

## **Bills Committee on Inland Revenue (Amendment) Bill 2000**

### **Draft CSAs for savings provisions and self-education expenses deduction**

#### **Purpose**

This paper presents the Administration's proposed Committee Stage Amendments (CSAs) on Clause 8 and Clause 4 of the Inland Revenue (Amendment) Bill 2000 to accommodate the Bills Committee's requests in relation to self-education expenses (Clause 4) as well as the applicability of Clause 4 and Clause 8.

#### **Clause 2 - Application**

2. In response to the Legislative Council's Assistant Legal Adviser, the Administration has indicated (LegCo Paper No. CB(1)500/03-04(2)) that her suggestion for inclusion of saving provisions in respect of deduction of home loan interest and deduction of self-education expenses under Clause 8 and Clause 4 respectively was feasible. We have now prepared the CSAs on such savings provisions, which are at *Annex A*.

#### **Clause 4 – Adjustments to assessable income**

3. We informed this Committee (LegCo Paper No. CB(1)1064/03-04 (01)) that we were in the process of consulting the relevant bureaux and departments before determining the merits of and the best way to provide the relaxation in the coverage of the self-education expenses deduction to cover courses recognised (in addition to being provided) by professional associations, as Members requested.

4. As we suggested in the above-mentioned paper, while there are 22 ordinances that deal with recognition of professional qualifications, the registration authorities under these 22 ordinances may not necessarily be the professional associations that have a role in setting the standard of qualification in the profession and may not be the professional bodies Members have in mind in the provision/recognition of courses in the professions. For example, while the Law Society of Hong Kong is a

professional association that would provide/recognise courses leading to the qualification of a solicitor, it is not the authority for registering members to the profession. Nor is the Law Society of Hong Kong a statutory organisation<sup>1</sup>. On the other hand, there are registration authorities, such as the Hong Kong Society of Accountants, that would provide and recognise courses.

5. After careful consideration, in order to ensure that all registration authorities as well as major professional associations that have a role in setting standards of qualification and may accredit/recognise professional courses are covered, we propose to pursue a set of CSAs which would have the effect of extending the scope of the self-education expenses deduction to cover fees paid in respect of courses accredited or recognised by- (a) 35 institutions that have a role in the registration and recognition of professional or occupational qualifications or status, or the granting of permits or licences for practising in the professions, trades or occupations under 22 ordinances and (b) institutions, namely the Vocational Training Council and the Construction Industry Training Authority, which are statutory organisations established to, amongst other things, establish standards of skill to be achieved and award certificates of competence in any particular trade or in work involving/in connection with the construction industry. The institutions in group (a) can be further categorised into the following two types:

- (i) statutory organisations set up under the relevant ordinance with the statutory power to handle the registration and recognition of professional or occupational qualifications or status, or the granting of permits or licences [e.g. the Hong Kong Society of Accountants, the Council of which is empowered by section 26(1) of the Professional Accountants Ordinance (Cap. 50) to order an approval or a rejection of an application for registration in the register of professional accountants]; and
- (ii) institutions not set up under but named in the ordinances as having a role in the registration, etc, [e.g. compliance with the requirements prescribed by the Council of the Law Society of Hong Kong with respect to employment as a trainee solicitor, the

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<sup>1</sup> According to their web-site, the Society was incorporated in 1907 as a company limited by guarantee.

passing of examinations and the completion of courses being a criterion for admission as a solicitor, section 4(1)(a) of Legal Practitioners Ordinance (Cap 159)].

The relevant institutions and the respective ordinances will be set out in a new schedule (Schedule 13)<sup>2</sup>. To facilitate updating of the list, we propose that the Secretary for Financial Services and the Treasury be empowered to amend the schedule by order in the form of subsidiary legislation.

6. The draft CSAs in the form of mark-up to the Bill are at ----- *Annex B*. Since this proposed extension was not foreseen when the Inland Revenue (Amendment) Bill 2000 was introduced, we propose that the new arrangements should take effect as from the year of assessment 2004/05, if the legislation is enacted this year.

Financial Services and the Treasury Bureau  
April 2004

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<sup>2</sup> For item 1 of Schedule 13, the Legal Practitioners (Amendment) Ordinance 1998 (Ordinance 27 of 1998) (the Amendment Ordinance), which provides the legal basis for appointing as notaries public persons who have among other things complied with the relevant requirements prescribed by the Council of the Society of Notaries, has not yet come into effect. It is therefore proposed that item 1 come into effect on the date of commencement of operation of the Amendment Ordinance.

