

**REVENUE (ALLOWANCES FOR TAX) BILL 2005**

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# A BILL

## To

Amend the Inland Revenue Ordinance to give effect to the proposals to adjust allowances for persons chargeable to tax under Part III (salaries tax) and Part VII (personal assessment) of the Ordinance made by the Government in the Budget for the 2005–2006 financial year.

Enacted by the Legislative Council.

### PART 1

#### PRELIMINARY

#### 1. Short title

This Ordinance may be cited as the Revenue (Allowances for Tax) Ordinance 2005.

#### 2. Application

Sections 3, 4 and 5 apply in relation to—

- (a) the year of assessment commencing on 1 April 2005; and
- (b) all subsequent years of assessment.

### PART 2

#### AMENDMENTS TO THE INLAND REVENUE ORDINANCE: ADJUSTMENT OF ALLOWANCES

#### 3. Dependent parent allowance

Section 30 of the Inland Revenue Ordinance (Cap. 112) is amended—

- (a) by adding before subsection (1)—  
“(1AA) In this section, “dependent parent allowance” means an allowance granted under subsection (1) or (1A).”;
- (b) by repealing subsection (1) and substituting—  
“(1) An allowance shall be granted in any year of assessment to a person—  
(a) if—  
(i) the person; or  
(ii) his or her spouse who is not living apart from that person,  
maintains a parent or a parent of his or her spouse in that year; and  
(b) if that parent—  
(i) was ordinarily resident in Hong Kong;  
and  
(ii) was—  
(A) aged 60 or more; or  
(B) under the age of 60 and was eligible to claim an allowance under the Government’s Disability Allowance Scheme,  
at any time in that year.”;
- (c) by adding after subsection (1)—  
“(1A) An allowance shall be granted in any year of assessment to a person—  
(a) if—  
(i) the person; or  
(ii) his or her spouse who is not living apart from that person,  
maintains a parent or a parent of his or her spouse in that year; and  
(b) if that parent—  
(i) at any time in that year was ordinarily resident in Hong Kong;  
(ii) at any time in that year was aged 55 or more but was under the age of 60;  
(iii) did not attain the age of 60 in that year;  
and  
(iv) was, throughout that year, not eligible to claim an allowance under the Government’s Disability Allowance Scheme.”;

- (d) in subsection (3)—
- (i) by repealing “under this section” and substituting “in respect of a parent under subsection (1)”;
  - (ii) in paragraph (b), by repealing everything after “prescribed amount” and substituting “if that parent resided, otherwise than for full valuable consideration, with the person who is eligible to claim the allowance under paragraph (a) for a year of assessment continuously throughout that year.”;
- (e) by adding after subsection (3)—
- “(3A) A dependent parent allowance grantable in respect of a parent under subsection (1A) is—
- (a) an allowance of the prescribed amount;
  - (b) an additional allowance of the prescribed amount if that parent resided, otherwise than for full valuable consideration, with the person who is eligible to claim the allowance under paragraph (a) for a year of assessment continuously throughout that year.”.

#### 4. Dependent grandparent allowance

Section 30A is amended—

- (a) by adding before subsection (1)—
- “(1AA) In this section, “dependent grandparent allowance” means an allowance granted under subsection (1) or (1A).”;
- (b) by repealing subsection (1) and substituting—
- “(1) An allowance shall be granted in any year of assessment to a person—
- (a) if—
    - (i) the person; or
    - (ii) his or her spouse who is not living apart from that person, maintains a grandparent or a grandparent of his or her spouse in that year; and
  - (b) if that grandparent—
    - (i) was ordinarily resident in Hong Kong; and
    - (ii) was—
      - (A) aged 60 or more; or

