

2. 釋義

“該人的或其配偶的祖父母或外祖父母”(grandparent or grandparent of his or her spouse) 就任何人而言——

- (a) 指該人或其配偶的一名親生祖父母或親生外祖父母；
- (b) 指該人或其配偶的一名領養祖父母或領養外祖父母(不論是該人或其配偶的親生父母的、領養父母的或繼父母的領養父母，或是該人或其配偶的領養父母的親生父母)；
- (c) 指該人或其配偶的一名繼祖父母或繼外祖父母(不論是該人或其配偶的親生父母的、領養父母的或繼父母的繼父母，或是該人或其配偶的繼父母的親生父母)；或
- (d) 如該人的配偶已去世，則指若非該配偶已去世便會因(a)至(c)段的任何條文而是該人的配偶的祖父母或外祖父母的人；(由1998年第31號第3條增補)

“該人的或其配偶的父或母”(parent or parent of his or her spouse) 就任何人而言——

- (a) 指一名父親或母親，而該人或其配偶是該名父親或母親的婚姻關係下的子女；
- (b) 指該人或其配偶的生父或生母；
- (c) 指領養該人或其配偶的父親或母親；
- (d) 指該人或其配偶的繼父或繼母；或
- (e) 如該人的配偶已去世，則指若非該配偶已去世便會因(a)至(d)段的任何條文而是該人的配偶的父親或母親的人；(由1998年第31號第3條增補)

“配偶”(spouse) 指丈夫或妻子；(由1989年第43號第2條增補)

2. Interpretation

“grandparent or grandparent of his or her spouse”(該人的或其配偶的祖父母或外祖父母), in relation to any person, means—

- (a) a natural grandfather or grandmother of the person or his or her spouse;
- (b) an adoptive grandparent of the person or his or her spouse (whether an adoptive parent of a natural parent, adoptive parent or step parent of the person or his or her spouse, or a natural parent of an adoptive parent of the person or his or her spouse);
- (c) a step grandparent of the person or his or her spouse (whether a step parent of a natural parent, adoptive parent or step parent of the person or his or her spouse, or a natural parent of a step parent of the person or his or her spouse); or
- (d) in the case of a deceased spouse, a person who would have been the grandparent of the person's spouse by reason of any of the provisions of paragraphs (a) to (c) if the spouse had not died; (Added 31 of 1998 s. 3)

“parent or parent of his or her spouse”(該人的或其配偶的父或母), in relation to any person, means—

- (a) a parent of whose marriage the person or his or her spouse is the child;
- (b) the natural father or mother of the person or his or her spouse;
- (c) a parent by whom the person or his or her spouse was adopted;
- (d) a step parent of the person or his or her spouse; or
- (e) in the case of a deceased spouse, a person who would have been the parent of the person's spouse by reason of any of the provisions of paragraphs (a) to (d) if the spouse had not died; (Added 31 of 1998 s. 3)

“spouse”(配偶) means a husband or wife; (Added 43 of 1989 s. 2)

12B. 應課稅入息實額的確定

(1) 任何人在任何課稅年度的應課稅入息實額，除第(2)款另有規定外，須是該人的應評稅入息實額扣除以下款項後所得的款額——

(a) 根據第 IVA 部可容許該人作出的扣除；及 (由 1998 年第 31 號第 5 條代替)

(b) 根據第 V 部准許該人獲得的免稅額。(由 1989 年第 43 號第 6 條修訂)

(2) 任何人如根據第 10(3) 條應徵收薪俸稅，則該人與其配偶合共只有一個應課稅入息實額，而該實額須是兩人的合計應評稅入息實額扣除以下款項後所得的款額——

(a) 根據第 IVA 部可容許該人與其配偶作出的扣除；及 (由 1998 年第 31 號第 5 條代替)

(b) 根據第 V 部准許該人與其配偶獲得的免稅額。(由 1989 年第 43 號第 6 條代替)

(3) (由 1989 年第 43 號第 6 條廢除)

(由 1983 年第 71 號第 10 條代替)

