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CSA: the Company Secretarial Software

公司秘書專業軟件

Updated Version 5.0.2

更新版 5.0.2

The updated version of CSA has been released. Please follow the instructions sent to you earlier to download the update files and update your system with your designated password. The changes on this version include the following:

CSA 的更新版本已經發布。請按照之前發送給您的說明，並使用您的專屬密碼下載更新檔案，更新您的系統。此版本的變更包括以下內容：

Register of Directors 董事登記冊

Register of Directors is enhanced to handle subsequent changes of correspondence address after 24 October 2022, the commencement of Phase 2 of the New Inspection Regime.

The presentation of addresses in the Register of Directors is also modified by stating the Correspondence Address first and then the Usual Residential Address.

加強董事登記冊的功能，以處理在 2022 年 10 月 24 日第二階段的新查冊安排實施後通訊地址的後續變更。

董事登記冊內的地址列報方式亦有修改，會先列出通訊地址，再列出通常住址。

IRD Forms 稅務局表格

IRD's address on their forms is changed after they moved to their new headquarters in Kai Tak. Accordingly, we have updated the relevant IRD forms in CSA that are equivalent to their latest specification 8/2022.

由於稅務局的總部已搬遷到啟德，有關表格上的稅務局地址亦已更改。我們因此亦更新了 CSA 內等同於最新版本 8/2022 的 IRD 表格。

Other Updates 其他更新

In addition to Jobs itself, "Our Ref." is now also available in its associated Minutes or Resolutions as well as reports for cross-referencing purposes.

The transitional function for switching between old and new CR forms will be cancelled in view of the old forms have been repealed for several months.

除了辦理工作 (Jobs) 本身外，"我方參照" 現在也可應用在相關的會議記錄或決議書及報表中作互相參考之用。

由於舊 CR 表格已被廢止數月，新舊表格切換的過渡性功能將被取消。

The issue of identity information of an individual director on CR forms 在 CR 表格上個人董事身份信息的問題

The recent amendment to the Hong Kong Companies Ordinance stipulates that certain particulars of an individual director be treated as "protected information" and cannot be disclosed on public records of the Companies Registry ("CR"). These particulars, referred to as protected information, include only the usual residential address, and the full HKID card no. and/or full passport no.

In fact, HKID card no. or passport no. of a company's officer (company secretary, director, etc.) is the only identity information required by law to register with CR. Therefore, please do not enter any other ID card no. into the data column for the HKID card on a CR's specified form.

In filling out a specified form (say, ND2A), if a director possesses neither a HKID card nor a passport, both data columns should leave blank, which is normal. However, if your client insisted on you displaying his or her other ID card no. (say, PRC ID card no.) on the form for identity verification, you may put it in the space right above the data column for HKID card no. of the relevant form. Please be reminded that this extra piece of data is not protected information, you should show the full number.

As far as we know, CR accepts this unofficially and assumes that you do so for a special purpose, like notarization or bank account opening.

To comply with regulations and yet to provide flexibility, CSA determines how to fill out the identity information of an officer on specified forms the following way, and in that order:

- If the Entity has a HKID card, use the HKID card (normal way);
- If there is no HKID card, use the passport (normal way);
- If no passport but has a non-HKID card, use the non-HKID card (special way);

- If there neither has an ID card nor a passport, use “Other Identity” (special way);

The above “rules” are also subject to your own practice. Please go to { System > Administration > Common System Settings } and select the “CR Form” tab to do your settings under “Provide another identity”.

香港公司條例最近的修訂，規定個人董事的某些詳情被視為“受保護資料”，不得在公司註冊處 (CR) 的公共記錄中披露。這些被稱為受保護資料的詳情僅包括通常住址和完整的香港身份證號碼及/或完整的護照號碼。

事實上，公司高級人員 (公司秘書、董事等) 的香港身份證號碼或護照號碼，是法例規定必須向 CR 登記的唯一身份信息。因此，請勿在 CR 指明表格上的香港身份證資料欄內填入任何其他身份證號碼。

在填報指明表格時 (例如 ND2A)，如果董事沒有香港身份證亦沒有護照，兩個資料欄都應該留空，這是正常做法。但如果您的客戶堅持要你在表格上顯示他或她的另一張身份證的號碼 (例如中國身份證號碼) 以便進行身份核實，您可以將其放在有關表格的香港身份證號碼資料欄上方的空白處。請注意，此額外資料不是受保護資料，您應該顯示完整的號碼。

