
Chapter 1

OVERVIEW OF MACAO INFRASTRUCTURE AND BUSINESS ENVIRONMENT

Legal framework.....	¶1-100
The legal system.....	¶1-130
Executive structure.....	¶1-140
Development of the laws.....	¶1-150
Laws of the Macao SAR.....	¶1-170
The judiciary system.....	¶1-180
The court system.....	¶1-190
The Public Prosecutions Office.....	¶1-195
Economic status.....	¶1-200
Financial status.....	¶1-300
Relationship with mainland China and international linkages.....	¶1-400
Competitive advantages.....	¶1-500

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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, the People's Republic of China (PRC) resumed sovereignty over Macao. The territory, after Hong Kong, became the second Special Administrative Region (SAR) of the PRC. The governing constitutional document after the PRC 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. It 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 Secretariats for

- Administration and Justice
- Economy and Finance
- Security
- Social Affairs and Culture, and
- 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.

The hierarchy of responsibility is set out in Table 1.1.

Table 1.1 Hierarchy of responsibility

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 mainland China.

In mainland 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 certain national laws of the PRC are applied in Macao.

The *Basic Law* is both a 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, one being the court system, which exercises judicial powers, and the other, 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 2014, tax revenue from gaming accounted for 84% of the government's revenue. (Source: Statistics and Census Service)

The GDP of Macao for the last five years is shown in Table 1.2.

Table 1.2 GDP of Macao

Year	GDP (MOP billion)	Real Growth in real term %	Per capita GDP (MOP '000)
2010*	226.9	27.5	422.7
2011*	293.7	21.3	534.7
2012	343.5	9.2	603.6
2013	410.0	10.7	691.6
2014	443.3	(0.4)	713.5

Source: Statistics and Census Service

Note: * figures revised by the Statistics and Census Services of Macao SAR Government

Gaming industry

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.

Tourism industry

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 Statistics and Census Service of Macao SAR Government, the total number of visitors to Macao in 2014 amounted to 31.5 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.

Other industries

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 mainland 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 220 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 on 17 October 2003 with ten further supplements and the CEPA Agreement between the Mainland and Macao on Achieving Basic Liberalization of Trade in Services in Guangdong subsequently signed during the period from 29 October 2004 to 18 December 2014. These CEPA arrangements continue to be effective in 2015.

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 were new enhancements which included zero tariff treatment for imports of products originating from Macao. In May 2009, there were 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 were effective from 1 October 2009. The latest Supplement brings the total number of liberalised sectors under trade in services to 48. It will also lower the total asset requirement for Macao banks to set up branches in Hengqin to USD 4 billion. Hengqin Dao is an island in Zhuhai adjacent to Macao's Cotai. It has been designated as a special economic zone, and is the only region in mainland China where the threshold to enter the banking sector is lowered under the CEPA. This is a new policy specially designed for Macao.

¶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 mainland 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 is charged at a flat rate of 12% on annual assessable profit over MOP 600,000 for the year 2014.
- Personal income tax rate ranges from 7% to 12% on annual income of over MOP 144,000 with an allowance of 25% on gross income. Since 2004, an additional deduction/rebate has been granted on personal income tax as part of "temporary" tax incentives. Table 1.3 shows the additional tax rebate rates from 2004 to 2015.

Table 1.3 Additional tax rebate rates

Year	Additional tax rebate
2004 to 2012	25%
2013 to 2015	30%

- Property transfer stamp duty ranges progressively from 1% to 3%
- 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.

Chapter 2

SETTING UP A BUSINESS IN MACAO

Introduction.....	¶2-100
Macao Commercial Code.....	¶2-150
Types of commercial entities	¶2-200
Licence requirements	¶2-400
Processing and filing for tax.....	¶2-500
Financial reporting and audit requirements	¶2-600
Other official requirements.....	¶2-700

¶2-100 Introduction

Non-Macao entities normally choose to do business in Macao by:

- (i) incorporating a Macao legal entity, or
- (ii) applying for a tax registration status.

Operations that intend to have a permanent establishment in Macao should select option (i) as it facilitates the carrying on of business activities with other parties in the SAR. Operations set up to complete one-off projects may opt for the simpler route of applying for a tax registration status only. Operations set up under both options (i) and (ii) are required to file tax returns in compliance with the regulations.

There are no constraints or restrictions on establishing or expanding a business in Macao. Foreign entities and individuals are only required to follow the normal procedures when setting up a business. However, according to regulations which govern various economic activities, certain business categories need to obtain specific licences or certain authorisations in order to operate. See ¶2-400.

Furthermore, some authorities require certain kinds of businesses to be located in specified sites such as walk-in commercial buildings or industrial buildings. Therefore, companies should take into account the need to meet government requirements and regulations when choosing locations for their operations. For example, hair salons should choose walk-in shop units and dental clinics should choose commercial units with indoor water supply and independent washroom facilities.

¶2-150 Macao Commercial Code

As set out in the Macao legal framework in Chapter 1, there are "Five Codes", including the Macao Commercial Code, which govern all activities of commercial enterprises, including their formation, operation, management and dissolution.

In addition to the Commercial Code, laws that apply to general businesses include the following:

- Taxation Law
- Labour Law
- Anti-Money Laundering Law.

¶2-200 Types of commercial entities

Under the Macao Commercial Code, effective from November 1999, there are primarily three types of commercial entities that may conduct business in the Macao SAR. These are:

- an individual entrepreneur
- a company (corporate body), and
- economic interest groupings.

Non-Macao entities may choose to register with the Macao Commerce and Movable Property Registry ("Commercial Registry") to set up a branch of their Head Office, or to enter into a joint venture arrangement with an existing Macao entity, to carry on business in Macao.

Individual entrepreneur

Individual entrepreneur status is also often referred to as a "Sole Proprietorship". Such a business is exercised or operated by a sole/designated person as the licence holder. This named individual is fully and personally liable for all debts incurred in the business.

Company (corporate body)

A company in Macao must be in one of the six forms specified under the Commercial Code, including the following:

- Unlimited liability company
- Mixed liability company by quotas*
- Mixed liability company by shares
- Limited liability company by quotas*
- Limited liability company by shares
- Limited liability company by sole owner.

* Quotas are shares in a private limited liability company, the transfer of which to other parties is restricted under certain circumstances.

The main characteristics of the different forms of companies are set out in Table 2.1.

