1. Introduction

Hong Kong ranks as the freest market in world, coordinated by limited governmental barriers as well as an open price mechanism. This position has been affirmed by not only Nobel Prize laureates[1], but also by the 2016 Index of Economic Freedom for the 22nd consecutive year[2]. Hong Kong's economy is an ideal example of the merits of an efficient market, wherein its taxation system serves as one of the paramount factors for its economic growth[3]. The tax system is simple, transparent and straightforward among rest of the countries in the world.

As the economy continues to prosper in Asia-Pacific regions, it is important to familiarise with its taxation system[4]. Article 108 of the Basic Law of Hong Kong stipulates that the Hong Kong Special Administrative Region should practice an independent taxation system, free from any external policy influences, especially China.[5] In pursuance, it has adopted a marginal tax policy, and has enacted its own types of taxes, tax rates, tax reductions, allowances and exemptions, which are primarily collected through the Inland Revenue Department (hereinafter, referred to as "IRD"). The public finance system is solely administered by Hong Kong,[6] and no amount of revenue earned from taxable sources is delivered or surrendered to China.

As compared to tax systems of other nations, Hong Kong only taxes income derived from the country itself. In addition, there is no sales tax, withholding tax, capital gains tax, tax on dividends and estate tax in Hong Kong. Despite its low tax status,

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[1] Milton Friedman, Rose D. Friedman, 'Free To Choose: A Personal Statement' (1980) *Harcourt Brace Jovanovich*.
[2] The Heritage Foundation & The Wall Street Journal, *2016 Index of Economic Freedom: Global Economic Freedom Expands; Nearly 100 Countries Improve* (1 February 2016) <http://www.heritage.org/index/pdf/2016/press-releases/THF-2016-Index-Overview.pdf>
[3] Michael Littlewood, *The Hong Kong Tax System: its History, its Future and the Lessons it Holds for the Rest of the World Q*, (2010) HKLJ.
[4] John Greig, *The Hong Kong Tax System: An Overview*, (1990) Revenue Law Journal, Vol. 1: Issue 2, Article 2 <http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1010&context=rlj>
[5] Article 108, Basic Law of Hong Kong <http://www.basiclaw.gov.hk/en/basiclawtext/chapter_5.html>
[6] Article 106, Basic Law of Hong Kong <http://www.basiclaw.gov.hk/en/basiclawtext/chapter_5.html>

Hong Kong has consistently had revenue surplus[7]. In the fiscal year 2014-15, Hong Kong's tax revenue amounted to HK$301.9 billion, with a 24% surge from the previous year's revenue.[8]

This report provides an overview and evaluation of the features of the taxation system of Hong Kong, and its contribution towards its economic expansion.

2. The Tax Regime

Hong Kong has a territorial taxation arrangement, whereby only income generated within the country itself will be taxable according to the applicable tax rates. It has one of the lowest tax rates amongst all developed and developing countries that provide great fiscal freedom to its taxpayers.[9] For the ease of collection, taxes in Hong Kong are categorized as:

1. Direct taxes of:
    a) Profits Tax – for business profits
    b) Salaries Tax - for individual's employment income
    c) Property Tax – for rental income form real estate
2. Indirect taxes of:
    a) Stamps Duty
    b) Betting Duty
    c) Estate Duty

Each tax under both sub-heads is chargeable by the IRD at different rates, depending upon the valuation of the gains incurred or service rendered. The Hong Kong government relies primarily on the aforementioned direct taxes for their revenue,

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[7] Jacqueline Wong, Donny Kwok, Twinnie Siu, Farah Master, Clare Baldwin and James Pomfret, *Highlights: Hong Kong Budget for Fiscal 2016/17*, (23 February 2016) Thomson Reuters, <http://www.reuters.com/article/hongkong-budget-idUSL3N16239Z>

[8] Phila Siu, *Hong Kong tax revenue hits record HK$301.9 billion as stamp duty collection surges*, (4 May 2015) South China Morning Post, <http://www.scmp.com/news/hong-kong/article/1785672/hong-kong-tax-revenue-hits-record-hk3019-billion>

[9] See Id. 2.

which consists of 3 types of income, namely, trading profits, employment income, and rental income from a property.[10] As of fiscal year 2016-17, the direct taxes are levied in the following manner[11]:

