

11. The royalty income derived from multicasting outside Hong Kong by the Hong Kong Jockey Club may be another example of double taxation.
12. Section 16 of the Inland Revenue Ordinance, Chapter 112 of the Law of Hong Kong, allows a deduction for interest expenses related to the production of assessable income only if it is paid to a financial institution or to another creditor who is subject to Hong Kong taxation on the interest income.
13. Article 3 of the PRC Unified Income Tax Law.
14. Departmental Interpretation and Practice Note (DIPN), No. 21, Locality of Profits, Inland Revenue Department, Hong Kong, April 1996. Note that views of the IRD are not necessarily consistent with that of the judiciary on what constitutes a taxable presence in Hong Kong. Please refer to "Tax Planning in respect of Trading and Re-invoicing Operations in Hong Kong", written by Alfred Kwok-Ki Chan, *Taxation*, Taxation Institute of Hong Kong, Issue No. 26, September 1996.
15. *Sinolink Overseas Limited vs. Commissioner of Inland Revenue*, 2 HKTC 127 (1985)
16. In May 1996, the High Court of Hong Kong ruled that the trading profits of Magna Industries Company Limited are derived from Hong Kong but in December 1996, the Court of Appeal overturned the decision of the High Court. The controversy over the source of profit has not died down because of different court decisions delivered under similar facts and circumstances over different period of time.
17. Under some processing or assembling agreements, a substantial amount of manufacturing activities is directly organized by the Hong Kong manufacturers in the rest of the PRC, rather than performed through sub-contractors (whether a related party or not) who are paid an arm's length processing fee. In recognition of the extent and level of involvement by the Hong Kong manufacturers in these cross-border activities, from which the manufacturing profits are considered to have been generated partly in the PRC and partly in Hong Kong, half of the profits is exempted from Hong Kong taxation as a matter of administrative practice. Please refer to DIPN 21, Hong Kong Inland Revenue Department, April, 1996.
18. In the PRC, the income tax rate is 30% on the taxable income, plus 3% of local income tax rates on the same taxable income. However, a lower rate still applies in some specified locations such as the Special Economic Zones and the Free Trade Zones.
19. Article 13 of the Unified Income Tax Law of the PRC prohibits the practice of non-arm's length transfer pricing between related parties on cross border transactions. Section 482 of the US Internal Revenue Code authorizes the IRS to allocate gross income, *deductional Tax Review*, September 1995.
20. Tax of similar nature to profits tax paid outside Hong Kong in the production of Hong Kong assessable income are deductible as expenses under section 16 of the Inland Revenue Ordinance. However, since a deduction reduces taxable income and not tax liability directly it is not as advantageous as a tax credit.
21. The term "permanent establishment" likewise encompasses: (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months; (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or a connected project for a period or periods aggregating more than six months within any twelve-month period.
22. Section 253 of the Income Tax Act of Canada. Article 3 & 4 of the Detailed Implementation Rules of the Unified Income Tax Law in PRC.
23. Article 28 of the PRC Unified Income Tax Law.
24. *Commissioner of Inland Revenue vs. Magna Industrial Company Limited*, (1996) Hong Kong Revenue Case, CCH.
25. Section 26(a), Inland Revenue Ordinance, Chapter 112 of the Law of Hong Kong.
26. Section 10(1) Income Tax Act - Singapore.
27. Michael G. Velten, "The Use of Holding Company Structure in Singapore", *Tax Notes International*, 20 November 1995, p. 1341.
28. Michael Cadesky, "Canada's New Foreign Reporting Rules", *Taxation*, Taxation Institute of Hong Kong Issue No. 26, September 1996. p. 14.
29. Bayani Cruz, the Hong Kong Standard, 30th November 1995.
30. Clause 4, Article 22 of the Singapore-Canada Tax Treaty.
31. Singapore is one of the countries in the Asia-Pacific Region with a network of tax treaties.

32. At present, the PRC has concluded over 50 tax treaties with other countries while HKSAR does not have such a comprehensive tax network except for some covering the airline and shipping profits. This article reviews the tax treaties which PRC has with the following countries: the U.S., the U.K., Canada, and Singapore.
33. Article 1 of the PRC-US Tax Treaty.
34. For further details, see Corrina Wong of Baker & McKenzie, "China Traps Foreign Income" in *International Tax Review*, September 1995.
35. Section 14 of the Inland Revenue Ordinance, Chapter 112 of the Law of Hong Kong.
36. The same person may be considered to be a resident in Canada for tax purpose due to the fact that he or she maintains family ties with Canada.
37. The PRC Individual Income Tax Law was modified at the Fourth Standing Committee of the Eighth National People's Congress of the PRC on 31st Oct 1993 but the nature of tax was substantially the same as before. On 1st July 1991, the PRC Sino-foreign Equity Joint Venture Income Tax Law and the PRC Foreign Enterprise Income Tax Law were repealed. The Unified Income Tax Law for Foreign Investment Enterprises and Foreign Enterprises were enacted to take their place on the same date.
38. The highest marginal rate of the PRC Individual Income Tax rate is 45% while the Hong Kong salaries tax rate is 15%. The combined PRC Corporate Income Tax Rate and Local Income Rate is 33% while the Hong Kong corporate tax rate is 16.5% in the fiscal year 1997/1998.
39. The tax base of the PRC local Income Tax is the same as that for the Unified Income Tax Law, which is provided in Article 5 and Article 10 of the Unified Income Tax Law, and the Implementation Rules for the Unified Income Tax Law respectively.
40. There is no control over whether the refund is deposited to the bank account of a company registered in a third jurisdiction under the same name.
41. There is a foreign tax credit to relieve tax paid on income derived from outside PRC in Article 12 of the Unified Income Tax Law for Foreign Investment Enterprises and Foreign Enterprises.
42. The information of the taxpayer can be released by the Inland Revenue under the Hong Kong Drug Trafficking (Recovery of Proceeds) Ordinance.
43. In fact, Hong Kong also becomes a tax haven for the PRC incidentally as is illustrated by the example of the PRC subsidiary of a US corporation discussed above.
44. The general operation of the Article are broken into the following parts: (1) The nationality non-discrimination, (2) The permanent establishment non-discrimination, (3) The deduction-non-discrimination, (4) The ownership non-discrimination. The discussion will be centered on nationality non-discrimination in this paper.
45. There is nothing to prevent any treaty state from granting to persons of foreign nationality concessions or facilities not available to its own nationals.
46. The Commentary on Non-discrimination Article in the OECD model.
47. Annex III of the Basic Law.
48. Wong Ho-sang, the Commissioner of Inland Revenue, *The 21st Century Hong Kong Tax System, Taxation*, Taxation Institute of Hong Kong, Issue No. 26, September 1996.
49. Extracts from the speech delivered by President Jiang Zemin at the SAR Establishment Ceremony on 1st July 1997.