據我們了解，CR 非正式地接受這一做法，並假定您這樣做是為了例如公證或銀行開戶等特殊目的。

為了符合規定並同時提供靈活性，CSA 按照以下方式及以下順序確定如何在指明表格上填寫高級人員的身份信息：

- 如果該實體有香港身份證，便使用香港身份證 (正常做法)；
- 如果沒有香港身份證，便使用護照 (正常做法)；
- 如果沒有護照但有非香港身份證，便使用非香港身份證 (特殊做法)；
- 如果既沒有身份證也沒有護照，便使用“其他證明文件” (特殊做法)；

上述“規則”同時以您的實務為準。請前往 { 系統 > 系統管理 > 公用系統設定 }，然後選擇“CR 表格”分頁，在“提供其他身份證明”下進行設定。

Should you file ND2B with NR1 when RO is changed?

當 RO 更改時，您是否應該與 NR1 一併提交 ND2B？

As a result of the implementation of Phase 2 of the New Inspection Regime of Companies Registry (“CR”) under Companies Ordinance (Cap. 622) (“CO”) on 24 October 2022, the Correspondence Address of any Individual Director on CR’s register was, by default, changed to the company’s Registered Office Address (“RO”), as if that director has made the change on his or her own.

So, what if the company changed its RO? Do you need to file an ND2B together with NR1 for those directors who initially used RO as their Correspondence Address?

This question is interesting enough to discuss that we have talked with a few users and have been seeking advice from CR as well. Here is our understanding in summary:

By law (sections 645(4) and 652(2) of CO), it is always correct to file an ND2B if there is any change in the reportable particulars (including Correspondence Address) of a company’s officer. However, if the director is an existing director before 24 October 2022 and his or her Correspondence Address equals RO and has never been changed since then, this obligation would provisionally become “optional”, according to CR’s

verbal reply given to us. As far as we can tell, this is a CR's convenient measure to their customers, which is only an "administrative arrangement".

Although CSA automatically generates an ND2B for these cases according to usual practice, users may still choose to print it for filing or not. We believe that this is in line with the benefits of users as well as CR's measure.

為按照《公司條例》(第 622 章) (CO) 實施第二階段的新查冊安排，公司註冊處 (CR) 已於 2022 年 10 月 24 日將其登記冊上個人董事的通訊地址默認更改為公司的註冊辦事處地址 (RO)，猶如董事自己更改地址一樣。

那麼，如果公司更改了 RO 該怎麼辦？對於那些最初使用 RO 作為通訊地址的董事，您是否需要將 ND2B 連同 NR1 一起提交？

這是個有趣的問題，我們和一些用戶討論過，也一直在向 CR 尋求建議。以下是我們的綜合理解：

根據法例 (CO 第 645(4) 及 652(2) 條)，如果公司高級人員的應申報詳情 (包括通訊地址) 有所變更，提交 ND2B 始終是正確的做法。然而，如果該董事在 2022 年 10 月 24 日之前已是現任董事，而其通訊地址等於 RO 且自該日以來從未更改過，根據 CR 給我們的口頭答覆，提交 ND2B 的義務將暫時變為一個“選項”。據我們所知，這是 CR 對其客戶的一項便民措施，只屬於一種行政安排。

雖然 CSA 按照實務慣例會自動為這些情況生成 ND2B，但用戶仍可選擇打印或不打印以作提交之用。我們相信這符合用戶的利益，亦與 CR 的措施並無二致。



CPAnywhere: Professional Practice Management System 執業管理系統

When an Employee Got Fired!

當有員工被解僱時！

Final Payment 最後一筆薪水

Jenny is an attractive human resources manager in a large-scale electronic manufacturing company that has various production facilities in China and a sales office in Japan. She wanted a final payment feature in the CPAnywhere system that can calculate the last paycheck to the departing employee. We did what she asked for and listed out all the calculations according to the latest Employment (Amendment) Ordinance 2007 as well as the Pay Slip. However, to our surprise, she was still not happy. The fact is that calculating all aspects of pay, including the date of notification, long service payment, annual leave, prorated bonus, and commission, are only part of her job, and it may take a long time if they are to be done by hand. She still needs to draw up a Termination Letter or a Termination Agreement that needs both of the signatures. This sounds easy when all the last-minute data is available. But try this when a departing employee is waiting at your doorstep for the final paycheck and termination agreement to sign. It was our oversight or maybe too confident that caused this boo-boo!

