Xiamen Jihong Technology Co., Ltd.

Overseas tax exposure analysis

19 May 2025

EY安永

Building a better working world

CONTENTS

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This advice covers our tax comment from the specific tax perspective on corporate level only. Our advice was prepared based on the information provided during our communication and email exchanged. We are not responsible to verify the trueness and correctness of the information provided to us.

Our comments in this Report are based upon the tax laws currently in effect in the relevant jurisdictions, as well as the related practice and interpretation of such laws by the relevant tax authorities as at the date of this Report. It is not within the scope of this Report to discuss the taxes and tax implications which may arise in any other jurisdictions not stated below.

The laws, regulations, interpretations and measures upon which our comments are based are subject to change at any time, possibly on a retrospective basis. Should the aforesaid legislation change, some of the issues/ conclusions discussed in this presentation may change as well. We will not be responsible for updating the information herein unless we are requested to do so under a separate engagement.

The high-level advice rendered herein is not binding on the tax authorities of the relevant jurisdictions and there can be no assurance that the tax authorities in the relevant jurisdictions will not take a position contrary to the advice rendered herein. We may, in our advice, indicate areas of risk and possible exposure to challenges by the relevant tax authorities and the means by which such risks may be mitigated. Inevitably, it is not possible to guarantee that the tax authorities will not challenge a transaction, nor to guarantee the outcome of such a challenge if raised.

Scope of work

- Provide comment on the permanent establishment ("PE") risk of JiHong Hong Kong in Japan, Malaysia, Saudi Arabia, Singapore, South Korea, Taiwan, Thailand and The Philippines ("Jurisdictions") in relation to JiHong Hong Kong's operation, taking into account both domestic tax law and double tax treaty (if applicable) between the Jurisdictions and Hong Kong; and

- Advise on whether there is any potential direct tax implication, except customs duties, value-added tax and consumption tax involved in the import process, on JiHong Hong Kong's e-commerce operation. If yes, advise on how to mitigate the permanent establishment risk.

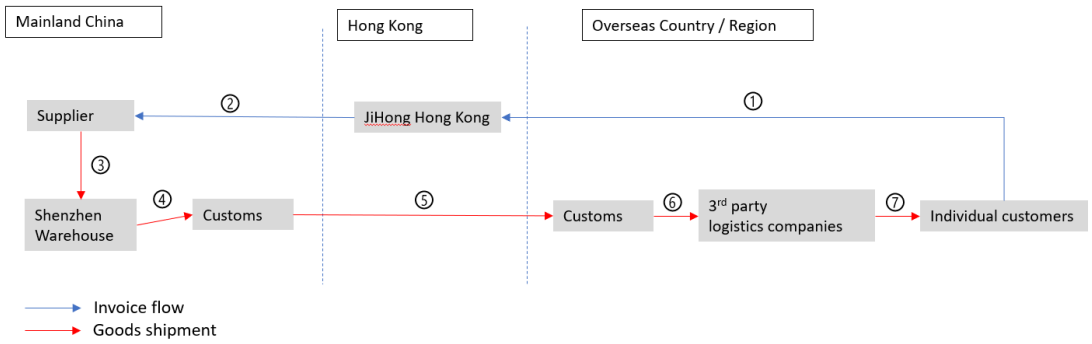
Background

Xiamen Jihong Technology Co., Ltd. (hereinafter referred to as "Xiamen Jihong" or “JiHong Group”) was registered and established in Xiamen, China in 2003. It is a “data-oriented, technology-driven” cross-border social e-commerce enterprise. In recent years, the company has consistently focused on cultivating the ToC (consumer) segment, specializing in precision marketing in the field of cross-border social e-commerce. Presently, Xiamen Jihong has emerged as a leading cross-border social e-commerce enterprise in Southeast Asia.

The principal entity of cross-border e-commerce of JiHong Group is Lucky Ecommerce Limited 香港吉客印電子商務有限公司 (hereinafter referred to as "JiHong Hong Kong").

JiHong Hong Kong was incorporated in Hong Kong in 2017. The principal activity of JiHong Hong Kong is engaged in cross-border e-commerce (B2C) for sales of commodities including household goods, apparel, electronics, footwear, bags, beauty & personal care, medical & health care, baby toy, timepiece & jewelry, etc in several Asian countries/region including Japan, Malaysia, Saudi Arabia, Singapore, South Korea, Taiwan, Thailand and The Philippines.

The general business model is illustrated as bellow:



① JiHong Hong Kong placed advertisement in social media where local individuals came across and place order on their interested products
② JiHong Hong Kong placed order to suppliers in the Mainland China based on individual customers’ order
③ The Chinese suppliers delivered the products to JiHong Hong Kong’s Shenzhen warehouse
④ Chinese logistic service provider arranged dispatch of products from the Shenzhen warehouse to the individual customers’ destination
⑤ Chinese logistic service provider arranged courier and customs clearance
⑥ Third party local logistic service provider arranged customs clearance in destination country
⑦ Third party local logistic service provider delivered products to individual customers

Under the above business model, in general the relevant products are delivered to overseas individual consumers in the form of postal parcels from JiHong Hong Kong’s logistics warehouse located in Shenzhen, Mainland China. The export declaration in Mainland China and the import declaration in the destination country before reaching the individual consumers are handled by third-party contracted logistics service providers. The Importer of Record (“IOR”) is the overseas independent agent and the declaration and payment of customs duties, value-added tax, or consumption tax involved in the import process are also handled by the overseas independent agent.

Please let us know if any of the above background understanding or assumptions are incorrect as it may affect the analysis presented.

Executive Summary

Jurisdiction	**PE risk of JiHong Hong Kong**	**Reference**
Japan	- **Low** PE Risk	Please refer to pages 5 to 7
Malaysia	- **Low** PE Risk	Please refer to pages 8 to 11
Saudi Arabia	- **Low** PE Risk	Please refer to pages 12 to 13
Singapore	- No double tax treaty between Hong Kong and Singapore. - For local CIT implication, please refer to the report.	Please refer to pages 14 to 19
South Korea	- **Low** PE Risk	Please refer to pages 20 to 21
Taiwan	- No double tax treaty between Hong Kong and Taiwan. - No PE concept in local tax laws and regulations. - Low local CIT implication, please refer to the report.	Please refer to pages 22 to 24
Thailand	- **Low** PE risk	Please refer to pages 25 to 27
The Philippines	- No double tax treaty between Hong Kong and the Philippines. - No PE concept in local tax laws and regulations. - Low practical CIT risk, please refer to the report.	Please refer to pages 28 to 33

Detailed Analysis

1. Japan

Our Understanding

- JiHong Hong Kong did not maintain any office nor staff in Japan, all activities performed in Japan pertaining to delivering the products to the individual customers in Japan (e.g. customs declaration, delivery) were handled by third-party logistics company in Japan. Having said that, the staff of JiHong Hong Kong travelled to Japan to perform market research, searching for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025.

Any tax exposure, including PE risk of JiHong Hong Kong in Japan	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote

Low PE Risk	• The definition of a PE under Japan's domestic tax legislation and under the Japan-Hong Kong tax treaty ("Treaty") is similar to that in the OECD Model Treaty.
	• We assume that JiHong Hong Kong is able to obtain benefits under the Treaty, and that it has not previously been considered to have a PE in Japan or established a Japanese branch office.
	• Japan as a member of the OECD generally ascribes to its tax concepts and approaches, including Japanese tax examiners and tax courts making reference to tax analysis from the OECD. Whilst absent specific guidance provided by the Japanese tax authorities, in light of Commentary on the Model Tax Convention on Income and on Capital (as it read on 21 November 2017) ("OECD Commentary"), it is in practice considered that this can be helpful in interpreting the application of the rules.
	• Generally, the PE provisions in the Treaty are consistent with Japan's domestic law. Where there is a difference, Japanese law states that any PE definition stipulated under the relevant treaty overrides the PE definition in Japan's domestic tax law.
	• A PE in Japan may be established where:
	  ○ A non-resident (company or individual) has a fixed place of business in Japan through which the business of the non-resident enterprise is wholly or partly carried on (Article 5(1) of the Treaty); or
	  ○ A dependent agent acting on behalf of a non-resident enterprise has, and habitually exercises, the authority to do business on behalf of the company in Japan (Art. 5(5)).
	• We note that there should not be a "construction PE" (Art. 5(3)) as JiHong Hong Kong is not engaged in construction or installation activities in Japan.
		It is important to carefully monitor the employee's activities to ensure that there are no significant deviances from the facts/assumptions (e.g., employees perform only very limited activities of an auxiliary character while in Japan).

