

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2016

INTRODUCTION

A At the meeting of the Executive Council on 24 February 2016, the Council ADVISED and the Chief Executive ORDERED that the Inland Revenue (Amendment) (No. 2) Bill 2016 (the Bill), at **Annex A**, should be introduced into the Legislative Council (LegCo) to implement the following concessionary revenue measures proposed in the 2016-17 Budget –

- (a) for salaries tax and tax under personal assessment with effect from the year of assessment 2016/17 –
 - (i) to increase the basic allowance and the single parent allowance both from \$120,000 to \$132,000 and the married person's allowance from \$240,000 to \$264,000;
 - (ii) to increase the dependent parent/grandparent allowance and the additional dependent parent/grandparent allowance for each eligible parent/grandparent both from \$40,000 to \$46,000 (for aged 60 or above) and from \$20,000 to \$23,000 (for aged 55 or above but below 60); and
 - (iii) to raise the deduction ceiling for elderly residential care expenses for each eligible parent/grandparent from \$80,000 to \$92,000; and
- (b) to reduce salaries tax, tax under personal assessment and profits tax for the year of assessment 2015/16 by 75%, subject to a ceiling of \$20,000 per case.

JUSTIFICATIONS

Proposed Increases in Allowances and Deduction Ceiling

2. To relieve the tax burden of salaries tax payers, and to alleviate their burden in maintaining dependent parents or grandparents, the 2016-17 Budget proposes to adjust two categories of allowances for salaries tax and tax under personal assessment as follows –

- (a) increasing the basic allowance and the single parent allowance both by 10% from the current \$120,000 to \$132,000, and the married person's allowance also by 10% from the current \$240,000 to \$264,000;
- (b) increasing the allowances/ deduction related to parents and grandparents by 15% –
 - (i) from \$40,000 to \$46,000 for maintaining a dependent parent or grandparent aged 60 or above¹, and from \$20,000 to \$23,000 for those aged between 55 and 59. The same increase applies to the additional allowance granted to taxpayers residing with these parents or grandparents continuously throughout the year; and
 - (ii) from the current \$80,000 to \$92,000 as the deduction ceiling a taxpayer may claim for the elderly residential care expenses for each parent or grandparent admitted to residential care homes².

3. 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 (paragraph 2(b)(ii) above), no person is entitled to claim dependent parent/grandparent allowance (paragraph 2(b)(i) above) for the same parent/grandparent for the same year of assessment.

¹ That allowance may also be claimed in respect of a dependent parent or grandparent who is under the age of 60 and is eligible to claim an allowance under the Government's Disability Allowance Scheme, as provided for under sections 30(1) and 30A(1) of the Inland Revenue Ordinance.

² The deduction is claimed in respect of elderly residential care expenses for a parent or grandparent who is either aged 60 or above, or who is under the age of 60 and is eligible to claim an allowance under the Government's Disability Allowance Scheme, as provided for under section 26D(1) of the Inland Revenue Ordinance.

4. The measures in paragraph 2 above will take effect for the year of assessment 2016/17 onwards. The proposed measures as set out in paragraph 2(a) above will benefit 1.93 million taxpayers of salaries tax and tax under personal assessment. The revenue forgone is estimated to be \$2.9 billion a year. The proposed measures as set out in paragraph 2(b) above will benefit 600 000 taxpayers. The revenue forgone is estimated to be \$860 million a year.

Proposed One-off Tax Reduction for the Year of Assessment 2015/16

5. Government has proposed a number of one-off relief measures in the 2016-17 Budget. These include a one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2015/16 by 75%, subject to a ceiling of \$20,000 per case. The reduction will be reflected in the taxpayers' final tax payable for the year of assessment 2015/16. The proposed one-off reduction of salaries tax and tax under personal assessment will benefit 1.96 million taxpayers, whereas the proposed one-off reduction of profits tax will benefit 130 000 tax-paying corporations and unincorporated businesses. The revenue forgone for 2016-17 is \$18.9 billion.

