

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance

(Chapter 112)

REVENUE BILL 2006

PURPOSE

At the meeting of the Executive Council on 4 April 2006, the Council ADVISED and the Chief Executive ORDERED that the Revenue Bill 2006, at **Annex A**, should be introduced into the Legislative Council to implement the proposals relating to salaries tax and personal assessment announced in the 2006-07 Budget.

JUSTIFICATIONS

Reduction in marginal tax rates

2. We propose to lower the marginal rates of the second, third and top tax bands by one percentage point from the existing levels of 8, 14 and 20 per cent to 7, 13 and 19 per cent respectively. The proposed reduction will reduce the tax payable by nearly a million people, i.e. three quarters of taxpayers. We propose that the reduction be implemented with effect from the year of assessment 2006/07.

Extension of entitlement period for home loan interest deduction

3. Purchasing a property is an important lifetime decision. To many people, particularly the middle classes, mortgage payments are major items of family expenditure. In 1998/99, a salaries tax deduction for home loan interest of up to \$100,000 a year for five years was introduced as a temporary measure to provide relief to taxpaying households heavily burdened with home mortgage payments. The entitlement period was extended to seven years in the 2004-05 Budget as a relief to all home owners and to ease the heavy financial load still borne by many families (To ease the burden of home owners, the 2001 Policy Address announced the raising of the maximum deduction to \$150,000 for the two years of assessment 2001/02 and 2002/03.)

4. The recent increases in mortgage rates have added to the burden of home owners. Besides, for taxpayers who acquired their homes in 1998/99 or before and have since 1998/99 claimed the deduction continuously, the seven-year entitlement period will have expired after the year of assessment 2004/05. We therefore propose to extend the limit of deduction for a further three years to a total of ten years, subject to the maximum annual deduction of \$100,000. We propose that the extension be implemented from the year of assessment 2005/06 so that those who have claimed the deduction continuously since 1998/99 can continue to claim the deduction without a break.

5. We estimate that there will be around 400,000 taxpayers benefiting from the home loan interest deduction in 2006-07. In particular, some 80,000 taxpaying home owners whose seven-year entitlement period for the deduction has expired or is due to expire would benefit immediately.

OTHER OPTIONS

6. We must amend the existing legislation in order to bring the proposals into effect. There is no other option.

THE BILL

7. The purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the revenue proposals in the 2006-07 Budget. The major provisions are as follows: -

- (a) Clause 2 increases the number of years for which deductions for home loan interest paid by a person are allowable from seven years of assessment to ten years of assessment. This Clause takes effect from 1 April 2005; and
- (b) Clause 3 revises the marginal tax rates for the year of assessment 2006/07 and for all subsequent years of assessment.

8. The existing provisions proposed to be amended are at ***Annex B***.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be -

Publication in the Gazette	13 April 2006
First Reading and commencement of Second Reading debate	26 April 2006
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

10. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the Ordinance and its subsidiary legislation. It has no productivity, environmental, civil service or sustainability implications.

Financial Implications

11. It is estimated that the proposal to lower the marginal rates of the second, third and top tax bands will cost the Government about \$1.5 billion in a full year. The proposal to extend the limit for the deduction for home loan interest from seven to ten years will cost \$1.2 billion in 2006-07.

Economic Implications

12. The two proposed concessions will help increase the disposable income of the households concerned by some \$2.7 billion in this year. These concessions, amounting to around 0.3% of private consumption expenditure in Hong Kong, should have a slight stimulating impact on the property market and also on consumer spending.

PUBLIC CONSULTATION

13. The Financial Secretary conducted consultations with Legislative Council Members, various chambers, groups and associations as well as the general public during the formulation of the 2006-07 Budget. The views they expressed have been taken into account.