珍妮是一位充滿魅力的人力資源經理，服務於一家大型電子製造公司。該公司在中國設有各種生產設施，在日本駐有銷售辦事處。她希望在 CPAnywhere 系統中加入一項僱員 Final Payment 的功能，以便計算出離職僱員的最後一筆薪水。我們按照她的建議交付了

該項功能，並根據最新的《2007 年僱傭 (修訂) 條例》列出了所有的計算結果和工資單。然而，令我們驚訝的是，她仍然覺得這項功能有不足之處。原來，計算各方面的薪酬，包括通知日期、長期服務金、年假、按比例分配的花紅和佣金，只是她工作的一部分 (儘管之前用人手計算可能很花時間)；她仍然需要起草一份需要雙方簽名的終止信或終止協議。當所有最後數據齊備時，這聽起來不大困難，但是，當離職僱員在公司門口等待最終薪水和簽署終止協議時，情況或許不一樣了。導致這個不足之處，大概是我們有所疏忽，又或許太自信吧！

Termination Letter
(or Final Payment Letter)
終止信 (或最終付款函)

We immediately reviewed the whole operating process of the Final Payment sub-system in CPAnywhere to determine where to add that Termination Letter feature that is easy to use and automatic but still retains the flexibility in changing the wording of the letter by the HR manager before printing. Based on Jenny's provided sample, we concluded that the wording of the letters should be standardized. The only variables are the employee's personal information and the detailed calculation that comes up with the final cheque payment amount. So, we provide a place where the HR manager can input standard wordings of the letters right in the final payment feature in advance. Upon printing the final payment, users are prompted to instruct the system to print which version of the final payment letter. That simple task took care of a big concern for Jenny. Here we learned a big lesson; never underestimate any small detail of a problem.

Let us show how we solve Jenny's problem. Maybe you can add more to it.

我們立即審查了 CPAnywhere 的 Final Payment (最終付款) 副系統的整個操作過程，並確定在哪裡添加這個終止信的功能；而該功能必須易於使用、自動化但仍保留人力資源經理在打印前更改信件措辭的靈活性。根據 Jenny 提供的樣本，我們得出結論：信件的措辭應該標準化。唯一的變量是僱員的個人信息和最終支票付款金額的詳細計算。因此，我們提供了一個地方，讓人力資源經理可以在最終付款功能中預先輸入信件的標準措辭。打印最終付款時，系統會提示用戶指示系統打印哪個版本的最終付款函。這個簡單的任務解決了 Jenny 的一個大問題。在這裡，我們學到了一個重要的教訓：永遠不要低估問題的任何小細節。

讓我們展示我們如何為 Jenny 解決問題。或許您也可以提出更多想法。

Executing the Last
Paycheck for the
Departing Employee
為離職僱員處理
最後一筆薪水

Information needed to process the paycheck include:

Minimum day(s) of notice required, initiation of termination (by the employee or the employer?), process date, notice period begins, last day of employment, last day of work, started date for bonus (if entitled), pro rata bonus (if any), long service payment, annual leave balance, etc.

After inputting the above information, the system will compute the exact amounts, based on the prevailing laws, coupled with detailed calculations, including the average daily salaries. Of course, that also includes the termination letters.

處理最後一筆薪水所需的信息包括：

要求的最短通知日數、終止由誰啟動 (僱員還是僱主?)、處理日期、通知期開始日期、僱傭的最後一天、工作的最後一天、花紅的開始日期 (如有資格領取的話)、按比例的花紅 (如有的話)、長期服務金、年假結餘等。

