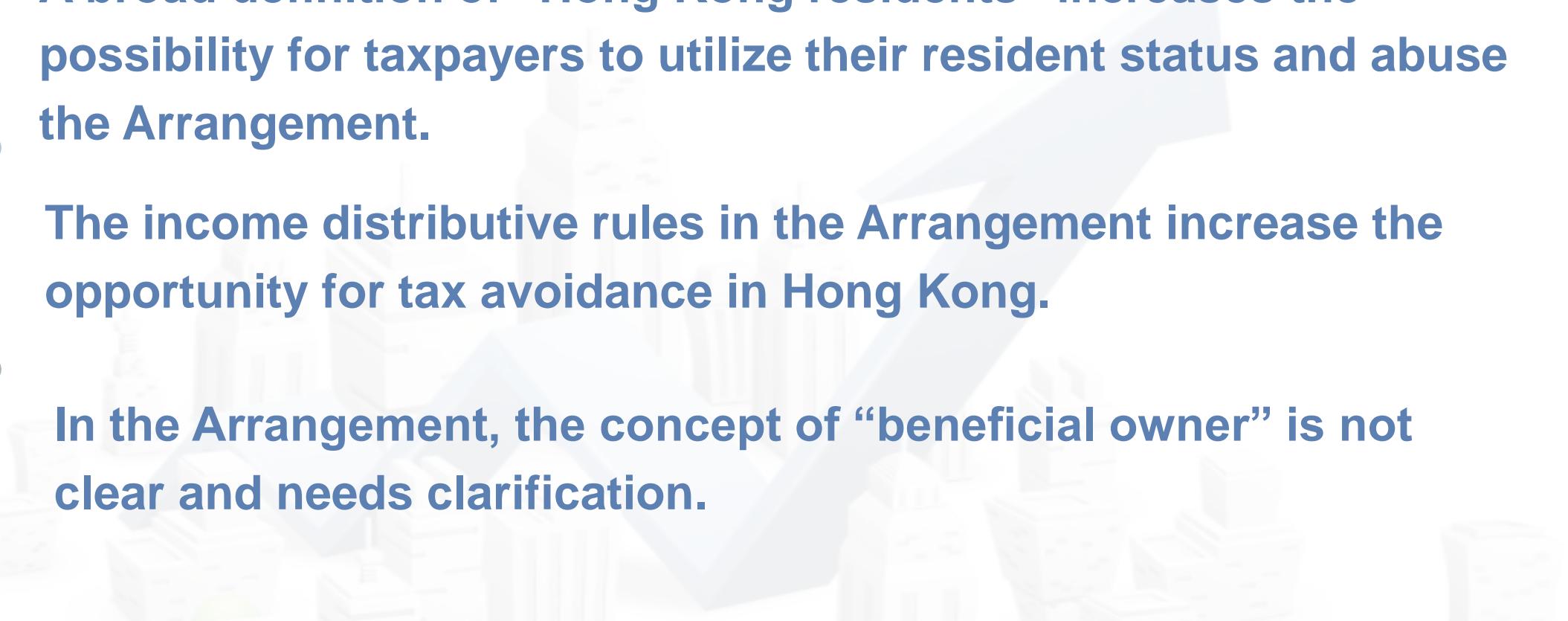
2.

The essence of the Arrangement is the policy of “benefiting Hong Kong” by the central government.

Issues of the Arrangement and solutions

-  **The Arrangement gives Hong Kong residents more tax breaks, it can more easily leads to abuse of the Arrangement by taxpayers and thus make Hong Kong a tax haven.**
-  **With the rapid development of the digital economy, some concepts in the Arrangement need to be urgently clarified .**
-  **Tax costs incurred by investors in the two places on transactions in “Shanghai-Hong Kong Stock Connect” are not equal.**

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- 1 A broad definition of “Hong Kong residents” increases the possibility for taxpayers to utilize their resident status and abuse the Arrangement.
 - 2 The income distributive rules in the Arrangement increase the opportunity for tax avoidance in Hong Kong.
 - 3 In the Arrangement, the concept of “beneficial owner” is not clear and needs clarification.

Solutions



Add an anti-tax avoidance clause about “beneficial owner” in the Arrangement by referring to the OECD Model Commentary.



Add a mutual administrative assistance provision in tax administration in the Arrangement and boost the anti-tax avoidance cooperation ability of the tax departments in the two places .

With the rapid development of the digital economy, some concepts in the Arrangement need to be urgently clarified

1

Clarification of the term “place of effective management”.

2

The term “permanent establishment” is not clear and needs to be clarified with the rapid development of cross-border e-commerce.



Solutions

1 Provide rules in determining the “place of effective management” to minimize disputes .



2 Specify in the Arrangement “permanent establishment” issues arising from cross-border e-commerce activities and the income distributive rules.

Tax costs incurred by investors in the two places on transactions in “Shanghai-Hong Kong Stock Connect” are not equal.

Because the securities clearing system of Hong Kong – cannot distinguish whether or not the real investor is an enterprise or an individual, investors in the two places have major policy differences in terms of dividend income, and tax costs are not equal.



Solutions

Hong Kong Securities Clearing should make changes and adapt to the new economic situation as early as possible, as well as being able to distinguish the identity of real investors and meet the data statistics requirements of stock holding time of different investors.



Conclusion

1

It is pioneering and experimental for Mainland China and Hong Kong to resolve double taxation and tax evasion in the two places by a regional Arrangement.

2

At present, Arrangement should be actively improved .



THANKS

