

Explanatory Note
on
Remuneration and Benefits for Legislative Council Members

Remuneration

Remuneration is paid to each Legislative Council ("LegCo") Member monthly through autopay on the following scale, subject to adjustment in October according to paragraph 14 below:

	Per month
President	\$193,220 (i.e. \$96,610 x 2)
President's Deputy cum House Committee Chairman	\$144,910 (i.e. \$96,610 x 1.5)
A Member who does not serve on the Executive Council	\$96,610
A Member who serves on the Executive Council	\$64,410 (i.e. \$96,610 x 2/3 approx.)

Medical Allowance

2. A Member is entitled to a medical allowance of \$33,650 each year to cover his/her medical expenses, which include actual medical and dental expenses, as well as premiums for personal medical and dental insurance cover.

3. Each year (i.e. from October to September next) a Member is provided with \$33,650 for reimbursement of medical expenses. Any unused balances can be carried forward for use until the end of a LegCo term.

4. For an insurance premium paid or an insurance policy started before a Member takes office, the premium covering any period of tenure of the Member may be reimbursed on a time-apportionment basis, out of the medical allowance provided for the first reimbursement year after taking office.

5. As the allowance is for a serving Member, medical insurance premiums in respect of any period after the end of the LegCo term have to be borne by the Member concerned, unless he/she is re-elected, in which case the unreimbursed amounts can be claimed in the ensuing LegCo term.

6. **Form M**, in **Annex I**, should be used for claiming the medical allowance within three months after payment.

7. All claim forms and supporting documents relating to the medical allowance are retained by the Secretariat for audit purposes. They are not open for public inspection. However, the general public can find the monthly total reimbursement made to all Members at the library of the Secretariat. For claiming medical allowance, receipts issued by doctors or dentists are acceptable supporting documents. Only a general description of the nature of the charges, such as consultation and medication, is required to be indicated in the supporting documents. If personal identifiers and data (such as Hong Kong identity card numbers, credit card numbers or home addresses) and private information (such as diagnoses) appear on such supporting documents, Members may black them out before submission of the claim.

8. Members are invited to provide all their bills on medical expenses to the Accounts Office for verification, even if the amounts incurred have exceeded the reimbursement ceiling. Although the unreimbursed medical expenses cannot be used for tax deduction purpose, the information may enable the Administration to more accurately assess the appropriate level of medical allowance to be provided to Members.

9. To facilitate the collection of such information without affecting the normal processing of medical expenses to be reimbursed, Members are requested to indicate in the attached **Form M2** in **Annex II** their excess medical expenses and submit it together with the supporting invoices and receipts to the Accounts Office. These invoices and receipts should be certified by the Members concerned and marked as "not claimed". All forms and supporting documents provided will be kept by the Accounts Office.

End-of-service Gratuity

10. An end-of-term gratuity equivalent to 15% of the remuneration that a Member receives during the LegCo term will be payable to the Member upon the end of that term, provided he/she completes his/her term of office.

11. A Member is not entitled to receive the gratuity if he/she is declared by the LegCo President to be no longer qualified for office under Article 79 of the Basic Law^(Note 1), except as otherwise provided in paragraph 12 below.

12. Notwithstanding paragraphs 10 and 11 above, under the following circumstances, a gratuity shall be paid to a Member who does not serve out a whole LegCo term:

- (a) upon a Member's death, the gratuity should also be payable (to the administrator of the Member's estate);
- (b) when a Member loses the ability to discharge his/her duties as a result of serious illness or other reasons (Article 79(1) of the Basic Law);
- (c) when a Member accepts a government appointment and becomes a public servant (Article 79(4) of the Basic Law);
- (d) when a Member's membership ceases consequent on the dissolution of LegCo under Article 50 of the Basic Law^(Note 2); and

^(Note 1) Article 79 of the Basic Law stipulates the following circumstances under which the LegCo President shall declare that a Member is no longer qualified for LegCo office –

"(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;

(2) When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;

(3) When he or she loses or renounces his or her status as a permanent resident of the [Special Administrative] Region;

(4) When he or she accepts a government appointment and becomes a public servant;

(5) When he or she is bankrupt or fails to comply with a court order to repay debts;

(6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the [Special Administrative] Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and

(7) When he or she is censured for misbehavior or breach of oath by a vote of two-thirds of the members of the Legislative Council present."

