

# China Tax Update

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# Mr. Rich has some tax questions...

Dear Attorney,

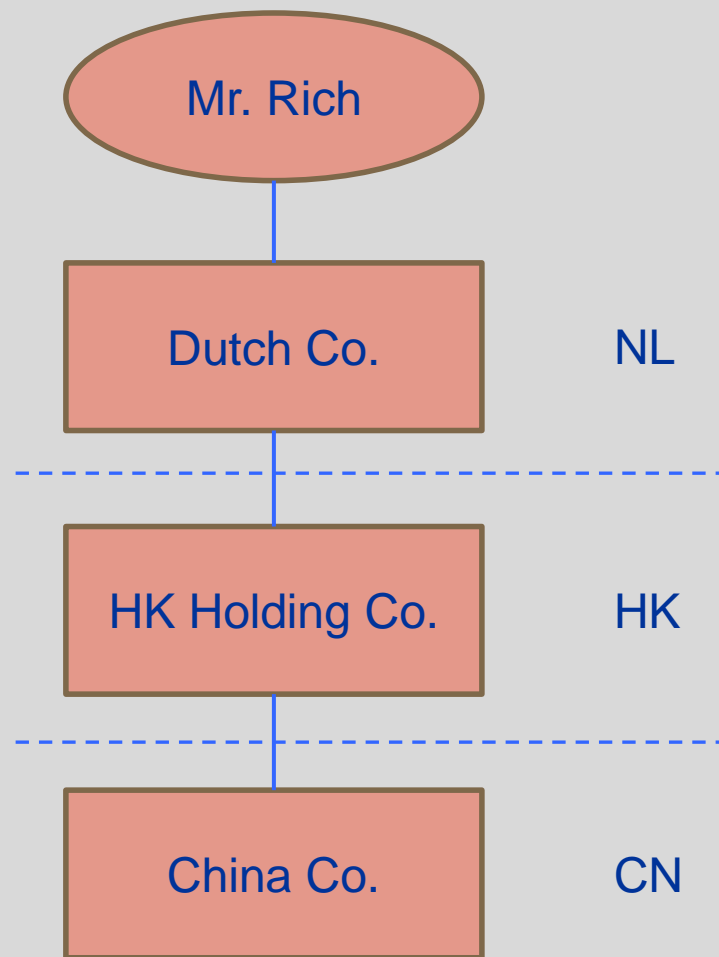
I own a Dutch company which plans on expanding into China. Will a HK holding company help saving taxes?

Also, I hear there are issues with getting money out of China. How can I get my money out in the most efficient way?

Are there other advantages for me to have a HK holding company? What if I want to attract investors or sell my business?

Yours sincerely,  
Mr. Rich

# Intended Structure



# In Response to Mr. Rich's questions...

1. What are the benefits of having a HK holding company
2. Getting outbound dividends – tax consequences and updates
3. Exit by share transfer – tax consequences and updates
4. China CRS update

# 1. Benefits of having a HK holding company

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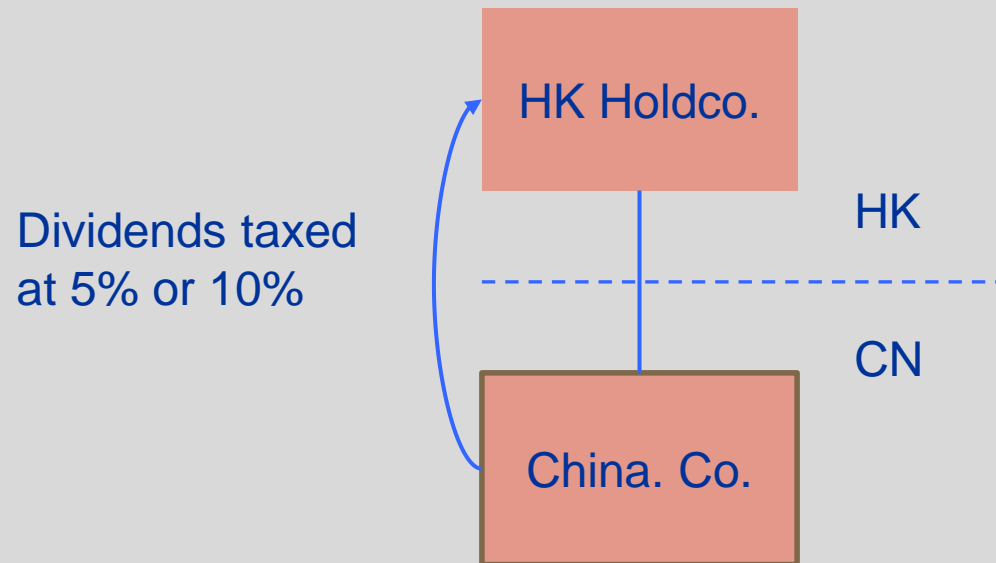
## 2. Getting outbound dividends