Any tax exposure, including PE risk of JiHong Hong Kong in Japan	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	• Furthermore, the Treaty does not contain the "service PE" approach. ***Fixed* place *of business PE*** • There is no exhaustive list of what is meant by a fixed place of business under the domestic tax law or in the Treaty. However, the Treaty definition (Art. 5(2)) is broader, as it specifically includes a 'place of management' (i.e., a place where business-related decisions are taken). The OECD Commentary also makes it clear that for there to be a fixed place of business, there must be some degree of permanency or recurrence. • In practice, the definition of a fixed place of business PE should contain the following conditions/tests (OECD Commentary, Article 5, paragraph 6): a) the existence of a "place of business", i.e., a facility such as premises or, in certain instances, machinery or equipment; b) this place of business must be "fixed", i.e., it must be established at a distinct place with a certain degree of permanence; and c) the carrying on of the business of the enterprise through this fixed place of business. For example, an employee or director conducts the business of the enterprise at the fixed place in Japan. • We consider that the three tests (i.e., place of business test, "fixed" test and "through which" test) should *not* be met, as JiHong Hong Kong did not maintain an office or staff in Japan, and most of the activities in Japan related to JiHong Hong Kong are actually performed by third parties rather than by employees/ representatives/ exclusive contractors of JiHong Hong Kong (at a fixed place of business in Japan). • There could be a risk in relation to the staff of JiHong Hong Kong that travelled to Japan to perform market research, searching for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025. • However, under Art. 5(4), notwithstanding whether there is a fixed place of business, a PE shall not be deemed to exist where the activities carried out through the fixed place of business are of a preparatory or auxiliary nature. • Specifically, Art. 5(4)(d) states that "the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information" for the enterprise should not constitute a fixed place of business PE. • Provided that the activities of the employees are limited to market research and searching for logistic service providers, these should typically	

Any tax exposure, including PE risk of JiHong Hong Kong in Japan	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	fall within the definition of preparatory or auxiliary, such the PE exemption would be available if required. • We are therefore of the view that there should *not* be a fixed place of business PE of JiHong Hong Kong in Japan. ***Agency PE*** • In principle, provided that none of the employees visiting Japan are acting on behalf of JiHong Hong Kong in relation to contracts (including negotiations) and do not have and do not habitually exercise an authority to conclude contracts on behalf of JiHong while in Japan, the agency PE risk should be relatively low.	

2. Malaysia

Our Understanding

- Jihong Hong Kong did not maintain any office nor staff in Malaysia. The staff of Jihong Hong Kong travelled to Malaysia to perform market research, searching for third party local logistic service providers and monitor the local warehousing operation during the period from 1 January 2021 to 11 May 2025.

- In addition, Jihong Group has established a separate legal entity in Malaysia (herein referred to as the "Malaysian Co") to provide warehousing management services (e.g. goods receipt, packing, storing) for a warehouse rented in Malaysia by Jihong Hong Kong's fellow subsidiary (i.e. another entity established in Hong Kong) which then subletted the warehouse in Malaysia to Jihong Hong Kong. In return, Jihong Hong Kong paid rental to its fellow subsidiary.

- The Malaysian Co maintained their own staff and charged warehouse management fee to Jihong Hong Kong for the warehouse management service rendered in Malaysia during the reporting period from 1 January 2021 to 11 May 2025.

- Jihong Hong Kong has also engaged third-party logistics companies in Malaysia to assist on delivering the commodities to the individual customers in Malaysia (e.g. customs declaration, delivery).

Any tax exposure, including PE risk of JiHong Hong Kong in Malaysia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low PE risk	• We have assumed that Jihong Hong Kong is a tax resident in Hong Kong and the server in which the cross border e-commerce business being conducted was located outside Malaysia. • As the warehouse management services agreement between Jihong Hong Kong and the Malaysian Co was not provided to us, we have also assumed that the provision of warehouse management services by the Malaysian Co to Jihong Hong Kong did not include organising transportation / shipping of commodities nor delivery of commodities from warehouse in Malaysia to Jihong Hong Kong's individual customers in Malaysia. • Given that Malaysia has concluded a DTA with Hong Kong, the provisions in the DTA relating to PE shall prevail over Section 12(4) of the Malaysian Income Tax Act, 1967 which will be of relevance and discussed below. • Where applicable, we have also referred to the Organiastion for Economic Co-operation and Development ("OECD") Model Commentary for guidance on PE. • Paragraph 1 of Article 5 of the Malaysia-Hong Kong DTA	Documentation (i.e. warehouse management services agreement, tenancy agreement, market research report, agreement with third-party logistics companies, etc.) should be properly maintained and kept to support the position taken (i.e. the risk of Jihong Hong Kong crystallising a PE in Malaysia is remote) with regards to activities carried out in Malaysia by Jihong Hong Kong in the event of being challenged by the Malaysian Inland Revenue Board ("MIRB").

Any tax exposure, including PE risk of JiHong Hong Kong in Malaysia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	The mere fact that an enterprise has a certain amount of space at its disposal which is used for business activities is sufficient to constitute a place of business. In view of this, the warehouse in Malaysia subletted by Jihong Hong Kong from its fellow subsidiary may constitute Jihong Hong Kong's fixed place of business in Malaysia. Having said that, it does not mean that Jihong Hong Kong would automatically be regarded as having a PE in Malaysia as Paragraph 4 of Article 5 of the Malaysia-Hong Kong DTA provides a list of business activities which are treated as exceptions to the general definition of PE laid down in Paragraph 1 and which would not constitute a PE even if the activities are carried on through a fixed place of business (see the high-level comments on Paragraph 4 below). Besides that, the staff of Jihong Hong Kong were based in Hong Kong and only occasionally travelled to Malaysia to perform market research, searching for third party local logistic service providers and monitor the local warehousing operation on an ad-hoc and as needs basis. • <u>Paragraph 2 of Article 5 of the Malaysia-Hong Kong DTA</u> We understand that Jihong Hong Kong did not have a place of management, a branch, an office, a factory or a workshop in Malaysia as Jihong Hong Kong did not have staff working in the warehouse in Malaysia nor dedicated space in the warehouse in Malaysia for its staff. Hence, Paragraph 2 of Article 5 of the Malaysia-Hong Kong DTA should not apply. • <u>Paragraph 3 of Article 5 of the Malaysia-Hong Kong DTA</u> We understand that Jihong Hong Kong did not have a building site, a construction, installation or assembly project, or supervisory activities nor furnish any services in Malaysia as warehousing management services were provided by Malaysian Co and delivery services were provided by third-party logistics companies in Malaysia. Hence, Paragraph 3 of Article 5 of the Malaysia-Hong Kong DTA should not apply. • <u>Paragraph 4 of Article 5 of the Malaysia-Hong Kong DTA</u> The decisive criterion is whether or not the activity of the fixed place of business in itself forms an essential and significant part of the activity of the enterprise as a whole. Further, the maintenance of a fixed place of business solely for any combination of the business activities set out in Paragraphs 4(a) to 4(e) of Article 5 would not constitute a PE provided that the overall business activities of the fixed place	In addition, travel log book should also be maintained to monitor the travel trips to Malaysia made by the staff of Jihong Hong Kong as well as the types of activities undertook by them in Malaysia during those travel trips.

Any tax exposure, including PE risk of JiHong Hong Kong in Malaysia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	of business resulting from the combination have a preparatory or auxiliary character. Within the context of a cross border e-commerce business, processing an order and accepting payment for such order together with organising of transportation / shipping of commodities are the essential and significant profit generating activities of the cross border e-commerce business. Other business activities as listed in Paragraph 4 of Article 5 of the Malaysia-Hong Kong DTA should generally be considered preparatory or auxiliary activities of a cross border e-commerce business. In the present case, Jihong Hong Kong's fellow subsidiary subletted the warehouse in Malaysia to Jihong Hong Kong to enable storage of Jihong Hong Kong's commodities while the Malaysian Co provided warehousing management services (e.g. goods receipt, packing, storing) to Jihong Hong Kong. Further, third-party logistics companies were engaged to deliver the commodities to Jihong Hong Kong's individual customers in Malaysia. Such business activities carried out in Malaysia should generally be viewed as preparatory or auxiliary activities of Jihong Hong Kong's cross border e-commerce business. The acts of processing an order and accepting payment for such order together with organising of transportation / shipping of commodities which form the essential and significant profit generating activities of Jihong Hong Kong's cross border e-commerce business are entirely performed outside Malaysia by Jihong Hong Kong located in Hong Kong. In addition, the activities described in Paragraphs 4(a), 4(b) and 4(e) of Article 5 encapsulate the activities of Jihong Hong Kong in Malaysia. • <u>Paragraph 5 of Article 5 of the Malaysia-Hong Kong DTA</u> As mentioned above, processing an order and accepting payment for such order together with organising of transportation / shipping of commodities are performed outside Malaysia by Jihong Hong Kong located in Hong Kong. The staff of Jihong Hong Kong travelled to Malaysia on an ad-hoc and as needs basis were to perform market research, searching for third party local logistic service providers and monitor the local warehousing operations which should not be construed as negotiations or conclusions of any sale of commodities contracts of Jihong Hong Kong.	

Any tax exposure, including PE risk of JiHong Hong Kong in Malaysia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	Besides that, the staff of the Malaysian Co also did not have authority to process any orders or accept payments on behalf of Jihong Hong Kong. In this regard, the Malaysian Co was not involved in any negotiations or conclusions of any sale of commodities contracts of Jihong Hong Kong. In addition, there was a clear segregation of storage and delivery activities which were carried out by two (2) different service providers (i.e. Malaysian Co only provided warehousing management/storage services while the delivery services were provided by third-party logistics companies).	

- We wish to highlight that the above high-level comments and conclusions are based on the current Malaysian tax legislation and Malaysia-Hong Kong DTA.

- The Multilateral Instrument ("MLI") entered into force in Malaysia on 1 June 2021 pursuant to the Double Taxation Relief (Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting) Order 2020. Certain provisions of nominated tax treaty have been amended following the ratification of the MLI.