- *Profits tax:* Registered corporations in Hong Kong are deemed to be tax residents of the country, who pay taxes on income accrued from Hong Kong within the fiscal year of 1 April to 31 March. All foreign income is disregarded in the tax computation. Profits tax has been the largest contributor to Hong Kong's tax revenue, and is chargeable at 16.5% for corporations and 15% for unincorporated businesses. Overseas corporations with businesses in Hong Kong file their tax returns on the similar basis as the local corporations.
- *Salaries tax*: The income earned by an individual from employment, office or pension in the territory of Hong Kong is taxable under the section of salaries tax. A person is said to not be of Hong Kong source employment income if the following three conditions are met: (i) the contract is negotiated and developed and enforceable outside Hong Kong, (ii) the employer is not an inhabitant of Hong Kong, and (iii) the recompense is to be paid outside the Hong Kong.

  The salaries tax can be charged in two ways – either at a standard rate of 15% on the net total income, or progressively, from 2% to 17% (As per Table 1) on income after deductions and allowances, whichever liability is smaller.

INCOME (IN HKD CURRENCY)	**TAX RATE**
1 – 40,000 HKD	2%
40,001 – 80,000 HKD	7%
80,001 – 120,000 HKD	12%
Beyond 120,000 HKD	17%

[10] Lamin Leigh, Roland Craigwell and Travis Mitchell, *Hong Kong Special Administrative Region,* International Monetary Fund, IMF Institute, 1st ed, 2006.
[11] Inland Revenue Department Of HKSAR, *A Brief Guide to Taxes Administered by the Inland Revenue Department 2016 – 2017*, <http://www.ird.gov.hk/eng/pdf/tax_guide_e.pdf>

Tax amount on capital gains	0%
Tax amount on income earned in foreign	0%
Tax amount on bonuses from a Hong Kong corporation	0%

Table 1

- *Property Tax:* is chargeable at a flat rate of 15%.
- *Indirect Taxes:* In case of indirect taxes, stamp duties may either vary from $3 to $100 in case of fixed duties, and from 0.1% to 8.5%, in case of ad valorem stamp duties. Betting duty on local horse races is charged at a progressive rate of 72.5% to 75%. A nominal registration fee is also charged by the IRD from new businesses as an indirect tax.[12] Previous tax impositions of estate duty and hotel accommodation tax now stand abolished in Hong Kong.[13]

As mentioned above, Hong Kong is considered to have a modest tax system because of the absence of sales tax, capital gains tax and estate tax etc. It does not levy any form of turnover taxes, such as Value-Added Tax (VAT) and Goods and Services Tax (GST). No taxes on returns on savings in form of dividends, capital gains and interest income are charged. On the other hand, some countries like Australia have a very complex taxation system that is made up of approximately 125 categories of taxes which includes income tax, capital gains tax, fringe benefits tax, service tax and many others.

Furthermore, excise duty in Hong Kong is charged only on four types of goods, which are, liquor, tobacco, petroleum-based fuels and methyl alcohol, and previously imposed duties on beer and wine were also abolished in 2008. With the exception of import of motor vehicles, all exports and imports are also tax-free. For the aforementioned reasons, Hong Kong has been reaffirmed as a highly favourable location for profit shifting and conducting re-invoicing activities.

[12] *Ibid.*
[13] Inland Revenue Department Of HKSAR, *Revenue (Abolition of Estate Duty) Ordinance 2005*, <http://www.ird.gov.hk/eng/tax/edu.htm>

3. Characteristics

3.1 Simple Tax Rate

The taxation regime in Hong Kong has minimal tax layers, and is arguably the world's most efficient tax system. Due to such simplicity, not only are there lesser instances of tax evasions; the tax compliance costs, the cost for policy formation and paperwork is relatively low in Hong Kong. For instance, the American federal income tax generates a whopping 66,000 pages of codes and regulations, whereas the entire tax code of Hong Kong does not exceed 200 pages.[14] The marginal rate of taxes keeps encourages capital formation and economic distortions low, which leads to higher rate of economic growth and constant support of the Hong Kong population.

