

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2011

INTRODUCTION

A At the meeting of the Executive Council on 19 April 2011, the Council ADVISED and the Chief Executive ORDERED that the Inland Revenue (Amendment) (No. 3) Bill 2011 (“the Bill”) at **Annex A** be introduced into the Legislative Council (“LegCo”) to implement the concessionary revenue measures proposed in the 2011-12 Budget –

- (a) increase by 20% the child allowances, the dependent parent/grandparent allowances and the deduction ceiling for elderly residential care expenses for salaries tax and tax under personal assessment; and
- (b) reduce salaries tax and tax under personal assessment for 2010-11 by 75%, subject to a ceiling of \$6,000 per case.

JUSTIFICATIONS

Proposed Increases in Allowances and Deduction Ceiling

2. To alleviate taxpayers’ burden of raising children, the 2011-12 Budget proposes to increase the child allowance from the current \$50,000 to \$60,000 for each child. The additional one-off child allowance in the year of birth will also be increased from the current \$50,000 to \$60,000 for each child.

3. For taxpayers who are supporting their parents/grandparents, the 2011-12 Budget proposes to relieve their burden by increasing the allowances for maintaining dependent parents/grandparents as follows –

- (a) increasing the dependent parent/grandparent allowance and the additional¹ dependent parent/grandparent allowance for each parent/grandparent aged 60 or above, or under the age of 60 and eligible to claim an allowance under the Government's Disability Allowance Scheme ("GDAS"), both from the current \$30,000 to \$36,000; and
- (b) increasing the dependent parent/grandparent allowance and the additional¹ dependent parent/grandparent allowance for each parent/grandparent aged 55 or above but below 60 and not eligible to claim an allowance under GDAS throughout the year, both from the current \$15,000 to \$18,000.

4. For taxpayers whose parents/grandparents are admitted to a residential care home, the 2011-12 Budget proposes that the deduction ceiling for elderly residential care expenses be raised from the current \$60,000 to \$72,000 for each parent/grandparent. According to the existing provisions of the Inland Revenue Ordinance ("IRO"), should the deduction for elderly residential care expenses be allowed to a person or his/her spouse, he/she or any other person is not entitled to claim dependent parent/grandparent allowances (paragraph 3 above) for the same parent/grandparent for the same year of assessment.

5. We suggest that the proposals in paragraphs 2 to 4 above take effect for salaries tax and tax under personal assessment for the year of assessment 2011-12 onwards. A net total of about 710 000² taxpayers would benefit from the above proposals.

Proposed One-off Tax Reduction for 2010-11

6. Given our better than expected fiscal position and to share wealth with taxpayers, the Financial Secretary also proposes a one-off reduction of salaries tax and tax under personal assessment for 2010-11 by 75%, subject to a ceiling of \$6,000 per case. The reduction will be reflected in the taxpayer's final tax payable for 2010-11. About 1.5 million taxpayers will benefit from the proposed one-off reduction.

¹ If an eligible parent/grandparent resided, otherwise than for full valuable consideration, with a taxpayer continuously throughout a year of assessment, the taxpayer will be granted the additional dependent parent/grandparent allowance.

² Some taxpayers will benefit from both of the proposal to increase child allowances (paragraph 2 above) and the proposal to increase allowances/deduction ceiling for maintaining dependent parents/grandparents (paragraphs 3 and 4 above).

OTHER OPTIONS

7. We must amend the IRO in order to bring the relevant proposals into effect. There are no other options.

THE BILL

8. The major provisions of the Bill are as follows -

- (a) **Clause 4** adds a new section 93 to the IRO. 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.
- (b) **Clause 5** amends Schedule 3C to the IRO 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.
- (c) **Clause 6** amends Schedule 4 to the IRO to increase -
 - (i) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent under section 30(1) of the IRO, both from \$30,000 to \$36,000;
 - (ii) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent under section 30(1A) of the IRO, both from \$15,000 to \$18,000;
 - (iii) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent under section 30A(1) of the IRO, both from \$30,000 to \$36,000;
 - (iv) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent under section 30A(1A) of the IRO, both from \$15,000 to \$18,000;
 - (v) 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
 - (vi) 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.

- (d) **Clause 7** adds new Schedules 23 and 24 to the IRO. The new Schedule 23 provides for -
- (i) 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
 - (ii) 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.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be as follows -

| | |
|--|----------------|
| Publication in the Gazette | 21 April 2011 |
| First Reading and commencement of Second Reading debate | 4 May 2011 |
| Resumption of Second Reading debate, committee stage and Third Reading | To be notified |

IMPLICATIONS OF THE PROPOSAL

10. 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 IRO and its subsidiary legislation. The financial, economic and sustainability implications of the proposal are at **Annex B**. The proposal has no productivity, environmental or civil service implications.

B

PUBLIC CONSULTATION

11. Owing to the confidentiality of the Budget, no formal consultation was conducted specifically in respect of the proposals in the Bill. However, the Financial Secretary has conducted consultations with LegCo Members, various business and professional bodies, as well as the general public during the formulation of the 2011-12 Budget. Their views have been taken into account in formulating these proposals.

PUBLICITY

12. A press release on the Bill will be issued on 21 April 2011. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

13. Since the year of assessment 2007-08, the child allowance for each child has remained unchanged at the current level of \$50,000. Effective from the same year of assessment, an additional one-off child allowance at \$50,000 has been provided for each child in his/her year of birth.

14. The dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance for each parent/grandparent aged 60 or above, or under the age of 60 and eligible to claim an allowance under GDAS, have remained unchanged at the current level of \$30,000 since the year of assessment 1998-99. Starting from the year of assessment 2005-06, the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance have both been expanded to cover parents/grandparents aged 55 or above but below 60 and, throughout the relevant year of assessment, not eligible to claim an allowance under GDAS, with the allowances both set at \$15,000 for each parent/grandparent. Deduction for elderly residential cares expenses was introduced in the year of assessment 1998-99 and has been capped at \$60,000 for each parent/grandparent since then.

ENQUIRIES

15. Enquiries on this Brief should be directed to Ms Shirley Kwan, Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Revenue) at 2810 2370.

Financial Services and the Treasury Bureau
19 April 2011

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.”.

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

“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 |

| FIRST COLUMN (section) | SECOND COLUMN (the prescribed amount) |
|--|--|
| 5. Section 30B(1) (dependent brother or dependent sister allowance) | \$ 30,000 |
| 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—

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).

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—
- 28 days before the day by which the provisional salaries tax is to be paid; or
 - 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.
- (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—

- (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).”

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;
 - (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.

Financial Implications

It is estimated that the proposed increases in child allowances, allowances for maintaining dependent parents/grandparents and deduction ceiling for elderly residential care expenses for salaries tax and tax under personal assessment will altogether cost the Government about \$1.22 billion a year. The estimated revenue forgone for the proposed one-off reduction of salaries tax and tax under personal assessment for 2010-11 is around \$5.33 billion.

Economic Implications

The proposed concessionary tax measures will help relieve the financial burden of taxpayers. The savings from tax payments can be expected to provide some mild stimulus to consumer spending.

Sustainability Implications

The proposed concessionary tax measures are expected to generate economic benefits to households through increasing their disposal incomes and to promote social harmony through alleviating taxpayers' burden in raising children and supporting dependent parents/grandparents.