- Even though Hong Kong has included its tax treaty with Malaysia in its list of covered tax agreements under the MLI, the ratification of the MLI in Malaysia should not have any effect on our analysis above.

3. Saudi Arabia

Our Understanding

- JiHong Hong Kong did not maintain any office, warehouse nor staff in Saudi Arabia ("KSA"), all activities performed in KSA pertaining to delivering the products to the individual customers in KSA (e.g. customs declaration, delivery) were handled by third-party logistics company in KSA. The staff of JiHong Hong Kong travelled to KSA to perform market research, searching for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025.

- The third-party logistics service provider is independent to JiHong Hong Kong and does not perform any activity that habitually leads to contract conclusion on behalf of JiHong Hong Kong;

- Any travel by JiHong Hong Kong employees to KSA were for periods less than 183 days within a 12-month period (consecutively or non-consecutively) individually or collectively (as a team of employees), should qualify as preparatory and auxiliary, as there was no involvement in local negotiations or contract signing; and

- JiHong Hong Kong qualifies as a resident under the Double Tax Treaty ("DTT") between Hong Kong and KSA ("HK DTT").

Any tax exposure, including PE risk of JiHong Hong Kong in Saudi Arabia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low PE Risk	• To determine if JiHong Hong Kong triggers a PE in KSA, an evaluation of KSA domestic tax law and HK DTT is required. • Where a PE is created under KSA domestic law, it may be possible for HK DTT to provide additional protection as the DTT takes precedence over domestic legislation (unless restricted by domestic General Anti-Avoidance Rules) and may provide a higher threshold for the creation of a PE. <u>KSA domestic tax law</u> • PE is defined as a "permanent place of the non-resident's activity through which it carries out business, in full or in part, including business carried out through its agent." • As mentioned in above assumption, since JiHong Hong Kong did not maintain any office, warehouse or staff, a permanent place to conduct its business in KSA, and any visits in KSA where for preparatory and auxiliary activities, accordingly, a **fixed place PE risk** may be considered **low to remote** based on the information available to us.	Based on the understanding and assumptions, overall PE risks in KSA appears **low**. The following are recommended: • Have the third-party logistics service provider agreement reviewed to ensure their scope do not include taking ownership of stock or anything that suggests leading to contract conclusion. • Monitoring the independent status of the logistics provider. • Document any visits to KSA to ensure they fall under preparatory and auxiliary activities.

Any tax exposure, including PE risk of JiHong Hong Kong in Saudi Arabia	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote

	• However, an agency PE may need to be considered further, given a dependent agent is one who qualifies any of the following as per KSA domestic tax law:
	
	  • *"has authority to negotiate on behalf of a non-resident; or*
	  • *conclude contracts on behalf of a non-resident; or*
	  • *has a stock of goods in KSA, owned by a non-resident, for supplying to customers on behalf of the non-resident."*
	
	• If the third-party logistics service provider is owning the products prior to supplying onward to customers is a fact dense exercise, often requiring a review of the agreements between JiHong Hong Kong and third-party logistics service provider.
	
	• However, as per client's confirmation, we understand that the third-party logistics service provider is independent, it may be reasonably expected the third-party logistics service provider is not taking over the ownership prior to supplying onward to KSA individual customers, in which case, **any PE risks (due to agency PE)** should be considered **low**. Albeit a review of the arrangement will be key to rule out any KSA PE exposures, as will confirmation of the independent status of the logistics provider, which will be a matter of fact, but could be of support if for example they provided similar services to a number of other clients other than JiHong Hong Kong and as such were not financially dependent on the arrangement with JiHong Hong Kong.
	
	HK DTT
	• Unlike KSA domestic tax law, HK DTT does not consider agency PE to be triggered by holding stock of goods in KSA for supplying to customers on behalf of non-resident (JiHong Hong Kong in this case). As such, provided the KSA third-party logistics service provider is independent in nature and not involved in negotiating contracts (including habitually leading to contract negotiation), an **agency PE risk** should be **low to remote**.
		• JiHong Hong Kong should avoid having management and/or control being exercised in KSA.

4. Singapore

Our Understanding

- JiHong Hong Kong began its sales to Singapore customers in 2017. The logistics needed to support the Singapore sales from 2017 had been undertaken through an arrangement with a third-party logistics service provider sourced in China. JiHong Hong Kong sourced for, negotiated, and signed contracts with these third-party logistic service providers in China. These service providers utilised their contacts in Singapore to carry out the delivery of products to customers in Singapore. No contracts / arrangements were negotiated or signed in Singapore by JiHong Hong Kong.

- JiHong Hong Kong is the entity issuing invoices to consumers and the sales income is booked in JiHong Hong Kong. JiHong Hong Kong pays corporate taxes in Hong Kong accordingly on this income. No corporate taxes are paid by JiHong Hong Kong in Singapore. The third-party logistics company has been assisting JiHong Hong Kong to settle indirect taxes such as goods and services tax ("GST") and customs duty in Singapore.

- The products are delivered to overseas individual consumers in the form of postal parcels from JiHong Hong Kong's logistics warehouse located in Shenzhen, China. The export declaration in mainland China and the import declaration in the destination country before delivery to the individual customers is handled by third-party contracted logistics service providers. They handle the declaration and payment of customs duties, value-added tax, or consumption tax involved in the import process.

- JiHong Hong Kong does not maintain any office/place of business nor have employees in Singapore. All activities performed in Singapore pertaining to the delivery of products to customers in Singapore (e.g., customs declaration, delivery) are handled by a third-party logistics company in Singapore.

- Between 2017 to 2018, and in 2023, 2024 and period ended 11 May 2025, employees of JiHong Hong Kong travelled to Singapore for business trip purposes for a few days each time, to perform market research and source for third-party logistics service providers in Singapore. During which, they did not have a place of business in Singapore. No sourcing for orders and no contracts were entered with customers, or any other parties during these trips as well. The contracts with third-party local logistics service providers were negotiated, concluded, entered and signed only subsequently in China. JiHong Hong Kong only engaged third-party service providers in Singapore for logistics services and there are no employee nor other personnel acting on JiHong Hong Kong's behalf in Singapore.

Any tax exposure, including PE risk of JiHong Hong Kong in Singapore	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low PE risk	(a) Taxation basis in Singapore • Singapore adopts a quasi-territorial basis of taxation. According to Section 10(1) of the Singapore Income Tax Act ("SITA"), tax is payable on the income of any person that is accrued in or derived from Singapore (i.e., sourced in Singapore), or received in Singapore from outside Singapore (i.e., foreign-sourced income), unless any tax exemption under the SITA is applicable. • For completeness, with effect from 1 January 2024, Singapore will also tax gains from the sale or disposal of foreign assets received in Singapore on or after 1 January 2024, by an entity of a relevant group where such gain is not chargeable to tax as income under Section 10(1) of SITA or the gain is exempt from tax under the SITA, unless certain exclusions apply. • The Singapore tax legislation does not provide specific guidance on the determination of the source of income. Whether trading profits are sourced in Singapore is a question of facts and circumstances. The Inland Revenue Authority of Singapore ("IRAS") generally applies the broad principle of "operations test", i.e., look at what the taxpayer has done to earn the profits in question and where such activities are being conducted, to determine whether the income is sourced in Singapore (i.e., sourcing factors, refer to Appendix 1). • For a foreign company to have tax filling obligations in Singapore, this generally entails that the foreign company (i) establishes a place of business or carries out a business in Singapore (or intends to do so) and commences business or derives any income or (ii) has income accruing in or derived from (or deemed to be accrued in or derived) Singapore (the tax on that income which has not been withheld wholly to the IRAS in accordance with the withholding tax provisions). A foreign company would also generally have tax filling obligations in Singapore if it receives foreign-sourced income in Singapore from outside Singapore (i.e., foreign income that does not arise from a trade or business carried on in Singapore). • As such, whether a taxable presence in Singapore arises for JiHong Hong Kong in this context depends on whether the business activities it carries on in Singapore gives rise to Singapore-sourced trading income. • Amongst other factors discussed in Appendix 1, the presence of a PE by a non-resident entity in Singapore may be telling of whether there is Singapore-sourced income, but it is not a	With the assumption that the business model of JiHong Hong Kong continues to apply and that JiHong Hong Kong continues to be the entity issuing invoices to consumers and the sales income is booked in JiHong Hong Kong: • Continue to ensure that JiHong Hong Kong should not have a fixed place through which its business is wholly or partly carried on in Singapore. • Continue to ensure that JiHong Hong Kong should not have any person acting on its behalf in Singapore who — a) has and habitually exercises an authority to conclude contracts; b) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that person; or c) habitually secures orders wholly or almost wholly for that person or for such other enterprises as are controlled by that person. • When JiHong Hong Kong's employees are in Singapore for business trips, they should not have a place of business in Singapore and should

Any tax exposure, including PE risk of JiHong Hong Kong in Singapore	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	requisite condition to establish whether the non-resident person has derived Singapore taxable income. (b) PE in Singapore • A foreign entity has PE when it has taxable presence outside its state of residence. In Singapore, the definition of PE is largely based on the Organization for Economic Cooperation and Development ("OECD") Model Tax Convention's definition. PE is defined in the SITA, subject to whether the jurisdiction where the foreign entity is resident in has a tax treaty in Singapore. • Under Section 2 of the SITA an entity has a PE in Singapore if it has a fixed place through which the business of an enterprise is wholly or partly carried on. This includes a place of management, a branch, an office, a factory, a workshop among others. • In addition, a non-resident is deemed to have a PE in Singapore if it: a) carries on supervisory activities in connection with a building or work site or a construction, installation or assembly project; or b) has another person acting on that person's behalf in Singapore who — (i) has and habitually exercises an authority to conclude contracts; (ii) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that person; or (iii) habitually secures orders wholly or almost wholly for that person or for such other enterprises as are controlled by that person; • As Hong Kong and Singapore have a limited double tax agreement ("DTA"), the DTA does not provide for a definition of PE (c) Singapore tax implications for JiHong Hong Kong • Given the background, it is important to assess if the presence of the employees of JiHong Hong Kong in Singapore and their activities result in the creation of a PE in Singapore for JiHong Hong Kong. Does JiHong Hong Kong have a fixed place through which the business of an enterprise is wholly or partly carried on in Singapore? — We note that JiHong Hong Kong is in the e-commerce business and makes sales to consumers in different markets. JiHong Hong Kong only has employees in Hong Kong.	not be securing, negotiating or executing any agreement / contract / documentation on behalf of the company in Singapore. • Contracts should be negotiated, concluded and executed outside Singapore. • JiHong Hong Kong should continue to ensure that it does not hire any employees in Singapore or has any office/place of business in Singapore.

