

# Advanced Taxation (HKG)(P6) December 2009

This syllabus and study guide is designed to help with planning study and to provide detailed information on what could be assessed in any examination session.

## THE STRUCTURE OF THE SYLLABUS AND STUDY GUIDE

### Relational diagram of paper with other papers

This diagram shows where any direct and indirect links between this paper and other papers preceding or following it. Some papers are directly underpinned by other papers such as Advanced Performance Management by Performance Management. These links are shown as solid line arrows. Other papers only have indirect relationships with each other, such as links existing between the accounting and auditing papers. The links between these are shown as dotted line arrows. This diagram indicates where you are expected to have underpinning knowledge and where it would be useful to review previous learning before undertaking study.

### Overall aim of the syllabus

This explains briefly the overall objective of the paper and indicates in the broadest sense the capabilities to be developed within the paper.

### Main capabilities

This paper's aim is broken down into several main capabilities which divide the syllabus and study guide into discrete sections.

### Relational diagram of the main capabilities

This diagram illustrates the flows and links between the main capabilities (sections) of the syllabus and should be used as an aid to planning teaching and learning in a structured way.

### Syllabus rationale

This is a narrative explaining how the syllabus is structured and how the main capabilities are linked. The rationale also explains in further detail what the examination intends to assess and why.

### Detailed syllabus

This shows the breakdown of the main capabilities (sections) of the syllabus into subject areas. This is the blue print for the detailed study guide.

### Approach to examining the syllabus

This section briefly explains the structure of the examination and how it is assessed.

### Study Guide

This is the main document that students, tuition providers and publishers should use as the basis of their studies, instruction and materials. Examinations will be based on the detail of the study guide which comprehensively identifies what could be potentially assessed in any examination session. The study guide is a precise reflection and breakdown of the syllabus. It is divided into sections based on the main capabilities identified in the syllabus. These sections are divided into subject areas which relate to the sub-capabilities included in the detailed syllabus. Subject areas are broken down into sub-headings which describe the detailed outcomes that could be assessed in examinations. These outcomes are described using verbs indicating what exams may require students to demonstrate and the broad intellectual level at which these may need to be demonstrated (\*See intellectual levels below).

### Reading lists

ACCA examiners will recommend study texts and text books where these are available, which students may read as part of their preparation for the exam. Relevant articles will also be published in *student accountant*.

## INTELLECTUAL LEVELS

The syllabus is designed to progressively broaden and deepen the knowledge, skills and professional values demonstrated by the student on their way through the qualification. The specific capabilities within the detailed syllabuses and study guides are assessed at one of three intellectual or cognitive levels:

Level 1: Knowledge and comprehension

Level 2: Application and analysis

Level 3: Synthesis and evaluation

Very broadly, these intellectual levels relate to the three cognitive levels at which the Knowledge module, the Skills module and the Professional level are assessed.

Each subject area in the detailed study guide included in this document is given a 1, 2, or 3 superscript, denoting intellectual level, marked at the end of each relevant line. This gives an indication to what intellectual depth at which an area could be assessed within the examination. However, while level 1 broadly equates with the Knowledge module, level 2 equates to the Skills module and level 3 to the Professional level, some lower level skills can continue to be assessed as the student progresses through each module and level. This reflects that at each stage of study there will be a requirement to broaden as well as deepen capabilities. It is also possible that occasionally some higher level capabilities may be assessed at lower levels.

## LEARNING HOURS

The ACCA qualification does not prescribe or recommend any particular number of learning hours because increasingly study and learning patterns and styles vary greatly between people and organisations and in different personal, professional and educational circumstances.

Each syllabus contains between 23 and 35 main subject area headings depending on the nature of the subject and how these areas have been broken down in those particular papers.

## GUIDE TO EXAM STRUCTURE

The structure of examinations varies within and between modules and levels.

The Fundamentals level examinations contain 100% compulsory questions to encourage candidates to study across the breadth of each syllabus.

The Knowledge module is assessed by equivalent two-hour paper based and computer based examinations.

The Skills module examinations are all paper based three-hour papers. The structure of papers varies from ten questions in the Corporate and Business Law (F4) paper to four 25 mark questions in Performance Management (F5) and Financial Management (F9). Individual questions within all Skills module papers will attract between 10 and 30 marks.

The Professional level papers are all three-hour paper based examinations, all containing two sections. Section A is compulsory, but there will be some choice offered in Section B.