PUBLICITY

14. A press release will be issued. A spokesman will be available to answer media and public enquiries.

BACKGROUND

15. In the 2006-07 Budget, the Financial Secretary made the following salaries tax proposals -

- (a) to lower the marginal rates of the second, third and top tax bands by one percentage point from the existing levels of 8, 14 and 20 per cent to 7, 13 and 19 per cent respectively; and
- (b) to extend the limit for the deduction for home loan interest from seven years to ten years.

16. We have to amend the Inland Revenue Ordinance to implement these proposals.

ENQUIRY

17. In case of enquiries about this brief please contact Mr Vincent Tang, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(Revenue), at 2810 2370.

Financial Services and the Treasury Bureau
April 2006

A BILL

To

Amend the Inland Revenue Ordinance to give effect to some of the proposals in the Budget introduced by the Government for the 2006-2007 financial year.

Enacted by the Legislative Council.

1. Short title, commencement and application

(1) This Ordinance may be cited as the Revenue Ordinance 2006.

(2) Subject to subsection (3), this Ordinance shall come into operation at the beginning of the day on which it is published in the Gazette.

(3) Section 2 shall be deemed to have come into operation on 1 April 2005.

(4) Section 3 shall apply in relation to the year of assessment commencing on 1 April 2006 and to all subsequent years of assessment.

Inland Revenue Ordinance

2. Home loan interest

(1) Section 26E(4)(c) of the Inland Revenue Ordinance (Cap. 112) is amended by repealing “7 years” and substituting “10 years”.

(2) Section 26E(10) is amended –

(a) by repealing “the commencement of section 3 of the Revenue Ordinance 2004 (9 of 2004)” and substituting “1 April 2003 or in force immediately before 1 April 2005”;

(b) by repealing “as amended by section 3 of that Ordinance”.

3. Rates

(1) Schedule 2 is amended by repealing “For the year of assessment 2004/05 and for each year after that year” and substituting “For the years of assessment of 2004/05 and 2005/06”.

(2) Schedule 2 is amended by adding at the end –

“For the year of assessment 2006/07
and for each year after that year

SECOND COLUMN	THIRD COLUMN
(a) Upon the first \$30,000	2%
(b) Upon the next \$30,000	7%
(c) Upon the next \$30,000	13%
(d) Upon the remainder	19%”.

Explanatory Memorandum

The purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) to give effect to some of the proposals in the 2006-2007 Budget.

2. Clause 2 increases the number of years for which deductions for home loan interests paid by a person are allowable from 7 years of assessment to 10 years of assessment.

3. Clause 3 revises the marginal tax rates for the year of assessment 2006/07 and thereafter.

Chapter:	112	INLAND REVENUE ORDINANCE	Gazette Number	Version Date
Section:	26E	Home loan interest	12 of 2004	25/06/2004

(1) Subject to the other provisions of this section and to section 26F, where a person pays during any year of assessment any home loan interest for the purposes of a home loan obtained in respect of a dwelling which is used at any time in that year of assessment by the person exclusively or partly as his place of residence, a deduction in respect of the home loan interest shall be allowable to that person for that year of assessment.

(2) (a) Subject to paragraphs (b) and (c) and subsection (3), a deduction allowable to a person under subsection (1) in respect of any home loan interest paid by the person during any year of assessment shall be-

- (i) (A) where the dwelling is used by the person exclusively as his place of residence during the whole of that year of assessment, the amount of the home loan interest paid; or
- (B) in any other case, such amount (whether representing the full amount of the home loan interest paid or any part thereof) as is reasonable in the circumstances of the case; or
- (ii) the amount specified in Schedule 3D in relation to that year of assessment, whichever is of the lesser amount.

(b) For the purposes of this section, where a dwelling is held by a person otherwise than as a sole owner, the amount of the home loan interest paid referred to in paragraph (a)(i) shall be regarded as having been paid-

- (i) where the dwelling is held by the person as a joint tenant, by the joint tenants each in proportion to the number of the joint tenants; or
- (ii) where the dwelling is held by the person as a tenant in common, by the tenants in common each in proportion to his or her share in the ownership in the dwelling.