Any tax exposure, including PE risk of JiHong Hong Kong in Singapore	Basis of comment		How to mitigate the tax exposure, including PE risk, if it is not remote
		JiHong Hong Kong does not maintain any office, place of management or have employees in Singapore. Whilst the employees of JiHong Hong Kong travelled to Singapore between 2017 to 2018, 2023, 2024 and the period ended 11 May 2025, to undertake market research and source for third-party local logistics service providers, they did not have a place of business in Singapore to do so. Per OECD's further clarifications on PE, a PE must have a certain degree of permanency and be at the disposal of an enterprise for that place to be considered a fixed place of business through which the business of that enterprise is wholly or partly carried on1. Accordingly, we note that the risk of a PE arising from JiHong Hong Kong's employees' business trips to Singapore for a few days in 2017, 2018, 2023, 2024 and for the period ended 11 May 2025 is **low** given that JiHong Hong Kong does not have a fixed place of business in Singapore.	
	Does JiHong Hong Kong have an agent in Singapore who has, and habitually exercises an authority to conclude contracts on behalf of the business or habitually secures orders wholly or almost wholly for that person or for such other enterprises as are controlled by that person?	We understand that there are no employees nor other personnel acting on JiHong Hong Kong's behalf in Singapore. Also, JiHong Hong Kong's employees did not source for orders from customers or negotiate, conclude or enter into any contracts with third-party logistic service providers in Singapore during the business trips to Singapore. Such contracts were instead negotiated, concluded and entered and signed in China. The third-party service providers in Singapore were also engaged purely for logistics services. Also, JiHong Hong Kong does not maintain a stock of goods or merchandise in Singapore with the stock of goods instead located in JiHong Hong Kong's Chinese warehouse, ready	

[1] OECD Secretariat analysis of tax treaties and the impact of the COVID-19 crisis

Any tax exposure, including PE risk of JiHong Hong Kong in Singapore	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote

	to be delivered to customers in the different countries once orders are placed. Therefore, the risk of a PE arising due to the presence of a dependent agent in Singapore of JiHong Hong Kong is **low**.

- Notwithstanding the above, the level of business activities carried out by JiHong Hong Kong in Singapore should be analysed to determine if it is sufficient to constitute that JiHong Hong Kong may be regarded as carrying out its business operations in Singapore. This would result in the income arising to be regarded as Singapore-sourced income and taxable upon accrual.

- Our understanding of the business process of JiHong Hong Kong is as below:-
  - The manufacturing of physical goods and warehousing of the physical goods are in China
  - JiHong Hong Kong does not have a place of business in Singapore
  - As per client's confirmation, we understand that JiHong Hong Kong uses a hosting service provider in Singapore to host its website targeted to Singapore consumers – the website allows customers to understand the profile of the good and to purchase the goods online
  - The delivery of goods is made through logistic channels provided by the third-party logistic service provider in Singapore who will liaise with the Chinese logistics partner to take receipt of goods in Singapore before delivering it to the consumers in Singapore.

- Given the above business process, a significant part of the business activities giving rise to the trading profits (e.g., manufacturing, warehousing, liaising with suppliers etc.,) could be said to take place outside Singapore (in China and Hong Kong). The functions performed in Singapore mostly relate to the completion of delivery obligations, which is undertaken by third-party logistics service providers as well as provision of the website through which consumers are able to place orders.

- As such, most of JiHong Hong Kong's business operations are conducted outside Singapore. This entails that income from the e-commerce business of JiHong Hong Kong is sourced mainly from operations outside Singapore.

- No Singapore taxation obligations should thus arise from JiHong Hong Kong's current business operations on the basis that the income from the e-commerce business should not be regarded as Singapore-sourced trading income.

Appendix A

Singapore sourced income

- Singapore tax legislation does not provide specific guidance on the determination of the source of income. Whether trading profits is sourced in Singapore is a question of facts and circumstances.

- The IRAS generally applies the broad principle of "operations test", i.e., look at what the taxpayer has done to earn the profits in question and where such activities are being conducted to determine whether the income is sourced in Singapore.

- Some of the factors ("Singapore sourcing factors") which may be considered by the IRAS include the following:-

    - the nature/ types of activities in connection to the income are carried out in Singapore;

    - whether there is any person acting on behalf of the company in Singapore who secures, negotiates, and executes the agreement / contract / documentation on behalf of the company in Singapore;

    - whether agreement / contract / documentation in connection to the income is concluded / executed in Singapore;

    - whether the business operations are wholly or partly carried on in Singapore;

    - whether there is capital employed in Singapore;

    - whether proceeds of income are received in and payment for expenses made from Singapore;

    - whether the person carries on activities through an agent in Singapore;

    - whether there is a PE in Singapore, i.e., a fixed place where a business is wholly or partly carried on including a place of management, a branch and an office in Singapore

5. South Korea

Our Understanding

- JiHong Hong Kong did not maintain any office nor staff in South Korea, all activities performed in South Korea pertaining to delivering the products to the individual customers in South Korea (e.g. customs declaration, delivery) were handled by third-party logistics company in South Korea.
- JiHong Group has established a separate legal entity in South Korea for future expansion in online sales marketing, the South Korea entity did not derive any income nor maintain any employee during the reporting period from 1 January 2021 to 11 May 2025.
- The servers operating JiHong Hong Kong's E-commerce business are not located within South Korea.
- JiHong Hong Kong does not possess any fixed facilities such as offices, branches, or warehouses in South Korea.
- There is no permanent storage of JiHong Hong Kong's products within South Korea, and there is no third-party entity acting on behalf of JiHong in South Korea who conducts significant and essential business activities including handling such storage.

Any tax exposure, including PE risk of JiHong Hong Kong in South Korea	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low PE Risk	• According to the Corporate Income Tax Law ("CITL") of Korea, a permanent establishment of a foreign corporation should either have a physical place (branch, office, etc.) or engage in significant and essential business activities within Korea through a dependent agent (Article 94 of the CITL). • Regarding the precedent tax rulings of Korean tax authorities on a fixed place of business for foreign corporations engaged in online product sales, such as Jihong Hong Kong, it is considered that if all essential functions related to product sales, such as contract conclusion, payment collection, and product delivery, are performed on the server of the internet service provider, the location of that server is regarded as a fixed place of business (International Tax Bureau - 278, August 7, 2013, etc.). According to this tax ruling, since Jihong Hong Kong's server is not located within Korea, it does not constitute a PE of business within Korea. • Additionally, the transportation company that handles the import of products into Korea and delivers them to customers does not continuously store Jihong Hong Kong's assets within Korea. Since the transportation and delivery of products cannot be considered as	If JiHong Hong Kong engages in business activities through a physical place within Korea, employs a dependent agent, or maintains warehouses or assets on a continuous basis, there may be a challenge from the Korean tax authorities asserting the existence of JiHong Hong Kong's permanent establishment in Korea. Therefore, it is advisable for JiHong Hong Kong to refrain from establishing a fixed place within Korea or engaging in activities such as employing dependent agents to conduct the company's

Any tax exposure, including PE risk of JiHong Hong Kong in South Korea	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	significant and essential activities of the business, it does not qualify as a dependent agent.	operations in order to avoid potential challenges from Korean tax authorities.

6. Taiwan

Our Understanding

- JiHong Hong Kong is a company primarily engaged in cross-border e-commerce business (B2C transaction) across various countries in Asia.

- JiHong Hong Kong did not maintain any office nor staff in Taiwan, all activities performed in Taiwan pertaining to delivering the products to the individual customers in Taiwan (e.g. custom declaration, delivery) were handled by third-party logistics company in Taiwan. The staff of JiHong Hong Kong travelled to Taiwan to perform market research, searching for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025.

