立法會
Legislative Council

LC Paper No. LS61/11-12

Paper for the House Committee Meeting on 11 May 2012

Legal Service Division Report on Inland Revenue (Amendment) Bill 2012

I. SUMMARY

1. **Objects of the Bill**	To amend the Inland Revenue Ordinance (Cap. 112) (the Ordinance) to give effect to the proposals concerning tax concessions in the 2012-13 Budget.
2. **Comments**	The Bill seeks to – (a) raise the level of various allowances for salaries tax and tax under personal assessment; (b) raise the deduction ceiling for elderly resident care expenses from \$72,000 to \$76,000; (c) raise the deduction ceiling for mandatory contributions to recognized retirement schemes from \$12,000 to \$15,000; (d) extend the entitlement years for home loan interest deduction from 10 years to 15 years; and (e) to reduce the amount of salaries tax, tax under personal assessment and profits tax payable for the 2011-12 assessment year by 75% or \$12,000, whichever is lesser.
3. **Public Consultation**	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 2012-13 Budget.
4. **Consultation with LegCo Panel**	The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.
5. **Conclusion**	No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

II. REPORT

Objects of the Bill

To amend the Inland Revenue Ordinance (Cap. 112) (the Ordinance) to give effect to the proposals concerning tax concessions in the 2012-13 Budget (the Budget), and to provide for transitional matters.

LegCo Brief Reference

2. File Ref.: TsyB R 183/535-1/5/0 (12-13) (C) issued by the Financial Services and the Treasury Bureau on 24 April 2012.

Date of First Reading

3. 9 May 2012.

Comments

<u>Increase tax allowances</u>

4. To alleviate the burden of taxpayers, the Financial Secretary (FS) announced in his Budget Speech on 1 February 2012 the Government's proposal to increase various kinds of allowances for salaries tax and tax under personal assessment with effect from the year of assessment 2012-13. Those allowances include basic allowance, single parent allowance, married person's allowance, child and additional child allowance, dependent parent/grandparent allowance, dependent brother/sister allowance and disabled dependant allowance[1] (collectively known as Allowances).

5. The Bill proposes to amend Schedule 4 to the Ordinance to give effect to the above proposal. A comparison of the existing allowances and the allowances that are to take effect from the year of assessment 2012-13 is set out below:

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1 Paragraph 60 of the Budget Speech.

Nature of allowance	Assessment year 2011-12	From assessment year 2012-13
Basic allowance granted under section 28 of the Ordinance	$108,000	$120,000
Single parent allowance granted under section 32 of the Ordinance	$108,000	$120,000
Married person's allowance granted under section 29 of the Ordinance	$216,000	$240,000
Dependent parent/grandparent[2] and additional dependent parent/grandparent[3] allowances granted under section 30(1) and section 30A(1) of the Ordinance	$36,000	$38,000
Dependent parent/grandparent[4] and additional dependent parent/grandparent allowances respectively granted under section 30(1A) and section 30A(1A) of the Ordinance	$18,000	$19,000
Dependent brother or dependent sister allowance granted under section 30B of the Ordinance	$30,000	$33,000
Children allowance and additional one-off child allowance in the year of birth for each eligible child respectively granted under section 31(1) and (1A) of the Ordinance	$60,000	$63,000
Disabled dependant allowance granted under section 31A of the Ordinance	$60,000	$66,000

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2 For 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").

3 If an eligible parent/grandparent resided, other 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.

4 For parent/grandparent aged 55 or above but is under the age of 60 and not eligible to claim an allowance under GDAS.

Increase deduction ceiling for residential care expenses for parent/grandparent

6. Under section 26D of the Ordinance, a taxpayer is entitled to a tax deduction in respect of the residential care expenses for a parent or grandparent of the taxpayer who at any time in that year of assessment is aged 60 or more (or under age of 60 and is eligible to claim an allowance under the Government's Disability Allowance Scheme). The maximum amount of deduction under section 26D as specified in Schedule 3C to the Ordinance is $72,000. According to sections 30(5) and 30A(5) of the Ordinance, should the deduction for elderly residential care expenses be allowed to a taxpayer, the taxpayer or any other person is not entitled to claim dependent parent/grandparent allowances for the same parent/grandparent for the same year of assessment.

