

LEGISLATIVE COUNCIL BRIEF

REVENUE BILL 2008

INTRODUCTION

A At the meeting of the Executive Council on 15 April 2008, the Council ADVISED and the Chief Executive ORDERED that the Revenue Bill 2008 at **Annex A** be introduced into the Legislative Council to implement the relevant revenue proposals announced in the 2008-09 Budget.

JUSTIFICATIONS

2. In the 2008-09 Budget, the Financial Secretary proposed a number of concessionary revenue measures, including:

(a) Lower the Standard Rate and Corporate Tax Rate

To implement the measures announced in the 2007 Policy Address, the 2008-09 Budget proposes that the standard rate and the corporate tax rate be reduced from 16% to 15% and from 17.5% to 16.5% respectively.

(b) Increase Personal Allowances and Widen Tax Bands

To respond to calls from the community for personal allowances for salaries tax to revert to their 2002-03 levels and for tax bands to be further widened, the 2008-09 Budget proposes that the basic allowance and single parent allowance be increased from \$100,000 to \$108,000 and

married person's allowance from \$200,000 to \$216,000. It also proposes that each tax band be widened from \$35,000 to \$40,000.

(c) Increase Deduction Ceiling for Approved Charitable Donations

To encourage more generous donations to approved charitable bodies, the 2008-09 Budget proposes that the deduction ceiling for approved charitable donations under profits tax, salaries tax and tax under personal assessment be raised from 25% to 35% of assessable profits/ income.

(d) More Concessional Profits Tax Deduction for Capital Expenditure on Environment-friendly Facilities

To encourage businesses to use environment-friendly equipment, the 2008-09 Budget proposes a 100% profits tax deduction for capital expenditure on environment-friendly machinery and equipment in the first year of purchase. For environment-friendly installations mainly ancillary to buildings, the Budget proposes that the depreciation period be shortened from the usual 25 years to five years.

(e) One-off Tax Reduction for 2007-08

In the light of our healthy fiscal position, the 2008-09 Budget proposes 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 for each case. The reduction will be reflected in the taxpayer's final tax payable for 2007-08.

(f) Waive the Hotel Accommodation Tax

To promote inbound tourism and enhance the competitiveness of our hotel industry, the 2008-09 Budget proposes waiving the hotel accommodation tax.

3. To give effect to the above concessionary revenue measures, we propose to introduce into the Legislative Council the Revenue Bill 2008.

Revenue Bill 2008

4. The Revenue Bill 2008 seeks to amend the Inland Revenue Ordinance (Cap. 112) and the Hotel Accommodation Tax Ordinance (Cap. 348) to implement the Budget proposals set out at paragraph 2 above.

5. While the proposed one-off tax reduction (i.e. paragraph 2(e) above) applies in relation to the year of assessment 2007-08, the other proposed concessionary revenue measures under the Inland Revenue Ordinance (i.e. paragraph 2(a) to (d) above) apply in relation to the year of assessment 2008-09. The proposed waiver of the hotel accommodation tax (i.e. paragraph 2(f) above) will take effect on 1 July 2008 in order to allow adequate advance notice for hotel operators to adjust their billing system.

OTHER OPTIONS

6. We must amend the existing legislation in order to bring the relevant revenue proposals into effect. There are no other options.

THE BILL

Revenue Bill 2008

7. The main purposes of the Revenue Bill 2008 are to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the proposals relating to salaries tax, tax charged under personal assessment, profits tax and property tax, and to amend the Hotel Accommodation Tax Ordinance (Cap. 348) to waive the hotel accommodation tax announced in the 2008-09 Budget. The Bill is divided into four Parts:

- (a) Part 1 (clauses 1 and 2) contains preliminary provisions;

- (b) Part 2 (clauses 3 to 11) amends the Inland Revenue Ordinance (Cap. 112);
- (c) Part 3 (clauses 12 to 14) amends the Hotel Accommodation Tax Ordinance (Cap. 348); and
- (d) Part 4 (clauses 15 to 19) contains transitional provisions.

LEGISLATIVE TIMETABLE

8. The legislative timetable will be as follows -

Publication in the Gazette	25 April 2008
First Reading and commencement of Second Reading debate	7 May 2008
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

B 9. The proposal has financial, economic, civil service and sustainability implications as set out in **Annex B**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the Inland Revenue Ordinance and the Hotel Accommodation Tax Ordinance and their subsidiary legislation. It has no productivity or environmental implications.