- The overall transaction flow is that JiHong Hong Kong placed advertisements on social media where Taiwanese customers came across and placed orders for their interested products. After receiving the orders, JiHong Hong Kong will liaise with the Mainland China ("PRC") suppliers to arrange the delivery of products to Taiwanese customers. Third-party logistics providers are engaged by JiHong Hong Kong to facilitate both export operations in the PRC and import operations in Taiwan. Upon importation into Taiwan, the third-party logistics provider in Taiwan will only act as the agent for filing the import declaration form, with the Importer of Record ("IOR") being the Taiwanese customer. The Taiwanese customer is liable for the import taxes (e.g. customs and import VAT).

- With regard to the timing of the transfer of ownership of goods, it is understood that the risk and ownership of goods pass from JiHong Hong Kong to Taiwanese customer upon the receipt of goods by the Taiwanese customer, in accordance with the agreed commercial terms.

- There are two payment methods for JiHong Hong Kong collecting payments from Taiwanese customer:-

    - The first method is payment-on-delivery: the third-party logistics company collects the payment from Taiwanese customer upon delivering the goods, and settles with JiHong Hong Kong subsequently.

    - The second method is online payment: Taiwanese customer pays for the goods when placing the order online, and the online payment platform subsequently settles with JiHong Hong Kong.

Any tax exposure, including PE risk of JiHong Hong Kong in Taiwan	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low CIT Risk if the Taiwan customer acts as IOR in the importation form and is liable for the import tax. The transaction would be deemed as general international trading and therefore the payment received by JiHong Hong Kong would not be regarded as Taiwan-sourced income.	• **General Concepts** In Taiwan, the concept of PE only exists in the tax treaties signed with Taiwan. For the countries without a tax treaty with Taiwan, the domestic tax laws prevail in determining whether a foreign company has generated Taiwan-sourced income, considering the economic relevance of its activities in Taiwan. Since HK has not entered into a tax treaty with Taiwan, the governing law for determining whether JiHong Hong Kong has Taiwan-sourced income should be based on domestic tax law, which shall prevail in the tax assessment. Pursuant to the relevant tax laws, the determination of whether JiHong Hong Kong has generated Taiwan-sourced income should be grounded in its business activities in Taiwan, rather than the duration of time that the staff spend in Taiwan. • **Background and tax analysis** We understand the primary sales model is that JiHong Hong Kong advertises its products on social media to Taiwanese individuals. When Taiwanese individuals click on the advertisements presented by JiHong Hong Kong, they are redirected to a shopping website where they can place orders for the products they are interested in. Upon receiving these orders, JiHong Hong Kong as an online wholesaler will coordinate with and place orders with the relevant suppliers in the PRC to arrange the delivery of the ordered goods in subsequent steps. The price difference between the procurement costs and selling price would be considered as trade income for JiHong Hong Kong. According to the Guidelines, in the scenario where a foreign company without a fixed place of business or business agent in Taiwan, directly sells goods via the Internet to Taiwanese customers, and the Taiwanese customers act as IOR to clear customs on their own. In this case, the transaction is considered	The first way to mitigate the income tax exposure is to suggest that the company indicates Taiwanese customers as the owner of the goods on the importation declaration form and act as IOR to ascertain the ownership of goods belongs to the Taiwanese customers. However, if the above is infeasible, the second option is that JiHong Hong Kong considers applying for a preferential tax rate application with the Taiwan tax authority to reduce its tax basis.

Any tax exposure, including PE risk of JiHong Hong Kong in Taiwan	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	as general international trading and the income derived from the transaction is not regarded as a Taiwan-sourced income. • Article 5 of the Taiwan Income Tax Act stipulates that income derived from sources in Taiwan (i.e. Taiwan-sourced income) by a non-resident enterprise is subject to a 20% CIT. • Article 8 of the Taiwan Income Tax Act stipulates that the income generated from the provision of services in Taiwan and profits derived from business activities conducted in Taiwan would be regarded as Taiwan-sourced income. • Guideline for Determination of Taiwan-Source Income ("the Guidelines") notes that if a non-resident enterprise, which has its head office located outside of Taiwan: a) directly sells goods via Internet to customers in Taiwan; and b) the customers in Taiwan acting as the importers of record ("IOR") is responsible for customs declarations and picking up the goods Then such income derived by the non-resident enterprise in the course of engaging in its principal trade would be classified as a "general international trading" and not considered as a Taiwan-sourced income.	

7. Thailand

Our Understanding

- JiHong Hong Kong procures products from its suppliers in China based on customer orders and directly sells them to individual customers in Thailand.
- JiHong Hong Kong did not maintain any office nor staff in Thailand. JiHong Hong Kong has engaged third-party logistics company in Thailand to assist on delivering the products to the individual customers in Thailand (e.g. customs declaration, delivery).
- JiHong Hong Kong leased a warehouse in Thailand from another Hong Kong subsidiary (which initially leased it from a third-party warehouse landlord) to store its products before delivery to customers in Thailand by a third-party logistics provider.
- JiHong Hong Kong engages its related company in Thailand, JiHong Thai entity, to provide warehousing management services (e.g., goods receipt, packing, and storing).
- In return, Jihong Hong Kong paid rental to its fellow subsidiary. JiHong Thai entity maintained their own staff and recharged warehouse management fee to JiHong Hong Kong for the warehouse management service rendered in Thailand during the reporting period from 1 January 2021 to 11 May 2025.
- JiHong Thai entity did not involve nor undertake any activity in the sales to customers in Thailand. JiHong Thai entity merely assists in the warehouse management.
- The staff of JiHong Hong Kong travelled to Thailand to perform market research, searching for third party local logistic service providers and monitor the local warehousing operation during the period from 1 January 2021 to 11 May 2025.

Any tax exposure, including PE risk of JiHong Hong Kong in Thailand	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
Low PE Risk	• According to the Thailand – Hong Kong tax treaty, a Hong Kong entity can be considered to have a PE in Thailand if, among others, it has a dependent agent in Thailand to maintain its stocks and make regular deliveries for and on its behalf. • In this case, we understand that the JiHong Thai entity does not engage in sales-related activities (e.g., secure orders, negotiate/conclude sales contract, etc.) that directly assist JiHong Hong Kong's sales to customers in Thailand. However, we note that JiHong Hong Kong has JiHong Thai entity, who is an agent of dependent status, maintain stock of goods which are regularly delivered to its customers in Thailand. • • If supporting documents could be provided to substantiate that JiHong Thai entity merely assists	• To mitigate PE risk from a direct tax perspective, maintaining stock of goods and regularly delivering of such goods must be handled by an agent of independent status (e.g., third-party/independent warehouse and logistic providers), as opposed to JiHong Thai entity who is its dependent agent.

Any tax exposure, including PE risk of JiHong Hong Kong in Thailand	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	in the warehouse management (i.e. maintaining the stock of goods), does not make regular deliveries for and on behalf of Jihong Hong Kong and does not assist in activities that could help with the deliveries, theoretically **the PE risk could be low**. • However, in practice, even though the delivery of goods is handled by an agent of independent status (i.e., a third-party logistics provider), it could still be considered/viewed by the Thai tax authority that the warehousing management activities performed by JiHong Thai entity could, in substance, also involve not only maintaining the stock of goods but assisting in activities that could help with the delivery. Thus, the **practical PE risk is moderate** (especially JiHong Hong Kong pays services fee to the JiHong Thai entity). Also, the PE risk will be higher/created due to the VAT registration requirement per below. • Please note that if in any case JiHong Hong Kong is required to register as a Thai VAT operator in Thailand, such VAT registration could automatically create JiHong Hong Kong a PE in Thailand as JiHong Hong Kong is required to obtain a Thai tax ID and confirm that it has an address/place of business in Thailand. As a result, JiHong Hong Kong could be regarded as having an "office" in Thailand and thus, falls into the definition of a PE under the Thailand – Hong Kong tax treaty. • Under Section 76 bis of the Thai Revenue Code, a foreign entity that earns a Thai-sourced income through an assistance of its employee or a representative in Thailand shall be deemed to have a taxable presence in Thailand. • The foreign entity having a taxable presence in Thailand will be subject to Thai corporate income tax (CIT) as if it is a Thai entity at an effective rate of 28% on the profit attributable to its activities in Thailand, i.e., 20% corporate income tax on the net taxable profits, plus a 10% profit remittance tax on the after-tax net profits. It is the responsibility of the employee, representative or agent in Thailand to fulfil this CIT filing obligation and payment on behalf of that foreign entity: -	• However, even though the above can be managed, to the extent where JiHong Hong Kong would be subject to the VAT registration requirement in Thailand, this could automatically create JiHong Hong Kong a PE in Thailand as previously mentioned. Thus, it is recommended for JiHong Hong Kong to seek further advice from the Thai VAT perspective on this matter.

Any tax exposure, including PE risk of JiHong Hong Kong in Thailand	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	- An annual CIT return (I.T.50) to be filed with the Revenue Department no later than 150 days after the end of the accounting year; and - An interim CIT return (I.T.51) to be filed with the Revenue Department within 2 months after the end of a half-year period (not applicable if the accounting year is lesser than 12 months). • Otherwise, the employee or representative in Thailand will be non-compliant with the Thai tax law and be liable to pay the shortfall, 1.5% monthly surcharges (capped at the tax shortfall) and 2-time penalties (for non-filing) instead. • However, the above Thai tax exposure may possibly be sheltered under the Thailand – Hong Kong tax treaty provided that a Hong Kong entity is not regarded as having a PE in Thailand as defined in the tax treaty. Under the Thailand – Hong Kong tax treaty, a Hong Kong entity shall be deemed to have a PE in Thailand if, amongst others: - - It has in Thailand "a place of management; a branch; an office; a factory; ……."; and/or - It has in Thailand a dependent agent which habitually conclude contracts, maintain stocks belonging to a Hong Kong entity from which he regularly fills orders or make deliveries and/or secure orders for and on behalf of a Hong Kong entity.	

