

C018-e

Amend the Inland Revenue Ordinance.

Enacted by the Legislative Council.

PART 1

Preliminary

1. Short title

This Ordinance may be cited as the Revenue (No. 2) Ordinance 2003.

2. Application

This Ordinance applies in relation to the year of assessment commencing on 1 April 2003 and to all subsequent years of assessment.

PART 2

Amendments to Inland Revenue Ordinance

3. Definition of income from employment

Section 9(1)(a)(i), (ii) and (iii) of the Inland Revenue Ordinance (Cap. 112) is repealed.

4. Approved charitable donations

Section 16D(2)(b) is repealed and the following substituted---

"(b) (i) up to and including the year of assessment commencing on 1 April 2002, a sum in excess of 10% of such balance of that person's assessable profits after making any adjustment for the allowances and charges provided under Part VI;

(ii) commencing on or after 1 April 2003, a sum in excess of 25% of such balance of that person's assessable profits after making any adjustment for the allowances and charges provided under

Part VI."

5. Computation of assessable profits from

cinematograph films, patents,

trademarks, etc.

Section 21A(1)(b) is repealed and the following substituted---

"(b) the following percentages of the sum in any other case, including any case of the description mentioned in the proviso to paragraph (a)---

(i) for any sum received by or accrued to the person before 1 April 2003, 10%;

(ii) for any sum received by or accrued to the person on or after 1 April 2003, 30%."

6. Approved charitable donations

Section 26C is amended---

(a) in subsection (2)(a)(ii), by repealing "10%" and substituting "the percentage specified in subsection (2A)";

(b) in subsection (2)(b)(iii), by repealing "10%" and substituting "the percentage

specified in subsection (2A)";

(c) by adding---

"(2A) The percentages specified for the purposes of subsection (2)(a)(ii) and (b)(iii) shall be---

(a) for any year of assessment up to and including the year of assessment commencing on 1 April 2002, 10%;

(b) for any year of assessment commencing on or after 1 April 2003, 25%."

7. Amount of provisional property tax

Section 63M(8) is amended by repealing "subsection (7)" and substituting "subsection (6)".

8. Objections

Section 64(1) is amended by repealing ", in the case of an assessment other than a provisional assessment,".

9. Standard Rate

Schedule 1 is amended---

(a) by repealing "For the year of assessment 1989/90 and until superseded" and substituting "For the years of assessment 1989/90 to 2002/03 inclusive";

(b) by adding at the end---

"For the year of assessment 2003/04 --- 15-1/2%."

For the year of assessment 2004/05 and

until superseded --- 16%."

10. Rates

Schedule 2 is amended---

(a) by repealing "For the year of assessment 1998/99 and for each year after that year" and substituting "For the years of assessment 1998/99 to 2002/03 inclusive";

(b) by adding at the end---

"For the year of assessment 2003/04

Second Column Third Column

(a) Upon the first \$32,500 2%

(b) Upon the next \$32,500 7-1/2%

(c) Upon the next \$32,500 13%

(d) Upon the remainder 18-1/2%

For the year of assessment 2004/05

and for each year after that year

Second Column Third Column

(a) Upon the first \$30,000 2%

(b) Upon the next \$30,000 8%

(c) Upon the next \$30,000 14%

(d) Upon the remainder 20%".

11. Allowances

Schedule 4 is amended---

(a) by repealing "For the year of assessment 1998/99 and for each year after that year" and substituting "For the years of assessment 1998/99 to 2002/03 inclusive";

(b) by adding at the end---

"For the year of assessment 2003/04

First Column	Second Column
(section)	(the prescribed amount)

1. Section 28 (basic allowance)	\$104,000
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2. Section 29 (married person's allowance)	\$208,000
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3. Section 30 (dependent parent allowance)---	
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(a) subsection (3)(a)	\$ 30,000
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(b) subsection (3)(b)	\$ 30,000
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(c) subsection (4)(a)	\$ 12,000
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4. Section 30A (dependent grandparent allowance)---	
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(a) subsection (3)(a)	\$ 30,000
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(b) subsection (3)(b)	\$ 30,000
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(c) subsection (4)(a)	\$ 12,000
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5. Section 30B(1) (dependent brother or dependent sister allowance)	\$ 30,000
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6. Section 31 (child allowance)---	
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(a) subsection (1)	\$30,000 each for the first to the ninth child
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(b) subsection (5)	\$270,000
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7. Section 31A(1) (disabled dependant allowance)	\$ 60,000
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8. Section 32(1) (single parent allowance)	\$104,000
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For the year of assessment 2004/05 and for each year after that year

