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Paper for the House Committee meeting on 14 June 2013

**Report of the Bills Committee on Inland Revenue
(Amendment) (No. 2) Bill 2013**

Purpose

This paper reports on the deliberations of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2013 ("the Bills Committee").

The Inland Revenue (Amendment) (No. 2) Bill 2013

2. The Inland Revenue (Amendment) (No. 2) Bill 2013 ("the Bill"), which was gazetted on 26 April 2013 and first read at the Legislative Council ("LegCo") meeting of 8 May 2013, seeks to amend the Inland Revenue Ordinance (Cap. 112) ("IRO") to give effect to the proposals concerning tax concessions in the 2013-14 Budget, and to provide for transitional matters. The tax concession proposals are to:

- (a) increase both the child allowance and the additional one-off child allowance in the year of birth for each eligible child from \$63,000 to \$70,000 under salaries tax and tax under personal assessment with effect from the year of assessment 2013/14;
- (b) enhance the deduction ceiling for expenses of self-education from \$60,000 to \$80,000 under salaries tax with effect from the year of assessment 2013/14; and
- (c) reduce salaries tax, tax under personal assessment and profits tax for the year of assessment 2012/13 by 75%, subject to a ceiling of \$10,000 per case.

3. The main provisions of the Bill are as follows-

Increase in child allowance

- (a) clause 6 seeks to amend Schedule 4 to IRO to give effect to the proposals for the year of assessment 2013/14 and subsequent years of assessment of (i) increasing the child allowance under salaries tax and tax under personal assessment from \$63,000 to \$70,000 for each child; and (ii) increasing the additional one-off child allowance in the year of birth from \$63,000 to \$70,000 for each child;

Increase in maximum amount of deduction for expenses of self-education

- (b) clause 5 seeks to amend Schedule 3A to IRO to increase the maximum amount deductible from assessable income under salaries tax for expenses of self-education from \$60,000 to \$80,000 for the year of assessment 2013/14 and subsequent years of assessment;

One-off tax reduction for 2012/13

- (c) clauses 4 and 7 seek to add a new section 95 and a new Schedule 29 to IRO to implement the one-off tax reduction proposal of reducing salaries tax, tax under personal assessment and profits tax for the year of assessment 2012/13 by 75%, subject to a ceiling of \$10,000; and

Transitional arrangement

- (d) clause 3 and the proposed new Schedule 28 as added by clause 7 seek to provide for the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2013/14.

The Bill contains no commencement provision. By virtue of section 20(2) of the Interpretation and General Clauses Ordinance (Cap. 1), the Bill, if enacted, would come into operation on the day the enacted ordinance is published in the Gazette.

The Bills Committee

4. At the House Committee meeting on 10 May 2013, Members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is at **Appendix I**. Under the chairmanship of Hon Kenneth LEUNG, the Bills Committee has held one meeting to discuss with the Administration. The Bills Committee has posted a general notice on the website of LegCo and written to the 18 District Councils ("DCs") to invite the public and the DCs for written views on the Bill. No submissions have been received by the Bills Committee.

Deliberations of the Bills Committee

5. The Bills Committee supports the Bill in principle. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

Justifications for and financial implications of the tax concession proposals

6. The Bills Committee has examined the justifications for the proposed tax concessions, the expected number of taxpayers to be benefitted, and the financial implications of the proposals. Members note that the proposed increase in the child allowance and the additional one-off child allowance aim at alleviating taxpayers' burden in raising their children, and the proposed increase in the maximum amount of deduction for expenses of self-education under salaries tax is to encourage self-education and lifelong learning. The Administration estimates that these proposals will benefit 310 000 taxpayers and will cost the Government about \$420 million per year. As regards the proposed one-off tax reduction for salaries tax, tax under personal assessment and profits tax for the year of assessment 2012/13, the Administration advises that it is part of the package of measures introduced by the Financial Secretary ("FS") in order to ease the community's burden amidst an uncertain external economic outlook and the risk of rising inflation. It is expected that some 1.53 million taxpayers and 119 000 tax-paying companies will benefit from the proposal which will cost the Government about \$9.4 billion.

7. Some members have enquired about the Administration's considerations in determining the amount of increase in the child allowance and the additional one-off child allowance as well as the deduction ceiling for expenses of self-education. The Administration explains that the proposed increases in both the child allowance and the additional one-off child allowance have taken into account the amount of increase in the previous years, i.e. an increase by 20% to \$60,000 in the year of assessment 2011/12 and an increase of 5% to \$63,000 in the year of assessment 2012/13. The proposed increase from \$63,000 to \$70,000 will represent a rise of 11.1% and is considered

appropriate in alleviating taxpayers' burden in raising their children. Regarding the deduction ceiling for expenses of self-education, the Administration points out that the ceiling has not been adjusted since the year of assessment 2007/08 when the ceiling was adjusted from \$40,000 to \$60,000. In order to encourage self-education and lifelong learning, it is proposed to increase the maximum deductible amount more significantly by 33.3% from \$60,000 to \$80,000 with effect from the year of assessment 2013/14.

8. Noting that there have been different views and suggestions from different sectors of the community on the tax concessions to be introduced, Hon Alan LEONG has enquired how the Administration has worked out the proposed tax concessions in the 2013-14 Budget. He is of the view that in view of the widening wealth gap in Hong Kong, it is the aspiration of the general public that the Government should use taxation measures and tax concessions to help achieve a better and fairer allocation of wealth and resources in the community.