8. The Philippines

Our Understanding

- JiHong Hong Kong did not maintain any office nor staff in Philippines, all activities performed in Philippines pertaining to delivering the products to the individual customers in Philippines (e.g. customs declaration, delivery) were handled by third-party logistics company in Philippines.

- The staff of JiHong Hong Kong travelled to Philippines to perform market research, searching for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025.

- There are two payment methods for JiHong Hong Kong collecting payments from Filipino customer:-

  - The first method is payment-on-delivery: the third-party logistics company collects the payment from Philippine customer upon delivering the goods, and settles with JiHong Hong Kong subsequently.

  - The second method is online payment: Philippine customer pays for the goods when placing the order online, and the online payment platform subsequently settles with JiHong Hong Kong.

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
The local CIT risk is low if the following criteria are satisfied and the authority will consider that the sale transaction are mere importation of PH customers.: 1. Philippine customers of JiHong Hong Kong pay the goods purely through online; 2. the billing of JiHong Hong Kong to Philippine customers indicates that the purchase price is duties and taxes inclusive; 3. it is the Philippine customers who should pay for the duties and taxes at the Philippine Bureau of Customs; and 4. the cash on delivery transactions are done outside Philippines. In JiHong Hong Kong's case, medium possibility of being subject to CIT for transactions with payment-on-delivery method. The level of risk depends on how often and how closely the local courier will be audited by the BIR. Under the payment-on-delivery method, Jihong Group receives payment from logistics companies outside Philippines. The local courier must issue a BIR-registered Acknowledgment Receipt for cash-on-delivery (COD) payments to document that the revenue is that of the JiHong Group.	• PE concept is not applicable in this case since Philippines does not have a tax treaty with HK. • Philippines also does not have PE concept in their local tax laws. • What applies is the concept of "doing business" in the Philippines. A foreign corporation will be considered a resident foreign corporation subject to income tax 25% and 12% VAT in the Philippines once it is considered as "doing business" in the Philippines. • Under Philippines Tax Code, a foreign corporation is considered as a resident foreign corporation subject to 25% income tax and 12% VAT in the Philippines when said foreign corporation is considered as	One way to avoid the concept of "doing business" is to make sure that the sale transactions qualify as pure importation by Philippine customers, that is, **payments for the goods should be done purely online and it is the Philippine customers who should pay for the duties and taxes at the Philippine Bureau of Customs** (i.e. the billing of JiHong Hong Kong to PH customers should expressly indicate that the purchase price is duties and taxes inclusive so as to put the tax authorities on notice that the sale transaction are mere

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
After due inquiry and public searches, there is no precedent to date for an offshore company without corporate presence in the Philippines to be the subject of any enforcement action by Philippines tax authorities for payment of CIT. As such, the enforcement possibility is low from a practical standpoint.	"doing business" in the Philippines. • Under the Philippines' Foreign Investment Act of 1991 (Republic Act No. 7042), a foreign corporation is considered doing business in the Philippines includes: a) soliciting orders, service contracts, opening offices, whether called "liaison" offices or branches; b) appointing representatives or distributors domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totalling one hundred eighty (180) days or more; c) participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines; and d) any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to, and in progressive prosecution of, commercial gain or of the purpose and object of the business organization. • The Philippine Supreme Court in *B. Van Zuiden Bros., Ltd. v GTVL Mfg. Industries*, G.R. No. 147905, 28 May 2007, rules that an essential condition in determining whether a foreign company is doing business in the Philippines is actual performance of specific commercial acts within the	importation of PH customers. Otherwise, state that the sale transactions are perfected and consummated outside of the Philippine territory. We note that, at the moment, online selling by nonresident foreign corporations is not yet being taxed. However, there is a pending bill in Congress that now seeks to impose 12% VAT on nonresident online sellers of goods and/or services. It will likely become a law this 2024.

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	territory of the Philippines, and such specific business transactions are performed on a continuing basis. • Corrolary to the *Van Zuiden Case*, in the case of ***Aces Philippines Cellular Satellite Corp. v. Commissioner of Internal Revenue, G.R. No. 226680, dated August 30, 2022***, the Philippine Supreme Court also ruled that where the nonresident foreign company will not be able to fulfill its obligations to its Philippine clients without the participation of a local service provider, the income generated by the nonresident foreign company should be considered as Philippine source income. Aces Philippines Case involves the provision of satellite services by a foreign company based in Bermuda to a Philippine telecommunications company who provides satellite phone services to Philippine subscribers. The Supreme Court stated that since the Bermuda company will not be able to fulfill its obligations without contracting a Philippine gateway to be able to deliver its services, it means that the income it earns from the Philippine payor is a Philippine source income. • Applied analogously in the transaction flow described below, since JiHong Hong Kong will not be able to complete its obligation to PH buyers without contracting a PH courier who will deliver the goods, **there is a strong likelihood that the Bureau of Internal Revenue (BIR or inland revenue) will take the position that the income earned by JiHong Hong Kong from PH buyers as Philippine source**	

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	income, particularly in the model where cash payments will be received by the courier on behalf of JiHong Hong Kong because it means delivery and payment are being coursed through a Philippine entity. **As these transactions will be done continuously, there is "a continuity of commercial dealings" within the Philippines which will make JiHong Hong Kong as "doing business" in the Philippines.** • **<u>Tax Implications</u>** As mentioned above, if JiHong Hong Kong is considered as doing business in the Philippines, legally speaking, JiHong Hong Kong should be considered as a resident foreign corporation subject to corporate income tax (CIT) of 25% on net income under Section 28 (A) of the Philippine Tax Code. The said Section provides, thus: **"SEC. 28.** *Rates of Income Tax on Foreign Corporations*. – ***(A) Tax on Resident Foreign Corporations.*** – ***(1) In General***. - Except as otherwise provided in this Code, a corporation organized, authorized, or existing under the laws of any foreign country, <u>engaged in trade or business within the Philippines</u>, shall be subject to an income tax equivalent to twenty-five percent (25%) of the taxable income derived in the preceding taxable year from all sources within the Philippines effective July 1, 2020."	

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	However, in practice, for foreign corporations without any registered Philippine entity, **the BIR imposes the 25% CIT based on gross revenue**. **JiHong Hong Kong will also be subject to 12% VAT**. However, since JiHong Hong Kong has no entity in the Philippines, it is likely that the BIR will run after the PH courier and hold the latter accountable for the 12% VAT as final withholding tax obligation (on cash transactions it collected). As regards the purely online transactions where payment is done thru credit card or e-wallet, this is still a gray area even if fulfillment of delivery will be done by a local company. In fact, this is the reason why the Philippine Congress introduced a bill that seeks to impose 12% on foreign online platforms like Amazon, eBay, etc. As said bill still pending in Congress, it is not yet certain as regards the extent and scope of its application to foreign online platforms and when it will become a law. The target is to make it effective this 2024. Market Research Done in PH As regards the fact that personnel of JiHong Hong Kong went to the Philippines to perform market research and search for third party local logistic service providers during the period from 1 January 2021 to 11 May 2025, we believe that it does not, by itself, pose any tax risks for JiHong Hong Kong, as said acts are merely auxiliary or preparatory in nature with respect to the online selling that JiHong Hong Kong intends to offer to PH customers. If at all,	

Any tax exposure, including PE risk of JiHong Hong Kong in The Philippines	Basis of comment	How to mitigate the tax exposure, including PE risk, if it is not remote
	the said personnel are subject to personal income tax in the Philippines under Section under Section 25 (A) of the Philippine Tax Code with respect to their income earned during the time that they were in the Philippines. The said Section provides, thus: "SEC. 25. *Tax on Nonresident Alien Individual*. – *(A) Nonresident Alien Engaged in trade or Business Within the Philippines.* – *(1) In General.* - A nonresident alien individual engaged in trade or business in the Philippines shall be subject to an income tax in the same manner as an individual citizen and a resident alien individual, on taxable income received from all sources within the Philippines. A nonresident alien individual who shall come to the Philippines and stay therein for an aggregate period of more than one hundred eighty (180) days during any calendar year shall be deemed a 'nonresident alien doing business in the Philippines'." If the said personnel stayed in the Philippines for an aggregate period of more than 180 days from January 2021 to May 2025, under the above provision, they are subject to personal income tax of 25%.	

Xiamen Jihong Technology Co., Ltd.

High-level comments on specific cross-border e-commerce transactions from a customs regulatory perspective

19 May, 2025

EY安永
Building a better working world

CONTENTS

Disclaimer

This Report was prepared at the specific request of Xiamen Jihong Technology Co., Ltd (hereinafter referred to as “you” or “Xiamen Jihong”). Thus, this Report should not be relied upon for any other purpose. It is solely for the benefit of you and is not to be relied upon by any other person or entity. Hence, if you wish to disclose copies of our work to any other person or entity, you must inform them that they should not rely upon our work for any purpose.

