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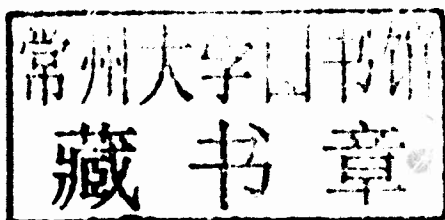
Master Tax Guide 2010

5TH EDITION



MACAO
Master Tax Guide
2010

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In the 5th edition, Ernst & Young reviewed and updated the contents of Macao Master Tax Guide 2010. This publication contains information in summary form and is therefore intended for general guidance only. Readers are advised to seek professional tax advice where a detailed research or projects are being undertaken.

Special acknowledgement goes to the author of the previous editions, Ms Ho Mei Va, Louisa, the founder of HMY & Associates, Certified Public Accountants for her original work and effort.

FOREWORD

The *Macao Master Tax Guide 2010* provides a comprehensive, practical and up-to-date explanation of Macao's revenue laws for taxpayers, practitioners and students alike.

After the handover in 1999, Macao has been growing rapidly in economic terms, fuelled by the liberalisation of the gaming industry in 2002. The increase in gaming licences granted has led to massive investments by the operators in these new projects and, in turn, has triggered an influx of hundreds of new ancillary and/or support service companies each year. Most of these are international companies including companies that are publicly listed overseas, which are engaged in a wide range of businesses such as construction, retail, wholesale and various professional services. The *Guide* fulfils a valuable commercial need in assessing the start-up and ongoing taxation status of these companies, including registration and filing obligations.

The *Guide* explores the spectrum of taxation issues in Macao using non-technical language and easily followed examples. The main direct taxes (including complementary tax, professional tax and property tax) and indirect taxes in Macao (including tourism tax, stamp duty and excise tax) are explained in detail with attention being paid to such areas as tax liability obligations, assessment procedures, payment methods, objections and appeals.

With effect from 1 January 2007, all enterprises in Macao are required to follow a new set of accounting standards prescribed by the government which supersedes the former Official Plan of Accounting. The effects of these new standards and their taxation implications are important for all future tax filings. This fifth edition of the *Guide* also provides some insights to the tax treatments arising from the change in accounting standards.

Since 2002, as a stimulus to attract businesses to invest in Macao, a series of preferential tax treatments and incentives have been granted and published at the end of each year by the Macao SAR Government. The latest preferential tax treatments and incentives granted by the Macao SAR Government have been highlighted in the fifth edition with examples of tax calculation under such preferential tax treatments and incentives.

Since all tax laws in Macao are stated in Chinese and Portuguese, the *Guide* is the first comprehensive English version of the taxation landscape in Macao. This edition covers all changes in taxation legislation up to 31 August 2010.

CCH Tax Editors

September 2010

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Chapter 1

OVERVIEW OF MACAO INFRASTRUCTURE AND BUSINESS ENVIRONMENT

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LEGAL FRAMEWORK

¶1-100 Legal framework

The Macao infrastructure and the development of the legal system are briefly covered in this section.

¶1-130 The legal system

On 20 December 1999, China resumed sovereignty over Macao. The territory, after Hong Kong, became the second Special Administrative Region (SAR) of the People's Republic of China (PRC). The governing constitutional document after China took control is entitled "The Basic Law of the Macao Special Administrative Region of the People's Republic of China" (the Basic Law). This document also sets out the broad parameters for all systems and policies applied in the Macao SAR, including its social systems, economic systems, protection of fundamental rights and freedoms, administration, legislation and justice.

Under the *Basic Law*, which was modelled on the *Basic Law* of Hong Kong, the previous capitalist systems and way of life in Macao are to remain unchanged for 50 years, ie up to 2049, under the principle of "One Country, Two Systems". As such, the Macao SAR enjoys a high degree of autonomy and executive, legislative and independent judicial powers, including the final rights of adjudication.

¶1-140 Executive structure

The Macao SAR Government is the executive authority for the SAR and is headed by the Chief Executive who is ultimately responsible for making decisions on government policies and issuing executive orders, including overseeing the formulation and implementation of by-laws.

Under the Chief Executive, there are five Secretariats headed by Secretaries who are responsible for designated areas implicit in the names of the Secretariat. The designated Secretariats are the Secretariat for Administration and Justice, the Secretariat for Economy and Finance, the Secretariat for Security, the Secretariat for Social Affairs and Culture, and the Secretariat for Transport and Public Works. Under each Secretariat, there are several Bureaus performing designated functions which, in turn, are supported by affiliated units called Departments. These Departments are responsible for establishing and overseeing operational procedures and are supported by Divisions, which are the frontline units in dealing with the public.