For all three hour examination papers, ACCA has introduced 15 minutes reading and planning time.

This additional time is allowed at the beginning of each three-hour examination to allow candidates to read the questions and to begin planning their answers before they start writing in their answer books. This time should be used to ensure that all the information and exam requirements are properly read and understood.

During reading and planning time candidates may only annotate their question paper. They may not write anything in their answer booklets until told to do so by the invigilator.

The Essentials module papers all have a Section A containing a major case study question with all requirements totalling 50 marks relating to this case. Section B gives students a choice of two from three 25 mark questions.

Section A of each of the Options papers contains 50-70 compulsory marks from two questions, each attracting between 25 and 40 marks. Section B will offer a choice of two from three questions totalling 30-50 marks, with each question attracting between 15 and 25 marks.

The pass mark for all ACCA Qualification examination papers is 50%.

## GUIDE TO EXAMINATION ASSESSMENT

ACCA reserves the right to examine anything contained within the study guide at any examination session. This includes knowledge, techniques, principles, theories, and concepts as specified.

For the financial accounting, audit and assurance, law and tax papers except where indicated otherwise, ACCA will publish *examinable documents* once a year to indicate exactly what regulations and legislation could potentially be assessed within identified examination sessions..

For paper based examinations regulation **issued** or legislation **passed** on or before 30<sup>th</sup> September annually, will be assessed from June 1<sup>st</sup> of the following year to May 31<sup>st</sup> of the year after. Therefore, paper based examinations in June 2009, December 2009 (and March 2010 where applicable) will be assessed on regulations issued and legislation passed on or before 30 September 2008.

Regulation issued or legislation passed in accordance with the above dates may be examinable even if the **effective** date is in the future.

The term issued or passed relates to when regulation or legislation has been formally approved.

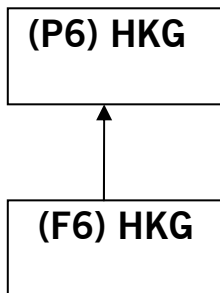
The term effective relates to when regulation or legislation must be applied to an entity transactions and business practices.

The study guide offers more detailed guidance on the depth and level at which the examinable documents will be examined. The study guide should therefore be read in conjunction with the examinable documents list.

Hong Kong is one of the exceptions to this rule due to the timing of legislation. The annual cut-off date

for Hong Kong will be 31 May, with effect from the December 2009 exam, and the fiscal budget that will apply in the exam will be based on the budget release date, i.e. the budget that was released prior to 31 May. Therefore, the cut off for the June 2009 exam will remain unchanged at 30 November 2008. Examinations in December 2009 and June 2010 will be assessed on regulations issued and legislation passed, and the budget released, on or before 31 May 2009.

# Syllabus



## AIM

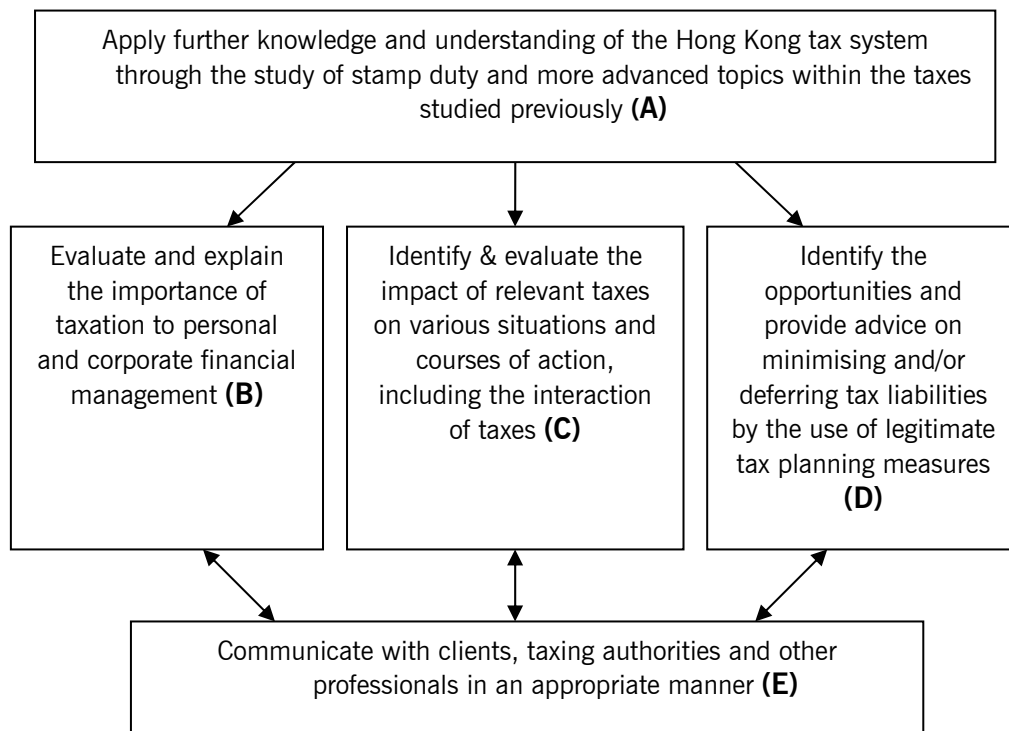
To apply relevant knowledge, skills and exercise professional judgement in providing relevant information and advice to individuals and businesses on the impact of the major taxes on financial decisions and situations.