PUBLIC CONSULTATION

10. The Financial Secretary conducted consultations with Legislative Council Members, various business and professional bodies, as well as the general public during the formulation of the 2008-09 Budget. Their views have been taken into account in

formulating these proposals.

PUBLICITY

11. A press release will be issued. A spokesman will be available to answer media and public enquiries.

ENQUIRY

12. In case of enquiries about this brief, please contact Mr Kenneth Cheng, Principal Assistant Secretary for Financial Services and the Treasury (Treasury), at 2810 2370.

Financial Services and the Treasury Bureau
April 2008

REVENUE BILL 2008

CONTENTS

Clause		Page
PART 1		
PRELIMINARY		
1.	Short title	1
2.	Commencement	1
PART 2		
AMENDMENTS TO INLAND REVENUE ORDINANCE		
3.	Approved charitable donations	1
4.	Sections added	
	16H. Definitions and general provisions applicable to this section and sections 16I, 16J and 16K	3
	16I. Deductions for specified capital expenditure incurred in relation to environmental protection facilities	6
	16J. Proceeds of sale of environmental protection facilities to be treated as trading receipts	7
	16K. Environmental protection facilities owned as at commencement date	11
5.	Approved charitable donations	14
6.	Section added	
	90. Reduction of taxes for year of assessment 2007/08	14
7.	Standard rate	15

8.	Rates	15
9.	Allowances	16
10.	Rate of profits tax in respect of a corporation	17
11.	Schedules 17 and 18 added	
	Schedule 17 Environmental protection facilities	18
	Schedule 18 Reduction of taxes for year of assessment 2007/08	20

PART 3

AMENDMENTS TO HOTEL ACCOMMODATION TAX ORDINANCE

12.	Tax on accommodation charges	23
13.	Tax to be paid and returns made to Collector	23
14.	Schedule added	
	Schedule Rate specified for purposes of section 3(1)	24

PART 4

TRANSITIONAL PROVISIONS

15.	Interpretation	24
16.	Allowances granted for current year of assessment	24
17.	Applications for holding over payment of provisional salaries tax on additional grounds	25
18.	Applications for holding over payment of provisional profits tax on additional grounds	28
19.	Applications under section 17 or 18: general provisions	29

A BILL

To

Amend the Inland Revenue Ordinance and the Hotel Accommodation Tax Ordinance to give effect to certain proposals in the Budget introduced by the Government for the 2008-2009 financial year, and to provide for related matters.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Revenue Ordinance 2008.

2. Commencement

(1) This Ordinance, except Part 3, shall come into operation on the day on which this Ordinance is published in the Gazette.

(2) Part 3 shall come into operation on 1 July 2008.

PART 2

AMENDMENTS TO INLAND REVENUE ORDINANCE

3. Approved charitable donations

(1) The heading of section 16D of the Inland Revenue Ordinance (Cap. 112) is amended by adding "**(Part IV)**" after

"donations".

(2) Section 16D(2) is amended by repealing "for any year of assessment".

(3) Section 16D(2)(a) is amended by adding "for any year of assessment," before "any sum".

(4) Section 16D(2)(aa) is amended by adding "for any year of assessment," before "any sum".

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

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

(c) for the year of assessment commencing on 1 April 2003 or any subsequent year of assessment up to and including the year of assessment commencing on 1 April 2007, a sum in excess of 25% of the balance of that person's assessable profits after making any adjustment for the allowances and charges provided under Part VI;

(d) for any year of assessment commencing on or after 1 April 2008, a sum in excess of 35% of the balance of that person's assessable profits after making any adjustment for the allowances and charges

provided under Part VI."