**70AA. Revision of assessment due to commencement of section 4 or 8 of Inland Revenue (Amendment) Ordinance 2004 ( of 2004)**

(1) Notwithstanding any other provisions of this Ordinance, if, upon application made within 12 months after the date of commencement of section 4 or 8 of the Inland Revenue (Amendment) Ordinance 2004 ( of 2004), or within 6 years after the end of a year of assessment that expires before that date, whichever is the later, it is established to the satisfaction of an assessor that the tax charged for the year of assessment in relation to which the application is made is excessive solely by reason of the commencement of that section, the assessor shall revise the relative assessment for that year.

(2) Where an assessor refuses to revise an assessment in accordance with an application under this section, he shall give notice thereof in writing to the person who made such application and such person shall thereupon have the same rights of objection and appeal under this Part as if such notice of refusal were a notice of assessment.

## Draft CSA on self-education expenses allowance

### 2. Application

(1) ~~Subject to subsection (4),~~ Section 4 applies in relation to the year of assessment 2000/01 and to all subsequent years of assessment.

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(4) Subject to subsection (5), sections 4 (in respect of section 12(6)(c)(iii) and (f) of the Inland Revenue Ordinance (Cap. 112)) and 20A apply in relation to the year of assessment 2004/05 and to all subsequent years of assessment.

(5) Section 20A (in respect of item 1 in Schedule 13 to the Inland Revenue Ordinance (Cap. 112)) applies in relation to the year of assessment in which section 5(1)(e) of the Legal Practitioners (Amendment) Ordinance (27 of 1998) comes into operation and to all subsequent years of assessment.

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### 4. Adjustments to assessable income

Section 12(6) is amended by repealing paragraphs (b), (c) and (d) and substituting –

- “(b) “expenses of self-education” (個人進修開支) means expenses paid by the taxpayer as –
- (i) fees, including tuition and examination fees, in connection with a prescribed course of education undertaken by the taxpayer; or
  - (ii) fees in respect of an examination set by an education provider or a trade, professional or business association and undertaken by the taxpayer to gain or maintain qualifications for use in any employment,
- but does not include –
- (A) expenses for which a deduction is allowable or has been allowed to the taxpayer in any year of assessment under any other provision of this Ordinance; or
  - (B) expenses to the extent to which they have been reimbursed or are reimbursable to the taxpayer by his employer or any other person unless the reimbursement has been or will be included in the assessable income of the taxpayer;
- (c) “prescribed course of education” (訂明教育課程) means a course under taken to gain or maintain qualifications for use in any employment and being –
- (i) a course of education provided by an education provider;~~or;~~
  - (ii) a training or development course provided by a trade, professional or business association; or
  - (iii) a training or development course accredited or recognized by an institution specified in Schedule 13;
- (d) “education provider” ( ) means –
- (i) a university, university college or technical college;

- (ii) a place of education to which the Education Ordinance (Cap. 279) does not apply by virtue of section 2 of that Ordinance;
- (iii) a school registered under section 13(a) of the Education Ordinance (Cap. 279);
- (iv) a school exempted from registration under section 9(1) of the Education Ordinance (Cap. 279);
- (v) an institution approved by the Commissioner for the purposes of section 16C; or
- (vi) an institution approved by the Commissioner under paragraph (e);
- (e) the Commissioner may in writing approve an institution as an education provider and the approval may operate from a date, whether before or after the date of approval, specified in the instrument of approval and may be withdrawn at any time;
- (f) the Secretary for Financial Services and the Treasury may by order amend Schedule 13.

**“20A. Schedule added**

The following is added –

“Schedule 13

[s. 12(6)(c)(iii) & (f)]

INSTITUTIONS THAT MAY ACCREDIT OR RECOGNIZE TRAINING OR DEVELOPMENT COURSES FOR THE PURPOSE OF SECTION 12(6)(c)(iii)

| <b><u>Item</u></b> | <b><u>Institution</u></b>   |
|--------------------|---|
| <u>1.</u>          | <u>Hong Kong Society of Notaries referred to in section 5(1)(e) of the Legal Practitioners (Amendment) Ordinance (27 of 1998)</u>                     |
| <u>2.</u>          | <u>The Architects Registration Board established under section 4 of the Architects Registration Ordinance (Cap. 408)</u>                              |
| <u>3.</u>          | <u>The Chinese Medicine Council of Hong Kong established under section 3 of the Chinese Medicine Ordinance (Cap. 549)</u>                             |
| <u>4.</u>          | <u>The Chiropractors Council established under section 3 of the Chiropractors Registration Ordinance (Cap. 428)</u>                                   |
| <u>5.</u>          | <u>The Construction Industry Training Authority established under section 4 of the Industry Training (Construction Industry) Ordinance (Cap. 317)</u> |
| <u>6.</u>          | <u>The Dental Council of Hong Kong established under section 4 of the Dentists Registration Ordinance (Cap. 156)</u>                                  |
| <u>7.</u>          | <u>The Engineers Registration Board established under section 3 of the Engineers Registration Ordinance (Cap. 409)</u>                                |