7. To implement FS's proposal in the Budget to raise the deduction ceiling for the elderly residential care expenses from $72,000 to $76,000,[5] clause 8 amends Schedule 3C to the Ordinance to give effect to the proposal. The proposed increase will apply in relation to the year of assessment 2012-13 and subsequent years of assessment.

Increase deduction ceiling for contributions to recognized retirement schemes

8. Under section 16AA (for self-employed persons) and section 26G (for employees) of the Ordinance, contributions paid to recognized retirement schemes (including Mandatory Provident Fund schemes) by taxpayers are deductible from assessable incomes or profits of such taxpayers for the relevant year of assessment. The maximum deductible amount for each year of assessment is specified in Schedule 3B to the Ordinance, and the current amount is $12,000.

9. The Budget proposes to increase the maximum annual tax deduction for mandatory contributions to Mandatory Provident Fund (MPF) schemes from $12,000 to $15,000.[6] According to the Budget Speech, this proposal is consequential to the enactment of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (L.N. 168 of 2011) (the 2011 Notice), which increases the maximum relevant income level under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) from $20,000 to $25,000 with effect from 1 June 2012.

[5] Paragraph 60(2) of the Budget Speech.
[6] Paragraph 60(7) of the Budget Speech.

10. According to paragraph 6 of the LegCo Brief, in the light of the enactment of the 2011 Notice, the Bill proposes to amend 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); and

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

The maximum deductible amount will be increased from $12,000 to $14,500 for the year of assessment 2012-13 to take into account the fact that the increase in the maximum relevant income level under Cap. 485 effected by the 2011 Notice will only be applicable to the last 10 months of the year of assessment of 2012-13 (i.e. from June 2012 to March 2013). In respect of the year of assessment 2013-14 and subsequent years, the maximum deductible amount will be increased to $15,000.

Extension of entitlement period for home loan interest deduction

11. Under section 26E of the Ordinance, where a taxpayer pays during any year of assessment any home loan interest for the purpose of a home loan obtained in respect of a dwelling which is used at any time in that year of assessment by the taxpayer exclusively or partly as his/her place of residence, the taxpayer is entitled to a tax deduction in respect of the home loan interest for the relevant year of assessment. By virtue of section 26E(4)(c) of the Ordinance, the total entitlement period of a taxpayer for the tax deduction for home loan interest is 10 years.

12. To implement FS's proposal in the Budget to extend the entitlement period for the tax deduction for home loan interest from 10 years to 15 years while maintaining the current deduction ceiling of $100,000 per year[7], clauses 3 and 4 amend sections 26E and 26F of the Ordinance to give effect to this proposal. By virtue of the proposed new section 26E(4)(d) of the Ordinance, a taxpayer who has already enjoyed the home loan interest deduction for 10 years of assessment (whether continuous or not) and those 10 years of assessment are all earlier than the year of assessment commencing on 1 April 2012 will not be allowed to enjoy the extension of entitlement period under the proposal.

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[7] Paragraph 60(6) of the Budget Speech.

One-off tax reduction for 2011-12

13. FS has also proposed in the Budget a one-off tax 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.[8] To implement this proposal, the Bill adds a new section 94 and new Schedule 26 to the Ordinance. The effect of the new provisions is that for the year of assessment commencing on 1 April 2011, the amount of salaries tax, tax under personal assessment and profits tax as computed under the Ordinance will be reduced by 75%, subject to a maximum of $12,000 in each case.

Transitional provisions

14. Other provisions of the Bill make transitional arrangements relating to :

(a) the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2012-13; and

(b) 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.

Commencement

15. Upon enactment of the Bill, the provisions relating to the extension of the entitlement period for deduction of home loan interest will be deemed to have come into operation on 1 April 2012. Other provisions will come into operation on the day on which the enacted Ordinance is published in the Gazette.

Public Consultation

16. According to paragraph 13 of the LegCo Brief, FS has conducted consultations with LegCo Members, various business and professional bodies as well as the general public when formulating the Budget. Their views have been taken into account in drawing up these proposals in the Budget.

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[8] Paragraphs 41(2) and 59(2) of the Budget Speech.

Consultation with LegCo Panel

17. The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.

Conclusion

18. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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