(c) For the purposes of paragraph (a), where a dwelling is held by a person otherwise than as a sole owner, the relevant amount specified in Schedule 3D referred to in paragraph (a)(ii) shall be regarded as having been reduced-

- (i) where the dwelling is held by the person as a joint tenant, in proportion to the number of the joint tenants; or
- (ii) where the dwelling is held by the person as a tenant in common, between the tenants in common each in proportion to his or her share in the ownership in the dwelling.

(3) (a) Where any home loan interest is paid by a person during any year of assessment for the purposes of a home loan obtained in respect of a dwelling which is used at any time in that year of assessment by that person exclusively or partly as his place of residence, but the loan was not applied wholly for the acquisition of the dwelling, the deduction allowable to the person under subsection (1) for that year of assessment in respect of the home loan interest paid shall be such part of the amount of the home loan interest paid as is reasonable in the circumstances of the case.

(b) Where any home loan interest is paid by a person during any year of assessment for the purposes of a home loan obtained in respect of a dwelling which is used at any time in that year of assessment by that person exclusively or partly as his place of residence, but the person has paid during that year of assessment any other home loan interest for the purposes of a home loan obtained in respect of any other dwelling which is also used at any time in that year of assessment by that person

exclusively or partly as his place of residence, a deduction shall, subject to subsection (4), be allowable to the person under subsection (1) for that year of assessment in respect of both the first-mentioned home loan interest and the second-mentioned home loan interest, and the deduction so allowable shall be such amount (whether representing the full amount of the aggregate of the respective amounts of the first-mentioned home loan interest and the second-mentioned home loan interest or any part thereof) as is reasonable in the circumstances of the case.

(4) A deduction shall not be allowable under this section to a person in respect of any home loan interest paid during any year of assessment for the purposes of a home loan obtained in respect of a dwelling where-

- (a) the sum representing the home loan interest is allowable as a deduction under any other section of this Ordinance;
- (b) any other home loan interest paid in respect of any other dwelling has been allowed to the person as a deduction for that year of assessment under this section other than by virtue of subsection (3)(b); or
- (c) a deduction has been allowed to the person under this section, whether in respect of the same dwelling or in respect of any other dwelling, for 7 years of assessment (whether continuous or not). (Amended 9 of 2004 s. 3)

(5) For the purposes of subsection (4)(c), where a deduction allowable to a person under this section has been taken into account in any year of assessment in ascertaining-

- (a) subject to paragraphs (b) and (c), the net chargeable income of the person;
- (b) where the person and his or her spouse have made an election under section 10(2), the aggregated net chargeable income of the person and his or her spouse; or
- (c) where the person or the person and his or her spouse have made an election under section 41, the amount of the assessment made under section 42A(1) in respect of the person or the person and his or her spouse,

the person shall be deemed to have been allowed the deduction under this section for that year of assessment.

- (6) (a) A claim by a person to a deduction allowable to him under this section may only be revoked by the person by notice in writing to the Commissioner within 6 months after the date on which the deduction is allowed to him under this section.
- (b) Where a claim is revoked under paragraph (a), the claim shall be deemed not to have been made.

(7) The Commissioner may, for the purposes of this section, approve in writing any organization or association as a recognized organization or association.

* (8) For the purposes of this section, where a person pays any home loan interest for the purposes of a home loan obtained in respect of a dwelling which is used by that person exclusively or partly as his place of residence in the circumstances described in subsection (1), and the home loan was applied also for the acquisition of a car parking space, the car parking space shall be deemed- (Amended 12 of 2004 s. 8)

- (a) to be part and parcel of the dwelling; and
- (b) to be used by that person in the same manner and to the same extent as the dwelling is used as his place of residence.

