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LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) BILL 2012

INTRODUCTION

A At the meeting of the Executive Council on 17 April 2012, the Council ADVISED and the Acting Chief Executive ORDERED that the Inland Revenue (Amendment) Bill 2012 ("the Bill"), at **Annex A**, should be introduced into the Legislative Council ("LegCo") to implement the following concessionary revenue measures proposed in the 2012-13 Budget –

(a) for salaries tax and tax under personal assessment, increase with effect from the year of assessment 2012/13 –

  (i) the basic allowance and the single parent allowance both from $108,000 to $120,000 and the married person's allowance from $216,000 to $240,000;

  (ii) the child allowance and the additional one-off child allowance in the year of birth for each eligible child both from $60,000 to $63,000;

  (iii) the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance for each eligible parent/grandparent both from $36,000 to $38,000 (for aged 60 or above); and from $18,000 to $19,000 (for aged 55 or above but below 60);

  (iv) the dependent brother/sister allowance for each eligible brother/sister from $30,000 to $33,000;

  (v) the disabled dependant allowance for each eligible disabled dependant from $60,000 to $66,000;

(vi) the deduction ceiling for elderly residential care expenses for each eligible parent/grandparent from $72,000 to $76,000; and

(vii) the entitlement years for home loan interest deduction from ten years to 15 years;

(b) increase the deduction ceiling for mandatory contributions to recognized retirement schemes under salaries tax, tax under personal assessment and profits tax from $12,000 –

(i) to $14,500 for the year of assessment 2012/13; and

(ii) to $15,000 for the year of assessment 2013/14 onwards; and

(c) reduce salaries tax, tax under personal assessment and profits tax for the year of assessment 2011/12 by 75%, subject to a ceiling of $12,000 per case.

JUSTIFICATIONS

Proposed Increases in Allowances and Deduction Ceilings

2. To ease the tax burden of salaries tax payers amidst the economic slowdown, the 2012-13 Budget proposes to increase the allowances for salaries tax and tax under personal assessment as follows –

(a) raising the basic allowance and the single parent allowance both from the current $108,000 to $120,000, and increasing the married person's allowance from the current $216,000 to $240,000;

(b) raising the child allowance from the current $60,000 to $63,000 for each child, and increasing the additional one-off child allowance in the year of birth from the current $60,000 to $63,000 for each child;

(c) increasing the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance[1] 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 $36,000 to $38,000;

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[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.

(d) increasing the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance for each parent/grandparent aged 55 or above but below 60 and throughout the year not eligible to claim an allowance under GDAS, both from the current $18,000 to $19,000;

(e) raising the dependent brother/sister allowance from the current $30,000 to $33,000; and

(f) raising the disabled dependant allowance from the current $60,000 to $66,000.

3. For taxpayers whose parents/grandparents are admitted to a residential care home, the 2012-13 Budget proposes that the deduction ceiling for elderly residential care expenses be raised from the current $72,000 to $76,000 for each parent/grandparent. According to the existing provisions of the Inland Revenue Ordinance (Cap. 112) ("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 2(c) and (d) above) for the same parent/grandparent for the same year of assessment.

4. For taxpayers who pay mortgage interest on their place of residence, the 2012-13 Budget also proposes to extend the entitlement years for the tax deduction for home loan interest from the current ten years to 15 years (whether continuous or not) while maintaining the current deduction ceiling of $100,000 a year.

5. The Financial Secretary proposes that the proposals in paragraphs 2 to 4 above take effect for salaries tax and tax under personal assessment for the year of assessment 2012/13 onwards.

6. In the light of the increase of the maximum relevant income level ("Max RI") under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") from $20,000 to $25,000 per month effective from 1 June 2012 consequent to the enactment of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011, the 2012-13 Budget proposes to increase correspondingly the maximum annual tax deduction for mandatory contributions to recognized retirement schemes from $12,000 to $14,500 for the year of assessment 2012/13 and to $15,000 for the assessment year 2013/14 onwards. The above proposed adjustments have taken into account the fact that the increased Max RI will only be applicable to the last ten months of the year of assessment 2012/13 (i.e. from June 2012 to March 2013).

7. All taxpayers of salaries tax and tax under personal assessment (about 1.5 million in total) will benefit from the proposed increases in allowances and deduction ceilings as set out in paragraphs 2 to 6 above.

