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Report of the Bills Committee on
Revenue (Allowances for Tax) Bill 2005

Purpose

This paper reports on the deliberations of the Bills Committee on Revenue (Allowances of Tax) Bill 2005.

Background

2. In the 2005-06 Budget, the Financial Secretary (FS) announced a package of budgetary measures to promote stability and economic development. These included, among other things, the following revenue measures relating to allowances under salaries tax and personal assessment -

(a) increase of the child allowance from $30,000 to $40,000 with effect from the year of assessment 2005-06; and

(b) introduction of a new basic allowance and an additional allowance, both at $15,000, for taxpayers maintaining parents/grandparents aged between 55 and 59 with effect from the year of assessment 2005-06.

The Bill

3. The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) (the Ordinance) to give effect to the salaries tax related measures as set out in the preceding paragraph.

The Bills Committee

4. At the House Committee meeting on 29 April 2005, members agreed to form a Bills Committee to study the Bill. Under the chairmanship of Hon CHAN Kam-lam, the Bills Committee has held one meeting. The membership list of the Bills Committee is given in **Appendix I**.

Deliberations of the Bills Committee

Increase of the child allowance from $30,000 to $40,000

5. To alleviate the rather heavy burden of taxpayers in raising children, the Administration proposes to increase the child allowance from $30,000 to $40,000. It is expected that around 30 000 taxpayers will benefit from this measure. The proposal will cost $620 million in tax revenue in a full year.

6. The Bills Committee raises no questions on the proposed increase of the child allowance.

Introduction of new allowances for maintaining parents/grandparents aged between 55 and 59

7. At present, taxpayers maintaining dependent parents/grandparents who are ordinarily resident in Hong Kong and aged 60 or above enjoy a tax allowance of $30,000 for a year of assessment for each dependent parent/grandparent and an additional allowance of the same amount if the parent/grandparent is residing with the taxpayer continuously throughout the year of assessment. In view of economic restructuring and the fact that the unemployment rate for older workers is still relatively high, the younger generation will inevitably have to undertake a heavier responsibility in caring for the parents. As a relief measure, the Administration proposes to introduce two new allowances for taxpayers maintaining dependent parents/grandparents aged between 55 and 59. They will be granted a basic allowance of $15,000 a year, with an additional allowance of the same amount if their parents/grandparents are residing with them throughout the year of assessment. It is estimated that around 100 000 taxpayers will benefit from this measure. The proposal will cost $450 million in tax revenue in a full year.

8. Members of the Bills Committee welcome the proposed new allowances but have divergent views on the scope of the allowances. Mr SIN Chung-kai, in particular, is of the view that the scope of the new allowances is too wide covering those who are not in need of the tax relief. He finds the current proposal, which applies to all parents/grandparents aged between 55 and 59, at variance with the original idea of Members of many political parties, including the Democratic Party.

The original idea was that the new allowances should only apply to those parents/grandparents who were unemployed. Mrs Sophie LEUNG of the Liberal Party considers that given that $450 million of tax revenue will be forgone as a result of the introduction of such allowances, and that the economy has yet to recover, the Administration should reconsider tightening the scope of the allowances. Mr CHAN Kam-lam, Chairman of the Bills Committee and Member of the Democratic Alliance for Betterment and Progress of Hong Kong (DAB), advises that DAB is in support of the proposal.

9. To address Mr SIN Chung-kai's concerns, the Bills Committee has examined the feasibility of restricting the new allowances to those parents/grandparents who are unemployed. According to the Administration, FS has considered views of different political parties in respect of creating an allowance for the unemployed. The proposal is considered not feasible as there are technical difficulties in defining the term "unemployed", particularly the period within which a person is unemployed and the situation where a person is unemployed and employed again. The Administration has also pointed out that there might be circumstances where well-off parents/grandparents who are unemployed but are living on income from investments, say dividends, will become eligible for such allowances while those who are employed with a very low salary will not. The Administration has therefore taken a broader approach to apply the allowances to all parents/grandparents aged between 55 and 59, which is also the practice with the existing allowances for dependent parents/grandparents aged 60 or above. In view of the fact that parents/grandparents who are under 60 would have a better chance of finding a full-time or part-time job, and that the responsibility of taxpayers in caring for them would be less than their counterparts with parents/grandparents aged over 60, the former will be granted a lower basic allowance of $15,000 a year and an additional allowance of the same amount if their parents/grandparents are residing with them. Nevertheless, the taxpayers will have to undergo the maintenance test before the new allowances can be claimed.