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Chinese tax consequences and updates

# Dividend withholding tax in China: Key elements

- ◆ Withholding tax on outbound dividends
- ◆ Tax rate: 10% or lower if a Double Taxation Treaty (“DTT”) is applicable
- ◆ Under Mainland-HK DTT: 5% or 10%
- ◆ Beneficial Owner Test

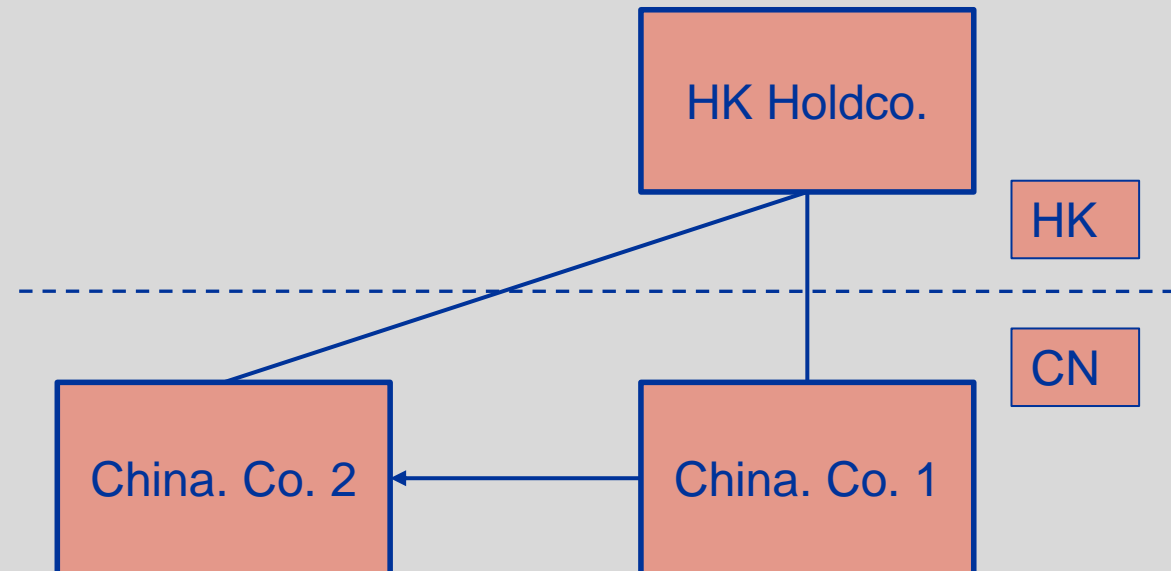




# Dividend withholding tax in China: Latest updates - tax deferral incentive

- ◆ On 28 December 2017: Caishui [2017] 88 (“Circular 88”) was issued to provide withholding tax deferral for profit reinvestments in China
- ◆ Application conditions