Table 2.1 Main characteristics of companies

Type	Number of owners/participants	Capital	Form and realisation of participation of capital	Compulsory wording in trade name
Unlimited liability company	2 or more	No maximum or minimum limits	Money/business	S.N.C.
Mixed liability company by quotas	1 or more unlimited liability shareholder(s) and 1 or more limited liability shareholder(s)	No maximum or minimum limits	Unlimited liability shareholder and limited liability shareholder both paid up in cash	S.C.
Mixed liability company by shares	1 or more unlimited liability shareholder(s) and at least 3 limited liability shareholders	Minimum limit of MOP 1,000,000 (US\$125,000) and no maximum limit	Unlimited liability shareholder paid up in cash and limited liability shareholder paid up in shares	S.C.A.
Limited liability company by quotas	2 to 30	Minimum limit of MOP 25,000 (US\$3,125) and no maximum limit	Acquire quota with a nominal value of at least MOP 1,000 (US\$125) or in multiples of MOP 100 (US\$12.5)	Lda.
Limited liability company by shares	At least 3	Minimum limit of MOP 1,000,000 (US\$125,000) and no maximum limit	All capital divided into equal shares with a value of at least MOP 100 (US\$12.5)	S.A.

Type	Number of owners/participants	Capital	Form and realisation of participation of capital	Compulsory wording in trade name
Limited liability company by sole owner	1	Minimum limit of MOP 25,000 (US\$3,125) and no maximum limit	Capital of 1 share with the balance the same as for limited liability company by quotas	Sociedade Unipessoal Lda.

The general procedures and information required for setting up a limited company by quota in Macao are shown in Table 2.2.

Table 2.2 General procedures/information required for incorporation of an ordinary limited company by quota shares in Macao

Procedures	Information/documents required
(A) Name search — Application of admissibility of trade name	<ul style="list-style-type: none"> Proposed name of the Macao company <ul style="list-style-type: none"> Chinese name; and/or Portuguese name; English name (applicable if the company adopts both Chinese and Portuguese names) Principal business activities of the Macao company
(B) Signing of formation documents before a Macao Notary (Presence of all shareholders/representatives is required)	<ul style="list-style-type: none"> Business address in Macao Duration of the company (specify, if any) Registered capital of the company (in MOP, minimum MOP 25,000) Particulars of shareholders Amount of quota share of each shareholder (minimum MOP 1,000 per quota share) Particulars of the administrator(s) Binding arrangement for the administrators if more than 1 administrator appointed

Procedures	Information/documents required
	<ul style="list-style-type: none"> Other special authorities of particular administrator(s) (specify, if any) Financial year-end of the company (31 March/30 June/30 September/31 December)
(C) Application to the Commercial Registry for corporate registration	<ul style="list-style-type: none"> Acceptance of appointment of administrator(s) Copy of Certificate of Admissibility of Trade Name Articles of Association
(D) Application to the Finance Services Bureau for tax registration	<ul style="list-style-type: none"> Industrial tax form which is required to be notarised and includes the following information: <ul style="list-style-type: none"> Telephone number of the Macao company Business trade name (if applicable) Business address in Macao Date of commencement of business List of names of the shareholders and their ID copies List of names and Letter of Appointment of the administrative board Certificate of registration issued by Macao Commercial Registry Copy of the Memorandum and Articles of Association

Economic interest groupings

Two or more commercial entrepreneurs, with the objective of promoting economic activities as joint parties without changing their qualification or status as legal persons, may form an economic interest grouping. For this category of operation, registering with the Commercial and Movable Property Registry is enforced under the Commercial Code to give a legal status for the grouping. As the grouping does not effectively do business for itself as a body, share capital is not required but its members have unlimited joint and several liability for the debts of the grouping.

Branch of foreign company

Instead of setting up a subsidiary company, a foreign company may choose to register with the Macao Commercial and Movable Registry to set up a branch to undertake business in Macao. A local representative should be appointed to administer all business activities and tax affairs of the branch. Tax filings should be signed by the appointed representative.

Table 2.3 Procedures/information required for setting up a branch in Macao

Procedures		Information/documents required
(A)	Name search – Application of admissibility of trade name	<ul style="list-style-type: none"> Name of the parent company Principal business activities of the Macao branch
(B)	Execution of registration documents	<ul style="list-style-type: none"> Branch office address in Macao Assigned capital of the branch (in MOP, minimum MOP 25,000) Particulars of branch representative(s) Binding arrangement for the representatives (if more than 1 representative) Certified true copies of the Certificate of Incorporation, Memorandum and Articles of Association, Business Registration Certification of the parent company (certified by a Notary Public practising in the place of incorporation of the parent company) Board resolutions of the parent company for the setup of the Macao branch, notarised by a Notary Public practising in the place of incorporation of the parent company together with an apostille Financial year-end of the branch (31 March/30 June/30 September/31 December)

Procedures		Information/documents required
(C)	Application to Commercial Registry for branch registration	<ul style="list-style-type: none"> Acceptance of appointment of branch representative(s)
(D)	Application to the Finance Services Bureau for tax registration	<ul style="list-style-type: none"> Industrial tax form which is required to be notarised and includes the following information: <ul style="list-style-type: none"> Telephone number of the Macao branch Business trade name (if applicable) Business address in Macao Date of commencement of business Copies of the Certification of Incorporation and the Memorandum and Articles of Association of the head office Letter of Appointment of the authorised representatives for the branch Name of the proposed authorised representatives for the branch and their ID copies

The rapidly growing economy of Macao is attracting more and more local and foreign investors. Table 2.4 shows number of newly set up companies in the last five years.

Table 2.4 Newly set up companies

Year	Number of newly set up companies	Registered capital (MOP)
2010	2,991	507 million
2011	3,405	983 million
2012	3,612	609 million
2013	4,481	756 million
2014	5,409	1,843 million

Source: Statistics and Census Service

A matrix of newly set up companies by major industries is set out in Table 2.5.