- [8. The Estate Agents Authority established under section 4 of the Estate Agents Ordinance \(Cap. 511\)](#)
- [9. The Hong Kong Academy of Medicine established under section 3 of the Hong Kong Academy of Medicine Ordinance \(Cap. 419\)](#)
- [10. The Hong Kong Bar Association referred to in section 2\(1\) of the Legal Practitioners Ordinance \(Cap. 159\)](#)
- [11. The Hong Kong Institute of Architects established under section 3 of the Hong Kong Institute of Architects Incorporation Ordinance \(Cap. 1147\)](#)
- [12. The Hong Kong Institution of Engineers established under section 3 of the Hong Kong Institution of Engineers Ordinance \(Cap. 1105\)](#)
- [13. The Hong Kong Institute of Housing established under section 3 of the Hong Kong Institute of Housing Ordinance \(Cap. 507\)](#)
- [14. The Hong Kong Institute of Landscape Architects established under section 3 of the Hong Kong Institute of Landscape Architects Incorporation Ordinance \(Cap. 1162\)](#)
- [15. The Hong Kong Institute of Planners established under section 3 of the Hong Kong Institute of Planners Incorporation Ordinance \(Cap. 1153\)](#)
- [16. The Hong Kong Institute of Surveyors established under section 3 of the Hong Kong Institute of Surveyors Ordinance \(Cap. 1148\)](#)
- [17. The Hong Kong Society of Accountants established under section 3 of the Professional Accountants Ordinance \(Cap. 50\)](#)
- [18. The Housing Managers Registration Board established under section 3 of the Housing Managers Registration Ordinance \(Cap. 550\)](#)
- [19. The Land Surveyors Registration Committee established under section 6 of the Land Survey Ordinance \(Cap. 473\)](#)
- [20. The Landscape Architects Registration Board established under section 3 of the Landscape Architects Registration Ordinance \(Cap. 516\)](#)
- [21. The Law Society of Hong Kong referred to in section 2\(1\) of the Legal Practitioners Ordinance \(Cap. 159\)](#)
- [22. The Medical Council of Hong Kong established under section 3 of the Medical Registration Ordinance \(Cap. 161\)](#)
- [23. The Medical Laboratory Technologist Board established under section 5 of the](#)

Supplementary Medical Professions Ordinance (Cap. 359)

24. The Midwives Council of Hong Kong established under section 3 of the Midwives Registration Ordinance (Cap. 162)
25. The Nursing Council of Hong Kong established under section 3 of the Nurses Registration Ordinance (Cap. 164)
26. The Occupational Therapist Board established under section 5 of the Supplementary Medical Professions Ordinance (Cap. 359)
27. The Optometrist Board established under section 5 of the Supplementary Medical Professions Ordinance (Cap. 359)
28. The Pharmacy and Poisons Board established under section 3 of the Pharmacy and Poisons Ordinance (Cap. 138)
29. The Physiotherapist Board established under section 5 of the Supplementary Medical Professions Ordinance (Cap. 359)
30. The Planners Registration Board established under section 3 of the Planners Registration Ordinance (Cap. 418)
31. The Radiographer Board established under section 5 of the Supplementary Medical Professions Ordinance (Cap. 359)
32. The Security and Guarding Services Industry Authority established under section 4 of the Security and Guarding Services Ordinance (Cap. 460)
33. The Social Workers Registration Board established under section 4 of the Social Workers Registration Ordinance (Cap. 505)
34. The Surveyors Registration Board established under section 3 of the Surveyors Registration Ordinance (Cap. 417)
35. The Travel Industry Council of Hong Kong referred to in section 32A(1) of the Travel Agents Ordinance (Cap. 218)
36. The Veterinary Surgeons Board established under section 3 of the Veterinary Surgeons Registration Ordinance (Cap. 529)
37. The Vocational Training Council established under section 4 of the Vocational Training Council Ordinance (Cap. 1130)