OTHER OPTIONS

6. We must amend the IRO to give effect to the relevant proposals. There is no other option.

THE BILL

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

- (a) **Clause 3** amends section 89 of the IRO to provide that the transitional provisions set out in the new Schedule 37 (added by clause 7) have effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2016/17.
- (b) **Clause 4** adds a new section 98 to the IRO. The new section and the new Schedule 38 (added by clause 7) provide for the reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2015/16 by 75%, subject to a maximum of \$20,000 in each case.

- (c) **Clause 5** amends Schedule 3C to the IRO to increase the maximum amount of elderly residential care expenses deductible from assessable income from \$80,000 to \$92,000 for the year of assessment 2016/17 and subsequent years of assessment.
- (d) **Clause 6** amends Schedule 4 to the IRO to increase –
- (i) the amount of basic allowance granted under section 28 of the IRO from \$120,000 to \$132,000;
 - (ii) the amount of married person’s allowance granted under section 29 of the IRO from \$240,000 to \$264,000;
 - (iii) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent (aged 60 or above, or who is under the age of 60 and is eligible to claim an allowance under the Government’s Disability Allowance Scheme (GDAS)) under section 30(1) of the IRO, both from \$40,000 to \$46,000;
 - (iv) the amounts of dependent parent allowance and additional dependent parent allowance granted in respect of a parent (aged 55 or above but below 60) under section 30(1A) of the IRO, both from \$20,000 to \$23,000;
 - (v) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent (aged 60 or above, or who is under the age of 60 and is eligible to claim an allowance under GDAS) under section 30A(1) of the IRO, both from \$40,000 to \$46,000;
 - (vi) the amounts of dependent grandparent allowance and additional dependent grandparent allowance granted in respect of a grandparent (aged 55 or above but below 60) under section 30A(1A) of the IRO, both from \$20,000 to \$23,000; and
 - (vii) the amount of single parent allowance granted under section 32 of the IRO from \$120,000 to \$132,000.

The increases take effect for the year of assessment 2016/17 and subsequent years of assessment.

- (e) **Clause 7** adds new Schedules 37 and 38 to the IRO. The new Schedule 37 provides for the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2016/17.

LEGISLATIVE TIMETABLE

8. The legislative timetable will be as follows –

Publication in the Gazette	4 March 2016
First Reading and commencement of Second Reading debate	16 March 2016
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

9. 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, sustainability and family implications of the proposal are at **Annex B**. The proposal has no productivity, environmental, gender or civil service implications.

B

PUBLIC CONSULTATION

10. Owing to the confidentiality of the Budget, no formal consultation was conducted specifically in respect of the proposals in the Bill. The Financial Secretary has conducted consultations with LegCo Members, various business and professional bodies as well as the general public when formulating the 2016-17 Budget. Their views have been taken into account in drawing up those proposals.

PUBLICITY

11. We will issue a press release on the Bill on 4 March 2016. A spokesperson will be available to answer media and public enquiries.

ENQUIRIES

12. Enquiries on this Brief can be addressed to Mr Gary Poon, Principal Assistant Secretary for Financial Services and the Treasury (Treasury) at 2810 2370.

Financial Services and the Treasury Bureau
2 March 2016

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2016

ANNEXES

- | | |
|---------|---|
| Annex A | Inland Revenue (Amendment) (No. 2) Bill 2016 |
| Annex B | Financial, Economic, Sustainability and Family Implications of the Proposal |

Inland Revenue (Amendment) (No. 2) Bill 2016

Contents

Clause		Page
1.	Short title	1
2.	Inland Revenue Ordinance amended	1
3.	Section 89 amended (transitional provisions).....	1
4.	Section 98 added.....	1
	98. Reduction of taxes for year of assessment 2015/16.....	2
5.	Schedule 3C amended (elderly residential care expenses deduction).....	2
6.	Schedule 4 amended (allowances).....	2
7.	Schedules 37 and 38 added.....	4
	Schedule 37 Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2016/17	4
	Schedule 38 Reduction of Taxes for Year of Assessment 2015/16.....	7

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 2016–2017 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. 2) Ordinance 2016.

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

“(17) Schedule 37 has effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment commencing on 1 April 2016.”.

4. Section 98 added

After section 97—

Add

“98. Reduction of taxes for year of assessment 2015/16

Schedule 38 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 2015.”.