Table 2.5 Newly set up companies by industry

Major industries	2010 %	2011 %	2012 %	2013 %	2014 %	2014 (number)
Wholesale and retail trade	38.1	36	35.6	37.0	34.3	1,854
Construction	12.4	11.9	12.3	13.1	14.0	755
Hotels, restaurants and similar activities	2.7	2.5	3.8	4.3	5.4	293
Transport, storage and communications	2.1	2.1	2.2	1.9	2.3	125
Real estate	12.6	12.9	12.9	8.9	11.0	594
Education, health and social welfare; other community, social and personal services	8.0	9.6	7.7	8.4	6.8	367
Manufacturing	1.5	1.3	1.5	1.1	0.7	39
Financial and business services	22.6	23.7	23.9	25.3	25.5	1,382
Other	-	-	0.1	-	-	-
Total	100	100	100	100	100	5,409

Source: Statistics and Census Service

Joint venture

A foreign company may also enter into a joint venture arrangement with an existing Macao enterprise to carry out projects in Macao. The foreign company's Certificate of Registration should be certified by a Notary from the country of origin for registration purposes and at least one representative should be appointed to be responsible for the business and official activities of the company.

Profits derived from such joint ventures can be shared among the venture parties before or after tax. In the case of distributions of profits before tax, the respective venture parties are responsible for their own tax filing/liabilities. In the case of losses, the tax loss incurred by the joint venture was to be distributed among the respective venture parties according to their profit sharing ratio and claimed in their respective complementary tax returns.

¶2-400 Licence requirements

Although there are no restrictions or constraints in establishing businesses in Macao, certain business categories are required to obtain licences before they can commence operations. The licence requirements vary according to the nature of the activities.

In the assessment and issuance process, various government departments or bureaus are involved and applications are handled according to the "Civil Procedural Code". While licensing requirements vary according to the business category, all businesses must comply with tax registration requirements, which is one of the most important and critical factors in the setting up of a business in Macao.

Some common business activities with licences requirements and the respective authorising departments are listed in Table 2.6.

Table 2.6 Types of business activities which require special licences

Business Activities	Authorising Department
Manufacturing	Economic Services Bureau
Trading (Import/Export)	Macao Economic Services Bureau and other Bureaus for some specific products
Foreign Trade	Economic Services Bureau
Tourism, Restaurants and Hotels	Government Tourist Office; Civil & Municipal Affairs Bureau
Civil Construction	Lands, Public Works and Transport Bureau
Education	Education and Youth Affairs Bureau
Food & Beverage	Civic & Municipal Affairs Bureau; Government Tourist Office
Telecommunications & IT	Bureau of Telecommunications and Information Technology Regulation
Finance	Monetary Authority

¶2-500 Processing and filing for tax

In certain situations where there are no special requirements for setting up a company or a branch, non-Macao entities with one-off or occasional contractual projects in Macao may simply apply for a tax registration status for the purpose of fulfilling their tax obligation.

Various documents, such as a certified copy of the Certificate of Incorporation of the non-Macao entity from its country of origin, together with a duly signed copy of the contract with the Macao entity with which business, or the transaction is conducted must be submitted to the Finance Services Bureau for tax registration purposes. A tax return based on the reported profit/loss of the business or transaction should be presented to the Finance Services Bureau upon completion of the contractual service. Complementary tax will then be duly assessed and this should be paid before cancellation of the registration.

¶2-600 Financial reporting and audit requirements

The Commercial Code stipulates that all business entities are required to keep proper books and records and these should be retained for five years, except for certain industries, such as banking and insurance, which are subject to special regulations. Proper books and records include inventory records, balance sheets, minute books, and other registers and documents.

Financial institutions in Macao such as banks, insurance companies and financial service operations are required to undertake annual statutory audits. Macao banking rules and regulations also require that financial information, directors/management reports as well as audit reports of financial institutions be published in the Official Gazette and one local Portuguese-language newspaper and one local Chinese-language newspaper.

Under the Complementary Tax Regulations, companies are required to submit corporate tax returns to the Finance Services Bureau after each financial year. Tax returns for Group A taxpayers are required to be certified by registered accountants or auditors.

In December 2005, the Macao Government passed Decree Law 25/2005 under which the original Official Plan for Accounting was abolished and replaced by a new set of Accounting Standards. These new Macao Accounting Standards are classified into two categories, namely:

- (i) *Financial Reporting Standards* which introduce elements of *International Financial Reporting Standards (IFRS)* as well as *International Accounting Standards (IAS)*, and
- (ii) *General Financial Reporting Standards* which are simplified versions of *IFRS standards* in certain cases.

Financial Reporting Standards are comprised of the following:

- Framework for the Preparation and Presentation of Financial Statements
- IFRS 1 *First-time Adoption of International Financial Reporting Standards*

- IAS 1 *Presentation of Financial Statements*
- IAS 2 *Inventories*
- IAS 7 *Cash Flow Statements*
- IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*
- IAS 10 *Events After the Balance Sheet Date*
- IAS 11 *Construction Contracts*
- IAS 12 *Income Taxes*
- IAS 16 *Property, Plant and Equipment*
- IAS 17 *Leases*
- IAS 18 *Revenue*
- IAS 21 *The Effects of Changes in Foreign Exchange Rates*
- IAS 23 *Borrowing Costs*
- IAS 36 *Impairment of Assets*
- IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*
- IAS 38 *Intangible Assets*.

Accordingly, the following commercial entities should adopt the *Financial Reporting Standards* effective from 1 January 2007:

- Concession companies in Macao
- Insurance institutions in Macao
- Companies governed by the *Financial System Act* of Macao
- Macao offshore institutions
- Macao public companies ("Sociedade Anonima" or SA)
- Macao limited partnerships by shares ("Sociedade em Comandita por Accoes" or SCA).

General Financial Reporting Standards, including extracts from IAS, are as follows:

- No 1 *Presentation of Financial Statements*
- No 2 *Accounting Policies, Changes in Accounting Estimates and Errors*
- No 3 *Property, Plant and Equipment*
- No 4 *Leases*
- No 5 *Intangible Assets*
- No 6 *Inventories*

- apply to the re-assessment committee for an administrative review of the decision within 15 days after receiving the decision notice, and/or
- lodge a judicial appeal to the Administrative Court against the decision within 45 days after the decision notice.

Applications for administrative reviews or judicial appeals must be lodged within the respective prescribed periods as there are no provisions for extensions. For appeals to the court, the applicant must be represented by a lawyer in the dispute proceedings.

Example 4.31

A company in Macao received a complementary tax assessment notice from the Finance Services Bureau stating that its taxable profit for the year is revised to MOP 800,000 due to the disallowance of certain deductions. The company disagreed and appealed to the Finance Services Bureau against the tax re-assessment.