- (B) under the age of 60 and was eligible to claim an allowance under the Government's Disability Allowance Scheme,  
at any time in that year.”;
- (c) by adding after subsection (1)—  
“(1A) An allowance shall be granted in any year of assessment to a person—  
(a) if—  
(i) the person; or  
(ii) his or her spouse who is not living apart from that person,  
maintains a grandparent or a grandparent of his or her spouse in that year; and  
(b) if that grandparent—  
(i) at any time in that year was ordinarily resident in Hong Kong;  
(ii) at any time in that year was aged 55 or more but was under the age of 60;  
(iii) did not attain the age of 60 in that year; and  
(iv) was, throughout that year, not eligible to claim an allowance under the Government's Disability Allowance Scheme.”;
- (d) in subsection (3)—  
(i) by repealing “under this section” and substituting “in respect of a grandparent under subsection (1)”;  
(ii) in paragraph (b), by repealing everything after “prescribed amount” and substituting “if that grandparent resided, otherwise than for full valuable consideration, with the person who is eligible to claim the allowance under paragraph (a) for a year of assessment continuously throughout that year.”;
- (e) by adding after subsection (3)—  
“(3A) A dependent grandparent allowance grantable in respect of a grandparent under subsection (1A) is—  
(a) an allowance of the prescribed amount;  
(b) an additional allowance of the prescribed amount if that grandparent resided, otherwise than for full valuable consideration, with the person who is eligible to claim the allowance under paragraph (a) for a year of assessment continuously throughout that year.”.

## 5. Allowances

Schedule 4 is amended—

- (a) by repealing “For the year of assessment 2004/05 and for each year after that year” and substituting “For the year of assessment 2004/05”;
- (b) by adding at the end—

“For the year of assessment 2005/06 and  
for each year after that year

FIRST COLUMN (section)	SECOND COLUMN (the prescribed amount)
1. Section 28 (basic allowance)	\$100,000
2. Section 29 (married person’s allowance)	\$200,000
3. Section 30 (dependent parent allowance)—	
(a) subsection (3)(a)	\$ 30,000
(b) subsection (3)(b)	\$ 30,000
(c) subsection (3A)(a)	\$ 15,000
(d) subsection (3A)(b)	\$ 15,000
(e) subsection (4)(a)	\$ 12,000
4. Section 30A (dependent grandparent allowance)—	
(a) subsection (3)(a)	\$ 30,000
(b) subsection (3)(b)	\$ 30,000
(c) subsection (3A)(a)	\$ 15,000
(d) subsection (3A)(b)	\$ 15,000
(e) subsection (4)(a)	\$ 12,000
5. Section 30B(1) (dependent brother or dependent sister allowance)	\$ 30,000
6. Section 31 (child allowance)—	
(a) subsection (1)	\$40,000 each for the first to the ninth child
(b) subsection (5)	\$360,000
7. Section 31A(1) (disabled dependant allowance)	\$ 60,000
8. Section 32(1) (single parent allowance)	\$100,000”.

## PART 3

AMENDMENTS TO THE INLAND REVENUE ORDINANCE:  
TRANSITIONAL PROVISIONS**6. Transitional provisions**

Section 89 is amended by adding—

“(5) Schedule 14 has effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2005/06.”.

**7. Schedule 14 added**

The following is added—

## “SCHEDULE 14

[s. 89(5)]

TRANSITIONAL PROVISIONS RELATING TO PROVISIONAL SALARIES TAX  
IN RESPECT OF THE YEAR OF ASSESSMENT 2005/06

1. For the purposes of section 63C(1) of the Ordinance, in calculating the net chargeable income of a person for the preceding year of assessment to ascertain the provisional salaries tax in respect of the year of assessment 2005/06—

- (a) the reference to “such allowances as are under Part V permitted for that person” in section 12B(1)(b) of the Ordinance; and
- (b) the reference to “such allowances as are under Part V permitted in their case” in section 12B(2)(b) of the Ordinance,

shall be construed to mean such allowances that may be granted to that person for the year of assessment 2005/06 under Part V of the Ordinance as amended by the Revenue (Allowances for Tax) Ordinance 2005 ( of 2005).