第 V 部

免稅額

27. 關於免稅額的一般規定

(1) 本部訂明根據第 III 及 VII 部應課稅的人須獲給予的免稅額，以及在何種情形下可給予該等免稅額。

(2) 凡根據本部申索免稅額，必須以指明的格式提出申索，只有在申索書載有局長所規定的資料並以局長所規定的證明支持的情況下，方可獲給予免稅額。(由 2003 年第 5 號第 5 條修訂)

(3) 在本部中——

“人”(person)指根據第 III 部或第 VII 部(視屬何情況而定)應課稅的人；

“子女”(child)指任何應課稅的人的子女，或該人的配偶或前任配偶的子女，不論該子女是否婚生，並包括該人或其配偶各自的或兩人共有的領養子女或繼子女；

“免稅額”(allowance)指根據本部給予的免稅額；

“訂明款額”(prescribed amount)及“訂明百分率”(prescribed percentage)指就附表 4 第 1 欄所指明的本部各條文而在附表 4 第 2 欄中指明的款額及百分率；

“領養”(adopted)指以香港法律所承認的任何方式而領養。

12B. Ascertainment of net chargeable income

(1) The net chargeable income of a person for any year of assessment shall, subject to subsection (2), be such amount as is arrived at after deducting from his net assessable income—

(a) such deductions as are under Part IVA allowable to that person; and (Replaced 31 of 1998 s. 5)

(b) such allowances as are under Part V permitted for that person. (Amended 43 of 1989 s. 6)

(2) In the case of a person chargeable to salaries tax under section 10(3), that person and his or her spouse shall have but one net chargeable income, and it shall be the amount arrived at after deducting from the aggregate of their net assessable incomes—

(a) such deductions as are under Part IVA allowable to them; and (Replaced 31 of 1998 s. 5)

(b) such allowances as are under Part V permitted in their case. (Replaced 43 of 1989 s. 6)

(3) (Repealed 43 of 1989 s. 6)

(Replaced 71 of 1983 s. 10)

PART V

ALLOWANCES

27. Allowances, general provisions

(1) This Part prescribes the allowances which shall be granted to persons chargeable to tax under Parts III and VII and the circumstances in which such allowances are grantable.

(2) Every person who claims an allowance under this Part shall make his claim in the specified form and an allowance shall be granted only if the claim contains such particulars and is supported by such proof as the Commissioner may require.

(3) In this Part—

“adopted”(領養) means adopted in any manner recognized by the laws of Hong Kong;

“allowance”(免稅額) means an allowance granted under this Part;

“child”(子女) means any child of a person chargeable to tax or of his or her spouse or former spouse whether or not born in wedlock and includes the adopted or step child of either or both of them;

“person”(人) means a person chargeable to tax under Part III or, as the case may be, Part VII;

“prescribed amount”(訂明款額) and “prescribed percentage”(訂明百分率) mean the amount and percentage specified in the second column of Schedule 4 in relation to the provisions of this Part specified in the first column of that Schedule. (Amended 48 of 1995 s. 6)

31. 子女免稅額

(1) 任何人如在任何課稅年度內任何時間有在世的未婚子女，並供養該子女，而該子女有以下情形者，則該人須根據本條在該課稅年度獲給予一項訂明款額的免稅額（“子女免稅額”）——

- (a) 未滿 18 歲；
- (b) 年滿 18 歲但未滿 25 歲，並在任何大學、學院、學校或其他相類似的教育機構接受全日制教育；或
- (c) 年滿 18 歲，但因身體上或精神上的無能力而不能工作。

(2) 除第 (3) 款另有規定外，凡有多於一人有權根據本條就同一名子女申索同一課稅年度的子女免稅額，則該免稅額須按局長所決定的基準分攤，而局長在作出決定時須顧及每個人在該課稅年度對該名子女的供養及教育所作的貢獻。

(3) 如屬根據第 III 部應徵收薪俸稅的丈夫與妻子（並非分開居住的丈夫與妻子），則——

- (a) 根據本條可給予的所有子女免稅額，須只由一名配偶申索；及
- (b) 該項申索須由雙方配偶所提名的配偶作出。

(4) 根據第 (3)(b) 款就任何課稅年度而作出的提名，除獲局長同意外，不得撤回，而局長對此事的決定即為最終決定，並不受任何反對或上訴規限。

(5) 就任何子女而給予任何人的子女免稅額總額，不得超出訂明款額。

31. Child allowance

(1) An allowance (“child allowance”) shall be granted under this section in the prescribed amount in any year of assessment if the person had living and was maintaining at any time during the year of assessment an unmarried child who was—

- (a) under the age of 18;
- (b) of or over the age of 18 years but under the age of 25 years and was receiving full time education at a university, college, school or other similar educational establishment; or
- (c) of or over the age of 18 years and was, by reason of physical or mental disability, incapacitated for work.