Proposed One-off Tax Reduction for the Year of Assessment 2011/12

8. To help ease the pressure arising from the gloomy economic outlook and the highly uncertain external environment on our community and the business sector, the Financial Secretary also proposes in the 2012-13 Budget a one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2011/12 by 75%, subject to a ceiling of $12,000 per case. The reduction will be reflected in the taxpayer's final tax payable for the year of assessment 2011/12. About 1.5 million taxpayers will benefit from the proposed one-off reduction of salaries tax and tax under personal assessment. The proposed one-off reduction of profits tax will benefit all taxpayers who are liable to profits tax, the number of which is near 120 000.

OTHER OPTIONS

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

THE BILL

10. The major provisions of the Bill are as follows –

(a) **Clauses 3 and 4** amend sections 26E and 26F of the IRO to effect the extension of the years of entitlement for deduction of home loan interest from assessable income from ten years to 15 years.

(b) **Clause 5** amends section 89 of the IRO to provide that the transitional provisions set out in the new Schedule 25 (added by clause 10) have effect in relation to a person liable to pay provisional salaries tax or provisional profits tax in respect of the year of assessment 2012/13 or 2013/14.

(c) **Clause 6** adds a new section 94 to the IRO. The new section and the new Schedule 26 (added by clause 10) provide for the reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2011/12 by 75%, subject to a maximum of $12,000 in each case.

(d) **Clause 7** amends Schedule 3B to the IRO to increase the maximum amount deductible from assessable income for the following contributions –

   (i) mandatory contributions paid by any self-employed person under the MPFSO;

   (ii) contributions paid by any person to a recognized retirement scheme as an employee.

   The maximum deductible amount is increased from $12,000 to $14,500 for the year of assessment 2012/13, and to $15,000 with effect from the year of assessment 2013/14.

(e) **Clause 8** amends Schedule 3C to the IRO to increase the maximum amount of elderly residential care expenses deductible from assessable income from $72,000 to $76,000 for the year of assessment 2012/13 and subsequent years of assessment.

(f) **Clause 9** amends Schedule 4 to the IRO to increase –

   (i) the amount of basic allowance granted under section 28 of the IRO from $108,000 to $120,000;

   (ii) the amount of married person's allowance granted under section 29 of the IRO from $216,000 to $240,000;

   (iii) 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 $36,000 to $38,000;

   (iv) 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 $18,000 to $19,000;

   (v) 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 $36,000 to $38,000;

   (vi) 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 $18,000 to $19,000;

   (vii) the amount of dependent brother or dependent sister allowance granted under section 30B of the IRO from $30,000 to $33,000;

(viii) the amount of child allowance granted under section 31(1) of the IRO in respect of a child from $60,000 to $63,000, and the maximum amount of such allowances granted to a person from $540,000 to $567,000;

(ix) the amount of additional child allowance granted under section 31(1A) of the IRO in respect of a child in the year of assessment in which the child is born from $60,000 to $63,000, and the maximum amount of such allowances granted to a person from $540,000 to $567,000;

(x) the amount of disabled dependant allowance granted under section 31A of the IRO from $60,000 to $66,000; and

(xi) the amount of single parent allowance granted under section 32 of the IRO from $108,000 to $120,000.

The increases take effect for the year of assessment 2012/13 and subsequent years of assessment.

(g) **Clause 10** adds new Schedules 25 and 26 to the IRO. The new Schedule 25 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 2012/13; and

(ii) the transitional arrangements relating to the holding over of payment of provisional salaries tax and provisional profits tax on specified additional grounds for the years of assessment 2012/13 and 2013/14.

LEGISLATIVE TIMETABLE

11. The legislative timetable will be as follows –

Publication in the Gazette	27 April 2012
First Reading and commencement of Second Reading debate	9 May 2012
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

B

12. 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.

PUBLIC CONSULTATION

13. 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 when formulating the 2012-13 Budget. Their views have been taken into account in drawing up these proposals.

PUBLICITY

14. A press release on the Bill will be issued on 27 April 2012. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

15. Since the year of assessment 2008/09, the basic allowance and the single parent allowance have remained at the current level of $108,000, whereas the married person's allowance has maintained at the current level of $216,000.

16. The child allowance and the additional one-off child allowance were last increased in the year of assessment 2011/12 by 20% to the current level of $60,000. Similarly, the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance for each parent/grandparent were last increased in the year of assessment 2011/12 by 20% to the current level of $36,000 (for each parent/grandparent aged 60 or above, or under the age of 60 and eligible to claim an allowance under GDAS) and $18,000 (for each parent/grandparent aged 55 or above but below 60 and throughout the relevant year of assessment not eligible to claim an allowance under GDAS). At the same time, the deduction ceiling for elderly residential care expenses was increased to $72,000.

17. The existing dependent brother/sister allowance of $30,000 has not been revised since the year of assessment 1998/99. Likewise, the

current level of disabled dependant allowance of $60,000 has come into effect since the year of assessment 1998/99.