Our comments in this Report are based upon the national-level customs laws and regulations currently in effect in the relevant jurisdictions and the information/documents provided by you. Discussing the customs and customs implications which may arise in any other jurisdictions not stated below and verifying the authenticity of the information/documents provided are not within the scope of this Report.

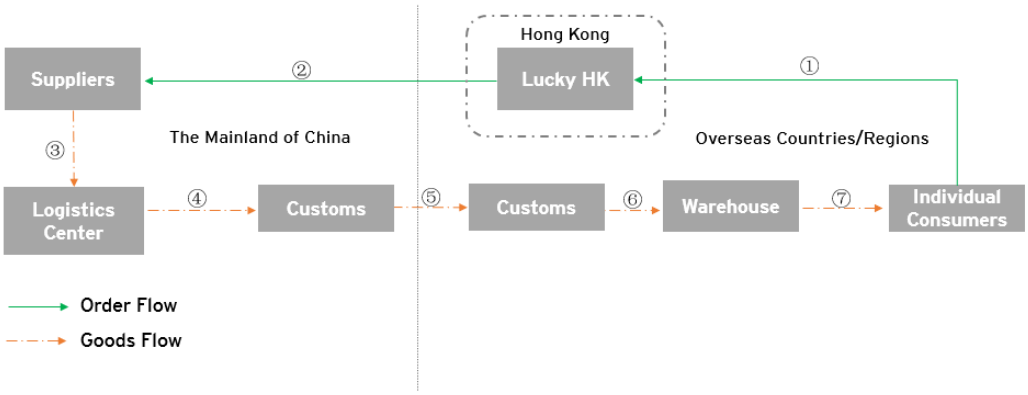
The laws, regulations, interpretations and measures upon which our comments are based are subject to change at any time, possibly on a retrospective basis. Should the aforesaid legislation change, some of the issues/conclusions discussed in this presentation may change as well. We will not be responsible for updating the information herein unless we are requested to do so under a separate engagement.

The high-level advice rendered herein is not binding on the customs authorities of the relevant jurisdictions and there can be no assurance that the customs authorities in the relevant jurisdictions will not take a position contrary to the advice rendered herein. We may, in our advice, indicate areas of risk and possible exposure to challenges by the relevant customs authorities and the means by which such risks may be mitigated. Inevitably, it is not possible to guarantee that the customs authorities will not challenge a transaction, nor to guarantee the outcome of such a challenge if raised.

Background

Lucky E-commerce LTD (hereinafter referred to as "Lucky HK") is a subsidiary of Xiamen Jihong registered in 2017 in Hong Kong, China. It is primarily engaged in conducting cross-border B2C transactions between China and other countries/regions, the products involved include household goods, apparel, electronics, footwear, bags, beauty & personal care, medical & health care, baby toy as well as timepiece & jewelry etc.

Lucky HK's transactional arrangement can be summarized as follows:



① Overseas individual consumers placed the order to Lucky HK in the social media where Lucky HK put the advertisements;
② Lucky HK placed the order to the suppliers located in the Mainland of China;
③ The suppliers delivered the goods to Lucky HK's logistics center located in the Mainland of China;
④ The Chinese third-party logistics service providers engaged by Lucky HK ("the 3PLs") dispatched the goods from the logistics center to China airports and conducted export filing to China customs;
⑤ The local agencies of the 3PLs conducted the import filing to local customs upon the importation to the destination countries/regions;
⑥ The local agencies of the 3PLs dispatched the goods to the local warehouse upon the completion of customs clearance;
⑦ The local agencies of the 3PLs dispatched the goods from the warehouse to the individual consumers.

As per the above arrangement, goods are dispatched from the "Logistics Center" located in the Mainland of China to the importing countries/regions where individual consumers placed the purchase order in the manner of drop shipment. Third party logistics providers ("3PLs") are engaged by Lucky HK for facilitating the export operation in the mainland of China as well as the import operation in the importing countries/regions. Upon importation, the local agencies of the 3PLs or the local individual consumers take on the role of Importer of Record ("IOR") and the local agencies are responsible for filing the import declaration as well as settling the applicable import taxes (e.g.: customs duty, excise duty, VAT) as the IOR or in the name of the IOR (i.e.: the local individual consumers).

Scope of Work

We understand that the management of Xiamen Jihong would like to engage Ernst & Young (China) Advisory Limited (hereinafter referred to as "We" or "EY") to provide high-level comments on the following three questions in relation to the goods that Lucky HK sold to the individual consumers in 8 specific countries and region under the current B2C model from local customs regulatory perspective:

1) *whether the potential tax risks associated with the importation of goods to the 8 countries and region have been transferred from Lucky HK to the 3PLs engaged by Lucky HK?*
2) *if the answer to the above question is yes, then whether the transfer is legal?*
3) *whether Lucky HK has the potential risk of being imposed on tax liabilities or even penalties by local customs authorities due to the non-compliant behaviors upon importation to the 8 countries and region?*

The 8 specific countries and region include Japan, South Korea, Thailand, Saudi Arabia, Chinese Taiwan, Singapore, the Philippines and Malaysia.

Executive Summary

Our comments:

According to the high-level comments received from EY Global Trade Practices based in the 8 countries and region, under the currently effective local customs laws and regulations, the IOR indicated on customs filing document should be responsible for the accuracy of import declaration to customs and undertake the tax liabilities or even customs penalties associated with the non-compliant behaviors upon importation, if any.

In the light of the background information mentioned above, under the current transactional arrangement of Lucky HK, the local agencies of the 3PLs or the local individual consumers take on the role of IOR and the local agencies are responsible for the import declaration as well as the settlement of applicable import taxes as the IOR or in the name of the IOR (i.e.: the local individual consumers) upon importation.

Given the above, it can be concluded that as of 11 May, 2025, generally the risk that the customs of the 8 countries and region impose tax liabilities or even penalties on Lucky HK should be low.

Details of our high-level comments

1. Japan

High-level comments from a Japanese customs regulatory perspective

Under Japan Customs Law, IOR is responsible for the accuracy of the import declarations made in its name as well as for the payment of import taxes. Japan Customs conducts post entry audit on IOR rather than the owner of imported goods.

For your information, we noted that the newly adopted definition of IOR under the Basic Circular for Customs Law became effective since 1 October 2023.

To be specific, according to the amendment of the Basic Circular for Japan Customs Law, the following changes were made effective since 1 October 2023:
a. Name and Address of the person who intends to import goods to Japan are required to be declared at importation, which are stipulated in Article 59 of the Order for Enforcement of the Customs Law.

* In addition, effective as of 12 October 2025, “Name of E-commerce Platform used” and “Delivery address in Japan” will also be required to be declared at importation for E-Commerce related imports.

b. The definition of IOR was added to the Basic Circular for Customs Law 67-3-3-2:

- *Where goods are imported pursuant to an import transaction, the consignee on the commercial invoice (no change)*
- *Where goods are not imported pursuant to an import transaction,*
  (1) the person who has the authority, at the time of importation, to dispose of the imported goods after the goods are released for free circulation in Japan;
  (2) any other persons who perform the act which constitutes the purpose of the importation (such as toller, contract manufacturers, commissionaires, etc.).

According to the sample Import Filing Document provided by Xiamen Jihong (the Filing Document Number: 412 7037 9460, declaration date: 5 January 2024), it is the individual consumer in Japan who takes on the role of the IOR, which should be in compliance with the new requirement in connection with IOR mentioned above.

2. South Korea

High-level comments from a South Korean customs regulatory perspective

Under the Customs Act of South Korea, the IOR responsible for filing import declaration should undertake legal liabilities in relation to customs duties and penalties. Therefore, the local agencies of the 3PLs or the local individual consumers that take on the role of IOR rather than the exporter (i.e.: Lucky HK) would be imposed on the tax liabilities or even customs penalties associated with the non-compliant behaviors upon importation, if any.

3. Thailand

High-level comments from a Thai customs regulatory perspective

In accordance with Thai Customs Notification 130/2561 on Electronic Customs Clearance for Air Express Shipment, to import the goods falling within any of the following three Categories, the importer will be liable to be registered as "Express Shipment Importer" and be responsible to Thai Customs for duty, any other appliable import tax liabilities as well as penalties associated with the non-compliant import declarations (if any):

1) *Non-dutiable documents*
2) *Goods that are not subject to duty/tax under one of the circumstances below and the subject good in question also do NOT fall within the prohibited or restricted goods:*
   a) *The goods which are not subject to duties and taxes under Part 2 of the Customs Tariff Decree B.E. 2530; or*
   b) *The goods whose CIF value does not exceed 1,500 baht; or*
   c) *Non-commercial value samples.*
3) *Dutiable Goods imported through a customs airport, of which FOB value according to their Air Waybills does not exceed 40,000 baht. This category excludes any items that are prohibited or restricted and goods requiring sample analysis.*

For the goods other than the above three categories, they will have to go through normal customs clearance process in accordance with the Customs Practice Rule Section 4, Chapter 3 on Electronic Customs Clearance by Air, the local agencies of the 3PLs will have to register the individual consumer in Thailand as the IOR and assist in conducting the filing of the import declaration under the name of the individual consumer. In such cases, the local agencies cannot file import declaration until the IOR registration based on a copy of Thai ID or passport is completed. Correspondingly, the individual consumer who takes on the role of IOR should be responsible for the tax liabilities or even customs penalties associated with the non-compliant behaviors upon importation (if any), the exporter of the goods cannot be named as the IOR since it is a foreign entity without registered legal presence in Thailand.