4. Sections added

The following are added -

"16H. Definitions and general provisions applicable to this section and sections 16I, 16J and 16K

(1) In this section and sections 16I, 16J and 16K -

"building or structure" (建築物或構築物) means -

- (a) any commercial building or structure as defined in section 40(1); or
- (b) any industrial building or structure as defined in section 40(1);

"capital expenditure" (資本開支) has the meaning assigned to it by section 40(1);

"commencement date" (生效日期) means the date on which section 16I comes into operation;

"environmental protection facility" (環保設施) means -

- (a) any environmental protection machinery; or
- (b) any environmental protection installation;

"environmental protection installation" (環保裝置) means any installation, or part of any installation, that is specified in Part 2 of Schedule 17 and forms a building or structure;

"environmental protection machinery" (環保機械) -

- (a) means any machinery or plant that is specified

in Part 1 of Schedule 17; but

- (b) does not include any machinery or plant in which any person holds rights as a lessee under a lease;

"relevant interest" (有關權益) has the meaning assigned to it by section 40(1);

"relevant proceeds of sale" (有關售賣得益), in relation to an environmental protection facility in respect of which a deduction has been allowed under section 16I, means -

- (a) if section 16I(4) does not apply, the proceeds of sale of the facility; or
- (b) if section 16I(4) applies, such part of the proceeds of sale of the facility as is proportionate to the extent to which the deduction has been allowed;

"residue of expenditure" (開支剩餘額) has the meaning assigned to it by section 40(1);

"specified capital expenditure" (指明資本開支) -

- (a) means any capital expenditure incurred on -
 - (i) the provision of any environmental protection machinery; or
 - (ii) the construction of any environmental protection installation; but
- (b) does not include -
 - (i) any capital expenditure that may be deducted under any other section of

this Part; or

- (ii) any capital expenditure incurred under a hire-purchase agreement;

"unallowed amount" (未獲容許扣除款額), in relation to an environmental protection installation in respect of which a deduction has been allowed under section 16I and which is subsequently sold, means -

- (a) if section 16I(4) does not apply, the amount of specified capital expenditure incurred in relation to the installation that is still unallowed as at the time of the sale; or
- (b) if section 16I(4) applies, such part of the amount referred to in paragraph (a) as is proportionate to the extent to which the deduction has been allowed.

(2) In this section and section 16K -

- (a) a reference to capital expenditure incurred on the provision of any environmental protection machinery or any machinery or plant includes capital expenditure incurred on alterations to an existing building incidental to the installation of that environmental protection machinery or that machinery or plant, as the case may be; and
- (b) a reference to capital expenditure incurred on the construction of any environmental

protection installation or any building or structure does not include any expenditure incurred on the acquisition of, or of rights in or over, any land.

(3) The Secretary for Financial Services and the Treasury may, after consultation with the Director of Environmental Protection, by notice published in the Gazette, amend Schedule 17.

16I. Deductions for specified capital expenditure incurred in relation to environmental protection facilities

(1) Notwithstanding section 17, this section applies in ascertaining the profits from any trade, profession or business in respect of which a person is chargeable to tax under this Part for any year of assessment (referred to in this section as "that year of assessment").

(2) Any specified capital expenditure incurred by the person during the basis period for that year of assessment in relation to any environmental protection machinery shall be deducted.

(3) Any specified capital expenditure incurred by the person during the basis period for that year of assessment in relation to any environmental protection installation shall be deducted as follows -

(a) 20% shall be deducted for that year of assessment; and

(b) the remaining part shall be deducted by 4 equal amounts, one for each of the next succeeding 4 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.

(4) If an environmental protection facility is used partly in the production of profits chargeable to tax under this Part and partly for any other purposes, the amount that shall be deducted under subsection (2) or (3) is the amount of specified capital expenditure that is proportionate to the extent of the use of the facility in the production of those profits.

(5) A person is not entitled to the allowances under Part VI in respect of any specified capital expenditure if a deduction for any part of the expenditure is allowed under this section.

(6) For the purposes of this section, any specified capital expenditure incurred for the purposes of a trade, profession or business by a person about to carry on the trade, profession or business shall be treated as if it had been incurred by that person on the first day on which he carries on the trade, profession or business.

16J. Proceeds of sale of environmental protection facilities to be treated as trading receipts

(1) This section applies notwithstanding the exclusion relating to the sale of capital assets in section 14.

(2) If any environmental protection machinery in respect of which a deduction has been allowed under section 16I in ascertaining the profits from a trade, profession or business is subsequently sold, the relevant proceeds of sale shall, to the extent that they are not chargeable to tax under any other section of this Part and do not exceed the amount of the deduction, be treated as a trading receipt of the trade, profession or business, arising in or derived from Hong Kong and accruing -

- (a) at the time of the sale; or
- (b) if the sale occurs on or after the date on which the trade, profession or business is permanently discontinued, immediately before the date of discontinuance.