18. Home loan interest deduction was introduced in the year of assessment 1998/99 with a view to alleviating the financial burden on home purchasers during their initial years of home ownership. The maximum period of entitlement was five years (whether continuous or not) initially, and was lengthened subsequently to seven years since the year of assessment 2003/04, and further extended to the current ten years since the year of assessment 2005/06. The deduction has been capped at $100,000 per annum (except for the years of assessment 2001/02 and 2002/03, in which the maximum deduction was raised to $150,000). Between the years of assessment 2008/09 and 2011/12, some 100 000 home owners used up their ten-year entitlement. In other words, they could no longer claim home loan interest deduction even though some of them continue to incur home loan interest.

19. By resolution, the LegCo approved on 23 November 2011 the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 to raise the prescribed Max RI under the MPFSO from $20,000 to $25,000 per month effective from 1 June 2012.

ENQUIRIES

20. 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
24 April 2012

Annex A

Inland Revenue (Amendment) Bill 2012

Contents

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 2012–2013 financial year, and to provide for transitional matters.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 2012.

(2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.

(3) Sections 2, 3 and 4 are deemed to have come into operation on 1 April 2012.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 10.

3. Section 26E amended (home loan interest)

(1) Section 26E(4)(b)—

Repeal

"(3)(b); or"

Substitute

"(3)(b);".

(2) Section 26E(4)(c)—

Repeal

"10 years of assessment (whether continuous or not)."

Substitute

"15 years of assessment (whether continuous or not); or".

(3) After section 26E(4)(c)—

Add

"(d) that year of assessment is earlier than the year of assessment commencing on 1 April 2012 and the following occur—

(i) a deduction has been allowed to the person under this section, whether in respect of the same dwelling or in respect of any other dwelling, for 10 years of assessment (whether continuous or not); and

(ii) those 10 years of assessment are all earlier than the year of assessment commencing on 1 April 2012.".

(4) Section 26E(5), after "(4)(c)"—

Add

"and (d)".

(5) Section 26E—

Repeal subsection (10)

Substitute

"(10) To avoid doubt, if a person—

(a) has been allowed a deduction under the provisions of this section—

(i) in force immediately before 1 April 2003;

(ii) in force immediately before 1 April 2005; or

(iii) in force immediately before 1 April 2012; or

(b) has been regarded as having been allowed such a deduction by virtue of section 26F(2)(b), for any year of assessment, that year of assessment is regarded as a year of assessment for which a deduction has been allowed for the purposes of subsection (4)(c) and (d).".

4. Section 26F amended (nomination for purposes of section 26E)

Section 26F(2)(b), after "26E(4)(c)"—

Add

"and (d)".

5. Section 89 amended (transitional provisions)

At the end of section 89—

Add

"(9) Schedule 25 has effect in relation to the following persons—

(a) a person liable to pay provisional salaries tax in respect of the year of assessment commencing on 1 April 2012 or the year of assessment commencing on 1 April 2013;

(b) a person liable to pay provisional profits tax in respect of the year of assessment commencing on 1 April 2012 or the year of assessment commencing on 1 April 2013.".

6. Section 94 added

After section 93—

Add

"94. Reduction of taxes for year of assessment 2011/12

Schedule 26 contains provisions relating to the reduction of salaries tax, profits tax and tax under personal assessment for the year of assessment commencing on 1 April 2011.".

7. Schedule 3B amended (deduction for the purposes of section 16AA or 26G)

Schedule 3B—

Repeal item 1

Substitute

"1.	For the years of assessment 2000/01 to 2011/12 inclusive	$12,000
2.	For the year of assessment 2012/13	$14,500
3.	For the year of assessment 2013/14 and for each year after that year	$15,000".

8. Schedule 3C amended (elderly residential care expenses deduction)

Schedule 3C—

Repeal item 2

Substitute

"2.	For the year of assessment 2011/12	$72,000
3.	For the year of assessment 2012/13 and for each year after that year	$76,000".

9. Schedule 4 amended (allowances)

(1) Schedule 4, subheading—

Repeal

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

Substitute

"For the year of assessment 2011/12".