^(Note 2) Under Article 50 of the Basic Law, the Chief Executive may dissolve LegCo if he refuses to sign a bill passed the second time by LegCo, or LegCo refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations.

- (e) when the LegCo President is satisfied, if necessary after consulting a body comprising LegCo Members, that a Member resigns as a result of serious illness or any other valid reasons, the LegCo President should have the discretion to have the gratuity paid to the Member.

13. Under the circumstances stated in paragraph 12 above, the amount of gratuity payable shall be determined on a pro-rata basis for the time the Member has served.

Adjustments for Inflation

14. Members' remuneration and medical allowance are subject to annual adjustment in October, according to the movement of Consumer Price Index (C).

Unreimbursed Operating Expenses

Tax Deduction

15. A Member is provided with reimbursements to cover expenses arising out of his/her LegCo duties, details of which are set out in "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council" ("Reimbursement Guide"). Unreimbursed expenses (such as expenses over the reimbursement ceilings concerned; and expenses which have passed the normal reimbursement period and unclaimed by the Member) the nature of which falls within the scope of the Reimbursement Guide can be accepted for tax deduction, provided that they are substantiated and have not been reimbursed and will not be reimbursed by the LegCo Secretariat or others.

16. The total amount of unreimbursed expenses that can be used for tax deduction should not exceed the remuneration earned by the Member in his/her capacity as a LegCo Member.

17. Tax Return—Individuals (form B.I.R. 60) is normally issued by the Inland Revenue Department (IRD) in early May of each year to cover the basis period of the preceding year. (For example, IRD will issue Tax Return for the year of assessment 2017/18 in early May 2018 for the basis period from 1 April 2017 to 31 March 2018.) The total amount of expenses which a Member wishes to claim for tax deduction should be entered in the part for "outgoings and expenses" (in part 4.3(1) in the form for the year of assessment 2016/17) in his/her Tax Return.

Not Verified by LegCo Secretariat

18. At the time when the Tax Return is filed, the relevant documentary evidence or receipts are not required to be submitted. These receipts and/or documentary evidence must be retained for seven years after the date of the transaction to which they relate. IRD will ask for submission of these original receipts or documentary evidence at a later date if the claim is selected for audit and review.

Verified by LegCo Secretariat

19. Alternatively, IRD is prepared to accept a certificate from the LegCo Secretariat on a Member's unreimbursed operating expenses as evidence to support the expenses deduction claim if the Member concerned has already submitted his/her unreimbursed operating expenses for the verification of the Secretariat.

20. In relation to paragraph 19 above, a Member should present the relevant receipts and documentary evidence together with **Form A2**, in **Annex III**, to the Secretariat. After verification, a certificate on the substantiated amount not reimbursed will be issued to the Member. The documents submitted will be retained by the Secretariat. A sample of the certificate, which should be submitted to IRD when making the tax deduction claim, is in **Annex IV**.

Time-limit for Claiming Tax Deduction

21. Under section 70A of the Inland Revenue Ordinance, if a taxpayer considers that the tax charged for a particular year of assessment to be excessive by reason of error or omission in any Tax Return or statement submitted, he/she may make an application within six years after the end of that year of assessment to IRD and provide evidence to substantiate his/her application. The form in **Annex V** should be used for applying to IRD for a revision to a previous assessment.

Summary

22. "Summary of the Remuneration Package and Tax Arrangements for Legislative Council Members" is in **Annex VI**.

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Legislative Council Secretariat
October 2017

CLAIM FOR MEDICAL ALLOWANCE
BY MEMBERS OF LEGISLATIVE COUNCIL

To : Secretary General
Legislative Council Secretariat
(Attn : Accounts Office)

I, _____, Member of the Legislative Council (LegCo),
certify that the following are my personal medical expenses paid in
_____201____^{3(Note 1)}
(month)

HK\$

Medical (including dental) expenses
Premiums on medical (including dental) insurance cover	_____
Supporting documents and certified expenses amounted to	=====

The above are supported by invoices, receipts or other documentary evidence^(Note 2) duly certified by me.