To summarise, the hierarchy of responsibility is as follows:

Authority	Description
Chief Executive	Head of the SAR Government
Secretariats	Assist the Chief Executive and are directly responsible for designated areas
Bureaus	Responsible for the development of procedures and overseeing the execution thereof on behalf of their respective Secretariats
Departments	Responsible for implementing operational procedures
Divisions	Represent Departments in specific daily operational duties

¶1-150 Development of the laws

The legal systems of Macao must be approved by the PRC.

In China, the legal system is legislative insofar as the laws are codified and approved by the National People's Congress. In 1993, the 8th National People's Congress enacted the *Basic Law* of Macao, which is intended to be national in both nature and execution. The *Basic Law* includes three Annexes — I, II and III — which set out the method for the formation of the Legislative Assembly of the SAR and ensure the national laws of the PRC are applied in Macao.

The *Basic Law* is both national and constitutional law but it gives Macao a high degree of autonomy and legislative powers.

The legislative authority in the SAR is exercised solely by the Legislative Assembly which is comprised of a President, an Executive Board and several committees. The Legislative Assembly has the right to make, amend and suspend the execution and abolition of laws in accordance with the *Basic Law*.

The *Basic Law* gives the Chief Executive of the SAR the power to sign bills passed by the Legislative Assembly as well as the right to promulgate laws, ie he/she is entitled to enact "Executive Orders" and "Directives" that are subordinate to "Laws" or "Decree Laws" enacted by the Legislative Assembly.

The Penal Code, Criminal Procedural Code, Civil Code, Civil Procedural Code and Commercial Code are the "Five Codes" which form the authoritative framework of Macao's legal system.

¶1-170 Laws of the Macao SAR

The laws presently in force in the Macao SAR include:

- (1) The *Basic Law*;
- (2) National laws listed in Annex III to the *Basic Law*;

- (3) Laws that were effective before 20 December 1999 and which have been retained as laws in the SAR by approval of the Standing Committee of the National People's Congress; and
- (4) Laws enacted by the Legislative Assembly of the SAR.

The national laws of the PRC do not apply in the SAR except for the following which have been promulgated or legislated by the Macao SAR up to the end of December 2008:

- Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China;
- Resolution on the National Day of the People's Republic of China;
- Nationality Law of the People's Republic of China;
- Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities;
- Regulations of the People's Republic of China Concerning Consular Privileges and Immunities;
- Law of the People's Republic of China on the National Flag;
- Law of the People's Republic of China on the National Emblem;
- Law of the People's Republic of China on Territorial Sea and the Continuous Zone;
- Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf;
- Garrison Law of the Macao Special Administrative Region of the People's Republic of China; and
- Law of the People's Republic of China on the Immunity of the Property of Foreign Central Banks from Judicial Compulsory Measures.

¶1-180 The judiciary system

Under the *Basic Law*, Macao enjoys independent judicial powers including the right of final adjudication. There are two judiciary bodies in the SAR being the court system, which exercises judicial powers, and the Public Prosecutions Office, which exercises the powers of prosecution. Both the courts and the Public Prosecutions Office exercise their related powers independently.

¶1-190 The court system

According to the Macao SAR Judicial Organisation Framework Law, there is a three-level court system which consists of the Court of First Instance, the Court of Second Instance and the Court of Final Appeal, which has final adjudication powers. Administration and tax litigation matters are handled by the Administrative Court.

¶1-195 The Public Prosecutions Office

The Public Prosecutions Office of the SAR is independent in performing its powers and functions as defined by law.

All public prosecutors are employed under the Public Prosecutor-General, the head of the Public Prosecutions Office, who is nominated by the Chief Executive and appointed by the PRC Central Government.

¶1-200 Economic status

In more recent years, Macao has shifted from an industrial-based economy, which placed emphasis on the manufacturing sector, to a service economy that now focuses on the gaming and tourism sectors. In 2009, gaming activities contributed to over 50% of Macao's Gross Domestic Product (GDP) and gaming taxes accounted for around 60% of the government's revenue.

The GDP of Macao for the last five years is shown in the table below.

Year	GDP (MOP billion)	Real Growth % (at constant (2002) price)	Per-capita GDP (MOP '000)
2005	92.19	6.9	193.6
2006	113.71	16.5	222.7
2007	150.21	26.0	285.7
2008	173.55	12.9	316.1
2009	169.34	1.3	311.1

Since the liberalisation of the gaming industry, Macao has achieved steady economic growth and its international status has been enhanced. The concessions for the operation of casinos were expanded from initially one sole licence holder to three. Since then, the three licence holders have succeeded, with government approval, in issuing sub-concessions to other operators. In this regard, there are currently six operators in the gaming business. The expansion commitments from such operations, though bringing prosperity, have created heavy demands on infrastructure, management and human resources which are creating challenges for Macao.