(3) If any environmental protection installation in respect of which a deduction has been allowed under section 16I in ascertaining the profits from a trade, profession or business is subsequently sold -

- (a) if there is an unallowed amount that exceeds the relevant proceeds of sale, the excess shall be deducted for the year of assessment in the basis period for which the sale occurs;
- (b) if there is an unallowed amount but the relevant proceeds of sale exceed that amount,

the excess shall, to the extent that it is not chargeable to tax under any other section of this Part and does not exceed the amount of the deduction, be treated as a trading receipt of the trade, profession or business, arising in or derived from Hong Kong and accruing -

- (i) at the time of the sale; or
 - (ii) if the sale occurs on or after the date on which the trade, profession or business is permanently discontinued, immediately before the date of discontinuance; or
- (c) if there is not an unallowed amount, the relevant proceeds of sale shall, to the extent that they are not chargeable to tax under any other section of this Part and do not exceed the amount of the deduction, be treated as a trading receipt of the trade, profession or business, arising in or derived from Hong Kong and accruing -
- (i) at the time of the sale; or
 - (ii) if the sale occurs on or after the date on which the trade, profession or business is permanently discontinued, immediately before the date of discontinuance.

(4) If, in relation to the sale of an environmental protection facility as referred to in subsection (2) or (3) -

- (a) the buyer is a person over whom the seller has control;
- (b) the seller is a person over whom the buyer has control;
- (c) both the seller and the buyer are persons over both of whom some other person has control; or
- (d) the sale is between a husband and his wife, not being a wife living apart from her husband,

the Commissioner shall, if he is of the opinion that the sale price of the facility does not represent its true market value at the time of the sale, determine such true market value, and the amount so determined shall, for the purposes of subsection (2) or (3), as the case may be, be treated as the proceeds of that sale.

(5) For the purposes of subsections (2) and (3), if an environmental protection facility in respect of which a deduction has been allowed to a person under section 16I is subsequently destroyed -

- (a) the facility shall be treated as if it had been sold immediately before the destruction; and
- (b) any insurance money or other compensation of any description received by the person in respect of the destruction and any money

received by him in respect of the remains of the facility shall be treated as the proceeds of that sale.

(6) For the purposes of this section, a reference to the time of the sale, in relation to an environmental protection facility, shall be construed as a reference to the time of completion of the sale of the facility, or the time when possession of the facility is given, whichever is the earlier.

16K. Environmental protection facilities owned as at commencement date

(1) Subject to subsection (7), if, immediately before the commencement date, a person owned and had in use any machinery or plant that is environmental protection machinery, that person shall, for the purposes of section 16I, be deemed to have incurred, on the commencement date, specified capital expenditure in relation to that machinery or plant.

(2) Subject to subsection (7), if, immediately before the commencement date, a person owned and had in use any machinery or plant that would otherwise have qualified as environmental protection machinery but for the fact that that machinery or plant does not comply with the registration or other requirements under Part 1 of Schedule 17, that person shall, for the purposes of section 16I, be deemed to have incurred specified capital expenditure in relation to that machinery or plant on the date on which the registration or

other requirements are complied with.

(3) The specified capital expenditure deemed to have been incurred by a person in relation to any machinery or plant under subsection (1) or (2) shall be the capital expenditure incurred on the provision of that machinery or plant reduced by the aggregate of -

- (a) the amount of the initial allowances, if any, under section 37(1), 37A(1) or 39B(1); and
- (b) the amount of the annual allowances, if any, under section 37(2), 37A(3) or 39B(2),

made to the person in respect of the capital expenditure in all prior years of assessment.

(4) Subject to subsection (7), if -

- (a) immediately before the commencement date, a person is entitled to an interest in any building or structure that is an environmental protection installation; and
- (b) that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure,

that person shall, for the purposes of section 16I, be deemed to have incurred, on the commencement date, specified capital expenditure in relation to that building or structure.