## MAIN CAPABILITIES

After completing this examination paper students should be able to:

- A** Apply further knowledge and understanding of the Hong Kong tax system through the study of stamp duty and more advanced topics within the taxes studied previously.
- B** Evaluate and explain the importance of taxation to personal and corporate financial planning.
- C** Identify and evaluate the impact of relevant taxes on various situations and courses of action, including the interaction of taxes.
- D** Identify the opportunities and provide advice on minimising and/or deferring tax liabilities by the use of legitimate tax planning measures.
- E** Communicate with clients, taxing authorities and other professionals in an appropriate manner.

## RELATIONAL DIAGRAM OF MAIN SYLLABUS CAPABILITIES



## RATIONALE

The *Advanced Taxation* syllabus further develops the key aspects of taxation introduced in the compulsory Taxation syllabus within the Skills module and extends the candidates' knowledge of the tax system, together with their ability to apply that knowledge to the issues commonly encountered by individuals and businesses; such that successful candidates should have the ability to interpret and analyse the information provided and communicate the outcomes in a manner appropriate to the intended audience.

The syllabus builds on the basic knowledge of core taxes from the earlier taxation paper and introduces candidates to the additional tax of stamp duty. As this is an optional paper, aimed at those requiring/desiring more than basic tax knowledge for their future professional lives, the syllabus also extends the knowledge of salaries tax, profits tax and property tax, to encompass, further overseas aspects of taxation, and additional exemptions and reliefs.

Candidates are not expected to concentrate on the computational aspects of taxation. Instead this paper seeks to develop candidates' skills of analysis, interpretation and communication. Candidates are expected to be able to use established tax planning methods and consider current issues in taxation.

## DETAILED SYLLABUS

### A. Knowledge and understanding of the Hong Kong tax system through the study of stamp duty and more advanced topics within the taxes studied previously

1. Salaries tax liabilities in situations involving more complicated arrangements in relation to the employment or remuneration package, and the interaction of employment type income with other sources of income.
2. Profits tax liabilities in situations involving further overseas and group aspects and in relation to special industries.
3. Property tax liabilities in situations involving more complicated scenarios and the interaction

of property income with other sources of income.

4. Stamp duty.
5. Personal assessment and tax administration.
6. Current issues and developments in Hong Kong taxation.

### B. The importance of taxation to personal and corporate financial management

1. The implications of taxation to an individual's personal financial planning and decisions.
2. How an individual's personal financial objectives may differ depending on their circumstances and expectations.
3. The implications of taxation to a business' financial planning and decisions.
4. How a business' financial objectives may differ depending on its circumstances and the business environment.
5. Other considerations, personal and commercial, which might affect a financial decision.

### C. The impact of relevant taxes on various situations and courses of action, including the interaction of taxes

1. Taxes applicable to a given situation or course of action and their impact.
2. Alternative ways of achieving personal or business outcomes may lead to different tax consequences.
3. Tax advantages and/or disadvantages of alternative courses of action.
4. Statutory obligations imposed in a given situation, including any time limits for action and the implications of non-compliance.

