

(FIN CR 21/02)

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

RATE OF DEDUCTIBLE INTEREST NOTICE

INTRODUCTION

The Secretary for the Treasury has made the Rate of Deductible Interest Notice at the Annex to amend the rate of interest specified for the purpose of section 16(2)(b) of the Inland Revenue Ordinance.

BACKGROUND AND ARGUMENT

2. Section 16(1)(a) of the Inland Revenue Ordinance allows the deduction of sums payable by way of interest upon any money borrowed by a taxpayer for the purpose of producing profits chargeable to Profits Tax, to the extent to which such sums are incurred in the basis period for the year of assessment by the taxpayer in the production of chargeable profits. This is provided “where the conditions set out in subsection (2) are satisfied.” and subsection 16(2)(b) is one of the conditions set. Subsection 16(2)(b) states that the money has been borrowed by a public utility company specified in Schedule 3 at a rate of interest not exceeding the rate specified by the Financial Secretary by notice in the Gazette. By virtue of the Interpretation and General Clauses Ordinance (Cap.1), the Financial Secretary means the Secretary for the Treasury.

3. Three public utility companies are specified in Schedule 3, namely The Hong Kong Electric Company, Limited, China Light and Power Company, Limited and The Hong Kong and China Gas Company, Limited. The condition in section 16(2)(b) was introduced for the purpose of allowing the deduction of interest on customers’ deposits paid by the three public utility companies.

4. The existing interest rate of 6.75%, specified by the Financial Secretary, came into effect on 20 March 1989. According to available information, it was fixed by reference to the Hong Kong dollar savings account interest rate prevailing at the time. The interest rate for Hong Kong dollar savings account has never exceeded 6.75% since the time it was last fixed.

5. With the final phase of interest rate deregulation covering Hong Kong dollar savings accounts having become effective on 3 July 2001, interest rates of licensed banks are henceforth determined by competitive market forces. Most of the banks adopt a new tiered interest rate policy riding on the principle of higher interest rates for higher balance customers. In the circumstances, it is considered appropriate to review the mechanism of specifying the interest rate for the purpose of section 16(2)(b).

6. The Secretary for the Treasury has decided, by way of a Notice, to specify a new rate based on the highest rate of interest on Hong Kong dollar savings account offered by the three note-issuing banks in Hong Kong. Such a formulation obviates the need to amend the specified rate of interest as the dollar savings account interest rate changes from time to time.

THE NOTICE

7. **Clause 1** provides that the Notice will come into operation on 1 December 2002. **Clause 2** provides that the specified rate of interest to be the highest rate of interest on Hong Kong dollar savings account, as quoted from time to time by the note-issuing banks.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Notice has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

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

ECONOMIC IMPLICATIONS

11. The treatment in the Notice will give a more reasonable basis for setting the level of the specified interest rate in regard to the customer deposits offered by the three public utility companies. It does not entail any appreciable economic implications.

FINANCIAL AND STAFFING IMPLICATIONS

12. There will not be any staffing implications.

LEGISLATIVE TIMETABLE

13. The legislative timetable is -

Publication in the Gazette	28 June 2002
Commencement of the Legal Notice	1 December 2002

PUBLICITY

14. We will not issue any press release on the consideration that only

three companies are affected by the amendment to the interest rate. However, we will send a letter to each of the three companies informing them of such a change.

ENQUIRIES

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

Finance Bureau

June 2002