(5) Subject to subsection (7), if -

- (a) immediately before the commencement date, a

person is entitled to an interest in any building or structure that would otherwise have qualified as an environmental protection installation but for the fact that that building or structure does not comply with the registration requirement under Part 2 of Schedule 17; and

- (b) that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure,

that person shall, for the purposes of section 16I, be deemed to have incurred specified capital expenditure in relation to that building or structure on the date on which the registration requirement is complied with.

(6) The specified capital expenditure deemed to have been incurred in relation to any building or structure under subsection (4) or (5) shall be the residue of expenditure in relation to that building or structure immediately before the commencement date, or the residue of expenditure in relation to that building or structure immediately before the date on which the registration requirement under Part 2 of Schedule 17 is complied with, whichever is applicable.

(7) Where a person is deemed to have incurred specified capital expenditure under any of subsections (1), (2), (4) and (5) (referred to in this subsection as "the relevant

provision") in the basis period for any year of assessment, the relevant provision applies to him only if he, at any time within one month after the date on which a notice of the assessment made in respect of that year of assessment under section 59 is given under section 62, elects in writing that the relevant provision shall so apply to him.

(8) An election under subsection (7), once made, is irrevocable."

5. Approved charitable donations

(1) The heading of section 26C is amended by adding "**(Part IVA)**" after "**donations**".

(2) Section 26C(2A)(b) is repealed and the following substituted -

"(b) for the year of assessment commencing on 1 April 2003 or any subsequent year of assessment up to and including the year of assessment commencing on 1 April 2007, 25%;

(c) for any year of assessment commencing on or after 1 April 2008, 35%."

6. Section added

The following is added -

"90. Reduction of taxes for year of assessment 2007/08

Schedule 18 contains provisions relating to the reduction of property tax, salaries tax, profits tax and tax

under personal assessment for the year of assessment commencing on 1 April 2007."

7. Standard rate

(1) Schedule 1 is amended by repealing "For the year of assessment 2004/05 and for each year after that year" and substituting "For the years of assessment 2004/05 to 2007/08 inclusive".

(2) Schedule 1 is amended by adding at the end -
 "For the year of assessment 2008/09 and
 for each year after that year - 15%".

8. Rates

(1) Schedule 2 is amended in the subheading "For the year of assessment 2007/08 and for each year after that year" by repealing "and for each year after that year".

(2) Schedule 2 is amended by adding at the end -
 "For the year of assessment 2008/09
 and for each year after that year

SECOND COLUMN	THIRD COLUMN
(a) Upon the first \$40,000	2%
(b) Upon the next \$40,000	7%
(c) Upon the next \$40,000	12%
(d) Upon the remainder	17%".

9. Allowances

(1) Schedule 4 is amended in the subheading "For the year of assessment 2007/08 and for each year after that year" by repealing "and for each year after that year".

(2) Schedule 4 is amended by adding at the end -

"For the year of assessment 2008/09
and for each year after that year"

FIRST COLUMN	SECOND COLUMN
(section)	(the prescribed amount)
1. Section 28 (basic allowance)	\$108,000
2. Section 29 (married person's allowance)	\$216,000
3. Section 30 (dependent parent allowance) -	
(a) subsection (3)(a)	\$ 30,000
(b) subsection (3)(b)	\$ 30,000
(c) subsection (3A)(a)	\$ 15,000
(d) subsection (3A)(b)	\$ 15,000
(e) 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 (3A)(a)	\$ 15,000
(d) subsection (3A)(b)	\$ 15,000
(e) 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)	\$50,000 for each child
(b) subsection (1A)	\$50,000 for each child
(c) subsection (5) (in relation to subsection (1))	\$450,000
(d) subsection (5) (in relation to subsection (1A))	\$450,000
7. Section 31A(1) (disabled dependant allowance)	\$ 60,000
8. Section 32(1) (single parent allowance)	\$108,000".

10. Rate of profits tax in respect of a corporation

(1) Schedule 8 is amended by repealing "For the year of

assessment 2003/04 and for each year after that year" and substituting "For the years of assessment 2003/04 to 2007/08 inclusive".

- (2) Schedule 8 is amended by adding at the end -
"For the year of assessment 2008/09 and
for each year after that year 16½%".

11. Schedules 17 and 18 added

The following are added -

"SCHEDULE 17 [ss. 16H & 16K]

ENVIRONMENTAL PROTECTION FACILITIES

PART 1

MACHINERY OR PLANT

1. Low noise construction machinery or plant registered under the Quality Powered Mechanical Equipment system administered by the Environmental Protection Department.

