

**Subcommittee on Tax Reserve Certificates (Rate of Interest)
(Consolidation) (Amendment) Notice 2018**

**Tax Reserve Certificates (Rate of Interest) (Consolidation)
(Amendment) Notice 2018**

Purpose

This paper briefs members on the adjustment mechanism for the interest rate on Tax Reserve Certificates (“TRCs”).

Background

2. TRCs are issued by the Inland Revenue Department for tax payment purposes. There are two types of TRCs, namely (a) ordinary TRCs which are purchased by taxpayers on their own volition who wish to prepare for tax payment in future; and (b) conditional TRCs which are required by the Commissioner of Inland Revenue (“the Commissioner”) for taxpayers who have objected to or appealed against their tax assessments, and have been granted a “conditional stand-over order” in order to cover the total amount or part of the tax in dispute¹.

3. According to section 7(1) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289A), *“simple interest at the prescribed rate for each month or part of a month in the period commencing on the date of issue and ending on the date on which the certificate is accepted for payment of tax shall be paid on all certificates so accepted”*.

¹ In case of tax disputes, the Commissioner will take into account individual circumstances in considering whether to allow the taxpayers to hold over the payment of tax involved. If it is obvious to the Commissioner that the objection or appeal should be allowed forthwith, an **“unconditional stand-over”** will be ordered pending revision of the tax assessment. However, if the Commissioner considers that the objection or appeal has some merits but that the balance of probability, based on the facts available at the date of the objection or appeal, does not weigh definitely in favour of the taxpayer, the Commissioner will issue, as empowered by section 71(2) of the Inland Revenue Ordinance (“IRO”), a **“conditional stand-over order”** requiring the taxpayer to purchase TRCs in the amount of the tax held over, or to furnish a banker’s undertaking. For most of the objection or appeal cases with “conditional stand-over orders” issued, the purchase of TRCs will be required. Nevertheless, the Commissioner may accept the taxpayer to furnish a banker's undertaking in lieu of purchase of TRCs if the taxpayer could demonstrate that he/she could not afford to purchase TRCs due to financial difficulties.

4. According to section 71 of the IRO, if taxpayers have purchased TRCs in pursuance of “conditional stand-over orders” in relation to objection or appeal cases, interest of TRCs will be paid to the extent to which the TRCs are eventually not required to settle the tax held over, i.e. the parts in which the taxpayers’ objection or appeal are successful. If the objections or appeals are withdrawn or determined against the taxpayers (wholly or in part), the taxpayers may tender the TRCs or a part of the TRCs in payment of the tax held over and found payable. No interest is payable upon any TRCs or part thereof so tendered.

Adjustment Mechanism of Interest Rate of TRCs

5. Section 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289A) stipulates that for TRCs issued on or after 11 April 1980, the rate of interest on TRCs (“TRC rate”) should be “*such rate of interest as may be fixed by the Financial Secretary from time to time and is in force at the date of issue thereof.*”

6. Under the current established mechanism, the TRC rate is reviewed on a monthly basis based on the average prevailing rate of interest for the six-month time deposit below \$100,000 offered by the three note-issuing banks. The last modification to the adjustment mechanism was implemented in January 1999 when the review had been shortened from every three months to monthly so as to ensure that changes in interest rate offered by the banks were timely reflected in TRCs.

7. In view of the recent change in the average prevailing rate of interest for the six-month time deposit below \$100,000 offered by the three note-issuing banks, the Government published a gazette notice on 3 August 2018 to effect an adjustment to the TRC rate starting from 6 August 2018² (see **Annex**). The annual TRC rate has been increased from 0.0433% to 0.0767%, or \$0.0064 per month per \$100.

Financial Services and the Treasury Bureau October 2018

² Before this, the TRC rate was last adjusted in 2010.

L.N. 147 of 2018**Tax Reserve Certificates (Rate of Interest)
(Consolidation) (Amendment) Notice 2018**

(Made by the Secretary for Financial Services and the Treasury under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A))

1. Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice amended

The Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289 sub. leg. B) is amended as set out in section 2.

2. Schedule amended

(1) The Schedule, item 171, after “4 January 2010”—

Add

“and before 6 August 2018”.

(2) The Schedule, after item 171—

Add

“172. On or after 6 August 2018 0.0767% per annum”.

James Henry LAU
Secretary for Financial Services
and the Treasury

31 July 2018

Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment)
Notice 2018

Explanatory Note
Paragraph 1

L.N. 147 of 2018
B4353

Explanatory Note

This Notice fixes at 0.0767% per annum the rate of interest payable on tax reserve certificates issued on or after 6 August 2018.