3.2 Territorial Taxation

The basis for taxation is purely territorial, wherein the income or profits solely derived from the territory of Hong Kong is taxable. Any income earned in extraterritorial jurisdictions is not chargeable under any additional tax, even if the income was not taxed in the respective jurisdiction.[15] For instance, if an employment is located outside Hong Kong, income from such employment is exempt from salaries tax. There is, however, a general exception to this rule – all income derived from services rendered in the country would be deemed to be taxable.[16]

This renders a higher incentive for the taxpayers in Hong Kong to save, and provides a broader base of resources at their disposal, which increases the level of investment in the economy and leads to long-term economic development.

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[14] Jason Clemens, *The Impact and Cost of Taxation in Canada: The Case for Flat Tax Reform,* (Fraser Institute, 2008)
[15] Inland Revenue Department, *A Simple Guide On The Territorial Source Principle Of Taxation*, <http://www.ird.gov.hk/eng/paf/bus_pft_tsp.htm>
[16] IRO S.8(1 A)(a).

3.3 Neutral Tax System

Hong Kong has an exemplar performance in terms of tax neutrality, which aims to strengthen economic activity. Tax is imposed evenly to prevent any alterations in the advantages or disadvantages that may arise in the production or consumption of one product against another. Behavioural patterns and allocation of resources are not taken into account.

The Institute for Research on the Economics of Taxation has described Hong Kong as a 'saving-consumption neutral returns-exempt system'.[17] The income generated from direct sources is taxed before any savings are made, and any subsequent returns (as dividends, capital gains and interest income (except interest received by a financial institution)) are exempt from payment of tax. Thus, either the income that is saved is taxed or the returns on the saving are taxed. Such system has been incorporated to avoid any instance of multiple taxation.[18] Such a simple and neutral system has minimized economic distortions in Hong Kong, and has contributed to a greater level of investment, productivity, income and output.

3.4 Multiple Taxation

The system of multiple taxation involves the taxability of the same income more than once, by way of a number of tax layers. For instance, if an individual is a resident of New York City, his income may be taxable under the federal laws of United States, under the state of New York, as well as under the city of New York.[19] Due to a combined tax effect, the rate of savings would reduce drastically which leads to a lower level of investments and capital formation.

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[17] Institute for Research on the Economics of Taxation, *The Tax System of Hong Kong,* (28 December, 2010) <http://iret.org/pub/BLTN-95.PDF>

[18] Stephen J. Entin, *The Economics of Taxation and the Issue of Tax Reform*, (Paper presented at the IRET Congressional/Embassy Staff Economics Seminar, New Orleans, LA, April 16-19, 2009, <http://iret.org/pub/New_Orleans_(2009).pdf>

[19] Eugene Willis, William Hoffman, David Maloney, William Raabe, *South-Western Federal Taxation: Comprehensive 2009*, (Cengage Learning, 32nd Ed, 2008)

Hong Kong has an inconsequential system of multiple taxation, as compared to the rest of the world. Salaries tax is generally levied on the earned income in the first instance, and no subsequent taxes are levied on the returns of the savings in the form of interest, dividend, and capital gains. Corporate income tax is imposed only in the form of profits tax, on the profits earned before any amount of dividend is distributed to the shareholders, with no additional tax.[20]

3.5 Favourable Treatment of Capital Expenditure

Capital expenditure is encouraged by the tax regime, as firms and businesses are permitted to deduct a substantial amount of capital expenditure for the purchase of fixed assets in the relevant year. For instance, 60% of expenditure on plant and machinery, and 20% of expenditure on industrial buildings and structures can be written off in the year of expenditure. The total cost on capital purchase or acquisition, including plants and machinery, may also be written off, especially in the fields of manufacturing, and computers hardware and software.[21] With such treatment, the taxation system increases the incentives for the firms and businesses to undertake new investments, and boost wages and productivity.

3.6 Government Tax Revenue

Even though the tax burden is extremely light, the Hong Kong government has usually recorded a striking surplus. Due to substantial revenue, Hong Kong has accumulated enormous reserves, which usually exceed the total amount of government spending every year. The interest received on these reserves is also an important source of revenue for the government.[22]

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[20]Inland Revenue Department, *Departmental Interpretation and Practice Notes*, No. 44, paragraph 86 <http://www.ird.gov.hk/eng/ pdf/e_dipn44.pdf.>

[21] Inland Revenue Department ,*A Brief Guide to Taxes Administered by the Inland Revenue Department 2009-2010*, <http://www.ird.gov.hk/eng/ pdf/e_dipn44.pdf.>

[22] See Id. 3.

