

立法會
Legislative Council

LC Paper No. CB(2)340/01-02

Ref : CB2/BC/1/01

**Report of the Bills Committee on
Inland Revenue (Amendment) Bill 2001**

Purpose

This paper reports on the deliberations of the Bills Committee on the Inland Revenue (Amendment) Bill 2001.

Background

2. In the 2001 Policy Address, the Chief Executive announced that the Government would propose to the Legislative Council to raise the tax-deduction ceiling for home loan interest to \$150,000 for the years of assessment 2001-02 and 2002-03. The proposal is intended to ease the financial burden of home owners during a period of economic difficulty.

3. The home loan interest deduction under salaries tax was introduced in the 1998-99 Budget to assist taxpayers who purchase their own homes. A maximum yearly deduction of \$100,000 was granted for each year of assessment in respect of interest paid on or after 1 April 1998. Any taxpayer is allowed to claim the deduction for a maximum of five years of assessment, whether continuous or not.

The Bill

4. The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) (the Ordinance) to give legal effect to the proposal outlined in paragraph 2 above.

5. In order to bring immediate benefits to taxpayers, the Bill also seeks to add a new ground for application for holdover of the whole or part of the payment of provisional salaries tax in relation to the year of assessment 2001-02 in the form of a transitional provision to the Ordinance.

The Bills Committee

6. At the House Committee meeting on 2 November 2001, Members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

7. Under the chairmanship of Hon James TIEN and the deputy chairmanship of Hon HUI Cheung-ching, the Bills Committee has held two meetings with the Administration.

Deliberations of the Bills Committee

8. The main deliberations of the Bills Committee are summarised below.

Need for early enactment of the Bill

9. In response to the Bills Committee's question about the urgency of the Bill, the Administration has explained that the reason that the Bill has to be enacted by mid-November 2001 at the latest as stated by the Secretary for the Treasury during the Second Reading of the Bill on 31 October 2001 is to enable qualified taxpayers to pay less tax in January 2002. Over 90% of the notices for payment of provisional salaries tax for the year of assessment 2001-02 have been issued and the earliest date by which the provisional salaries tax for the year of assessment 2001-02 is payable is 2 January 2002. For these taxpayers, the application for holding over must be made no later than 5 December 2001 (28 days before the day by which the tax is to be paid) or 14 days after the date of notice for payment, whichever is the later.

10. To allow time for Members to scrutinise the Bill, the Administration has agreed that it is acceptable to resume the Second Reading debate on the Bill at the Council meeting on 21 November 2001, as the Inland Revenue Department (IRD) will still be able to complete the necessary procedures as detailed in paragraphs 11 and 12 below within the shortened timeframe.

Application procedures

11. Members note that the application procedures are the same as the existing procedures for making application for the holding over of payment of provisional salaries tax on the following grounds as stipulated in section 63E of the Ordinance -

- (a) That the net chargeable income for the year of assessment is, or is likely to be, less than 90% of the net chargeable income for the year preceding the year of assessment or of the estimated sum in

respect of which such person is liable to pay provisional salaries tax (i.e. the 90% rule);

- (b) That the person assessed to provisional salaries tax has become entitled during the year of assessment to an allowance which was not taken into account in the ascertainment of his/her net chargeable income for the preceding year of assessment;
- (c) That the person has ceased or will before the end of the year of assessment cease to derive income chargeable to salaries tax; and
- (d) That the person has objected to his/her assessment to salaries tax for the year preceding the year of assessment.

12. With the proposed transitional provision, any taxpayer who wishes to claim home loan interest deduction in excess of the current maximum level of \$100,000 can apply for holdover of his/her provisional salaries tax, irrespective of the 90% rule. The Administration proposes that this additional ground for holdover will only be applicable to the 2001-02 provisional salaries tax even though the proposed \$150,000 tax-deduction ceiling is valid for both the 2001-02 and 2002-03 years of assessment. This is because the 2002-03 provisional salaries tax will be charged on the basis of a taxpayer's net chargeable income for the previous year, which thus takes into account the new ceiling of \$150,000 for 2001-02 year of assessment upon the enactment of the Bill. Eligible taxpayers who wish to apply for holdover of 2002-03 provisional salaries tax will have their claims governed by the 90% rule.

13. Members are concerned that some eligible taxpayers may not be able to meet the deadlines for lodging their application for holding over their 2001-02 provisional salaries tax. The Administration has advised that the Bill empowers the Commissioner of Inland Revenue (the Commissioner) to extend the time of application either generally or in a particular case if he is satisfied that it is appropriate to do so. Upon enactment of the Bill, IRD will widely publicise the procedure and timeframe for application for holdover. IRD will also send out individual holdover application forms to as many affected taxpayers as possible within several days after the enactment of the Bill. This is to facilitate these taxpayers to lodge their application in writing to the Commissioner not later than 28 days before the day by which their 2001-02 provisional salaries tax is due or 14 days after the date of notice for payment, whichever is the later. The Administration has assured members that IRD will be able to vet and process all holdover applications and notify the taxpayers concerned of the revised amount of provisional tax payable before their tax is due in January 2002.

