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China Tax on Mainland-Hong Kong Mutually Recognized Funds

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In brief

- » On 18 December, 2015, the China Securities Regulatory Commission (CSRC) and the Hong Kong Securities and Futures Commission respectively approved the first batch of mutually recognized funds under the Mutual Recognition of Funds (MRF) Arrangement.
- » On 14 December, 2015, Caishui [2015] No. 125 (Circular 125) was released to clarify tax treatments for investors of both Mainland China and Hong Kong under the MRF Arrangement.

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In detail

The “Provisional Regulations on the Management of Mainland-Hong Kong MRFs”, which took effect from 1 July, 2015, have allowed MRFs be sold directly at either mainland or Hong Kong market. For MRF trading, some China tax preference treatments are offered under the “Circular on Tax Treatments related to Mainland-Hong Kong MRFs” issued by China’s Ministry of Finance (MOF), State Administration of Taxation (SAT) and CSRC on 14 December 2015.

According to Circular 125, the Chinese tax implications for MRF trading are summarized below:

| Investors | | Types of Income | Individual Income Tax (IIT) | Corporate Income Tax (CIT) | Business Tax (BT) | Stamp Duty (SD) |
|---|--------------|------------------------------------|---|----------------------------|--|--|
| Mainland China Investors | Individuals | Gain from the transfer of funds | Temporarily exempt for 3 years (from 18.12.2015 to 17.12.2018) | N/A | Temporarily exempt | No SD in China |
| | | Dividends / Interests of the funds | IIT at 20% to be withheld by the agents on behalf of the HK funds | N/A | N/A | N/A |
| | Institutions | Gain from the transfer of funds | N/A | Subject to CIT | Be taxed or exempted according to the current BT regulations ^{note 1} | No SD in China |
| | | Dividends / Interests of the funds | N/A | Subject to CIT | N/A | N/A |
| HK investors (individuals and institutions) | | Gain from the transfer of funds | Temporarily exempt | | Temporarily exempt | Temporarily exempt for sales, purchase, inheritance and donation of Mainland funds |
| | | Dividends / Interests of the funds | Dividend- 10% income tax ^{note 2} Interest- 7% income tax ^{note 2} | | N/A | N/A |

Note 1: BT exemption examples: Funds transfer gains of domestic companies via Qualified Foreign Institutional Investors, qualified Small Low-profit Enterprises, etc.

Note 2: In the distributions of dividends / interests to Hong Kong investors via MRFs, mainland-listed companies / bond issuers shall withhold CIT when distributing first the mainland funds. The Mainland funds do not need to withhold CIT when making distributions to investors.

WTS observation

Circular 125 provides China tax instructions and requirements (such as withholding obligation, information submission, etc.) for the investors. Mainland listed companies / bond issuers should maintain sufficient documents to ensure correct China income tax withholding is performed.

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