(2) Subject to subsection (3), where more than one person is entitled to claim a child allowance under this section in respect of the same child for the same year of assessment, the allowance due shall be apportioned on such basis as the Commissioner may decide having regard to the contributions made by each individual to the maintenance and education of the child during the year of assessment.

(3) In the case of a husband and wife, not being a husband and wife living apart, chargeable to salaries tax under Part III—

- (a) all child allowances grantable under this section shall be claimed by one spouse; and
- (b) the claim shall be made by such spouse as the spouses may nominate.

(4) A nomination under subsection (3)(b) made in relation to any year of assessment shall not be revoked save with the consent of the Commissioner whose decision in the matter shall be final and not subject to objection or appeal.

(5) The total of the child allowances granted to a person in respect of his or her children shall not exceed the prescribed amount.

第 XA 部

暫繳薪俸稅

63B. 暫繳薪俸稅的法律責任

(1) 凡根據第 III 部就任何課稅年度應徵收薪俸稅的人，有法律責任按照本部就該課稅年度繳付暫繳薪俸稅。

(2) 如屬丈夫與妻子，且已就他們須繳付暫繳薪俸稅的課稅年度的上一課稅年度，對他們的合計應課稅入息實額而根據第 10(3) 條對該名丈夫或妻子作出薪俸稅評稅，則——

- (a) 須就已根據第 63C(1) 條作出所需調整的應課稅入息實額，繳付暫繳薪俸稅；及
- (b) 就該上一課稅年度而被評定薪俸稅的人，須單獨負上繳付該暫繳薪俸稅的法律責任。 (由 1989 年第 43 號第 20 條代替)
(由 1983 年第 71 號第 30 條代替)

*63C. 暫繳薪俸稅的稅額

(1) 除第 (2) 及 (3) 款另有規定外，任何課稅年度的暫繳薪俸稅，須參照上一課稅年度的應課稅入息實額而按附表 2 為該課稅年度指明的稅率繳付，而為本條的施行，該應課稅入息實額須按以下規定調整——

- (a) 如於計算作為上述應課稅入息實額基準的應評稅入息實額時，任何虧損根據第 12A 條已予抵銷，則須加上該虧損額； (由 1983 年第 71 號第 31(a)(i) 條修訂)
- (b) 在該課稅年度根據第 12A 條可予抵銷的任何虧損，須用以抵銷上述應課稅入息實額；

但——

- (i) 就 1984 年 4 月 1 日開始的課稅年度及之前各課稅年度而言，根據本款向任何人徵收的暫繳薪俸稅額，在任何情形下不得超出下述款額，即假若按該課稅年度的標準稅率對該人的上一課稅年度的全部應評稅入息徵

* 關於根據本條計算應課稅入息實額以確定自 1990 年 4 月 1 日、1991 年 4 月 1 日、1992 年 4 月 1 日、1993 年 4 月 1 日、1994 年 4 月 1 日、1995 年 4 月 1 日、1996 年 4 月 1 日、1997 年 4 月 1 日、1998 年 4 月 1 日、2003 年 4 月 1 日及 2004 年 4 月 1 日開始的課稅年度的暫繳薪俸稅，並請參閱載於 1990 年第 30 號、1991 年第 42 號、1992 年第 34 號、1993 年第 28 號、1994 年第 37 號、1995 年第 48 號、1996 年第 24 號、1997 年第 42 號、1998 年第 31 號及 2003 年第 24 號的過渡性條文。

PART XA

PROVISIONAL SALARIES TAX

63B. Liability for provisional salaries tax

(1) Every person who is chargeable to salaries tax under Part III in respect of any year of assessment shall be liable to pay provisional salaries tax in respect of that year of assessment in accordance with this Part.