	MOP
Profit declared	700,000
Re-assessed taxable profit	800,000
Additional tax liability @ 12%	12,000

The re-assessment committee conducted an administrative review of the appeal lodged by the company, and made a decision to uphold the re-assessment by the Bureau.

In the case that an appeal is wholly rejected, the re-assessment committee may, at its discretion, impose a surcharge of not more than 5% of the tax payable in dispute. The company will then be required to pay the additional tax and a surcharge of up to 5% of the tax due, which is MOP 12,600 (MOP 12,000 + MOP 12,000 × 5%) in this case.

Chapter 5 PROFESSIONAL TAX

INTRODUCTION

Background/overview	¶5-050
Taxpayer classifications	¶5-100
Group I taxpayers	¶5-150
Group II taxpayers	¶5-200
Penalties, objections and appeals	¶5-250

GROUP I TAXPAYERS

Registration of employees	¶5-300
Tax withholding and filing	¶5-350
Professional tax rates for Group I taxpayers	¶5-400
Professional tax borne by the employer	¶5-450
Individual tax filing by taxpayers	¶5-500
Prescribed dates for Group I taxpayers	¶5-520
Severance payments	¶5-550
Non-resident employees	¶5-600
Allowances under professional tax	¶5-650
Private pension fund scheme	¶5-680
Benefits-in-kind and deemed taxable values provisions	¶5-700
Taxation of share and stock option benefits	¶5-750

GROUP II TAXPAYERS

Definition	¶5-800
Business commencement declaration	¶5-830
Tax return filing requirements	¶5-850
Deductions for Group II taxpayers	¶5-880
Group II taxpayers as employers of Group I taxpayers	¶5-900
Professional tax rates for Group II taxpayers	¶5-950
Prescribed dates for Group II taxpayers	¶5-980

INTRODUCTION

¶5-050 Background/overview

Professional tax in Macao is equivalent to “personal income tax” in other tax jurisdictions. First imposed under Law No 2/78/M in February 1978, the Professional Tax Regulations have subsequently been updated with the most recent amendment being made by Executive Order No 267/2003 in December 2003.

According to the Regulations, professional tax is imposed on all service income which includes remuneration from work, in cash or benefits-in-kind, contractual or otherwise, fixed or variable and regardless of the source/location, the method of calculation or the currency in which it is paid. This tax covers all employment income or personal/professional service income and taxpayers are assessed on an individual basis, ie there is no option for joint assessment for married couples.

¶5-100 Taxpayer classifications

All taxpayers are classified as being one of the two defined groupings, namely, Group I covering hired employees and Group II representing professionals or self-employed individuals.

¶5-150 Group I taxpayers

Group I taxpayers are employees who receive wages or salaries irrespective of the time period covered, eg daily, weekly, monthly, etc.

A person who is hired to provide services, generally more intellectual than physical, to an entity on a regular basis in exchange for compensation, and does not provide such services as part of an independent business, is considered to be an *employee* even though remuneration may not be on a monthly basis.

Skilled workers who provide arts, crafts or other services where their wages are calculated on an hourly or piece rate basis are regarded as *casual employees*.

An employment contract is an arrangement made for the performance of personal services by an individual employee with his/her employer to establish a working relationship. Under this arrangement, the employer has certain defined controls over the employee in the conduct of the work or services to be provided, and the employee has an obligation in the discharge of his/her duties of employment according to terms specified by the employer.

When an employment relationship comes into existence, employers become obliged to meet certain government imposed requirements for workers in

relation to compensation insurance, Social Security Fund contributions, professional tax withholding and filing of personal income tax, etc.

In the case of all Group I taxpayers, it is the employers who are obligated to make deductions or withhold at source and act as tax agents for professional tax in respect of salaries and wages paid to employees. If employee salaries exceed the exemption limits as stated by law, the tax must be withheld by the employers and remitted to the Finance Services Bureau on a quarterly basis within a prescribed period. Employers are also responsible/liable for lodging yearly professional tax returns (Form M3/M4) with the tax authorities in respect of payroll and tax collection details on each employee.

Irrespective of the corporate year end that an entity may select for operating purposes, the "tax year" for control and reporting to the government with respect to professional tax is on a calendar year basis, ie 1 January to 31 December. Non-resident employees working in Macao are also subject to professional tax and, in this case, employers are required to withhold and remit the tax to the authorities on a quarterly basis (if the non-resident has a valid work permit, ie Blue Card) or on a monthly basis (if the non-resident does not have a valid work permit).

Exemptions

In accordance with Article 9, exemptions from professional tax are granted to:

- embassy officials of countries having arrangements with the Macao SAR by mutual agreement, and
- employees working in foreign and international organisations approved by the Central Government of the PRC or the Macao SAR.

Special relief for Macao offshore companies

In accordance with Decree Law No 58/99/M, all managers as well as high-level/specialised staff employed by Macao Offshore Institutions may apply for Macao residency permits. After obtaining the permits, these employees are entitled to full exemption from professional tax on income earned from the offshore institutions for the first three fiscal years of employment. All local staff employed by such institutions are subject to professional tax as ordinary residents.

Example 5.1

A company which qualified for offshore status was incorporated in 2010. The company hired five staff, three were employed in Macao and two were sent from its Hong Kong holding company. Further details are as follows:

Employee	Income in 2015 MOP	Position	Status
A	500,000	General Manager	Hong Kong resident with a Macao residency permit
B	240,000	Chief Accountant	Hong Kong resident with a Macao work permit
C	180,000	Assistant Accountant	Macao resident
D	120,000	Office Assistant	Macao resident
E	80,000	General Messenger	Macao resident

If employee A obtained a residency permit in 2015 through an application made by the company because he/she is at a management level, he/she is eligible for an exemption from professional tax for three years from 2015.

As employee B only obtained a work permit in Macao but did not obtain a Macao residency permit, he/she is liable to professional tax.

Employees C, D and E, being Macao local residents, are not eligible for the professional tax exemption. The company needs to withhold tax from their salaries.

Appointment of company officers

According to the statutory requirements in the Macao Commercial Code, all companies in Macao are required to appoint officers, being directors in most cases. The term "company officers" for companies limited by shares (SA companies) also includes company secretaries and supervisory board members. The duties of company officials are statutory and are laid down in the Commercial Code. It is not a statutory requirement that all officers should be Macao residents, ie foreigners coming from abroad or the Mainland can be officers in Macao companies. These officers, although not usually treated as ordinary employees, are eligible to entitlements such as directors' remuneration, directors' fees, etc. Company officers are deemed to perform duties in the place where the central management and control of the company resides.

