

# 立法會 *Legislative Council*

LC Paper No. CB(1)786/16-17(02)

Ref: CB1/BC/2/16

## **Bills Committee on Inland Revenue (Amendment) Bill 2017**

### **Background brief**

#### **Purpose**

This paper provides background information on the Inland Revenue (Amendment) Bill 2017 ("the Bill") and summarizes the views and concerns expressed by Members on related issues.

#### **Background**

2. To alleviate the burden of taxpayers and to encourage self-education and lifelong learning, the Financial Secretary announced various proposals concerning tax concessions in the 2017-2018 Budget. The Bill, gazetted on 3 March 2017 and introduced into the Legislative Council ("LegCo") on 22 March 2017, aims to amend the Inland Revenue Ordinance (Cap. 112) ("IRO") in order to implement the following tax concession measures:

- (a) widening the marginal tax bands from \$40,000 to \$45,000 with effect from the year of assessment 2017-2018, as set out in **Appendix I**;<sup>1</sup>
- (b) increasing the disabled dependant allowance from \$66,000 to \$75,000 with effect from the year of assessment 2017-2018;<sup>2</sup>

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<sup>1</sup> The marginal tax bands were last widened from \$35,000 to \$40,000 from the year of assessment 2008-2009.

<sup>2</sup> The disabled dependent allowance was last increased from \$60,000 to \$66,000 from the year of assessment 2012-2013. Please refer to **Appendix II** for explanation of the disabled dependent allowance.

- (c) increasing the dependent brother/sister allowance from \$33,000 to \$37,500 with effect from the year of assessment 2017-2018;<sup>3</sup>
- (d) extending the entitlement period for home loan interest ("HLI") deduction from 15 years to 20 years, while maintaining the current deduction ceiling of \$100,000 a year, with effect from the year of assessment 2017-2018;<sup>4</sup>
- (e) increasing the deduction ceiling for self-education expenses from \$80,000 to \$100,000 with effect from the year of assessment 2017-2018;<sup>5</sup> and
- (f) reducing salaries tax, tax under personal assessment and profits tax for the year of assessment 2016-2017 by 75%, subject to a ceiling of \$20,000 per case.

3. According to the Administration, it is estimated that proposals (a) to (e) above will reduce tax revenue by \$2 billion each year while the revenue forgone for 2017-2018 as a result of the one-off tax reduction under proposal (f) amounts to \$18.3 billion. The number of taxpayers who will benefit from and the tax revenue reduced/forgone under each tax concession measure are shown in **Appendix III**.

4. The Bill, if passed, will come into operation on the day on which it is published in the Gazette as an Ordinance.

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<sup>3</sup> The dependent brother/sister allowance was last increased from \$30,000 to \$33,000 from the year of assessment 2012-2013. Please refer to **Appendix II** for explanation of the dependent brother/sister allowance.

<sup>4</sup> HLI deduction was introduced in the year of assessment 1998-1999 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 2003-2004, and extended to 10 years since the year of assessment 2005-2006. The entitlement years were further extended to 15 years from the year of assessment 2012-2013. The deduction has been capped at \$100,000 per annum (except for assessment years 2001-2002 and 2002-2003, in which the maximum deduction was raised to \$150,000). Please refer to **Appendix II** for further explanation of HLI deduction.

<sup>5</sup> The deduction ceiling for self-education expenses was increased from \$60,000 to \$80,000 since the year of assessment 2013-2014. Please refer to **Appendix II** for definition of such expenses.