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

Schedule 3C—

Repeal item 4**Substitute**

“4. For the years of assessment 2014/15 and 2015/16 \$80,000

5. For the year of assessment 2016/17 and for each year after that year \$92,000”.

6. Schedule 4 amended (allowances)

(1) Schedule 4, subheading—

Repeal

“For the year of assessment 2015/16 and for each year after that year”

Substitute

“For the year of assessment 2015/16”.

(2) At the end of Schedule 4—

Add

“For the year of assessment 2016/17 and for each year after that year

	FIRST COLUMN (section)	SECOND COLUMN (the prescribed amount)
1.	Section 28 (basic allowance)	\$132,000
2.	Section 29 (married person's allowance)	\$264,000
3.	Section 30 (dependent parent allowance)—	
	(a) subsection (3)(a)	\$ 46,000
	(b) subsection (3)(b)	\$ 46,000
	(c) subsection (3A)(a)	\$ 23,000
	(d) subsection (3A)(b)	\$ 23,000
	(e) subsection (4)(a)	\$ 12,000
4.	Section 30A (dependent grandparent allowance)—	
	(a) subsection (3)(a)	\$ 46,000
	(b) subsection (3)(b)	\$ 46,000
	(c) subsection (3A)(a)	\$ 23,000
	(d) subsection (3A)(b)	\$ 23,000
	(e) subsection (4)(a)	\$ 12,000
5.	Section 30B(1) (dependent brother or dependent sister allowance)	\$ 33,000
6.	Section 31 (child	

FIRST COLUMN (section)	SECOND COLUMN (the prescribed amount)
allowance)—	
(a) subsection (1)	\$100,000 for each child
(b) subsection (1A)	\$100,000 for each child
(c) subsection (5) (in relation to subsection (1))	\$900,000
(d) subsection (5) (in relation to subsection (1A))	\$900,000
7. Section 31A(1) (disabled dependant allowance)	\$ 66,000
8. Section 32(1) (single parent allowance)	\$132,000”.

7. **Schedules 37 and 38 added**
At the end of the Ordinance—
Add

“Schedule 37

[s. 89(17)]

Transitional Provisions Relating to Provisional Salaries Tax in respect of Year of Assessment 2016/17

1. Interpretation

In this Schedule—

parent or grandparent (父母或祖父母) has the meaning given by section 26D(5);

residential care expenses (住宿照顧開支) has the meaning given by section 26D(5);

year of assessment 2015/16 (2015/16 課稅年度) means the year of assessment commencing on 1 April 2015;

year of assessment 2016/17 (2016/17 課稅年度) means the year of assessment commencing on 1 April 2016.

2. Allowances granted for year of assessment 2016/17

(1) For the purposes of section 63C(1), in calculating the net chargeable income of a person for the year of assessment 2015/16 to ascertain the provisional salaries tax in respect of the year of assessment 2016/17—

(a) the reference to “such allowances as are under Part 5 permitted for that person” in section 12B(1)(b); and

(b) the reference to “such allowances as are under Part 5 permitted in their case” in section 12B(2)(b),

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 year of assessment 2016/17 under Part 5 as amended by the Inland Revenue (Amendment) (No. 2) Ordinance 2016 (of 2016).

- (2) For the purposes of an application under section 63E(1) to hold over the payment of provisional salaries tax in respect of the year of assessment 2016/17, the reference to “net chargeable income for the year preceding the year of assessment” in section 63E(2)(a) and (b) is to be construed as the net chargeable income for the year of assessment 2015/16 as calculated in accordance with subsection (1).
- 3. Application for holding over payment of provisional salaries tax on additional ground**
- (1) A person who is liable to pay provisional salaries tax in respect of the year of assessment 2016/17 may apply to the Commissioner on the ground specified in subsection (2) to have the payment of the whole or part of the tax held over until that person is required to pay salaries tax for that year.
- (2) The ground 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 year of assessment 2016/17, to the extent to which a deduction in respect of those expenses is allowable under section 26D for that year, exceeds or is likely to exceed \$80,000 in respect of a parent or grandparent of the person.
- (3) This section does not affect the operation of section 63E.
- 4. Provisions supplementary to section 3 of this Schedule**
- (1) This section applies to an application under section 3(1) of this Schedule.
- (2) The application must be made by notice in writing lodged with the Commissioner.