輸入以上信息後，系統會根據現行法例的規定運算出各項準確的金額，再加上詳細的結果，包括平均每日工資。當然，這也包括終止信。

Final Payment

Final Payment - Add

* required fields

| | | | | |
|--------------------------------|---|--------|------|--------------|
| Employee ID * | 009 | Search | Pick | CHAN Tai Fat |
| Notice Of Termination Period * | 1 Month | | | |
| Resign By Employee * | <input checked="" type="radio"/> Yes <input type="radio"/> No | | | |
| Reason * | Personal Reason | | | |
| Related Payroll Period * | *** Please Select *** | | | |
| Process Date * | 06/11/2022 | ◀ ▶ 📅 | | |
| Notice Period Begin * | 06/11/2022 | ◀ ▶ 📅 | | |
| Last Day of Work * | 06/12/2022 | ◀ ▶ 📅 | | |
| Last Day of Employment * | 06/12/2022 | ◀ ▶ 📅 | | |
| Date Start For Bonus * | 06/12/2022 | ◀ ▶ 📅 | | |
| Long Service * | <input type="radio"/> Yes <input checked="" type="radio"/> No | | | |
| Annual Leave Balance * | <input type="radio"/> Yes <input checked="" type="radio"/> No | | | |
| With Prorata Bonus * | <input type="radio"/> Yes <input checked="" type="radio"/> No | | | |

Information

| | | |
|-------------------------------|--------------------------|----------------------------------|
| Service Information * | Date Joined : 01/01/2022 | Length Of Service : 0.93 year(s) |
| Current Salary * | 17,000.00 | Per Month |
| Current Allowance * | 0.00 | Per Month |
| OT Unit Detected * | 0 | |
| No Paid Leave * | 0 | |
| Late Deduction * | 0 | |
| Missing Deduction * | 0 | |
| Full Pay Days For Last Year * | 334 | |
| Average Daily Salary * | 0.00 | |
| Outstanding Leave * | 0.00 | |

Please select a payment method

| | | | |
|------------------|---|----------------|--|
| Payment Method * | <input checked="" type="radio"/> Cheque | Cheque Number | 245483 |
| | | Bank Name | HSBC |
| | <input type="radio"/> Bank Transfer | Account Number | |
| | | Bank Name | |
| | <input type="radio"/> Cash | | |
| Payment Date * | 06/12/2022 | ◀ ▶ 📅 | <input checked="" type="radio"/> on or before <input type="radio"/> at |

The system keeps track of the last termination letter's wordings to make the feature flexible while convenient to use. The letter is composed of four main sections: the top message, the pay slip with detailed calculations, the bottom message, and the signatures. Users can also make use of the VDL (Variable Definition Language), a proprietary technology developed by P & L Software Publishing Limited, to further automates the letter format design.

系統會記住最後一封終止信的措辭，使該功能既靈活又方便使用。信件由四個主要部分組成：開端段落、詳細計算的工資單、結尾段落，和簽署部分。用戶還可以運用由 P & L

Software Publishing Limited 開發的專有技術 VDL (意為“變量定義語言”) 來進一步自動化信件的格式設計。

Final Payment List

| | | |
|-----------------------|---|-------------------|
| Top Message | We regret to inform you that your employment with us would be terminated as effective from @DateTerminate | |
| Bottom Message | Should you have any queries of the above payment please feel free to contact us. Finally, you are required to sign and return the copy to us. | |
| Signature | Left | Right |
| | Signature Message | Signature Message |
| | Signer Name | Signer Name |
| | | |
| | Signer Title | Signer Title |
| | | |

Termination Of Employment

| | | |
|-----------------------|---|-------------------|
| Top Message | We regret to inform you that your employment with us would be terminated as effective from @DateTerminate | |
| Bottom Message | Should you have any queries of the above payment please feel free to contact us. Finally, you are required to sign and return the copy to us. | |
| Signature | Left | Right |
| | Signature Message | Signature Message |
| | Signer Name | Signer Name |
| | | |
| | Signer Title | Signer Title |
| | | |

The most time-consuming and difficult task in computing the final payment is the way to come up with the average daily salary. Based on the Employment (Amendment) Ordinance 2007, the “average daily salary” is based on a 12-month average that takes into consideration of holiday pay, annual leave pays, sickness allowance, maternity leave pays, paternity leave pay, wages in lieu of notice, end of year payment, etc.