2. For the purposes of an application under section 63E(1) of the Ordinance to hold over the payment of provisional salaries tax in respect of the year of assessment 2005/06, the reference to “net chargeable income for the year preceding the year of assessment” in section 63E(2)(a) or (b) of the Ordinance shall be construed to mean the net chargeable income for the preceding year of assessment as calculated in accordance with paragraph 1.”.

### Explanatory Memorandum

In his 2005–2006 Budget Speech, the Financial Secretary has proposed—

- (a) to increase the child allowance for taxpayers chargeable to tax under Part III (salaries tax) and Part VII (personal assessment) of the Inland Revenue Ordinance (Cap. 112) (“principal ordinance”) from \$30,000 to \$40,000 with effect from the year of assessment 2005/06; and
- (b) to introduce—
  - (i) a new basic allowance and an additional allowance for the dependent parents aged between 55 and 59; and
  - (ii) a new basic allowance and an additional allowance for the dependent grandparents aged between 55 and 59, for those taxpayers with effect from the year of assessment 2005/06.

This Bill proposes to amend the principal ordinance to give effect to the proposals.

#### Part 1

2. Part 1 of the Bill contains the short title of the Bill (clause 1) and an application provision (clause 2) providing that the main provisions apply in relation to the year of assessment 2005/06 and all subsequent years.

#### Part 2

3. Part 2 of the Bill contains the main provisions.

4. Clause 3—

- (a) adds new subsections (1A) and (3A) to section 30 of the principal ordinance to introduce the proposed allowance for parents aged between 55 and 59 and stipulates the conditions for qualifying for this allowance (clause 3(c));
- (b) adds a definition of “dependent parent allowance” to include the proposed new allowance (clause 3(a)); and
- (c) amends subsections (1) and (3) to achieve consistency in presentation.

Taxpayers with parents aged 60 or above are eligible to an allowance granted under the existing provisions of the principal ordinance.



5. The proposed new allowance applies in relation to parents who attained the age of 55 or more in the relevant year of assessment but who have not yet attained the age of 60. Taxpayers with parents who attained the age of 60 in the relevant year of assessment qualify for the existing dependent parent allowance.
6. The proposed new allowance applies in relation to parents who, throughout the relevant year of assessment, are not eligible to claim an allowance under the Government's Disability Allowance Scheme. Taxpayers with parents so eligible at any time during the year qualify for the existing dependent parent allowance which applies to disabled parents regardless of their age.
7. The existing requirement (section 30(4) of the principal ordinance) that a taxpayer has to reside with, or contribute towards the maintenance of, the parent concerned applies to the proposed new allowance. A person is eligible for the allowance if the person or the spouse of the person maintains the parent concerned. For this purpose, a parent shall be regarded as being maintained by a person or the person's spouse if—
- (a) the parent resides with the person or spouse for a continuous period of not less than 6 months in the relevant year of assessment and does not pay full consideration therefor; or
  - (b) the person or spouse contributes not less than \$12,000 towards the maintenance of the parent in the relevant year of assessment.
8. Clause 4 amends section 30A of the principal ordinance to introduce the proposed new allowance for dependent grandparents aged between 55 and 59. The provisions are similar to those providing for the proposed new allowance for dependent parents.
9. Clause 5 amends Schedule 4 to the principal ordinance to set out all allowances applicable in relation to the year of assessment 2005/06 and all subsequent years. The proposed basic and additional allowances for dependent grandparents and dependent parents are both fixed at \$15,000 per person. The new amount of child allowance (\$40,000) is also set out.

### Part 3

10. Part 3 of the Bill introduces transitional provisions (the proposed new subsection (5) of section 89 and the proposed new Schedule 14).
11. Under the principal ordinance, provisional salaries tax is computed by reference to the amount of the net chargeable income (i.e. income after allowances) for the preceding year of assessment. Clause 7 introduces a new Schedule 14 to allow reference to the allowances applicable to the year of assessment 2005/06 in calculating the net chargeable income of a person for the preceding year of assessment to ascertain the provisional salaries tax in respect of the year of assessment 2005/06 and in application for hold over of the 2005/06 provisional salaries tax.