(2) At the end of Schedule 4—

Add

"For the year of assessment 2012/13 and for each year after that year

	First Column (section)	Second Column (the prescribed amount)
1.	Section 28 (basic allowance)	$120,000
2.	Section 29 (married person's allowance)	$240,000
3.	Section 30 (dependent parent allowance)—	
	(a) subsection (3)(a)	$ 38,000
	(b) subsection (3)(b)	$ 38,000
	(c) subsection (3A)(a)	$ 19,000
	(d) subsection (3A)(b)	$ 19,000
	(e) subsection (4)(a)	$ 12,000
4.	Section 30A (dependent grandparent allowance)—	
	(a) subsection (3)(a)	$ 38,000
	(b) subsection (3)(b)	$ 38,000
	(c) subsection (3A)(a)	$ 19,000
	(d) subsection (3A)(b)	$ 19,000
	(e) subsection (4)(a)	$ 12,000
5.	Section 30B(1) (dependent brother or dependent sister allowance)	$ 33,000

	First Column (section)	Second Column (the prescribed amount)
6.	Section 31 (child allowance)—	
	(a) subsection (1)	$63,000 for each child
	(b) subsection (1A)	$63,000 for each child
	(c) subsection (5) (in relation to subsection (1))	$567,000
	(d) subsection (5) (in relation to subsection (1A))	$567,000
7.	Section 31A(1) (disabled dependant allowance)	$ 66,000
8.	Section 32(1) (single parent allowance)	$120,000".

10. Schedules 25 and 26 added

At the end of the Ordinance—

Add

"Schedule 25 [s. 89(9)]

Transitional Provisions Relating to Provisional Salaries Tax and Provisional Profits Tax in respect of Years of Assessment 2012/13 and 2013/14

1. Interpretation

In this Schedule—

current year of assessment (本課稅年度) means the year of assessment commencing on 1 April 2012;

following year of assessment (下一課稅年度) means the year of assessment commencing on 1 April 2013;

preceding year of assessment (上一課稅年度) means the year of assessment commencing on 1 April 2011.

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 5 permitted for that person" in section 12B(1)(b) of this Ordinance; and

(b) the reference to "such allowances as are under Part 5 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 5 of this Ordinance as amended by the Inland Revenue (Amendment) Ordinance 2012 (of 2012).

(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 grounds

(1) Without affecting section 63E of this Ordinance—

(a) 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 any 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; and

(b) if in relation to the following 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 (4) 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 following 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 following grounds are specified for the purposes of subsection (1)(a)—

(a) 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, to the extent to which a deduction in respect of those expenses is allowable under section 26D of this Ordinance for that year, exceeds or is likely to exceed $72,000 in respect of a parent or grandparent of the person;

(b) the amount of contributions to a recognized retirement scheme paid or to be paid by the person during the current year of assessment, to the extent to which a deduction in respect of those contributions is allowable under section 26G of this Ordinance for that year, exceeds or is likely to exceed $12,000.

(4) The ground specified for the purposes of subsection (1)(b) is that the amount of contributions to a recognized retirement scheme paid or to be paid by the person during the following year of assessment, to the extent to which a deduction in respect of those contributions is

allowable under section 26G of this Ordinance for that year, exceeds or is likely to exceed $14,500.

(5) 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).

(6) 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.

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

(8) In this section—

parent or grandparent (父母或祖父母) has the meaning given to it by section 26D(5) of this Ordinance;

residential care expenses (住宿照顧開支) has the meaning given to it by section 26D(5) of this Ordinance.

4. Applications for holding over of payment of provisional profits tax on additional ground

(1) Without affecting section 63J of this Ordinance—

(a) if in relation to the current year of assessment a person is liable to pay provisional profits 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 profits tax for the current year of assessment; and

(b) if in relation to the following year of assessment a person is liable to pay provisional profits tax, that person may, by notice in writing lodged with the Commissioner, apply to the Commissioner on the ground specified in subsection (4) to have the payment of the whole or part of the tax held over until that person is required to pay profits tax for the following 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 this Ordinance,

whichever is the later.

(3) The ground specified for the purposes of subsection (1)(a) is that the amount of mandatory contributions paid or to be paid by the person in the basis period for the current year of assessment in respect of any liability of the person to pay the contributions as a self-employed person under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), to the extent to which a deduction in respect of those contributions is allowable under section 16AA of this Ordinance for that year, exceeds or is likely to exceed $12,000.

(4) The ground specified for the purposes of subsection (1)(b) is that the amount of mandatory contributions paid or to be paid by the person in the basis period for the following year of assessment in respect of any liability of the person to pay the contributions as a self-employed person under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), to the extent to which a deduction in respect of those contributions is allowable under section 16AA of this Ordinance for that year, exceeds or is likely to exceed $14,500.

(5) 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).

(6) 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 profits tax.

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

Schedule 26 [s. 94]

Reduction of Taxes for Year of Assessment 2011/12

1. Salaries tax

The amount of salaries tax charged under Part 3 of this Ordinance for the year of assessment commencing on 1 April 2011 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) $12,000,

whichever is the lesser.

