

## **LEGISLATIVE COUNCIL BRIEF**

Tax Reserve Certificates (Rate of Interest)  
(Consolidation) Notice (Chapter 289B)

**Tax Reserve Certificates (Rate of Interest)  
(Consolidation) (Amendment) Notice 2019**

### **INTRODUCTION**

The Secretary for the Financial Services and the Treasury (“SFST”) has made the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) Notice 2019 (“the Notice”) to adjust the interest rate for tax reserve certificates (“TRC rate”) arising from a revised interest rate adjustment mechanism. The revised TRC rate will be specified in the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289B).

### **BACKGROUND**

2. Tax reserve certificates (“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 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 dispute.

3. According to section 71 of the Inland Revenue Ordinance (Cap. 112), for taxpayers who 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.

4. Section 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289A) (“the Rules”) stipulates that for TRCs issued on or after 11 April 1980, the 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.*” By virtue of the interpretation of “Financial Secretary” under the Interpretation and General Clauses Ordinance (Cap. 1), the authority is also vested with SFST. Any changes to the TRC rate shall be made by way of subsidiary legislation.

5. Details of the mechanism for determining the TRC rate are not prescribed under the Rules. Under the current established mechanism, the Government had been conducting monthly review of the TRC rate since January 1999 based on the average prevailing rate of interest for the **six-month** time deposit **below \$100,000** offered by the three note-issuing banks. When the mechanism was last revised in January 1999, the frequency of the review had been shortened from every three months to monthly so that the TRC rate could keep pace with the market rates.

6. In accordance with this established mechanism, the TRC rate was adjusted in August 2018 through the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) Notice 2018 (“the 2018 Notice”). A Legislative Council (“LegCo”) Subcommittee was set up in November 2018 to examine the 2018 Notice<sup>1</sup>. While raising no objection to the 2018 Notice which sought to adjust the TRC rate under the established mechanism, members of the Subcommittee considered that the TRC rate had been very low and the Government should also take into account the market practice that a higher interest rate would normally be offered by banks for time deposits involving a large sum of money.

## JUSTIFICATIONS

7. Having reviewed the mechanism for determining TRC rate, we propose to revise it such that the TRC rate will be determined by the average prevailing interest rate for **12-month** time deposit for **\$100,000 to \$499,999** offered by three note-issuing banks, starting from the review conducted in October 2019. The TRC rate will be reviewed under the new interest rate adjustment

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<sup>1</sup> The 2018 Notice was gazetted on 3 August 2018 and tabled at the Council meeting of 10 October 2018 for negative vetting.

mechanism on a monthly basis from end January 2020 onwards<sup>2</sup>. The justifications for the changes are set out below.

#### *Average Holding Period of TRCs*

8. The average holding period of ordinary TRCs is six months while that for conditional TRCs varies considerably depending on the individual tax objections or appeal cases involved. On average, about half of the conditional TRCs are redeemed within two years after purchase.

#### *Value of TRCs*

9. The average value of ordinary TRCs purchased in 2018-19 was about \$5,000. On the other hand, 45% of the conditional TRCs purchased in 2018-19 had a value of below \$100,000; 30% were ranging from \$100,000 to less than \$500,000; and the remaining 25% at \$500,000 or above. In other words, the majority of conditional TRCs have a value below \$500,000. Similar pattern was observed for the past few years.

10. Taking into account the average holding period and value of both ordinary and conditional TRCs, we consider it appropriate, on balance, to modify the current adjustment mechanism so that the interest rate for both ordinary and conditional TRCs will be determined by the average prevailing interest rate for both a longer term of time deposit (i.e. 12-month) and a larger sum (i.e. \$100,000 to \$499,999) offered by three note-issuing banks with a monthly review.

## **THE NOTICE**

11. The current TRC interest rate is 0.25% per annum. The Notice at **Annex** adjusts the TRC rate to 0.3667% per annum under the revised adjustment mechanism, and the new rate will take effect from 17 January 2020 after the negative vetting period. The new rate will apply to all TRCs purchased on or after the effective date of the Notice and to conditional TRCs not yet redeemed for the period when the new rate is in force.

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<sup>2</sup> No review will be held in November and December 2019 pending the commencement of the Notice on 17 January 2020.

## **LEGISLATIVE TIMETABLE**

12. The legislative timetable is as follows –

Publication in the Gazette      1 November 2019

Tabling at LegCo for  
negative vetting                      6 November 2019

## **IMPLICATIONS OF THE PROPOSAL**

13. Assuming that the revised TRC rate of 0.3667% be adopted throughout the financial year, the additional annual financial cost for TRC interest payment arising from the revised TRC rate would be around \$2 million. That said, the actual amount of interest paid depends on a number of factors, including the number of objection or tax appeal cases in which the taxpayers will succeed within that year, and the holding period of the TRCs.

14. The proposal of providing a revised TRC rate is in conformity with the Basic Law, including the provisions concerning human rights. The Notice will not affect the current binding effect of the Tax Reserve Certificates Ordinance (Cap. 289) and its subsidiary legislation. The proposal has no civil service, family, gender, productivity, environmental, economic or sustainability implications.

## **PUBLICITY**

15. We will issue a press release on 30 October 2019. A spokesperson will be available to answer media and public enquiries.

## **ENQUIRY**

16. In case of enquiries about this Brief, please contact Miss Helen CHUNG, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(Revenue 1), at 2810 2370.

**Financial Services and the Treasury Bureau**  
**October 2019**

**Tax Reserve Certificates (Rate of Interest)  
(Consolidation) (Amendment) Notice 2019**

(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. Commencement**

This Notice comes into operation on 17 January 2020.

**2. 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 3.

**3. Schedule amended**

(1) The Schedule, item 173, after “5 November 2018”—

**Add**

“and before 17 January 2020”.

(2) The Schedule, after item 173—

**Add**

“174. On or after 17 January 2020 0.3667% per annum”.



Secretary for Financial Services and  
the Treasury

29 October 2019

**Explanatory Note**

This Notice fixes at 0.3667% per annum the rate of interest payable on tax reserve certificates issued on or after 17 January 2020.