9. The Administration has responded that in formulating each year's budget, FS will engage the public, and meet with LegCo Members, professional bodies and other relevant parties to gauge their views and suggestions. The views expressed by the public and various parties and stakeholders during the consultation, together with the Administration's assessments of the prevailing local and external economic environment and the economic outlook, impacts of the proposed measures on Government's fiscal position as well as the taxation regime, etc., will be taken into account in finalizing the taxation measures and concessionary measures to be introduced. The Administration stresses that it conducts regular reviews of the taxation regime of Hong Kong, including the tax bands and rates of various taxes. For instance, profits tax rate, tax bands and the standard tax rate were adjusted in the year of assessment 2008/09 after a comprehensive review. A number of tax concessions were also implemented in the years of assessment 2011/12 and 2012/13. The present priorities of the Administration will be to complete the legislative exercises relating to the amendments to IRO on tax information exchange and to the Stamp Duty Ordinance (Cap. 117) in relation to the demand-side management measures to address the overheated property market. Due to the narrow tax base, the Administration should critically assess the long-term financial implication of any tax concessionary measures on tax revenue which is highly susceptible to economic fluctuation. The Administration further opines that there should be wide public consensus for any major reform of the taxation regime, including whether or not tax measures should be used to achieve a re-distribution of wealth.

Eligibility for claiming the child allowance and the dependent parent allowance

10. In response to some members' enquiries about the definition of eligible children, and requirement, if any, on their place of residence, for claiming the child allowance and the additional one-off child allowance, the Administration has advised that in the context of child allowance, "child" means the taxpayer's natural child proven by birth certificate, adopted child based on legal documentary proof of the adoption order, as well as step child. There is no requirement under IRO that the taxpayer's children must ordinarily reside in Hong Kong in order to be eligible for the child allowance.

11. In this connection, some members have enquired why it is a condition that the dependent parents must ordinarily reside in Hong Kong for a taxpayer to claim the dependent parent allowance. The Administration advises that the Government policy is to encourage the younger generation to take care of their parents by providing taxpayers with the dependent parent allowance under salaries tax and tax under personal assessment. The additional dependent parent allowance provided to taxpayers if they reside with their parents throughout the year of assessment can further encourage the younger generation to live with their parents. Thus, the Hong Kong residence requirement is imposed on parents if a taxpayer wishes to claim the above allowances.

Technical issues

12. The Bills Committee has examined the Bill clause by clause, and has not identified any difficulties relating to the legal and drafting aspect of the Bill.

13. Members note that provisions in the Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012 ("IR&SDL(ABS)(A) Bill 2012"), which was gazetted in December 2012, has included adding a new section 89(10) and a new Schedule 27 to IRO. The Bill also amends section 89 of IRO (under clause 3) and adds two new schedules (under clause 7) to IRO. It follows that the new section and new schedules to be added by the Bill were numbered as section 89(11) and Schedules 28 and 29 respectively as the Bill was gazetted in April 2013. If the Second Reading debate on the Bill is to be resumed at a Council meeting earlier than that on IR&SDL(ABS)(A) Bill 2012 which is still under scrutiny by another Bills Committee in LegCo, the Administration will have to move Committee Stage amendments ("CSAs") to introduce technical amendments to clauses 3, 4 and 7 regarding the numbering of section 89(11) and Schedules 28 and 29 accordingly.

Committee Stage amendments and recommendation

14. The Bills Committee will not propose any CSAs to the Bill, and supports the resumption of the Second Reading debate on the Bill at the Council meeting of 26 June 2013.

15. The Administration will propose CSAs to make technical amendments regarding the numbering of the new section 89(11) of IRO and new Schedules 28 and 29 to IRO (in **Appendix II**) as explained in paragraph 13 above.

16. Members are invited to note the deliberations of the Bills Committee.

Council Business Division 1
Legislative Council Secretariat
13 June 2013

Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2013

Membership list

Chairman	Hon Kenneth LEUNG
Members	Hon Alan LEONG Kah-kit, SC Dr Hon Elizabeth QUAT, JP Hon CHUNG Kwok-pan (Total : 4 members)
Clerk	Ms Connie SZETO
Legal Adviser	Mr Timothy TSO
Date	21 May 2013

Inland Revenue (Amendment) (No. 2) Bill 2013

Committee Stage

Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>In the proposed section 89(11) –</p> <p style="padding-left: 40px;">(a) by deleting “(11)” and substituting “(10)”;</p> <p style="padding-left: 40px;">(b) by deleting “Schedule 28” and substituting “Schedule 27”.</p>
4	In the proposed section 95, by deleting “Schedule 29” and substituting “Schedule 28”.
7	In the heading, by deleting “Schedules 28 and 29” and substituting “Schedules 27 and 28”.
7	<p>In the proposed Schedule 28, by deleting –</p> <p style="padding-left: 100px;">“Schedule 28 [s. 89(11)]”</p> <p>and substituting –</p> <p style="padding-left: 100px;">“Schedule 27 [s. 89(10)]”.</p>
7	In the proposed Schedule 29, by deleting “Schedule 29” and substituting “Schedule 28”.