計算最後一筆薪水最耗時和最困難的任務是要得出平均日薪的方法。根據《2007年僱傭(修訂)條例》，「平均工資」是根據12個月的平均值，並考慮假日薪酬、年假薪酬、疾病津貼、產假薪酬、侍產假薪酬、代通知金，和年終薪酬等。

A sample from CPAnywhere 的樣本

Below is a sample Termination Letter with the final payment generated by CPAnywhere for your reference:

以下是由 CPAnywhere 生成的帶有最終付款的終止信樣本，供您參考：

Termination Of Employment**Final Payment List**

We regret to inform you that your employment with us would be terminated as effective from 06/12/2022

Employee Name CHAN Tai Fat
Employee ID 009
Position

Re: Employment 01 Jan 2022 ~ 06 Dec 2022

Salary Information 28/11/2022 - 31/12/2022 (Wage : \$ 17,000.00, Allowance : \$ 0.00)

| Salary | | |
|---------------|--|--------------|
| | Basic salary 07 Nov 2022 - 06 Dec 2022 as 31.0 days \$17,000.00 | \$ 17,000.00 |
| | Bonus | \$ 0.00 |
| | Over Time | \$ 0.00 |
| | Over Time On Rest Day | \$ 0.00 |
| Allowance xxx | | |
| | Allowance | \$ 0.00 |
| Deductions | | |
| | Early leave deduction | \$ 0.00 |
| | No Paid Leave | \$ 0.00 |
| | Late deduction | \$ 0.00 |
| | Missing record deduction | \$ 0.00 |
| | Miscellaneous Deduction | \$ 0.00 |
| | Payment in lieu of notice | \$ 0.00 |
| MPF | | |
| | Employee MPF | -\$ 850.00 |
| | Employee Voluntary Contribution | \$ 0.00 |
| Others | | |
| | Double Pay | \$ 0.00 |
| | Leave Compensation | \$ 0.00 |
| | Leave Pay | \$ 0.00 |
| | Commission | \$ 0.00 |
| | Back Pay xxxx | \$ 0.00 |
| | Terminal Awards | \$ 0.00 |
| | Gratuities | \$ 0.00 |
| | Certain Payments from Retirement Scheme | \$ 0.00 |
| | Pensions | \$ 0.00 |
| Total : | | \$ 16,150.00 |

Payment By : Cheque (Cheque Number : 245483) \$ 16,150.00 On Or Before 06/12/2022

Should you have any queries of the above payment please feel free to contact us. Finally, you are required to sign and return the copy to us.

For and on behalf of
Demo Software Company

Acknowledged and accepted by:

Tai Hong Kong
General Manager

CHAN Tai Fat

So, do you still want to be human resources professional? Just kidding. Next time, don't compliant too much when you get your pay slip a bit late.

那麼，您還是想做人力資源專業嗎？和您說說笑吧了。各位同事，下次當您待著領取工資單的時間有點長時，不要抱怨太多。



AML system for CSA

(為遵從打擊洗錢及恐怖分子資金籌集的規定)

FATF's suggested actions to support the use of technology in AML/CFT FATF 就運用科技支援 AML/CFT 的行動建議

The Financial Action Task Force on Money Laundering (“FATF”) has encouraged the use of technology to facilitate the implementation of AML/CFT measures. FATF is an inter-governmental body established in 1989 with its headquarters in Paris, initially to examine and develop measures to combat money laundering, where Hong Kong joined as a member in 1991.

We list below their suggestions in short formats and show how the AML system for CSA responds to these suggestions:

打擊清洗黑錢財務行動特別組織 (FATF) 鼓勵使用科技來促進 AML/CFT 措施的實施。FATF 是一個政府間機構，成立於 1989 年，總部設在巴黎，最初負責審查和製定打擊洗錢的措施。香港於 1991 年加入為成員。

我們在下面以簡短格式列出他們的建議，並展示 AML system for CSA 如何配合這些建議：

FATF's Suggestions for AML/CFT System

FATF 對 AML/CFT 系統的建議

Risk assessments

風險評估

Client Due Diligence

客戶盡職調查

Other requirements

其他要求

Supervision, Oversight by humans

監督、人工監督

Privacy protection

隱私保障

Data protection

數據保護

Cyber security

網絡安全

Promote innovation

促進創新

Support financial inclusion

支持普惠金融

Include policy statements and guidelines

包括政策聲明和指南

Corresponding Features in AML system for CSA

AML system for CSA 的配對功能

Risk-based assessment

風險為本評估

Client Due Diligence (CDC)

客戶盡職調查

Know Your Client (KYC)

Sanction Check and Fugitive Check

Politically Exposed Person (PEP) Check, etc.