## **Major views and concerns expressed by Members**

5. Members raised tax-related issues during the consultation on the 2017-2018 Budget at the meeting of the Panel on Financial Affairs on 3 January 2017. Previous tax concession proposals similar to those under the Bill were discussed by the bills committees concerned. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

### General

6. Members stressed that the Administration should utilize the substantial 2016-2017 Budget surplus effectively with a view to "leaving wealth with the people" and achieving a better and fairer allocation of wealth and resources in the community. Some Members considered that the Administration should extend the relief measures relating to profits tax for corporates, in particular increasing the tax reduction ceiling for small and medium enterprises. Some other Members, on the other hand, expressed concerns that a lot of the one-off relief measures implemented by the Government in the past benefited the large corporations rather than addressing the needs of the grassroots. Members in general opined that apart from short-term tax concessions, taxation and fiscal measures should be proactively employed to realize long-term policy objectives and planning.

7. The Administration advised that it had been taking forward a number of proposals recommended by the Commission on Poverty, and would examine ways to enhance the efficacy of its measures on poverty reduction. The Administration would continue to formulate measures to support local industries in view of the economic difficulties ahead and to cater for the needs of the community.

### Entitlement years for home loan interest deduction

8. As extension of entitlement years for HLI deduction only applied to prospective years of assessment, some Members queried why the extension could not be given retrospective effect so that homeowners could apply for HLI deduction retrospectively.

9. The Administration pointed out that the suggestion would allow more taxpayers to claim HLI deduction for previous years during which the relevant deduction had been denied due to exhaustion of the entitlement years. This would carry significant implications on revenue, manpower, resources and implementation time. The Administration stressed that as a principle in implementing tax measures, it had been the established practice to adjust allowances and deductions for salaries tax on past occasions by specifying that the relevant adjustments would only be applicable to prospective years of

assessment. Giving retrospective effect to individual deductible items selectively would arouse controversy. Moreover, from the legal perspective, tax legislation should be clear, fair and certain such that taxpayers were able to ascertain their tax liabilities reasonably and clearly when making economic or investment decisions.

#### One-off tax reduction and widening of tax bands

10. Members in general raised no objection to one-off tax reduction of salaries tax, tax under personal assessment, profits tax when such measures were discussed by the relevant bills committees in the past. When the marginal tax bands were last adjusted from \$35,000 to \$40,000 under the 2008-2009 Budget, Members had enquired about the potential impact on the tax base.

11. The Administration advised that the impact of widening the marginal tax bands would likely be short-term as the number of taxpayers and taxable income would increase as a result of wage rise during a period of strong economy. The Administration also advised that if tax bands were widened and tax rates were reduced at the same time, the loss in tax revenue would be much greater and there could be structural impact on the tax base. The Administration stressed that it would conduct regular reviews of the taxation regime of Hong Kong, including the tax bands and rates of various taxes.

#### Consultation exercise

12. Some Members raised concern about the lack of transparency on the details of Government's consultation on tax concession proposals and the views expressed by the consulted parties. They considered that such information should be made available to the public.

13. The Administration advised that in formulating each year's budget, the Financial Secretary would 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 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., would be taken into account in finalizing taxation measures and tax concession measures to be introduced. Owing to the confidentiality of the Budget, the Administration had not carried out consultation specifically with reference to the proposals in the Bill. The Administration further advised that due to the narrow tax base of Hong Kong, the long-term financial implication of any tax concession measures on tax revenue which was highly susceptible to economic fluctuation should be critically assessed. 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.

#### Due dates for tax payments

14. As to how the due dates for tax payments were determined, the Administration advised that under IRO, a taxpayer was obliged to pay salaries tax or tax under personal assessment in respect of a particular year of assessment in one go by a date to be specified by the Commissioner of Inland Revenue. In practice, the Commissioner exercised his discretion under IRO to allow taxpayers to pay the tax by two installments, usually in January and April of the relevant year. In determining the payment due dates for individual taxpayers, the Inland Revenue Department would give consideration to various factors. Generally speaking, taxpayers required to pay larger amounts of tax were likely to be subject to earlier payment due dates, and similar payment due dates would apply to the same taxpayer in subsequent years to facilitate his/her financial planning.

