
Inland Revenue (Amendment) (No. 3) Bill 2011

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A BILL

To

Amend the Inland Revenue Ordinance to give effect to the proposals concerning tax concessions in the Budget introduced by the Government for the 2011–2012 financial year, and to provide for transitional matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) (No. 3) Ordinance 2011.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 7.

3. Section 89 amended (Transitional provisions)

At the end of section 89—

Add

“(8) Schedule 23 has effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment commencing on 1 April 2011.”.

Clause 4

4. Section 93 added

After section 92—

Add

“93. Reduction of taxes for year of assessment 2010/11

Schedule 24 contains provisions relating to the reduction of salaries tax and tax under personal assessment for the year of assessment commencing on 1 April 2010.”.

5. Schedule 3C amended (Elderly residential care expenses deduction)

Schedule 3C—

Repeal item 1

Substitute

- | | |
|---|------------|
| “1. For the years of assessment 1998/99 to 2010/11 inclusive | \$60,000 |
| 2. For the year of assessment 2011/12 and for each year after that year | \$72,000”. |

6. Schedule 4 amended (Allowances)

(1) Schedule 4, subheading—

Repeal

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

Substitute

“For the years of assessment 2008/09 to 2010/11 inclusive”.

(2) At the end of Schedule 4—

Add

Clause 6

“For the year of assessment 2011/12 and
for each year after that year

	FIRST COLUMN (section)	SECOND COLUMN (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)	\$ 36,000
	(b) subsection (3)(b)	\$ 36,000
	(c) subsection (3A)(a)	\$ 18,000
	(d) subsection (3A)(b)	\$ 18,000
	(e) subsection (4)(a)	\$ 12,000
4.	Section 30A (dependent grandparent allowance)—	
	(a) subsection (3)(a)	\$ 36,000
	(b) subsection (3)(b)	\$ 36,000
	(c) subsection (3A)(a)	\$ 18,000
	(d) subsection (3A)(b)	\$ 18,000
	(e) subsection (4)(a)	\$ 12,000
5.	Section 30B(1) (dependent brother or dependent sister allowance)	\$ 30,000

Clause 7

	FIRST COLUMN (section)	SECOND COLUMN (the prescribed amount)
6.	Section 31 (child allowance)—	
	(a) subsection (1)	\$60,000 for each child
	(b) subsection (1A)	\$60,000 for each child
	(c) subsection (5) (in relation to subsection (1))	\$540,000
	(d) subsection (5) (in relation to subsection (1A))	\$540,000
7.	Section 31A(1) (disabled dependant allowance)	\$ 60,000
8.	Section 32(1) (single parent allowance)	\$108,000”.

7. Schedules 23 and 24 added

At the end of the Ordinance—

Add

“Schedule 23

[s. 89(8)]

Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2011/12

1. Interpretation

In this Schedule—

Clause 7

current year of assessment (本課稅年度) means the year of assessment commencing on 1 April 2011;

preceding year of assessment (上一課稅年度) means the year of assessment commencing on 1 April 2010.

2. Allowances granted for current year of assessment

(1) For the purposes of section 63C(1) of this 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 this Ordinance; and

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

are to be construed as 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 this Ordinance as amended by the Inland Revenue (Amendment) (No. 3) Ordinance 2011 (of 2011).

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

Clause 7

3. Applications for holding over of payment of provisional salaries tax on additional ground

- (1) Without affecting section 63E of this Ordinance, if in relation to the current year of assessment a person is liable to pay provisional salaries tax, that person 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 the tax held over until that person 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 this Ordinance,whichever is the later.
- (3) The ground specified for the purposes of subsection (1) is that the aggregate amount of the residential care expenses paid or to be paid 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 \$60,000 in respect of a parent or grandparent of the person.
- (4) If the Commissioner is satisfied that it is appropriate to do so, the Commissioner may, either generally or in a particular case, extend the time within which an application may be made under subsection (1).
- (5) On receipt of an application made under subsection (1), the Commissioner must consider the application and may hold over the payment of the whole or part of the provisional salaries tax.

Clause 7

(6) The Commissioner must, by notice in writing, inform the person applying under subsection (1) of the Commissioner's decision.

(7) In this section—

parent or grandparent (父母或祖父母) and *residential care expenses* (住宿照顧開支) have the meanings given to them by section 26D(5) of this Ordinance.

Schedule 24

[s. 93]

**Reduction of Taxes for Year of Assessment
2010/11**

1. Salaries tax

The amount of salaries tax charged under Part III of this Ordinance for the year of assessment commencing on 1 April 2010 is 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) \$6,000,

whichever is the lesser.

2. 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 2010 is reduced by an amount equivalent to—

Clause 7

- (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) \$6,000,
- whichever is the lesser.
- (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 2010, the amount of tax to be apportioned between the husband and wife is the amount as reduced under subsection (1).”
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Explanatory Memorandum
Paragraph 1

Explanatory Memorandum

The object of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) (*the Ordinance*) to give effect to the proposals concerning tax concessions in the Budget introduced by the Government for the 2011–2012 financial year.

2. Clause 1 provides for the short title.
3. Clause 3 amends section 89 of the Ordinance to provide that the transitional provisions set out in the new Schedule 23 have effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2011/12.
4. Clause 4 adds a new section 93 to the Ordinance. The new section and the new Schedule 24 added by clause 7 provide for the reduction of salaries tax and tax under personal assessment payable for the year of assessment 2010/11 by 75%, subject to a maximum of \$6,000 in each case.
5. Clause 5 amends Schedule 3C to the Ordinance to increase the maximum amount of elderly residential care expenses deductible from assessable income from \$60,000 to \$72,000 for the year of assessment 2011/12 and subsequent years of assessment.
6. Clause 6 amends Schedule 4 to the Ordinance to increase—
 - (a) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent under section 30(1) of the Ordinance, both from \$30,000 to \$36,000;
 - (b) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent under section 30(1A) of the Ordinance, both from \$15,000 to \$18,000;

Explanatory Memorandum

Paragraph 7

- (c) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent under section 30A(1) of the Ordinance, both from \$30,000 to \$36,000;
- (d) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent under section 30A(1A) of the Ordinance, both from \$15,000 to \$18,000;
- (e) the amount of child allowance granted in respect of a child from \$50,000 to \$60,000, and the maximum amount of such allowances granted to a person from \$450,000 to \$540,000; and
- (f) the amount of additional child allowance granted in respect of a child in the year of assessment in which the child is born from \$50,000 to \$60,000, and the maximum amount of such allowances granted to a person from \$450,000 to \$540,000.

The increases take effect for the year of assessment 2011/12 and subsequent years of assessment.

7. Clause 7 adds new Schedules 23 and 24 to the Ordinance. The new Schedule 23 provides for—
- (a) the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2011/12; and
 - (b) the transitional arrangements relating to the holding over of payment of provisional salaries tax for the year of assessment 2011/12 on the specified additional ground.