Tax alert

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Dividends paid by Mainland companies to Hong Kong residents

The State Administration for Taxation (SAT) clarifies arrangements in respect of tax payable to the Mainland for dividends payable by Mainland companies to individual investors in Hong Kong.

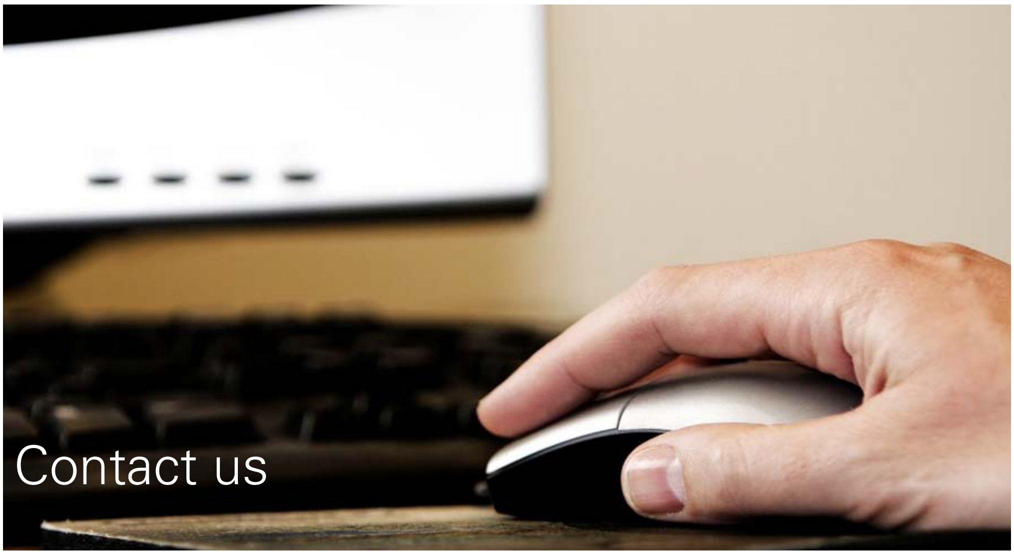
Circular Guo Shui Fa [1993] No. 45, which stipulated that dividends paid by Mainland Chinese companies to foreign individuals were temporarily exempt from individual income tax, was withdrawn with effect from 4 January 2011. Subsequently, various H share companies announced that they would withhold tax of 20 percent on dividend payments and this has led to confusion, particularly as the double taxation arrangement (DTA) with the Mainland provides that the tax on dividends shall not exceed 10 percent.

The SAT has now advised that when non-foreign investment companies of the Mainland listed in Hong Kong distribute dividends to their shareholders, the individual shareholders in general will be subject to a withholding tax rate of 10 percent in accordance with the Mainland DTA. Individual shareholders do not have to apply to enjoy the entitlement to the 10 percent rate.

The Stock Exchange of Hong Kong Limited has also issued a letter to listed companies informing them of the above arrangements concerning dividends paid by Mainland companies.

Comment

This clarification from the SAT is welcome. However, some uncertainties still remain as to how the arrangement will work in practice. For instance, in the case of an individual investor whose shares are held through a broker, how the 10 percent rate of tax will be applied and what obligations H share issuers may have on verifying the residence status of their shareholders is not clear.



For more information, please contact:

Corporate Tax, KPMG China

Khoon Ming Ho
Partner in Charge, Tax
China and Hong Kong SAR
Tel: +86 (10) 8508 7082
khoonming.ho@kpmg.com

Vaughn Barber
Partner
Tel: +852 2826 7130
vaughn.barber@kpmg.com

Charles Kinsley
Principal
Tel: +852 2826 8070
charles.kinsley@kpmg.com

Jennifer Wong
Partner
Tel: +852 2978 8288
jennifer.wong@kpmg.com

Ayesha M. Lau
Partner in Charge, Tax – Hong Kong SAR
Tel: +852 2826 7165
ayesha.lau@kpmg.com

Darren Bowdern
Partner
Tel: +852 2826 7166
darren.bowdern@kpmg.com

Curtis Ng
Partner
Tel: +852 2143 8709
curtis.ng@kpmg.com

Garry Laird
Senior Tax Advisor
Tel: +852 2143 8795
garry.laird@kpmg.com

Chris Abbiss
Partner
Tel: +852 2826 7226
chris.abbiss@kpmg.com

Nigel Hobler
Partner
Tel: +852 2143 8784
nigel.hobler@kpmg.com

John Timpany
Partner
Tel: +852 2143 8790
john.timpany@kpmg.com

kpmg.com/cn