Profits tax and salaries tax are the largest sources for revenue generation that have repeatedly accounted for more than half of its total revenue. In the year 2015-16, profits tax and salaries tax amounted to 54% of the total revenue valued at HK$390,262mn and, as 52% in the three previous fiscal years.[23] Thus, the government primarily relies upon taxes chargeable on income, rather than taxes upon consumption. The base of eligible taxpayers in Hong Kong which fall under the taxable net is quite limited; for instance, in the year 2008-2009, only 36.6% of Hong Kong's 3.55 million working population paid the quintessential salaries tax.[24]

Among the indirect tax sources, revenue from stamp duty is the largest contributor. In 2015-16, 16% of the total revenue generated was from stamp duty.[25] This source, however, is volatile, as it largely depends upon the performance of the stock and property market of Hong Kong, due to which the government cannot not rely upon it as a reliable and consisted source of revenue. For instance, in the fiscal year 2007-08, owing to flourishing stock market and property market, the revenue generated from stamp duty witnessed an increase by 106% from the previous year.[26]

4. Tax Evasions and Avoidances

Tax evasion is a punishable offence in most countries. The IRD mandatorily requires the taxpayers to duly fulfil their obligations, and if found inconsistent, penalizes them under the provisions pertaining to tax evasions or tax avoidance. The taxpayers must, thus, declare that the tax returns are complete and to the best of their knowledge. Any understatement, omission to furnish true information, or providing false information is an offence.

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[23] Inland Revenue Department, Budget 2016, http://www.budget.gov.hk/2016/eng/pdf/sum_p_e.pdf
[24] Inland Revenue Department, *Information Packet: Budget 2009-10*, <http://www.budget.gov.hk/2009/eng/pdf/information_pack_e.pdf.>
[25] See Id. 21.
[26] Inland Revenue Department, *Annual Report 2007-08*, <http://www.ird.gov.hk/eng/ppr/are07_08.htm>

Any wrongdoing committed “wilfully with intent to evade or to assist any person to evade tax” (Section 82) or “without reasonable excuse” (Section 80 and 82A) will attract penalty by way of punishment or fine.[27] The intention or *mens rea* of the defaulter is a paramount consideration while assessing penalty. For instance, the submission of incorrect tax returns without reasonable cause would lead to a fine of $10,000, in addition to the actual tax liability. On the other hand, furnishing incorrect tax return with the intention to evade tax is considered to be a grave offence that is punishable for imprisonment of 3 years and a fine of $50,000, in addition to the evaded tax liability.[28]

The number of tax evasions in Hong Kong has experienced a surge, while the rate of investigations conducted by the IRD is spiralling down. The reports of tax invasions and avoidance have climbed 25% towards 1,900 cases, in the past five years.[29] On the other hand, the tax probes conducted by the IRD between 2000 and 2015, have fallen from 1920 to 1800. While the budget for the Field Audit and Investigation team has increased in the past years, the number of investigators hired by the Department has reduced in numbers.[30]

5. Shortfalls

Despite its aforementioned successes, the taxation system of Hong Kong is inherently flawed. The flat rate taxes levied are inequitable, which serves as platform for tax avoidance and tax evasions. Furthermore,

- *Burden on Affluent*: the tax burden in Hong Kong is heavily concentrated on large incomes, as the system of proportionate taxation has not been heavily

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[27] David G. Smith & Ayesha Macpherson, *Hong Kong Taxation: Law and Practice, (*Chinese University Press, 2008)
[28] Inland Revenue Department Of HKSAR, *A Brief Guide to Taxes Administered by the Inland Revenue Department 2016 – 2017*, <http://www.ird.gov.hk/eng/pdf/tax_guide_e.pdf>
[29] Danny Lee, *Hong Kong Tax Evasion Reports Increase... But Fewer Investigations Completed by Inland Revenue* (14 May 2016) South China Morning Post, http://www.scmp.com/news/hong-kong/economy/article/1945113/hong-kong-tax-evasion-reports-increase-fewer-investigations
[30]*Ibid.*

instituted. The affluent have been targeted by its tax regime, while the poor and ordinary working class pay little to no tax. This has rendered a strong support for the government by majority of the population, which expresses no qualms over the low level of public spending in Hong Kong.