The tax rates and minimum allowances to be applied to directors' remuneration are different for residents and non-residents of Macao. A non-resident is

entitled to the 25% basic allowance and the 30% special rebate for 2013 to 2015. Non-resident income is subject to professional tax at a base rate of 5%. However, if the tax payable is less than the amount calculated based on rates for Macao residents, then the rates for Macao residents will apply.

Examples 5.2

A Macao company has appointed three directors and their remuneration packages for 2015 are as follows:

		Remuneration (MOP)
Director A	Macao resident	300,000
Director B	Hong Kong resident without a Macao work permit	300,000
Director C	US resident without a Macao work permit	1,000,000

Professional taxes payable for the three directors are to be calculated as follows:

Director A

- (1) The professional tax calculation will be based on the ordinary tax rates for local resident employees, and
- (2) He/she is entitled to:
 - (i) a basic allowance of 25% of remuneration
 - (ii) MOP 144,000 minimum personal allowance, and
 - (iii) 30% special tax rebate for 2015.

	MOP
Director's remuneration	300,000
Less: 25% basic allowance (MOP 300,000 × 25%)	<u>(75,000)</u>
Assessable income	<u>225,000</u>

	Assessable income MOP	Tax rate	Taxes MOP
Minimum personal allowance	144,000	-	Exempt
Next	20,000	7%	1,400

Next	20,000	8%	1,600
Next	40,000	9%	3,600
Next	<u>1,000</u>	10%	100
Total	<u>225,000</u>		6,700
Less: 30% special rebate for 2015 (MOP 6,700 × 30%)			<u>(2,010)</u>
Professional tax payable			<u>4,690</u>

Director B

- (1) The professional tax calculation will be based on the tax rate of 5% applicable for non-residents. If the tax payable is less than the tax amount calculated according to rates for Macao residents, then the rates for Macao residents will apply.
- (2) He/she is entitled to:
 - (i) a basic allowance of 25% of remuneration, and
 - (ii) 30% special tax rebate for 2015.

	MOP
Director's remuneration	300,000
Less: 25% basic allowance (25% × MOP 300,000)	<u>(75,000)</u>
Assessable income	<u>225,000</u>
Tax thereon based on applicable tax rate of 5% for non-resident income (MOP 225,000 × 5%)	11,250
Less: 30% special rebate for 2015 (MOP 11,250 × 30%)	<u>(3,375)</u>
Professional tax payable	<u>7,875</u>

Since the tax amount of MOP 7,875 is higher than that of a Macao resident with the same amount of income (see calculation for Director A), the tax payable for Director B will remain at MOP 7,875.

Director C

- (1) The professional tax calculation will be based on the tax rate of 5% applicable for non-resident. If the tax payable is less than the tax amount calculated according to rates for Macao residents, then the rates for Macao residents will apply.
- (2) He/she is entitled to:
 - (i) a basic allowance of 25% of remuneration, and
 - (ii) 30% special tax rate for 2015.

	MOP
Director's remuneration	1,000,000
Less: 25% basic allowance (MOP 1,000,000 × 25%)	<u>(250,000)</u>
Assessable income	<u>750,000</u>
Tax thereon based on applicable tax rate of 5% for non-resident's income (MOP 750,000 × 5%)	37,500
Less: 30% special rebate for 2015 (MOP 37,500 × 30%)	<u>(11,250)</u>
Professional tax payable	<u>26,250</u>

If Director C's tax payable were calculated using the rates applicable to Macao residents, the tax payable would be:

	Assessable income MOP	Tax rate	Taxes MOP
Minimum personal allowance	144,000	-	Exempt
Next	20,000	7%	1,400
Next	20,000	8%	1,600
Next	40,000	9%	3,600
Next	80,000	10%	8,000
Next	120,000	11%	13,200
Next	<u>326,000</u>	12%	<u>39,120</u>
Total	<u>750,000</u>		66,920
Less: 30% special rebate for 2015 (MOP 66,920 × 30%)			<u>(20,076)</u>
Professional tax payable			<u>46,844</u>

Director C will need to pay the higher tax amount of MOP46,844, ie the same as an ordinary Macao resident.

A recalculation of tax payable will be made for the annual income of directors holding offices for several companies.

Example 5.3

If Director B in Example 5.2 is also appointed as a director of another Macao company and receives an annual remuneration of MOP 300,000, an additional individual return (M/5 form) is required to be completed to report the income from both companies. Professional tax for Director B will be recalculated as follows:

	MOP
Director's remuneration (MOP 300,000 + MOP 300,000)	600,000
Less: 25% basic allowance (MOP 600,000 × 25%)	<u>(150,000)</u>
Assessable income	<u>450,000</u>
Tax thereon based on applicable tax rate of 5% for non-resident's income (MOP 450,000 × 5%)	22,500
Less: 30% special rebate for 2015 (MOP 22,500 × 30%)	<u>(6,750)</u>
Professional tax payable	<u>(15,750)</u>

If tax payable were calculated at rates applicable to Macao residents, the tax amount would be:

	Assessable income MOP	Tax rate	Taxes MOP
Minimum personal allowance	144,000	-	Exempt
Next	20,000	7%	1,400
Next	20,000	8%	1,600
Next	40,000	9%	3,600
Next	80,000	10%	8,000
Next	120,000	11%	13,200
Next	<u>26,000</u>	12%	<u>3,120</u>
Total	<u>450,000</u>		30,920
Less: 30% special rebate for 2015 (MOP 30,920 × 30%)			<u>(9,276)</u>
Professional tax payable			<u>21,644</u>

Director B will need to pay the higher tax amount of MOP 21,644, ie the same as an ordinary Macao resident.

Double taxation relief arrangements

With the aims of avoiding double taxation and preventing fiscal evasion with respect to taxes on personal incomes, Macao has reciprocal arrangements with Cape Verde, Portugal, Mozambique and Mainland China.

According to Article 17 in the arrangements, income derived by entertainers or athletes from each territory performing in the other, under plans of cultural exchange between the two governments, shall be exempt from professional tax.

