

HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE No. 9 OF 2004**A circular stamp containing the letters "L.S." in a bold, serif font.

TUNG Chee-hwa
Chief Executive
20 May 2004

An Ordinance to amend the Inland Revenue Ordinance to give effect to some of the proposals in the Budget introduced by the Government for the 2004–2005 financial year.

[1 April 2003]

Enacted by the Legislative Council.

1. Short title, application and commencement

- (1) This Ordinance may be cited as the Revenue Ordinance 2004.
- (2) This Ordinance, except section 3, shall apply in relation to the year of assessment commencing on 1 April 2004 and to all subsequent years of assessment.
- (3) Section 3 shall be deemed to have come into operation on 1 April 2003.

Inland Revenue Ordinance**2. Expenditure on research and development**

Section 16B of the Inland Revenue Ordinance (Cap. 112) is amended—

- (a) in subsection (1)(a) and (b), by repealing “scientific research” wherever it appears and substituting “research and development”;
- (b) in subsection (3)—
 - (i) in paragraph (a), by repealing “scientific research” where it twice appears and substituting “research and development”;
 - (ii) by adding—

“(d) Where, prior to the commencement of section 2 of the Revenue Ordinance 2004 (9 of 2004), expenditure represented by any plant or

machinery has been allowed as a deduction in ascertaining the profits from a trade, profession or business pursuant to the provisions of subsection (1)(b) in force immediately before that commencement, then, for the purposes of paragraph (a)—

- (i) such plant or machinery shall be treated as plant or machinery representing research and development expenditure of a capital nature which had been allowed as a deduction in ascertaining the profits from the trade, profession or business pursuant to subsection (1)(b); and
 - (ii) the reference in that paragraph to the amount of the deduction in respect of expenditure represented by such plant or machinery shall be construed as a reference to the aggregate of—
 - (A) the amount of the deduction allowed in respect of expenditure represented by such plant or machinery pursuant to the provisions of subsection (1)(b) in force immediately before that commencement; and
 - (B) the amount of the deduction allowed in respect of research and development expenditure of a capital nature represented by such plant or machinery pursuant to subsection (1)(b) after that commencement.”;
- (c) in subsection (3A)—
- (i) in paragraph (a), by repealing “scientific research” where it twice appears and substituting “research and development”;
 - (ii) by adding—
 - “(c) Where, prior to the commencement of section 2 of the Revenue Ordinance 2004 (9 of 2004), expenditure to which any rights relate has been allowed as a deduction in ascertaining the profits from a trade, profession or business under the provisions of this section in force immediately before that commencement, then, for the purposes of paragraph (a)—

- (i) such rights shall be treated as rights in, or arising out of, research and development the expenditure on which had been allowed as a deduction in ascertaining the profits from the trade, profession or business under this section; and
 - (ii) the reference in that paragraph to the amount of the deduction in respect of expenditure to which such rights relate shall be construed as a reference to the aggregate of—
 - (A) the amount of the deduction allowed in respect of expenditure to which such rights relate under the provisions of this section in force immediately before that commencement; and
 - (B) the amount of the deduction allowed in respect of expenditure on research and development to which such rights relate under this section after that commencement.”;
- (d) in subsection (4)(a)—
 - (i) in the definition of “an approved research institute”, by repealing “scientific research” and substituting “research and development”;
 - (ii) by repealing the definition of “scientific research” and substituting—
 - “ “research and development” (研究和開發) means—
 - (a) any activities in the fields of natural or applied science for the extension of knowledge;
 - (b) any systematic, investigative or experimental activities carried on for the purposes of any feasibility study or in relation to any market, business or management research;
 - (c) any original and planned investigations undertaken with the prospect of gaining new scientific or technical knowledge and understanding; or

- (d) the application of any research findings or other knowledge to a plan or design for the production or introduction of new or substantially improved materials, devices, products, processes, systems or services prior to the commencement of their commercial production or use.”;
- (e) in subsection (5)(a) and (b), by repealing “scientific research” wherever it appears and substituting “research and development”;
- (f) in subsection (6)(b), by repealing “scientific research” and substituting “research and development”.

3. Home loan interest

Section 26E is amended—

- (a) in subsection (4)(c), by repealing “5 years” and substituting “7 years”;
- (b) by adding—

“(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.”.

4. Initial and annual allowances in respect of machinery and plant acquired under hire purchase agreement

Section 37A(4) is amended by repealing “scientific research” and substituting “research and development”.

5. Interpretation

Section 40(1) is amended, in the definition of “industrial building or structure”, in paragraph (f), by repealing “scientific research in relation” and substituting “research and development related”.