

立法會
Legislative Council

LC Paper No. LS55/10-11

**Paper for the House Committee Meeting
on 6 May 2011**

**Legal Service Division Report on
Inland Revenue (Amendment) (No. 3) Bill 2011**

I. SUMMARY

- 1. Objects of the Bill**

To amend the Inland Revenue Ordinance (Cap 112) to give effect to the Budget Speech and post Budget Speech proposals concerning tax concessions for salaries tax and tax under personal assessment.
- 2. Comments**

The Bill seeks to:-

 - (a) increase the child allowances, dependent parent/grandparent allowances and raise the deduction ceiling for elderly residential care expenses for salaries tax and tax under personal assessment as from the year of assessment 2011-2012 by 20%; and
 - (b) provide for one-off reduction of the amount of salaries tax and tax under personal assessment payable for the year 2010-2011 by 75% or \$6,000, whichever is the lesser.

The above tax concessions are intended to alleviate the burden of taxpayers in supporting their parents and raising their children and to share wealth with taxpayers.
- 3. Public Consultation**

The Financial Secretary has consulted LegCo Members, various businesses and professional bodies, as well as the general public, during the formulation of the 2011-2012 Budget but not on specific proposals in the Bill.
- 4. Consultation with LegCo Panel**

The proposals in the Bill have not been referred to any LegCo Panel for discussion.
- 5. Conclusion**

No difficulties relating to the legal or drafting aspects of the Bill have been identified. Subject to Members' views on its policy aspects, the Bill is ready for resumption of the Second Reading debate.

II. REPORT

Objects of the Bill

To amend the Inland Revenue Ordinance (Cap 112) to give effect to the Budget Speech and post Budget Speech proposals concerning tax concessions for salaries tax and tax under personal assessment.

LegCo Brief Reference

2. File Ref.: TsyB R 183/535-1/5/0(11-12) (C) issued by the Financial Services and the Treasury Bureau on 19 April 2011.

Date of First Reading

3. 4 May 2011.

Comments

Tax allowances & deduction ceiling

4. In order to alleviate the burden of taxpayers in supporting their parents and raising their children, the Financial Secretary has proposed a 20% rise in child and additional child allowances, dependent parent/grandparent allowances, additional dependent parent/grandparent allowances and the deduction ceiling for elderly residential care expenses (collectively known as the Allowances) in the Budget Speech delivered on 23 February 2011¹. The above proposals are estimated to benefit a net total of about 710,000 taxpayers².

5. To implement and give effect to the proposed 20% increase that takes effect as from the year of assessment 2011-2012, it is proposed in:

- (a) Clause 5 to amend Schedule 3C of the Ordinance. This will allow the maximum deduction for Elderly Residential Care Expenses (ERCE) to be increased from \$60,000 to \$72,000; and
- (b) Clause 6 to amend Schedule 4 of the Ordinance, which provides for the actual amount of Allowances, as follows:

¹ Paragraph 51 of Budget Speech.

² Paragraph 5 of the LegCo Brief.

Nature of allowance	From assessment year 2008/09 to 2010/11	From assessment year 2011/12
Dependant parent/grandparent and additional dependent parent/grandparent allowances granted under section 30(1) and section 30A(1) of the Ordinance	\$30,000	\$36,000
Dependant parent/grandparent and additional dependent parent/grandparent allowances granted under section 30(1A) and section 30A(1A) of the Ordinance	\$15,000	\$18,000
Maximum amount of child allowance allowed	\$450,000	\$540,000
Child allowance/additional child allowance ³ (per child)	\$50,000	\$60,000

6. The Administration proposes the above concessionary taxation measures to take effect on salaries tax and tax under personal assessment as from the year of assessment 2011-2012.

Transitional arrangements and Provisional Salaries Tax

7. Under section 63B of the Ordinance, a person who is chargeable to salaries tax under Part III of the Ordinance in respect of any year of assessment shall be liable to pay provisional salaries tax in respect of that year of assessment.

8. To provide for transitional arrangements, a new subsection (8), which refers to the newly added Schedule 23, is proposed to be added to section 89. The provisions will: (a) allow the allowances applicable in the year of assessment 2011-2012 to have effect in calculating the provisional salaries tax for that year of assessment; and (b) provides an additional ground for holding over application in cases which the aggregate amount of ERCE to be paid or

³ granted in respect of a child in the year of assessment in which the child is born

paid by the person or his/her spouse⁴ during the year of assessment 2011-2012 exceeds or is likely to exceed \$60,000 in respect of a parent/ grandparent of the person.

One-off tax reduction for 2010-2011

9. On 2 March 2011, the Financial Secretary further proposed a one-off reduction of salaries tax and tax under personal assessment for 2010-2011 by 75%, subject to a ceiling of \$6,000. The reduction will be reflected in the final tax payable for 2010-2011. According to the LegCo Brief, an estimated 1.5 million taxpayers will benefit from the reduction.

10. To implement the one-off tax reduction, the Bill adds a proposed section 93 and Schedule 24. The effect is that for the year of assessment commencing on 1 April 2010, the amount of salaries tax and tax under personal assessment as computed under the Ordinance will be reduced by 75% or \$6,000, whichever is the lesser, in each case.

Commencement

11. There is no commencement provision in the Bill. By virtue of section 20(2) of the Interpretation and General Clauses Ordinance (Cap 1), the Bill will come into operation on the day it is published in the Gazette after enactment.

Public Consultation

12. According to paragraph 11 of LegCo Brief, the Financial Secretary has conducted consultations (but not on specific proposals in the Bill) with the LegCo Members, various businesses and professional bodies, as well as the general public during the formulation of the 2011-2012 Budget. Their views have been taken into account in the formulation of the Proposals.

Consultation with LegCo Panel

13. The proposals in the Bill have not been referred to any LegCo Panel for discussion.

⁴ not being a spouse living apart from the person

Conclusion

14. No difficulties relating to the legal or drafting aspects of the Bill have been identified. Subject to Members' views on the policy aspects of the Bill, the Bill is ready for resumption of the Second Reading Debate.

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