

立法會 *Legislative Council*

LC Paper No. LS82/07-08

**Paper for the House Committee Meeting
on 9 May 2008**

Legal Service Division Report on Revenue Bill 2008

I. SUMMARY

- 1. Object of the Bill** To implement some of the proposals in the 2008-09 Budget.

- 2. Comments**
 - (a) The Bill proposes to amend the Inland Revenue Ordinance (Cap. 112) to:
 - (i) increase the deduction ceiling for approved charitable donations;
 - (ii) allow more concessionary profits tax deduction for capital expenditure on environment-friendly facilities;
 - (iii) lower the standard rate and the corporate tax rate;
 - (iv) provide for one off tax reduction for 2007-08; and
 - (v) increase the amounts of personal allowances and widen the tax bands.

 - (b) The Bill also proposes to amend the Hotel Accommodation Tax Ordinance (Cap. 348) to waive the tax levied on hotel accommodation charges.

- 3. Public Consultation** The Financial Secretary conducted consultations with LegCo Members, various bodies and the general public during the formulation of the 2008-09 Budget.

- 4. Consultation with LegCo Panel** The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.

- 5. Conclusion** The Legal Service Division will make a further report after receiving the Administration's clarification on some technical issues.

II. REPORT

Object of the Bill

To amend the Inland Revenue Ordinance (Cap. 112) and the Hotel Accommodation Tax Ordinance (Cap. 348) to give effect to some of the proposals announced by the Financial Secretary in the 2008-09 Budget (the Budget).

LegCo Brief Reference

2. FIN CR 2/7/2201/07 issued by the Financial Services and the Treasury Bureau in April 2008.

Date of First Reading

3. 7 May 2008.

Comments

Increase the deduction ceiling for approved charitable donations

4. To encourage more generous charitable donations from the business community and the public, the Financial Secretary announced in his Budget Speech on 27 February 2008 the Government's proposal to raise the ceiling for tax deductible donations under profits tax, salaries tax and tax under personal assessment from the present 25% to 35% of a person's assessable profits or income (paragraph 130 of the Budget Speech).

5. The Bill proposes to amend sections 16D and 26C of the Inland Revenue Ordinance (Cap. 112) (IRO) to give effect to the above proposal.

Allow more concessionary profits tax deduction for capital expenditure on environment-friendly facilities

6. To encourage the business community to use environment-friendly machinery or equipment, the Financial Secretary proposed a 100% profits tax deduction for capital expenditure on such machinery or equipment in the first year of purchase. For environment-friendly installations that are mainly ancillary to buildings, the Budget proposes that the depreciation period be shortened from the usual 25 years to five years (paragraph 127 of the Budget Speech).

7. Clauses 4 and 11 add to IRO the proposed sections 16H to 16K and Schedule 17 to give effect to the proposal set out in paragraph 6 above. Under the proposed section 16I, capital expenditure incurred by a person during the basis period for any year of assessment (that year of assessment) on the provision of any environmental protection machinery or on the construction of any environmental protection installation is eligible for profits tax deduction. The tax deduction allowed for the five-year depreciation period proposed for environmental protection installations is calculated as follows:

- (a) 20% of the capital expenditure involved will be deducted for that year of assessment; and
- (b) the remaining part shall be deducted by four equal amounts, one for each of the next succeeding four years of assessment, so long as the installation has not been sold at the end of the basis period for the year of assessment concerned.

Lower the standard rate and corporate tax rate

8. To implement the measures announced by the Chief Executive in the 2007 Policy Address, the Budget proposes that the standard rate of tax on income and the corporate tax rate be reduced from 16% to 15% and from 17.5% to 16.5% respectively (paragraphs 165 and 170 of the Budget Speech).

9. The Bill seeks to amend Schedule 1 and Schedule 8 to IRO to lower the standard rate of tax on income and the rate of profits tax in respect of a corporation by one percentage point. The proposed reduction will apply in relation to the year of assessment 2008/09 and subsequent years of assessment.

One off tax reduction for 2007-08

10. To implement the Financial Secretary's proposals in the Budget for a one-off reduction of salaries tax, tax under personal assessment, profits tax and property tax for 2007-08 by 75%, subject to a ceiling of \$25,000 (paragraphs 166, 171 and 173 of the Budget Speech), the Bill adds to IRO the proposed section 90 and Schedule 18 to give effect to these proposals. Under section 1 of the proposed Schedule 18, where a person owns two or more properties, the proposed reduction of property tax will apply to each of those properties.

Increase personal allowances and widen tax bands

11. In addition to the one-off tax deduction, the Financial Secretary also proposed to raise the basic allowance and the single parent allowance from \$100,000 to \$108,000, and to increase the married person's allowance from \$200,000 to \$216,000 (paragraph 167 of the Budget Speech). Further, each tax band is proposed to be widened from \$35,000 to \$40,000 (paragraph 169 of the Budget Speech).

12. Clause 8 of the Bill seeks to amend Schedule 2 to IRO to widen the tax bands for salaries tax and tax under personal assessment for the year of assessment 2008/09 and subsequent years of assessment. Clause 9 amends Schedule 4 to increase the amounts of basic allowance and single parent allowance and the amount of married person's allowance in accordance with the budgetary proposals set out in paragraph 11 above. The proposed increase will apply in relation to the year of assessment 2008/09 and subsequent years of assessment.

Waive the Hotel Accommodation Tax

13. To further promote tourism and enhance the competitiveness of the hotel industry of Hong Kong, and to reduce the administrative cost of hotels and guesthouses, the Budget proposes that the Hotel Accommodation Tax be waived (paragraph 93 of the Budget Speech).

14. Under section 3 of the Hotel Accommodation Tax Ordinance (Cap. 348) (HATO), the current rate of tax levied on all hotel accommodation charges is 3 per cent. Part 3 of the Bill amends section 3 of HATO by repealing the current tax rate and providing that the rate of hotel accommodation tax is to be specified in the proposed Schedule to the Ordinance. Under the proposed Schedule, the specified rate is 0%.

Transitional provisions

15. Other provisions of the Bill make transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax and profits tax for the year of assessment 2008/09 following enactment of the Bill.

Commencement

16. If enacted, the Bill, except Part 3 relating to amendments to HATO, will come into operation on the day on which the Revenue Ordinance 2008 is published in the Gazette. Part 3 of the Bill will come into operation on 1 July 2008. According to paragraph 5 of the LegCo Brief, this will allow adequate advance notice for hotel operators to adjust their billing system.

Public Consultation

17. According to paragraph 10 of the LegCo Brief, the Financial Secretary conducted consultations with LegCo Members, various business and professional bodies, as well as the general public during the formulation of the Budget. Their views have been taken into account in formulating these proposals.

Consultation with LegCo Panel

18. The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.

Conclusion

19. The Legal Service is seeking clarification from the Administration on some technical issues, including the types of environment-friendly facilities that would qualify for the proposed profits tax deduction for capital expenditure on such facilities and some drafting points relating to the Bill. A further report will be submitted after receiving the Administration's reply.

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
5 May 2008