Article 21 of the arrangements also states that, where students, business apprentices or trainees from one territory visit the other solely for the purpose of education or training, funds or benefits received for the purpose of maintenance, education or training shall not be taxed provided that such payments arise from sources outside the territory. In respect to students in Macao on study visas, any local work arrangements must be organised through the hosting college/university. Approvals must also be obtained from the Labour Affairs Bureau before commencement of work.

¶5-200 Group II taxpayers

Group II taxpayers are those carrying on the business of service providers such as those listed in an annex table in the Regulations. This category of taxpayers mostly involves professionals performing one-off or ongoing engagements for various parties. The earnings of such individuals arise from a series or multiple engagements which they accept on a case-by-case basis at their own discretion. In this regard, they are self-employed professionals not working under employment contracts. They are, however, entitled to recruit assistants in carrying out engagements for clients and such staff may well be subject to professional tax as Group I taxpayers.

According to the Regulations, Group II professional taxpayers are required to submit an application (Form M/1) for registration before the commencement of their service business. Certain professions also require recognition of qualifications and/or approvals from designated authorities before commencement, eg lawyers need a practising qualification confirmation from the Macao Lawyers' Association.

Since Group II taxpayers are individual practitioners, they are required to file their own professional tax returns within the prescribed period. For taxpayers without appropriate accounting books and records, returns in respect of the preceding year should be filed for assessment by the end of February each year.

Taxpayers who work in groups of five or more, or have average operating income of more than MOP 1,000,000 for the three preceding years are required to maintain appropriate accounting books and records. They should submit their tax returns relating to their activities for the preceding

year, not later than 15 April each year. Such returns should be verified by a registered auditor or accountant. Any tax losses agreed upon can be carried forward for three years.

¶5-250 Penalties, objections and appeals

Failure to fulfil the tax obligations stipulated by the Professional Tax Regulations is an offence which can attract penalties in the form of fines up to a maximum of MOP 25,000. The following constitute offences under the Regulations:

- Failure to submit declaration forms within the prescribed period
- Deliberately omitting or wilfully evading the supply of important or significant information
- Failure to maintain a register of employee personnel files and records
- Failure to keep proper accounting books and records for those who are compulsorily required to do so, and/or
- Refusal to present accounting records for tax authority inspection.

If a taxpayer disagrees with an assessment, he/she can submit a written appeal to the Finance Services Bureau within 20 days from the registered date on the envelope of the assessment notice. Late appeals will normally not be accepted unless there is a reasonable cause established. Appeals can be made against the amount of income assessed or against the total amount of tax assessed and these are dealt with by the Reassessment Commission for Professional Tax. Tax appeals do not override the obligation for tax payments, ie taxpayers are required to pay the tax in advance as stated in the notice of assessment before the results of the appeal are finally determined. If an appeal is successful, a revised assessment notice will be sent to the taxpayer and the excess amount of tax paid will be refunded.

Should a taxpayer disagree with the determination of the Reassessment Commission, he/she may appeal to the Chief Executive of the Macao SAR within two months from the date of receipt of the notification from the Reassessment Commission.

Also, a taxpayer can lodge a judicial appeal with the courts against issues such as:

- Administrative actions related to actual and potential taxation
- Calculations of actual and potential taxable profits, and/or
- Actions committed by the taxation and administrative authorities in the course of implementing the taxation procedures.

GROUP I TAXPAYERS

¶5-300 Registration of employees

According to Article 12 of the Regulations, all employers are required to maintain proper employee personnel files and payroll records. Employment registers are required to include such information as names of employees, their remuneration in cash and/or in kind, tax registration numbers, addresses, relative periods of service, as well as information on tax withheld and remitted. Such records should be updated within 90 days of all transactions.

According to Article 29, on recruitment of a new employee, an employer must register with the Professional Tax Department and provide the relevant information on the new staff member by filing and submitting an M/2 form which is countersigned by both the employer and the employee. This department will then notify the employer as to the professional tax registration number assigned to the employee if he or she does not already have a number. The employee registration number is permanent for each employee registered with the Professional Tax Department. Registration of new employees should be made within 15 days from the commencement date of employment and any amendments should be updated within the same time frame from the date of change.

¶5-350 Tax withholding and filing

According to Article 32, a "deduct at source" or withholding tax system is used in the collection of professional tax for employees. Under such a system, all employers are required to deduct tax monthly from employee remuneration at the time of payment. It is the responsibility of employers to ascertain taxable income, non-taxable income and the deductible allowances in respect of each employee. The taxable and non-taxable income of Group I taxpayers are set out in Table 5.1.

The monthly tax deductions must be remitted to the Finance Services Bureau on a quarterly basis (for Macao residents or non-Macao residents with valid work permit) fixed as March, June, September and December. The quarterly returns and payments are due within 15 days from the end of each quarter (ie before 15 April, 15 July, 15 October and 15 January). If the due date falls on a weekend/public holiday, the due date will be the next business day. Non-compliance with this requirement could result in penalties being levied on employers.

According to Article 13, employers are obliged to lodge the professional tax returns (Form M3/M4) in respect of payroll and tax deduction details for all employees in the preceding year with the Professional Tax Department before the end of February each year. After each fiscal year, it is the individual

employee's duty to finalise his/her annual tax settlement upon receipt of the notice of assessment from the relevant department.

Table 5.1 – Taxable and non-taxable income for Group I taxpayers

Taxable Income	Non-taxable Income
<ul style="list-style-type: none"> • Employment income and remuneration • Daily wages • Salaries • Service fees • Attendance fees • Bonuses • Percentage of sales, or other such arrangements • Commissions • Brokerage fees • Share of profits • Subsidies • Allowances • Gratuities • Directors' fees • Expense reimbursements • Share and stock option benefits • Any employment income in kind 	<ul style="list-style-type: none"> • Lump sum payments made to employees on retirement, ie retirement gratuities and/or withdrawals made by an employee from an approved pension fund. • Medical expenses substantiated with supporting documents. • Family allowances, marriage allowances, birth allowances, housing allowances, death allowances and funeral allowances, etc. The maximum amount of these allowances must not exceed the amount that the government offers to civil servants. • Payments set by law to be made to an employee as compensation for injuries, including permanent incapacity. • Amounts paid to employees for reimbursement of expenses incurred in the course of employment, eg entertainment of customers. • Severance payments for termination of employment to employees for long service payable according to the law. • Teller allowance (capped at 12% of the annual assessable income). • 25% reduction of the taxable income for other unspecified non-taxable subsidies.