2. Air pollution control machinery or plant in compliance with the requirements under the Air Pollution Control Ordinance (Cap. 311).

3. Waste treatment machinery or plant in compliance with the requirements under the Waste Disposal Ordinance (Cap. 354).

4. Wastewater treatment machinery or plant in compliance with the requirements under the Water Pollution Control Ordinance (Cap. 358).

PART 2

INSTALLATIONS

1. Any of the following installations -

- (a) solar water heating installations;
- (b) solar photovoltaic installations;
- (c) wind turbine installations;
- (d) offshore wind farm installations;
- (e) landfill gas installations;
- (f) anaerobic digestion installations;
- (g) thermal waste treatment installations;
- (h) wave power installations;
- (i) hydroelectric installations;
- (j) bio-fuel installations;
- (k) biomass combined-heat-and-power installations;
- (l) geothermal installations.

2. Energy efficient building installations registered under the Hong Kong Energy Efficiency Registration Scheme for Buildings administered by the Electrical and Mechanical Services Department.

SCHEDULE 18

[s. 90]

REDUCTION OF TAXES FOR YEAR OF
ASSESSMENT 2007/08

1. **Property tax**

(1) The amount of property tax charged under Part II of this Ordinance for the year of assessment commencing on 1 April 2007 shall be reduced by an amount equivalent to -

(a) 75% of the amount of the tax as computed under section 5(1) of this Ordinance; or

(b) \$25,000,

whichever is the less.

(2) Where a person is the sole owner of 2 or more properties, the reduction under subsection (1) applies separately to each of those properties.

(3) Where 2 or more persons are joint owners or owners in common of 2 or more properties, the reduction under subsection (1) applies separately to each of those properties.

(4) Where 2 or more persons are joint owners or owners in common of a property, and any of them has elected to be assessed in accordance with Part VII of this Ordinance for the year of assessment commencing on 1 April 2007, the reduction under subsection (1) applies to the tax chargeable on the whole of the net assessable value of the property, and not the tax charged on the net assessable value of the property shared by those persons who have not made that

election.

(5) In this section -

"property" (物業) means any land or buildings or land and

buildings as defined in section 7A of this Ordinance -

- (a) that is a separate tenement for which a rateable value is estimated in accordance with section 10 of the Rating Ordinance (Cap. 116) for the financial year commencing on 1 April 2007;
- (b) if paragraph (a) does not apply, that is the subject tenement of any agreement, whether in writing or not, providing for the right of use of the land or buildings or land and buildings; or
- (c) if paragraphs (a) and (b) do not apply, that is considered as a separate tenement by the Commissioner having regard to the circumstances of the case.

2. **Salaries tax**

The amount of salaries tax charged under Part III of this Ordinance for the year of assessment commencing on 1 April 2007 shall be reduced by an amount equivalent to -

- (a) 75% of the amount of the tax as computed under section 13(1) of this Ordinance read together with section 13(2) of this Ordinance; or

(b) \$25,000,

whichever is the less.

3. Profits tax

(1) The amount of profits tax charged under Part IV of this Ordinance for the year of assessment commencing on 1 April 2007 shall be reduced by an amount equivalent to -

(a) 75% of the amount of the tax as computed under section 14 of this Ordinance read together with sections 14A and 14B of this Ordinance;
or

(b) \$25,000,

whichever is the less.

(2) Where a trade, profession or business is carried on by a partnership, and any of the partners has elected to be assessed in accordance with Part VII of this Ordinance for the year of assessment commencing on 1 April 2007, the reduction under subsection (1) applies to the tax chargeable on the whole of the net assessable profits of the trade, profession or business, and not the tax charged on the net assessable profits of the trade, profession or business shared by those partners who have not made that election.

4. Tax under personal assessment

(1) The amount of tax charged under Part VII of this Ordinance for the year of assessment commencing on 1 April

2007 shall be reduced by an amount equivalent to -

- (a) 75% of the amount of the tax as computed under section 43(1) of this Ordinance read together with section 43(1A) of this Ordinance; or
- (b) \$25,000,

whichever is the less.