2. Profits tax

(1) The amount of profits tax charged under Part 4 of this Ordinance for the year of assessment commencing on 1 April 2011 is 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) $12,000,

whichever is the lesser.

(2) If 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 7 of this Ordinance for the year of assessment commencing on 1 April 2011, 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.

3. Tax under personal assessment

(1) The amount of tax charged under Part 7 of this Ordinance for the year of assessment commencing on 1 April 2011 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) $12,000,

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 2011, 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 2012–2013 financial year.

2. Clause 1 sets out the short title and provides for commencement. Clauses 3 and 4 need to commence retrospectively on 1 April 2012. Clause 1(3) provides that clause 2, the enactments amended clause, is to commence on that day also. The commencement of clause 2 on 1 April 2012 does not commence other amendments under clauses 5 to 10 on that day. Clause 1(2) provides that those other amendments are to commence on the day on which the Inland Revenue (Amendment) Ordinance 2012 is published in the Gazette.

3. Clauses 3 and 4 amend sections 26E and 26F of the Ordinance to effect the extension of the years of entitlement for deduction of home loan interest from assessable income from 10 years to 15 years.

4. Clause 5 amends section 89 of the Ordinance to provide that the transitional provisions set out in the new Schedule 25 (added by clause 10) have effect in relation to a person liable to pay provisional salaries tax or provisional profits tax in respect of the year of assessment 2012/13 or 2013/14.

5. Clause 6 adds a new section 94 to the Ordinance. The new section and the new Schedule 26 (added by clause 10) provide for the reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2011/12 by 75%, subject to a maximum of $12,000 in each case.

6. Clause 7 amends Schedule 3B to the Ordinance to increase the maximum amount deductible from assessable income for the following contributions—

(a) mandatory contributions paid by any self-employed person under the Mandatory Provident Fund Schemes Ordinance (Cap. 485);

(b) contributions paid by any person to a recognized retirement scheme as an employee.

The maximum deductible amount is increased from $12,000 to $14,500 for the year of assessment 2012/13, and to $15,000 with effect from the year of assessment 2013/14.

7. Clause 8 amends Schedule 3C to the Ordinance to increase the maximum amount of elderly residential care expenses deductible from assessable income from $72,000 to $76,000 for the year of assessment 2012/13 and subsequent years of assessment.

8. Clause 9 amends Schedule 4 to the Ordinance to increase—

(a) the amount of basic allowance granted under section 28 of the Ordinance from $108,000 to $120,000;

(b) the amount of married person's allowance granted under section 29 of the Ordinance from $216,000 to $240,000;

(c) 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 $36,000 to $38,000;

(d) 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 $18,000 to $19,000;

(e) 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 $36,000 to $38,000;

(f) 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 $18,000 to $19,000;

(g) the amount of dependent brother or dependent sister allowance granted under section 30B of the Ordinance from $30,000 to $33,000;

(h) the amount of child allowance granted under section 31(1) of the Ordinance in respect of a child from $60,000 to $63,000, and the maximum amount of those allowances granted to a person from $540,000 to $567,000;

(i) the amount of additional child allowance granted under section 31(1A) of the Ordinance in respect of a child in the year of assessment in which the child is born from $60,000 to $63,000, and the maximum amount of those allowances granted to a person from $540,000 to $567,000;

(j) the amount of disabled dependant allowance granted under section 31A of the Ordinance from $60,000 to $66,000; and

(k) the amount of single parent allowance granted under section 32 of the Ordinance from $108,000 to $120,000.

The increases take effect for the year of assessment 2012/13 and subsequent years of assessment.

9. Clause 10 adds new Schedules 25 and 26 to the Ordinance. The new Schedule 25 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 2012/13; and

(b) the transitional arrangements relating to the holding over of payment of provisional salaries tax and provisional profits tax on specified additional grounds for the years of assessment 2012/13 and 2013/14.

Annex B

Financial, Economic and Sustainability Implications of the Proposal

Financial Implications

It is estimated that the proposed increases in all the existing personal allowances, the proposed adjustments to the deduction ceilings for elderly residential care expenses and for mandatory contributions to recognized retirement schemes, as well as the proposed extension of the entitlement period for home loan interest deduction will altogether cost the Government about $3.5 billion a year. The estimated revenue forgone arising from the proposed one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2011/12 is around $10 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. The proposed one-off reduction of profits tax will allow enterprises, especially small and medium ones, to have more disposable funds under the current difficult environment.

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 as well as supporting dependent parents/grandparents, dependent brothers/sisters and disabled dependants. The proposed one-off reduction of profits tax will encourage enterprises to make more reinvestment with a view to enhancing their competitiveness.