

立法會
Legislative Council

LC Paper No. LS42/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 31 January 2020**

Tabling in LegCo : Council meeting of 19 February 2020

Amendment to be made by : Council meeting of 18 March 2020 (or that of 22 April 2020 if extended by resolution)

**Tax Reserve Certificates (Rate of Interest) (Consolidation)
(Amendment) Notice 2020** **(L.N. 11)**

Under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289A), in relation to a tax reserve certificate issued by the Commissioner of Inland Revenue on or after 11 April 1980, the rate of interest payable on any such certificate accepted for payment of tax is such as may be fixed by the Financial Secretary¹ from time to time and is in force at the date of issue of the relevant tax reserve certificate. Under rule 7(2A) of Cap. 289A, notice of the rate of interest so fixed shall be published in the Gazette.

2. L.N. 11 is made by the Acting Secretary for Financial Services and the Treasury under rule 7(2)(h) of Cap. 289A to amend the Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289B) to specify that the rate of interest payable on tax reserve certificates issued on or after 3 February 2020 shall be 0.3167% per annum. The rate of interest was last fixed at 0.3667% per annum and took effect on 17 January 2020 under the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) Notice 2019 (L.N. 160 of 2019) published in the Gazette on 1 November 2019.

3. No Legislative Council ("LegCo") Brief has been issued for L.N. 11.² Upon enquiry by the Legal Service Division, the Administration explained that:

¹ "Financial Secretary" is defined under section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) to mean the Financial Secretary of the Hong Kong Special Administrative Region and the Secretary for Financial Services and the Treasury.

² The prevailing arrangement as agreed between the Administration and the Legislative Council Secretariat in 2010 is that bureaux will issue LegCo briefs on all subsidiary legislation with the exception of commencement notices. See the Director of Administration's letter to the Clerk to the House Committee dated 2 June 2010 (LC Paper No. CB(2)1710/09-10(02)).

- (a) while a LegCo Brief was issued for the last amendment made under L.N. 160 of 2019 (File Ref: TsyB R 244/765-3-12/1/0 (C)) to inform the public of the introduction of the revised mechanism for adjusting the rate of interest payable on tax reserve certificates, the amendment made under L.N. 11 is a routine exercise under the revised adjustment mechanism to update the interest rate, for which the Administration considers it not necessary to issue a LegCo Brief;
- (b) upon the commencement of L.N. 160 of 2019 on 17 January 2020, the rate of interest will be reviewed on a monthly basis from the end of January 2020 onwards based on the average prevailing interest rate for 12-month time deposit for \$100,000 to \$499,999 offered by three note-issuing banks under the revised adjustment mechanism; and
- (c) as there has been a change to the average prevailing interest rate referred to in (b) above from 0.3667% to 0.3167% per annum, the amendment made under L.N. 11 is a routine updating in accordance with an established mechanism already made known to the public; as such, no public consultation has been conducted.

4. As advised by the Clerk to Panel on Financial Affairs, the Panel has not been consulted on L.N. 11.

5. L.N. 11 came into operation on the day of its publication in the Gazette (i.e. 31 January 2020).

6. No difficulties have been identified in relation to the legal and drafting aspects of L.N.11.

Prepared by

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