認識你的客戶

被制裁名單查核及被通緝名單查核

政治人物查核等

Supervisor's Control Center

主管控制中心

No client data leakage to outside agencies

不會將客戶資料洩露給外間機構

Use of MS-SQL for maximum security

使用 MS-SQL 實現最大安全性

Completely in-house processing

完全內部處理

Use of fast, clean, and object-oriented technologies

使用快速、簡潔、物件導向的技術

Not-applicable

不適用

Built-in sample policy manual and guidelines

內置示範政策手冊和指南

Build expertise in new technology
建立新技術的專業知識

Extensive sanction, fugitive, and PEP check programs
廣泛的被制裁名單、被通緝名單、政治人物查核計畫

Technologies for supervision and examination
用於監督和檢查的技術

Work reports, sign-off, and audit trail
工作報告、簽字確認、審計追蹤

As suggested by FATF, “New technologies for AML/CFT must be developed and implemented in a way which reflects threats as well as opportunities, ensuring that their use is compatible with international standards of data protection and privacy, and cybersecurity.”

The implementation of the AML/CFT regime is indeed an added burden to TCSPs, especially the entire regulatory framework imposed on licensees. However, this added workload actually enhances the professional image of TCSP practitioners. The use of innovative technology as suggested by FATF can also further solidify the traditional professional firms’ position in the area of AML/CFT enforcement.

正如 FATF 所建議的那樣，「AML/CFT 新技術的開發和實施必須以反映威脅和機遇的方式進行，確保它們的使用符合數據保護和隱私以及網絡安全的國際標準。」

AML/CFT 制度的實施確實增加了 TCSP 的負擔，尤其是對持牌人施加的整個監管框架。然而，這工作量的增加實際上提升了 TCSP 從業人員的專業形象。採用 FATF 建議的創新技術還可以進一步鞏固傳統專業公司在 AML/CFT 執法領域的地位。

■ Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 comes into effect on 1 April 2023

於 2023 年 4 月 1 日生效的《2022 年打擊洗錢及恐怖分子資金籌集 (修訂) 條例》

The Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 (“the Ordinance”), including the registration regime for dealers in precious metals and stones, comes into effect on 1 April 2023, while the licensing regime for virtual assets service providers as well as other amendments on anti-money laundering and counter-terrorist financing (AML/CTF) requirements, will take effect on 1 June 2023.

Virtual Assets

Under the Ordinance, any person who engages in the virtual asset exchange business is required to apply for a licence from the Securities and Futures Commission (SFC). The relevant persons must satisfy the fit and proper test and comply with the AML/CTF requirements under the Ordinance (including requirements on customer due diligence (CDD) and record keeping), as well as other regulatory requirements on investor protection (such as safe custody of client assets, financial soundness and avoiding conflicts of interest).

Other Areas to Align with the FATF Standards

The Ordinance has also made a number of miscellaneous amendments to ensure alignment with the latest international standards set by the Financial Action Task Force on Money Laundering (FATF).

- Amending the definition of “politically exposed person” (PEP) to align with the FATF requirement;
- Implementing a risk-based approach in determining the degree of customer due diligence (CDD) that former PEPs are subject to;
- Supporting the use of technology by clarifying that a recognized digital identification system can be used for the purposes of CDD and satisfying the additional requirements where a customer is not physically present for identification purposes;
- Clarifying that, where a trust is concerned, a beneficial owner includes a trustee of the trust, a beneficiary and a class of beneficiaries of the trust entitled to a vested interest in the trust

《2022 年打擊洗錢及恐怖分子資金籌集 (修訂) 條例》(「該條例」)，包括貴金屬和寶石交易商註冊制度，於 2023 年 4 月 1 日生效。虛擬資產服務提供者發牌制度和其他有關打擊洗錢及恐怖分子資金籌集 (AML/CTF) 要求的修訂則將於 2023 年 6 月 1 日生效。

虛擬資產

條例經修訂後，從事經營虛擬資產交易所業務者必須向證券及期貨事務監察委員會 (SFC) 申領牌照，並須符合該條例規定的適當人選準則、進行客戶盡職審查 (CDD) 和備存紀錄；以及遵守其他保障投資者的規管要求，例如穩妥保管客戶資產、財務穩健和避免利益衝突。