### D. Minimising and/or deferring tax liabilities by the use of tax planning measures

1. Availability of various exemptions, allowances and reliefs that may result in a reduction in tax liabilities for an individual and/or a business.
2. Legitimate tax planning measures, by which the tax liabilities arising from a particular situation or course of action can be mitigated.
3. The mitigation of tax in the manner recommended, by reference to numerical analysis and/or reasoned arguments.
4. Potential tax risks associated with any tax plans or arrangements or courses of action taken, including providing appropriate advice on how the related tax risks may be mitigated or avoided.
5. Ethical and professional issues associated with the delivery of tax planning advice.

**E. Communicating with clients, the taxing authorities and other professionals in an appropriate manner**

1. Communication of advice, recommendations and information in the required format.
2. Presentation of written information, in language appropriate to the purpose of the communication and the intended recipient.
3. Conclusions reached, together where necessary with relevant supporting computations.
4. Assumptions made or limitations in the analysis provided; together with any inadequacies in the information available and/or additional information required to provide a fuller analysis.
5. Other non-tax factors that should be considered.

**APPROACH TO EXAMINING THE SYLLABUS**

The paper consists of two sections:  
Section A consists of two compulsory questions for a total of between 50 and 70 marks. Marks may not be allocated evenly between the two questions.

Section B consists of three questions, two of which must be answered. Each question will have the same number of marks, ranging from 15 marks each to 25 marks each.

Questions will be scenario based and will normally involve consideration of more than one tax together with some elements of planning and the interaction of taxes.

Tax administration and the tax assessment/collection system may be examined as part of any of the five questions.

Computations will normally only be required in support of explanations or advice.

The examination is a three hour paper.

Tax rates, statutory allowances and reliefs/deductions will always be given in the examination paper, regardless of whether or not they are relevant to the questions set.

# Study Guide

## A APPLY FURTHER KNOWLEDGE AND UNDERSTANDING OF THE HONG KONG TAX SYSTEM THROUGH THE STUDY OF STAMP DUTY AND MORE ADVANCED TOPICS WITHIN THE TAXES STUDIED PREVIOUSLY

### 1. Salaries tax liabilities in situations involving more complicated arrangements in relation to the employment or remuneration package, and the interaction of employment-type income with other sources of income

- a) The contents of the Paper F6 study guide for salaries tax liabilities, under headings:
- B1 The scope of the salaries tax charge
  - B2 Basic understanding of the source principle
  - B3 Income from employment, office and pension
  - B4 The comprehensive computation of net chargeable income and salaries tax liability
  - B5 The use of exemptions and reliefs in deferring and minimising salaries tax liabilities

The following additional aspects are also examinable:

- b) The scope of the salaries tax charge:<sup>[3]</sup>
- i) Understand the salaries tax treatment of overseas income
  - ii) Understand the relevance of the Hong Kong double tax arrangements/treaties to given situations
  - iii) Understand and advise on the double taxation relief available to individuals
- c) The source principle:<sup>[3]</sup>
- i) Understand and apply the principles for determining the source of income by reference to statute, case law, Board of Review decisions, and relevant Departmental Interpretation and Practice Notes
- d) The use of exemptions and reliefs in deferring and minimising salaries tax liabilities:<sup>[3]</sup>
- i) Understand and apply exemptions and reliefs in the given situations to defer and/or minimise the salaries tax liabilities

- ii) Understand the applicability and impact of general and specific anti-avoidance legislations

### Excluded topics

- *Income from trusts and settlements.*

### 2. Profits tax liabilities in situations involving further overseas and group aspects and in relation to special industries

- a) The contents of the Paper F6 study guide for profits tax liabilities, under headings:
- C1 The scope of the profits tax charge
  - C2 Basic understanding of the source principle
  - C3 Profits and deemed receipts chargeable to profits tax
  - C4 The comprehensive computation of assessable profits and profits tax liabilities
  - C5 Basis period for profits tax assessments
  - C6 The use of exemptions and reliefs in deferring and minimising profits tax liabilities
  - C7 Transactions with closely connected non-residents

The following additional aspects are also examinable:

- b) The scope of the profits tax charge:<sup>[3]</sup>
- i) Understand and calculate the profits tax liabilities of special industries including insurance companies, financial institutions, shipping companies and airline companies
  - ii) Understand and calculate the profits tax liabilities of companies in receivership and liquidation, reorganisations, mergers and acquisitions
  - iii) Identify service companies and advise on the tax consequences of being a service company
- c) The source principle:<sup>[3]</sup>
- i) Understand and apply the principles for determining the source of profits by reference to statute, case law, Board of Review decisions, and relevant Departmental Interpretation and Practice Notes