Direct Investment + Encouraged Foreign Investment Projects

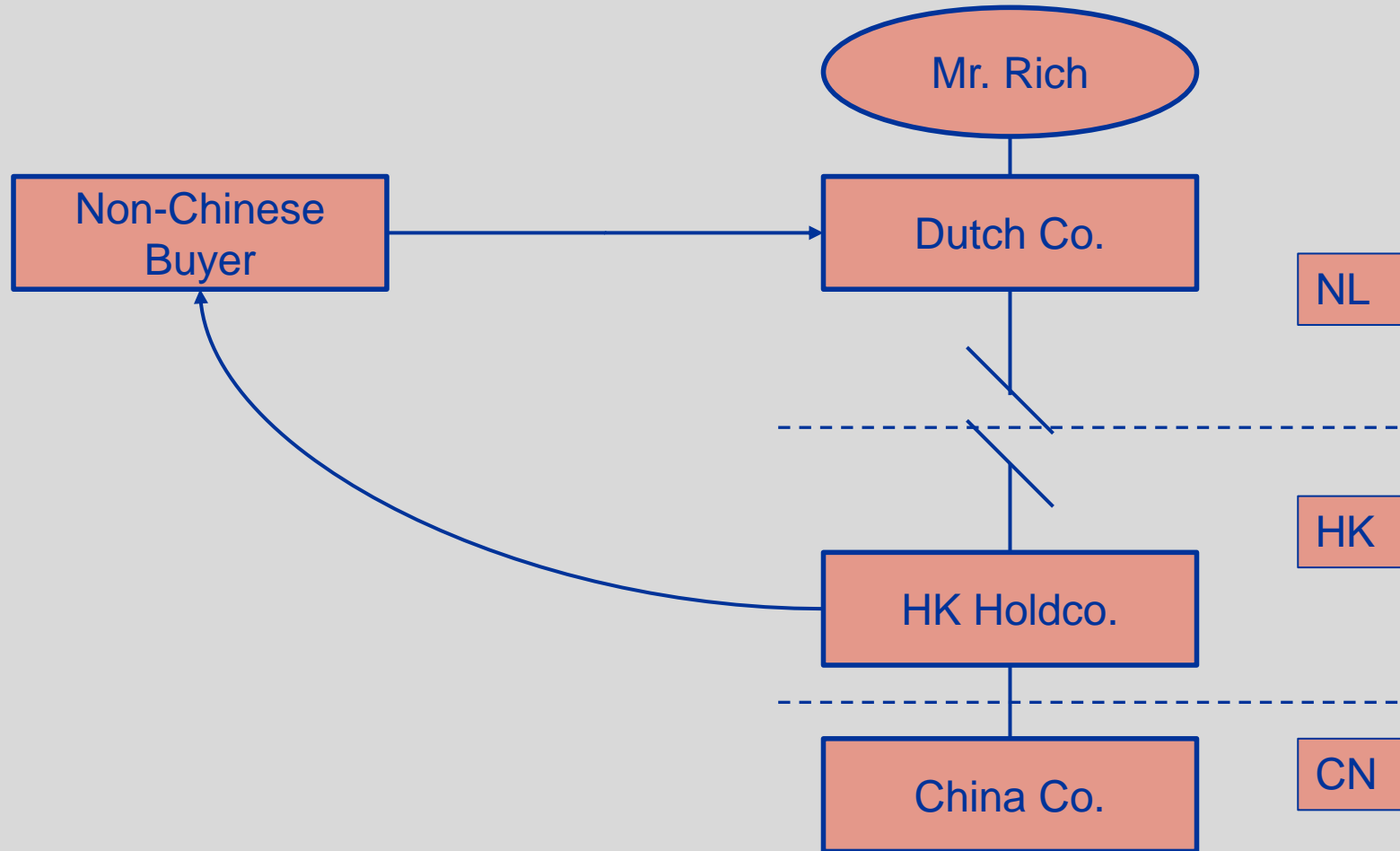


# 3. Exit by share transfer

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Chinese tax consequences and updates

# Selling the HK company: Why taxable in China?



# Transfer of China taxable assets: Reporting and tax withholding obligations

- ◆ Why taxable in China?
- ◆ Who is the tax payer?
- ◆ Who is the withholding agent?
- ◆ Who needs to report?
- ◆ Difficulties and ambiguities under the current regulation
- ◆ Regional disparities in China

# Transfer of China taxable assets: Latest updates

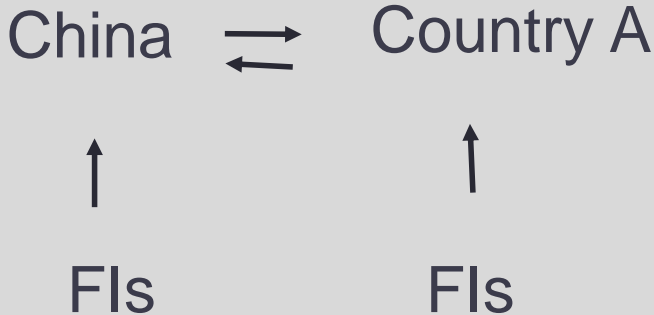
- ◆ 17 October 2017: SAT Announcement [2017] No. 37 (“Announcement 37”)
- ◆ Abolish the registration of the SPA
- ◆ Defer the withholding obligation until the investment cost is fully covered
- ◆ Reduced tax compliance burden for withholding agent

But... how will it work in reality remains uncertain

## 4. China CRS update

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# CRS in China - Facts

- ◆ Who is required to do the due diligence work? Financial Institutions
- ◆ Who will be reported? Non-resident individuals and enterprises other than Chinese tax residents
- ◆ What will be reported? Financial Assets
- ◆ How will the information exchange work?  


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- ◆ What actions should individuals take?

# CRS in China – How far it has gone?

- ◆ On 19 May 2017 – Launch of China CRS measures
- ◆ On 1 July 2017 – China CRS measures come into effect
- ◆ By 31 December 2017 – Complete due diligence for pre-existing high net worth (over USD 1 million) individual customers
  
- ◆ By 31 December 2018 – Complete due diligence for pre-existing low net worth individual customers
- ◆ Since September 2018 – First batch of information exchange begins between China and ...

YES: Luxembourg, Switzerland, New Zealand, Netherlands, Jersey

NO: USA, BVI, Cayman Islands



# Any Questions?

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