

Meeting with State Administration for Taxation (SAT) in September, 2007

Inland Revenue Department (IRD) wishes to thank Joint Liaison Committee on Taxation (JLCT) members and professional bodies (including the Hong Kong Institute of Certified Public Accountants, the Society of Chinese Auditors and Accountants, the China Tax Society and the Hong Kong Taxation Institute) for proposing agenda items for the meeting between IRD and SAT in September, 2007.

The items suggested include commonly known ones: resolution of the discrepancy in the counting of “6 months” for the purposes of Article 5(3) and of the different interpretations of the 25% holding in shares for the purposes of Article 13 on Capital Gains. In fact such different views were detailed in the IRD’s Departmental Interpretation and Practice Notes No. 44 first issued in December 2006. The Note was subsequently revised in April 2007 to reflect the concessions made by the SAT as a result of IRD’s successful negotiation with SAT to narrow down the differences. With a view to ensuring the Double Taxation Agreement’s (DTA’s) smooth and effective implementation, IRD has also secured SAT’s cooperation and agreement to keep a continuous dialogue on the implementation of the DTA, including revisiting the above-mentioned issues by both authorities after implementing the DTA for some time (which has been documented in the related paragraphs in the Practice Note).

IRD understands that some professional bodies and individual members have contacted SAT, either through writing or meeting, or both, to reflect their views on the DTA. There are rumours that agreements on some of the points raised with the SAT have been secured by them.

While both IRD and SAT welcome the expression of concerns from the public, IRD has to clarify that IRD and SAT are the only two competent authorities under the DTA for the proper conducting of any authoritative meeting to discuss or resolve any ambiguity arising from the DTA. The proper and legitimate procedure to solve any issue then is for a member of the public to bring that issue to the attention of either of the authorities, or both, for the authorities’ proper consideration and endeavouring to reach an agreement. Any suggestions by professional bodies or their individual members that they have secured by themselves any agreement on any issue from SAT are therefore misguided.

IRD will meet with SAT in September and the views and suggestions IRD has gathered and other issues identified by IRD will be fully discussed at the meeting.

30 August 2007