Signature of Member

Date

^(Note 1) For an insurance premium paid or an insurance policy started before a Member takes office, the premium covering any period of tenure of the Member may be reimbursed on a time-apportionment basis, out of the medical allowance provided for the first reimbursement year after taking office. Insurance premiums in respect of any period after the end of the current LegCo term have to be borne by the Member concerned, unless he/she is re-elected, in which case the unreimbursed amounts can be claimed in the ensuing LegCo term.

^(Note 2) Only a general description of the nature of the charges, such as consultation and medication, is required to be indicated in the supporting documents. Members may black out personal identifiers and data (such as Hong Kong identity card numbers, credit card numbers or home addresses), as well as private information (such as diagnoses), before the supporting documents are presented to the Secretariat.

MEDICAL ALLOWANCE
NOT REIMBURSED TO MEMBERS OF THE LEGISLATIVE COUNCIL ^(Note 1)

To : Secretary General
 Legislative Council Secretariat
 (Attn : Accounts Office)

I, _____, Member of the Legislative Council ("LegCo"),
 certify that the following personal medical expenses, which were unreimbursed by
 LegCo Secretariat or any other party, were paid by me in _____ 201____. ^(Note 2)

(month)

HK\$

Medical (including dental) expenses
Premiums on medical (including dental) insurance cover	_____
Supporting documents and certified unreimbursed expenses amounted to	=====

The above are supported by invoices, receipts or other documentary evidence ^(Note 3) duly
 certified by me.

 Signature of Member

 Date

^(Note 1) Unreimbursed medical expenses or medical insurance premium will not be accepted for tax deduction purpose. The information on this form is used for analysis only.

^(Note 2) The insured period of the insurance premium should only be within the period of Member's LegCo term of office.

^(Note 3) Only a general description of the nature of the charges, such as consultation and medication, is required to be indicated in the supporting documents. Members may black out personal identifiers and data (such as Hong Kong identity card number, credit card number or home address), as well as private information (such as diagnoses), before the supporting documents are submitted to the Secretariat.

OFFICE OPERATION EXPENSES/ENTERTAINMENT AND TRAVELLING EXPENSES
NOT REIMBURSED TO MEMBERS OF THE LEGISLATIVE COUNCIL

SECTION I - CERTIFICATION

To : Secretary General
Legislative Council Secretariat,
(Attn : Accounts Office)

I, _____, Member of the Legislative Council, certify that the following unreimbursed expenses, which arose out of my LegCo duties, were paid by me in _____ 201____.
(month)

<u>Section</u>	<u>HK\$</u>
II Staff expenses	_____
III Equipment and furniture	_____
IV Office accommodation expenses	_____
V Other operating expenses	_____
Office operation expenses	_____ (A)
VI Entertainment and travelling expenses	_____ (B)
Supporting documents and certified expenses amounted to	_____ (A)+(B)
	=====

I also confirm that the above expenses comply in all respects with the Reimbursement Guide and do not in any way overlap with those expenses reimbursed from the Legislative Council Secretariat or elsewhere.

Signature of Member

Date

SECTION II - STAFF EXPENSES

	Name of staff	Payment				Total	For Secretariat use
		Salary	Medical benefit	Gratuity/ double pay (not paid from funds set aside)	Others		
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
	Sub-total						
	Mandatory Provident Fund contributions						
	Employees' compensation/medical insurance premiums						
	Other staff expenses (please specify)						
	Recruitment expenses						
					Total		(Note 1)
						\$	

(Note 1) Supporting documents (original invoices and receipts or other evidence of payment) should be enclosed. Personal identifiers and data (such as Hong Kong identity card numbers, telephone numbers or home addresses) not intended to be available for public inspection should be blocked out before the supporting documents are presented to the Secretariat; information which is not essential for verification of the nature of an expense or for tracing the source of an expense (such as age, date of birth, medical diagnoses, bank account numbers, credit card numbers and credit limits) may also be blocked out before such claims are submitted.