First Column	Second Column
(section)	(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 (4)(a) \$ 12,000

4. Section 30A (dependent grandparent allowance)---

(a) subsection (3)(a) \$ 30,000

(b) subsection (3)(b) \$ 30,000

(c) 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) \$30,000 each for
the first to the
ninth child

(b) subsection (5) \$270,000

7. Section 31A(1) (disabled dependant allowance) \$ 60,000

8. Section 32(1) (single parent allowance) \$100,000".

12. Rate of profits tax in respect of a corporation

Schedule 8 is amended---

(a) by repealing "For the year of assessment 1998/99 and until superseded" and substituting "For the years of assessment 1998/99 to 2002/03 inclusive";

(b) by adding at the end---

"For the year of assessment 2003/04 and
until superseded 17-1/2%".

PART 3

Transitional Provisions

13. Interpretation of Part 3

(1) In this Part, unless the context otherwise requires---

"current year of assessment" (本課稅年度) means the year of assessment commencing

on 1 April 2003;

"preceding year of assessment" (上一課稅年度) means the year of assessment commencing on 1 April 2002;

"principal Ordinance" (主體條例) means the Inland Revenue Ordinance (Cap. 112).

(2) Where an expression used in this Part is also used in the principal Ordinance, it shall have the same meaning as in the principal Ordinance.

14. Construction of net chargeable income

(1) For the purposes of calculating the net chargeable income for the preceding year of assessment under section 63C(1) of the principal Ordinance in order to ascertain provisional salaries tax in respect of the year of assessment commencing on 1 April 2003 or the year of assessment commencing on 1 April 2004, the references in section 12B(1)(b) and (2)(b) of the principal Ordinance to allowances permitted under Part V of the principal Ordinance shall be read as if they were references to the amounts of allowances prescribed for the year of assessment commencing on 1 April 2003 or the year of assessment commencing on 1 April 2004 (as the case may be) under Part V of, and Schedule 4 to, the principal Ordinance as amended by this Ordinance.

(2) In relation to an application to hold over the payment of provisional salaries tax in respect of the year of assessment commencing on 1 April 2003 or the year of assessment commencing on 1 April 2004 that is made under section 63E of the principal Ordinance on the ground specified in subsection (2)(a) of that section, the reference to "net chargeable income for the year preceding the year of assessment" in that subsection shall be construed to mean the net chargeable income for the year of assessment commencing on 1 April 2002 or the net chargeable income for the year of assessment commencing on 1 April 2003 (as the case may be) as calculated under subsection (1).

(3) In relation to an application to hold over the payment of provisional salaries tax in respect of the year of assessment commencing on 1 April 2003 or the year of assessment commencing on 1 April 2004 that is made under section 63E of the principal Ordinance on the ground specified in subsection (2)(b) of that section, the reference to "net chargeable income for the year preceding the year of assessment" in that subsection shall be construed to mean the net chargeable income for the year of assessment commencing on 1 April 2002 or the net chargeable income for the year of assessment commencing on 1 April 2003 (as the case may be) as calculated under subsection (1).

15. Additional grounds for making hold over applications

(1) Without prejudice to section 63E of the principal Ordinance, where in relation to the current 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) of the principal Ordinance,

whichever is the later, apply to the Commissioner on a ground 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.