(2) In the case of a husband and wife, where either the husband or wife is assessed to salaries tax under section 10(3) on the aggregate of their net chargeable incomes in respect of the year of assessment preceding that in respect of which provisional salaries tax is payable—

- (a) such provisional salaries tax shall be payable on the net chargeable income adjusted as necessary under section 63C(1); and
- (b) the person who is assessed to salaries tax in respect of that preceding year of assessment shall be solely liable to pay that provisional salaries tax. (Replaced 43 of 1989 s. 20)
(Replaced 71 of 1983 s. 30)

*63C. Amount of provisional salaries tax

(1) Subject to subsections (2) and (3), provisional salaries tax in respect of any year of assessment shall be payable at the rates specified in Schedule 2 for that year of assessment by reference to the amount of the net chargeable income for the preceding year of assessment adjusted, for the purposes of this section, as follows—

- (a) any loss set off under section 12A in calculating the net assessable income, or net assessable incomes, on which that net chargeable income is based, shall be added; (Amended 71 of 1983 s. 31(a)(i))
- (b) any loss which may be set off under section 12A in the year of assessment shall be set off against that amount;

Provided that—

- (i) in respect of the year of assessment up to and including the year of assessment commencing on 1 April 1984, in no case shall the amount of provisional salaries tax charged on any person under this subsection exceed the amount which would have been chargeable on him had the standard rate for the year of assessment been charged on the whole of his assessable income

* For the calculation of net chargeable income under this section in order to ascertain provisional salaries tax in respect of the year of assessment commencing from 1 April 1990, 1 April 1991, 1 April 1992, 1 April 1993, 1 April 1994, 1 April 1995, 1 April 1996, 1 April 1997, 1 April 1998, 1 April 2003 and 1 April 2004, please also see the transitional provisions contained in 30 of 1990, 42 of 1991, 34 of 1992, 28 of 1993, 37 of 1994, 48 of 1995, 24 of 1996, 42 of 1997, 31 of 1998 and 24 of 2003.

稅則可向其徵收的款額，而應評稅入息是指已扣減第 12(1) 條訂定的支出、開支及免稅額，以及已扣減根據第 12A 條抵銷的超出款額者；及

- (ii) 就 1985 年 4 月 1 日開始的課稅年度及其後各課稅年度而言，根據本款向任何人徵收的暫繳薪俸稅額，在任何情形下不得超出假若按標準稅率對以下款額的全部徵稅則應徵收的款額——

(A) 該人的上一課稅年度的應評稅入息實額而已扣減根據第 IVA 部可容許該人作出的扣除者；或

(B) 如屬第 63B(2) 條適用的丈夫與妻子，則他們的上一課稅年度的合計應評稅入息實額而已扣減根據第 IVA 部可容許他們作出的扣除者。(由 1989 年第 43 號第 21 條代替。由 1998 年第 31 號第 19 條修訂)

(1A) (由 1989 年第 43 號第 21 條廢除)

(2) 如任何人在任何課稅年度內某日開始從某來源得到入息，則評稅主任可評估於該課稅年度及下一課稅年度須就其繳付暫繳薪俸稅的款額。(由 1983 年第 71 號第 31 條修訂)

(3) 如任何人在任何課稅年度內停止從某來源得到入息，則評稅主任可評估於該課稅年度及上一課稅年度須就其繳付暫繳薪俸稅的款額。(由 1983 年第 71 號第 31 條修訂)

(4) 如任何人有法律責任繳付暫繳薪俸稅，則評稅主任須評定或評估該人有法律責任繳付的暫繳薪俸稅額，該項評定或評估須在第 51(1) 條規定該人須提交一份報稅表的通知書內所限定的時間屆滿後盡快作出。

(5) 即使第 (4) 款另有規定，如評稅主任認為任何人即將離開香港，或認為由於其他理由而適宜作出該項評定或評估，則評稅主任可評定或評估該人有法律責任繳付的暫繳薪俸稅額。(由 1986 年第 7 號第 12 條修訂)