10. Mr SIN Chung-kai has put forward the idea of using taxable income instead of state of employment to determine the eligibility of parents/grandparents for the new allowances. Consideration may be given to parents/grandparents with taxable income not exceeding a prescribed limit becoming eligible for the new allowances. The Administration considers the use of taxable income as a determining factor not feasible. There is practical difficulty in setting a suitable level of taxable income, which is derived after deduction of various allowances. An arbitrarily high threshold of taxable income may restrict the granting of the new allowances to those in genuine need, but it does not prevent people living on dividends, which are not subject to tax, from being eligible for the allowances. The Administration considers the current proposal the simplest and most effective one to ensure that those who are in need of such allowances can make their claims easily, although it is aware that this may also benefit those who do not need the allowances.

Definition of "maintain"

11. On the definition of "maintain", members note that a parent/grandparent should only be treated as being maintained by a taxpayer or his/her spouse if -

(a) the parent/grandparent resides, otherwise than for full valuable consideration, with that taxpayer and his/her spouse for a continuous period of not less than six months in the year of assessment; or

(b) the taxpayer or his/her spouse contributes not less than the prescribed amount, which is currently set at $12,000 per year, towards the maintenance of that parent/grandparent in the year of assessment.

12. The Bills Committee has further studied the maximum dependent parent/grandparent allowance which a taxpayer can claim in a year of assessment. According to the Administration, where a deduction has been allowed to a taxpayer for any year of assessment in respect of a parent/grandparent of the taxpayer or his/her spouse, no person should be granted a dependent parent allowance for that year of assessment in respect of the same parent/grandparent. Subject to the maintenance test, a taxpayer could claim allowance for each of his/her dependent parent/grandparent and dependent parent/grandparent of his/her spouse who is so maintained. As regards the Administration's forecast that 100 000 taxpayers will benefit from the new measure, the Bills Committee notes that this forecast is based on a number of factors, including the age distribution of the population in Hong Kong and the profiles of taxpayers.

Penalty on false claims

13. The Bills Committee notes that under the Ordinance, any person wilfully with intent to make false statement in connection with a claim for any deduction or allowance shall be guilty of an offence. On conviction, the penalty includes a fine, a further fine of treble the amount of tax which has been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected will be instituted against the offender, and imprisonment. The Bills Committee further notes that the Commissioner of Inland Revenue has power to impose additional tax by way of penalty if no prosecution is instituted. The Administration also confirms that it would randomly check new claims for dependent parent/grandparent allowance upon the implementation of the new allowances.

Committee Stage amendments

14. No Committee Stage amendments have been proposed.

Recommendations

15. The Bills Committee recommends the resumption of the Second Reading debate on the Bill on 8 June 2005.

Consultation with the House Committee

16. The House Committee at its meeting on 27 May 2005 supported the recommendation of the Bills Committee to resume the Second Reading debate on the Bill on 8 June 2005.

Prepared by
Council Business Division 1
Legislative Council Secretariat
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Appendix I

Bills Committee on Revenue (Allowances for Tax) Bill 2005

Membership list

Chairman	Hon CHAN Kam-lam, JP
Members	Hon LEE Cheuk-yan Hon CHAN Yuen-han, JP Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Hon SIN Chung-kai, JP Hon WONG Ting-kwong, BBS Hon Ronny TONG Ka-wah, SC Hon CHIM Pui-chung Hon TAM Heung-man
	(Total : 9 Members)
Clerk	Miss Becky YU
Legal Adviser	Ms Connie FUNG
Date	17 May 2005