- *Narrow Source of Revenue*: The primary source for government revenue in Hong Kong is the direct taxes which are levied on the income of the taxpayers. These sources are subject to fluctuations, as profits and incomes arising out of the employment depend on the ever-changing business cycles. Indirect taxes, which are levied upon consumption, are more certain and consistent in this approach, which are not tapped into by the Hong Kong government.
- *No PAYE system*: PAYE, or pay-as-you-earn, is a withholding tax on income earned by the employees which is payable by the employer, and is a successful practice in most developed democracies. The system of PAYE does not exist in Hong Kong, i.e., the employers distribute the un-taxed income to the employees, which lays the burden of tax payment on the employees.

  The PAYE system reduces the number of total taxpayers, which makes the process of tax collection easier. The lack of PAYE has the potential for a higher number of defaults in tax payments, as there is a larger base of taxpayers for the government to administer. More tax evasions result in reduced revenue and increased litigation expenses by the government, with a political cost. Hong Kong, however, has not been subject to the aforementioned ill-effects as the taxpayers have usually been compliant of their obligations. However, operating the tax system by placing utmost faith upon the taxpayers may not always serve as a legitimate method of tax collection, as it has the potential to lead to chaos.[31]

5. Recommendations

[31] See Id. 3.

It has been recommended at various instances that there is a growing need for Hong Kong to broaden its tax sources. The reliance it pays on direct taxes should be more streamlined, and the government must charge a balanced amount of direct as well as indirect tax. A viable option to broaden the tax base that was proposed in the year 2006 by the IRD had been the introduction of the Goods and Services Tax (GST) into the tax regime.[32] The proposal for the same intended to impose taxation on consumption of goods and services, but due to opposition and dissent by the masses, it was not carried out to execution by the government.[33]

Another viable option to broaden the tax base in Hong Kong is by reducing personal allowances. Personal allowances are a mechanism by which financial relief is given to the general public, either directly or to their dependents. However, the reduction in personal allowances should not be drastic, as it is a welfare-oriented measure, and aimed at the betterment of the standard of living of the people. In case the allowances are reduced drastically, not only would the government have to draft alternative welfare measures and incur the additional administrative expenses, but it would also increase the tax net through which individuals, especially the poor, who do not pay salaries tax presently, would also fall under its ambit.[34]

6. Conclusion

The taxation system of Hong Kong has been known for the simplicity and minimalism of its framework. The territorial basis for taxability is also a peculiar feature of its taxation system, which is quite uncommon in other developed countries. Hong Kong only has two layers of tax on saving, in contrast with majority of countries that usually consist of four layers, which shows the success of Hong Kong to establish a basic taxation structure. While the government relies

[32] Antony Leung, *Consultation Document: Broadening the Tax Base: Ensuring our Future Prosperity*, (2006) Budget Speech and Hong Kong Government.
[33] Chapter 2: *Boardening the Tax Base: What Are Our Options?*, Reforming Hong Kong's Tax System, <http://www.taxreform.gov.hk/eng/pdf/Chapter_02.pdf>
[34] Ibid.

substantially on the direct taxes for revenue generation, the policy framework provides little for the taxability on dividends, interests and capital gains. No VAT, GST, Sales Tax, Estate Duty, etc., is charged in Hong Kong, which is a recurrent feature in the tax regimen of the rest of the world. Due to no estate duties, marginal tax rates, constant encouragement and incentives for capital formation and freedom from governmental interferences, Hong Kong is a major attraction for overseas businesses and firms to operate in the territory.

The role of its taxation system in contribution to the economic prosperity of Hong Kong is indisputable. The legislative and administrative framework of the tax system promotes neutrality and straightforwardness. It encourages savings and investments by its individual taxpayers as well as businesses and corporations, which leads to capital formation and subsequently, economic development. Despite the tax base being criticized to be narrow on numerous instances, the overall performance of the taxation system has been commendable.

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