

Issued on: 2 May 2018

**The Government's Proposal to Amend the Inland Revenue Ordinance (Cap.112)
To Remove Ring-Fencing Features from the Tax Regime for Funds**

This is in response to the letter from the Financial Services and the Treasury Bureau dated [4] April 2018 relating to certain proposals to remove ring-fencing features from the tax regime for funds.

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The present proposal has the aim of removing ring-fencing features from the fund tax regime, such that a “fund”, not just offshore funds as the existing regime would restrict, may enjoy profits tax exemption if certain qualifying conditions are met.

Under the proposals, a fund will only be assessed profits tax in respect of profits arising in or derived from (a) a trade or a business carried on in Hong Kong in relation to “non-eligible assets”, (b) utilization of “non-eligible assets”, and (c) investment in private companies (whether local or overseas) that do not meet prescribed requirements as to asset type and holding period. And tax exempted profits of a fund are not to be tainted even if profits tax has to be paid per the above.

We believe a fund of any size should be eligible for seeking profits tax exemption, but are open to views and concerns that practitioners in the fund industry may have.

We agree there should be an express provision to ensure that performance fees and carried interest received by investment managers of a fund as consideration or remuneration for providing investment services will be chargeable to profits tax.

We agree with the aim and scope of the present proposals. We trust that the FSTB will take in practitioners' and stakeholders' views to ensure that the eventual amendments are practical and not unnecessarily restrictive.

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