(9) In this section-

"dwelling" (住宅) means any building or any part of a building-

- (a) which is designed and constructed for use exclusively or partly for residential purposes; and
- (b) the rateable value of which is separately estimated under section 10 of the Rating Ordinance (Cap 116);

"home loan" (居所貸款), in relation to a person claiming a deduction under this section for any year of assessment, 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 that year of assessment 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 claiming a deduction in respect of a dwelling under this section, means interest paid by the person as a sole owner, or as a joint tenant or tenant in common of the dwelling for the purposes of a home loan 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;

"place of residence" (居住地方), in relation to a person who has more than one place of residence, means his principal place of residence;

"recognized organization or association" (認可組織或協會) means any organization or association approved as such by the Commissioner under subsection (7).

(10) For the avoidance of doubt, where any person has been allowed a deduction under the provisions of this section in force immediately before the commencement# of section 3 of the Revenue Ordinance 2004 (9 of 2004), or has been regarded as having been allowed such deduction by virtue of section 26F(2)(b), for any year of assessment, that year of assessment shall be regarded as a year of assessment for which a deduction has been allowed for the purposes of subsection (4)(c) as amended by section 3 of that Ordinance. (Added 9 of 2004 s. 3)

(Part IVA added 31 of 1998 s. 12)

Notes:

* **The amendment made by 12 of 2004 to this subsection applies in relation to the year of assessment 1998/99 and to all subsequent years of assessment. (Please see 12 of 2004 s. 2(2))**

Commencement date: 1 April 2003.

Chapter:	112	INLAND REVENUE ORDINANCE	Gazette Number	Version Date
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Schedule:	2	RATES	24 of 2003	04/07/2003
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[sections 13 & 43(1)]

For the years of assessment 1947/48 to 1949/50 inclusive

(Amended 49 of 1956 s. 68)

	SECOND COLUMN	THIRD COLUMN		
(a)	Upon the first \$5000	1/4 standard rate		
(b)	Upon the next \$5000	1/4	"	"
(c)	-do-	3/4	"	"
(d)	-do-	The full standard rate		
(e)	-do-	1 1/4 standard rate		
(f)	-do-	1 1/2	"	"
(g)	-do-	1 3/4	"	"
(h)	Upon the remainder	Twice the standard rate		

Note:- Where a person is liable to the appropriate tax for a part only of any year of assessment the amounts in the second column against items (a) to (g) will be reduced in the proportion which the number of days he is so liable bears to the number of days in that year of assessment.

For the years of assessment 1950/51 to 1965/66 inclusive

	SECOND COLUMN	THIRD COLUMN		
(a)	Upon the first \$5000	1/5 standard rate		
(b)	Upon the next \$5000	2/5	"	"
(c)	-do-	3/5	"	"
(d)	-do-	4/5	"	"
(e)	-do-	The full standard rate		
(f)	-do-	1 1/5 standard rate		
(g)	-do-	1 2/5	"	"
(h)	-do-	1 3/5	"	"
(i)	-do-	1 4/5	"	"
(j)	Upon the remainder	Twice the standard rate		

(Added 30 of 1950 Schedule. Amended 37 of 1950 Schedule; 15 of 1966 s. 5)

For the years of assessment 1966/67 to 1971/72 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$5000	2 3/4%
(b)	Upon the next \$5000	5 1/2%
(c)	-do-	8 1/4%
(d)	-do-	11%
(e)	-do-	14%
(f)	-do-	17%
(g)	-do-	20%
(h)	-do-	23%
(i)	-do-	26%
(j)	Upon the remainder	30%

(Added 15 of 1966 s. 5. Amended 40 of 1972 s. 2)

For the years of assessment 1972/73

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$5000	2 1/2%
(b)	Upon the next \$5000	5%
(c)	-do-	7 1/2%
(d)	-do-	10%
(e)	-do-	12 1/2%
(f)	-do-	15%
(g)	-do-	17 1/2%
(h)	-do-	20%
(i)	-do-	22 1/2%
(j)	-do-	25%
(k)	-do-	27 1/2%
(l)	Upon the remainder	30%

(Added 26 of 1972 s. 2. Amended 33 of 1973 s. 5)