- d) The comprehensive computation of profits tax liability:<sup>[3]</sup>
- i) Evaluate the meaning and implications of a permanent establishment
  - ii) Advise on the tax position of overseas companies trading or carrying on business in Hong Kong
  - iii) Assess the impact of the Hong Kong double tax arrangements/treaties on a company's profits tax liabilities
- e) The effect of a group structure for profits tax purposes:<sup>[3]</sup>
- i) Advise on the tax consequences of a transfer of business assets and liabilities in a merger and acquisition scenario
  - ii) Advise on the tax consequence of a transfer of shares in a subsidiary or associated company in a merger and acquisition scenario
  - iii) Advise on the associated tax risks in a merger and acquisition scenario and how the tax risks may be sheltered by way of a tax indemnity or warranty
- f) The use of exemptions and reliefs in deferring and minimising profits tax liabilities:<sup>[3]</sup>
- i) Understand and apply exemptions and reliefs in the given situations to defer and/or minimise the profits tax liabilities
  - ii) Understand the applicability and impact of general and specific anti-avoidance legislation

### **3. Property tax liabilities in situations involving more complicated scenarios and the interaction of property income with other sources of income**

- a) The contents of the Paper F6 study guide for property tax liabilities under headings:
- D1 The scope of the property tax charge
  - D2 Income chargeable to property tax
  - D3 The comprehensive computation of net assessable value and property tax liabilities
  - D4 The use of exemptions and reliefs in deferring and minimising property tax liabilities

The following additional aspects are also examinable:

- b) The scope of property tax charge:<sup>[3]</sup>
- i) Understand the interaction of property tax with other types of tax

### **4. Stamp duty**

- a) The scope of stamp duty:<sup>[3]</sup>
- i) Describe the general principles of stamp duty liability including documentary and jurisdictional issues
  - ii) Explain the heads of charge and definitions
- b) Identify and advise on liabilities arising on documented transfers:<sup>[2]</sup>
- i) Distinguish between agreements for sale and purchase of residential property and assignments
  - ii) Explain the concept of Hong Kong stock and the documentary procedures and implications of the sale of such stock and of bearer instruments
  - iii) Explain voluntary dispositions inter vivos and their implications
  - iv) Calculate the dutiable value and the amount of stamp duty payable
- c) The use of exemptions and reliefs in deferring and minimising stamp duty liabilities:<sup>[3]</sup>
- i) Understand and apply the statutory exemptions including the exemptions for transfers between associated corporations
  - ii) Understand and apply basic techniques for mitigating stamp duty liabilities
- d) The system by which stamp duty is administered:<sup>[2]</sup>
- i) Explain the time limits and penalties
  - ii) Describe the effect of not stamping documents and of the late stamping
  - iii) Explain the documentary requirements for stamping
  - iv) Explain the adjudication procedures and the effect of adjudication

## 5. Personal assessment and tax administration

- a) The contents of the Paper F6 study guide for personal assessment, under headings:
  - E1 The election for personal assessment
  - E2 The comprehensive computation of total income under personal assessment and tax liabilities
- b) The contents of the Paper F6 study guide for the rights and obligations of taxpayers and/or their agents/employers and the implications of non-compliance; the rights and powers of taxing authorities in the context of tax assessment, collection and recovery, under headings:
  - F1 Duties and liabilities of taxpayers and/or their agents/employers
  - F2 Powers of the taxing authorities to issue tax assessments, collect taxes and/or recover taxes
  - F3 Rights of taxpayers of objection, correction of errors, appeal and holdover
  - F4 Offences, penalties and other consequences of non-compliance

The following additional aspects are also examinable:

- c) The application of the above aspects in the tax investigation and tax audit procedures including back duty investigations.

