

C049-E

A BILL To Amend the Inland Revenue Ordinance to give effect to the proposal in the 2001 Policy Address to increase the maximum amount of home loan interest deduction for the years of assessment 2001/02 and 2002/03, and to provide for transitional matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 2001.

2. Transitional provisions

Section 89 of the Inland Revenue Ordinance (Cap. 112) is amended by adding--

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"(4) The transitional provisions of Schedule 12 shall have effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2001/02."

3. Home loan interest deduction

Schedule 3D is amended by repealing item 1 and substituting---

"1. For the years of assessment 1998/99 to 2000/01

inclusive \$100,000

2. For the years of assessment 2001/02 and 2002/03 \$150,000

3. For the year of assessment 2003/04 and for each year after that year \$100,000".

4. Schedule added

The following is added---

"Schedule 12 [s. 89]

Transitional Provisions Relating to Provisional

Salaries Tax in respect of the Year

of Assessment 2001/02

1. In this Schedule---

"dwelling" (住宅), "place of residence" (居住地方) and "recognized organization or association" (認可組織或協會) have the respective meanings assigned to them in section 26E(9);

"home loan" (居所貸款), in relation to a person applying under paragraph 2, means a loan of money which is---

(a) applied wholly or partly for the acquisition of a dwelling which---

(i) during any period of time in the year of assessment 2001/02 is held by the person as a sole owner, or as a joint tenant or tenant in common; and

(ii) during that period of time is used by the person exclusively or partly

as his place of residence; and

(b) secured during that period of time by a mortgage or charge over that dwelling or any other property in Hong Kong;

"home loan interest" (居所貸款利息), in relation to a person applying under paragraph 2, means interest on a home loan which is payable by the person as a sole owner or as a joint tenant or tenant in common of the dwelling to which the home loan relates, to---

- (a) the Government;
- (b) a financial institution;
- (c) a credit union registered under the Credit Unions Ordinance (Cap. 119);
- (d) a money lender licensed under the Money Lenders Ordinance (Cap. 163);
- (e) the Hong Kong Housing Society;
- (f) an employer of the person; or
- (g) any recognized organization or association.

2. Without prejudice to section 63E, where in relation to the year of assessment 2001/02 a person is liable to pay provisional salaries tax, that person may, by notice in writing lodged with the Commissioner not later than---

(a) 28 days before the day by which the provisional salaries tax is to be paid; or

(b) 14 days after the date of the notice for payment of the provisional salaries tax given under section 63C(6), whichever is the later, apply to have the payment of the whole or part of such tax held over until he is required to pay salaries tax for that year of assessment, on the ground that he has paid or is likely to pay during that year of assessment home loan interest of an amount which exceeds---

(i) in a case where the dwelling to which the home loan interest relates is held by the person as a sole owner, \$100,000; or

(ii) in a case where the dwelling to which the home loan interest relates is held by the person otherwise than as a sole owner, the amount calculated in accordance with paragraph 3.

3. The amount referred to in paragraph 2(ii) shall be---

(a) in a case where the dwelling is held by the person as a joint tenant, \$100,000 as divided by the number of joint tenants; or

(b) in a case where the dwelling is held by the person as a tenant in common, \$100,000 as multiplied by his share in the ownership in the dwelling.

4. Where the Commissioner is satisfied that it is appropriate to do so, he may, either generally or in a particular case, extend the time within which a person may apply under paragraph 2.

5. On receipt of an application under paragraph 2, the Commissioner shall consider the application and may hold over the payment of the whole or part of the provisional salaries tax.

6. The Commissioner shall, by notice in writing, inform the person applying under paragraph 2 of his decision."

Explanatory Memorandum

The purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the proposal in the 2001 Policy Address to increase the maximum amount of home loan interest deduction for the years of assessment 2001/02 and 2002/03, and to provide for transitional matters.

2. Clause 2 amends section 89 of the 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.

3. Clause 3 amends Schedule 3D to increase the maximum amount of home loan interest deduction to \$150,000 in relation to the years of assessment 2001/02 and 2002/03.

4. Clause 4 adds a new Schedule to the Ordinance to provide for an additional ground for an application for holding over of payment of provisional salaries tax in relation to the year of assessment 2001/02. Under the new Schedule, a person liable to pay provisional salaries tax in relation to that year of assessment may make such an application on the ground that he has paid or is likely to pay during that year of assessment home loan interest of an amount which exceeds \$100,000 or (if he is not a sole owner of the dwelling concerned) a fraction of \$100,000 on a pro rata basis.