

By Email

21 May 2020

Inland Revenue Department (IRD)
The Government of the Hong Kong S.A.R.

Attention: Mr. Wong Kuen-fai, Commissioner
Mr. Tam Tai-pang, Deputy Commissioner

ASIFMA COVID-19 Operational Tax Challenges and Suggestions for Access to Withholding Tax Relief

Dear Mr. Wong and Mr. Tam,

In light of the recent development of the COVID-19 situation, ASIFMA¹ would like to take the opportunity to highlight the operational tax challenges that are faced by the industry and make some suggestions below.

COVID-19 continues to impact all aspects of society, respecting no borders. Operational tax processes are no exception to this and COVID-19 is impacting the ability of portfolio investors to access withholding tax relief either under domestic law or relevant double tax treaties. Many Governments in Asia Pacific mandate that operational tax processes require paper-based documentation, including wet signatures, tax authority certification and in some cases notarization and consularisation / apostille.

Given the uncertainty in a number of jurisdictions, a number of challenges have arisen in respect of the afore-mentioned processes including, but not limited to:

- printing documentation from home, noting information security concerns;
- sending documentation across borders, given a number of couriers cannot fulfil certain routes;
- obtaining signatories, particularly where more than one is required;
- certification, as some tax authorities are now not issuing certification e.g. US IRS and turn-around-times have increased;
- bank processing of documentation, as some locations cannot move documentation around;
- notarisation, due to non-availability of notary publics; and

¹ ASIFMA is an independent, regional trade association with over 135 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

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- consularisation, due to closure of non-essential services.

The above-mentioned challenges have led to strains on well-established processes for foreign investors, service providers and tax authorities alike (both in home and investment jurisdictions), removing much of the certainty behind processes.

We note with approval the attached joint trade association letter to the European Commission and OECD dated 20 April regarding recommended tax administration responses to the COVID-19 crisis.

In light of the above, this letter requests for the following steps to be taken to help assist with the challenges stated:

- authorise electronic submission of all certification requests via email or an online portal;
- allow copies of documentation to be submitted if necessary;
- issue certification via email or an online portal with hard copies to follow in due course; and
- address outstanding requests as soon as possible and provide transparency over new turnaround times.

ASIFMA would welcome an opportunity to discuss this further, or to receive any comments on the matters set out above. If you require further clarification on any of the matters discussed in this letter, please do not hesitate to contact Patrick Pang (ppang@asifma.org).

Yours sincerely,



Patrick Pang
Head of Compliance and Tax, ASIFMA