(6) 評稅主任評定或評估任何人有法律責任繳付的暫繳薪俸稅額後，局長須向該人發出通知書，並在該通知書內述明須繳付的暫繳薪俸稅額及局長指定的繳稅日期。

(6A) 在任何課稅年度，如已根據第 (6) 款發出須繳付暫繳薪俸稅的通知書，而其後附表 2 為該課稅年度指明的任何稅率或第 V 部為該課稅年度訂定的任何免稅額有所修訂，則該通知書內所述明的暫繳薪俸稅額仍須繳付。(由 1981 年第 32 號第 9 條增補。由 1989 年第 43 號第 21 條修訂)

(7) 為第 XII 部的施行，暫繳薪俸稅須當作是根據本條例的規定徵收的稅項，而根據第 (6) 款發出的通知書則須當作是評稅通知書。

(由 1973 年第 8 號第 13 條增補。由 1975 年第 7 號第 36 條修訂)

for the preceding year of assessment as reduced by the outgoing, expenses and allowances provided for in section 12(1) and any excess set off under section 12A; and

- (ii) in respect of the year of assessment commencing on 1 April 1985 and subsequent years of assessment, in no case shall the amount of provisional salaries tax charged under this subsection exceed the amount which would have been chargeable had the standard rate been charged on the whole of—

(A) the net assessable income for the preceding year of assessment as reduced by such deductions as are under Part IVA allowable to that person; or

(B) in the case of a husband and wife to whom section 63B(2) applies, the aggregate of their net assessable incomes for the preceding year of assessment as reduced by such deductions as are under Part IVA allowable to them. (Replaced 43 of 1989 s. 21. Amended 31 of 1998 s. 19)

(1A) (Repealed 43 of 1989 s. 21)

(2) If a person commences to derive income from a source on a day within any year of assessment, an assessor may estimate the sum in respect of which provisional salaries tax is payable in that year and the succeeding year of assessment. (Amended 71 of 1983 s. 31)

(3) If a person ceases to derive income from a source within any year of assessment an assessor may estimate the sum in respect of which provisional salaries tax is payable for that year of assessment and for the year preceding that year of assessment. (Amended 71 of 1983 s. 31)

(4) If a person is liable to pay provisional salaries tax, an assessor shall, as soon as may be after the expiration of the time limited by the notice requiring that person to furnish a return under section 51(1), assess or estimate the amount of the provisional salaries tax which he is liable to pay.

(5) Notwithstanding subsection (4), an assessor may assess or estimate the amount of provisional salaries tax which any person is liable to pay if he is of the opinion that the person is about to leave Hong Kong or that for any other reason it is expedient to do so. (Amended 7 of 1986 s. 12)

(6) When an assessor has assessed or estimated the amount of provisional salaries tax which a person is liable to pay, the Commissioner shall give a notice to that person stating the amount of provisional salaries tax to be paid, and such due date for payment thereof as may be fixed by the Commissioner.

(6A) Where in any year of assessment a notice for payment of provisional salaries tax has been given under subsection (6) and thereafter any rate specified in Schedule 2, or any allowance provided for in Part V, for that year of assessment is amended, the amount of provisional salaries tax stated in the notice shall nevertheless be payable. (Added 32 of 1981 s. 9. Amended 43 of 1989 s. 21)

(7) For the purposes of Part XII, provisional salaries tax shall be deemed to be a tax charged under the provisions of this Ordinance and a notice under subsection (6) shall be deemed to be a notice of assessment.

(Added 8 of 1973 s. 13. Amended 7 of 1975 s. 36)

63E. 暫繳薪俸稅的緩繳

(1) 凡任何人有法律責任就任何課稅年度繳付暫繳薪俸稅，該人可不遲於以下期限向局長提交書面通知——

(a) 該暫繳薪俸稅的繳稅日期前 28 天；或

(b) 根據第 63C(6) 條發出的繳付暫繳薪俸稅的通知書日期後 14 天，

兩者以較遲的為準，並以第 (2) 款所指明的理由向局長申請將該稅項全部或部分緩繳，直至該人須就該課稅年度繳付薪俸稅時為止，或如該項申請是以第 (2)(d) 款所列理由而提出者，則直至——

(i) 根據第 64(3) 條對有關的反對作出決定或解決時為止；或

(ii) 該人須就該課稅年度繳付薪俸稅時為止，

兩者以較早的為準。(由 1993 年第 52 號第 7 條代替)