Please be informed that on June 20, 2024, the website of the Royal Gazette issued an announcement mentioning that the Ministry of Finance has approved to levy VAT at 7% on the imported goods priced from 1 baht to 1,500 baht(an exemption threshold previously), effective from July 5,2024, Customs Department will be responsible for the collection of the VAT until December 31, 2024, then Revenue Department will take over the responsibility. However, according to the Customs Notification announced in December 2024, the above temporary measure has been extended for 1 year throughout 2025 as the Revenue Department has yet to finalize its own rules for taking over the responsibility.

Given Lucky HK does not take on the role of IOR for the goods imported to Thailand, the new requirement should have no impact on it by the end of 2025. However, it is recommended that going

High-level comments from a Thai customs regulatory perspective

forward Lucky HK should keep a close eye on the amendments to the Revenue Code and assess whether they have any impact on its tax liabilities after they are announced.

4. Saudi Arabia

High-level comments from a Saudi Arabian customs regulatory perspective

To act as an IOR in Saudi Arabia, importers should have an established legal presence in Saudi Arabia which requires to:

- Obtain a commercial registration/license from the Saudi Arabia Ministry of Commerce specific to the envisaged business activity for which the importer is entitled to import.
- Establish a customs account with Zakat, Tax and Customs Authority ("ZATCA") through the FASAH electronic portal, with its company registration number then becoming its importer customs client code with ZATCA.

The local agencies of the 3PLs can act as IOR based on the commercial agreements, local licensing and customs registration requirements.

According to Gulf Cooperation Council ("GCC") Common Customs Law, IOR should be responsible for ensuring the accuracy of import declaration (including value, tariff classification, origin, weight/quantity etc.) and submitting all required supporting documentation. Correspondingly, IOR should be responsible for the tax liabilities or even customs penalties associated with the non-compliant behaviors upon importation.

5. Chinese Taiwan

High-level comments from a Taiwanese customs regulatory perspective

Per Article 6 of Taiwan Customs Act and Article 3 of the Enforcement Rules of Taiwan Customs Act, the obligor of customs duty should be:

(1) the consignee of the imported goods; or
(2) the bearer of the bill of lading, or
(3) the holder of the imported goods.

Technically, duty-payer (i.e.: any of the three types of obligors mentioned above) should be responsible for the tax liabilities or even customs penalties associated with the non-compliant behaviors upon importation (if any) in accordance with Taiwan Customs Act. In practice, duty-payer normally refers to the duty-payer listed on Import Declaration Form (the so-called “IOR”), thus, it could be commonly seen that if any non-compliant behavior is identified by the customs upon importation, tax liabilities or even customs penalties will be imposed on the IOR rather than the exporter.

6. Singapore

High-level comments from a Singaporean customs regulatory perspective

Under the given business model, there should be a commercial invoice indicating the local individual consumer as the consignee and he/she should be the IOR of the goods to be imported to Singapore. In such cases, the local agencies of the 3PLs can act as the importer bringing in the products “for the account or use of some other person” by submitting the commercial invoice as supporting document. Under the circumstance that any non-compliant behavior in connection with the importation was identified by Singapore Customs, both the local agencies and the individual consumer rather than the exporter would be investigated and imposed on the associated tax liabilities or even penalties.

7. The Philippines

High-level comments from a Philippine customs regulatory perspective

In The Philippines, Air Express Cargo Operators (AECO) handling consolidated Express Shipments are required to be registered as importer under Customs Memorandum Order (CMO) No. 9-2021, this can be construed as the AECO sharing the liabilities with the individual consumers since they are required to lodge import entries for low value, dutiable and/or taxable express shipments whose customs value is above PhP10,000.00 but below PhP50,000.00. For other shipments, as a rule, it is the individual consumer rather than the local agencies of the 3PLs that should take on the role of the IOR.

Section 107 of the Customs Modernization and Tariff Act (CMTA) requires the declarant of imported goods in the Philippines to be responsible for the accuracy of import declaration and for the payment of the duties as well as any other taxes and charges associated with the importation. Correspondingly, the local agencies of the 3PLs and the individual consumers rather than the exporter should be responsible for the tax liabilities or even penalties associated with the non-compliant behaviors upon importation (if any).

Please be informed that on May 20, 2024, the Philippine Senate approved on third and final reading a bill (Bill No.2528) that seeks to impose a 12% value-added tax (VAT) on digital services provided by companies with no physical presence in the Philippines. Under the measure, eligible nonresident digital service providers are liable to register with the Bureau of Internal Revenue (BIR) for the remittance of VAT on their services, the BIR commissioner can order the blocking or suspension of the services of digital providers if they fail to withhold and remit the VAT.

According to the definition provided in Senate Bill No.2528, “digital services” refer to any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated, including but not limited to online search engine, online marketplace or E-marketplace, cloud service, online media and advertising, online platform or digital goods. Given Lucky HK is a seller of goods rather than a digital service provider, the bill mentioned above should have no impact on it under the current business model.

8. Malaysia

High-level comments from a Malaysian customs regulatory perspective

According to Customs Act, 1967, the definition of importer is as below:

"Importer" includes –
(a) any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until such goods are duly removed from customs control; and
(b) in relation to goods imported by means of a pipeline, the owner of the pipeline.

Given the above, normally the local agencies of the 3PLs, being IOR and responsible for clearing the goods from customs will be considered as the importer under the provided business model, correspondingly, they should be responsible for the tax liabilities and penalties associated with the importation from a customs regulatory perspective.

For your information, in accordance with the Guide of Sales Tax on Low Value Goods ("LVG") which came into force from 1 January 2024, sales tax on LVG shall be charged on the sale value[1] and levied at the rate of 10% when the individual consumer in Malaysia carries out online payment for the goods that he/she placed an online order to buy(before the LVG are imported to Malaysia).

The LVG mentioned above refers to the goods or class of goods from outside Malaysia that are sold in the online marketplace at a price of not exceeding RM500 and brought into Malaysia via air, sea or land modes, excluding:
i. cigarette;
ii. tobacco product;
iii. smoking pipes(incl pipe bowls);
iv. electronic cigarette and similar personal electric vaporizing devices;
v. preparation of a kind used for smoking through electronic cigarette and electric vaporizing device, in forms of liquid of gel, not containing nicotine; and
vi. intoxicating liquor.

Upon the importation of the LVG, sales tax can be exempted by providing the LVG registration number on the Import Declaration Form to avoid double taxation.

Further, a person, whether in or outside Malaysia, who sells LVG on an online marketplace or operates

1 The "sale value" does not include the following:

(i) transportation and insurance costs for transporting the goods from overseas to the place of delivery in Malaysia; and

(ii) any tax or duties, chargeable and payable on the sale of LVG.

High-level comments from a Malaysian customs regulatory perspective

an online marketplace for the sales and purchase of LVG, is liable to be registered as "Registered Seller (RS)" at the following time, whichever the earlier:

a) At the end of any month, where the total sales value of LVG in that month and the eleven months immediately preceding that month has exceeded RM500,000 (Historical Method); or

b) At the end of any month, where the total sales value of LVG in that month and the eleven months immediately succeeding that month will exceed RM500,000 (Future Method).

The RS will be notified and assigned with a registration number through e-mail and is liable to conduct periodical returns to Malaysian customs authorities under the registration number.

RS may cancel its registration under the following circumstances:

(i) ceases to sell LVG; or

(ii) the total sale value of LVG in that month and the eleven months immediately succeeding that month does not exceed MYR500,000.

According to Article 1.2 and 10 of the Guide of Sales Tax on Low Value Goods ("LVG"), (i) from registration perspective, the implementation of sales tax on LVG is effective on 1 January 2023 and eligible sellers are required to register if their 12-month sales meet either threshold (a) or (b) mentioned above from 1 January 2023; (ii) from tax imposition perspective, the imposition of the sales tax on LVG will be starting from 1 January 2024, and goods whose purchase order is confirmed before 1 January 2024 are not subject to the sales tax on LVG.

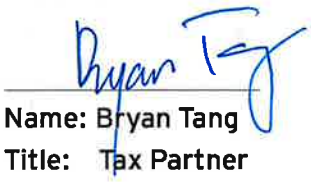
The Guide of Sales Tax on LVG does not mention consequences (e.g.: penalty) in terms of the non-registration of eligible sellers while registered sellers are subject to penalties if they fail to pay the sales tax due and payable by the deadline assigned by the Royal Malaysian Customs.

LVG declared without providing LVG registration number information will be levied sales tax (if applicable) during importation to Malaysia except for the goods imported by air courier services with a total CIF value not exceeding RM500 per consignment (the de minimis facility). Understand that generally the import declaration of Lucky HK's goods is conducted in the manner of consolidated declaration, the possibility that Lucky HK's goods fall within the de minimis facility should be very low. Correspondingly, the possibility of the underpayment of the sales tax associated with the importation of Lucky HK's goods to Malaysia should be very low.

Further, according to public information searches, there is no precedent to date for an offshore company without corporate presence in Malaysia being the subject of any enforcement action taken by the Royal Malaysian Customs.

Despite the above, it is recommended that going forward Lucky HK should assess whether it is liable to be registered as RS on a regular basis and take timely and appropriate action when necessary.

For and on behalf of
Ernst & Young (China) Advisory Limited



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