#### **Council meeting**

15. At the Council meeting of 1 March 2017, a motion "Actively studying the establishment of a middle class commission" moved by Hon Tommy CHEUNG and as amended by Hon Frankie YICK, Hon KWOK Wai-keung and Dr Hon Elizabeth QUAT was passed urging the Government to, in relation to taxation:

- (a) introduce a tax allowance for rentals for the marginal middle class;
- (b) adjust salaries tax downwards, in particular widening tax bands for salaries tax and lowering the marginal rate, so as to vigorously alleviate the burden of the marginal middle class;
- (c) relax the restrictions on the dependent parent or dependent grandparent allowance by relaxing the eligibility requirement from living in the same unit to living in the same housing estate;
- (d) introduce a tax allowance for children's education to alleviate the burden of children education expenses on middle-class families;
- (e) substantially increase the salaries tax deduction for self-education expenses and the subsidy under the Continuing Education Fund;
- (f) provide tax deduction for medical insurance contributions; and

- (g) provide tax deduction for medical examinations to encourage the middle class to undergo such examinations on a regular basis.

The wording of the motion is hyperlinked in **Appendix IV**.

### **Recent development**

16. At the House Committee meeting held on 24 March 2017, Members agreed to form a Bills Committee to study the Bill.

### **References**

17. A list of relevant papers is in **Appendix IV**.

Council Business Division 1  
Legislative Council Secretariat  
10 April 2017

### Increasing the width of marginal tax bands

The Financial Secretary proposed to increase the width of marginal tax bands from \$40,000 to \$45,000 commencing from the year of assessment 2017-2018. The present marginal tax bands and the proposed tax bands are shown in the table below:

Year of Assessment	Present (2016-2017)		Proposed (From 2017-2018 onwards#)	
	Net chargeable income (Tax band) \$	Rate	Net chargeable income (Tax band) \$	Rate
On the first	40,000	2%	45,000	2%
On the next	40,000	7%	45,000	7%
On the next	<u>40,000</u>	12%	<u>45,000</u>	12%
	120,000		135,000	
Remainder		17%		17%

#Until superseded

[Source: Website of the Inland Revenue Department on 2017-2018 Budget – Tax Measures]

### **Explanatory notes on tax allowances/deductions relevant to the tax concession proposals under the Inland Revenue (Amendment) Bill 2017**

#### Disabled dependent allowance

A person can claim disabled dependant allowance under section 31A of the Inland Revenue Ordinance (Cap. 112) ("IRO") if the person or his/her spouse maintains a dependant who is eligible to claim an allowance under the Government's Disability Allowance Scheme. "Dependant" means the person's spouse/child/parent/grandparent/brother/sister; or the spouse's child/parent/grandparent/brother/sister. This allowance is granted in addition to the following allowances or deduction for the disabled person: married person's allowance; or child allowance; or dependent parent and grandparent allowance or elderly residential care expenses; or dependent brother or dependent sister allowance.

#### Dependent brother/sister allowance

2. A person can claim brother or dependent sister allowance under section 30B of IRO if the person or his/her spouse maintains an unmarried brother or sister, who at any time during the year of assessment was under 18 years old; or of or over 18 but under 25 years old, and receiving full time education at a university, college, school or other similar educational establishment; or of or over 18 years old and was, because of physical or mental disability, unable to work. A "brother or sister" means the person's natural, adopted or step brother or sister; or the natural, adopted or step brother or sister of the spouse/deceased spouse.

#### Deduction for expenses of self-education

3. Under salaries tax, a taxpayer can claim a deduction for expenses of self-education (including tuition and the related examination fees) paid for a prescribed course of education. A prescribed course of education is a course undertaken at an education provider specified in IRO to gain or maintain qualifications for use in either current or a planned employment.

#### Deduction for home loan interest

4. The home loan interest ("HLI") that a person pays is deductible from the person's net assessable income under salaries tax or from the person's total income under personal assessment. Any person whose income is chargeable to tax at the standard rate is also entitled to a deduction.