SECTION III - EQUIPMENT AND FURNITURE						
Item description	Quantity	Unit price (\$3,000 or above)	Total	Location (Office)	<i>For Secretariat use</i>	
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
Total			\$	<i>(Note 1)</i>		

SECTION IV - OFFICE ACCOMMODATION EXPENSES					
	Office 1	Office 2	Office 3	Office 4	<i>For Secretariat use</i>
Address(es) of Office(s)					
Rental (per month)					
Management fee (per month)					
Rates/Government rent (per quarter/per month*)					
Utility charges (i.e. water, electricity and gas)					
Others (please specify)					
Sub-total <i>(Note 1)</i>	\$	\$	\$	\$	Total \$

* please delete where inappropriate

(Sample)

(Date)

Hon ABC
(Address)

Dear Hon A

**Certificate on operating expenses substantiated
but not reimbursed under the reimbursement system for
Legislative Council Members**

This is to certify that, based on the documentary evidence and certification provided, the following amounts of your operating expenses, the nature of which fell within the scope of reimbursement specified in "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council", have not been reimbursed by the Legislative Council Secretariat:

Payment Month	Office Operation Expenses	Year of Assessment
July 201M	\$xxx.xx	201M/201N
August 201M	\$y,yyy.yy	
September 201M	\$zz,zzz.zz	

Yours sincerely

(Roxanna LO)
for Secretary General

To: **Commissioner of Inland Revenue** [P.O.Box 28777, Gloucester Road Post Office, Hong Kong.
Fax No.: 2519 3796]

File No.: _____ Date: _____

Year(s) of Assessment: _____ Day-time Contact Tel. No.: _____

Postal Address: _____

Salaries Tax

Claim for Expenses Deduction against Remuneration for Member of Legislative Council

I hereby apply for revision of the salaries tax assessment(s) on the ground that I have incurred the following amount(s) of operating expenses reimbursable under the Operating Expenses Reimbursement System but have not been so reimbursed and that these expenses should be deductible under salaries tax as they were incurred wholly, exclusively and necessarily in discharging my duties as Legislative Council Member:

Year(s) of Assessment	Amount (HK\$)

- Enclosed is the certificate issued from the Legislative Council Secretariat on my un-reimbursed operating expenses reimbursable under the Operating Expenses Reimbursement System.
- I declare that the above reimbursable operating expenses have not been or will not be reimbursed/offset under the Operating Expenses Reimbursement System or by others.

Name of Applicant : _____ Signature : _____

Please tick as appropriate.

**Summary of the Remuneration Package and Tax Arrangements
for Legislative Council Members**

Remuneration package/ Unreimbursed operating expenses	Amount	Frequency and procedures	Taxable/Tax deductible
(1) <u>Remuneration</u> President President's Deputy cum House Committee Chairman A Member who does not serve on the Executive Council A Member who serves on the Executive Council	<u>Per month</u> \$193,220 \$144,910 \$96,610 \$64,410 i.e. 2/3 of \$96,610	monthly by autopay before month-end	taxable
(2) <u>Medical Allowance</u> Each Member	<u>Per year</u> <u>(1 Oct – 30 Sept)</u> \$33,650 (Any unused balances in a year can be carried forward for use until the end of the LegCo term)	direct credit to bank accounts after submission of Form M by individual Members and verification by Accounts Office	taxable
(3) <u>End-of-service gratuity</u> Each Member	<u>Per term</u> 15% of the remuneration received	by autopay at term-end	taxable
(4) <u>Unreimbursed operating expenses</u> Each Member	no limit	claim as deductible expenses when filing the annual Tax Return (form B.I.R. 60); enclose certificate (see Annex IV) issued by the Secretariat if available	expenses deductible limited to the amount of remuneration received

Remarks: Operating expenses reimbursements received according to "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council" are not taxable.