With the boom in the gaming industry and the Individual Visit Scheme introduced by the PRC in 2003, the tourism sector is also undergoing rapid growth. According to the Macao Statistics and Census Bureau, the total number of visitors to Macao in 2009 amounted to 21.8 million. With several historical features successfully being recognised as World Cultural Heritage sites, Macao now attracts an increasing number of tourists and has become more diversified. The tourism industry is developing in parallel with the gaming industry.

The government's development policies seek to promote diversification in an effort to place greater emphasis on the manufacturing and export, finance, and real estate sectors in the future.

¶1-300 Financial status

With stable financial laws and regulations, Macao offers ample financial services and trading facilities to investors and enterprises. As there are no exchange control regulations, funds can move freely in and out of the SAR for ordinary business.

The local currency is the Macao Pataca (MOP) which is pegged to the Hong Kong dollar (HK\$) at the rate of HK\$1.00: MOP 1.03. The MOP is thereby indirectly pegged to the US dollar (US\$) due to the linkage of the HK\$ and US\$. Fluctuations in exchange rates between the MOP and other foreign currencies basically mirror those of the HK\$.

The Monetary Authority of Macao (AMCM) supervises and regulates all financial institutions such as banks, insurance companies and pension fund management companies. The AMCM, which operates at the Bureau level of government, also functions as a quasi-central bank and has authority over the management of foreign currency reserves of Macao.

The *Financial System Act of Macao* was promulgated in 1993. This Act combines the advice or suggestions of the Basle Committee on Banking Supervision and the objectives of the European Union to maintain harmony in banking legislation.

¶1-400 Relationship with China and international linkages

Macao is empowered to continue to maintain all relationships developed with the international community before implementation of the *Basic Law*. It is, therefore, able to conclude and implement agreements with foreign countries and international organisations in different fields, such as trading, finance, shipping, communications, tourism, culture, science, technology, export, etc.

Currently, Macao is a member of the World Trade Organisation (WTO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), the World Tourism Organisation as well as the Economic and Social Committee. Over 160 international covenants and multilateral treaties are in force in Macao.

Under the principle of "One Country, Two Systems", Macao is a close trading partner with Mainland China. In order to promote joint economic prosperity and the development of Mainland China and Macao, the Closer Economic Partnership Arrangement (CEPA) was signed in October 2003 with further supplements — I, II, III, IV, V, VI and VII — being signed in 2004, 2005, 2006,

2007, 2008, 2009 and May 2010 respectively. These CEPA arrangements continue to be effective in 2010.

Areas covered by CEPA include trade in goods, trade in services and the facilitation of trade and investment between the two parties. In 2006, there have been new enhancements which included zero tariff treatment for imports of products originating from Macao. In May 2009, there have been more open commitment breakthroughs in various service sectors, such as in the industry of Meeting, Incentive, Convention, Exhibition (MICE) and medical services, all of which will take effect on 1 October 2009.

¶1-500 Competitive advantages

Macao has a number of competitive advantages including the following:

- *Strategic geographical location*

Macao is located approximately 60 km west of Hong Kong on the coast of the South China Sea and borders on the southwest of Guangdong Province, one of the fastest growing economies in China. There are easy and convenient links by land, sea and air to the rest of the region. Its strategic geographical location gives Macao unique advantages including strong relationships with its neighbours, ie Mainland China, the Hong Kong SAR and the South East Asian countries.

- *Low taxation*

- Profits tax ranges progressively from 9% to 12% on annual assessable profit of over MOP 200,000
- Personal income tax ranges from 7% to 12% on annual income of over MOP 120,000 with an allowance of 25% on gross income
- Property transfer stamp duty ranges progressively from 1% to 3%

Note — In recent years, all temporary tax incentives and exemptions are announced annually by the government.

- *Governmental support programs*

- Taxation incentives
- Subsidies for overseas promotions
- Subsidies for quality and environmental management certifications

- *Quality of life*

- Low living costs compared to neighbouring regions
- Ample recreation and relaxation facilities

- *International connections*

- Membership of international organisations
- Good relations with Portuguese-speaking countries

- Cooperation agreements with the European Economic Union
- Signatory to various trade cooperation agreements
- *Party to cooperation platforms*
 - The Service Platform for the Economic Cooperation between China and Portuguese-speaking countries
 - The Economic Cooperation Platform for Western Guangdong
 - The Global Chinese Entrepreneurs Networking and Cooperation Platform.

¶1-600 Useful contacts in Macao

To provide readers with further information in respect of key government offices and business associations in Macao, the contacts set out below are listed for reference purposes.

Government departments

OFFICE OF THE CHIEF EXECUTIVE OF MACAO SAR

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