¶5-400 Professional tax rates for Group I taxpayers

Professional taxes are calculated at progressive rates from 7% to 12%. The minimum annual personal allowance has been increased to MOP 144,000 since 2011. The assessable income is arrived at after deducting non-taxable income and an approved allowance of 25% from the total income.

As a tax incentive, a 25% reduction in professional tax has been granted for years 2004 to 2012 and 30% reduction for years 2013 to 2015 which is still effective until further notice by the government.

The following table sets out the professional tax rates applicable for the period from 1 July 2003 to 31 December 2007, 1 January 2008 to 31 December 2010, and 1 January 2011 to 31 December 2015:

Table 5.2 – Tax rates

	Taxable Income (MOP)		Tax Rate
	2008, 2009 and 2010	2011 to 2015	
From 1 July 2003 to 31 December 2007			
Up to 95,000	Up to 120,000	Up to 144,000	Exempt
From 95,001 to 115,000	From 120,001 to 140,000	From 144,001 to 164,000	7%
From 115,001 to 135,000	From 140,001 to 160,000	From 164,001 to 184,000	8%
From 135,001 to 175,000	From 160,001 to 200,000	From 184,001 to 224,000	9%
From 175,001 to 255,000	From 200,001 to 280,000	From 224,001 to 304,000	10%
From 255,001 to 375,000	From 280,001 to 400,000	From 304,001 to 424,000	11%
Above 375,000	Above 400,000	Above 424,000	12%

Table 5.3 – Base tax chart for annual calculations applicable from 1 July 2003 to 31 December 2007

Annual Taxable Income (MOP)	Taxable Income (MOP)	Tax Rate	Professional Tax (MOP)	Cumulative Professional Tax (MOP)
95,000	–	–	–	–
115,000	20,000	7%	1,400	1,400
135,000	20,000	8%	1,600	3,000

Annual Taxable Income (MOP)	Taxable Income (MOP)	Tax Rate	Professional Tax (MOP)	Cumulative Professional Tax (MOP)
175,000	40,000	9%	3,600	6,600
255,000	80,000	10%	8,000	14,600
375,000	120,000	11%	13,200	27,800
Over 375,000		12%		

Table 5.4 – Base tax chart for annual tax calculations applicable for years 2008, 2009 and 2010

Annual Taxable Income (MOP)	Taxable Income (MOP)	Tax Rate	Professional Tax (MOP)	Cumulative Professional Tax (MOP)
120,000	–	–	–	–
140,000	20,000	7%	1,400	1,400
160,000	20,000	8%	1,600	3,000
200,000	40,000	9%	3,600	6,600
280,000	80,000	10%	8,000	14,600
400,000	120,000	11%	13,200	27,800
Over 400,000	–	12%	–	–

Table 5.5 – Base tax chart for annual tax calculations applicable since 2011 to 2015

Annual Taxable Income (MOP)	Taxable Income (MOP)	Tax Rate	Professional Tax (MOP)	Cumulative Professional Tax (MOP)
144,000	–	–	–	–
164,000	20,000	7%	1,400	1,400
184,000	20,000	8%	1,600	3,000
224,000	40,000	9%	3,600	6,600
304,000	80,000	10%	8,000	14,600
424,000	120,000	11%	13,200	27,800
Over 424,000	–	12%	–	–

Example 5.4

An individual earned a total income of MOP 412,000 in 2015 inclusive of a housing allowance of MOP 28,440 (MOP 2,370 /month × 12 months).

According to the Professional Tax Regulations, the MOP 28,440 in respect of the taxpayer's housing allowance is accepted as a deduction since MOP 2,370 is the basic non-taxable housing allowance for employees. The individual is also entitled to the standard 25% deduction on assessable income which is an allowance under the Regulations.

Based on the aforesaid, the assessable income in this case is as follows:

	MOP
Total employment income	412,000
Non-taxable housing allowance	<u>(28,440)</u>
	383,560
25% on MOP 400,000 as unspecified non-taxable allowance	<u>(95,890)</u>
Assessable income	<u>287,670</u>

The professional tax to be paid on the assessable income of MOP 287,670 is calculated as follows:

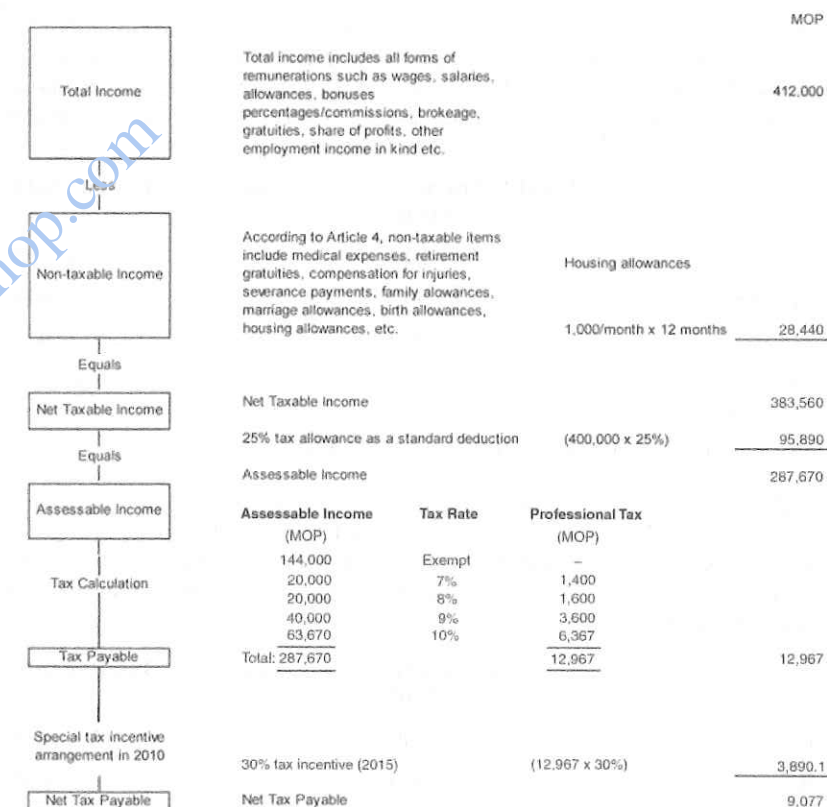
Assessable Income (MOP)	Tax Rate	Professional Tax (MOP)
144,000	Exempt	-
20,000	7%	1,400
20,000	8%	1,600
40,000	9%	3,600
63,670	10%	6,367
Total: 287,670		12,967
30 % tax incentive (2015)		<u>(3,890.1)</u>
Professional tax payable (round up to the nearest dollar)		<u>9,077</u>

As indicated in the calculation, the individual is liable for professional tax in the amount of MOP 9,077 for 2015. The employer is required to withhold tax on a monthly basis and remit the amounts to the tax

authorities after every quarter with the yearly final payment to be made no later than the end of February 2016.