(2) For the purposes of section 43(2B) of this Ordinance, in ascertaining the portion of tax to be charged on each spouse in the year of assessment commencing on 1 April 2007, the amount of tax to be apportioned between the husband and wife shall be the amount as reduced under subsection (1).".

PART 3

AMENDMENTS TO HOTEL ACCOMMODATION TAX ORDINANCE

12. Tax on accommodation charges

(1) Section 3(1) of the Hotel Accommodation Tax Ordinance (Cap. 348) is amended by repealing "of 3 per cent" and substituting "specified in the Schedule".

(2) Section 3(2) is amended by repealing "to be levied under this section" and substituting "specified in the Schedule".

13. Tax to be paid and returns made to Collector

Section 5 is amended by adding -

"(4) Subsection (1) does not apply to any period during which the rate of tax specified in the Schedule is 0%."

14. Schedule added

The following is added -

"SCHEDULE [ss. 3 & 5]

RATE SPECIFIED FOR PURPOSES OF SECTION 3(1)

0%".

PART 4

TRANSITIONAL PROVISIONS

15. Interpretation

(1) In this Part -

"current year of assessment" (本課稅年度) means the year of assessment commencing on 1 April 2008;

"preceding year of assessment" (上一課稅年度) means the year of assessment commencing on 1 April 2007;

"principal Ordinance" (《條例》) means the Inland Revenue Ordinance (Cap. 112).

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

16. Allowances granted for current year of assessment

(1) For the purposes of section 63C(1) of the principal Ordinance, in calculating the net chargeable income of a person for the preceding year of assessment to ascertain the provisional salaries tax in respect of the current year of assessment -

(a) the reference to "such allowances as are under Part V permitted for that person" in section 12B(1)(b) of the principal Ordinance; and

(b) the reference to "such allowances as are under Part V permitted in their case" in section 12B(2)(b) of the principal Ordinance,

shall be construed to mean such allowances that may be granted to that person, or that person and his or her spouse, whichever is applicable, for the current year of assessment under Part V of the principal Ordinance as amended by this Ordinance.

(2) For the purposes of an application under section 63E(1) of the principal Ordinance to hold over the payment of provisional salaries tax in respect of the current year of assessment, the references to "net chargeable income for the year preceding the year of assessment" in section 63E(2)(a) and (b) of the principal Ordinance shall be construed to mean the net chargeable income for the preceding year of assessment as calculated in accordance with subsection (1).

**17. Applications for holding over payment
of provisional salaries tax on
additional grounds**

(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, apply to the Commissioner on a ground specified in subsection (3) to have the payment of the whole or part of such tax held over until he is required to pay salaries tax for the current year of assessment.

(2) An application under subsection (1) must be made 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.

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

(a) in the case of a person on whom tax was charged 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, 25% 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) if the person and his or her spouse have 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 has 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, 25% of the aggregate 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.

18. Applications for holding over payment of provisional profits tax on additional grounds

(1) 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, apply to the Commissioner on the ground specified in subsection (3) to have the payment of the whole or part of such tax held over until he is required to pay profits tax for the current year of assessment.

(2) An application under subsection (1) must be made 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.

(3) The ground specified for the purposes of subsection (1) 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, 25% 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.

**19. Applications under section 17 or 18:
general provisions**

(1) 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 section 17 or 18.

(2) On receipt of an application made under section 17 or 18, 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.

(3) The Commissioner shall, by notice in writing, inform the person applying under section 17 or 18 of his decision.

Explanatory Memorandum

The purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) and the Hotel Accommodation Tax Ordinance (Cap. 348) to give effect to certain proposals in the 2008-2009 Budget.

2. The Bill is divided into 4 Parts.

PART 1

3. Part 1 (clauses 1 and 2) contains preliminary provisions.
4. Clause 1 provides for the short title of the Bill when enacted.
5. Clause 2 provides for the commencement of the Bill when enacted.

PART 2

6. Part 2 (clauses 3 to 11) amends the Inland Revenue Ordinance (Cap. 112) ("IRO").
7. Clause 3 amends section 16D of the IRO to raise the ceiling for tax deductible donations under profits tax from 25% to 35%.
8. Clauses 4 and 11 introduce the proposed sections 16H to 16K of and Schedule 17 to the IRO to accelerate the profits tax deduction for capital expenditure on environmental protection facilities.
9. Clause 5 amends section 26C of the IRO to raise the ceiling for tax deductible donations under salaries tax and personal assessment from 25% to 35%.
10. Clauses 6 and 11 introduce the proposed section 90 of and Schedule 18 to the IRO to reduce the respective amounts of property tax, salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2007/08.
11. Clause 7 amends Schedule 1 to the IRO to reduce the standard

rate from 16% to 15% for the year of assessment 2008/09 and subsequent years of assessment.