- (3) The application 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), whichever is the later.
- (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 the application may be made.
- (5) On receipt of the application, the Commissioner—
- (a) must consider the application; and
- (b) 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 applicant of the Commissioner’s decision.

Schedule 38

Reduction of Taxes for Year of Assessment 2015/16

1. Salaries tax

The amount of salaries tax charged under Part 3 for the year of assessment commencing on 1 April 2015 is reduced by an amount equivalent to—

- (a) 75% of the amount of the tax as computed under section 13(1) read together with section 13(2); or
- (b) \$20,000,

whichever is the lesser.

2. Profits tax

(1) The amount of profits tax charged under Part 4 for the year of assessment commencing on 1 April 2015 is reduced by an amount equivalent to—

- (a) 75% of the amount of the tax as computed under section 14 read together with sections 14A, 14B and 14D; or
- (b) \$20,000,

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 for the year of assessment commencing on 1 April 2015, 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 for the year of assessment commencing on 1 April 2015 is reduced by an amount equivalent to—

- (a) 75% of the amount of the tax as computed under section 43(1) read together with section 43(1A); or
- (b) \$20,000,

whichever is the lesser.

(2) For the purposes of section 43(2B), in ascertaining the portion of tax to be charged on each spouse in the year of assessment commencing on 1 April 2015, 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) to give effect to the proposals concerning tax concessions in the Budget introduced by the Government for the 2016–2017 financial year.

2. Clause 1 sets out the short title.
3. Clause 3 amends section 89 of the Ordinance to provide that the transitional provisions set out in the new Schedule 37 (added by clause 7) have effect in relation to a person liable to pay provisional salaries tax in respect of the year of assessment 2016/17.
4. Clause 4 adds a new section 98 to the Ordinance. The new section and the new Schedule 38 (added by clause 7) provide for the reduction of salaries tax, profits tax and tax under personal assessment payable for the year of assessment 2015/16 by 75%, subject to a maximum of \$20,000 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 \$80,000 to \$92,000 for the year of assessment 2016/17 and subsequent years of assessment.
6. Clause 6 amends Schedule 4 to the Ordinance to increase—
 - (a) the amount of basic allowance granted under section 28 of the Ordinance from \$120,000 to \$132,000;
 - (b) the amount of married person's allowance granted under section 29 of the Ordinance from \$240,000 to \$264,000;
 - (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 \$40,000 to \$46,000;

- (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 \$20,000 to \$23,000;
- (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 \$40,000 to \$46,000;
- (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 \$20,000 to \$23,000; and
- (g) the amount of single parent allowance granted under section 32 of the Ordinance from \$120,000 to \$132,000.

The increases take effect for the year of assessment 2016/17 and subsequent years of assessment.

7. Clause 7 adds new Schedules 37 and 38 to the Ordinance. The new Schedule 37 provides for the transitional arrangements relating to the assessment of, and holding over of payment of, provisional salaries tax for the year of assessment 2016/17.

**Financial, Economic, Sustainability and
Family Implications of the Proposal**

Financial Implications

It is estimated that the proposed increases in basic allowance, single parent allowance, married person's allowance, dependent parent/grandparent allowance and deduction ceiling for elderly residential care expenses will involve a total of \$3.8 billion a year as revenue forgone. As for the proposed one-off reduction of salaries tax, tax under personal assessment and profits tax for the year of assessment 2015/16, the estimated one-off revenue forgone is \$18.9 billion.

Economic Implications

2. The proposed concessionary tax measures will help relieve the financial burden of taxpayers, and possibly generate 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.

Sustainability Implications

3. The proposed concessionary tax measures are expected to generate economic benefits to households through increasing their disposable incomes and to promote social harmony through alleviating taxpayers' burden in maintaining dependent parents or grandparents. The proposed one-off reduction of profits tax will encourage enterprises to make more reinvestment with a view to enhancing their competitiveness.

Family Implications

4. The proposed increases in the dependent parent/grandparent allowances and deduction ceiling for elderly residential care expenses will help strengthen taxpayers' capability to provide support for and foster care of elderly family members. Besides, the proposed increase in the basic allowance, single parent allowance and married person's allowance will also help relieve the financial burden of related families.