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Tax certainty enhancement scheme for onshore gains on disposal of equity interests (proposed)

- **Safe harbour –** Onshore gains on disposal of equity interests would be regarded as capital in nature and non-taxable, if certain conditions are met.
- **No adverse impact for non-election –** The current "badges of trade" approach would apply if no election is made.

Tax certainty enhancement scheme | Onshore gains on disposal of equity interests | "Badges of trade" approach

Basic conditions

An investor entity must have

i. held at least **15%** of the total equity interest in the investee entity

ii. for a continuous period of at least **24 months** immediately prior to the date of disposal of such interest.

Broad coverage

- Applicable to disposal gains on equity interests, including ordinary shares, preference shares, partnership interest etc.
- Eligible to an investor entity, including partnership and trust

Flexible arrangements

- **Group basis** in determining the 15% holding threshold
- **Disposal in tranches** will be allowed, subject to a 24-month restriction

Exclusions

This regime is not applicable to:

- Investor entities engaging in **insurance business**
- Equity interests previously regarded as **trading stock** for tax purpose
- Investee entities engaging in **property-related businesses** (i.e., property trading, property holding and property development)

Simple administrative procedures

By **election** in annual tax return

Disposal losses

Not affected i.e. continue to use "badges of trade" approach

Effective date (target)

1 January 2024

Service Offerings

- Review proposed disposal transactions
- Assess applicability of the tax certainty enhancement scheme
- Recommend ways to improve the eligibility for the tax certainty enhancement scheme
- Assist to elect for the regime

Key contacts

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