5. All of the following conditions must be satisfied before a deduction for HLI is granted:

- (a) the person is the owner of the dwelling (either as a sole owner, a joint tenant or a tenant in common) and ownership is by reference to the registered owner of the property as shown in the records of the Land Registry;
- (b) the dwelling is a separate rateable unit under the Rating Ordinance (Cap. 116): that is, it is situated in Hong Kong;
- (c) the dwelling is used wholly or partly as the person's place of residence in the year of assessment (if the dwelling is partly used as the place of residence, the amount of interest deductible will be restricted accordingly);
- (d) the person pays HLI during the year of assessment on a loan for acquisition of the dwelling;
- (e) the loan is secured by a mortgage or charge over the dwelling or over any other property in Hong Kong; and
- (f) the lender is an organization prescribed under section 26E(9) of IRO.

[Source: Website of Inland Revenue Department]

**Tax concession proposals under the Inland Revenue (Amendment) Bill 2017**

<b>Measure</b>	<b>Number of beneficiaries</b>	<b>Revenue reduced/forgone</b>
<i>Adjustments with effect from the year of assessment 2017-2018</i>		
Widening of marginal tax bands from \$40,000 to \$45,000	1.3 million	\$1.5 billion/year
Increasing the disabled dependant allowance from \$66,000 to \$75,000	35 000	\$50 million/year
Increasing the dependent brother/sister allowance from \$33,000 to \$37,500	23 800	\$13 million/year
Extending the entitlement period for home loan interest deduction from 15 years to 20 years	[Note: The estimated number of beneficiaries in relation to this proposal is not mentioned in Legislative Council Brief on the Inland Revenue (Amendment) Bill 2017.]	\$430 million/year
Increasing the deduction ceiling for self-education expenses from \$80,000 to \$100,000	3 500	\$8 million/year
<i>One-off measure for the year of assessment 2016-2017</i>		
One-off reduction of salaries tax, tax under personal assessment and profits tax	1.84 million taxpayers of salaries tax and tax under personal assessment; and 132 000 tax-paying corporations and unincorporated businesses	\$18.3 billion (for 2017-2018)

[Source: Legislative Council Brief issued by the Financial Services and the Treasury Bureau on 1 March 2017 (File Ref.: TsyB R 183/535-1/5/0 (17-18) (C))]

**List of relevant papers**

<b>Date</b>	<b>Event</b>	<b>Papers/Minutes of meeting</b>
9 June 2010	Resumption of Second Reading of the Bills Committee on Inland Revenue (Amendment) Bill 2010 at the Council meeting	<a href="#">Report</a> of the Bills Committee (LC Paper No. CB(1)2129/09-10)
12 July 2012	Resumption of Second Reading of the Bills Committee on Inland Revenue (Amendment) Bill 2012 at the Council meeting	<a href="#">Report</a> of the Bills Committee (LC Paper No. CB(1)2317/11-12)
26 June 2013	Resumption of Second Reading of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2013 at the Council meeting	<a href="#">Report</a> of the Bills Committee (LC Paper No. CB(1)1340/12-13)
25 June 2014	Resumption of Second Reading of the Bills Committee on Inland Revenue (Amendment) Bill 2014 at the Council meeting	<a href="#">Report</a> of the Bills Committee (LC Paper No. CB(4)819/13-14)
1 March 2017	Council meeting	<a href="#">Motion</a> moved by Hon Tommy CHEUNG and as amended by Hon Frankie YICK, Hon KWOK Wai-keung and Dr Hon Elizabeth QUAT
22 March 2017	The Inland Revenue (Amendment) Bill 2017 was introduced into the Legislative Council	<a href="#">The Bill</a> <a href="#">Legislative Council Brief</a> (TsyB R 183/535-1/5/0 (17-18) (C)) <a href="#">Legal Service Division report</a> (LC Paper No. LS 47/16-17)