Any discrepancies will result in an additional payment or refund of professional tax paid after assessment by the tax authorities. According to the Regulations, the tax authorities have the right to pursue assessable tax payment up to five years after the assessment year. For 2015, the period of re-assessment by the tax authorities can be up to but not later than 31 December 2020.

Flow Chart - Calculation of Professional Tax Payable for Group I Taxpayer with Illustration



Example 5.5 sets out a professional tax calculation for casual workers whose employment income is not calculated on a monthly basis.

Example 5.5

According to the Professional Tax Regulations and the tax incentive available for the assessment year 2015 (Law No 12/2011), employers are required to withhold tax from the wages of casual workers when the daily income exceeds MOP 640 and/or when the employee's monthly income exceeds MOP 16,000 (based on the current annual exempted income of MOP 144,000).

If taxpayer A is a casual worker and earns a daily income of MOP 700, the tax withheld by the employer for 2015 will be based on an assessable income of MOP 157,500, assuming the number of days worked is 300 (ie MOP 700 × 300 days × 75%). The tax withheld for 2015 in this case will be calculated as follows:

	Taxable Income MOP	Tax Rate	Tax Payable
First	144,000	–	Exempt
Balance	13,500	7%	945
Total	157,500		945
30 % special tax incentive			(283.5)
Tax payable (round up to the nearest dollar)			662

On the other hand, if the taxpayer is an employee and earns a monthly income of MOP 17,000, the tax withheld by the employer for 2015 will be based on an assessable income of MOP 153,000 (MOP 17,000 × 12 months × 75%). The tax withheld for the year in this case will be calculated as follows:

	Taxable Income MOP	Tax Rate	Tax Payable
First	144,000	–	Exempt
Balance	<u>9,000</u>	7%	<u>630</u>
Total	<u>153,000</u>		630
30 % special tax incentive			<u>(189)</u>
Tax payable			<u>(441)</u>

¶ 5-450 Professional tax borne by the employer

Situations can arise where an employer undertakes to pay or bear the professional tax for an employee as part of the remuneration package. Professional tax borne by the employer is a taxable benefit and, therefore, should be included as part of the employee's remuneration. In this case, a tax-on-tax calculation is required to be made to determine the amount of tax to be paid on behalf of the employee whereby the employee income is grossed up to the taxable amount.

¶ 5-500 Individual tax filing by taxpayers

As a general rule in employment situations, professional tax is reported and paid through employers who deduct the tax liability at source using the basic tax calculation method, ie deducting all allowances when withholding tax for remittance.

In the following circumstances, individuals are required to lodge an additional tax return and settle their tax liabilities personally:

- Remuneration is received from more than one employer in a year
- Additional taxable income is received for which no tax had been withheld and remitted
- A severance payment is received for one-off personal services and the employment relation is re-established with the same employer within the succeeding 12 months, or
- An individual is both a Group I and Group II taxpayer, ie an employee with an entity as well as being a self-employed professional.

In the aforementioned cases, an individual is required to submit a M/5 Form (annual professional tax return) not later than February of the following year to the relevant department notwithstanding that withholding tax has already been declared and remitted. Any tax payments that have already been withheld and paid on behalf of the taxpayer will be deducted from the final tax payable.

Example 5.6 sets out the tax filing required for an employee who received remuneration from more than one employer.

Example 5.6

An individual works as a part-time staff in three different companies with annual income as follows:

	MOP
Company A	80,000
Company B	60,000
Company C	70,000

According to the Professional Tax Regulations, employers are required to register their employees with the Finance Services Bureau and to "deduct at source" or withhold income tax on employees when their salaries exceed the exemption level. Since the annual salaries received by the individual from each of the three companies are within the exemption limit, no part of his salary has been withheld for tax purposes.

As stated in the Professional Tax Regulations, when an employee receives income from more than one employer, he/she has an obligation to file an individual return to report the following:

	MOP
Income from Company A	80,000
Income from Company B	60,000
Income from Company C	70,000
Total income for the year	210,000
Less: 25% tax allowance as a standard deduction	(52,500)
Assessable income	157,500

Taking into consideration the 30% tax incentives since 2013, the 2015 tax payable will be calculated as follows:

Assessable Income	Tax Rate	Tax MOP
144,000	Exempt	Nil
13,500	7%	945
Total: 157,500		945
Less: Special tax incentive in 2015 (MOP 945 × 30 %)		(283.5)
Professional tax payable for each year (round up to the nearest dollar)		662

Example 5.7 shows the calculation of professional tax in a mixed income case.

Example 5.7

An individual is a registered auditor. He is registered with the Professional Tax Department as running a private practice from an office located in a commercial building and employing several assistants in providing accounting services to clients. As a professional practitioner specified in the annexed table of the Regulations, the individual is classified as a Group II taxpayer. In 2015, his total income derived from the practice amounted to MOP 1,500,000 and his net income, after deduction of all running costs, amounted to MOP 600,000.

At the same time, this individual has also been appointed by a limited company in Macao as a non-executive director receiving an annual remuneration package of MOP 80,000 for which he is classified as a Group I taxpayer. As his income does not exceed the tax threshold of MOP 144,000, his employer has not deducted any tax from the remuneration.

In this case, the individual is both a Group I and Group II taxpayer and the assessable income is calculated as follows:

Income:	MOP
Group I — As a director of a company	80,000
Group II — As a registered auditor	600,000
Total	680,000
Less: 25% tax allowance as a standard deduction (25% × MOP 680,000)	(170,000)
Assessable income for 2015	510,000

The taxpayer has a personal obligation to submit a M/5 form (annual professional tax return) in January or February of 2016 to the tax authorities with the objective of declaring his total earnings as both a Group I and Group II taxpayer.

Accordingly, the professional tax payable is calculated as follows: