

(FIN CR 17/2201/01)

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) BILL 2001

INTRODUCTION

At the meeting of the Executive Council on 23 October 2001, the Council **ADVISED** and the Chief Executive **ORDERED**, that the Inland Revenue (Amendment) Bill 2001 at the Annex, should be introduced into the Legislative Council, to increase the maximum level of home loan interest deduction to \$150,000 for the years of assessment 2001/02 and 2002/03.

BACKGROUND AND ARGUMENT

2. In the 2001 Policy Address, the Chief Executive announced that to ease the burden of home owners, Government will 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.

3. A deduction for home loan interest paid by taxpayers on their home purchase loans was introduced in the 1998-99 Budget. The deduction aims to assist taxpayers who purchase their own homes. Any taxpayer is allowed to claim the deduction for a maximum of five years of assessment, whether continuous or not. 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. This tax-deduction ceiling of \$100,000 is specified in Schedule 3D to the Inland Revenue Ordinance. To give effect to the proposal to increase the deduction, we need to amend Schedule 3D.

4. To bring immediate benefits to taxpayers, we also propose to allow taxpayers to apply for holdover of the 2001/02 Provisional Salaries Tax, which is due in early 2002, on the ground of the increase in the maximum deduction for home loan interest. Under the existing law, taxpayers may apply for holdover of the whole or part of the Provisional Salaries Tax on four grounds. One of these four grounds is that if 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 (i.e. the “90% rule”), a taxpayer may apply for holdover of the Provisional Salaries Tax^{Note}. Taxpayers may lodge their application in writing to the Commissioner of Inland Revenue not later than 28 days before the day by which the Provisional Salaries Tax is due or 14 days after the date of the notice for payment, whichever is the later.

5. To cater for the situation where, having taken into account the increased tax-deduction ceiling of the home loan interest deduction, a taxpayer’s net chargeable income for the year of assessment 2001/02 is not less than 90% of the net chargeable income for the year of assessment 2000/01, or even if it is less than 90%, the reduction in the net chargeable income is partly offset by an increase in income in the year, we suggest to add a new ground for application for holdover of the whole or part of the Provisional Salaries Tax for that particular year of assessment only, in the form of a transitional provision to the Inland Revenue Ordinance, to the effect that in addition to the “90% rule”, taxpayers who will benefit from the new tax-deduction ceiling (i.e. those who pay or are likely to pay home loan interest in excess of the current maximum level of deduction) insofar as the tax liability for the year of assessment 2001/02 is concerned, may apply for holdover of the whole or part of the Provisional Salaries Tax for that year of assessment. The maximum amount of holdover allowed by the Commissioner under this provision will be no greater than that part of the Provisional Salaries Tax which is shown to be affected by the new level of deduction.

6. With this transitional provision, taxpayers who wish to claim

^{Note} The other three grounds are 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 net chargeable income for the preceding year of assessment; that the person has ceased or will before the end of the year of assessment cease to derive income chargeable to Salaries Tax; and that the person has objected to his assessment to Salaries Tax for the year preceding the year of assessment.

home loan interest deduction in excess of the current maximum level can apply for holdover of their Provisional Salaries Tax, irrespective of the “90% rule”. We propose that this additional ground for holdover will only apply for 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 this amendment Ordinance. Hence, taxpayers need not apply for holdover of their 2002/03 Provisional Salaries Tax on the ground of the increased tax-deduction ceiling. Eligible taxpayers who wish to apply for holdover of 2002/03 Provisional Salaries Tax will have their claims governed by the “90% rule”.

7. Upon enactment of this amendment Ordinance, the Inland Revenue Department will widely publicise the procedure and timeframe for application for holdover. It will also send out individual holdover application forms to as many affected taxpayers as possible in accordance with the Department’s records.

THE BILL

8. **Clause 2** amends section 89 of the Inland Revenue Ordinance to provide that the transitional provisions of the proposed Schedule 12 shall apply to a person liable to pay Provisional Salaries Tax in respect of the year of assessment 2001/02. **Clause 3** amends Schedule 3D to increase the amount of home loan interest to \$150,000 in relation to the years of assessment 2001/02 and 2002/03.

9. **Clause 4** adds a new Schedule to the Inland Revenue Ordinance to provide for an additional ground in support of an application for holding over of payment of Provisional Salaries Tax in relation to the year of assessment 2001/02.

BASIC LAW IMPLICATIONS

10. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

11. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

12. The Bill will not affect the binding effect of the existing provisions of the Inland Revenue Ordinance and its subsidiary legislation.

ECONOMIC IMPLICATIONS

13. The proposal to raise the maximum amount of home loan interest deduction will alleviate home owners' financial burden in respect of tax payment. Such taxpayers will enjoy a maximum additional tax saving of \$8,500. The related proposal to introduce a transitional provision to allow affected taxpayers to apply for holdover of their 2001/02 Provisional Salaries Tax payment should be conducive to early achievement of this objective.

FINANCIAL AND STAFFING IMPLICATIONS

14. While there will not be any staffing implications, Inland Revenue Department will have to pay overtime allowance of about \$2 million to handle the additional work involved. The Department will have to vet and process a great number of holdover applications within a short period of time so that taxpayers may be notified of the revised amount of provisional tax payable before their tax is due in January 2002. Printing, stationery, and other incidental costs will be absorbed under the existing

provision.

LEGISLATIVE TIMETABLE

15. The legislative timetable is -

Publication in the Gazette	26 October 2001
First Reading and commencement of Second Reading debate	31 October 2001

PUBLICITY

16. We will issue a press release on 24 October 2001.

ENQUIRIES

17. In case of enquiries about this Brief, please contact Miss Erica Ng, Principal Assistant Secretary for the Treasury (Revenue), at 2810 2370.

Finance Bureau