For the years of assessment 1973/74 to 1977/78 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	5%
(b)	Upon the next \$10000	10%
(c)	-do-	15%
(d)	-do-	20%
(e)	-do-	25%
(f)	Upon the remainder	30%

(Added 33 of 1973 s. 5. Amended 29 of 1979 s. 3; L.N. 137 of 1981)

For the years of assessment 1978/79 to 1984/85 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	5%
(b)	Upon the next \$10000	10%
(c)	-do-	15%
(d)	-do-	20%
(e)	Upon the remainder	25%

(Added 29 of 1979 s. 3. Amended 21 of 1985 s. 3)

For the years of assessment 1985/86 to 1986/87 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	5%
(b)	Upon the next \$10000	10%
(c)	-do-	15%
(d)	Upon the next \$20000	20%
(e)	Upon the remainder	25%

(Added 21 of 1985 s. 3. Amended 28 of 1987 s. 9)

For the year of assessment 1987/88

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	5%
(b)	Upon the next \$10000	10%
(c)	Upon the next \$20000	15%
(d)	Upon the next \$20000	20%
(e)	Upon the remainder	25%

(Added 28 of 1987 s. 9. Amended 28 of 1988 s. 8)

For the years of assessment 1988/89 and 1989/90

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	3%
(b)	Upon the next \$10000	6%
(c)	-do-	9%
(d)	-do-	12%
(e)	-do-	15%
(f)	-do-	18%
(g)	-do-	21%
(h)	Upon the remainder	25%

(Added 28 of 1988 s. 8. Amended 30 of 1990 s. 5)

For the year of assessment 1990/91

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$10000	2 per cent
(b)	Upon the next \$10000	4 per cent
(c)	-do-	9 per cent
(d)	-do-	12 per cent
(e)	-do-	15 per cent
(f)	-do-	18 per cent
(g)	-do-	21 per cent
(h)	Upon the remainder	25 per cent

(Added 30 of 1990 s. 5. Amended 42 of 1991 s. 2)

For the years of assessment 1991/92 and 1992/93

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$20000	2%
(b)	Upon the next \$20000	9%
(c)	Upon the next \$20000	17%
(d)	Upon the remainder	25%

(Added 42 of 1991 s. 2. Amended 28 of 1993 s. 2)

For the year of assessment 1993/94

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$20000	2%
(b)	Upon the next \$30000	9%
(c)	Upon the next \$30000	17%
(d)	Upon the remainder	25%

(Added 28 of 1993 s. 2. Amended 37 of 1994 s. 6)

For the years of assessment 1994/95 to 1996/97 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$20000	2%
(b)	Upon the next \$30000	9%
(c)	Upon the next \$30000	17%
(d)	Upon the remainder	20%

(Added 37 of 1994 s. 6. Amended 42 of 1997 s. 4)

For the year of assessment 1997/98

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$30000	2%
(b)	Upon the next \$30000	8%
(c)	Upon the next \$30000	14%
(d)	Upon the remainder	20%

(Added 42 of 1997 s. 4. Amended 31 of 1998 s. 20)

For the years of assessment 1998/99 to 2002/03 inclusive

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$35000	2%
(b)	Upon the next \$35000	7%
(c)	Upon the next \$35000	12%
(d)	Upon the remainder	17%

(Added 31 of 1998 s. 20. Amended 24 of 2003 s. 10)

For the year of assessment 2003/04

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$32500	2%
(b)	Upon the next \$32500	7 1/2%
(c)	Upon the next \$32500	13 %
(d)	Upon the remainder	18 1/2%

(Added 24 of 2003 s. 10)

For the year of assessment 2004/05
and for each year after that year

	SECOND COLUMN	THIRD COLUMN
(a)	Upon the first \$30000	2%
(b)	Upon the next \$30000	8%
(c)	Upon the next \$30000	14%
(d)	Upon the remainder	20%

(Added 24 of 2003 s. 10)