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Hong Kong Tax News

Clarification on HK-France DTA sought: Branch Remittance Tax in France exempted

Under the French tax law, income earned in France by a foreign corporation is deemed to be distributed to a foreign resident and is subject to a 25% withholding tax (branch remittance tax) as if it were dividends.

Notwithstanding that the Double Taxation Agreement ("DTA") between Hong Kong and France has already come into effect in Hong Kong from the year of assessment 2012/13, it was unclear whether or not the exemption from dividend withholding tax under Paragraph 5 of Article 10 of the DTA would apply to branch remittance tax on income earned in France by a Hong Kong corporation with a permanent establishment in France.

Hong Kong has now sought clarification from France that a Hong Kong resident corporation is exempt from branch remittance tax on its income earned in France under the DTA. The announcement was posted in the IRD's **website**.

Amendment Bill on Buyer's Stamp Duty and Special Stamp Duty gazetted

The Stamp Duty (Amendment) Bill 2012 was gazetted and will be introduced into the Legislative Council on 9 January 2013.

The Bill seeks to introduce Buyer's Stamp Duty ("BSD") for residential properties acquired by any person (including companies incorporated in or outside Hong Kong) except a Hong Kong permanent resident ("HKPR"), and to enhance the Special Stamp Duty ("SSD") by extending its coverage period and adjusting the SSD rates. Subject to the enactment of the Bill, the enhanced SSD and BSD will be applicable to all residential properties acquired on or after 27 October 2012.

The adjusted SSD will have three levels of regressive rates for different holding periods:

Holding period	SSD rate
=< 6 months	20%
> 6 months =< 12 months	15%
> 12 months =< 36 months	10%

The BSD will be charged at a flat rate of 15% for all residential properties, on top of the existing stamp duty and the SSD, if applicable, acquired by any person or entity, except a HKPR. After considering the possible loopholes, the Government decided to maintain that BSD would apply to all companies, including companies whose shareholders are all HKPRs. Nevertheless, as BSD is not intended to hinder redevelopment, the Government has put in place a refund mechanism for redevelopment projects in the Bill.

The press release was posted in the IRD's **website**.

Amendment Bill on Islamic Bonds gazetted

Islamic finance is amongst the fastest growing segment in the international financial system. Sukuk are one of the most prominent instruments used in Islamic finance, and have been commonly issued for raising funds in some domestic and international capital markets. In order to enhance Hong Kong as the leading international financial centre, the Government will provide a conducive platform to enable the development of Islamic finance in Hong Kong.

The Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012 has been gazetted on 28 December 2012. The Bill seeks to provide a taxation framework for some common types of Islamic bonds (sukuk) on par with that for conventional bonds. In particular, the proposed amendments will provide for tax and stamp duty relief for transactions underpinning issuance of relevant Islamic bond products, as these transactions would normally not have existed in a comparable conventional bond structure of similar economic substance.

The press release was posted in the IRD's **website**.

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