其他為符合 FATF 標準的修訂

該條例亦作出多項雜項修訂，以確保符合打擊清洗黑錢財務行動特別組織 (FATF) 所訂定的最新國際標準。

- 修訂「政治人物」一詞的定義，以符合 FATF 的要求；
- 促進以風險為本方法，決定前政治人物須接受客戶盡職審查的程度
- 善用科技，容許使用認可數碼身分識別系統以符合客戶盡職審查目的，及釐清客戶在沒有親身進行身分識別和核實的情況下的有關額外要求；
- 釐清就信託而言，「實益擁有人」包括信託的受託人、有權享有信託的既得權益的受益人及受益人類別。

Reference Source 參考資料

- SFC Circular 證監會通函 (SFO/IS/041/2022) :
<https://apps.sfc.hk/edistributionWeb/api/circular/openFile?lang=EN&refNo=22EC71>
- The Ordinance 該條例 :
<https://www.gld.gov.hk/egazette/pdf/20222650/es12022265015.pdf>



General Interest

產品以外

■ How to avoid being targeted by Canada Revenue Agency for world-wide income?

Recently, a famous Hong Kong entertainer, who also possessed the Canadian residency, got audited by the Canadian Revenue Agency for all the past years' non-reported income earned in Hong Kong. The action seemed to be devastating to him and to his family in Canada.

Because of the relative ease to immigrate to Canada, many Hong Kong residents also possess the so-called Canadian “green cards” or even citizenship. The Canadian Consulate has estimated there are over 200,000 Canadian citizens living in Hong Kong. If we add the ones that also possess Canadian green cards, the number is staggering if the tax agency begins to target those Canadian expatriates here.

Many people are confused with Canadian taxes to US taxes. They have the wrong idea that Canada is not a world-wide tax state while the US taxes its citizens and residents on their world-wide income. However, the truth is Canada also taxes its “tax resident” on his worldwide income and capital gains. It is only the non-residents are subject to tax only on income and capital gains sourced from Canada.

In US taxes, citizenship, green card, and domicile are important criteria to assess their worldwide income. In Canadian taxes, citizenship and domicile are not the only independent criteria in determining tax liability. It is the “tax residency” that is the key determinant of Canadian tax liability. Residents are subject to their worldwide income and capital gains. Non-residents are subject only to local income and certain Canadian-sourced capital gains.

The golden rule for Canadian expatriates here is to avoid being considered Canadian residents residing in Hong Kong.

What are the rules for the determination of residence?

183 days rules.

Generally, a person who “sojourned in Canada in the year for a period of, or periods the aggregate of which is, 183 days or more” is deemed to be a resident of Canada for the rest of the year.

Court interpretation rules.

- (1) Strong social and economic ties to Canada;
- (2) Family members and dependents reside in Canada;
- (3) A home suitable for occupation is available for use in Canada;
- (4) Intends to return to Canada;
- (5) Physically present in Canada for a certain length of time.

Revenue Canada's approach.

If a taxpayer leaves Canada for a period of more than two years, the administration's

position presumed that the taxpayer has to become a non-resident at the time of leaving Canada.

If a taxpayer is absent from Canada for a period of fewer than two years, the administration would consider that person to have retained Canadian residence status unless it can be established that all residential ties with Canada were severed on leaving.

Factual situations to consider.

- (1) Having personal property in Canada;
- (2) Having health insurance that is restricted only to residents of Canada;
- (3) Being a member of clubs, professional and other organizations;
- (4) Having a Canadian credit card;
- (5) How long does a person present in Canada;
- (6) Purchase or rental of a home in Canada;
- (7) Employment of business activities;
- (8) Presence of dependent family.

To avoid being considered a Canadian tax resident, you need to do the following:

- (1) Counting your days in Canada for not more than 182 days in a year.
- (2) Sell all your residential homes before leaving.
- (3) Sell or turn over your rental properties to a professional manager.
- (4) Cease all business or employment activities in Canada.
- (5) If you have sons and daughters going to schools in Canada, ask them to move to dorms or their own apartments under their own names.
- (6) File a Declaration to Revenue Canada to declare your nonresident status.

The dilemma:

If you are already a Canadian citizen, then you are okay with doing the above to assure your nonresident status with Revenue Canada. However, if you are a “green card” holder, then your absence from Canada for an extensive period of time is to be considered giving up your permanent residency status.

(This article does not have a Chinese version. 本文並無中文版。)

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