12. Clause 8 amends Schedule 2 to the IRO to widen marginal tax bands for salaries tax and tax under personal assessment for the year of assessment 2008/09 and subsequent years of assessment.

13. Clause 9 amends Schedule 4 to the IRO to increase the amounts of basic allowance and single parent allowance from \$100,000 to \$108,000 and the amount of married person's allowance from \$200,000 to \$216,000 for the year of assessment 2008/09 and subsequent years of assessment.

14. Clause 10 amends Schedule 8 to the IRO to reduce the rate of profits tax in respect of a corporation from 17½% to 16½% for the year of assessment 2008/09 and subsequent years of assessment.

PART 3

15. Part 3 (clauses 12 to 14) amends the Hotel Accommodation Tax Ordinance (Cap. 348) ("HATO").

16. Clause 12 amends section 3 of the HATO to provide that the rate of hotel accommodation tax is specified in the proposed Schedule to the HATO introduced by clause 14.

17. Clause 13 amends section 5 of the HATO to clarify that the requirement under that section to file a return on accommodation charges does not apply to any period during which the rate of hotel accommodation tax is 0%.

18. Clause 14 introduces the proposed Schedule to the HATO to

reduce the rate of hotel accommodation tax from 3% of accommodation charges to 0%.

PART 4

19. Part 4 (clauses 15 to 19) contains transitional provisions.

20. Clause 15 contains the definitions with reference to which the provisions in Part 4 are to be interpreted.

21. Clause 16 provides for the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2008/09.

22. Clause 17 provides for the transitional arrangements relating to the holding over of payment of provisional salaries tax for the year of assessment 2008/09 on specified additional grounds.

23. Clause 18 provides for the transitional arrangements relating to the holding over of payment of provisional profits tax for the year of assessment 2008/09 on specified additional grounds.

24. Clause 19 contains general provisions applicable to clauses 17 and 18.

Financial Implications

Lowering the standard rate and corporate tax rate will cost the Government about \$5,360 million a year. Increasing personal allowances and widening tax bands will cost the Government about \$2,310 million a year. Increasing the deduction ceiling for approved charitable donations will cost the Government about \$80 million a year. Offering 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, will cost the Government about \$14,810 million in 2008-09. Waiving the hotel accommodation tax will cost the Government \$470 million a year. It is difficult to assess the financial implications of allowing a more concessionary profits tax deduction for capital expenditure on environment-friendly facilities but the impact is not expected to be significant.

Economic Implications

The proposed concessionary tax measures will help to fulfill the objectives of promoting long-term development and leaving wealth with the people, as set out in the 2008-09 Budget Speech. Specifically, lowering the standard rate and corporate tax rate will help to enhance the attractiveness of Hong Kong as a business hub and to draw talented people to work and live here. Waiving the hotel accommodation tax will help promote inbound tourism and strengthen the competitiveness of the hotel industry. The other proposed concessionary tax measures will also help relieve the tax burden of individual taxpayers and small and medium enterprises as well as promote environmental protection. The savings from tax payments can be expected to provide some mild stimulus to aggregate spending and hence the overall economy, with the impact spreading over the coming two years or so.

Civil Service Implications

As regards staffing implications, Inland Revenue Department (“IRD”) will be able to deliver some staff savings as a result of the waiving of hotel accommodation tax. IRD considers that no staff redundancy will be resulted since the staff concerned will be deployed for performing other IRD's duties. The resource bureaux will follow up with IRD on the staff savings and consider whether corresponding adjustment to IRD's establishment level is necessary.

Sustainability Implications

As far as sustainability implications are concerned, the proposed tax relief measures are expected to generate positive economic benefits through stimulation in local consumption and investment. The proposal to allow a more concessionary profit tax deduction for capital expenditure on environment-friendly facilities is conducive to the sustainability principle of enhancing environmental quality.