## 6. Current issues and developments in Hong Kong taxation

- a) Be aware of and explain the effects of any significant changes to existing legislation or its interpretation arising from decisions in recent cases or as a result of the issue of guidance/interpretations by the tax authorities.<sup>[3]</sup>
- b) Discuss any major changes or developments to the Hong Kong tax system, their rationale and impact on the economy and society; current examples would be the abolition of estate duty and the proposals for a goods and services tax and for green taxes.<sup>[3]</sup>

## B. THE IMPORTANCE OF TAXATION TO PERSONAL AND CORPORATE FINANCIAL MANAGEMENT

### 1. The implications of taxation to an individual's personal financial planning and decisions

- i) Calculate the receipts from a transaction, net of tax and compare the results of alternative scenarios and advise on the most tax efficient course of action.<sup>[3]</sup>
- ii) Understand and be able to apply the common forms of personal finance and investment products in a given set of circumstances.<sup>[3]</sup>

### 2. How an individual's personal financial objectives may differ depending on their circumstances and expectations

- a) Understand and apply the effect of age, family commitments, aspirations and the economy on personal financial objectives.<sup>[3]</sup>

### 3. The implications of taxation to a business' financial planning and decisions

- a) Understand and explain the effect of the raising of equity and loan finance on tax.<sup>[3]</sup>
- b) Explain the tax differences between decisions to lease, use hire purchase or purchase outright.<sup>[3]</sup>
- c) Understand and explain the impact of taxation on the cash flows of a business.<sup>[3]</sup>

### 4. How a business' financial objectives may differ depending on its circumstances and the business environment

- a) Understand and be able to explain the effect of profitability, future plans, actions of competitors and the economy on a business' financial objectives.<sup>[3]</sup>

### 5. Other considerations, personal and commercial, which might affect a financial decision<sup>[3]</sup>

**C. THE IMPACT OF RELEVANT TAXES ON VARIOUS SITUATIONS AND COURSES OF ACTION, INCLUDING THE INTERACTION OF TAXES**

1. Identifying and advising on the taxes applicable to a given course of action and their impact.<sup>[3]</sup>
2. Identifying and understanding that the alternative ways of achieving personal or business outcomes may lead to different tax consequences.<sup>[3]</sup>
3. Assessing the tax advantages and disadvantages of alternative courses of action.<sup>[3]</sup>
4. Understanding the statutory obligations imposed in a given situation, including any time limits for action and advising on the implications of non-compliance.<sup>[3]</sup>

**D. MINIMISING AND/OR DEFERRING TAX LIABILITIES BY THE USE OF TAX PLANNING MEASURES**

1. Identifying and advising on the available exemptions, allowances and reliefs that may result in a reduction in tax liabilities for an individual and/or a business.<sup>[3]</sup>
2. Advising on legitimate tax planning measures, by which the tax liabilities arising from a particular situation or course of action can be mitigated.<sup>[3]</sup>
3. Advise on the mitigation of tax in the manner recommended, by reference to numerical analysis and/or reasoned arguments.<sup>[3]</sup>
4. Identify and evaluate potential tax risks associated with any tax plans or arrangements or course of actions taken, including providing appropriate advice on how the related tax risks may be mitigated or avoided.<sup>[3]</sup>
5. Be aware of the ethical and professional issues associated with the delivery of tax planning advice.<sup>[3]</sup>

**E. COMMUNICATING WITH CLIENTS, TAXING AUTHORITIES AND OTHER PROFESSIONALS IN AN APPROPRIATE MANNER**

1. Communication of advice, recommendations and information in the required format:<sup>[3]</sup>

For example the use of:

- Reports
- Letters
- Memoranda
- Meeting notes

2. Presentation of written information, in language appropriate to the purpose of the communication and the intended recipient.<sup>[3]</sup>
3. Communicating conclusions reached, together, where necessary with relevant supporting computations.<sup>[3]</sup>
4. Stating and explaining assumptions made or limitations in the analysis provided; together with any inadequacies in the information available and/or additional information required to provide a fuller analysis.<sup>[3]</sup>
5. Identifying and explaining other non-tax factors that should be considered.<sup>[3]</sup>

## READING LIST

**Inland Revenue Ordinance**

**Stamp Duty Ordinance**

**Inland Revenue Departmental Interpretation and  
Practice Notes and other publications by the  
Inland Revenue Department**

Smith & Macpherson

**Hong Kong Taxation: Law & Practice**

The Chinese University Press

**Hong Kong Master Tax Guide**

CCH

Patrick Kin Wai Ho

**Hong Kong Taxation and Tax Planning**

PPC

Dora Lee & Ho Chi Ming

**Advanced Taxation in Hong Kong**

Longman

Samuel Chan & Daniel Cheung

**Hong Kong Taxation Study Text**

APS