* (2) 第 (1) 款所述的理由是——

* (a) 被評定暫繳薪俸稅的人在該課稅年度成為有權根據第 V 部獲得某項免稅額，而在確定該人就該課稅年度的上一年度所得的應課稅入息實額時或在評估該人有法律責任就其繳付暫繳薪俸稅的款額時，該免稅額並未計算在內；(由 1973 年第 33 號第 4 條修訂；由 1978 年第 79 號第 3 條修訂；由 1989 年第 43 號第 22 條修訂)

* (b) 被評定暫繳薪俸稅的人在該課稅年度的應課稅入息實額，少於或相當可能少於該課稅年度的上一年度其應課稅入息實額的 90%，或少於或相當可能少於該人有法律責任就其繳付暫繳薪俸稅的評估款額的 90%；(由 1975 年第 7 號第 38 條修訂)

(c) 被評定暫繳薪俸稅的人已停止得到、或在該課稅年度結束前將停止得到應徵收薪俸稅的入息；或 (由 1975 年第 7 號第 38 條修訂)

(d) 被評定暫繳薪俸稅的人已根據第 64 條就該課稅年度的上一年度其薪俸稅評稅提出反對。(由 1975 年第 7 號第 38 條增補)

(3) 局長在接獲根據第 (1) 款提出的申請後，須考慮該申請，並可准予將該暫繳薪俸稅的全部或部分緩繳。

(4) 局長須將其決定以書面通知根據第 (1) 款提出申請的人。

(5) (由 1989 年第 43 號第 22 條廢除)

(由 1973 年第 8 號第 13 條增補)

63E. Holding over of payment of provisional salaries tax

(1) Where in relation to any year of assessment a person is liable to pay provisional salaries tax, he 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 provisional salaries tax under section 63C(6),

whichever is the later, apply to the Commissioner on any of the grounds specified in subsection (2) 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 or, in the case of an application on the ground set out in subsection (2)(d), until—

(i) the determination of the objection or settlement thereof under section 64(3); or

(ii) he is required to pay salaries tax for that year of assessment,

whichever is the sooner. (Replaced 52 of 1993 s. 7)

* (2) The grounds referred to in subsection (1) are—

* (a) that the person assessed to provisional salaries tax has become entitled during the year of assessment to an allowance under Part V, which allowance was not taken into account in the ascertainment of his net chargeable income for the year preceding the year of assessment or in estimating the sum in respect of which such person is liable to pay provisional salaries tax; (Amended 33 of 1973 s. 4; 79 of 1978 s. 3; 43 of 1989 s. 22)

* (b) that the net chargeable income during the year of assessment of the person assessed to provisional salaries tax 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; (Amended 7 of 1975 s. 38)

(c) that the person assessed to provisional salaries tax has ceased, or will before the end of the year of assessment cease, to derive income chargeable to salaries tax; or (Amended 7 of 1975 s. 38)

(d) that the person assessed to provisional salaries tax has objected under section 64 to his assessment to salaries tax for the year preceding the year of assessment. (Added 7 of 1975 s. 38)

(3) On receipt of an application under subsection (1), the Commissioner shall consider the same and may hold over the payment of the whole or part of the provisional salaries tax.

(4) The Commissioner shall, by notice in writing, inform the person applying under subsection (1) of his decision.

(5) (Repealed 43 of 1989 s. 22)

(Added 8 of 1973 s. 13)

* On additional grounds for making a hold over application under this section in respect of the year of assessment commencing on 1 April 2003, please see the transitional provision in section 15(1), (2) and (5) to (7) of 24 of 2003.

* For the calculation of the "net chargeable income for the year preceding the year of assessment" commencing on 1 April 2003 or 1 April 2004, please see the transitional provision in section 14 of 24 of 2003.

* 關於根據本條就 2003 年 4 月 1 日開始的課稅年度提出緩繳申請的額外理由，請參閱 2003 年第 24 號第 15(1)、(2) 及 (5) 至 (7) 條的過渡性條文。

* 關於計算自 2003 年 4 月 1 日或 2004 年 4 月 1 日開始的“課稅年度的上一年度所得的應課入息實額”，請參閱 2003 年第 24 號第 14 條的過渡性條文。