Ceiling of \$150,000 and the estimated loss of revenue

14. Members note that over 110 000 taxpayers who are paying or will be paying an amount of home loan interest in excess of the current tax-deduction ceiling for home loan interest will benefit from the new ceiling of \$150,000. The maximum tax saving for a taxpayer will be \$8,500 per year, or \$17,000 for two years. Upon the implementation of this concession proposal, the Government's revenue from salaries tax will decrease by \$1 billion.

Proposal to further increase the tax deduction ceiling for home loan interest

15. Hon Albert HO has indicated that he will consider moving a Committee Stage amendment (CSA) to clause 3 of the Bill to increase the maximum amount of home loan interest deduction from \$150,000 to \$180,000 for the years of assessment 2001-02 and 2002-03.

16. The Administration considers that the present proposal to increase the tax-deduction ceiling for home loan interest from \$100,000 to \$150,000 per year for the current and next years of assessment should provide immediate relief to home owners. Under the Administration's proposal, some 76 000 taxpayers with an annual income below \$600,000 will enjoy additional home loan interest deduction and reduction in salaries tax payable with a cost to Government revenue in the amount of \$280 million per annum. Another 37 000 taxpayers with an annual income over \$600,000 will enjoy reduction in salaries tax payable costing a reduction of revenue in the amount of \$240 million per annum. Under Hon Albert HO's proposal, the further enhanced deduction will cost the Government revenue an additional \$90 million per annum for the 76 000 taxpayers in the first category, and an additional \$120 million per annum for the 37 000 taxpayers in the second category. The Administration is not in favour of the further increase proposal as it is skewed towards the higher-income taxpayers in society.

Proposal to extend the proposed increase in home loan interest deduction to beyond years of assessment 2001-01 and 2002-03

17. In view of the likelihood that the present economic downturn would drag on for an extended period of time, Hon CHAN Yuen-han has asked the Administration to explain the rationale for limiting the proposed enhanced ceiling for home loan interest deduction to two years of assessment and to consider extending the proposed enhanced ceiling to beyond 2002-03.

18. The Administration has explained that it has formulated the present proposal after taking into account various factors. It considers that a 50% increase in the maximum tax-deduction ceiling for a period of two years is appropriate in the present economic circumstances. The Administration's

proposal will, on the one hand, provide timely and the most needed relief for home owners during a period of economic difficulty, and on the other hand, not add undue pressure to the Government's already very tight budget position. The Administration believes that its proposal has struck a good balance between providing relief and prudent fiscal considerations. The Administration notes members' concern about the need to review the concession in future in the light of prevailing economic circumstances and will carry out a review on possible continuation of the enhanced tax-deduction ceiling in preparing for the 2003-04 Budget.

Charging effect of members' proposals

19. Members note that the Administration considers that both proposals have charging effect as defined in Rule 57(6) of the Rules of Procedure of the Legislative Council since, if implemented, each proposal would result in a reduction of revenue from a lawfully established source at a future date.

Committee Stage amendment

20. The CSA proposed by Hon Albert HO is in **Appendix II**.

Consultation with the House Committee

21. The Bills Committee consulted the House Committee on 9 November 2001 and obtained its support for the Second Reading debate on the Bill to be resumed on 21 November 2001.

Council Business Division 2
Legislative Council Secretariat
16 November 2001

Bills Committee on Inland Revenue (Amendment) Bill 2001

Membership List

Chairman	Hon James TIEN Pei-chun, GBS, JP
Deputy Chairman	Hon HUI Cheung-ching, JP
Members	Dr Hon David CHU Yu-lin, JP Hon Albert HO Chun-yan Hon Eric LI Ka-cheung, JP Hon Margaret NG Hon CHAN Yuen-han, JP Hon CHAN Kam-lam Hon SIN Chung-kai Dr Hon YEUNG Sum Hon Emily LAU Wai-hing, JP Dr Hon TANG Siu-tong, JP Hon Audrey EU Yuet-mee, SC, JP
	(Total : 13 Members)
Clerk	Ms Doris CHAN
Legal Adviser	Ms Bernice WONG
Date	5 November 2001

Appendix II

INLAND REVENUE (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Honourable Albert Ho Chun-yan

Clause

Amendment Proposed

3 In the proposed item 2, by deleting "\$150,000" and substituting "\$180,000".