(2) The following grounds are specified for the purposes of subsection (1)---

(a) subject to paragraph (b), in the case of a person who was charged with tax under Part III of the principal Ordinance in the preceding year of assessment, the ground that the aggregate amount of the approved charitable donations made or to be made by the person or his or her spouse, not being a spouse living apart from the person, during the current year of assessment exceeds, or is likely to exceed, 10% of---

(i) subject to subparagraph (ii), the person's assessable income for the preceding year of assessment as reduced by the deductions provided for under section 12(1)(a) and (b) of the principal Ordinance for the preceding year of assessment; or

(ii) where the person and his or her spouse made an election under section 10(2) of the principal Ordinance in respect of the preceding year of assessment, the aggregate of their assessable incomes for the preceding year of assessment as reduced in each case by the deductions provided for under section 12(1)(a) and (b) of the principal Ordinance for the preceding year of assessment;

(b) in the case of a person who made an election under section 41 of the principal Ordinance in respect of the preceding year of assessment, the ground that the aggregate amount of the approved charitable donations made or to be made by the person or his or her spouse, not being a spouse living apart from the person, during the current year of assessment exceeds, or is likely to exceed, 10% of the total amount of---

(i) the person's total income for the preceding year of assessment;

(ii) any sum which was allowed as a deduction under section 16D of the principal Ordinance for the preceding year of assessment; and

(iii) any sum which was allowed as a deduction under section 12(1)(e) of the principal Ordinance for the preceding year of assessment.

(3) Without prejudice to section 63J of the principal Ordinance, where in relation to the current year of assessment a person is liable to pay provisional profits tax, he may, by notice in writing lodged with the Commissioner not later

than---

(a) 28 days before the day by which the provisional profits tax is to be paid; or
(b) 14 days after the date of the notice for payment of provisional profits tax under section 63H(7) of the principal Ordinance,

whichever is the later, apply to the Commissioner on the ground specified in subsection (4) to have the payment of the whole or part of such tax held over until he is required to pay profits tax for that year of assessment.

(4) The ground specified for the purposes of subsection (3) is that the aggregate amount of the approved charitable donations made or to be made by the person during the current year of assessment exceeds, or is likely to exceed, 10% of the balance of the person's assessable profits for the preceding year of assessment after making any adjustment for the allowances and charges provided under Part VI of the principal Ordinance for the preceding year of assessment.

(5) Where the Commissioner is satisfied that it is appropriate to do so, he may, either generally or in a particular case, extend the time within which an application may be made under this section.

(6) On receipt of an application made under this section, the Commissioner shall consider the application and may hold over the payment of the whole or part of the provisional salaries tax or provisional profits tax, as appropriate.

(7) The Commissioner shall, by notice in writing, inform the person applying under this section of his decision.

Explanatory Memorandum

The main purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) to give effect to some of the proposals in the Budget introduced by the Government for the 2003--2004 financial year.

2. Clause 3 amends the definition of income from employment so that the value of any holiday warrant or passage granted by an employer to an employee will form part of the employee's income from employment.

3. Clause 4 raises the existing ceiling for tax deductible donations from 10% of a person's assessable profits to 25%.

4. Clause 5 increases a certain rate that is applied in computing the assessable profits of a person not carrying on a trade, profession or business in Hong Kong in respect of sums received by him from the use in Hong Kong of cinematograph or television films, patents, trademarks or copyright materials, etc.

5. Clause 6 raises the existing ceiling for tax deductible donations from 10% of a person's assessable income to 25%.

6. Clause 7 corrects an error in cross-reference.

7. Clause 8 removes an obsolete reference to provisional assessment.

8. Clause 9 increases the standard rate of tax from 15% to 15-1/2% for the year of assessment 2003/04 and from 15-1/2% to 16% for the year of assessment 2004/05.
9. Clause 10 revises the marginal tax structure for the years of assessment 2003/04 and 2004/05.
10. Clause 11 reduces the respective amounts of basic allowance, married person's allowance and single parent allowance to \$104,000, \$208,000 and \$104,000 respectively for the year of assessment 2003/04 and to \$100,000, \$200,000 and \$100,000 respectively for the year of assessment 2004/05. It also revises the structure of child allowance so that a person will be granted an allowance of \$30,000 each for the first to the ninth child.
11. Clause 12 increases the rate of profits tax in respect of a corporation from 16% to 17-1/2%.
12. Clauses 14 and 15 contain transitional provisions.